



Uniform Law Commission

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

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UNIFORM NONPARENT CUSTODY AND VISITATION ACT (2018)

-Summary-

The Uniform Nonparent Custody and Visitation Act (UNCVA) (2018) provides states with a uniform legal framework for establishing child custody and visitation rights of nonparents. In *Troxel v. Granville*, 530 U.S. 57 (2000), the U.S. Supreme Court recognized a right of a fit parent to make decisions regarding the rearing of his or her child. With that in mind, the UNCVA seeks to balance, within constitutional restraints, the interests of children, parents, and certain nonparents. Notably, the UNCVA:

- Recognizes a right to seek custody or visitation for two categories of nonparents: (a) nonparents who have acted as consistent caretakers of a child without expectation of compensation, and (b) nonparents who have a substantial relationship (formed without expectation of compensation) with a child and who demonstrate that denial of custody or visitation cause harm to the child with clear evidence.
- Requires that a nonparent's petition be verified and include specific facts on which the request for custody or visitation is based. This will aid courts in filtering out cases in which the petitioner does not have a meritorious claim and will facilitate more efficient and clear procedures for evaluating custody and visitation petitions.
- Provides a presumption that the parent's decision about custody or visitation is in the best interest of the child. A nonparent would have the burden of rebutting that presumption with clear and convincing evidence.
- Requires that when custody or visitation rights are sought, notice must be provided to: (a) any parent of the child; (b) any person having custody of the child; (c) any individual having court-ordered visitation with the child; and (d) any attorney, guardian, or similar representative for the child.
- Provides a list of factors to guide the court's decision regarding the child's best interest. These factors include the child's relationships with parents and nonparents, the opinion of the child, the age and maturity of the child, past behavior by parents or nonparents, and the impact of the requested rights on the child.
- Provides protections for victims of domestic abuse. The court shall presume that custody or visitation rights are not in the best interests of the child if the court finds abuse, neglect, violence, sexual assault, or stalking was committed by the nonparent or member of the nonparent's household.
- Provides that a nonparent granted visitation may be ordered to pay the cost of facilitating visitation, including the cost of transportation.
- Does not apply to a proceeding between two or more nonparents unless a parent is party, nor does the act apply to children who are the subject of proceedings for abuse, neglect, or dependency. In addition, under an optional provision, a nonparent may not maintain a proceeding under this act solely on the basis of having served as a foster parent.

For further information about UNCVA, please contact Lindsay Beaver, ULC Legislative Counsel, at (312) 450-6618 or lbeaver@uniformlaws.org.