



Grandparents

You are not alone!

Choices on Custody

People can obtain responsibility for their grandchildren in many different ways. It may start as an informal arrangement where your child (the parent of the grandchild) asks you to take care of the grandchild for a few days or for a weekend. You might also decide on your own that in order to protect your grandchild you need to take immediate action and obtain the necessary legal authority you will need. It is further possible that you might be contacted by someone from the Department of Children and Families (DCF) and urged to obtain custody of the child(ren).

These are complicated decisions, and the first two are situations where you will need to be well-informed in order to make such a profound decision. Although this pamphlet tries to lay out what those options are for you, it does not focus on what to do if DCF is involved as that is covered in a different pamphlet. For most grandparents there are two primary issues: (1) what is the best form of custody for you to have and (2) what financial benefits are available once you start caring for the child. For a much more detailed description of these topics please see the Resource Guide for Massachusetts Grandparents Raising their Grandchildren which can be found on the web page for the Executive Office of Elder Affairs or on www.massgrg.com.

What are the various legal arrangements?

1. Informal

This happens when you are just caring for the child. It may work for short periods and if you believe that the child's parents are able to properly take care of the child for the rest of the time. The down side is that you have no legal authority in these situations. If one of the parents comes back and wants to take the child and you conclude that the child would be unsafe, you have no right to stop the parent from doing that. Similarly, you would have no authority to make medical decisions.

2. Guardianship

For most grandparents, the best way to secure legal custody where you (not the parent) have control is to seek a guardianship in the Probate and Family Court. You will have to show the court that the child's parent(s) are either unfit or unavailable to care for the child. You should go to the Family and Probate court where you live and fill out the necessary forms and the court will mark up your case for a hearing. If you are able to show that the biological parents are unfit or unavailable, the judge will grant you temporary custody.

You then need to make sure that you have given notice to the child's parents and after you do that, you can return to court and the judge will give you permanent guardianship if you can show that the biological parents are still unfit or unavailable. This is not really permanent in a "forever" sense because at any

point either of the parents (or someone else for that matter) can go to court and ask that the child be returned to them. If you think that it is important that the child's parents not be able to visit the child because the child will not be safe, you should tell the Judge that. He or she can then consider including a provision in the order indicating that the parents are not allowed to visit with the child, or if they do visit, it has to be supervised, ideally at their expense. Grandparents are not entitled to a lawyer in these matters, but the grandchild may have a lawyer appointed to represent them. If you believe it would be helpful for the child to have a lawyer, you should tell the judge. For more information about guardianship see the manual described in Par.1 or refer to the tip sheet titled "Legal Resources" on www.massgrg.com

3. Adoption

Many grandparents consider adopting their grandchild. If you adopt the child it is like you are his or her parent. This means that the rights of the child's birth parents are permanently terminated and in most cases, they will have no right to be in touch with the child, unless there is an open adoption. It is very important that an adoption be done correctly and you should therefore try to consult with a lawyer who can help you think this through. To adopt a child, you will need the consent of both parents or you will have to prove that the parents are unfit. The advantage of an adoption is that because it terminates the child's relationship with their birth parents, those parents cannot continue returning to court and asking for the child to be returned to them. It gives finality to the arrangement.

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4. Caregiver Authorization

A few years ago, the legislature passed a law that allows parents to sign a "Caregiver Authorization Affidavit." This gives another person, typically a grandparent, the right to make decisions about the child's education and medical care. It can be revoked by a parent at any time. This works well in situations where a parent needs help for a short time because of, for example, a medical situation, and then is able to take care of the child. It would not give the grandparent authority to prevent a parent from taking the child away from the grandparent. If the parent(s) sign such an Affidavit, there is no need to go to Court.

What are the financial issues?

If you are caring for your grandchildren and are not involved with the Department of Children and Families (DCF, there may be several sources of financial or other kinds of help that you may be entitled to:

1. Transitional Assistance for Dependent Children (TAFDC) OR Emergency Aid to the Elderly Disabled and Children (EAEDC)

Your grandchild may be entitled to either TAFDC or EAEDC depending on a number of factors. When determining eligibility for these benefits your income should not be counted. To apply for these benefits, go to the closest office of the Department of Transitional Assistance (DTA). If you do not know where that office is, call DTA Central office at **1-800-445-6604**. When you visit the office, try to bring the child's birth certificate and copies of any guardianship decrees you have obtained from the court.

2. Women, Infants and Children (WIC)

If your grandchild is under 5 years old, he or she may be entitled to WIC benefits which pays for certain kinds of food. For more information on this program, call **1-800-WIC-1007**.

3. Supplemental Nutrition Assistance Program (SNAP)

Your household may be eligible for food stamps (now called SNAP benefits). To determine eligibility for this program, in most cases the income of the entire household will be counted (including the grandparents). To find out where to apply for food stamps, please call your local DTA office.

4. Health Care

In most cases your grandchild will be eligible for Mass Health. In order to find out how to get health care for your grandchild and for you, call **Health Care for All** at **1-800-272-4232**.

5. Child Care

If you are still working, you may be eligible for a child-care voucher for your grandchild. To find out about this program contact the **Department of Early Education and Care** at **617-988-6600**

6. Social Security

There are two ways your grandchild may be eligible for benefits through Social Security. If either of the child's parents have a work history and are either dead or disabled, the child may be eligible for benefits on his or her account. Secondly, if you believe that your grandchild has serious physical, mental or intellectual limits, you may want to consider applying for SSI benefits for the child. To find out where the closest Social Security office is, please contact www.ssa.gov or call 1-800-772-1213.

The issues and laws that pertain to the guardianship of a minor are complicated, but the Commission of the Status of Grandparents Raising Grandchildren in the State of Massachusetts is trying to make them easier to interpret for grandparents and kin like you. We are constantly updating information on our website (www.massgrg.com) and are working hard to change things so it is not so difficult for grandparents to get help. An example of this is that we recently obtained \$20,000.00 to help the most needy grandparents navigate the legal system when guardianship becomes complicated. Please feel free to call the numbers listed above if you have any questions, and thank-you for making a difference in the life of a child!