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# 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 clear and  
17 convincing evidence that denial of reasonable visitation rights  
18 would cause significant demonstrable harm to the child. In



1 ruling on the petition, the court shall consider factors  
2 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."



1           SECTION 2. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.  
3           SECTION 3. This Act shall take effect on July 1, 2011.



**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 clear and convincing evidence. Identifies factors the court shall consider in awarding visitation. Effective July 1, 2011. (HB56 CD1)

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

