

Chart 6: Third-Party Visitation

STATE	Stepparents	Grandparents, Generally*	Grandparents— After Death of Their Child	Grandparents— After Their Child Divorces	Grandparents— Parents Never Married	Any Interested Party	After Termination of Parental Rights or Adoption
<b>Alabama</b> <sup>1</sup> ALA. CODE § 30-3-4,1		X	X	X	X		
<b>Alaska</b> ALASKA STAT. § 25.20.065	X	X				X	
<b>Arizona</b> ARIZ. REV. STAT. § 25-409 ARIZ. REV. STAT. § 25-415	X <sup>2</sup>	X	X	X	X		
<b>Arkansas</b> ARK. CODE ANN. § 9-13-102 ARK. CODE ANN. § 9-13-103 ARK. CODE ANN. § 9-13-107		X	X	X	X	X <sup>3</sup>	
<b>California</b> CAL. FAM. CODE § 3100 CAL. FAM. CODE § 3101 CAL. FAM. CODE § 3102 CAL. FAM. CODE § 3103 CAL. FAM. CODE § 3104	X	X	X	X	X	X	X
<b>Colorado</b> COLO. REV. STAT. § 19-1-117 COLO. REV. STAT. § 14-10-123 COLO. REV. STAT. § 14-10-123.3	X	X <sup>4</sup>	X	X			
<b>Connecticut</b> CONN. GEN. STAT. § 46b-56 CONN. GEN. STAT. § 46b-57 CONN. GEN. STAT. § 46b-59		X				X <sup>4,5</sup>	
<b>Delaware</b> DEL. CODE ANN. TIT. § 2410 <sup>4</sup>						X	
<b>Florida</b> FLA. STAT. § 752.01 <sup>4</sup>		X		X	X		
<b>Georgia</b> GA. CODE ANN. § 19-7-3		X <sup>6</sup>		X			X
<b>Hawaii</b> HAW. REV. STAT. § 571-46.3 <sup>4</sup>		X					
<b>Idaho</b> IDaho CODE ANN. § 32-719		X		X			
<b>Illinois</b> 750 ILL. COMP. STAT. 5/607	X	X	X	X	X <sup>7</sup>		

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<b>Indiana</b> IND. CODE § 31-17-5-1 IND. CODE § 31-17-5-9	X		X	X	X <sup>7</sup>	X <sup>8</sup>	X <sup>9</sup>
<b>Iowa</b> IOWA CODE § 600C.1		X	X				
<b>Kansas</b> KAN. STAT. ANN. § 23-3301 KAN. STAT. ANN. § 23-3302	X	X	X	X	X		X
<b>Kentucky</b> KY. REV. STAT. ANN. § 405.021		x	X <sup>10</sup>				X
<b>Louisiana</b> LA. REV. STAT. ANN. § 344 LA. CIV. CODE ANN. ART. 136 LA. REV. STAT. ANN. § 344	X	X	X	X	X	X <sup>11</sup>	
<b>Maine</b> ME. REV. STAT. TIT. 19 § 1803		X <sup>12</sup>	X				
<b>Maryland</b> MD. CODE ANN. FAM. LAW § 9-102		X					
<b>Massachusetts</b> MASS GEN. LAWS CH. 119 §§ 26B, 39D		X	X	X	X	X <sup>13</sup>	
<b>Michigan</b> MICH. COMP. LAWS § 722.27B		X	X	X	X		X
<b>Minnesota</b> MINN. STAT. § 257C	X	X	X	X	X	X <sup>14</sup>	X <sup>15</sup>
<b>Mississippi</b> MISS. CODE ANN. § 93-16-3		X	X	X	X		X
<b>Missouri</b> MO. ANN. STAT. § 452.402		X	X	X			
<b>Montana</b> MONT. CODE ANN. § 40-9-102 MONT. CODE ANN. § 40-4-228	X	X				X	
<b>Nebraska</b> NEB. REV. STAT. § 43-1802 NEB. REV. STAT. § 42-364	X <sup>16</sup>		X	X	X		
<b>Nevada</b> NEV. REV. STAT. ANN. § 125C.050			X	X	X	X <sup>17</sup>	X

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<b>New Hampshire</b> N.H. REV. STAT. ANN. § 461-A:13 N.H. REV. STAT. ANN. § 461-A:6	X		X	X			X
<b>New Jersey</b> N.J. STAT. ANN. § 9:2-7.1		X <sup>18</sup>					
<b>New Mexico</b> N.M. STAT. ANN. § 40-9-2		X	X	X			
<b>New York</b> N.Y. DOM. REL. § 72 N.Y. FAM. CT. ACT § 651		X	X			X	
<b>North Carolina</b> N.C. GEN. STAT. ANN. § 50-13.2 N.C. GEN. STAT. ANN. § 50-13.2A		X					
<b>North Dakota</b> N.D. CENT. CODE ANN. § 14-09-05.1	X <sup>19</sup>	X					
<b>Ohio</b> OHIO REV. CODE ANN. § 3109.11 OHIO REV. CODE ANN. § 3109.051			X			X	
<b>Oklahoma</b> OKLA. STAT. ANN. TIT. 43 § 109.4 OKLA. STAT. ANN. TIT. 10 § 7505-1.5(A)	X <sup>20</sup>	X	X	X	X		X
<b>Oregon</b> OR. REV. STAT. ANN. § 109.119	X	X				X	
<b>Pennsylvania</b> 23 PA. CONS. STAT. § 2733 23 PA. CONS. STAT. § 5325		X	X	X			X <sup>21</sup>
<b>Rhode Island</b> R.I. GEN. LAWS ANN. § 15-5-24.1 R.I. GEN. LAWS ANN. § 15-5-24.2 R.I. GEN. LAWS ANN. § 15-5-24.3 R.I. GEN. LAWS ANN. § 15-5-24.4			X	X		X <sup>18</sup>	
<b>South Carolina</b> S.C. CODE ANN. § 63-3-530	X <sup>22</sup>		X <sup>23</sup>	X	X	X <sup>24</sup>	
<b>South Dakota</b> S.D. CODIFIED LAWS § 25-4-52 S.D. CODIFIED LAWS § 25-4-54		X					

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<b>Tennessee</b> TENN. CODE ANN. § 36-6-302 TENN. CODE ANN. § 36-6-303 TENN. CODE ANN. § 36-6-306 TENN. CODE ANN. § 36-6-307	X	X	X <sup>25</sup>	X	X		
<b>Texas</b> TEX. FAM. CODE ANN. § 153.432 TEX. FAM. CODE ANN. § 153.433 TEX. FAM. CODE ANN. § 153.434		X	X				
<b>Utah</b> UTAH CODE ANN. § 30-5-2 UTAH CODE ANN. § 30-5A-102 UTAH CODE ANN. § 30-A-103	X	X	X	X		X <sup>26</sup>	
<b>Vermont</b> VT. STAT. ANN. TIT. 15, § 1011 VT. STAT. ANN. TIT. 15, § 1012 VT. STAT. ANN. TIT. 15, § 1016		X	X				
<b>Virginia</b> VA. CODE ANN. § 20-124.1 VA. CODE ANN. § 20-124.2B	X	X		X			
<b>Washington<sup>27</sup></b>							
<b>West Virginia</b> W. VA. CODE ANN. § 48-10-301 W. VA. CODE ANN. § 48-10-401 W. VA. CODE ANN. § 48-10-402 W. VA. CODE ANN. § 48-10-702 W. VA. CODE ANN. § 48-10-902		X		X	X		
<b>Wisconsin</b> WIS. STAT. ANN. § 767.43 WIS. STAT. ANN. § 54.56 WIS. STAT. ANN. § 48.92.5	X <sup>28</sup>	X	X		X		
<b>Wyoming</b> WYO. STAT. ANN. § 20-7-101		X				X <sup>29</sup>	

\* Grandparents may obtain visitation when the parents are alive and regardless of their marital status. Many of these statutes contain requirements, such as the establishment of a substantial relationship, the best interests of the child, the existence of a residential relationship, the parent's unreasonable denial of visitation, or a combination of these.

1. The grandparent visitation statute has been found to be unconstitutional as of December 2011. *See* Burnett v. Burnett, 2011 WL 6117944 (Ala. Civ. App. 2011).

2. Assuming that the factors set forth in the nonparental custody and visitation statute are satisfied, including a finding that visitation is in the child's best interests, the court can order reasonable visitation upon the establishment of in loco parentis status. A person who stands "in loco parentis," who is a "de facto," "equitable," or "psychological parent," or who has a substantial residential relationship with a child may seek visitation or custody without showing that a parent is unfit or other extraordinary circumstances. Some statutes impose a time requirement for the duration of the relationship before visitation or custody may be sought. New York requires proof of "extraordinary circumstances."

3. The petitioner has the right to visit any brother or sister, regardless of the degree of blood relationship, whose parents have denied such access.

4. A court of the state has declared the statute unconstitutional either on its face or as applied.

5. The court must scrutinize an application to determine whether it contains specific, good faith allegations of both relationship and harm, namely that nonparent has a relationship with child that is similar in nature to a parent-child relationship and that denial of visitation will cause real and significant harm to child, and if the application does not contain such allegations, the application must be dismissed.

6. Grandparent visitation statute violates constitutionally protected liberty interest of parents to raise their children without undue state interference. The State may only impose that visitation over parents' objections on showing that failing to do so would be harmful to child.

7. Visitation rights of paternal grandparents to child born out of wedlock are subject to establishment of paternity.

8. Third party must establish existence of custodial and parental relationship with child.

9. Visitation rights survive adoption of child by either a stepparent or any person related to child.

10. Visitation may be granted to grandparents of a child if the grandparents' son or daughter is deceased and the grandparent has assumed the financial obligation of child support owed by deceased parent.

11. La. Rev. Stat. Ann. § 344 provides visitation rights to siblings in the event of the death or incarceration of a parent or the legal separation of the parents.

12. If the parents are not deceased, grandparents may get visitation rights if there is an existing relationship between the grandparent and child or a sufficient effort to establish a relationship has been made.

13. Sibling visitation may be granted once minor children are placed in family foster care.

14. Third party visitation for any interested party may be granted as long as the child has resided with them for a period of two years or more, and meet the other criteria applicable for all third-party visitation requests.

15. Visitation rights for grandparents in a stepparent adoption.

16. When the stepparent stands in loco parentis. *See* Hickenbottom v. Hickenbottom, 477 N.W.2d 8, 16 (1991) (*citing* NEB. REV. STAT. § 42-364).

17. "If the child has resided with a person with whom the child has established a meaningful relationship." NEV. REV. STAT. ANN. § 125C.050.

18. Allows visitation rights for siblings and grandparents when a "special relationship" exists or existed between the grandparent(s) and the child(ren).

19. *McAllister v. McAllister*, 779 N.W.2d 652 (N.D. 2010).

20. In an adoption, the adoptive parents may enter into a visitation agreement with "birth relatives." OKLA. STAT. ANN. TIT. 10, § 7505-1.5(A). A stepparent is considered a birth relative. *Id.* at § 7505-1.5(B).

21. A prospective adoptive parent of a child may enter into an agreement with a birth relative of the child to permit continuing contact or communication between the child and the birth relative or between the adoptive parent and the birth relative.

22. *See* Dodge v. Dodge, 505 S.E.2d 344 (S.C. App. 1988). (Stepfather joined with maternal grandparents in custody dispute; the court did not rule on the stepfather's standing alone).

23. When court-ordered grandparental visitation, in addition to the noncustodial parent's visitation periods, borders on divided custody, it will not be approved absent exceptional circumstances. *Brown v. Earnhardt*, 396 S.E.2d 358 (1990); 21 S.C. JUR. CHILDREN AND FAMILIES § 151.

24. *See* Moore v. Moore, 386 S.E.2d 456, 458 (S.C. 1989) *citing* Kay v. Roland, 331 S.C.2d 781, 782 (S.C. 1985) (Court places substantial burden on a third party attempting to take custody over biological parent recognizing, "superior rights of a natural parent in a custody dispute with a third party. Once the natural parent is deemed fit, the custody is decided.")

25. For the purposes of this section, if the child's parent is deceased and the grandparent seeking visitation is the parent of that deceased parent, there shall be a rebuttable presumption of substantial harm to the child based upon the cessation of the relationship between the child and grandparent. TENN. CODE ANN. § 36-6-306.

26. Court may grant custody to individuals other than a parent in certain circumstances. "Person other than a parent" includes only (a) siblings; (b) aunts; (c) uncles; (d) grandparents; or (e) current or former step-parents, or any of the persons in Subsections (2)(a) through (d) in a step relationship to the child. UTAH CODE ANN. § 30-5a-102.

27. *See* *In re* Custody of Smith, 969 P.2d 21 (1998); *In re* Parentage of C.A.M.A., 109 P.3d 405 (Wash. 2005) (found third-party-visitatio-n-rights statutes unconstitutional).

28. If one or both parents of a minor are deceased and the minor is in the custody of the surviving parent or any other person, a grandparent or stepparent of the minor may petition for visitation privileges with respect to the minor, whether or not the person with custody is married. WIS. STAT. ANN. § 54.56

29. To receive visitation rights, the individual has to have been the primary caregiver for the child for a period of not less than six (6) months within the previous eighteen (18) month. If the court finds, after a hearing, that visitation would be in the best interest of the child and that the rights of the child's parents are not substantially impaired, the court shall grant reasonable visitation rights to the primary caregiver.