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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] There is clear and convincing evidence  
11 that denial of reasonable visitation rights [are in  
12 the best interests of] would cause significant  
13 demonstrable harm to the child.

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



1 would cause significant demonstrable harm to the child. In  
2 ruling on the petition, the court may consider factors including  
3 the following:

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

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

10 (3) Whether the grandparent or grandparents have  
11 previously been awarded visitation rights or custody  
12 of the child by a court;

13 (4) Whether the child has resided with the grandparent or  
14 grandparents, either alone or with a parent and, if  
15 so, how recently and for how long;

16 (5) Whether the grandparent or grandparents have provided  
17 financial support to the child, including for food,  
18 clothing, education, and medical, dental, or mental  
19 health care;

20 (6) If the parent or custodian has denied the grandparent  
21 or grandparents visitation or substantially restricted  
22 visitation previously granted and whether the reason



1           given, if any, bears on the grandparent's or  
2           grandparents' ability to safely care for the child  
3           during visitation or relates to an issue between the  
4           grandparent or grandparents and parent not directly  
5           related to safe care of the child during visitation;

6           (7) All relevant factors in the safe family home factors  
7           under section 587A-7;

8           (8) All relevant factors under section 571-46(a)(9) and  
9           (10) as they pertain to family violence committed by  
10          the grandparent or grandparents; and

11          (9) Whether the grandparent or grandparents have  
12          previously violated or assisted a parent of the child  
13          in violating a temporary restraining order or  
14          protective order.

15          (c) No hearing for an order of reasonable visitation  
16 rights under this section shall be had unless each of the living  
17 parents and the child's custodians [~~shall~~] have had due notice,  
18 actual or constructive, of the allegations of the petition and  
19 of the time and place of the hearing thereof.

20          (d) An order made pursuant to this section shall be  
21 enforceable by the court, and the court may issue other orders



1 to carry out these enforcement powers if in the best interests  
2 of the child."

3 SECTION 2. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: Karen Lusana

JAN 24 2012



**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 parents are in the best interests of the child. Allows rebuttable presumption by clear and convincing evidence that denial would cause significant demonstrable harm to the child. Identifies factors a 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.*

