

Tennessee

Title 36 Domestic Relations Chapter 6 Child Custody and Visitation

Part 3 -Visitation

36-6-306. Visitation rights of grandparents. -

(a) Any of the following circumstances, when presented in a petition for grandparent visitation to the circuit, chancery, general sessions courts with domestic relations jurisdiction or juvenile court in matters involving children born out of wedlock of the county in which the petitioned child currently resides, necessitates a hearing if such grandparent visitation is opposed by the custodial parent or parents:

- (1) The father or mother of an unmarried minor child is deceased;
- (2) The child's father or mother are divorced, legally separated, or were never married to each other;
- (3) The child's father or mother has been missing for not less than six (6) months;
- (4) The court of another state has ordered grandparent visitation;
- (5) The child resided in the home of the grandparent for a period of twelve (12) months or more and was subsequently removed from the home by the parent or parents (this grandparent-grandchild relationship establishes a rebuttable presumption that denial of visitation may result in irreparable harm to the child); or
- (6) The child and the grandparent maintained a significant existing relationship for a period of twelve (12) months or more immediately preceding severance of the relationship, this relationship was severed by the parent or parents for reasons other than abuse or presence of a danger of substantial harm to the child, and severance of this relationship is likely to

occasion substantial emotional harm to the child.

(b) (1) In considering a petition for grandparent visitation, the court shall first determine the presence of a danger of substantial harm to the child. Such finding of substantial harm may be based upon cessation of the relationship between an unmarried minor child and the child's grandparent if the court determines, upon proper proof, that:

(A) The child had such a significant existing relationship with the grandparent that loss of the relationship is likely to occasion severe emotional harm to the child;

(B) The grandparent functioned as a primary caregiver such that cessation of the relationship could interrupt provision of the daily needs of the child and thus occasion physical or emotional harm; or

(C) The child had a significant existing relationship with the grandparent and loss of the relationship presents the danger of other direct and substantial harm to the child.

(2) For purposes of this section, a grandparent shall be deemed to have a significant existing relationship with a grandchild if:

(A) The child resided with the grandparent for at least six (6) consecutive months;

(B) The grandparent was a full-time caretaker of the child for a period of not less than six (6) consecutive months; or

(C) The grandparent had frequent visitation with the child who is the subject of the suit for a period of not less than one (1) year.

(3) A grandparent is not required to present the testimony or affidavit of an expert witness in order to establish a significant existing relationship with a grandchild or that the loss of the relationship is likely to occasion severe emotional harm to the child. Instead, the court shall consider whether the facts of the particular case would lead a reasonable person to believe that there is a significant existing relationship between the grandparent and

grandchild or that the loss of the relationship is likely to occasion severe emotional harm to the child.

(c) Upon an initial finding of danger of substantial harm to the child, the court shall then determine whether grandparent visitation would be in the best interests of the child based upon the factors in [§ 36-6-307](#). Upon such determination, reasonable visitation may be ordered.

(d) (1) Notwithstanding the provisions of [§ 36-1-121](#), if a relative or stepparent adopts a child, the provisions of this section apply.

(2) If a person other than a relative or a stepparent adopts a child, any visitation rights granted pursuant to this section before the adoption of the child shall automatically end upon such adoption.

(e) Notwithstanding any provision of law to the contrary, as used in this section and in [§ 36-6-307](#), with regard to the petitioned child, the word “grandparent” includes, but is not limited to:

(1) A biological grandparent;

(2) The spouse of a biological grandparent; or

(3) A parent of an adoptive parent.

[Acts 1997, ch. 503, § 2; 2000, ch. 891, § 1; 2001, ch. 440, § 1; 2003, ch. 79, § 1; 2004, ch. 452, § 1; 2004, ch. 691, § 1; 2004, ch. 874, § 1; 2007, ch. 22, § 1.]

Compiler's Notes. Acts 1997, ch. 503, § 4 provides that this section shall apply to any petition for visitation rights filed on or after July 23, 1997.