

JAN 16 2014

A BILL FOR AN ACT

RELATING TO CHILD VISITATION.

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

1 SECTION 1. The legislature finds that in many homes,
2 people who have no biological relationship with a child
3 undertake duties of a parental nature. These caregivers may
4 have substantial relationships with children that warrant
5 preservation. Children also have the right to maintain strong
6 bonds with caregivers with whom they have created a special,
7 parent-like bond.

8 The purpose of this Act is to provide primary caregivers
9 with child visitation rights under certain circumstances.

10 SECTION 2. Chapter 571, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§571- Primary caregivers' visitation rights; petition;
14 notice; order. (a) A primary caregiver of a minor child may
15 file a petition with the court for an order of reasonable
16 visitation rights.

17 (b) The court may award reasonable visitation rights
18 provided that the following criteria are met:



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

3 (2) Denial of reasonable visitation rights would cause
4 harm to the child; and

5 (3) The petitioner demonstrates that the person has been
6 the child's primary caregiver for a period of not less
7 than six consecutive months during the eighteen month
8 period immediately preceding the filing of the
9 petition.

10 For purposes of this section, "primary caregiver" means an
11 individual who provides daily care of a parental nature to a
12 child.

13 (c) 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 evidence that
17 denial of reasonable visitation rights would cause harm to the
18 child.

19 (d) In ruling on a petition filed under this section, the
20 court may consider factors including the following:

21 (1) The nature and extent of any pre-existing relationship
22 between the child and the petitioner;



- 1 (2) Whether the petitioner has previously been granted
2 visitation by the child's parent or custodian and, if
3 so, the nature and extent of the visitation;
- 4 (3) Whether the petitioner has previously been awarded
5 visitation rights or custody of the child by a court;
- 6 (4) Whether the child has resided with the petitioner,
7 either alone or with a parent, and if so, how recently
8 and for how long;
- 9 (5) Whether the petitioner has provided financial support
10 to the child, including the provision of food;
11 clothing; education; and medical, dental, or mental
12 health care;
- 13 (6) If the parent or custodian has denied the petitioner
14 visitation or has otherwise substantially restricted
15 visitation that had been previously granted, whether
16 the reason given, if any, bears on the petitioner's
17 ability to safely care for the child during visitation
18 or relates to an issue between the parent or custodian
19 and the petitioner; and
- 20 (7) Any relevant factor under section 587A-7.
- 21 (e) No hearing for an order of reasonable visitation
22 rights under this section shall be had unless each of the living



1 parents and the child's custodians shall have received due
2 notice, actual or constructive, of the allegations of the
3 petition and of the time and place of the hearing thereof.

4 (f) The court may place reasonable restrictions, including
5 time limitations, on visitation granted under this section.

6 (g) An order made pursuant to this section shall be
7 enforceable by the court, and the court may issue other orders
8 to carry out these enforcement powers if in the best interests
9 of the child."

10 SECTION 3. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: *Erzanne Cruz Cabral*

James T. ...

Report Title:

Child Custody; Primary Caregiver Visitation

Description:

Permits family courts to award reasonable visitation to primary caregivers under certain circumstances. Establishes presumption that a parent's decision regarding visitation is in the best interests of the child, which may be rebutted by evidence that denial would cause harm to the child. Identifies factors a court may consider in awarding visitation. Grants the court discretion to place reasonable restrictions, including time limitations, on visitation.

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