

# Visitation Rights of Grandparents

If you are a grandparent and want information about visitation with your grandchildren, there are many resources that can help you learn about your options and understand your rights as a grandparent.

Under California law, a grandparent can ask the court for reasonable visitation with a grandchild. To give a grandparent reasonable visitation with a grandchild, the court has to:

1. Find that there was a pre-existing relationship between grandparent and grandchild that has “engendered a bond.” This means that there is such a bond between grandparent and grandchild that visitation is in best interest of the grandchild.  
AND
2. Balance the best interest of the child in having visitation with a grandparent with the rights of the parents to make decisions about their child.

In general, grandparents cannot file for visitation rights while the grandchild’s parents are married. But there are exceptions, like:

- The parents are living separately;
- A parent’s whereabouts are unknown (and have been for at least a month);
- One of the parents joins the grandparent’s petition for visitation;
- The child does not live with either of his or her parents; or
- The grandchild has been adopted by a stepparent.

If a grandparent has visitation through the courts, and things change and none of these exceptions apply any more, one or both parents can ask the court to end the grandparent’s visitation and the court must then end the grandparent’s visitation rights at that time.

Read [California Family Code sections 3100-3105](#) to read the law about a grandparent’s rights to visitation. This code section also details other situations the court must consider before giving visitation to a grandparent. Make sure you read it carefully and get legal advice from a lawyer if you think they may apply to your case.

Keep in mind that, if possible, it may be best for you and your family to try to resolve these issues out of court. Consider mediation between you and your grandchildren’s parents as a way to openly and safely discuss your needs and concerns to try to reach an agreement that is in the best interests of your grandchildren and that preserves your relationship with them as well as with their parents. Read our section on [Resolving Your Dispute Out of Court](#) to learn more about mediation and get some resources to find mediators in your community that can help you. It is possible that if you go to court, you will also have to meet with a mediator from Family Court Services. Click to learn more about [Family Court Services mediation](#).

If you are a grandparent and you are raising your grandchildren either because the parents are absent or are unable to care for their children (like if they are on drugs, or in jail), read our section on [Guardianship](#). When a non-parent wants custody of a child (and not just visitation rights to see the child) it is called guardianship, and there is a separate court process for guardianships.

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## How does a grandparent ask for visitation in court?

Under the law, a grandparent who wants to ask the court to order visitation with a grandchild can file a petition in court. It is difficult to figure out exactly how to file this petition. There may already be a family law case filed between the child’s parents (like a divorce, a parentage case, a child support case, or a domestic violence restraining order) and a grandparent may be able to ask for visitation under one of those existing cases. Or, there may be no open case, and you, as the grandparent, may have to file a petition in court starting a case from scratch.

There are currently no official court forms specifically for this purpose, but several courts have developed local forms and templates you can use to ask for visitation with your grandchild. Ask your court’s [self-help center](#) or [family law facilitator](#) if they have samples, templates or local forms you can use. You can also hire your own private lawyer to help you with your petition or with parts of your case (called “limited-scope representation”). Click for [help finding a lawyer](#). Click for more information on [limited-scope representation](#).

In general, a grandparent who wants to ask for visitation with a grandchild must:

1. **Figure out if there is a family court case already open**

As just explained, you first need to figure out if there is a family court case already open involving your grandchild and his or her parents. If so, you can file a petition under that case. To do that, jump to step 2 below. If not, you will have to start a case yourself, and then keep following the steps below.

Remember, ask the [family law facilitator](#) or [self-help center](#) at your court for help starting a case yourself.

2. **Fill out your court forms**

In addition to any papers you need to complete to open a case (if there is not one already open), fill out:

- *Request for Order* ([Form FL-300](#)). You can use the *Information Sheet for Request for Order* ([Form FL-300-INFO](#)) for information. Ask your court’s [family law facilitator](#) or [self-help center](#) or a lawyer if you need to check the box for “Court Order” and item 4 on FL-300.

On Form FL-300, explain what type of visitation schedule you would like to have with your grandchildren and why. Make sure you answer the questions the judge must consider when deciding to give a grandparent visitation, like: what your relationship with your

grandchildren is; why is in your grandchildren's best interests to have visitation with you; and anything else you think is important for the judge to know about your relationship with your grandchildren. You can use the *Child Custody and Visitation (Parenting Time) Application Attachment (Form FL-311)* or explain what orders you would like on a *Declaration (Form MC-031)*. If you have prepared a proposal for the visitation orders you would like the judge to make, attach that too.

**Note:** Find out if your court requires you to fill out any local forms specific to your county.

3. **Have your forms reviewed**

If your court's [family law facilitator](#) or [self-help center](#) helps people with grandparent visitation cases, ask them to review your paperwork. They can make sure you filled it out properly before you move ahead with your case. And, again, make sure you ask them if there are any local forms you need to fill out in addition to the forms listed here.

4. **Make at least 3 copies of all your forms**

One copy will be for you; the other 2 copies will be for your grandchildren's parents. The original is for the court.

5. **File your forms with the court clerk**

Turn in your forms to the court clerk. He or she will keep the original and return the copies to you, stamped "Filed." You will have to pay a filing fee. If you cannot afford the fee, you can [ask for a fee waiver](#).

6. **Get your court date or mediation date**

The clerk will probably give you a court date. You and your grandchildren's parents may have to meet with the mediator before the court date or go to a mediation orientation. Ask the clerk if you are not sure.

7. **Serve your papers on the parents**

Once you file papers in court to ask for visitation, the law requires you give notice to the parents (and, stepparents and anyone else who has physical custody of your grandchild). This is done through "service of process." "Service" is the legal way to let someone know about a court case or a petition you have filed in court.

To serve your papers, have someone at least 18 years old (NOT you) serve each parent with a copy of all the papers you filed and a blank *Responsive Declaration to Request for Order (Form FL-320)*. Look at the front of [Form FL-300](#) to see if the judge ordered you to serve any other documents.

If you filed your petition under a case that was already opened involving your grandchild and the parents, you can give each parent (and stepparent or other person with physical custody) notice by certified mail, return receipt requested with postage prepaid, to each parent's last known address or to each parent's lawyer in the case. Remember, someone else (at least 18 years old) must be the one to mail these papers to each parent.

If you had to start a new case to ask for visitation, you will have to give notice by personal service, which means you must have someone hand-deliver a copy of the papers to each parent (and stepparent or person with physical custody).

To find out more about how to "serve" or give notice to someone, read the section on [Service of process](#).

8. **File your Proofs of Service**

Have your server (the person or persons who mailed or hand-delivered your papers to each parent) fill out proofs of service (you can use *Proof of Personal Service (Form FL-330)* or *Proof of Service by Mail (Form FL-335)* and make sure you specify you served by certified mail and attach the return receipt) for each of the parents and give them to you so you can file them with the court. It is very important that your server fills out the Proofs of Service correctly. If possible, have your [family law facilitator](#) or [self-help center](#) review them to make sure they were filled out properly.

9. **Go to your court hearing and/or mediation**

Once the parents are "served" (notified), there may be a court hearing in front of a judge or commissioner. As mentioned earlier, you may all be ordered to go to mediation with [Family Court Services mediation](#) to try to work out a visitation agreement. If you cannot reach an agreement, the judge will make a decision based on the best interest of the child and will balance the child's best interests with the right of parents to make decisions in their children's lives.

See [Going to Court](#) to read more information about how to prepare for your court hearing.

10. **After the court hearing**

Once the judge makes a decision at the court hearing, the judge will sign a court order. In some courtrooms, the clerk or court staff will prepare this order for the judge's signature. In other courtrooms, it is the responsibility of the person who asked for the hearing to prepare the court order for the judge to sign. If either side has a lawyer, the lawyer will usually be asked to prepare the order.

If you have to prepare this order, you will need to fill out the *Findings and Order After Hearing (Form FL-340)*, and an attachment detailing the orders that the judge made. Remember, the [family law facilitator](#) or [self-help center](#) may be able to help you with these forms. So ask for help or have the [family law facilitator](#) or [self-help center](#) review the forms to make sure you did not make any mistakes.