

# Establishing Grandparenting Time Checklist

The Child Custody Act (CCA), [MCL 722.21 et seq.](#), permits a child's grandparent to seek a grandparenting time order under certain circumstances. See [MCL 722.27b\(1\)](#). A grandparent seeking grandparenting time MUST either file a motion with the court that has continuing jurisdiction over the child OR if there is no continuing jurisdiction, file a complaint in the county where the child resides. [MCL 722.27b\(3\)](#).

If a request for grandparenting time has been filed:

- Ensure the court has continuing jurisdiction over the child to hear the request OR is located in the county where the child resides. See [MCL 722.27b\(3\)](#).
- Ensure the child has NOT been adopted or placed for adoption *unless* the adoption or placement for adoption pertains to a stepparent adoption and the grandparent is the parent of the child's deceased parent.<sup>1</sup> See [MCL 722.27b\(13\)](#).
- Determine whether the requesting grandparent has filed a separate complaint or motion within the last two years. See [MCL 722.27b\(8\)](#).
  - If NOT, hearing can move forward.
  - If SO, make a finding as to whether good cause exists to allow the filing, see [MCL 722.27b\(8\)](#):
    - If good cause does NOT exist, ***dismiss*** the complaint/***deny*** the motion and make a record of the dismissal/

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<sup>1</sup> Adoption of a child or placement of a child for adoption terminates the right of a grandparent to commence an action for grandparenting time with that child *unless* the grandparent is the parent of a child's deceased parent and it is a stepparent adoption. See [MCL 722.27b\(13\)](#).

denial that includes the court's analysis, findings, and reasons for the dismissal/denial. [MCL 722.27\(1\)\(f\)](#); [MCL 722.27b\(8\)](#); [MCL 722.27b\(12\)](#).

- If good cause DOES exist, allow the filing. See [MCL 722.27b\(8\)](#).
- Determine which grandparent is seeking the order. See [MCL 722.27b\(2\)](#).
  - IF** it is the *father's* parent, **dismiss** the complaint/**deny** the motion, making a record that includes the court's analysis, findings, and reasons for dismissing/denying, **IF**:
    - the father has never been married to the child's mother, AND
    - the father has not completed an acknowledgment of parentage, an order of filiation has not been entered, or the father has not been determined to be the father by a court of competent jurisdiction. See [MCL 722.27\(1\)\(f\)](#); [MCL 722.27b\(2\)](#); [MCL 722.27b\(12\)](#).
  - IF** it is a *putative* father's parent, **dismiss** the complaint/**deny** the motion if the putative father has not provided substantial and regular support or care in accordance with his ability to do so. See [MCL 722.27b\(2\)](#).
    - Make a record of the dismissal/denial that includes the court's analysis, findings, and reasons for the dismissal/denial. [MCL 722.27\(1\)\(f\)](#); [MCL 722.27b\(12\)](#).
- Ensure that at least one of the following:
  - An action for divorce, separate maintenance, or annulment involving the child's parents is *pending* before the court.
  - The child's parents are divorced, separated under a judgment of separate maintenance, or have had their marriage annulled.
  - The grandparent is the parent of the child's deceased parent.
  - The child's parents have never been married, they are not residing in the same household, and paternity has been established by the completion of an acknowledgment of parentage or by a determination by a court of competent jurisdiction that the individual is the father of the child.
  - Legal custody of the child has been given to a person other than the child's parent, or the child is placed outside of and

does not reside in the home of a parent (except as otherwise provided in [MCL 722.27b\(13\)](#)).

- In the year preceding the commencement of an action for grandparenting time, the grandparent provided an established custodial environment for the child, whether or not the grandparent had custody under a court order. [MCL 722.27b\(1\)](#).
- Ensure the complaint or motion is accompanied by an affidavit setting out the facts supporting the requested order. See [MCL 722.27b\(4\)\(a\)](#).
- Determine whether opposing party/parties filed affidavits. See [MCL 722.27b\(4\)\(a\)](#).
  - If TWO fit parents signed an affidavit stating that they both opposed an order for grandparenting time, MUST **dismiss** the complaint/**deny** the motion unless<sup>2</sup> one of the fit parents is the stepparent who adopted the child and the requesting grandparent is the natural or adoptive parent of a child's parent who is deceased OR whose parental rights have been terminated.<sup>3</sup> [MCL 722.27b\(5\)](#).
- Ensure proper notice has been provided. See [MCL 722.27b\(4\)\(a\)](#).
- Provide any parties that submitted an affidavit with an opportunity to be heard. See [MCL 722.27b\(4\)\(a\)](#).
- DETERMINE whether to grant the request for grandparenting time:
  - MUST **presume** that a fit parent's decision to deny grandparenting time does not create a substantial risk of harm to the child's mental, physical, or emotional health, unless the requesting grandparent can **rebut** this presumption by proving by a preponderance of the evidence that the parent's decision to deny grandparenting

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<sup>2</sup>The court must make a record of its analysis and findings, including the reasons for granting or denying a requested grandparenting time order. [MCL 722.27b\(12\)](#). See also [MCL 722.27\(1\)\(f\)](#), which requires the court to make a record of the court's denial of a request for grandparenting time.

<sup>3</sup> “[Where] both parents object to a grandparent’s motion for grandparenting time[,]” “the trial court’s finding that [both parents] were unfit parents was against the great weight of the evidence[]” where the record failed to support a conclusion that the parents “failed to adequately care for their children[;]” [MCL 722.27b\(5\)](#) controls and “creates an irrebuttable presumption that denial of grandparenting time will not create a substantial risk of harm to the child, and the grandparents’ petition must be dismissed.” *Geering v King*, 320 Mich App 182, 189, 190-193 (2017), incorporating “the definition of the term ‘fit’ as set forth in *Troxel[ v Granville]*, 530 US 57, 68 (2000),”—as a parent who ‘adequately cares for his or her children’—to [MCL 722.27b](#).”

time created a substantial risk of harm to the child's mental, physical, or emotional health.

- Presumption PREVAILS: **dismiss** the complaint/**deny** the motion.
  - Make a record of the dismissal/denial that includes the court's analysis, findings, and reasons for the dismissal/denial. [MCL 722.27\(1\)\(f\)](#); [MCL 722.27b\(12\)](#).
- Presumption REBUTTED: **may** refer the complaint/motion to alternative dispute resolution (ADR) (if a settlement is not reached within a reasonable time after the referral date, the complaint/motion must return for resumption of the court proceedings). See [MCL 722.27b\(7\)](#).
- Presumption REBUTTED: **must** consider whether it is in the *best interests of the child* to enter an order for grandparenting time by considering all of the following:
  - The love, affection, and other emotional ties existing between the grandparent and the child.
  - The length and quality of the prior relationship between the child and the grandparent, the role performed by the grandparent, and the existing emotional ties of the child to the grandparent.
  - The grandparent's moral fitness.
  - The grandparent's mental and physical health.
  - The child's reasonable preference, if the court considers the child to be of sufficient age to express a preference.
  - The effect on the child of hostility between the grandparent and the parent of the child.
  - The willingness of the grandparent, except in the case of abuse or neglect, to encourage a close relationship between the child and the parent or parents of the child.
  - Any history of physical, emotional, or sexual abuse or neglect of any child by the grandparent.
  - Whether the parent's decision to deny, or lack of an offer of, grandparenting time is related to the

child's well-being or is for some other unrelated reason.

- Any other factor relevant to the physical and psychological well-being of the child. [MCL 722.27b\(6\)](#).
- If the court finds by a preponderance of the evidence that it is in the *best interests of the child* to enter a grandparenting time order:
  - ENTER an order providing for reasonable grandparenting time of the child by the grandparent by general or specific terms and conditions.<sup>4</sup> [MCL 722.27b\(6\)](#).
  - Make a record of its approval that includes the court's analysis, findings, and reasons for granting the order. [MCL 722.27\(1\)\(f\)](#); [MCL 722.27b\(12\)](#).
- Do NOT enter an order prohibiting an individual who has legal custody of a child from changing the domicile of the child if the prohibition is primarily for the purpose of allowing a grandparent to exercise the rights conferred in a grandparenting time order. [MCL 722.27b\(9\)](#).

**Entry of grandparenting time order.** A grandparenting time order entered under [MCL 722.27b](#) does NOT create parental rights in the individual or individuals to whom grandparenting time rights are granted. [MCL 722.27b\(10\)](#).

The entry of a grandparenting time order does NOT prevent a court of competent jurisdiction from acting on the custody of the child, the parental rights of the child, or the adoption of the child. [MCL 722.27b\(10\)](#).

For court forms related to domestic relations actions, see the One Court of Justice [website](#).

For additional domestic relations resources, see the Friend of the Court Bureau [website](#).

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<sup>4</sup>The court must make a record of its analysis and findings, including the reasons for granting or denying a requested grandparenting time order. [MCL 722.27b\(12\)](#). See also [MCL 722.27\(1\)\(f\)](#), which requires the court to make a record of the court's denial of a request for grandparenting time.

