

Grandparents' Visitation Rights

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Issue

Does Connecticut law give grandparents rights to visitation and contact with their grandchildren?

Summary

Connecticut law gives grandparents standing to petition for court-ordered visitation of their grandchildren (i.e., third-party visitation) and sets the standards under which the court must grant them third-party visitation rights.

State third-party visitation laws must address the U.S. Supreme Court's constitutional concerns that they afford due process to a fit parent's decision to deny visitation ([Troxel v. Granville \(120 S.Ct. 2054 \(2000\)\)](#)) (see sidebar).

In 2002, the Connecticut Supreme Court reviewed Connecticut's then-existing third-party visitation statute in light of the federal constitutional requirements discussed in *Troxel*. The court required a person (e.g., a grandparent) seeking visitation to make specific, good-faith allegations that:

1. a parent-like relationship exists between the child and the person seeking visitation and
2. denial of the visitation will cause real and significant harm to the child.

Troxel v. Granville

- The seminal case on grandparents' visitation rights is [Troxel v. Granville \(120 S.Ct. 2054 \(2000\)\)](#).
- In *Troxel*, the U.S. Supreme Court ruled that the State of Washington's grandparent visitation statute violated the U.S. Constitution's Due Process Clause because it interfered with a parent's right to make decisions about the care, custody, and control of his or her children.
- Under *Troxel*, state laws must (1) give deference to a fit parent's decision to deny visitation, (2) put the burden of proof on the grandparent, and (3) afford due process to a fit parent's decision.

Once these jurisdictional hurdles are overcome, the court ruled that a petitioner must prove the allegations by clear and convincing evidence ([Roth v. Weston \(259 Conn. 202 \(2002\)\)](#)) ([DiGiovanna v. St. George \(300 Conn. 59 \(2011\)\)](#)). These requirements are codified in statute and are summarized below.

Connecticut Law

Standard

Connecticut law provides standing for grandparents to petition the Superior Court to grant them rights to visit their minor grandchildren. Under the law, “grandparent” means a grandparent or great-grandparent related to the child by blood, marriage, or adoption ([CGS § 46b-59\(a\)](#)).

By law, the court must grant visitation rights if it finds, after a hearing and by clear and convincing evidence, that (1) a parent-like relationship exists between the grandparent and the child and (2) denial of visitation would cause real and significant harm ([CGS § 46b-59\(b\)](#)). Under the law, “real and significant harm” means that the minor child is neglected or uncared as defined under the juvenile justice laws ([CGS § 46b-59\(a\)\(2\)](#)).

Parent-Like Relationship Factors

By law, in determining whether a parent-like relationship exists between the person seeking visitation and the child, the court may consider the following:

1. existence and length of a relationship between the person and child before the petition’s submission,
2. length of time that this relationship has been disrupted,
3. specific parent-like activities of the person seeking visitation of the child,
4. any evidence that the person seeking visitation has unreasonably undermined the custodial parent’s authority and discretion,
5. significant absence of a parent from the child’s life,
6. death of one of the child’s parents,
7. physical separation of the child’s parents,
8. fitness of the person seeking visitation, and
9. fitness of the custodial parent ([CGS § 46b-59\(c\)](#)).

In determining whether a parent-like relationship exists between a grandparent and a grandchild, the court may also consider the history of regular contact and proof of a close and substantial relationship between the grandparent and the child ([CGS § 46b-59\(d\)](#)).

Visitation Terms and Conditions

In determining the visitation's terms and conditions, the court may consider the (1) effect that it will have on the relationship between the child and his or her parents or guardians and (2) effect on the child of any domestic violence that has occurred between or among parents, grandparents, and the child ([CGS § 46b-59\(e\)](#)).

If the Superior Court grants a grandparent's visitation right, the court must set its terms and conditions, including (1) the visitation schedule, including the dates or days; (2) the time and place or places in which the visitation can occur; (3) whether overnight visitation will be allowed; and (4) any other terms and conditions that the court determines are in the child's best interest. Under the law, visitation conditions must not be contingent upon any court-ordered financial support ([CGS § 46b-59\(e\)](#)).

Limits on Visitation Rights

Visitation rights granted under this law must not be (1) deemed to have created parental rights in the person or persons to whom the visitation rights are granted or (2) a ground for preventing the relocation of the custodial parent. It must not prevent any court from acting on child custody or parental rights, and the court may terminate the visitation rights in its decrees ([CGS § 46b-59\(f\)](#)).

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