

---

---

# 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 many grandparents  
2 today are stepping in to raise their grandchildren when the  
3 children's own parents, many of whom are minors themselves, are  
4 not able or willing to do so. The high cost of living in Hawaii  
5 often necessitates that one or both parents work full-time or  
6 part-time jobs, some while also attending school, college, or  
7 vocational education, to provide for their family and thus  
8 require grandparents to raise their grandchildren while the  
9 parents are at work or in school, or both. The financial impact  
10 of raising a family in Hawaii is further compounded for single-  
11 parent households who often have to work two jobs to support  
12 their family. In addition, grandparents sometimes take on the  
13 responsibility to raise their grandchildren when the child's own  
14 parents abandon them or when the children can no longer live  
15 with them because of the parent's mental disorder, substance  
16 abuse, or incarceration. Grandparents may have the added burden  
17 of caring for children who suffered from abuse or neglect from



1 their own parents. These children may feel insecure and afraid,  
2 and may be angry at their situation and even embarrassed by it.

3 Raising a second generation brings many rewards for  
4 grandparents, including the fulfillment of giving grandchildren  
5 a sense of security, developing a deeper relationship, and  
6 keeping the family together. The bond between a grandparent and  
7 grandchild may run deeper than the relationship between parent  
8 and child. Hawaiian and non-Hawaiian grandparents can be great  
9 role models and influences for children, and they can provide a  
10 sense of cultural heritage and family history. Hawaiian and  
11 non-Hawaiian grandparents can also educate their grandchildren  
12 about Hawaii and Hawaiian culture and traditions. Grandparents  
13 can further provide their grandchildren with love, have their  
14 best interests at heart, and can make them feel safe.  
15 Grandparents also encourage a child's healthy development.  
16 Overnight trips to Grandma's house, for example, may be less  
17 traumatic than sleepovers with peers and can help children  
18 develop independence. Grandparents may have lots of time to  
19 spend playing and reading to their grandchildren. Such  
20 dedicated attention only improves a child's developmental and  
21 learning skills.



1 The purpose of this Act is to provide guidelines for the  
2 court to consider in awarding visitation rights to grandparents.

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

5 "**§571-46.3 Grandparents' visitation rights; petition;**

6 **notice; order.** (a) A grandparent or the grandparents of a  
7 minor child may file a petition with the court for an order of  
8 reasonable visitation rights. The court may award reasonable  
9 visitation rights provided that the following [~~criteria are~~  
10 ~~met;~~] findings are made:

11 (1) This State is the home state of the child at the time  
12 of the commencement of the proceeding; [~~and~~

13 ~~(2) Reasonable visitation rights are in the best interests~~  
14 ~~of the child.]~~

15 (2) Grandparent visitation is in the best interest of the  
16 child; and

17 (3) Denial of reasonable grandparent visitation rights  
18 would cause significant harm to the child.

19 (b) No hearing for an order of reasonable visitation  
20 rights under this section shall be [~~had~~] awarded unless each of  
21 the living parents and the child's custodians [~~shall have had~~]



1 are provided due notice, actual or constructive, of the  
2 allegations of the petition and of the time and place of the  
3 hearing [~~thereof~~].

4 (c) In any proceeding on a petition filed under this  
5 section, there shall be a rebuttable presumption that a parent's  
6 decision regarding visitation is in the best interest of the  
7 child. The presumption may be rebutted by a preponderance of  
8 the evidence that denial of reasonable grandparent visitation  
9 rights would cause significant harm to the child.

10 (d) In awarding reasonable grandparent visitation, the  
11 court shall be guided by all standards, considerations, and  
12 procedures for parent visitation under section 571-46.

13 (e) An order made pursuant to this section shall be  
14 enforceable by the court, and the court may issue other orders  
15 to carry out these enforcement powers if in the best interests  
16 of the child.

17 (f) In the case where a grandparent or the grandparents of  
18 a minor child violate the terms and conditions of an order  
19 awarding reasonable visitation rights pursuant to subsection  
20 (a), the grandparent or grandparents shall be subject to



1 sanctions as determined by the court and in accordance with  
2 section 571-81."

3 SECTION 3. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 4. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect on January 7, 2059.

9



**Report Title:**

Child Custody; Grandparent Visitation

**Description:**

Adds as prerequisites to awarding grandparents visitation that the court also find that awarding custody to a grandparent is in the best interest of the child and that denial of reasonable grandparent visitation rights would cause significant harm to the child. Clarifies procedures for an order awarding reasonable visitation rights to grandparents and that a violation of the terms and conditions of such an order is subject to sanctions or contempt of court. Takes effect on 1/7/2059. (SD1)

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

