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## Grandparents' rights important for children and grandparents

Raising children near their extended family members is not an easy task. Many families are spread across the country or even in different countries. Other families may be close in proximity, yet have work schedules and children's extracurricular activities which may limit extended family time.

One of the most important relationships a child can have is with a grandparent. Children generally benefit when parents foster positive relationships with their grandparents.

Studies show as many as nine out of 10 adults feel their grandparents influenced their core beliefs and values. Children understand more of who they are and where they come from through their connection with their grandparents. Grandparents also offer a link to a child's cultural and family history.

A study at the University of Oxford by professor Ann Buchanan from the social policy and intervention department showed a high level of grandparent involvement increases a child's well-being.

Buchanan's study of more than 1,500 children also showed children with a high level of grandparent involvement had fewer emotional and behavioral problems. These children were also better able to cope with traumatic life events, such as school bullying or divorce.

Current trends reveal grandparents are more likely to help raise grandchildren. An estimated 3 million grandparents are currently raising their grandchildren. Although a grandparent may play a significant role in a child's life, the generous and thoughtful act of raising a grandchild does not guarantee recognizable legal rights involving the child.

This article focuses on the grandparent's rights afforded through the Illinois Marriage and Dissolution of Marriage Act, even though rights could be afforded via the child protection or probate statutes.

Section 602.9 of the marriage act states a grandparent may bring an action by their own petition, or by filing a petition in a pending proceeding, involving parental responsibilities of a child.

If a grandparent wishes to have a visitation schedule with his or her grandchild, the grandparent must meet the following:

First, there is a rebuttable presumption a fit parent's actions and decisions regarding grandparent visitation are not harmful to the child's mental, physical or emotional health. The burden is on the grandparent to prove the parent's actions and decisions regarding visitation will cause undue harm to the child's mental, physical or emotional health.

Some families may experience conflict, which results



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in a parent's emotional response to alienate the child from his or her grandparents. A child's psychological and emotional development is rapidly developing during stages of adolescence.

If a grandparent raised his or her grandchild and the child has a strong, emotionally and mentally positive relationship with the grandparent, the loss of the grandparent's physical presence and support may negatively affect a child's mental and emotional health.

Second, a grandparent may only bring his or her petition for visitation and electronic communication if the grandchild is at least a year old and there has been an unreason-

able denial of visitation by a parent. Further, the denial has caused the child undue mental, physical or emotional harm.

Finally, the grandparent must show at least one of the following conditions:

- The child's other parent is deceased or has been missing for at least 90 days.
- A parent has been incarcerated for at least 90 days.
- A parent of the child is incompetent as a matter of law.

- There is a pending dissolution proceeding involving the child's parents, or the parents were granted a dissolution of marriage or have been legally separated.

- The child is born to parents not married who do not live together, and the parent-child relationship has been legally established.

In addition to the foregoing, a court will also consider:

- Whether the child resided with the grandparent for at least six consecutive months.

- Whether the child had frequent and regular contact or visitation with the grandparent for at least 12 consecutive months.

- Whether the grandparent was a primary caretaker of the child for at least six consecutive months within the 24-month period immediately preceding the pleadings being filed.

The statute provides the following nine factors for the

court to consider in determining whether to grant grandparent visitation:

- The wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to visitation.
- The mental and physical health of the child.
- The mental and physical health of the grandparent.
- The length and quality of the prior relationship between the child and the grandparent.
- The good faith of the grandparent in filing the petition.
- The good faith of the person denying visitation.
- The quantity of the visita-

tion time requested and the potential adverse impact that visitation would have on the child's customary activities.

- Any other fact that establishes that the loss of the relationship between the petitioner and the child is likely to unduly harm the child's mental, physical or emotional health.

- Whether visitation can be structured in a way to minimize the child's exposure to conflicts between the adults.

Obtaining a court-ordered visitation schedule as a grandparent is not an easy legal or emotional undertaking. Prior to filing a petition, causing tension in the family and more distress to the child, a practitioner should offer

advice to consider an alternative dispute resolution approach.

These alternative dispute resolutions can help facilitate a nonlitigious and cost-effective approach to resolving disagreements within the family. You might consider a mediator who is trained as a psychologist or social worker to offer a more holistic and thoughtful process.

These processes also enable professionals to address the individualized needs of the family. This helps create a thoughtful and caring visitation schedule between the grandchild and the grandparent that least affects the concerns and wishes of the parents.

If the parties agree to utilize an alternative dispute approach, the professionals and the parties should be prepared. This is a stressful time as a plethora of emotions will arise. Be clear with your client about expectations and thoroughly understand your client's goals prior to starting any alternative dispute resolution process.

It is crucial for a child's emotional health that his or her parents and grandparents foster a supportive family if at all possible. Practitioners should be encouraged to remind disputing parents and grandparents that the child's best interests should always be the focus.