



February 7, 2011

The Honorable Tim Owens, Chairman
Senate Judiciary Committee

Reference: SB 52- Grandparent's Custody of Children

Good morning Chairman Owens and members of the Senate Judiciary Committee. My name is Mary Tritsch and I am the Communications Director for AARP Kansas. AARP is a nonprofit, nonpartisan membership organization dedicated to making life better for people 50 and over. AARP has more than 40 million members nationwide and more than 340,000 members in Kansas. We provide information and resources and engage in legislative, regulatory and legal advocacy. Thank you for allowing us to provide written testimony in support of SB 52.

Grandparents, like everyone, need effective mechanisms to assert their rights. These mechanisms include the enforcement of rights by federal, state, and local agencies that oversee programs for older people or that have the authority to enforce laws and regulations on behalf of older people.

An area of civil justice of particular concern to older people is the legal authority they have as grandparents. An increasing number of children are living with their grandparents or other relatives. According to the 2000 census, the number of children residing in grandparent-headed households was about 4.5 million. Another 1.5 million children are living with other relatives. More than 2.4 million grandparents report that they are responsible for most of the basic needs of grandchildren living with them. Nineteen percent of these grandparents live in poverty. About one-third of these families have no parent present in the home. These relatives are key providers of care and can be a stabilizing force for children whose parents have divorced, become incapacitated, or died.

Many such caregivers, grandparents and other relatives, have partial or total responsibility for children but none of the legal authority necessary to provide care. For example caregiver relatives do not always have the authority to enroll a child in school even if the child resides with the relative full-time. Only about half of the states have laws giving relative caregivers authority to obtain medical treatment for the children in their care; about a fifth of the states provide statutory authority for educational consent. And caregiver relatives with long experience providing full-time care frequently find themselves left out of consideration when decisions are made about permanent child placement. In some states, grandparents and other relatives may have limited standing to petition a

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court for visitation, even though it may be in the child's best interest to have a continuing relationship with these relatives.

State statutes can specify limited circumstances in which a grandparent or other relative may file a petition for visitation, such as divorce, custody proceedings, or a parent's incarceration or death. The constitutionality of visitation statutes has been challenged in numerous state courts. The U.S. Supreme Court has ruled that very broad visitation laws are unconstitutional but left open whether more narrowly drawn statutes might meet constitutional requirements.

AARP believes that states should adopt legislation that:

- provides a range of alternatives by which grandparents and other relatives may obtain and exercise the legal authority to make decisions for the children in their care; and
- allows grandparents to petition courts for visitation with grandchildren in cases of divorce, separation of parents, parental incapacity, long-term incarceration, or the death of one or both parents, particularly where the two generations have formed deep bonds critical to the children's well-being.

Therefore, we respectfully request your support for SB 52 which mandates that grandparents shall be an interested party in custody proceedings. We respectfully request this committee's support of this proposed legislation.

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