

IC 31-17-5

Chapter 5. Grandparent's Visitation

IC 31-17-5-0.2

Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 31-1-11.7-2 (before its repeal, now codified at sections 1, 8, 9, and 10 of this chapter) by P.L.293-1987 apply to the visitation rights of grandparents who have been granted visitation rights before September 1, 1985.

As added by P.L.220-2011, SEC.502.

IC 31-17-5-0.3

Application of certain amendments to prior law

Sec. 0.3. The amendments made to IC 31-1-11.7-2, IC 31-1-11.7-3, and IC 31-1-11.7-6 (before their repeal, now codified in this chapter) by P.L.270-1989 apply to adoptions in which a final order is issued by a trial court after May 5, 1989.

As added by P.L.220-2011, SEC.503.

IC 31-17-5-1

Right to seek visitation

Sec. 1. (a) A child's grandparent may seek visitation rights if:

- (1) the child's parent is deceased;
- (2) the marriage of the child's parents has been dissolved in Indiana; or
- (3) subject to subsection (b), the child was born out of wedlock.

(b) A court may not grant visitation rights to a paternal grandparent of a child who is born out of wedlock under subsection (a)(3) if the child's father has not established paternity in relation to the child.

As added by P.L.1-1997, SEC.9.

IC 31-17-5-2

Best interest of the child; in chambers interview of the child

Sec. 2. (a) The court may grant visitation rights if the court determines that visitation rights are in the best interests of the child.

(b) In determining the best interests of the child under this section, the court may consider whether a grandparent has had or has attempted to have meaningful contact with the child.

(c) The court may interview the child in chambers to assist the court in determining the child's perception of whether visitation by a grandparent is in the best interests of the child.

(d) The court may permit counsel to be present at the interview. If counsel is present:

- (1) a record may be made of the interview; and
- (2) the interview may be made part of the record for purposes of appeal.

As added by P.L.1-1997, SEC.9. Amended by P.L.15-2004, SEC.3.

IC 31-17-5-3

Petition

Sec. 3. A proceeding for grandparent's visitation must be commenced by the filing of a petition entitled, "In Re the visitation of _____". The petition must:

- (1) be filed by a grandparent entitled to receive visitation rights under this chapter;
- (2) be verified; and
- (3) set forth the following:
 - (A) The names and relationship of:
 - (i) the petitioning grandparent or grandparents;
 - (ii) each child with whom visitation is sought; and
 - (iii) the custodial parent or guardian of each child.
 - (B) The present address of each person named in clause (A).
 - (C) The date of birth of each child with whom visitation is sought.
 - (D) The status under section 1 of this chapter upon which the grandparent seeks visitation.
 - (E) The relief sought.

As added by P.L.1-1997, SEC.9.

IC 31-17-5-4**Venue**

Sec. 4. A grandparent seeking visitation rights shall file a petition requesting reasonable visitation rights:

- (1) in a circuit, superior or probate court of the county in which the child resides in a case described in section 1(a)(1), 1(a)(3), or 10 of this chapter; or
- (2) in the court having jurisdiction over the dissolution of the parents' marriage in a case described in section 1(a)(2) of this chapter.

As added by P.L.1-1997, SEC.9. Amended by P.L.50-2006, SEC.8.

IC 31-17-5-5**Service of petition and summons**

Sec. 5. Whenever a petition is filed, a copy of the petition, together with a copy of a summons, shall be served upon the custodial and noncustodial parent or guardian of each child with whom visitation is sought in the same manner as service of summons in civil actions generally.

As added by P.L.1-1997, SEC.9.

IC 31-17-5-6**Decree**

Sec. 6. Upon hearing evidence in support of and opposition to a petition filed under this chapter, the court shall enter a decree setting forth the court's findings and conclusions.

As added by P.L.1-1997, SEC.9.

IC 31-17-5-7**Modification of order**

Sec. 7. The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child.

As added by P.L.1-1997, SEC.9.

IC 31-17-5-8

Paternity proceedings; effect on visitation rights

Sec. 8. (a) This section applies to a child born out of wedlock.

(b) Visitation rights provided for in section 1 or 10 of this chapter survive the establishment of paternity of a child by a court proceeding other than an adoption proceeding.

As added by P.L.1-1997, SEC.9.

IC 31-17-5-9

Adoption; effect on visitation rights

Sec. 9. Visitation rights provided for in section 1 or 10 of this chapter survive the adoption of the child by any of the following:

- (1) A stepparent.
- (2) A person who is biologically related to the child as:
 - (A) a grandparent;
 - (B) a sibling;
 - (C) an aunt;
 - (D) an uncle;
 - (E) a niece; or
 - (F) a nephew.

As added by P.L.1-1997, SEC.9.

IC 31-17-5-10

Marriage of child's parents dissolved in another state; right to seek visitation

Sec. 10. If the marriage of the child's parents has been dissolved in another state, the child's maternal or paternal grandparent may seek visitation rights if:

- (1) the custody decree entered in the action for dissolution of marriage does not bind the grandparent under IC 31-21-3-1 (or IC 31-17-3-12 before its repeal); and
- (2) an Indiana court would have jurisdiction under IC 31-21-5-1 (or IC 31-17-3-3 before its repeal), IC 31-21-5-2, or IC 31-21-5-3 (or IC 31-17-3-14 before its repeal) to grant visitation rights to the grandparent in a modification decree.

As added by P.L.1-1997, SEC.9. Amended by P.L.138-2007, SEC.35.