Petitioning for Grandparent Visitation, State by State

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All 50 states allow grandparents to petition the court for visitation rights. This article outlines the general concerns in drafting such a petition, including establishing standing and providing that visitation is in the child’s best interests.

By Julie A. Braun

Under the common law, grandparents had no legal rights to visitation with their grandchildren. However, in one form or another, all 50 states have enacted legislation enabling grandparents to petition for visitation with their grandchildren. In addition, a federal statute now requires states to respect each other’s decisions regarding grandparent visitation, making visitation easier to enforce across state lines.

Although state law governs grandparent visitation, it does not give grandparents an absolute right to visitation. Instead, it allows grandparents to ask the court for reasonable visitation, access to, or contact with their grandchildren. Courts are increasingly active in defining grandparent rights even though the U.S. Supreme Court has yet to decide a case relating to grandparent visitation. Grandparents first must establish that they have standing to seek the requested relief and, assuming that hurdle is cleared, that visitation is in the grandchildren’s best interests.

Who May Petition for Visitation

Each state grandparent visitation statute advises who may petition for visitation privileges. As expected, statutory language specifies that grandparents may seek visitation. Sometimes the language is more detailed and references biological, natural, or adoptive grandparents. Several statutes expressly recognize that great-grandparents may seek visitation as well. However, at least one state will not issue a visitation order for step-grandparents.

The verified petition entitled In re the grandparent visitation of [insert name(s) of petitioner(s)] seeks visitation under state law by identifying the:

- Name(s) of the petitioner(s) (that is, the grandparent(s) seeking visitation)
- Names, addresses, and dates of birth of the minor grandchildren with whom visitation is sought
- Name(s) and address(es) of the grandchildren’s parent(s)
- Legal relationship between the petitioner(s) and the grandchildren

State law may explicitly provide for grandparent visitation without petition if the court finds it is in the grandchildren’s best interests to do so.
Circumstances That Trigger a Grandparent Visitation Petition

The content of grandparent visitation provisions varies from state to state. Most statutes describe a particular event or special circumstance that must occur before a grandparent may petition for visitation. The majority require disruption of an intact nuclear family, such as the death of one or both parents, legal separation, or marriage dissolution. A minority feature open-ended or wide-open statutes that do not identify special circumstances under which a grandparent may seek visitation. In practice, grandparents are more likely to win visitation if the triggering event involves death, separation, or divorce.

It is important that counsel assert the statutory basis for grandparent visitation on the face of the petition. Sample language might read: "This proceeding is commenced pursuant to [insert cite for relevant grandparent visitation provision] which permits this Court, in instances where a parent has died, to [order] visitation by a grandparent with respect to a grandchild." In addition, a well-drafted petition alleges sufficient facts to warrant a grant of visitation under the statute. The petition must show that the circumstances it describes are like those provided in the statute, or the petition will be denied. Suggested language might include:

Commencing on or about ____________, respondent has failed and refused to permit petitioners to visit with, or even communicate with, their grandchild. During the lifetime of ____________, petitioners visited with the child on a regular basis and maintained a rich, full and warm relationship with the child.

The refusal of respondent to permit petitioners visitation with, and even communication with, their grandchild is vindictive and contrary to the child's best interests.

It is particularly important that the child be permitted to have regular contact with the child's [paternal/maternal] family in view of the death of ____________.

Upon information and belief, respondent permits [his/her] own parents to visit with the child.

Conclude the grandparent visitation petition with a prayer for relief sought. Suggested language might read:

By reason of the foregoing [referencing earlier paragraphs containing factual allegations offered to support a visitation order], petitioner respectfully appeals to this Court to exercise its discretion, as justice requires, and in the best interests of the child, to make direction for visitation by petitioners with the said child and for such other relief as to the Court may seem just and proper.

Special Circumstances

The filing of a petition for grandparent visitation may be triggered by the following situations among others:

- One or both of the grandchildren's parents are dead
- Grandchildren's parents' marriage has dissolved
- Grandchildren's parents are legally separated
- Grandchildren's parents are not currently cohabiting on a permanent or indefinite basis
- Grandchildren's parents' marriage has been annulled
- Grandchildren's parents' marriage has been declared invalid
- One of the parents joins in the visitation petition with the grandparent(s)
- Parent(s) unreasonably restrict or deny grandparent(s) visitation
- One or both parents are incarcerated
- One or both parents are missing or absent
- Grandchildren have been deserted by parent(s)
- Grandchildren have been abandoned by parent(s)
- Parent of grandchildren is physically or mentally incapable of making a decision
- Grandchildren placed in a foster home
- Grandchildren resided with grandparent(s) for statutorily defined period
- Maternal grandparent is the parent of a parent of a child born out of wedlock
- Paternal grandparent is the parent of a parent of a child born out of wedlock whose paternity has been acknowledged or judicially recognized
Open-Ended or Wide-Open Statutes

Open-ended or wide-open statutes do not specify the circumstances under which a grandparent may seek visitation, leaving it to the court’s discretion. For example, New York law allows visitation “where circumstances show that conditions exist which equity would see fit to intervene.” Arguably, this allows the attorney to file a petition for reasonable grandparent visitation regardless of the family circumstances (such as the marital status of the children’s parents).

Visiting Grandchildren in an Intact Family

A controversial issue in the area of grandparent visitation involves whether grandparents should have the right to visit grandchildren in an intact family. States differ considerably on whether grandparents should be allowed visitation rights when the parents are still married and the parents and children reside in the same household. Courts also wrestle with this issue. The relationship between grandparent, parent, child, and the state implicates the constitutionally protected interests of due process and equal protection.

In the majority of states, grandparents lack standing to seek court-ordered visitation while the nuclear family is intact. In practice, “[i]t is extremely rare for a court to grant visitation” if the family is intact. The decisions made by parents about what is in their children’s best interests are generally considered outside the ambit of the court absent evidence of parental abuse or neglect.

Attorneys attempting to secure visitation for the grandparents where the grandchild lives with both parents favor the generality of the open-ended or wide-open statutes discussed above.

Visiting Grandchildren Born out of Wedlock

Many statutes fail to mention grandchildren born out of wedlock. Some expressly provide grandparents standing to seek visitation in this situation. Others recognize children born out of wedlock, but limit standing for their grandparents. A common limitation allows a petition for grandparent visitation only after a putative father acknowledges paternity or a court recognizes paternity. It may be possible to seek grandparent visitation where paternity has not been established prior to the petition’s filing; however, be prepared to prove the grandchild’s paternity in court.

Best-Interests Standard

The paramount consideration for the court in any grandparent visitation decision is the best interests of the grandchild. This language parallels that of most child custody and visitation laws. The best-interests standard determines whether and to what extent grandparent visitation should occur. Statutes that fail to define this standard are problematic for the attorney. Unfortunately, most statutes fall into this category. In general, the common denominator of grandparent visitation provisions is the court’s discretionary power to determine what constitutes best interests.

An action for visitation requires pleading and proof that grandparent visitation is in the grandchildren’s best interests. A judge generally conducts a full evidentiary hearing of the facts in the particular case to assess whether the grandchildren’s best interests will be served by granting or denying visitation.

Factors Determining Best Interests

The court may rely on explicitly defined factors when making its best-interests determination, including:

- Effect of visitation on the relationship between child and parent(s)
- Willingness and ability of the grandparent to facilitate and encourage a close and continuing relationship between child and parent(s)
- Benefits, if any, in maintaining an extended family relationship
- Length and quality of the relationship, if any, between grandchild and grandparent and the desirability of maintaining that relationship
- Love, affection, and other emotional ties existing between grandparent and grandchild
- Capacity and disposition of the grandparent to give the grandchild love, affection, and guidance
- Whether the grandchild has, in the past, resided with the grandparent for a significant period of time, with or without the child’s parent(s)
- Whether the grandparent is or was a full-time caretaker for the grandchild for a significant period
- Time elapsed since the grandchild last had contact with the grandparent
Prior interaction between grandparent and parent(s)

Present relationship between grandparent and parent(s), including friction between these parties and the effect of such friction on the grandchild

Age of the grandchild

Grandchild's reasonable wishes, if he or she is sufficiently mature to express a preference

Parental preference regarding the requested visitation

Nature and reasons for parental objection to visitation

Grandchild's mental and physical health

Whether the grandchild's health or welfare would be harmed unless grandparent visitation is granted

Whether visitation would endanger grandchild's physical health or impair his or her emotional development

Grandparent's mental and physical health

Medical and other health needs of the grandchild as affected by visitation

Capacity and disposition of the grandparent to cooperate in providing the grandchild with health care or alternative care recognized and permitted under state law in lieu of health care

Time-sharing or visitation arrangements prior to filing the petition

Effect grandparent visitation will have on the grandchild

Quantity of visitation time requested and potential adverse impact, if any, that visitation will have on the grandchild's customary activities

Time available to child and parent(s), giving consideration to parents' work schedule, child's schedule for home, school, and community activities, and child's and parents' holiday and vacation schedules

History of physical, emotional, or sexual abuse or neglect by the grandparent, whether directed against the grandchild or others

Existing protective order directed to the grandparent

Capacity and disposition of the grandparent to cooperate in providing the grandchild with food, clothing, and other material needs during visitation

Guardian ad litem recommendation regarding visitation

Moral fitness of the party seeking visitation

Good faith or motivation of the grandparent in filing the visitation petition

Motivation of person(s) denying visitation

Any other appropriate or relevant factor

Tailor any statutory guidance offered on the best-interests standard to the facts of the case. If the statute is silent on what constitutes best interests, rely on case law and grandparent provisions from surrounding states. State child custody and visitation laws are another source where the best-interests standard is likely to appear.

Representative best-interests language might include:

It is in the best interest of [insert grandchild(ren)'s name(s)] to allow grandparent visitation because the Petitioner has been the grandchild(ren)'s full-time caretaker for the last three years prior to the filing of this Petition.

It is in the best interest of [insert grandchild(ren)'s name(s)] to allow grandparent visitation because there are no indications that visitation with the Petitioner would endanger the physical health or impair the emotional development of [insert grandchild(ren)'s name(s)].

Evaluating Statutory Contact and Relationship Requirements

In addition to requiring visitation in the grandchildren's best interest, a court may consider the amount of personal contact as well as ongoing or meaningful contact. Further, the court may consider the depth of the relationship between grandparent and grandchild when making its determination. Key words or phrases appearing in visitation provisions include:

- Substantial relationship
- Significant relationship
- Viable relationship
- Preexisting relationship

The statute's words or phrases referring to contact or relationship may not be defined; therefore, check case law for insight into how the court historically construes these terms. A literature search may locate law reviews or other practice commentaries discussing the court's inclination.

The contact and relationship provisions become required elements that counsel representing the
grandparents must prove. Obviously, a grandparent’s frequent contact and closeness with the grandchild is an important factor in winning visitation time. Marginal contact may translate into less visitation time initially, although visitation might increase as the relationship grows.

**Appointing a Guardian ad litem**

In some jurisdictions, a child cannot be a witness in any proceeding to determine an award of grandparent visitation. Moreover, in some jurisdictions, the court will not accept or consider a child’s written or recorded statement or affidavit setting forth the child’s wishes and concerns regarding grandparent visitation. In both instances, ask the court to appoint a guardian ad litem (GAL) for the grandchildren. Some statutes expressly provide for GAL appointment. The GAL may, for the purpose of ascertaining grandparent visitation rights, participate in the proceedings as if the GAL were a party.

Consider asking for the appointment of a GAL even if the jurisdiction allows the child to testify in open court. Perhaps a battle over grandparent visitation concerns a child who due to age, shyness, extreme sensitivity, or another reason should not be subjected to testifying in open court.

**Considering the Grandchildren's Wishes**

The court may be guided by the grandchildren’s wishes when making its best-interests determination. In practice, this occurs only if the child is of sufficient age and capable of forming an intelligent opinion. The children’s wishes may reveal themselves in open court; a judge may appoint a GAL to prepare a report for the court on the subject; or a judge may interview the children in chambers. Be advised that an in-chambers off-the-record conference may not be sanctioned in some jurisdictions because the discussion may impair an appellate court from full review of the proceedings below.

**Visitation Despite Parental Objection**

State law may vest a court with the legal authority to require visitation even over parental objection. In this situation, the grandparent must overcome the rebuttable presumption that the parent’s decision to refuse or limit visitation with the grandchildren was reasonable. Counsel should thoroughly research state and circuit case law to support the grant or denial of visitation in this circumstance. Case law will highlight the fact patterns when the grandparent successfully petitioned for visitation and, conversely, when efforts to compel visitation failed.

**Burden**

Most state visitation statutes are silent as to the required burden of proof in grandparent visitation matters. In practice, the burden of proving that visitation is in the grandchildren’s best interests usually rests with the petitioning grandparent. The objecting party bears the burden of proving such visitation would be detrimental.

**Presumption**

Beware the rebuttable presumption affecting the burden of proof that grandparent visitation is not in the child’s best interests where the parents agree that the grandparent should not be granted visitation rights or where the visitation rights of grandparents are presumed to be in the grandchildren’s best interests.

**Imposing Visitation Conditions and Restrictions**

The court may order reasonable conditions or restrictions on grandparent visitation. For example, a Florida court may condition visitation it awards to an HIV-positive grandparent upon the grandparent’s agreement “to observe measures approved by the Centers for Disease Control and Prevention of the United States Public Health Service or by the Department of Health for preventing the spread of [HIV] to the child.” In other examples, the court may require that the grandparent:

1. Not attempt to influence any religious beliefs or practices of the grandchildren in a manner contrary to parental preferences;
2. Not engage in, permit, or encourage activities, or expose the grandchild to conditions or circumstances, that are contrary to parental preferences; or
3. Not otherwise act in a manner to contradict or interfere with the child-rearing decisions made by the child’s parents.
Modifying or Terminating a Grandparent Visitation Order

A visitation order cannot be modified or terminated without court approval. The court may modify an order granting or denying visitation whenever modification serves the child’s best interests. The party seeking modification shoulders the burden of showing that the modification is in the child’s best interests.

If visitation was secured in a previous proceeding for marriage dissolution, custody, legal separation, annulment, or establishment of paternity, the grandparents may petition the court to reconsider the provisions of the decree or final order that provide for visitation. In this instance, the petition must assert that circumstances have materially changed since entry of the earlier order or decree. In addition, the petition must set forth sufficient facts to support this assertion.

A court may terminate grandparent visitation upon presentation of evidence that a grandparent has “materially violated the terms and conditions” of the visitation order or if a parent moves the court to do so based upon a change in circumstances.

Effect of Adoption on Grandparent Visitation

States differ considerably on whether to award or continue grandparent visitation upon the adoption of the grandchild. Many grandparent visitation statutes fail to reconcile the conflict between grandparent visitation and the rights of adoptive parents. Some draw a distinction between adoption by a step-parent or close relative and adoption by strangers. A number extend visitation to biological grandparents when the new spouse of the former son-in-law or daughter-in-law adopts their grandchild. Review the termination provisions contained in state adoption laws regarding the post-adoption visitation rights of a child’s biological relatives.

Enforcing Grandparent Visitation

A recent federal law ensures reciprocal recognition of grandparents’ rights once a state has adjudicated that those rights exist. Further, some grandparent visitation statutes reference the court’s enforcement capabilities (such as sanctions and contempt of court). Upon verified motion by the grandparents, or upon the court’s own motion, alleging noncompliance with a visitation order, the court will determine from the motion, and response to the motion, if any, whether there has been or is likely to be continuing noncompliance.

Better the grandparent’s chance of enforcing the visitation order by avoiding vague language in the court order. For example, if the visitation order reads, “Reasonable visitation to be determined by the participants,” it becomes difficult to prove that visitation has been denied. Compare with “Petitioner will see her granddaughter on alternate Thursdays from 3 p.m. to 6 p.m.” This specificity makes the court inquiry into noncompliance much easier.

Some grandparent visitation statutes provide for an automatic termination of visitation upon adoption; therefore, a grandchild’s adoption would preclude the grandparent from enforcing any visitation awarded previously. However, the statute may allow the grandparent continued enjoyment of such visitation after the adoption. Thus, the grandparent would not be precluded from enforcing the court-ordered visitation.

Other Options

Intervene in Pending Proceeding

In some instances, the court’s jurisdiction lies dormant until an action is instituted for marriage dissolution, child custody, legal separation, annulment, or establishment of paternity. A grandparent may intervene at the initial stage or during a later modification action, whether instituted by the grandparent or not. A grandparent moving for an order of visitation may not be afforded party status, but may be called as a witness and will be subject to cross-examination by the parties. The court may conduct the hearing on the petition as part of the pending proceeding or as a separate proceeding. The order creating visitation rights, if one issues, may be incorporated into and made a part of the decree or final order. In practice, grandparents are highly successful in their attempts to incorporate a grandparent visitation paragraph into a divorce decree.

Mediation

Consider mediation (that is, negotiation aided by a neutral third party) early in the grandparent visitation process. Many grandparent visitation statutes reference mediation. Upon petitioning for visita-
tion, the court may order mediation and require a
good-faith effort to resolve the conflict before returning
before a judge. Mediation by court referral may
produce a court order for visitation. Alternatively,
some statutes require mediation before the court
entertains a grandparent visitation petition. Here,
mediation takes place as a private initiative that
hopes to achieve agreement. Most of these agree-
ments are unenforceable unless the disputing parties
or their attorneys file the agreement with the court.

Practice Tips

Notice
In general, the court conducts a hearing to deter-
mine whether an order for visitation will issue.
Several grandparent visitation statutes expressly
provide for notice to appropriate parties. At least
one remarks that "actual or constructive" notice of
the allegations contained in the petition is accept-
able. Typically, notice of the hearing's date, time,
and place as well as a copy of the petition is sup-
plied to the grandchildren's parents in the manner
provided by law for service of a summons. Failure to notify the parents may be a fatal proce-
dural defect.

Request Reasonable Visitation
Propose a reasonable visitation plan. Reasonable
visitation is the statutory language for determining
the frequency and length of the visits. In determin-
ing how much visitation to request, counsel repre-
senting the grandparents should look to case law
for instruction on what constitutes reasonable visi-
tation. In practice, avoid requesting the type of
visitation commonly awarded to a noncustodial
parent. Grandparents whose adult children have
died do not step into their deceased children's
shoes. The court will likely grant several hours
once or twice a month, with a day or two during
the holidays.

Uniquely, under New Mexico law, the court
"may issue an order requiring other reasonable
contact between the grandparent and the child,
including regular communication by telephone,
mail or any other reasonable means." 136

Supervised Visitation
Consider asking the court in its discretion to order
supervised visitation if it appears unlikely that the
court will grant the requested visitation other-
wise. 137

Home Study
In some states, the court may order a home study
to assist in determining the best interests of the
child. 138

Educational Program on Grandparents' Rights
Recommend that clients take advantage of state-
developed programs that make grandparents aware
of their visitation rights under state law. In addi-
tion, the program may inform divorcing parents as
to the utility, to the children, of regular and fre-
quent visitation with their grandparents. 140

Legislative History
Investigate the legislative history of the state grand-
parent visitation statute. The provision's history
may affect the way the courts analyze the cases that
arise under it.

Experts
Rely on experts (such as psychiatrists and psychol-
ogists) to support the petition's visitation demand.
Experts are particularly helpful when a statute fails
to define "best interests." Be prepared to engage in
a battle of the experts in which one expert testifies
that grandparent visitation is in the grandchildren's
best interests and another equally qualified expert
testifies that it is not.

Visitation Revocation
Advise the grandparent client of reasons why
court-ordered visitation might be revoked. Often,
the statute itself contains this information. For
example, in Illinois, if an order enters granting visi-
tation privileges to a grandparent who is related to
the children through the noncustodial parent, visi-
tation privileges may be revoked if:

1. A court order prohibits the noncustodial parent
from any contact with the children and the
grandparent uses the visitation privileges as an
opportunity for the noncustodial parent to visit
with the children; or
2. A court order restricts the noncustodial parent's
contact with the children and the grandparent
uses the visitation to facilitate contact between
the children and the noncustodial parent in a
manner that violates the order restricting the parent’s contact.142

Endnotes


6. Charles P. Sabatino et al., ABA LEGAL GUIDE FOR OLDER AMERICANS 139 (Random House 1998) [hereinafter LEGAL GUIDE FOR OLDER AMERICANS].


13. The term "intact family" here means that the parents are married and the parents and children reside in the same household.

14. Legal Guide for Older Americans, supra note 6, at 141.


18. See id.

19. See, e.g., Ind. Code Ann. § 31-17-5-3(E).


30. See, e.g., Ariz. Rev. Stat. Ann. § 25-409(A)(2) (1998) (relating that the court may grant reasonable visitation rights if it would be in the child's best interests where the parent "has been missing for at least three months" or the "parent's location has not been determined and the parent has been reported as missing to a law enforcement agency"); Cal. Fam. Code Ann. § 3104(b)(2) (noting that a petition for grandparent visitation may be filed where "one of the parents has been absent for more than one month without the other spouse knowing the whereabouts of the absent spouse"); 750 Ill. Comp. Stat. Ann.
5/607(b)(1)(B) (1999) (filing a petition for grandparent visitation privileges may occur where "one of the parents has been absent from the marital abode for more than one month without the spouse knowing his or her whereabouts"); W. Va. Code § 48-2B-7(a)(2) (1998) ("The whereabouts of the party through which the grandparent is related to the minor child are unknown to the party bringing the [pending] action [for divorce, custody, legal separation, annulment, or establishment of paternity] and to the grandparent who filed the motion for visitation.").


33. See id.


35. See, e.g., Minn. Stat. Ann. § 257.022(2a) (1998) (allowing grandparents to petition for reasonable visitation if grandchild "has resided with grandparents or great-grandparents for a period of 12 months or more, and is subsequently removed from the home by the minor's parents"); N.M. Stat. Ann. §§ 40-9-2(C) and (D) (1999) (permitting visitation petition if parent removes child less than six years of age from grandparent's home after child has lived there for at least three months or parent removes child age six or older after he or she has resided with grandparents for at least six months); 23 Pa. Cons. Stat. Ann. § 5313(a) (1998) (allowing petition for reasonable visitation if grandchild lived with grandparent(s) for 12 months or more and parents subsequently removed child from the home); Tex. Fam. Code Ann. § 153.433(F) (1997) (ordering reasonable access if "child has resided with the grandparent requesting access to the child for at least six months within the 24-month period preceding the filing of the petition").

36. See infra notes 46 through 49 and accompanying text.

37. See id.


41. See, e.g., Matter of Emanuel S. v. Joseph E., 577 N.E.2d 27, 39 (1991) (relying on "equitable circumstances" provision of grandparent visitation statute to resolve the issue of standing to petition for visitation in an intact marriage in favor of the grandparents where grandparents previously formed relationship with grandchildren, or made sincere effort to establish a relationship but such efforts were frustrated by children's parents); King v. King, 828 S.W.2d 630 (Ky. 1992) (ordering grandparent visitation in an intact family), cert. denied, 506 U.S. 941 (1992); Hawk v. Hawk, 855 S.W.2d 573 (Tenn. 1993) (addressing issue of grandparent visitation in an intact family concluding that court interference constitutes an unjustified invasion into the "protected sphere of family life"); cf. Goff v. Goff, 844 A.2d 1087, 1091 (Wyo. 1993) (ruling that court-ordered grandparent visitation is in the grandchild's best interests even when awarded against the parents' objections); see generally Alicia C. Klyman, Grandparent Visitation Rights—Court Protects Parental Privacy Rights Over "Child's Best Interests," 24 Mem. St. U.L. Rev. 413 (1994).


44. Legal Guide for Older Americans, supra note 6, at 141.

45. See id.


47. See, e.g., La. Rev. Stat. Ann. § 344(B) (1998) (“When the parents of a minor child live in con-cubinage and one of the parents dies, the parents of the deceased party may have reasonable visitation rights” to the child(ren)); W.Va. Code § 48-2B-4(b) (“A grandparent may petition the circuit court for an order granting visitation with his or her grandchild regardless of whether the parents of the child are married”).


52. Legal Guide for Older Americans, supra note 6, at 140.

53. See, e.g., Or. Rev. Stat. § 109.121(1) (1998) ("The power ..., to grant visitation rights to grandparents is discretionary and shall be exercised only when the court determines that it would be in the best interests and welfare of the minor children").


76. Id. at § 125A.330(1)(b)(3).


82. See, e.g., Cal. Fam. Code Ann. §§ 3103(b) and 3104 (1998).


88. See id. at § 25-409(C)(3).


95. See, e.g., Neb. Rev. Stat. § 43-1802(2) (1998) (requiring affidavit showing “that a significant beneficial relationship exists, or has existed in the past, between the grandparent and the child and that it would be in the best interests of the child to allow such a relationship to continue”); Wash. Rev. Code Ann. § 26.09.240(3) (1998) (“[P]etition for visitation or a motion to intervene...shall be dismissed unless the petitioner or intervenor can demonstrate by clear and convincing evidence that a significant relationship exists with the [grand]child”).


99. See id. at § 48-2B-6(b) (1998).


104. See, e.g., Utah Code Ann. § 30-5-2(2) (1998) (announcing that despite a presumption that a parent's decision with regard to grandparent visitation is reasonable, "[t]he court may override...shall be dismissed unless the petitioner or intervenor can demonstrate by clear and convincing evidence that a significant relationship exists with the [grand]child").
the parent’s decision and grant reasonable visitation rights to a grandparent”); cf. DEL. CODE ANN. tit. 10, § 1031(7)(a) (1998) (highlighting that “when the natural or adoptive parents of the child are cohabiting as husband and wife, grandparental visitation may not be granted over both parents’ objection”).


112. See id. at § 48-2B-8(b)(2).

113. See id. at § 48-2B-8(b)(3).

114. See id. at § 48-2B-10(a).


121. Child Custody and Visitation Act, supra note 3.


129. See id. at § 109.121(4).


132. See, e.g., Or. Rev. Stat. §§ 109.121(3) and (4).

133. See, e.g., Martin v. Coop, 693 So.2d 912 (Miss. 1997) (granting paternal grandparents visitation totaling 86 days per year in even-numbered years and 81 days per year in odd-numbered years following death of child’s father was abuse of discretion, because grandparents had improperly been awarded same visitation as would have been awarded to noncustodial parent); Sketo v. Brown, 559 So.2d 381 (1990) (giving paternal grand-
mother visitation rights was too extensive where she was given the right to exercise visitation with children every other week from 6 p.m. on Friday to 6 p.m. on Saturday, every other Wednesday from 6 p.m. to 8 p.m., one day either before or after certain holidays and each child's birthday, and one week every summer).

134. See, e.g., Sarchet v. Ziegler, 663 N.E.2d 25 (Ill. 1996) (requesting one week in the summer, two days at Christmas, alternating weekends, and part of Mother's Day is similar to visitation noncustodial parents expect to receive).


140. See id.
