

Louisiana Grandparents Raising Grandchildren Resource Guide



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This is 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 would like information about the law in Louisiana visit the legal self-help page located at the Governor’s Office of Elderly Affairs web site at www.goea.la.gov or Louisiana’s on-line guide to free legal help is located at www.louisianalawhelp.org.

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This public document provides general legal information and does not take the place of consultation with a licensed attorney about your specific facts

GRANDPARENT VISITATION RIGHTS IN LOUISIANA

A grandparent in Louisiana may get court-ordered visitation with a grandchild in several instances:

1) When the parents of the grandchild have filed a divorce or custody case in court, the grandparent and step-grandparent may ask for reasonable visitation rights then. The request will be granted only if the judge believes visitation would be in the best interest of the grandchild according to the following factors:

A) The length and quality of the prior relationship between the grandchild and grandparent;

B) Whether the grandchild is in need of special care and guidance which the grandparent can best provide;

C) The grandchild expresses a preference on whether or not to visit and is sufficiently mature;

D) Whether the grandparent will improperly use the visitation to poison the grandchild's feelings for the parents; and

E) The mental and physical health of the grandchild and grandparent.

Unlike the grandparent, the step-grandparent also must convince the judge that extraordinary circumstances exist. An example of an extraordinary circumstance is drug abuse by the parents that endangers the grandchild.

2) Even if the parents never file a divorce or custody case in court, a grandparent may get court-ordered visitation with a grandchild if the grandparent's child dies, is declared incompetent by a court, or is jailed for a long period of time. This applies to married parents and non-married parents who live together. A judge must conclude that visitation is in the best interest of the grandchild.

3) When married parents have not filed anything

in court but have been separated for more than six months, the grandparent may obtain court-ordered visitation with a grandchild but must convince the judge that extraordinary circumstances exist that would harm the grandchild and that the visitation is in the best interest of the grandchild.

4) A grandparent may get court-ordered visitation with a grandchild who has been placed in foster care by the state because of abuse or neglect by the parents.

GRANDPARENT CUSTODIAL RIGHTS IN LOUISIANA

Grandparents may get legal custody of grandchildren. Legal custody entitles the grandparents to be the primary caretakers of the grandchildren and entitles the grandparents to live with them. The court may award legal custody to grandparents in the following circumstances:

1) The grandparents prove that the grandchildren would be substantially harmed if they remained or were placed in the custody of the parents. Also, the grandparents would have to prove they had been or could in the future provide a wholesome and stable environment for the grandchildren; Grandparents should understand that the test for the court is not that the children would be better off with the grandparents. For instance, if the parents allowed the grandchildren to stay out late at night despite bad grades at school, the grandparents might believe the grades could be improved if the grandchildren lived with them, but that would probably not meet the substantial harm test. Examples of substantial harm to the grandchildren include but are not limited to threats to their physical safety, threats to their emotional well-being, and their abandonment by the parents;

2) If parents are abusing their child:

a) The grandparents may file for an ex parte rule for custody asking the court to award immediate custody of the grandchild to them, without a court hearing, because the facts show that immediate and irreparable injury will result to the grandchild OR

b) The grandparents may request a temporary restraining protective order on behalf of the grandchild asking that they obtain temporary custody of the child...This procedure requires a court hearing.

A judge could grant an immediate order of custody in either situation.

It is always better to seek advice from an attorney to determine which approach best suits the grandparents' needs.

3) Grandparents may get legal custody of their grandchild when the State has obtained custody of the grandchild because of abuse or neglect. The State must try to place abused or neglected children with relatives before they are placed in foster care.

VOLUNTARY TRANSFER OF CUSTODY

If both parents agree 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 the 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 custody can be returned to the parents. If one of the parents is unwilling to agree to the transfer of custody, the court could refuse to sign the document. Even a parent who has not had any meaningful contact with the child and for whatever reason is not listed on the birth certificate or has not signed a document declaring to be the parent, would have a right to be given legal notice of the proposed transfer and be given a hearing to object to the transfer. One parent would be allowed to sign the

document without giving notice to the other parent only if the identity of the other parent is truly unknown.

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. It can have a duration of up to one (1) year and can be revoked at any time 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.

Caveat: 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 parents' 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 doctor or school.

ADOPTION

Adoption is very different from legal custody. If a grandparent adopts the grandchild, the parents' rights are terminated. The parents will no longer have the right to visit or the obligation to support their child. 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 adopt their grandchild when the parents voluntarily surrender their parental rights. Also, grandparents may adopt their grandchildren in the following circumstances:

(1) 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:

(2) (a) 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

(2) (b) 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

(3) The adoption is in the best interest of the child.

PUBLIC BENEFITS FOR GRANDFAMILIES

The Department of Social Services offers two major programs that most commonly intersect with the needs of grandfamilies in Louisiana: Relative Foster Care and Kinship Care Subsidies. The department offers other programs and benefits that parents and relatives raising children can receive if they meet the eligibility criteria of that particular program. In addition, grandparents raising grandchildren can approach other state agencies to receive supportive services such as health insurance and medical assistance (Medicaid) administered by the Department of Health and Hospitals.

The major highlights of each program are the following:

1. Foster Care provides services and benefits to those grandparents and other relatives who have gone through the formal licensing process to become a foster care parent as approved by the State. Relative foster

care parents must meet the same licensing standards as non-kin foster parents.

Grandparents and other relatives who are licensed foster care parents receive the same foster care payments as non-relative foster parents. They may also tap other benefits available to all non-relative foster parents and foster care children such as cash assistance (welfare) through the Family Temporary Assistance Program (FITAP), food stamps, special education services, health insurance through LaCHIP or Medicaid and other child care subsidies. A relative who has been granted legal custody or guardianship of a child is not eligible to participate in foster care for the purposes of receiving financial assistance and other public benefits. Foster care and adoption services are administered by the Department of Children and Family Services. On average payments to foster care parents are about \$450 per child per month. This is not viewed as a payment to foster parents for raising the child; rather, it is to meet the costs of caring for the child and meeting his or her needs. In addition, the agency provides for the medical needs of each child, therapy expenses, and evaluations. Foster care parents may also be reimbursed for travel expenses to take children to medical appointments.

2. Kinship Care Subsidy Program. Louisiana's Kinship Care Subsidy Program (KCSP) provides cash assistance per month for each eligible child who resides with a qualified relative other than a parent. This is for relatives who have not qualified as foster parents. This subsidy is about 40 percent less than the board and care rate provided to foster care parents. A child may also be eligible for cash assistance from the FITAP program (welfare); however, the child may only receive assistance from one of the programs. FITAP payment is about half of the Kinship Care Subsidy. To qualify for a subsidy under KCSP, kinship caregivers must meet these eligibility criteria among others:

- Have or get, within one year of enrolling in the

program, legal custody or guardianship of the minor relative;

- Have an annual income of less than 150% of the federal poverty threshold;
- Have neither of the child's parents residing in the applicant's household; and
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Agree to pursue the enforcement of child support obligations against the parents of the child with the assistance of the Department of Social Services. However, a grandparent or other relative can ask the state to waive this provision if "good cause is established" meaning that it is not in the best interest of the child to pursue child support enforcement.

Social Services Resources for Grandfamilies

Recommended Web Sites

Additional legal information is available by visiting the following websites:

The **Governor's Office of Elderly Affairs** has a legal self-help page on its website at goea.la.gov/. The legal self-help page lists the top websites for seniors as well as brochures on numerous topics that can be read or printed.

www.louisianalawhelp.org is Louisiana's online guide to free legal information on such topics as custody, grandparents rights, housing, consumer issues and government benefits. It also lists legal services by parish.

The **Louisiana Civil Justice Center (LCJC)**, whose website is www.laciviljustice.org, provides civil legal assistance for low-income, elderly, and disaster-affected residents of Louisiana.

Department of Children and Family Services

www.dcfsls.la.gov
**627 N. Fourth Street
Baton Rouge, LA 70802**

**Report Child Abuse: 1-855-4LA-KIDS (1-855-452-5437)
toll-free, 24 hours a day, seven days a week**

**DCFS Customer Service Center: 1-888-LAHELP-U
(1-888-524-3578)**

EBT Card Customer Service: 1-888-997-1117

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

www.irs.gov
1-800-829-1040 IRS

Social Security Office

www.ssa.gov
1-800-772-1213
Deaf or hard of hearing TTY: 1-800-325-0778
**Information and application for Social Security
Dependants Benefits**

Child Support Enforcement Regional Offices

www.dss.state.la.us
1-888-524-3578.
TTY: 1-844-224-6188

**Regional Offices are located in: Alexandria, Amite,
Baton Rouge, Lafayette, Lake Charles, Monroe,
Natchitoches, Orleans, Shreveport, Tallulah,
Thibodaux, Ville Platte.**

Grandparent Support Groups

Grandparents Raising Grandchildren Information Center of Louisiana

www.lagrg.org

Office phone: (225) 810-3555

Fax: (225) 216-2662

P.O. Box 74267

Baton Rouge, LA 70807

Email: office@lagrg.org

<mailto:lagrparinfo@yahoo.com>

Baker-East Feliciana

Forever Open Arms

Contact: Gerrie Baker Allen: (225) 284-1432 or Library:
(225) 778-5950

3501 Groom Road,
Baker, LA 70714

Meets 1st Wednesday at 1 p.m. (June & July on Thu)

Baton Rouge

East Baton Rouge Head Start

Contact: Gloria Gilmore: 1-225-358-4622

Contact: 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

Contact: Dot Thibodeaux: (225) 355-5442

323 E. Airport Avenue

Baton Rouge, LA 70806

Meets 4th Thursday at 10-11:30 a.m.

Donaldsonville

Grands of Ascension

Ascension Counseling Center

Contact: Kathy Edmonston 1-225-328-5832

Contact: Wanda August: 1-225-717-2463

419 Memorial Dr.

Donaldsonville, LA. 70346

Meets 3th Wednesday at 10:30 a.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.

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