

Grandparent Visitation

To Whom Does The Law Apply?

- ❑ Any grandparent or great-grandparent of a child born during a marriage; or
- ❑ The maternal grandparent (mother's parent) of child born outside marriage; or
- ❑ The paternal grandparent (father's parent) of a child born outside marriage, if a court has ordered that he is the father.

When Does The Law Apply?

- ❑ When the marriage between the parents of the child has ended by death, divorce or legal separation.
- ❑ When custody or guardianship of a child has been granted to a person other than a parent by a court.
- ❑ The law **does not apply** when the parents are married to each other and refuse grandparent visitation.
- ❑ The law **does not apply** when parental rights of the parent(s) have been taken away by a court.

If the Parent with Custody Refuses, Grandparents No Longer Automatically Get Visitation. Under the new law, there is a "rebuttable presumption" that the parent's decision denying or limiting visitation to the grandparent is in the best interest of the child. "Rebuttable presumption" means that the judge will begin the hearing believing that the decision of the parent with custody is correct and it is up to the grandparent to prove that the parent's decision is wrong.

What Does a Grandparent Have To Do to Get Visitation?

To prove that the denial of visitation by the parent with custody is not in the best interest of the child, a grandparent wanting visitation must prove in court the following:

1. That the grandparent wanting visitation has established a **significant and viable relationship** with the child for whom he or she is requesting visitation; **and**
2. **Visitation with the grandparent would be in the "best interest" of the child.**

How Are "Viable Relationship" and "Best Interest" Proven?

To establish Numbers 1 and 2 above, the grandparent wanting visitation must prove in court **at least one** (1) of the following:

- ✓ The child lived with the grandparent for at least six (6) months in a row, even if the parent with custody lived in the same home; or
- ✓ The grandparent was the caregiver to the child on a regular basis for at least six (6) months in a row; or
- ✓ The grandparent had frequent or regular contact with the child for at least twelve (12) months in a row; or
- ✓ Any other facts that prove that the loss of relationship between the grandparent and child is likely to harm the child.

To establish that visitation is in the best interest of the child, the grandparent must prove, in court, all three (3) of the following:

1. The grandparent is able to give the child love, affection, and guidance; and
2. The loss of the relationship between the grandparent and the child is likely to harm the child; and
3. The grandparent is willing to cooperate with the parent having custody if visitation with the child is ordered.

What Happens Once Visitation Rights Are Ordered?

The police have no authority to enforce a visitation order. If either the parent with custody or grandparent does not follow the visitation order, the parent with custody or grandparent must go back to court to make everyone follow the order.

If visitation needs to be changed for any reason, you must go back to court to have the judge change the order.

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*This fact sheet is given to you as a guide to help you generally understand the way family law matters are handled. Local courts interpret things differently. The information and statements of law contained in this fact sheet are not intended to be used as legal advice. Before you take any action, talk to an attorney and follow his or her advice. **Always do what the court tells you to do.***

Funding for the Family Law Series is provided in part by the Arkansas Bar Foundation.