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 visitation rights are in the best interest
11	of the child[-] or that the denial of reasonable
12	visitation rights would cause demonstrable harm to the
13	child.
14	(b) In any proceeding on a petition filed pursuant to this
15	section, there shall be a rebuttable presumption that the
16	parent's decision regarding visitation of the minor child is in
17	the best interests of the child. The presumption may be
18	rebutted by a preponderance of the evidence that the denial of
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1	reasonabl	e visitation rights would cause demonstrable harm to	
2	the child	<u>•</u>	
3	<u>(c)</u>	The court shall consider the following factors when	
4	ruling on	a petition for a grandparent's visitation rights of a	
5	minor child:		
6	(1)	The nature and extent of any pre-existing relationship	
7		between the child and the grandparent;	
8	(2)	Whether the child's parent or custodian has previously	
9		granted visitation of the child to the grandparent and	
10		the nature and extent of the visitation;	
11	(3)	Whether the grandparent has previously been awarded	
12		visitation rights or custody of the child by a court;	
13	(4)	Whether the child has ever resided with the	
14		grandparent, either alone or with a parent and the	
15		dates and extent of the residence;	
16	(5)	Whether the grandparent has ever provided financial	
17		support to the child, including finances for food,	
18		clothing, education, or medical, dental, or mental	
19		health care;	
20	(6)	The grandparent's physical and mental ability to	
21		safely care for the minor child during visitation;	

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1	<u>(7)</u>	All relevant factors in the safe family home factors		
2		under section 587A-7; and		
3	(8)	All relevant factors under section 571-46(a)(9) and		
4		(10) as they pertain to family violence committed by		
5		the grandparent or grandparents.		
6	<u>(d)</u>	No hearing for an order of reasonable visitation		
7	rights under this section shall be had unless each of the living			
8	parents and the child's custodians [shall] have had due notice,			
9	actual or constructive, of the allegations of the petition and			
10	of the time and place of the hearing thereof.			
11	<u>(e)</u>	An order made pursuant to this section shall be		
12	enforceable by the court, and the court may issue other orders			
13	to carry out these enforcement powers if in the best interests			
14	of the child."			
15	SECT	ION 2. This Act does not affect rights and duties that		
16	matured,	penalties that were incurred, and proceedings that were		
17	begun bef	ore its effective date.		
18	SECT	ION 3. Statutory material to be repealed is bracketed		
19	and stricken. New statutory material is underscored.			
20	SECTION 4. This Act shall take effect upon its approval.			
21		INTRODUCED BY: Male Consu		
	HB LRB 13	O. L. Elman		

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H.B. NO. 172

Report Title:

Child Visitation; Rebuttable Presumption; Grandparents

Description:

Establishes a rebuttable presumption that visitation decisions made by a parent of the child are in the best interests of the child. Presumption can be rebutted by a preponderance of the evidence of demonstrable harm to the child. Provides factors the court shall consider when ruling on a petition for child visitation by the grandparent.

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