



Grandparents and Visitation

I want to spend time with my grandchildren.

Do I have the right to do that?

Spending time with your grandchildren is not a guaranteed right. **BUT** if a parent or guardian is not letting you spend time with your grandchildren, there are things you can do to try to get to see them.



Staying out of court

If you can, try to work out visits with the parents. Tell them how you feel and that you want to be a part of your grandchild's life. You can also try using a mediator to work out a plan if the parents are willing. There are some low-cost mediation options.

- Conflict Resolution Center:
Tel. 612-822-9883
<http://crcminnesota.org/mediation-conflict-coaching/>
- Dispute Resolution Center: For residents of Dakota, Ramsey, and Washington counties.
Tel. 651-292-7791
<http://disputeresolutioncenter.org/services/mediation/>

But sometimes, going to court may be the only option.

Going to Court

If you can't work out an agreement with the parents, you can ask a court to give you visitation time. A court only considers requests for grandparent visitation if you have "standing." Things that show you have standing are listed below.

1. If your child is one of the parents and your child has died
2. In a family court proceeding like divorce, custody, legal separation, annulment or paternity.
 - Example 1: Your child is going through a divorce or custody case. You can ask the Court to give you visitation rights as part of the divorce or custody case between the parents.
 - Example 2: Your child already got divorced or went to court over custody. You can file a motion in that same court case asking for visitation rights.

- Example 3: Your child and the other parent signed a Recognition of Parentage and filed it with the state registrar of vital records, but no custody case has been filed in family court. You can start a court action and ask the court to give you visitation rights.
3. If the child lived with you for a year or more and then the parents removed the child.
 4. If your grandchild is adopted by a stepparent, and:
 - Your child is one of the parents and your child has died, or
 - Your child’s parental rights were terminated because your grandchild was adopted.
- Example: Your child got divorced, and his ex-spouse got remarried. Your child agreed that his ex-spouse’s new spouse could adopt your grandchild. Even though your child is no longer your grandchild’s legal parent, you can ask for visitation as a grandparent.

What do I have to show the court to get visits with my grandchildren?

The court only grants reasonable visitation to grandparents if it is in the child's best interest **and** would not interfere with the parent-child relationship.

You need to show the court that it is in the child’s best interest to have visits with you **and** prove, by clear and convincing evidence, that visitation would not interfere with the parent-child relationship.



What does “best interests” mean?

There is no one way to define this. The court looks at your relationship with your grandchild and what you’ve done to be part of your grandchild’s life.

- Do you call, visit, and spend time with your grandchild?
- Do you know what your grandchild likes?
- Does your grandchild enjoy time with you?
- Do you help your grandchild with school or try to help him or her learn?

What if my grandchild was adopted by someone other than a stepparent?

- If your grandchild lived with you before the adoption OR is adopted by relatives and both birth parents have died, you can ask for a “communication agreement.” This sets up what sort of contact you can have with your grandchild in the future. The agreement has to be put into a court order and this has to be done before the final adoption order. It is a good idea to talk to a lawyer about this.
- If the child is adopted by someone other than a stepparent, you can’t have visitation if the adoptive parents don’t agree to it.

Do I need a lawyer to get a visitation order?

You don't need a lawyer to get a visitation order, but it is a good idea. Find a lawyer with experience in family law, and especially grandparent visitation issues.

Can I ask for visitation with my grandchild if the biological parents are still together?

If your grandchild's biological parents are married, and the child did not live with you a year, then no, you can't go to court and ask for visitation.

If your grandchild's biological parents are not married but living together with your grandchild as a family, you can go to court to seek visitation BUT only if they signed a Recognition of Parentage (ROP) and filed it with the state registrar of vital statistics.

See the "Going to Court" section above for more information.



How do I show I have a relationship with my grandchild if the parents won't let me spend time with my grandchild?

You must show that you've made enough of an effort to try to have a relationship with your grandchild. The court may look at several things to find out if you've done this or not.

You can do this by sending them birthday cards or gifts. You can write them letters. You can call them and try to let them know that you love them.

Do your best to say good things about the parents, even if you are not getting along. Do not make your grandchildren feel like they have to choose between their parents or grandparents. The court wants to see that the child won't be emotionally or physically harmed by visiting with you.

What if the parents are strongly opposed to my seeing my grandchildren?

The court does strongly consider what the parents want and look at why the parents don't want you to visit with your grandchild. The court may look at what has happened between you and the parents. This is not enough, but it can play a part.

Each case is different. Talk to a lawyer if you are unsure about yours.

Fact Sheets are legal information NOT legal advice. See a lawyer for advice.

Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.

© 2023 Minnesota Legal Services Coalition. This document may be reproduced and used for non-commercial personal and educational purposes only. All other rights reserved. This notice must remain on all copies. Reproduction, distribution, and use for commercial purposes are strictly prohibited.