

GRANDPARENT VISITATION RIGHTS

§101. Jurisdiction

The Court is vested with jurisdiction to issue orders granting grandparent visitation rights and enforce such visitation rights, upon the filing of a verified petition for such visitation rights or enforcement thereof. Notice as ordered by the Court shall be given to the person or parent having custody of said child.

§102. Best Interest of the Child Standard

Pursuant to the provisions of this section, any grandparent of an unmarried minor child shall have reasonable rights of visitation to the child if the Court deems it to be in the best interests of the child. The right of visitation to any grandparent of an unmarried minor child shall be granted only so far as that right is authorized and provided by order of the Court. Visitation may be subject to supervision as directed by the Court.

§103. Grandparent Defined

For the purposes of this Chapter “grandparent” means:

- (1) A biological grandparent;
- (2) The brothers and sisters of a biological grandparent, and their spouses; or
- (3) Any other person, who, by virtue of an adoption either of themselves or a member of their family pursuant to the laws or customs of any Indian Tribe or state, would come within the terms of subparagraphs (1) or (2) of this subsection.

§104. Child Born Out of Wedlock

If a child is born out of wedlock, the parents of the father of such child shall not have the right of visitation authorized by this section unless such father has been judicially determined to be the father of the child or the grandparents have had an existing or on-going grandparental relationship with the child born out of wedlock.

§105. Remarriage of Surviving Parent

If one natural parent is deceased and the surviving natural parent remarries, any subsequent adoption proceedings shall not terminate any court-granted grandparental rights belonging to the parents of the deceased natural parent unless said termination of visitation rights is ordered by the Court after opportunity to be heard, and the Court determines it to be in the best interest of the child.

§106. Parental Rights Previously Terminated

If one natural parent is deceased and the surviving natural parent remarries, any subsequent adoption proceedings shall not terminate any court-granted grandparental rights belonging to the parents of the deceased natural parent unless said termination of visitation rights is ordered by the Court after opportunity to be heard, and the Court determines it to be in the best interest of the child.

- (a) If the child has been born out of wedlock and the parental rights of the father of the child have been terminated, the parents of the father of such child shall not have a right of visitation authorized by this section to such child unless:
 - (1) The father of such child has been judicially determined to be the father of the child;
 - (2) The Court determines that a previous grandparental relationship existed between the grandparents and the child; and
 - (3) The Court determines such visitation rights to be in the best interest of the child.
- (b) If the child is born out of wedlock and the parental rights of the mother of the child have been terminated, the parents of the mother of such child shall not have a right of visitation authorized by this section to such child unless:
 - (1) The Court determines that a previous grandparental relationship existed between the grandparents and the child; and
 - (2) The Court determines such visitation rights to be in the best interest of the child.
- (c) The Court shall not grant to the grandparents of an unmarried minor child, visitation rights to that child:
 - (1) Subsequent to the adoption of the child, provided, however, any subsequent adoption proceedings shall not terminate any prior Court granted grandparental visitation rights unless said termination of visitation rights is ordered by the Court after opportunity to be heard and the Court determines it to be in the best interest of the child, or
 - (2) If the child had been placed for adoption prior to attaining six (6) months of age.

§107. Costs of Visitation

Any transportation costs or other costs arising from any visitation ordered pursuant to this section shall be paid by the grandparent(s) requesting such visitation.

§108. Full Faith and Credit.

Orders of state courts and other tribal courts involving grandparent visitation rights to children over whom the Court could assume jurisdiction shall be recognized and given full faith and credit if:

- (a) The issuing court had jurisdiction over the parties and subject matter jurisdiction;
- (b) The procedures specified in the Indian Child Welfare Act, if applicable, were properly followed; and
- (c) Due process and other rights provided by the Indian Civil Rights Act were accorded all interested parties.