

SB

21



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

SB 21
GRANDPARENTS VISITATION RIGHTS

SB 21, referred to as the Grandparents Visitation Rights bill, has never had a public hearing in the Legislature. Currently the bill is still in its first committee of referral, the Senate State Affairs Committee.

I would like the support of senior groups and grandparents for this straight-forward and necessary bill. SB 21 would allow grandparents to petition Superior Court for an order establishing reasonable visitation rights with their grandchildren. Of course, visitation rights would only be granted if the Court deemed it was in the best interest of the child.

While we are in the throes of budget discussions and health care reform, I still think this bill deserves attention this session. It is a simple bill with no partisan undertones and I see no reason why it should not pass the Legislature this year. Please join me in asking your elected representatives to move the bill this session.

If you need additional information on SB 21 contact my office in Juneau at 465-3892. You may also send a free public opinion message through the Anchorage Legislative Information Office (LIO) by phoning 258-8111 and dictating a message of support on SB 21. The message must be less than 50 words and can go to any or all legislators.

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595
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CO-CHAIR: Anchorage Caucus • *MEMBER:* Senate Judiciary Committee • Senate Resources Committee

PREFACE

A growing number of grandparents throughout the country have been denied access to their grandchildren by the children's parents or other custodians and have sought legal assistance in obtaining visitation. At least one hundred appellate court decisions involving grandparent visitation rights have been published to date. Yet grandparent visitation law remains a relatively new area of domestic relations law, and there is little literature on the handling of grandparent visitation cases for judges, domestic relations attorneys, mediators and other professionals working in the family law arena.

In the Fall of 1987, the Administration on Aging of the U.S. Department of Health and Human Services provided funds to the American Bar Association for a one-year project focusing on grandparent visitation rights. The project was jointly sponsored by three American Bar Association entities: the Commission on Legal Problems of the Elderly, the Family Law Section, and the National Legal Resource Center for Child Advocacy and Protection. One of the primary goals of the project was to publish this legal resource manual to provide up-to-date information on statutory and case law, existing legal literature, case representation, judicial practice, the role of experts and the use of mediation.

We have many acknowledgements to make. First, we thank the Administration on Aging for providing the grant which made this project possible. We appreciate the tremendous efforts of the authors who contributed to this book. The following authors took time off from their various fields of practice to draft and redraft chapters for the manual: Judge Ernest Rotenberg, Leonard L. Loeb, Marcia B. Gevers, Patricia Fernandez, Dr. Pamela Langelier, and Dr. John Haynes. We also appreciate the help of our Advisory Committee members, who volunteered their time and shared their knowledge: Edith Engel, Dr. Arthur Kornhaber, Dr. Doris Jonas Freed, Leonard Loeb, Bruce Kaufman, T.H. Guerin, Paula Monopoli, Professor Judith Areen, and Daniel Skoler. We thank Inga Van Eysden and Kimberly Shanks, law students who did extensive research and drafted portions of the manual. On the American Bar Association staff we have numerous individuals to thank. We appreciate the guidance and supervision of Nancy Coleman, Staff Director of the Commission on Legal Problems of the Elderly, and Howard Davidson and Bob Horowitz, Director and Associate Director of the National Legal Resource Center for Child Advocacy and Protection. We also would like to thank Beverly Y. Lyons for word processing and performing numerous other helpful tasks, and Norma Gregerman for publication production.

Ellen C. Segal
Naomi Karp

February, 1989

From Grandparent-Victims Disputes: A Legal Resource Manual

. . . About the American Bar Association Commission on Legal Problems of the Elderly

In 1978, the American Bar Association established the Commission on Legal Problems of the Elderly to examine law-related concerns of older persons. The Commission has encouraged legal services for the elderly, particularly through involvement of the private bar; and has explored legal issues surrounding long term care, home care, guardianship, home equity conversion, surrogate decision-making, and Social Security due process.

. . . About the American Bar Association National Legal Resource Center for Child Advocacy and Protection

Since 1978 the Resource Center has worked to improve laws and professional practices in the child welfare arena. It routinely offers educational opportunities to lawyers and other professionals involved in child abuse, foster care, child support, and other substantive areas of law. One of its principal goals is to improve the way courts and public agencies handle their child welfare caseloads, particularly with an eye towards protecting the rights of children and families. Towards this end, the Center works with legislators, judges and agency administrators in the development and implementation of new laws and policies.

. . . About the American Bar Association Family Law Section

The Family Law Section was established in 1958 to promote the objectives of the ABA by improving the administration of justice in the field of family law, by study, conferences, and publication of reports and articles with respect to providing assistance and guidance to the practice of family law, and to provide assistance with the teaching, promulgation of, and improvement of the welfare and strength of the family unit and its members in all related matters.

Chapter I

INTRODUCTION

American grandparents are becoming increasingly vocal about being denied access to their grandchildren. It appears that more and more grandparents are being deprived of the opportunity to see their grandchildren. These visitation problems seem to reflect broad changes in American society: the divorce rate is growing, family members no longer live in close proximity to one another, and the traditional family unit is becoming diffused. The visibility of the grandparent visitation issue also seems to reflect demographic and political changes: as our population ages, older persons are becoming more verbal about issues affecting them, and legislators, policy makers and service providers are giving those issues more attention.

In the last two decades, grandparents have gained ground in their efforts to obtain court-ordered visitation. Under the common law parental rights doctrine, courts generally refused to order visitation rights for grandparents over the objections of the child's parents. Since 1965, every state (excluding the District of Columbia) has enacted a statute enabling grandparents to petition for visitation rights with grandchildren.

These state statutes vary a great deal. They differ on who is authorized to petition for visitation, when a grandparent may petition, and what standard a court should apply in deciding whether to grant visitation privileges. The volume of litigation in the grandparent visitation area is growing rapidly. As many as one hundred or more cases may have reached the state appellate court level since 1980; many more have been filed at the trial court level.

Although domestic relations is traditionally governed by state law, there has been considerable activity on the federal level concerning grandparent visitation. In 1982 and 1983, the House of Representatives' Select Committee on Aging Subcommittee on Human Services held hearings on the issue. House Concurrent Resolution 67 was adopted on April 24, 1985 expressing the sense of the Congress that a uniform State act should be developed and adopted which provides grandparents adequate rights to petition State courts for privileges to visit their grandchildren.

APPENDIX A

GRANDPARENT VISITATION STATUTES*

State	Citation to Statute	On Death ¹ of Parent	On Divorce ² of Parents	After Living with ³ Grandparent	General ⁴ Provision
1. Alabama	Ala. Code §30-3-3 (1983)	X	X		
2. Alaska	Alaska Stat. §25.24.150 (1983)	X	X		
3. Arizona	Ariz. Rev. Ann. §25-337.01 (Supp. 1987)	X	X		
4. Arkansas	Ar. Stat. Ann. §9-13-103 (Supp. 1987)	X	X		
5. California	Cal. Civ. Code §§197.5, 4601 (West 1984 & Supp. 1987)	X			X
6. Colorado	Colo. Rev. Stat. §19-1-116 (1986)	X	X		
7. Connecticut	Conn. Gen. Stat. Ann. §§46b-59, -59a (West 1986 & Supp. 1988)				X
8. Delaware	Del. Code Ann. tit. 10, §950(7) (Supp. 1986)		X		
9. Florida	Fla. Stat. §61.13(2) (b)2c (Supp. 1987)		X		
10. Georgia	Ge. Code Ann. §19-7-3 (Supp. 1988)	X			
11. Hawaii	Haw. Rev. Stat. §571.46(7) (1985)		X		
12. Idaho	Idaho Code §32-1008 (1983)				X
13. Illinois	Ill. Ann. Stat. ch.40, para. 607(b) (c) (Smith-Hurd Supp. 1988)	X	X		
14. Indiana	Ind. Code Ann. §§31-1-11.7-1 to .7-8 (Burns 1987 & Supp. 1988)	X	X		

*Reprinted, with minor editorial and substantive changes, from J. Atkinson 2 Modern Child Custody Practice §8.19 (1986 & Supp. 1987)

FOOTNOTES

- 1 Under this type of provision, visitation could be granted to a grandparent whose son or daughter (the parent of the child) died.
2 Several statutes also specifically provided for grandparent visitation while the parents are separated, where the marriage was annulled, or where there are or have been child custody proceedings.

- 3 The length of the time in which the child lived with the grandparent triggered the right of the grandparent to seek visitation: twelve months (Minnesota and Pennsylvania) and six months (Texas and New Mexico).
4 "General provision" refers to visitation statutes which did not specify or restrict the circumstances under which a grandparent could obtain visitation.

State	Citation to Statute	of Parent	of Parents	Grandparent	Provision
15. Iowa	Iowa Code Ann. §§598.35-.36 (West 1987 & Supp. 1988)	X	X		
16. Kansas	Kan. Stat. Ann. §60-1616(b) (Supp. 1987)				X
17. Kentucky	Ky. Rev. Stat. Ann. §405.021 (Baldwin 1984)				X
18. Louisiana	La. Rev. Stat. Ann. §9:572 (West Supp. 1988)	X	X		
19. Maine	Me. Rev. Stat. Ann. tit. 19, §752 (Supp. 1988)				X
20. Maryland	Md. Fam. Law Code Ann. §9-102 (1984)		X		
21. Massachusetts	Mass. Gen. Laws Ann. ch.119, §39D (West Supp. 1988)	X	X		
22. Michigan	Mich. Comp. Laws Ann. §§722.72(b), 722.72b (West Supp. 1988)	X	X		
23. Minnesota	Minn. Stat. Ann. §257.022 (West 1982 & Supp. 1988)	X	X	X	
24. Mississippi	Miss. Code Ann. §§93-16-1, -3, -5, -7 (Supp. 1988)	X	X		
25. Missouri	Mo. Ann. Stat. §§452.400, .402 (Vernon 1986)	X	X		
26. Montana	Mont. Code Ann. §§40-9-101 to -102 (1987)				X
27. Nebraska	Neb. Rev. Stat. §§43-1801 to -1803 (Supp. 1986)	X	X		
28. Nevada	Nev. Rev. Stat. §§125A.330, .340 (1987)	X	X		
29. New Hampshire	N.H. Rev. Stat. Ann. §458:17 VI (1983)		X		
30. New Jersey	N.J. Stat. Ann. §9:2-7.1 (West Supp. 1988)	X	X		
31. New Mexico	N.M. Stat. Ann. §§40-9-1 to -4 (1986 & Supp. 1988)	X	X	X	
32. New York	N.Y. Dom. Re. Law §§72, 240(1) (McKinney 1986 & 1988)	X	X		X
33. North Carolina	N.C. Gen. Stat. §§50-13.2(b1), .2A, .5(j) (1987)		X		
34. North Dakota	N.D. Cent. Code §14-09-05.1 (Supp. 1987)				X
35. Ohio	Ohio Rev. Code Ann. §3109.05(B) (Anderson Supp. 1987)		X		
36. Oklahoma	Okl. Stat. Ann. tit. 10, § (West 1987)	X	X	X	
37. Oregon	Or. Rev. Stat. §§109.121, .123 (1987)	X	X		

State	Citation to Statute	On Death ¹ of Parent	On Divorce ² of Parents	After Living with ³ Grandparent	General ⁴ Provision
38. Pennsylvania	23 Pa. Cons. Stat. Ann. §§5311-5314 (Purdon Supp. 1988)	X		X	
39. Rhode Island	R.I. Gen. Laws §§15-5-24.1 to .2 (1981 & Supp. 1987)	X	X		
40. South Carolina	S.C. Code Ann. §20-7-420(33) (Law. Co-op. 1976)				X
41. South Dakota	S.D. Codified Laws Ann. §§25-4-52 to -54 (1984)	X	X		
42. Tennessee	Tenn. Code Ann. §36-6-301 (Supp. 1988)				X
43. Texas	Tex. Fam. Code Ann. §14.03(e)-(g) (Vernon Supp. 1988)	X	X	X	
44. Utah	Utah Code Ann. §30-3-5(4),(7) (Supp. 1988)				X
45. Vermont	Vt. Stat. Ann. tit. 15, 1011-1016 (Supp. 1988)	X	X		
46. Virginia	Va. Code Ann. §20-107.2 (Supp. 1988)		X		
47. Washington	Wash. Rev. Code Ann. §26.09.240. (Supp. 1988)				X
48. West Virginia	W. Va. Code §§48-2-15(b)(1), 48-2B-1 (1986)	X	X		
49. Wisconsin	Wis. Stat. Ann. §767.245 (West Supp. 1988)				X
50. Wyoming	Wyo. Stat. §20-2-113(c) (Supp. 1988)	X	X		

CSHB 93 (HES)am

(d) If the petition is filed by both spouses under AS 25.24.200(a), the court shall examine the petitioners or petitioner present and consider whether

(1) the spouses fully understand the nature and consequences of their action;

(2) the written agreements between the spouses concerning child custody, child support, and visitation are just as between the spouses and in the best interests of the children of the marriage; in determining whether the parents' agreement on visitation is in the best interests of the children under this paragraph, the court may also consider whether the agreement should include visitation by grandparents and other persons;

(3) the written agreements between the spouses relating to the division of property, including retirement benefits, spousal maintenance, and the allocation of obligations are just; the spousal maintenance and division of property must fairly allocate the economic effect of dissolution and take into consideration the factors listed in AS 25.24.160(a)(2) and (4);

(4) the written agreements constitute the entire agreement between the parties; and

(5) the conditions in AS 25.24.200(a) have been met.

* Sec. 5. AS 25.24.230 is amended by adding a new subsection to read:

(1) Notwithstanding AS 25.24.220(g), the court may, in addition to granting the relief sought by the petitioning spouses, provide in a decree of dissolution for visitation rights of a grandparent or another person who is not a petitioning spouse."

Representative C. Davis moved and asked unanimous consent that Amendment No. 2 be adopted.

Representative Barnes objected.

The question being: "Shall Amendment No. 2 be adopted?"
The roll was taken with the following result:

CSHB 93(HES)am

CSHB 93(HES)am
Second Reading
Amendment No. 2

Yeas:	23	Boyer, Brown, Bruckman, Carney, Davidson, B.Davis, C.Davis, Donley, Ellis, Finkelstein, Foster, Gruenberg, Grussendorf, Hudson, Jacko, Koponen, Kubina, Larson, Mackie, MacLean, Moyer, Navarre, Parnell
Nays:	13	Baker, Barnes, Gonzales, Hanley, Leman, Martin, M.A.Miller, M.W.Miller, G.Phillips, R.Phillips, Sharp, Taylor, Zawacki
Excused:	2	Ivan, Lincoln
Absent:	2	Choquette, Ulmer

And so, Amendment No. 2 was adopted and the new title appears below:

"An Act eliminating a requirement that a court consider the findings and recommendations of a neutral mediator when awarding shared child custody; relating to court orders concerning control of a minor's property rights in child custody proceedings; relating to visitation rights of grandparents and other persons in child custody disputes; allowing a grandparent or other person to petition a court for visitation rights with a child; and allowing a court to consider nonspousal visitation rights when reviewing a dissolution agreement."

Representative Gruenberg moved and asked unanimous consent that CSHB 93(FIN)am be held in second reading for the February 7, 1992, calendar. There being no objection, it was so ordered.

HB 189

The following was read the second time:

CS FOR HOUSE BILL NO. 189 (FINANCE)

"An Act establishing the Alaska heritage endowment fund and amending the responsibilities of the Alaska State Museum and of the Museum Collections Advisory Committee; and providing for an effective date."

with the:



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Grandparents' Visitation Rights

Under the common law, grandparents were given no legal rights to visit or communicate with their grandchildren over the objections of a parent.¹ A parent's obligation to allow grandparent visitation was historically seen as a moral one, not a legal one.² Yet today all fifty states have created a legal right by legislation granting grandparents such a right in some circumstances.³ While some states seem to be following a trend to expand grandparent visitation rights, "[t]he majority of state statutes only permit grandparent visitation in one of two situations: (1) where the grandchild's parents have been either separated or divorced; or (2) where one of the grandchild's parents have died."⁴

Within these two situations, determination of granting visitation rights focuses on the best interests of the child. "The State's authority to order grandparent visitation over the objections of the child's parents derives from the State's *patria potestas* power to protect the welfare of children and [thus] . . . must be grounded upon the best interests of the child."⁵

Where the child's parents are no longer married or are living apart, courts have awarded grandparents visitation rights on such bases as a child's past cohabitation with the grandparent and the existence of close emotional ties between the grandparent and child.⁶ In the same types of situations, visitation rights have been denied grandparents in the best interests of the child where, for instance, animosity existed between the custodial parent and grandparent.⁷ Other courts have asserted that, absent special circumstances, the custodial parent, who has likely been deemed fit and proper by the court, should be the sole authority on whether grandparent visitation rights are in the best interests of his/her child.⁸ Where one or both of a child's parents have died, courts have used similar reasoning in the decision of whether or not the grant of grandparent visitation rights is in the best interests of a child.⁹

One specific context in which courts and legislatures have considered grandparents' rights is following the adoption of a grandchild. Although there is no uniformity among the states with regard to this issue, "most legislatures and courts have not permitted grandparents to petition for visitation with the grandchild following an adoption of the child by strangers."¹⁰ However, appellate courts in New York and California have interpreted their state statutes to permit such visitation upon a determination that it is in the child's best interest.¹¹

On the other hand, when a stepparent or blood relative adopts a child, the majority of courts and legislatures permit the continuation of grandparents' rights to visit their grandchildren.¹² In this situation, the Illinois Supreme Court has asserted that "such factors as the length and quality of the relationship between grandparents and child, the child's need for continuity in his relationship with people who may have played

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a significant nurturing role in his life and the effect of the termination of the child's relationship with the parent who had relinquished his rights" must be considered.¹³

The situations discussed thus far have dealt with children in families who, because of divorce, death or adoption, were removed from the normal situation of an intact family. The majority of state statutes confine the rights of third parties petitioning for visitation to children living within such impaired families. However, some state legislatures, "in response to changing sociological pressures, and in recognition of the importance of certain extended family relationships have expanded the rights of third parties to petition for visitation with minor children."¹⁴

Such broad visitation rights, as have been granted in several states including Connecticut, Kentucky, and Kansas, can effect a subordination of the decisions of parents within an intact family to the decisions of judges. When this occurs, constitutional rights of parental rearing are implicated. The Supreme Court has recognized a fundamental right to rear one's children as one sees fit which is derived from the liberty component of the Fourteenth Amendment.¹⁵ Because such legislation invades the area of constitutionally protected parental autonomy, it has been subject to much criticism. One state, Illinois, rescinded legislation, which expressly granted grandparental visitation rights for children in intact families, only one year after it was enacted.¹⁶

The constitutional rights of grandparents to visit their grandchildren have been claimed under the due process clause and the equal protection clause. However, such arguments do not seem to have met with much success. The argument that grandparents possess a liberty interest in visitation is weakened by the absence of such a right at common law. The argument that the right to visit children of intact families should be equally protected with the right to visit children whose parents are divorced or not living has also been rejected by at least one court which found that there were valid reasons for treating the two situations differently.¹⁷

Conclusion

In conclusion, the majority of states provide grandparents with a statutory right to petition for visitation in situations where their grandchildren are not in a traditional family whose married parents object to visitation. On the other hand, only a few state visitation statutes are so open ended that they allow grandparents to obtain visitation with children living in intact families. In all visitation decisions, the courts look to the best interests of the child thus the essence of the conflict is in who should decide what are a child's best interests: parent or state.

ENDNOTES

1. See 69 Am. Jur.2d Parent and Child 402 (1967).
2. Annotation, Grandparents' Visitation Rights, 80 A.L.R.3d 222, 228 (1979).
3. Edward M. Burns, Grandparent Visitation Rights: Is It Time for the Pendulum to Flip?, 26 Fam. L.Q. 69, 60 (1981).
4. Rebecca Brown, Grandparent Visitation and the Intact Family, 18 S. Ill. U. L.J. 133 (1981).
5. Burns, supra note 3, at 70.
6. See, e.g., Lopez v. McManus, 581 P.2d 487 (Okla. Ct. App. 1978), Brenner v. Brenner, 248 P.2d 425 (Cal. Ct. App. 1952).
7. See, e.g., Re marriage of Ungrey, 511 N.E.2d 196 (Ill. App. Ct. 1987).
8. See, e.g., Chodzko v. Chodzko, 360 N.E.2d 60 (Ill. 1976).
9. See, e.g., Vasey v. Stewart, 472 S.W.2d 102 (Ark. 1971).
10. Burns, supra note 3, at 67 (emphasis added).
11. See Johnson v. Fallon, 129 Cal. App. 3d (1982), Siblay v. Sheppard, 429 N.E.2d 10-9 (1981).
12. Burns, supra note 3, at 68.
13. Ungwall v. Hoener, 483 N.E.2d 512 (Ill. 1985).
14. Samuel V. Schoonmaker et al., Constitutional Issues Raised by Third-Party Access In Children, 25 Fam. L.Q. 95 (1981).
15. See Meyer v. Nebraska, 262 U.S. 330 (1923).
16. See Ill. Ann. Stat. ch.40, para. 807 (Smith-Hurd Supp. 1001).
17. Ward v. Ward, 537 A.2d 1063 (Del. Fam. Ct. 1987).

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5TH STORY of Level 1 printed in FULL format.

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Los Angeles Times

August 17, 1993, Tuesday, Home Edition

SECTION: Part A; Page 1; Column 1; Metro Desk

LENGTH: 2194 words

HEADLINE: COLUMN ONE;
PARENTS GET AN OUNCE OF PREVENTION;
HOME VISITORS ACT AS EXTENDED FAMILIES FOR STRESSED-OUT MOTHERS AND FATHERS IN A
BID TO CURB CHILD ABUSE. HAWAII'S PROGRAM IS THE PROTOTYPE, AS OTHER STATES TRY
TO REPLICATE THE RESULTS.

BYLINE: By SHARI ROAN, TIMES HEALTH WRITER

DATELINE: OAHU, Hawaii

BODY:

At the Kapiolani Medical Center, where half of all Hawaii's births take place, new parents leave the hospital with a baby and a promise. If things at home become too stressful, parents are told, they can call for help.

That can make a world of difference.

The offer to assist families with the challenges of being a parent is at the heart of a novel child abuse prevention strategy that has brought this isolated state to the attention of health and social service workers nationwide.

While abuse and neglect cases are soaring in most states, Hawaii has greatly curbed child abuse by attempting to mimic the days long ago when relatives and neighbors flocked to a young family's home to lend assistance and support.

"Many other societies have extended families; seldom are people alone in raising a family as they are in this country," said Gail Breakey, director of the Hawaii Family Stress Center and a pioneer of the state's program. "We started to look at domestic violence as a result of this isolation."

Although the era of the extended family is long gone, the concept of helping new parents -- for free -- has been updated and reinvigorated in Hawaii.

The program works this way:

* When children are born, as many families as possible are screened -- with their agreement -- in the hospital for well-known risk factors that can lead to child abuse or neglect. The families considered at risk are offered assistance.

* The assistance comes from a home visitor: a trained worker who helps the family deal with the situations and stresses that can lead to the harming of a child. Home visits usually take place weekly and are offered over a period of years.

Hawaii's success is so talked about that desperate health and child welfare representatives from almost every state have sought a blueprint of the program

Los Angeles Times, August 17, 1993

and have lured Hawaii's experts to the mainland for training workshops and conferences.

Last year, almost 3 million U.S. children were reported to child protective services as alleged victims of maltreatment, a 7.8% increase over the previous year and a 50% jump from 1985.

"There isn't a lot known about how to prevent child abuse. But we know that if we can intervene early, before there is abuse, we can make a big difference," said Leslie Mitchel, of the Chicago-based National Committee for Prevention of Child Abuse. The agency is organizing one of the largest home visitation programs in the nation, called Healthy Families America.

Following the Hawaii model, Healthy Families America has 22 programs under way in 16 states. Programs are in the planning stage in almost every state, including California.

The Hawaii program began in a low-income part of the island in 1975. Like officials from every state, social services workers there were appalled at the relentless increase in child abuse cases. As with other states, Hawaii had numerous programs to deal with families after abuse was reported, but officials began to feel that the programs were like patches on a badly fraying fabric.

They began to think about the causes of child abuse, said Gail Breakey, director of the Hawaii Family Stress Center and a pioneer of the state's program. What they came up with was the extended-family approach.

"By the end of the 1970s, we knew what we were doing was working," Breakey said. "Families were so satisfied and there was no abuse or neglect."

By the late 1980s, a state-funded study of the program showed a 1% abuse rate compared to a 20% rate usually seen in high-risk families nationwide.

Convinced of its value, the Hawaii Legislature institutionalized the program -- setting up the goal of screening every family of every newborn by as early as 1995, and offering assistance to those who need it. Now, about half of all families statewide are screened and 10% of those enter the program.

During screening, trained social workers in Hawaii look for such risk factors as unmarried parents, substance abuse, unemployment, lack of prenatal care and inadequate family income. For those without the multitude of stresses linked to low income, risk factors can include poor parenting skills, not wanting the baby, and a history of mental illness, said Betsy Pratt, a home visitation expert with the Hawaii Family Stress Center.

"We can't look at a family and say this family is at risk for abusing a child. But we can divide families into two groups. One we are reasonably sure will do OK. The other group will need extra support to do well," she said.

Nationwide, there are about 4,000 home visitation programs, although not all have attempted to duplicate Hawaii's program because they lack the funds for such extensive, long-term service. At least 200 programs are operating in California, according to Healthy Families California, a nonprofit, privately funded program that helps interested communities plan home visitation programs.

Los Angeles Times, August 17, 1993

By offering parent training classes, friendly advice and emotional support to parents of young children, proponents believe they can prevent most child abuse, which usually victimizes children under age 1.

"People don't want to abuse their children," said Sherry Glueck, a Contra Costa County mother who started a home visitation program modeled on Hawaii's. "But many are overwhelmed, hungry, tired and alone. This is what causes child abuse. But if you send in someone to provide warmth and support, one-on-one, it is inspiring."

Others are wary of the movement. They see home visitation as Big Brother telling people how to parent. Even some proponents of home visitation wonder if Hawaii's success can be replicated elsewhere. Hawaii officials credit at least part of their success to the strong emphasis on family -- or ohana -- that exists in island culture. Hawaii is also unique in that it offers universal health coverage to all its residents, and that makes it easier to extend preventive services, such as the child abuse prevention program.

The ways families raise their children in Southern California, however, are as diverse as the many cultures that populate the region. And a method like Hawaii's may not translate to some cultures.

"We like the Hawaii model, but we have concerns about how it might work in South-Central L.A.," said Linda Smith, director of Health Families California.

Hawaii's home visitors help in many ways. A visit might include teaching a parent how to discipline a toddler without spanking or simply how to feed a sleepy newborn. Or, the visitor might tell a single mother how to apply to receive food stamps or how to get her toddler into Head Start.

"There is so much you can do for these families," said Mary Sokup, a home visitor who on this day is visiting the home of Yvette Medeiros and Garrett Wells, and their two children, ages 3 years and 4 months. "We take the families on outings, teach them songs to sing with their children, bring them diapers or a toothbrush, help them fill out paperwork. At some houses, you say, 'Give me a broom and a bucket.' We try to provide whatever they need to make their lives less stressful. Sometimes, we are just there to listen."

Sokup is pleased with the progress of this family, which lives in a two-room, government-subsidized apartment in the run-down Aiea section of Honolulu. Medeiros and Wells are unmarried and unemployed, and the stresses of raising a fussy baby and active toddler in the tiny apartment can frazzle nerves.

With Sokup's help, the family located a secondhand washing machine. Sokup -- whom the family calls "Auntie," a term of endearment in Hawaii -- tipped off Garrett about a possible job. She has coaxed the couple to hold the baby more often instead of putting him in the crib with a propped-up baby bottle. Yvette has followed Sokup's advice to enroll Joshua, the precocious toddler, in preschool.

Sokup does not do the legwork for the couple, however. A goal of all home visitors is nurturing a family's sense of independence, pride and confidence.

"We are there to share with the family, not to tell them what to do," said Cristina Nealon, a home visitor in Oahu.

Los Angeles Times, August 17, 1993

Home visitors recognize that being a parent does not come instinctively to everyone.

"Some need support in parenting because their parenting skills are pretty poor," Pratt said. "With others, we can teach them how to cope with stress so they don't feel so oppressed by it. Basically, the grandmother who lived two blocks away used to provide what a home visitor provides."

But home visitation is not without criticism. Even though families voluntarily accept the services of a home visitor, there will be a stigma attached to asking for help with parenting, some warn. Others fear that the programs will dictate what parents must do and what values to instill in children.

"People are going to say: 'The government is going to teach you how to be a parent?'" said Andrea Camp, an aide to Rep. Patricia Schroeder (D-Colo.). "We're in favor of home visitation. But I fear that, in a political arena, where things are simplified, this idea can be misinterpreted and seen as politically explosive. I think it might be shot down."

The heavy burden on the home visitors is another criticism of the concept. Some family service organizations wonder if visitors will be safe in certain neighborhoods.

"It's scary to some people," said Lorraine Lima of the Bienvenidos Children's Center Family Services Division in East Los Angeles, where home visitation is offered. "They wonder how their workers will be treated in the home."

Governments might also hesitate to divert previous social services funds into prevention programs, where the benefits may not become apparent for a decade or longer.

Although the method employs a decidedly soft touch, it is the hard numbers that have impressed child advocates nationwide.

A New York program for teen-age mothers modeled after the Hawaii concept recorded a 4% rate of abuse or neglect among mothers who received visitation, while a Sacramento visitation program recorded a 1% abuse rate among its high-risk mothers -- both similar to Hawaii's statistics and far below the 20% national rate for high-risk families.

Officials for Healthy Families America, which was launched last year with funding from Ronald McDonald's Children's Charities, say 46 states have expressed interest in the program and 22 of those have set up demonstration sites. Legislatures in Iowa, Minnesota and Utah have passed bills to provide a steady source of funds for the projects. Similar proposals are pending in Texas, Maine, Massachusetts and Illinois.

"We are realizing now that we will never stem the tide of child abuse until we intervene at the earliest point in a child's life," said Deanne Tilton, a member of the U.S. Advisory Board on Child Abuse and Neglect, which called for widespread implementation of home visitation in a 1991 report. "If we wait for the official child protective system to get involved, it's too late."

One-third of confirmed cases of child abuse fail to receive any type of rehabilitative service, such as court-ordered counseling, visits from a social worker or placement of the child in foster care, studies find. Children who have been abused are at much greater risk for school problems, medical problems, juvenile delinquency and criminal behavior in adulthood.

The cost merely to investigate and provide short-term treatment for a single case of abuse is \$2,000, according to the National Center on Child Abuse and Neglect. A significant number of abused or neglected children end up in foster care at a yearly cost of \$4 billion to the nation.

"The roots of many of our social problems are in very, very bad childhood situations," said Hawaii's Breakey. "We have to start thinking about early childhood."

Although prevention of child abuse clearly saves money, home visitation also costs money -- lots of it. Programs vary, but a fairly intense visitation program costs about \$2,000 per family per year -- considered costly for a prevention program. And, statistically, four out of five of those high-risk families would not abuse or neglect their children anyway.

In order to justify the costs, advocates are shifting away from the notion of home visitation as solely a child-abuse prevention tactic. In Hawaii, programs receiving state funding must also immunize children, discuss family planning options and enroll a significant percentage of their families in prenatal home visitation programs to reduce the incidence of low-birth-weight and drug-exposed infants.

The expansion of services has also worked well, perhaps in part because Hawaii has a universal health care plan. Hawaii's home visitation programs achieved a 98% immunization rate among 2-year-olds last year, far above the national average of 50%.

"This is not just 'how many bruises have we prevented?' " said Smith, of Healthy Families California. "We have to look at what else we can do with home visitation. We have to look at enhancing the child's health, optimizing child development and strengthening families. What we are finding, more and more, is that if we want to protect the child, we have to strengthen the family."

LANGUAGE: ENGLISH

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 21

Revision Date: March 9, 1994
 Title: "...relating to child visitation rights of grandparents and other persons who are not parents of a child."
 Sponsor: Senator Donley
 Requestor: Senate State Affairs Committee

Department Affected: Department of Law
 BRU: Legal Services
 Component: Operations
 COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
Please see the attached analysis.

Prepared by: Richard T. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: March 9, 1994
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law Date: March 9, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 21

ANALYSIS CONTINUATION:

This bill amends AS 25.20 to provide that in a child custody determination a court shall provide for visitation by a grandparent or other person if that is in the best interests of a child. This bill deals with the rights of private parties, and it therefore will not have a fiscal impact on the Department of Law.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 21

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: Miscellaneous Grandparent Visitation BRU: Trial Courts
Rights Components: _____
 Sponsor: Sens. Donley, Lincoln
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 94) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)
No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
 Agency: Alaska Court System Date: 03/10/94
 Approved by: Arthur H. Snowden, II, Administrative Director
 Agency: Alaska Court System Date: 03/10/94

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SENATE BILL NO. 21
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY SENATORS DONLEY, Lincoln

Introduced: 1/11/93
Referred: STA, HES, JUD

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to child visitation rights of grandparents and other persons who
2 are not the parents of the child."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 25.20.060(a) is amended to read:

5 (a) If there is a dispute over child custody, ether parent may petition the
6 superior court for resolution of the matter under AS 25.20.060 - 25.20.130. The court
7 shall award custody on the basis of the best interests of the child. In determining the
8 best interests of the child, the court shall consider all relevant factors including those
9 factors enumerated in AS 25.24.150(c). In a custody determination under this
10 section, the court shall provide for visitation by a grandparent or other person if
11 that is in the best interests of the child.

12 * Sec. 2. AS 25.20 is amended by adding a new section to read:

13 Sec. 25.20.065. VISITATION RIGHTS OF GRANDPARENT. (a) Except as
14 provided in (c) of this section, a child's grandparent may petition the superior court

1 for an order establishing reasonable rights of visitation between the grandparent and
2 child if

3 (1) the grandparent has established or attempted to establish ongoing
4 personal contact with the child;

5 (2) the child's custodian has denied the grandparent reasonable
6 opportunity to visit the child; and

7 (3) visitation by the grandparent is in the child's best interest.

8 (b) After a decree or final order relating to child custody is entered under
9 AS 25.20.060 or AS 25.24.150 or relating to an adoption under AS 25.23, a
10 grandparent may petition under this section only if

11 (1) the grandparent did not request the court to grant visitation rights
12 during the pendency of proceedings under AS 25.20.060, AS 25.23, or AS 25.24; or

13 (2) there has been a change in circumstances relating to the custodial
14 parent or the minor child that justifies reconsideration of the grandparent's visitation
15 rights.

16 * Sec. 3. AS 25.24.220(d) is amended to read:

17 (d) If the petition is filed by both spouses under AS 25.24.200(a), the court
18 shall examine the petitioners or petitioner present and consider whether

19 (1) the spouses fully understand the nature and consequences of their
20 action;

21 (2) the written agreements between the spouses concerning child
22 custody, child support, and visitation are just as between the spouses and in the best
23 interests of the children of the marriage; in determining whether the parents'
24 agreement on visitation is in the best interests of the children under this
25 paragraph, the court shall also consider whether the agreement should include
26 visitation by grandparents and other persons;

27 (3) the written agreements between the spouses relating to the division
28 of property, including retirement benefits, spousal maintenance, and the allocation of
29 obligations are just; the spousal maintenance and division of property must fairly
30 allocate the economic effect of dissolution and take into consideration the factors listed
31 in AS 25.24.160(a)(2) and (4);

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(4) the written agreements constitute the entire agreement between the parties; and

(5) the conditions in AS 25.24.200(a) have been met.

* Sec. 4. AS 25.24.230 is amended by adding a new subsection to read:

(i) Notwithstanding AS 25.24.220(g), the court may, in addition to granting the relief sought by the petitioning spouses, provide in a decree of dissolution for visitation rights of a grandparent or another person who is not a petitioning spouse.