

Councils on Aging and Grandparent Support Groups

Grandparents Raising Grandchildren Info Center of Louisiana
Contact Gerrie Baker: 225-346-0680
P.O. Box 4211
Baton Rouge, LA 70821
gbaker@ccsbr.org

Grandparents as Parents
Lesley Parker: 318-448-0284
1404 Murray Street
Alexandria, LA 71301

Grandparent raising Grandchildren Information Center in Louisiana
225-810-3555 or www.lagrg.org/News

Getting Legal Help

If you feel you cannot afford an attorney, free legal assistance may be available by contacting your nearest office by phone or by visiting www.la-law.org for more information.

Shreveport
720 Travis Street
Shreveport, LA 71101
(800) 826-9265

Monroe
7016 Cameron Street
Monroe, LA 71201
(800) 259-6591

Natchitoches
134 St. Denis Street
Natchitoches, LA 71457
(800) 960-9109

Alexandria
1808 Jackson Street
Alexandria, LA 71301
(800) 256-4343

Lake Charles
2911 Ryan Street
Lake Charles, LA 70601
(877) 256-0639

Lafayette
1020 Surrey Street
Lafayette, LA 70501
(800) 256-1175

This brochure, prepared by Acadiana Legal Services, is issued to inform and provide general information, not to advise. If you have a specific legal problem you should not try to apply or interpret the law without the aid of a trained expert who knows the facts because the facts may change the application of the law.

Informational Resources

Generations United offers an overview of benefits available in all states such as Temporary Assistance for Needy Families (TANF), Social Security for Dependents, Medicaid, Children's Health Insurance Program (CHIP) and others. You must contact your local office of each program to apply. Generations United gives links to particular benefit programs for more detailed information, however their overview of each program is quite good. Be sure to read the overviews in full to see which ones may apply to your situation:
www.gu.org/index.html

AARP also has a useful web site for grandparents at www.aarp.org/grandparents. You can sign up to receive their quarterly newsletter *The GIC Voice: A Newsletter for Grandparents Raising Grandchildren* by clicking on the tab labeled "newsletter". The newsletter is available in English and Spanish.

Office of Family Support provides information and applications for the Kinship Care Subsidy Program, FITAP (financial assistance), Food Stamps, Day Care Assistance and Children's Health Insurance Program.
888-524-3578 or www.dss.state.la.us

Medicaid and LaChip
800-256-3068 or www.lachip.org

Earned Income Tax Credit (IRS)
800-829-1040

Social Security Office
800-772-1213

Child Support Enforcement Offices
800-256-4650

What You Should Know About Grandparents Raising Grandchildren

A guide to assist grandparents who are raising their grandchildren with basic legal and social services information. If you need legal advice specific to your own situation please call an attorney. If you cannot afford an attorney call one of the Legal Services offices listed in this publication.



RIGHTS TO CUSTODY OR VISITATION

In general, grandparent rights to their grandchildren are limited. In 2000, the U.S. Supreme Court reaffirmed the fundamental right of parents to make all decisions concerning the welfare of their children. The court limited the right of grandparents to interfere with the decisions of the parents to extraordinary circumstances. In Louisiana, grandparent rights to their grandchildren are limited.

VISITATION RIGHTS

Grandparents have several options if they want the child's parents to maintain custody of their children but still want a set schedule of visitation so they can be assured contact with their grandchildren. A grandparent has the right to file suit in court to ask for visitation rights in the following circumstances:

A divorce petition is pending between the mother and father of the grandchildren. A grandparent may intervene in the divorce to ask for visitation with the grandchildren. The grandparent will have to prove extraordinary circumstances exist which make it in the best interest of the grandchild to have visitation. The judge will consider the length and quality of the prior relationship between the grandchild and grandparent, whether the grandparent can uniquely provide guidance and support to the grandchild that the parent cannot, the grandchild's wishes, and the mental and physical health of the grandparent. Also, the judge will consider the willingness of the grandparent to encourage a good relationship between parent and child;

When the grandparent's child is sentenced to jail, is dead, or is declared by a judge to be insane, even if there is no pending divorce between the parents. There is a requirement that the parents must have lived together;

If the parents are married and have lived separately for more than six months. A judge will grant visitation if the grandparent proves it is in the best interest of the child;

When their grandchild has been placed in foster care by the state because of abuse or neglect by the parents and the parental rights of the parents have been terminated.

CUSTODY RIGHTS

Grandparents may ask for legal custody of grandchildren in the following circumstances:

If the parents have filed for custody in a divorce petition, the grandparents may intervene and ask the judge to award them custody. The grandparents will have to prove that maintaining custody of the grandchild with the parents would substantially harm the child. This burden of proof is difficult to overcome and could result in the parents maintaining custody even though the child would be better off living with the grandparents. Generally, the judge would have to find that the parents are abusing or neglecting the grandchild to award custody to grandparents;

If parents are abusing their child, grandparents may file a protective order on behalf of the grandchild asking that they obtain temporary custody of the child. A judge could grant an immediate order of custody. A hearing would be held within 30 days during which the grandparents would have to prove the abuse to the judge. If abuse is proven at the hearing, the judge may award custody to the grandparents for between six and eighteen months. Protective orders are designed to provide emergency relief, so it is relatively easy for the grandparents to appear at the clerk of court in the parish where the abuse has occurred and file the protective order without the help of an attorney. However, it is always better to seek advice from an attorney;

When the state has obtained custody of the grandchild because of abuse or neglect It is the policy of the state to attempt to place abused children with relatives before they are placed in foster care;

If the parents are in agreement that the grandparents should have custody of the child, they may file a Petition for Voluntary

Transfer of Custody. This legal proceeding allows for a judge to transfer custody from the parents to the grandparents. It can be permanent or temporary. However, if the parents should ever change their minds about the custody arrangement after the judgment the parents would have to get the approval of the judge before their custodial rights would be restored.

PROVISIONAL CUSTODY BY MANDATE

The Provisional Custody by Mandate is a Power of Attorney document by which an authorized parent (who has legal custody) may authorize a grandparent to provide care for the grandchild. The document must be signed in front of two witnesses and a notary and must be renewed each year. It can be revoked at anytime by the parent. A transfer that is made without the consent of the other parent (when there is no legal custody order in place), is not applicable to the parent that was excluded. The document does not transfer legal custody and does not have to be approved by a judge. It merely allows the grandparent to do such things as enroll the grandchild in school or obtain medical care for the grandchild. Grandparents should check with individual school boards to determine if that parish will allow the child to be enrolled with a Provisional Custody by Mandate or whether the grandparent will need legal custody to enroll the grandchild in school.

MEDICAL CARE AND EDUCATION

Louisiana does have a law which allows doctors and schools to provide services for a grandchild without the parent's consent if the grandparent signs an affidavit stating the grandchild lives with the grandparent and the grandparent is unable to contact the parents after reasonable efforts. However, the decision to provide services based on that affidavit is left up to the service provider.

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