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Grandparents Rearing Grandchildren: Rights and Responsibilities

Most of us eventually become grandparents. Throughout history, grandparents and other relatives have raised children, but more are caring for them now than ever before. The idealized picture of the two-parent family may not reflect today's families.

According to the U.S. Census Bureau:

- In 2021, 6.7 million grandparents reported having grandchildren younger than 18 years of age living with them.
- Nationally, roughly 32.7% of grandparents living with their grandchildren were responsible for their care.

Reasons Grandparents Rear Grandchildren

- To provide a home-like experience.
- To shape grandchildren's personal and cultural identity.
- To prevent placement in a foster home.
- To buffer the effects of divorce or single-parenthood.
- To care for children whose parents are incarcerated or have contracted AIDS or other illnesses.
- To reduce grandchildren's contact with substance-abusing parents.
- To reduce financial and emotional overloads of their own children or to help in transitional situations such as when a parent is sent overseas to work.
- To stem family crises, including physical, psychological, and sexual abuse or neglect of children.

Rewards for grandparents rearing grandchildren

- Satisfaction and accomplishment (e.g., academic achievement, athletic awards, school plays and activities, summer employment, or religious endeavors).

- Preservation of family history and values.
- Maintain contact through visits, telephone calls, family dinners and gatherings, and recreational activities.
- Resolution of conflicts between parents and their children.
- Contributions include childcare, money, household work assistance, and aid in times of crisis.
- Support improved school behavior and social skills.
- Love and affection.

Challenges for Grandparents

- **Health:** Some grandparents experience health problems due to caregiving demands. The main health risks are depression, insomnia, back and stomach problems, and hypertension.
- **Social Isolation:** Grandparents find they have little time to themselves. Tight schedules mean less time for other family members and friends and to take part in church and community activities. Some grandparents also feel guilt and shame because their children may be incarcerated or drug-addicted.
- **Finances:** Grandparents may quit their jobs, cut back on hours, or make other financial sacrifices. According to Minkler and Roe, 30 percent of grandparents left jobs to care for their grandchildren. Most women caregivers had lower-income jobs without retirement or other benefits; few had any savings to buffer the effect of lost wages. Financial stresses can come as a result of increased food and clothing requirements, medical and dental expenses, and legal fees.

Grandparenting in Virginia

Although many of the issues facing grandparents raising grandchildren are common across the country, states treat grandparents' rights differently. This section deals with Virginia courts and grandparents who seek adoption, custody, or visitation, each of which has a strict legal definition under the Code of Virginia. Circuit or district courts make court-ordered custody and visitation arrangements after a judge hears all the facts of a case. Among the legal definitions grandparents need to know are:

- **Home state, Virginia 20-146.12.** Virginia is the home state of the child, even if the child has not lived in Virginia, but (a) a parent or person acting as a

parent continues to live in this in the state, (b) another state does not have authority or has declined authority as prescribed in Virginia 20-146.18 or 20-146.19, and (c) the child and the child's parents, or the child and at least one parent or guardian, have a significant connection to the state (i.e., child's care, protection, training, and personal relationships). The state of Virginia may have temporary emergency jurisdiction under Virginia 20-146.15.

- **Legal custody, Virginia 16.1-228.** The legal status created by a court order giving a caretaker the same parental rights and responsibilities as any legal parent, all subject to any residual parental rights and responsibilities or as outlined under Virginia 20-107.2 (joint custody).
- **Persons with a legitimate interest, Virginia 20-124.1.** May include, but is not limited to grandparents, stepparents, former stepparents, blood relatives and family members. Individuals who have lost their parental rights do not have a legitimate interest.
- **Sole custody, Virginia 20-124.1.** Indicates that one person holds responsibility for the care and control of a child and has primary authority to make decisions concerning the child.

Going to Court: Some Considerations

- **Burden of Proof:** Grandparents seeking visitation or custody must prove that the parents are unfit or that the grandparents' custody serves the best interest of the child. Often, proof refers to physical or sexual abuse allegations, which are difficult to confirm. Courts tend to favor parents' rights to custody and care of their children.
- **Hearing a Case:** Custody cases may be heard in the grandparent's home state if it is the home state of the grandchild, OR if the grandchild has resided in the grandparent's home state within the last six months prior to the beginning of the custody petition. Custody cases may also be heard in the grandparent's home state if (a) one of the parents lives in that state or (b) if the grandchild is physically present in the state and has been abandoned or is in danger of abuse.
- **Adoption:** Adoption is permanent and results in the loss of legal ties to biological parents and relatives (i.e., grandparents, cousins, aunts, and uncles). (Virginia 63.2-1230) The biological parents or legal guardian may choose the adoptive parents as stated by the juvenile and domestic relations district court. The home state of the birth parent or guardian has court authority for custody

matters. (Virginia 20-146.11)

- **Custody:** Custody is not permanent. It continues the legal ties of biological parents and relatives, although the person with custody holds parental rights.
- **Financial Strain/Court Costs:** Caregiving includes emotional and monetary responsibilities. Grandparents also must consider the emotional and financial costs of pursuing a case. The financial strain may be greater for grandparents with fixed incomes or at risk of poverty. Court costs and lawyers' fees will vary with the complexity of the case.

Resources

- **Adoption Assistance:** Provides financial assistance for the adoption of children with special needs. Contact: [local Department of Social Services](#) or other non-governmental agencies.
- **Birth certificate:** Contact: The [Division of Vital Records](#), Virginia Department of Health, P.O. Box 1000, Richmond, VA 23208-1000.
- **Foster Care Payments:** These payments provide financial assistance for children whose legal parent is the state. Contact: [local Department of Social Services](#).
- **Medicaid Assistance:** Qualifying for Medicaid assistance may involve giving up custody of grandchildren. To find out the most current requirements for eligibility, contact your [local Department of Social Services](#).
- **Supplementary Security Income:** This financial assistance program is based on family income. Contact: [local Social Security Office](#). (Note: Virginia is within the Philadelphia Region. Local offices are listed by locality.)
- **Temporary Assistance to Needy Families (TANF) and Food Stamps:** Virginia grandparents must have legal custody of their grandchild in order to apply for TANF. Contact: [local Department of Social Services](#).
- **Women, Infants, and Children (WIC):** This program provides food assistance and nutritional screening to low-income children up to five years of age. Contact: [local Department of Health](#).
- **Social Support:** Groups that provide support and information to grandparents and other kin raising grandchildren. Contact: [local Virginia Cooperative Extension office](#).
- **Health Insurance or Dental Insurance:** FAMIS is Virginia's program that helps families provide health insurance to their children. (FAMIS stands for Family Access to Medical Insurance Security.) Smiles for Children links qualified children with dental care. Contact: [FAMIS](#).

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