

# What Are Your Rights as a Grandparent?

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## **How do I ask the courts for permission to visit my grandchildren?**

In Colorado, any grandparent may seek a court order granting contact and visitation rights, in the following situations:

- When the marriage of the grandchild's parents has been declared invalid or dissolved, or the court has entered a decree of legal separation, or
- When the legal custody of the grandchild has been given to a party other than the parent, or the child has been placed outside of and does not reside in the home of the parent, excluding any child who has been placed for adoption or whose adoption has been legally finalized; or
- When the grandchild's parent, who is the child of the grandparent, has died.

A grandparent can seek a Court Order allowing grandparent visitation if, and only if, one of these situations is present.

If one of these basic criteria is met, the grandparent must file a Verified Motion/Affidavit for Grandparent Visitation, (Verified Motion/Affidavit - [MSWord,PDF](#)), in the district court for the county in which the grandchild resides. The grandparent must set forth the facts supporting the requested order. Notice must be given to the party (or parties) who has (or have) legal custody of the grandchild. The court may make an order, with or without a hearing, granting (or denying) visitation rights whenever such order would be in the best interest of the grandchild.

## **Can I be awarded court ordered grandparent visitation if my son or daughter will not let me see my grandchild when one of the three (3) situations set forth above has not occurred?**

No.

## **Can I take my grandchild away from his or her custodial parent when that parent is drinking or using drugs?**

Not without a Court Order.

## **If my grandchild is adopted, will my rights to grandparent visitation be terminated?**

Yes. However, if your grandchild is adopted by his natural parent's new spouse (e.g., stepparent) and still remains with and in the legal custody of his natural parent, your rights to grandparent visitation are not automatically terminated.

## **When the court has determined by way of a paternity case that my son is the father of a child and a custody order has been entered, can I seek grandparent visitation with that child?**

Yes.

**Once I get an order granting me grandparent visitation, can this order ever be modified or changed?**

Yes. The court may modify or change any order regarding grandparent visitation if the court finds that such modification or change would be in the best interest of the grandchild.

**If my grandchild's custodial parent does not comply with court ordered visitation, can I get any help from the court to enforce such visitation?**

Yes. After the court has determined that the person with legal custody of the child has not complied with the visitation order, the court can impose additional terms and conditions consistent with the court's previous order, modify the previous order, require the violator to post bond or security to insure future compliance, require that missed visitation be made up, hold the violator in contempt of court and impose a jail sentence or bond, or award the aggrieved party his or her attorney's fees.

**Will I need to pay anything to file the documents with the Court?**

Yes. The grandparent will need to pay to the clerk of the District Court a filing fee and possibly an intervenor's fee if it is a pending case. Click [here](#) for a list of "Filing Fees and Costs in Colorado State Courts".

**Would it be possible to have that fee waived?**

Yes. If you are indigent (low-income), you can file a "Motion to File without Payment and Supporting Financial Affidavit", asking the Court to permit you to file the documents free of charge, but only if you can prove to the Court that you are in fact indigent and unable to pay the fee. Click on a file format ([MSWord](#), [PDF](#)) for the Motion; click on a file format ([MSWord](#), [PDF](#)) for a copy of the Order (fill out the caption on the Order and file with the Motion.)

**How do I notify the party having custody of the minor child that I am asking the Court for court ordered visitation with my grandchild?**

If there is a case pending and if a party is represented by an attorney, you need to mail or hand deliver a copy of the Motion for Grandparent Visitation and the Affidavit in support of Grandparent Visitation to the attorney. If a party is not represented by an attorney, you need to mail or hand deliver a copy of the Motion for Grandparent Visitation and the Affidavit in support of Grandparent Visitation to the party personally. Also, a 'Certificate of Mailing' should be included at the bottom of all of the documents verifying to the Court that you either hand delivered or mailed them to the party (or parties) or his or her attorney on a certain date.

**If other people are involved in the pending case, do I need to notify them as well, even if they do not have custody of my grandchild?**

Yes. The same notice procedures apply to all parties involved in the case, including all attorneys appointed to represent any party or involved in the case in any other capacity (such as a Child and Family Investigator or Parenting Coordinator).

**Can the party or parties having custody of the minor child file opposing affidavits with the Court?**

Yes. However, the filing of opposing affidavits is not required. The party is still permitted to request a hearing on your Motion for Visitation even though he or she did not file opposing affidavits. However, if a hearing is held, only those parties who have submitted affidavits shall be allowed an opportunity to be heard.

**Does there have to be a hearing in order for me to get court ordered visitation with my grandchild?**

No. If no party (including you) requests a hearing, the court can enter an order for Grandparent Visitation if it finds that such visitation would be in the best interest of the minor child.

**Can anyone request a hearing?**

Yes. A hearing shall be held if any party (including you) requests one or if it appears to the Court that it would be in the best interest of the minor child that a hearing be had.

**If someone requests a hearing, does the court have to have one?**

Yes.

**Is there a time limitation for a hearing request?**

No. However, you must request a hearing before the Court enters an order. Therefore, it is advisable to request a hearing immediately if you think you may want a hearing.

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*The information above is provided by Colorado Legal Services. It is intended as general information only, and is not meant as legal advice for any specific situation. If you need legal advice, consult an attorney of your own choosing. If you cannot afford an attorney, talk to Colorado Legal Services: 303-837-1321.*