



FACT SHEET ◀ EASTERN COMMUNITY LEGAL CENTRE 2016

GRANDPARENTS RIGHTS

▶ WHEN CHILDREN ARE IN DANGER

Mark is Jenny's grandson. Mark lives with his mother and stepfather. Mark is very close to Jenny and they have a very loving relationship. In her last visit to see Mark, Jenny saw that Mark has some bruises. Also Jenny noticed Mark is unsettled, looks frightened and unclean. Jenny thinks Mark's parents are not looking after him well and worries about his safety. Jenny wants Mark to live with her so she can look after him properly.

▶ ACCESS AND GRANDCHILDREN

Emma is Li and Bo's granddaughter. Emma's parents are getting a divorce and her mother said she will make sure Li and Bo won't see Emma after the divorce. Li and Bo are very close to Emma and want to be in her life even after the parents' separation.

THINGS TO CONSIDER WHEN YOU WANT TO SEE YOUR GRANDCHILD

Grandparents are a very important part of grandchildren's lives. They could provide crucial support at a time of a family breakdown. During any family breakdown or separation, the needs of children and their wellbeing should be given priority.

At a time of separation parents are encouraged to negotiate a parenting plan. That will consider children's needs and make arrangements for children to spend time with parents, grandparents and other people that the children have a special relationship with.

This means that the parents and Court should consider Li and Bo's relationship with Emma. In determining what is in Emma's best interests and may provide time for Emma to see her grandparents on a regular basis.

If a grandparent wants to obtain custody of a child the court will take into account the nature of the relationship between them, the likely effect that separation from the grandparent will have on the child and the capacity of the grandparent to provide for the child.

Jenny can try to obtain custody of Mark by applying to the Court for a parenting order.

This is a formal order of the Court which sets out arrangements for the care of Mark and can include arrangements for Jenny. Generally before applying for a parenting order you must participate in mediation or dispute resolution. However, where there is family violence, child abuse, or the risk of either make it unnecessary to follow the normal procedure. If Jenny is worried about Mark's safety she should also contact the Department of Human Services.

Alternately, if Mark's parents can come to an agreement with Jenny about Mark they may be able to apply for consent orders. These are orders made by the Court which do not require the parties to actually attend Court.

If you are not the parent of a child and you want to obtain a parenting or consent order you should seek legal advice in relation to your particular situation.

GRANDPARENTS RIGHTS

QUESTIONS TO ASK

- ▶ Can I come to an agreement with my grandchild's parents about having access to my grandchild?
- ▶ Do I have a right to see my grandchildren?
- ▶ Can my grandchildren stay with me at my house?
- ▶ I want to go to grandparent's day at my grandchild's school but my grandchild's parents are divorced. Can I still go?
- ▶ If my grandchild's parents are having a parenting order made, can I ask them to have me included on the order?
- ▶ Should I apply for a parenting order myself?
- ▶ Is the child in danger? Do I need to contact child protection?

WHAT TO DO IF THINGS GO WRONG

If you are a grandparent or other extended family member who wants legal advice in relation to caring for and having access to a grandchild you can contact the Eastern Community Legal Centre or Victoria Legal Aid.

If you want to apply for a parenting order yourself you should seek legal advice for your individual situation.

If you want to find a private lawyer in your area who can help you, call the Law Institute of Victoria's Legal referral line.

USEFUL CONTACTS:

EASTERN COMMUNITY LEGAL CENTRE

Suite 3, Town Hall Hub
27 Bank Street
Box Hill VIC 3128
Ph: 9285 4822
www.eclc.org.au

VICTORIA LEGAL AID

23 Ringwood Street
Ringwood VIC 3134
Ph: (03) 9259 5444
www.legalaid.vic.gov.au

FAMILY RELATIONSHIPS CENTRE

68 Charter Street,
Ringwood VIC 3134
Ph: 9871 6300
www.familyrelationships.gov.au

FAMILY RELATIONSHIPS ADVICE LINE

Ph: 1800 050 321

DEPARTMENT OF HUMAN SERVICES

Child Protection and Family Services:

www.dhs.vic.gov.au

Child Protection Crisis Line:

Ph: 1300 655 795
Ph: 131278 (After hours)

Law Institute Victoria:

Ph: (03) 9607 9311
www.liv.asn.au