

JAN 21 2011

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# A BILL FOR AN ACT

RELATING TO CHILD VISITATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 571-46.3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§571-46.3 Grandparents' visitation rights; petition;  
4 notice; order. (a) A grandparent or the grandparents of a  
5 minor child may file a petition with the court for an order of  
6 reasonable visitation rights. The court may award reasonable  
7 visitation rights provided that the following criteria are met:

8 (1) This State is the home state of the child at the time  
9 of the commencement of the proceeding; and

10 (2) ~~[Reasonable]~~ Denial of reasonable visitation rights  
11 ~~[are in the best interests of]~~ would cause significant  
12 harm to the child.

13 (b) In any proceeding on a petition filed under this  
14 section, there shall be a rebuttable presumption that the  
15 parent's decision regarding visitation is in the best interests  
16 of the child. The presumption may be rebutted by a  
17 preponderance of the evidence that denial of reasonable  
18 visitation rights would cause significant harm to the child. In



1 ruling on the petition, the court may consider factors including  
2 the following:

3 (1) The nature and extent of any pre-existing relationship  
4 between the child and the grandparent;

5 (2) Whether the grandparent has previously been granted  
6 visitation by the child's parent or custodian and, if  
7 so, the nature and extent of the visitation;

8 (3) Whether the grandparent has previously been awarded  
9 visitation rights or custody of the child by a court;

10 (4) Whether the child has resided with the grandparent,  
11 either alone or with a parent and, if so, how recently  
12 and for how long;

13 (5) Whether the grandparent has provided financial support  
14 to the child, including for food, clothing, education,  
15 and medical, dental, or mental health care;

16 (6) If the parent or custodian has denied the grandparent  
17 visitation or substantially restricted visitation  
18 previously granted, whether the reason given, if any,  
19 bears on the grandparent's ability to safely care for  
20 the child during visitation or relates to an issue  
21 between the grandparent and parent not directly

1           related to safe care of the child during visitation;  
2           and

3           (7) Any relevant factor in the safe family home factors  
4           under section 587A-7.

5           (c) No hearing for an order of reasonable visitation  
6 rights under this section shall be had unless each of the living  
7 parents and the child's custodians shall have had due notice,  
8 actual or constructive, of the allegations of the petition and  
9 of the time and place of the hearing thereof.

10          (d) An order made pursuant to this section shall be  
11 enforceable by the court, and the court may issue other orders  
12 to carry out these enforcement powers if in the best interests  
13 of the child."

14          SECTION 2. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16          SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: Erzanne Chun Oatland



**Report Title:**

Child Custody; Grandparent Visitation

**Description:**

Permits family court to award reasonable visitation to grandparents if denial of visitation would cause significant harm to the child. Establishes presumption that visitation decisions by parent are in the best interests of the child. Presumption may be rebutted by a preponderance of the evidence. Identifies factors court may consider in awarding visitation.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

