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**AARP Kansas**  
555 S. Kansas Avenue  
Suite 201  
Topeka, KS 66603

T 1-866-448-3619  
F 785-232-8259  
TTY 1-877-434-7598  
[www.aarp.org/ks](http://www.aarp.org/ks)

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The Honorable Pete Brungardt, Chair  
The Honorable Roger Reitz, Vice Chair

Reference: Senate Bill 262- Concerning grandparent, custody, visitation and residency.

Good morning Chairman Brungardt and members of the Senate Federal and State Affairs Committee. My name is Ernest Kutzley and I am the Advocacy Director for AARP Kansas. AARP represents more than 340,000 members in Kansas. Thank you for this opportunity to submit our written comments in support of SB 262.

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, while 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

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the relative full-time. Only about half of all 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. Caregiver relatives with long experience providing full-time care also 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 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 US 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 support SB 262. We respectfully request your support of this legislation. Thank you for your efforts in passing SB 262.

Ernest Kutzley