

JAN 18 2019

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. This
8 requires 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 parents who often have to work two jobs to support their family.

12 In addition, grandparents sometimes take on the
13 responsibility to raise their grandchildren when the children's
14 own parents abandon them or when the children can no longer live
15 with their parents because of the parent's mental disorder,
16 substance abuse, or incarceration. Grandparents may have the
17 added burden of caring for children who suffered from abuse or



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

4 Raising a second generation brings many rewards for
5 grandparents, including the fulfillment of giving grandchildren
6 a sense of security, developing a deeper relationship, and
7 keeping the family together. The bond between a grandparent and
8 grandchild may run deeper than the relationship between parent
9 and child. Hawaiian and non-Hawaiian grandparents can be great
10 role models and influences for children, and they can provide a
11 sense of cultural heritage and family history. Hawaiian and
12 non-Hawaiian grandparents can also educate their grandchildren
13 about Hawaii and Hawaiian culture and traditions. Grandparents
14 can further provide their grandchildren with love, have their
15 best interests at heart, and can make them feel safe.

16 Noncustodial grandparents also encourage a child's healthy
17 development. Overnight trips to Grandma's house, for example,
18 may be less traumatic than sleepovers with peers and can help
19 children develop independence. Grandparents may have lots of
20 time to spend playing and reading to their grandchildren. Such



1 dedicated attention improves a child's developmental and
2 learning skills.

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

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

7 "§571-46.3 Grandparents' visitation rights; petition;
8 notice; order. (a) A grandparent or the grandparents of a
9 minor child may file a petition with the court for an order of
10 reasonable visitation rights. The court may award reasonable
11 visitation rights provided that the following [~~eriteria are~~
12 ~~met:~~] findings are made:

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

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

17 (2) Grandparent visitation is in the best interest of the
18 child; and

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



1 (b) No hearing for an order of reasonable visitation
2 rights under this section shall be [~~had~~] awarded unless each of
3 the living parents and the child's custodians [~~shall have had~~]
4 are provided due notice, actual or constructive, of the
5 allegations of the petition and of the time and place of the
6 hearing [~~thereof~~].

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

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

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

20 (f) In the case where a grandparent or the grandparents of
21 a minor child violate the terms and conditions of an order



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1 awarding reasonable visitation rights pursuant to subsection
 2 (a), the grandparent or grandparents shall be subject to
 3 sanctions as determined by the court and in accordance with
 4 section 571-81."

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

8 SECTION 4. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

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

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Report Title:

Child Custody; Grandparent Visitation

Description:

Requires a finding that denial of reasonable grandparent visitation rights would cause significant harm to the child as a condition of awarding grandparent visitation rights. Clarifies procedures for an order awarding reasonable grandparent visitation rights. Specifies that a violation of the terms and conditions of the order is punishable as contempt of court.

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

