§1803. Petition

1. Standing to seek grandparent visitation rights. A grandparent of a minor child has standing to initiate and maintain an action for reasonable rights of visitation or access if:

A. [PL 2017, c. 328, §2 (RP).]

B. There is a sufficient existing relationship between the grandparent and the child; or [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

C. [PL 2017, c. 328, §2 (RP).]

D. Any other compelling state interest justifies the court's interference with the parent's fundamental right to deny the grandparent access to the child. [PL 2017, c. 328, §2 (NEW).]

[PL 2017, c. 328, §2 (AMD).]

2. Procedure. The following procedures apply to petitions for rights of visitation or access under subsection 1.

A. A grandparent seeking rights of visitation or access shall file with the initial pleadings an affidavit alleging under oath sufficient facts to support the grandparent's standing under subsection 1. The pleadings and affidavit must be served upon all parents and legal guardians of the child. [PL 2017, c. 328, §3 (AMD).]

B. A parent or legal guardian of the child who files a pleading in response to the pleadings in paragraph A shall also file an affidavit in response , serving all parties to the proceeding with a copy. [PL 2017, c. 328, §3 (AMD).]

C. The court shall determine on the basis of the pleadings and affidavits under paragraphs A and B whether the grandparent has presented prima facie evidence of standing under subsection 1. The court may in its sole discretion, if necessary and on an expedited basis, hold a hearing to determine disputed facts that are necessary and material to the issue of standing. [PL 2017, c. 328, §3 (AMD).]

D. If the court's determination under paragraph C is in the affirmative, the court may appoint a guardian ad litem as provided in section 1507. The court shall hold a hearing on the grandparent's petition for reasonable rights of visitation or access and shall consider any objections the parents or legal guardians may have concerning the award of rights of visitation or access to the grandparent. If the court has appointed a guardian ad litem, the court shall also consider the report of the guardian ad litem. The standard for the award of reasonable rights of visitation or access is provided in subsection 3. [PL 2005, c. 360, §3 (AMD).]

[PL 2017, c. 328, §3 (AMD).]

3. Best interest of the child. The court may grant a grandparent reasonable rights of visitation or access to a minor child upon finding that the grandparent has standing under subsection 1 and that granting the grandparent reasonable rights of visitation or access is in the best interest of the child and would not significantly interfere with any parent-child relationship or with the parent's rightful authority over the child. In deciding whether granting the grandparent reasonable rights of visitation or access is in the best interest of the child and whether it would significantly interfere with the parent-child relationship or with the parent's rightful authority over the child, the court shall consider the following factors:

A. The age of the child; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

B. The relationship of the child with the child's grandparents, including the amount of previous contact; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

B-1. Whether one or more of the child's parents or legal guardians has died; [PL 2017, c. 328, §4 (NEW).]

C. The preference of the child, if old enough to express a meaningful preference; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

D. The duration and adequacy of the child's current living arrangements and the desirability of maintaining continuity; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

E. The stability of any proposed living arrangements for the child; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

F. The motivation of the parties involved and their capacities to give the child love, affection and guidance; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

G. The child's adjustment to the child's present home, school and community; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

H. The capacity of the parent and grandparent to cooperate or to learn to cooperate in child care; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

I. Methods of assisting cooperation and resolving disputes and each person's willingness to use those methods; [PL 2001, c. 665, §5 (AMD).]

J. Any other factor having a reasonable bearing on the physical and psychological well-being of the child; and [PL 2001, c. 665, §5 (AMD).]

K. The existence of a grandparent's conviction for a sex offense or a sexually violent offense as those terms are defined in Title 34-A, section 11203. [PL 2001, c. 665, §6 (NEW).]

[PL 2017, c. 328, §4 (AMD).]

4. Modification or termination. The court may modify or terminate any rights granted under this section as circumstances require. Modification or termination of rights must be consistent with this section.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

5. Enforcement. The court may issue any orders necessary to enforce orders issued under this section or to protect the rights of parties.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

6. Costs and fees.

[PL 2005, c. 323, §13 (RP).]

7. Supervision required; convictions for sexual offenses. Notwithstanding any other provision of this chapter, the court may award a grandparent who is convicted of a child-related sexual offense visitation with a minor grandchild only if the court finds that contact between the grandparent and the child is in the best interest of the child and that adequate provision for the safety of the child can be made. For purposes of this section, "child-related sexual offense" has the same meaning as in section 1653, subsection 6-A.

The court may require that visitation may occur only if there is another person or agency present to supervise visitation. If the court allows a family or household member to supervise grandparent-child contact, the court shall establish conditions to be followed during that contact. Conditions include, but are not limited to, those that:

A. Minimize circumstances when the family of the grandparent who is a sex offender or sexually violent predator would be supervising visits; [PL 2001, c. 665, §7 (NEW).]

B. Ensure the safety and well-being of the child; and [PL 2001, c. 665, §7 (NEW).]

C. Require that supervision be provided by a person who is physically and mentally capable of supervising a visit and who does not have a criminal history or history of abuse or neglect. [PL 2001, c. 665, §7 (NEW).]

[PL 2001, c. 665, §7 (NEW).]

8. Conviction or adjudication for certain sex offenses; presumption. There is a rebuttable presumption that the grandparent would create a situation of jeopardy for the child if any contact were to be permitted and that contact is not in the best interest of the child if the court finds that the grandparent:

A. Has been convicted of an offense listed in section 1653, subsection 6-A, paragraph A in which the victim was a minor at the time of the offense and the grandparent was at least 5 years older than the minor at the time of the offense except that, if the offense was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C, or an offense in another jurisdiction that involves conduct that is substantially similar to that contained in Title 17-A, section 253, subsection 1, paragraph B or C, and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the grandparent and the minor victim at the time of the offense; or [PL 2007, c. 513, §4 (AMD).]

B. Has been adjudicated in an action under Title 22, chapter 1071 of sexually abusing a person who was a minor at the time of the abuse. [PL 2005, c. 366, §4 (NEW).]

The grandparent seeking contact with the child may present evidence to rebut the presumption.

[PL 2007, c. 513, §4 (AMD).]

SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF). PL 2001, c. 665, §§5-7 (AMD). PL 2005, c. 323, §13 (AMD). PL 2005, c. 360, §3 (AMD). PL 2005, c. 366, §4 (AMD). PL 2007, c. 513, §4 (AMD). PL 2017, c. 328, §§2-4 (AMD). PL 2019, c. 197, §3 (AMD).

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