

Grandparent Visitation

Today's grandparents find themselves taking on a greater role in the lives of their grandchildren. More frequently, grandparents are more active in parenting their grandchildren by doing everything from teaching values and entertaining to listening to their grandchildren's problems. In addition, more and more grandparents are providing child care for their grandchildren. As a result, if the parents divorce or separate, grandparents often struggle to enjoy the same relationship they had with their grandchildren. Therefore, many states, including Michigan, have enacted grandparent rights statutes, to create a legal process for grandparents to obtain legally enforceable visitation rights with their grandchildren.

Under Michigan law, a grandparent may file a request for visitation, if there has been an ongoing family law matter between the parents (ie. a divorce or paternity). In addition, a grandparent may file a request for visitation if one of the parent's is deceased, legal custody of the child is with someone else other than the biological parents, or the grandparent has assumed the primary care for the grandchild.

A fit parent may choose to deny grandparent visitation. Although a grandparent may present evidence to the court that excluding them from their grandchildren will emotionally and physically harm the child, the Court must dismiss the grandparent's request for visitation if both parents oppose the request for grandparent visitation. As a result, it is imperative to any grandparent visitation case involving two fit parents, that the grandparent obtains the support of at least one of the parents.

If the grandparents prove to the Court that denying them visitation creates a substantial risk of harm to the grandchildren, the Court will analyze whether grandparent visitation is in the best interests of the grandchildren by considering the following factors under MCL 722.27b(6):

- 1) The love, affection, and emotional ties between grandparent and child;
- 2) The length and quality of the relationship between the child and grandparent;
- 3) The grandparent's moral fitness;
- 4) The grandparent's mental and physical health;
- 5) The child's preference, if the court considers the child to be of sufficient age to express a preference;
- 6) The effect on the child of hostility between the parent and grandparent;
- 7) The willingness of the grandparent to encourage a close relationship between the child and parent.
- 8) Any history of abuse or neglect of the child by the grandparent;
- 9) Whether the parent's decision to deny grandparenting time is related to the child's well-being; and
- 10) Any other factor the child's physical and psychological well-being.

Therefore, if a grandparent suddenly finds himself estranged from the family, or watching his grandchildren in the midst of a custody battle, he should consult a lawyer

immediately to determine the best course of action for protecting his relationship with his grandchildren. In addition, it is always important, no matter what the situation, for a grandparent to maintain the best possible relationship with the grandchild's parents, regardless of the situation, in support of the best interests of the grandchild.

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