

JAN 20 2012

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 demonstrable harm to the child.

13 (b) In any proceeding on a petition filed pursuant to 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 evidence that
17 denial of reasonable visitation rights would cause significant



1 demonstrable harm to the child. In ruling on the petition, the
2 court shall consider factors including 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 or 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 and whether the reason given, if
19 any, bears on the grandparent's ability to safely care
20 for the child during visitation or relates to an issue
21 between the grandparent and parent not directly



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

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

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

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

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

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

21 SECTION 2. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 3. This Act shall take effect on July 1, 2012.

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S.B. NO. 2301

Report Title:

Child Custody; Grandparent Visitation

Description:

Permits family court to award reasonable visitation to grandparents if the denial of visitation would cause significant harm to the child. Establishes a rebuttable presumption that visitation decisions made by a parent are in the best interests of the child. Presumption may be rebutted by certain evidence. Identifies factors the court shall consider in awarding visitation. Effective July 1, 2012.

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

