

Grandparent Visitation Fact Sheet

Introduction

Grandparent Visitation is available for the following people:

- any grandparent or great-grandparent of a child born during a marriage
- the maternal grandparent of a child born outside a marriage
- the paternal grandparent of a child born outside a marriage, if a court has established paternity

At the following times:

- when a marriage between the parents of the child has ended by death, divorce, or legal separation
- when custody or guardianship of the child has been granted to a person other than a parent by a court

Not at the following times:

- when the parents are married to each other and refuse grandparent visitation
- when parental rights of the parents have been taken away by a court

Rebuttal Presumption

If the parent with custody refuses, grandparents are not automatically entitled to visitation. Under Arkansas law, there is a “rebuttable presumption” that the parent’s decision to deny or limit visitation to the grandparent is in the best interest of the child. “Rebuttable presumption” means that the judge will begin a hearing believing 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.

Responding to the Rebuttal Presumption

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

- they have established a significant and viable relationship with the child who they are requesting
- visitation with the grandparent would be in the best interests of the child

Proving a Viable Relationship

To establish a significant and viable relationship, the grandparent wanting visitation must prove in court at least one of the following:

- the child lived with them for at least six (6) months in a row, even if the parent with custody of the child lived in the same house
- they were the caregiver to the child on a regular basis for at least six (6) months in a row

- they had frequent or regular contact with the child for at least twelve (12) months in a row visitation with
- any other facts that show the loss of relationship between the grandparent and child is likely to harm the child

Establishing Visitation Is in the Best Interests of the Child

To establish visitation is in the best interests of the child, the grandparent must prove in court all of the following:

- they are able to give the child love, affection, and guidance
- the loss of the relationship between them and the child is likely to harm the child
- they are willing to cooperate with the parent having custody, if visitation with the child is ordered

After 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.

This fact sheet is a collaboration of the Center for Arkansas Legal Services and Legal Aid of Arkansas, Inc. These nonprofit organizations provide free legal assistance to eligible Arkansans who meet income, asset, and other guidelines. Legal assistance may also include advice and counsel, brief services, or full representation depending on the situation. For more information about civil legal aid in Arkansas, please visit arlegalservices.org. For information specific to Legal Aid of Arkansas, Inc., visit arlegalaid.org. Apply for services online or by calling 1-800-9-LAW-AID (1- 800-952-9243).

The information and statements of law in this fact sheet should not be considered legal advice. This fact sheet is provided as a broad guide to help you understand how certain legal matters are handled in general. Courts may interpret the law differently. Before you take action, talk to an attorney and follow his or her advice. Always do what the court tells you to do.

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