

Louisiana Grandparents Raising Grandchildren Resource Guide



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Contents

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 or Pro Bono Project offices listed in this publication or call the Louisiana Civil Justice Center helpline at 1-800-310-7029 or 1-504-355-0970.

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GRANDPARENT RIGHTS TO CUSTODY OR VISITATION WITH THEIR GRANDCHILDREN

In general, grandparent rights to their grandchildren are limited. The U.S. Supreme Court in the year 2000 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 only in extraordinary circumstances. Thus, in Louisiana, grandparent rights to their grandchildren are limited.

GRANDPARENT VISITATION RIGHTS IN LOUISIANA

Grandparents have several options if they desire parents to maintain custody of their grandchildren 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;

A grandparent may sue for visitation even if there is no pending divorce or if the parents were never married, but lived together; if the grandparent's child is sentenced to prison, dies or is interdicted. Also, the grandparent may sue for visitation if the parents are married and have lived separately for more than six months. A judge has discretion to grant visitation if the grandparent proves it is in the best interest of the child;

A grandparent may sue for visitation rights when their grandchild has been placed in foster care by the state because of abuse or neglect by the parents.

GRANDPARENT CUSTODIAL RIGHTS IN LOUISIANA

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;

Grandparents may request legal custody of their grandchild 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 sign a Voluntary Transfer of Custody. This document is an agreement which transfers custody from the parents to the grandparents and is signed by a judge. It can be permanent or temporary. However, if the parents should ever change their minds about the custody arrangement after the document has been approved by the judge, 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 by which a parent 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. 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.

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.

ADOPTION

Adoption differs from legal custody in that if a grandparent adopts the grandchild, the parents' rights are terminated. If the grandparent is awarded legal custody, the parents still have a right to visit the grandchild and an obligation to financially support the grandchild.

Grandparents may apply to adopt their grandchild if the parents voluntarily surrender their parental rights or if the parents do not want to voluntarily surrender and the following circumstances exist.

The grandparent has had physical or legal custody of the grandchild for at least six months prior to filing for the adoption and granted custody and either;

The parents have refused or failed to comply with a court order of support without just cause for a period of at least six months; or

The parents have refused or failed to visit, communicate, or attempt to communicate with the grandchild without just cause for at least six months;

And the adoption is in the best interest of the child.

**Uniform International Child Abduction
Prevention Act**

Passed in 2007 Regular Session (Introduced by Senator Broom. LA. R.S. 13:1851 through 1862).

1. Action for abduction prevention measures
 - A. A court on its own motion may order abduction prevention measures in a child-custody proceeding if the court finds that the evidence established a credible risk of abduction of the child;
 - B. A party to a child-custody determination, or another individual or entity having a right under the law of this state or any other state to seek a child-custody determination for the child may file a petition seeking abduction prevention measures to protect the child.
2. A court of this state has temporary emergency jurisdiction under these provisions;
3. Factors to determine risk of abduction. The court shall consider all of the following factors

and any evidence of numerous factors that the petitioner or respondent:

- A. Has previously abducted or attempted to abduct the child;
 - B. Has threatened to abduct the child;
 - C. Has recently engaged in activities that may indicate a planned abduction;
 - D. Has engaged in domestic violence, stalking, or child abuse or neglect;
 - E. Has refused to follow a custody determination;
 - F. Lacks strong familial, financial, emotional, or cultural ties to the United States;
 - G. Has strong familial, financial, emotional, or cultural ties to another country;
 - H. Has used multiple names to attempt to mislead or defraud;
 - I. Has engaged in any other conduct the court considers relevant to the risk of abduction;
4. Provisions & measures to prevent abductions:

- A. An imposition of travel restrictions;
- B. A prohibition of the respondent directly or indirectly, either:
 - (i) Removing the child from the United States without permission of the court or the petitioner's written consent;
 - (ii) Removing or retaining the child in violation of a child-custody determination;
 - (iii) Removing the child from school or a child-care or similar facility;
 - (iv) Approaching the child at any location other than a site designated for supervised visitation.
- C. Restrictions on child's passport, including, but not limited to, placing child's name in the US Department of State Children's Passport Issuance Alert Program; A requirement that the respondent surrender to the court or the petitioner's attorney any U.S. or foreign passport issued in the child's name, including a passport issued in the name of both the parent and the

child; and a prohibition upon the respondent from applying on behalf of the child for a new or replacement passport or visa.

D. In the abduction prevention order the court may:

1. Limit visitation or order supervised visitation until court orders otherwise;
2. Require respondent to post a bond or provide other security in an amount sufficient to serve as a financial deterrent to abduction;
3. Require the respondent to obtain education;

There are other provisions to prevent imminent abduction such as issuing a warrant to take physical custody of the child or directing law enforcement to locate child.

Social Service Resources for Grandparents

Recommended Web Sites

Generations United at <http://www.gu.org/> 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.

Lawhelp.org/la is Louisiana's online guide to free legal information on such topics as custody, grandparents rights, housing, consumer issues and government benefits.

AARP also has a useful web site for grandparents at www.aarp.org/families/grandparents You can sign up to receive their quarterly newsletter by clicking on the tab labeled "newsletter". The newsletter is available in English and Spanish.

Phone numbers for public benefit programs:

Office of Family Support (OFS)

OFS offers information and application for the Kinship Care Subsidy Program, TANF (temporary assistance to needy families), Food Stamps, Day Care Assistance and others. The Child Care Assistance Application includes all of the above, plus information on LA CHIP (children's health insurance).

Region I (Orleans) 1-504-838-5630
Serves West Jefferson, Plaquemines, St. Bernard,
East Jefferson, Midtown, Algiers.

Region II (Baton Rouge) 1-225-925-4540
Serves East Baton Rouge-North, East Feliciana,
Iberville, Pointe Coupee, West Baton Rouge, West
Feliciana, East Baton Rouge-South

Region III (Covington) 1-985-871-1233
Serves Livingston, St. Helena, St. Tammany,
Tangipahoa, Washington

Region IV (Thibodaux) 1-985-447-0880
Serves Ascension, Assumption, LaFourche, St.
Charles, St. James, St. John, Terrebonne

Region V (Lafayette) 1-337-262-2061
Serves Acadia, Evangeline, St. Mary, Iberia,
Lafayette, St. Martin, St. Landry, Vermilion

Region VI (Lake Charles) 1-337-491-2197
Serves Allen, Beauregard, Calcasieu, Cameron,
Jefferson Davis

Region VII (Alexandria) 1-318-487-5228
Serves Avoyelles, Catahoula, Concordia, Grant,
LaSalle, Rapides, Vernon, Winn

Region VIII (Shreveport) 1-318-676-7101
Serves Bienville, Bossier, Caddo, Claiborne,
DeSoto, Jackson, Natchitoches, Red River, Sabine,
Webster

Region IX (Monroe) 1-318-362-3386

Serves Caldwell, East Carroll, Franklin, Lincoln, Madison, Morehouse, Ouachita, Richland, Union, Tensas, West Carroll

Medicaid and LaChip

For medical benefits for an eligible child 1-877 - 252-2447 or on the web at: www.lachip.org.

Earned Income Tax Credit

1-800-829-1040 IRS

Social Security Office

1-800-772-1213

Deaf or hard of hearing TTY: 1-800-325-0778

Information and application for Social Security Dependents Benefits

Child Support Enforcement Regional Offices

All information for the entire state is accessed through a single number: La. Child Support Customer Service Center: 1-800-256-4650.

Offices are located in the following cities and towns: New Orleans, Baton Rouge, Amite, Alexandria, Natchitoches, Monroe, Tallulah, Shreveport, Lafayette, Thibodaux, Lake Charles, Ville Platte.

Public Housing

For information about the New Orleans metro area or to get information about other offices in South Louisiana:

New Orleans Regional Office: 1-504-671-3000

New Orleans Field Office: 1-504-671-3793

For information about the Shreveport metro area or to get information about other offices in north Louisiana:

Shreveport Field Office: 1-318-226-7030

Shreveport Policy & Management: 1-318-226-7071

Public Housing Resource Center 1-800-955-2232

Grandparent Support Groups

Grandparents Raising Grandchildren Information Center of Louisiana

Contact:

Dot Thibodeaux 1-225-357-0608 or 1-225-355-5442

P.O. Box 74267

Baton Rouge, LA 70807

Website: www.lagrg.org;

Email: lagrginfo@yahoo.com

Alexandria

Family Counseling Agency

Contact Lesley Parker: 1-318-448-0284

1404 Murray St., Alexandria, LA 71301

Alexandria GrandPower Program

Contact: Susan Freundlich: 1-318-442-0846
G.A. Mangun Center Family Room
2817 Rapides Avenue, Alexandria, LA. 71301
P.O. Box 8804, Alexandria, LA. 71306
Meets 3rd Thursday 11 a.m. to 1 p.m.

Baton Rouge

East Baton Rouge Head Start

Contact: Rebecca Ferguson 1-225-358-4504
Contact: Gloria Gilmore: 1-225-358-4504
Rose Doolittle: 1-225-775-4164
4523 Plank Road, Baton Rouge, LA. 70805
Meets 3rd Friday at 10 a.m.

Family Road of Greater Baton Rouge

Second Time Around 1-225-201-8888
Contact: Gerrie Baker Allen 1-225-346-8712
Dot Thibodeaux 1-225-355-5442
323 E. Airport Avenue, Baton Rouge, LA. 70806
Meets 4th Thursday at 10-11:30 a.m.

Lake Charles

Volunteers of America

Grandparents Raising Grandchildren Support Group
Contact: Michelle DeJean 1-337-497-0034
2121 Oak Park Blvd.
Lake Charles, LA. 70601
Meets Last Tuesday 5:30 to 7:00 p.m.

New Orleans/Metairie

Jewish Children's Regional Services

Contact: Lisa Taff: 1-504-828-6334

Bonnie Lustig: 1-504-828-334

3500 North Causeway Blvd., Ste.1120

Metairie, LA. 70002

Meets one Wednesday per month at 12 - 2 p.m.

New Orleans Council on Aging

Contact: Telesia Brimmer 1-504-821-4121

2475 Canal Street, Ste. 400, N.O., LA. 70179

Meets 3rd Tuesday at 10 a.m.

New Roads

Grandparents Champion for Parents

Fr. Joseph Conway Rodney SSJ Community Center

Contact: Sheila Solomon/Coordinator 1-225-638-1055; Fax: 1-225-638-1056

812 New Road Street

New Roads, LA. 70760

Meets 4th Friday at 11:30 to 1 p.m.

Ruston

Family Counseling Center of Louisiana

United Methodist Children & Family Services

Contact Sharon Kilcoyner: 1-318-255-5753

Fax: 1-318-242-4698

901 S. Vienna Street, Ruston, LA 71270-0929

Meets Thursdays at 5:00 p.m.

Union Parish

Grandparents as Parents of Louisiana

Contact Linda Washington: 1-318-292-4443

1455 Lee St., Marion, LA 71260

Group meets at Marion Baptist Church

Meets 1st Monday at 6:00 p.m.

Legal Service Corporations

Acadiana Legal Services (Lafayette office): 1-800-256-1175; Serving: St. Mary, Evangeline, St. Landry, Iberia, St. Martin, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis

Legal Services of Central Louisiana: 1-800-256-4343
Serving: Avoyelles, Rapides, Vernon

Capital Area Legal Services: 1-800-256-1900
Serving: East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. John Parishes, West Baton Rouge, West Feliciana

Capital Area Legal Services: 1-800-256-6151
Serving: Ascension (West), Assumption, St. James

Capital Area Legal Services: 1-800-256-1660
Serving: Lafourche and Terrebonne

Legal Services of North Louisiana: 1-800-826-9265
Serving: Bienville, Bossier, Caddo, Claiborne, Webster

Legal Services of North Louisiana: 1-800-259-6591
Serving: Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll

Legal Services of North Louisiana: 1-800- 960-9109
Serving: Catahoula, Concordia, DeSoto, Grant, LaSalle, Natchitoches, Red River, Sabine, Winn

Southeast Louisiana Legal Services (New Orleans Office): 1-877-521-6242
Serving: East Jefferson, Orleans, Plaquemine, St. Bernard.

Southeast Louisiana Legal Services (Westbank Office): 1-800- 624-4771
Serving: West Jefferson, Plaquemine, St. Charles

Southeast Louisiana Legal Services (Hammond Office): 1-800-349-0886
Serving: Livingston, St. Helena, St. Tammany, Tangipahoa, Washington

Southeast Louisiana Legal Services (Covington Office):
1-800-891-0076
Serving: St. Tammany, Washington

Pro Bono Project & Volunteer Lawyer Projects

17th Judicial District Pro Bono Project: 1-800-256-1900,
Ext. 270, Houma, LA

18th Judicial District Pro Bono Project: 1-800-256-
1900, Ext. 270, Plaquemine, LA

20th Judicial District Pro Bono Project: 1-800-256-
1900, Ext. 270, Clinton, LA

23rd Judicial District Pro Bono Project: 1-800-256-
1900, Ext. 270, Pierre Part, LA

32nd Judicial District Pro Bono Project: 1-800-256-
1900, Ext. 270, Houma, LA

40th Judicial District Pro Bono Project: 1-800-256-1900,
Ext. 270, LaPlace, LA

Baton Rouge Bar Association Pro Bono Project: 1-225-
344-4803, Baton Rouge, LA

Central Louisiana Pro Bono Project: 1-318-449-9778,
Alexandria, LA

Lafayette Volunteer Lawyers: 1-337-237-4700,
Lafayette, LA

The Pro Bono Project: 1-504-581-4043, New Orleans, LA

Northwest Louisiana Pro Bono Project: 1-318-865-8635, Shreveport, LA

The listings above are all connected to a Legal Services Corporation Office but have their own private attorney involvement pro bono programs.

This public document provides general legal information and does not take the place of consultation with a licensed attorney about your specific facts. It was originally developed by Northwest Pro Bono Project with assistance from Legal Services of North Louisiana and funded by a grant from the American Bar Association Partnerships in Law & Aging. It is revised each year by the Governor's Office of Elderly Affairs Legal Assistance Developer Jane Arieux Thomas. This revised public document was published at a total cost of \$121.50 for 270 copies by the Governor's Office of Elderly Affairs, 525 Florida Blvd., Baton Rouge, La.70801, to educate grandparents & other organizations and individuals that serve Louisiana's elder population. It was printed in accordance with standards for printing by state agencies established in La. R.S. 43:31.

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