

ACT 77

S.B. NO. 406

A Bill for an Act Relating to Child Visitation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 571-46.3, Hawaii Revised Statutes, is amended to read as follows:

“§571-46.3 Grandparents’ visitation rights; petition; notice; order. (a)

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

- (1) [~~This~~] The State is the home state of the child at the time of the commencement of the proceeding; [and]
- (2) [~~Reasonable visitation rights are in the best interests of the child.~~] The petitioner’s child, who is a parent of the minor child, is otherwise unable to exercise parental visitation of the minor child due to incarceration or death; and
- (3) Denial of reasonable grandparent visitation rights would cause significant harm to the child.

(b) No hearing for an order of reasonable visitation rights under this section shall [~~be had unless~~] commence until each of the living parents and the

child's custodians [~~shall have had~~] are provided due notice, actual or constructive, of the allegations of the petition and of the time and place of the hearing [~~thereof~~].

(c) In any proceeding on a petition filed pursuant to this section, there shall be a rebuttable presumption that a parent's or custodian's decision regarding visitation is in the best interest of the child. The presumption may be rebutted by clear and convincing evidence that denial of reasonable grandparent visitation rights would cause significant harm to the child.

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

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

(f) Any person who violates the terms and conditions of an order awarding reasonable grandparent visitation rights pursuant to subsection (a) shall be subject to sanctions as determined by the court and in accordance with section 571-81."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

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

(Approved June 14, 2023.)