

## **GRANDPARENT VISITATION**

Grand parent visitation is provided for under state of South Dakota law (See SDCL §25-52 to 54)

A circuit court can grant grandparents reasonable rights of visitation with their grandchildren if the visitation is in the best interests of the grandchild(ren) and

- The visitation will not significantly interfere with the parent-child relationship; or
- The parent or guardian of the grandchild(ren) has denied or prevented the grandparent reasonable opportunity to visit the grandchild(ren).

At a hearing on a motion for grandparent visitation, the grandparents must make two showings. First, the grandparents must prove that visitation is the grandchild's best interests. Second, if visitation is found to be in the best interest of the of the grandchild, the grandparent must prove that visitation will not significantly interfere with the parent/child relationship or, in the alternative , that the parent has denied or prevented the grandparent a reasonable opportunity to visit their grandchildren.

The court may not presume that grandparent visitation is in the best interests of the grandchild. The grandparent has the burden of proving that visitation would be in the best interest of the grandchild. This is because parents have a due process and fundamental right to raise their children as they wish and see fit. This would include the fundamental right to make decisions concerning their own children's care, custody and control.

The circuit court has the power to issue any orders necessary to enforce or to protect the visitation rights granted by the court.

Grandparents also includes great-grandparents.

Any grandparent visitation granted by a court ceases or terminates upon the adoption of the grandchild(ren).