

Grandparenting

When can we see our grandchildren?

May 2009

WHEN CHILDREN ARE IN DANGER

Isabel has a grandson Mark whom she is close to. Lately when visiting Mark, Isabel noticed he had a lot of bruises and other injuries and he seemed anxious and unkempt. Isabel is concerned about Mark's safety and believes that he is not being cared for properly. She wants custody of Mark so that she can look after him herself.

ACCESS AND GRANDCHILDREN

Frank and Nancy have a grandchild called Stacey. Stacey's parents are in the middle of a divorce and Stacey's mother has told Frank and Nancy that she is going to make sure that they can no longer see Stacey. Frank and Nancy are very close to Stacey and don't want to be cut out of her life.

Some Things to Consider When You Want to See Your Grandchild

Grandparents can be a crucial support to grandchildren. This is particularly the case during times of separation or divorce. The needs of children and their interests should be the first consideration in any separation or family breakdown. When families are developing parenting arrangements after separation the importance to children of maintaining a relationship with their grandparents can be taken into account.

Parents are encouraged to negotiate a parenting plan, which is an informal written agreement signed by the parents, which can take into account the children's needs and make arrangements for the child to spend time with parents, grandparents and other people that the children have a special relationship with. Parents and Courts are encouraged to make provisions for children to continue a relationship with their grandparents, by ensuring that appropriate time is built into any access arrangements.

This means that the parents and Court can consider Frank and Nancy's relationship with Stacey in determining what is in Stacey's best interests, and may provide time for Stacey 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.

Isabel 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 Isabel. 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 of these it may not be necessary for this to be undertaken. If Isabel 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 Isabel 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.



Questions to Ask About Grandparenting

- 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 and assistance in relation to caring for and having access to a grandchild you can contact the Eastern Community Legal Centre or Legal Aid Victoria. If you want to apply for a parenting order yourself you should seek legal advice for your individual situation.

You can also obtain further information, advice and referrals from a Family Relationship Centre or the Family Relationship Advice Line.

Victoria Legal Aid and a Family Relationship Centre may also be able to assist you with Family Dispute Resolution sessions, which can help you sort out parenting arrangements. You may be able to be included in sessions together with separating parents, when this is appropriate.

If you have concerns about the safety of a child and believe they are being abused or are at risk of abuse you should contact the Child Protection section of the Department of Human Services.

Useful Contacts

Eastern Community Legal Centre

Suite 3, Town Hall Hub
27 Bank Street
Box Hill VIC 3128
Ph: 9285 4822

Suite B, 6 Floriston Road
Boronia, VIC 3155
Ph: 9762 6235
1300 797 088
Web: www.eclc.org.au

Victoria Legal Aid

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

Department of Human Services

Child Protection and Family Services
9/50 Lonsdale Street, Melbourne VIC 3000
Ph: 1300 360 391
Web: www.dhs.vic.gov.au

Child Protection Crisis

Line:
Ph: 131278

Family Relationships

Advice Line
Ph: 1800 050 321

Dispute Settlement Centre

4/456 Lonsdale St
Melbourne VIC 3000
Tel: 03 9603 8370
Web: www.justice.vic.gov.au/



eastern community legal centre

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