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Grandparent Rights in New Jersey

Results achieved in prior matters are not meant to be a guarantee of success as the facts and legal circumstances vary from matter to matter.

The relationship between a grandparent and a child is a unique and treasured relationship. Unfortunately, grandparents' legal rights for visitation with grandchildren are limited under New Jersey laws. A grandparents' legal rights action usually occurs in the context of a [divorce](#), when a parent passes away, or when a rift between grandparents and parents arises.

If grandparents can demonstrate that they are psychological parents to the child, the Court will evaluate what is in the best interest of a child for purposes of [custody](#). Even if the parent prevails in the custody determination, grandparents, who are psychological parents, will presumptively be granted visitation with the child.

If grandparents are not psychological parents, their rights to visitation are significantly limited under a New Jersey Supreme Court decision, *Moriarty v. Bradt*. For a grandparent to prevail in a litigation seeking visitation with a grandchild, a grandparent must establish a particular identifiable harm, specific to the child, to justify the Court's interference with the parents' constitutional right to raise their child. If a grandparent is able to establish harm, then the parent must propose a schedule for visitation in New Jersey. If there is a dispute over the visitation schedule, then the Court will assess whether the visitation schedule is in the best interests of the child using the statutory factors set forth in N.J.S.A. 9:2-7.1:

1. The relationship between the child and the applicant;
2. The relationship between each of the child's parents or the person with whom the child is residing and the applicant;
3. The time that has elapsed since the child last had contact with the applicant;
4. The effect that such visitation will have on the relationship between the child and the child's parents or the person with whom the child is residing;
5. If the parents are divorced or separated, the time-sharing arrangement that exists between the parents with regard to the child;
6. The good faith of the applicant in filing the application;
7. Any history of physical, emotional, or sexual abuse or neglect by the applicant; and
8. Any other factor relevant to the best interests of the child.

To speak with an attorney about your legal options, please call: 732-352-9871.