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Grandparent Rights

What Are Grandparent's Visitation Rights?

Under Ohio law, a court can award visitation rights to a grandparent in three situations: when there has been a domestic relations proceeding, when the child's parent is deceased, or, at the time of the child's birth, the mother was unmarried. For the court to consider granting visitation the grandparent must file a motion with the court, the grandparent must have an interest in the welfare of the child, and visitation must be in the best interest of the child.

When Is Visitation In The Best Interest Of The Child?

Ohio law specifies numerous factors that a court must consider in determining whether visitation between a grandparent and a child should be ordered, including:

1) The wishes and concerns of the child's parents;
2) The prior interaction and interrelationships of the child with parents and other relatives, the location of the grandparent's residence, and the distance between it and the child's residence;
3) The child's and the parent's available time;
4) The child's age;
5) The child's adjustment to home, school, and community;
6) The wishes of the child;
7) The health and safety of the child;
8) The amount of time that a child has available to spend with siblings;
9) The mental and physical health of all parties;
10) The willingness to reschedule missed visitation;
11) Whether the person seeking visitation has been convicted of or pleaded guilty to any criminal offense involving an act that resulted in a child being abused or neglected; and
12) Any other factor in the best interest of the child.

How Do I Obtain Visitation With My Grandchild If My Son Or Daughter's Marriage Is Terminated?

Any court that's considering a divorce, dissolution of marriage, legal separation, annulment, or child support proceeding for the child, can grant reasonable visitation rights to the grandparent if you file a motion seeking visitation with that same court.

If My Child Dies, How Do I Obtain Visitation With My Grandchild?

If either the father or mother of a minor child is deceased, you may file a complaint requesting reasonable companionship or visitation rights in the common pleas court in the county where the child resides. Remarriage of the surviving parent of the child or the adoption of the child by the spouse of the surviving parent does not affect the authority of the court to grant reasonable grandparent companionship or visitation rights.

How Do I Obtain Visitation With My Grandchild If My Son Or Daughter Was Unmarried When My Grandchild Was Born?

The court may grant you visitation rights if you are the parent of the child's mother who was unmarried at the time the child was born. If you are the parent of the child's father, he must have been legally determined the father, either through a paternity action or by acknowledging his paternity and his acknowledgement has been entered into the birth registry. You will need to file an action in the common pleas court in the county in which the child resides. The court's authority to order visitation when a child is born to an unmarried woman continues even if the child's mother or father subsequently marry.

What Are My Visitation Rights If My Grandchild Is In Protective Custody?

The Ohio Revised Code does not expressly provide for grandparent visitation when a child is alleged or adjudicated by the juvenile court to be an abused, neglected, or dependent child. However, the Ohio Dept of Jobs and Family Services has adopted a rule that requires a public children services agency or private child placing agency to arrange for such visitation in certain circumstances. When a child is in temporary custody, children services is to make arrangements for family members to have the opportunity to visit or communicate with the child, if it is in the child's best interests.

Do I Have Visitation Rights If My Grandchild Is Adopted?

Your rights to visitation in the case of adoption differ depending on the circumstances. If you have visitation rights because one of the parents has died, your visitation rights are not lost because of a stepparent adoption. Ohio law does not terminate the relationship between the child and the family of the deceased parent when the child is adopted by the spouse of the surviving parent.

However, in the case of a child whose parents are separated or a child born to an unmarried woman, the Ohio Supreme Court has held that a provision of Ohio law providing that a final decree of adoption terminates all legal relationships between the adopted person and the adopted person's relatives has the effect of terminating your visitation rights upon adoption, regardless of whether the child is adopted by strangers, relatives or a stepparent.

How Do I Enforce My Visitation Rights?

Any person who has visitation rights or is subject to a visitation order may bring an action for contempt for another person's failure to comply, or interference with, the order. The court may impose a fine, a term of imprisonment, or both on a person found guilty of contempt. Furthermore, if any person is found in contempt of court for failing to comply with or interfering with any order or decree granting companionship or visitation, the court shall assess all court costs arising out of the contempt proceeding against the person and require the person to pay any reasonable attorney's fees of any adverse party, as determined by the court.

Under What Circumstances May I Be Granted A Power Of Attorney For My Grandchild?

If your grandchild is residing with you, a power of attorney may be granted if one of the following applies: The parent:

1) is seriously ill;
2) is incarcerated;

3) is temporarily unable to provide adequate care and supervision of the child because of his or her mental condition;
4) is homeless or without a residence;
5) is in a residential treatment program for substance abuse; or
6) has a well-founded belief that it is in the child's best interest.

This document must be signed by the parent and filed with the juvenile court in the county in which the grandparent resides within 5 days of the signing. The filed power of attorney must be accompanied by a receipt showing that the notice of creation of the power of attorney was sent by certified mail to the parent who is not the residential parent and legal custodian.

What Rights Does A Power Of Attorney For Residential Grandparent Create?

The parent of a child may create a power of attorney that grants to a grandparent of the child, with whom the child is residing, any of the parent's rights and responsibilities regarding the care, physical custody and control of the child, including the ability to enroll the child in school, to obtain from the school district educational and behavioral information about the child, to consent to all school-related matters regarding the child and to consent to medical, psychological, or dental treatment for the child.

What If The Parent Won't Sign The Power Of Attorney And I Need To Enroll My Grandchild In School?

You can file a Caretaker Authorization Affidavit with the Juvenile Court in your County. This affidavit will allow you to enroll the child in school when the child is living with you and you are unable to locate and contact either parent. You do not need to try to locate a parent if the parent's rights were terminated by court order, or if there is a custody order and the non-custodial parent is prohibited from receiving a notice of relocation.

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