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Do Grandparents Have Rights in Florida?

When we think of Child Custody disputes, we typically think of the parents and their rights. But what happens to *grandparents* in custody matters? Often, a grandparent has played an important role in their grandchildren's lives. And whether their involvement is full-time and local, or over holidays and from afar, grandparents are a critical part of the family structure as well as being vested emotionally. Unfortunately, in Florida, grandparents are frequently left out of the equation on timesharing issues. While some states provide grandparents an ability to request visitation rights, Florida historically has had a very narrow interpretation of grandparents' rights. In *Divorce* cases, grandparents do not have timesharing rights, unless such visitation is agreed to by one or both parents.

In fact, grandparents are permitted timesharing with a grandchild only in very limited circumstances:



1. If one or both parents are deceased, missing, in a vegetative state or are violent criminals;
2. If the child is deemed dependent and removed from the parent(s) physical custody; or
3. If both parents have abused, abandoned or neglected the child.

Thus, if one parent is present and not convicted of a violent crime, there is little assistance to grandparents seeking court-ordered visits with their grandchild.

Fla.Stat. § 39.509 provides that a grandparent (and a step-grandparent) might be entitled to "reasonable visitation" with a grandchild who has been adjudicated a dependent child (such as when the Court finds there is a sufficient basis to take the child from the parents' physical custody due to abandonment, abuse or neglect) and such timesharing does not interfere with the goals of the parents' case plan and is in the child's best interest. Unfortunately for the grandparents, once the child is returned to the physical custody of the parent(s), the grandparent's timesharing rights terminate.

Fla.Stat. § 63.087 offers grandparents (and other relatives) a unique opportunity to seek the termination of biological parents' rights in conjunction with an adoption. The typical process for a third party adoption involves two separate proceedings – the termination and then the adoption. However, a grandparent can petition the Court to accomplish both goals in the same action. While there is still a very high threshold necessary to terminate a biological parent's rights to his/her child (i.e. abuse, abandonment, neglect), Florida law makes the Court process for grandparents a little simpler.

THE COMMON ESTATE PLANNING DILEMMAS BLENDED FAMILIES FACE



Having a blended family can be challenging in more than one way. Issues can arise over the division of authority or responsibility, the need to protect assets from former spouses, the potential for certain children to be disinherited and delays in the children's receipt of inheritance until after the death

of their parent's spouse. Talking through the minefields of blended family *Estate Planning* with an attorney can insure smooth(er) sailing for everyone involved so feel free to call us if your family situation has caused you to delay completing your *Estate Planning*.

Our Office



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Attorney Adam S. Gumson of **JUPITER LAW CENTER** graduated from *Duke University* (1988) and the *University of Florida College of Law* (1991 with Honors). In addition to preparing and reviewing Contracts, he primarily handles matters involving *Estate and Business Planning* (including Wills, Trusts, Durable Powers of Attorney, Health Care Surrogates, Living Wills, Succession Planning, Contracts & Purchase/Sale Agreements), *Probate Estates*, *Family Law* (Divorce, Custody, Alimony, Timesharing, Same-Sex relationships, Pre/Postnuptial Agreements, Modification actions and Collaborative Law) and *Real Estate* (Community Association, Residential/ Commercial Transactions, Deeds, Closings). He is married and resides in Jupiter with his wife and three children.

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