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# **Oregon's Legal Guide for Grandparents and Other Relatives Raising Children 2012**



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***Oregon Statewide Relatives and Parents (RAPP) Program Committee includes grandparents advocates and representatives from:***

A Gift of Time

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Oregon Commission on Children & Families

Oregon Post Adoption Resource Center

Oregon State University Extension Service

South Coast Business Employment (Coos and Curry counties)

Volunteers of America Relief Nursery

Washington County Disability, Aging & Veterans Services

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# Oregon's Legal Guide for Grandparents and Other Relatives Raising Children

## *An Oregon Legal Information Guide*

*This publication was created as a result of a grant given in 2003 by the Brookdale Foundation's Relatives as Parents Program (RAPP) to Oregon State University's Extension Family and Community Health Program.*

*Contact your local Area Agency on Aging (see pages 65–67) for updated information; or call AARP Oregon toll-free at 1-866-554-5360. Also, visit **<http://www.aarp.org/grandparents>** for a list of support groups and more information.*



**Oregon Statewide Relatives and Parents Program**

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# Oregon's Legal Guide for Grandparents and Other Relatives Raising Children

## Caution

The material in this book was up-to-date as of January 2011; it applies only to relatives of children living in Oregon. The law can change at any time as a result of the actions of courts and the legislature. Furthermore, this book contains general information only; it does not take into account the facts specific to your situation and cannot take the place of individual legal advice.



## About reading this book

This book looks at a range of problems faced by grandparents and other relatives, and the laws that apply in those situations. It starts with simple issues faced by relatives who are regularly in contact with their grandchildren, moves on to the problem of getting access to grandchildren when a parent does not encourage or support contact, and then looks at situations where grandparents must take over—temporarily or permanently—the job of parenting their grandchildren.

Because grandparents are also parents and because the parents of grandchildren are children, too, talking about the relationships among the three generations can get confusing. In this book, here is how those words will be used:

- ▶ **The law that applies to grandparents also applies to other non-parent relatives. In this book, grandparent will always include aunts, uncles, cousins, siblings, great-uncles, etc.—even step-parents who have not adopted their spouse's children—unless the book says otherwise.**

- ▶ The words parent and parents will always mean the parents of the minor children that the grandparent or other relative is concerned about.
- ▶ The words child, children, grandchild, grandchildren will always identify the minor children the grandparent is concerned about.

As important terms are introduced in this book, they will appear in **boldface type**. Those words will appear again, with their definitions, in the glossary at the end of this book.

## Introduction

The role of grandparents in the United States has undergone dramatic changes in the last century. In the early 1900s, grandparents, aunts, and uncles often shared the family home. Fewer than fifty years later, the “nuclear family” was born, as parents and children moved hundreds, sometimes thousands of miles away from their extended families for new jobs and opportunities. Grandparents and other relatives became faces in photographs and voices on the phone to their grandchildren.

Other social changes followed in quick succession—divorce, single parenting, an epidemic in drug and alcohol problems. And all of them affected whether and how extended families continued to connect.

In extreme cases, grandparents never saw their grandchildren again, no matter how much they wanted to. And in what is a growing trend, many grandparents and other relatives began to find themselves in the role of parents all over again—as the primary caretakers of the young children of their own adult children. Recent shifts in the economy have meant more extended families living together, as parents and children move in with grandparents after the loss of a job or of the parents’ own home.

In the past decade, the number of American children living with relatives other than their parents rose from 4 million to more than 6 million. In 2009, almost 3 million grandparents were parenting their grandchildren. Sixty-two percent of those grandparents were female, many of them single—parenting alone.

In Oregon, more than 51,000 children are living with grandparents or other relatives.

For the relatives who care for these children, these unexpected new relationships can be very rewarding. They also can place tremendous strain on those who have health problems or limited finances. All of these changes are reflected in changes in the law. This book aims to help non-parent families, especially elders, know about some of the legal problems they might run into; mention some possible solutions to those problems; and describe various legal options they might want to consider as they forge relationships with their grandchildren. This book has a companion guide, *A Resource Guide for Grandparents and Other Relatives Raising Children in Oregon* (2009), which describes many other kinds of resources available for grandparents once again taking on the challenges of parenting.

The material in this book was up-to-date as of January 2011; it applies only to relatives of children living in Oregon. The law can change at any time as a result of the actions of courts and the legislature. Furthermore, this book contains general information only; it does not take into account the facts specific to your situation, and cannot take the place of individual legal advice.

### ***The Governor's Advocacy Office, DHS Ombudsmen and Children's Ombudsman***

(503) 945-6904

(800) 442-5238

The Governor's Advocacy Office serves thousands of families throughout Oregon every year. Residents who need information about services or programs provided by the Department of Human Services (DHS) can get help and direction from ombudsmen in the Governor's Advocacy Office. The Governor's Advocacy Office can answer questions about child and elder abuse and neglect, health and dental programs, homelessness, personal or family crisis, drug and alcohol treatment, mental health programs, services for people with developmental disabilities, management of chronic pain, and other issues.

Log on to <http://www.oregon.gov/DHS/aboutdhs/gao.shtml> to find out more about the Governor's Advocacy Office.



# Part 1

## The Rights of Parents: A Framework for Discussion

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Not so long ago, the law viewed women and children as the property of men. Although women no longer are defined that way under the law, courts have hesitated about the rights of children. Courts still say that the Constitution protects the “liberty” interest of parents to rear their children the way they see fit. The law presumes that parents act in the best interest of their children. Because of this presumption, when the state believes a parent is not acting in the children’s best interest, it will first look to the other parent to take over the care of the children. The state cannot permanently remove a child from the parents’ home without their permission unless it can show that the parents are **unfit**.



Both parents of a child have equal say in the child’s life, unless there is a court order limiting the rights of the parents (through **legal custody** and **parenting time**, for example). The rights of parents include decision-making about everyday matters and important social matters, such as medical treatment, education, and religion.

What makes a person a legal parent? Generally speaking, a child’s natural mother is the child’s legal mother—unless the birth mother is acting as a **surrogate**—until the child is legally adopted by another person or unless the natural mother’s parental rights are terminated by the state. Whether a man is a child’s legal father is sometimes more difficult to ascertain. The husband of a woman who gives birth to a child during their marriage is presumed—unless he or the wife later proves otherwise—to be the legal father of the child. He is still considered the legal father if the child was conceived by artificial insemination. A man who signs a Health Statistics form acknowledging he is the father is presumed to be the father of the child. A man who legally adopts the child of

another becomes the child's legal father. In a **paternity** case, the court can determine whether a man (married to the mother or not) is the legal father of a child.

The state can terminate a father's parental rights, making him no longer the legal father of a child; or the father can give up his parental rights by agreeing to someone else's adoption of his child.

A stepparent who has not adopted his or her spouse's children does not have parental rights. In fact, under Oregon law, he or she has rights that are similar to those that grandparents have.

## Part 2

# Occasional Contact with the Children

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## 2a. Authorization for health care

*“I’m just an occasional babysitter for my grandkids after school or on Saturday nights. Is there anything I need to know?”*

A relative who is babysitting has no more authority over a child than a stranger would have. That means that, unless one of the parents gives you permission, you usually can’t authorize medical or dental care for a child. (In emergencies, hospital staff are allowed to provide life-saving treatment and other major treatments like setting broken bones, but they can do nothing beyond that without parental permission.)

The simple solution is to get written permission from one of the parents. It can be handwritten and need say nothing more than the date, the name and birth date of the child, the name of the person authorized to get care for the child, and a statement that the parent permits the person to authorize necessary medical and dental care. See the example below.

To whom it may concern:

I hereby give to [*grandparent’s name*] the authority to get necessary medical or dental treatment for my minor child, [*name*], [*date of birth*].

Our health insurance policy is with [*insurance company*], [*group #, policy #*]. (If child has special medical needs, list them here.) My child’s regular doctor is [*doctor’s name*], [*doctor’s address*].

Sincerely,  
[*Signature and date*]

As you can see, it is helpful for the parent to provide information about the child’s regular physician or health insurance, but that information is not essential. If the child is covered by the **Oregon Health Plan** (OHP) or other **Medicaid** or Medicare coverage, the doctor or hospital will need that information.

Doctors can insist on getting paid at the time they see the child in a non-emergency situation. If the parents have no insurance or Medicaid coverage for the child, ask them to leave money with you for that purpose, or have some emergency cash on hand if you can. If you yourself have Medicare, Medicaid, or OHP coverage, remember that your coverage will not be accepted for the child.

**THE SHORT ANSWER**

**You should always get written permission from a parent to deal with the children’s medical or dental problems.**

## **2b. Who can take the kids from my care?**

*“I babysit my grandchildren while my daughter works. She and the father of the children are not married. If he wants the children when they are with me, what are my rights?”*

The scope of your rights—unless you have your own court order giving you specific rights—depends on the scope of your daughter’s rights. In the most general terms, both legal parents—married or not—have equal rights over their children unless and until a court gives one greater rights than the other.

If there is no court order giving one parent specific times with the children (called parenting time in Oregon), either parent can take the children from a non-parent on demand. If a current court order says your daughter has the right to the children during the time you are babysitting, you do not have to turn them over to their father.

You can even tell the other parent to leave your home if he has no legal right to be there.

If there is a current court order saying who is to have the children and when, it can be very helpful to have a copy of the court order on hand when the children are with you. In rare cases, you may be asked to show the order to a police officer if the other parent tries to get help from the police.

In a few situations, parents may have more than one court order, and those orders may conflict with each other. In others, there may be no court order and it may even be unclear whether the father is legally the father of the children. In situations like these, it is extremely important to get specific legal advice before taking any action to hand over or withhold the children.

Some grandparents are able to get parents to agree to a court order allowing the relatives to have the children for periods of time. (See Part 4.) Or, you may even have gotten a court order for visits without their cooperation. (See Part 4b.) If you have the children during a time the children are authorized by a court order to be with you, you do not have to turn them over to anyone else during that time unless a judge says so. If you have this kind of court order, you should be sure to have a copy on hand to show to police or other officials if they question your rights.

#### **THE SHORT ANSWER**

**Unless a court order says otherwise, one of the child's parents has the same right to the child that the other parent has, and you must relinquish the child to either one when asked.**

## **2c. What if the kids aren't safe with their parent?**

*"I took care of my son's two kids yesterday afternoon. When he came to get them, it was obvious he had been drinking. I was*

*afraid to let the kids get into a car with him, but I didn't know what else to do.”*

Oregon's Department of Human Services Child Welfare Office has a duty to intervene in cases of child abuse and neglect. Unfortunately, it is virtually impossible to get an agency investigator onto the scene in the time it takes to put children in a car. Furthermore, unless there is a court order that keeps the parent from taking children under circumstances like these, the parent has the right to take the grandchildren with him. Still, he doesn't have the right to expose them to danger—which he would do by driving with the children when he is under the influence of intoxicants.

As a practical matter, the grandparent—or anyone else in this situation—can try to persuade the parent to use a taxi, can offer to drive everyone to their destination, or try to convince the parent to wait until he or she is sober before driving away. You can try to contact the other parent if you have time. Failing that, the best you can do is make sure the children are buckled safely in the back seat, and then, if the impaired parent insists on driving, get the license number of the car and call the police right away to report a drunk driver.

Calling the police may seem harsh or disloyal. But not doing so can mean that children are injured or killed. And sometimes police involvement is necessary before a parent with an alcohol or drug problem is willing to change behavior. In addition, if you are seriously concerned about the parent's general ability to care properly for the children, police involvement can provide important independent evidence that the children need outside help. (See Parts 5e and 6.)

#### **THE SHORT ANSWER**

**If there is no court order to stop an impaired parent from exposing children to potential danger, a grandparent cannot lawfully keep the children away from the parent.**

## Part 3

# The Grandchildren Are Staying with Me— for Now

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### 3a. Temporary power of attorney for child care

*“My son and his wife are planning to spend the summer and part of the fall in Europe. They want the children to stay with me. How can I get authority to care for the children’s medical and school needs while the parents are gone?”*

*“My daughter, who is in the Army, is about to be deployed. She will be gone for perhaps a year, maybe even longer. What do I need to do to take care of my grandchild while she’s overseas?”*

Like all the other states, Oregon has laws that allow people to authorize other people to handle various kinds of affairs on their behalf. The usual way to authorize someone else to handle things for you is through a **power of attorney**. A power of attorney doesn’t give away your rights to handle your own affairs; it simply gives those rights to someone in addition to you, so long as you agree to that person’s sharing the power with you.

Oregon law provides a special temporary power of attorney that parents can use to give others the right to take care of their children for up to 6 months at a time. A sample of a form for this purpose is printed in Part 3c. This form will work for most purposes. (For parents who are heading out on long-time active duty where children can’t accompany them, see Part 3b, below.)

Using this kind of power of attorney, the parent can give you authority to make decisions about medical care and enroll the child in school. Unless the parent puts limits in the power of attorney about what you can do, in fact, you can exercise all of the parental rights the parent has, except the right to agree to the marriage or the adoption of the child.



No court involvement is necessary to obtain this power of attorney. No court involvement is necessary in order to end the power of attorney, either; the parent can stop sharing the power without needing a reason, even before the 6-month limit of the power of attorney is reached. The parent has the right to get the children back at any time.

The parent who is giving power over more than one child to one relative can list all the children on one form. The grandparent who receives a temporary power of attorney for children should keep the original signed form until the power expires or is cancelled (or “revoked”).

The parent who wants to end (revoke) this kind of power of attorney before the date of the document should give a written statement to that effect to the person who has the power of attorney. The statement should give the date the power is revoked. (The date of revocation can be no earlier than the date the parent notifies the grandparent that the power is revoked.)

This type of power of attorney expires automatically after 6 months if the parent does not specify an earlier date for it to end. A parent can make a new power of attorney for child care every 6 months, if desired.

There are some drawbacks to the use of the temporary power of attorney for child care.

- ▶ It is important to remember that a parent cannot share authority greater than the authority he himself or she herself has. Thus, a father who is not the children’s “legal” father has no authority to give. A parent who has court-ordered status as the **custodial parent** can share any of the rights mentioned above that the court has granted to him or her. A noncustodial parent under such a court order generally has fewer rights, which can differ from person to person.
- ▶ Court orders involving custody and parenting time often place some limits on where the children can travel or live, for example. (See Part 8i.) If you are concerned about what rights a parent has lawfully given you, inquire about any court orders that describe that parent’s rights, and have a lawyer look over the documents.

- ▶ The grandparent who receives the power of attorney for child care, even if the power is renewed for several 6-month periods, has no legally enforceable right to **child support** from either of the parents. It may be possible to get financial and medical benefits for the child, however. See Parts 8c and d.

### **3b. Temporary power of attorney for children of military families**

Just like other parents, those who are going on active military duty can sign a temporary power of attorney for child care. For many of these parents, however, 6 months isn't long enough. Reservists and National Guard members have been deployed for 15 to 18 months in some cases.

These parents can give a special power of attorney that will last for the time they are actively deployed, plus 30 more days. Some of the language in the standard form in Part 3c, below, will need to be changed for these parents. In addition, the military parent cannot give the power to anyone other than the child's other parent if the child is already living with the other parent except in unusual circumstances. Nonetheless, it is still true that whoever gives the power can give no more power than he or she herself or himself possesses over the child.

#### **THE SHORT ANSWER**

**Generally, a temporary power of attorney gives the grandparent the necessary authority to act on a child's behalf in the parents' absence for up to 6 months—longer, if the parents are on active military duty.**

**3c. Temporary power of attorney form—see next page.**

POWER OF ATTORNEY RE: MINOR CHILDREN

I, \_\_\_\_\_ of \_\_\_\_\_, Oregon, mother/father of the child/ren named below, by this document do temporarily appoint \_\_\_\_\_ of \_\_\_\_\_, Oregon to be my true and lawful attorney, for me and in my name and place, and for my benefit:

To have the care, custody, and control of my child/ren:

\_\_\_\_\_, born \_\_\_\_\_

\_\_\_\_\_, born \_\_\_\_\_

\_\_\_\_\_, born \_\_\_\_\_

and to do all things necessary to properly care for the/se child/ren.

To consent to and authorize any and all medical treatment necessary for the proper care of my child/ren; and

To consent to and authorize any and all actions necessary for the proper care of my child/ren regarding her/his/their attendance at any public or private institution or school.

I hereby grant my said attorney full power and authority to do every act necessary to be done, and fully to all intents and purposes, as I might or could do if personally present, and I hereby ratify and confirm that which my said attorney shall lawfully do or cause to be done by virtue of this document.

(Initial one:)

\_\_\_\_\_ This power of attorney is valid for six months from the date on which I have signed it, unless I revoke it sooner.

\_\_\_\_\_ This power of attorney is valid until \_\_\_\_\_, 200\_\_.

(Time period must be shorter than six months from date of signing.)

In witness thereof, I have signed this power of attorney on this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

Signature: \_\_\_\_\_

Print name:

STATE OF OREGON )

) ss.

County of \_\_\_\_\_ )

SUBSCRIBED AND SWORN to by \_\_\_\_\_ before me,

\_\_\_\_\_, a Notary Public for the State of Oregon this

\_\_\_\_\_ day of \_\_\_\_\_, 201\_\_. Notary Public for Oregon.

My commission expires: \_\_\_\_\_

## ***How to fill out this form***

1. In the first two blanks of this model form, type or neatly print the name of the parent who will sign over the power, followed by the city where the parent lives.
2. In the next two blanks, put the name of the person who will get the power, along with the city where that person lives.
3. Fill in the names and dates of birth of all of the children involved.
4. Next, have the parent take the form, along with photo identification, to a notary public to sign the form and have it notarized. Notary publics can be found in most banks, real estate offices, and law offices. Some charge for their service. Note: If the parent is in another state, that state may have a specific form the parent should use instead. If no specific form is required there, the sample form here should be changed to show the state where it is signed and notarized.
5. The parent gives the completed form to the person who will act as the “attorney.”

For the parent who is going on active duty in the military, slightly different language will be needed in a temporary power of attorney for child care.

1. At the beginning of the form, where the parent states his or her name, the parent should also identify himself or herself as a member of a specific branch of the U.S. military.
2. Then, in the section of the form that says how long the power is to last, the military parent should say that “The power designated above is delegated for the period until [the date the deployment ends, if known]/[a period not exceeding the term of active duty service, if the ending date is not known], plus 30 days.”

Because people who are heading out for military service also have other legal issues they should deal with (such as insurance, a will, health care directives, etc.), they should talk to a lawyer about making sure the power of attorney form meets their needs.



## Part 4

# No Contact with the Grandchildren

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### 4a. What's keeping you apart?

*“My former daughter-in-law won't let me see my grandchildren at all, and rarely even lets me talk to them on the phone. What can I do to keep from losing touch with them?”*

This question has several answers, depending on the situation. When deciding what to do about a parent's refusal to let you see the children, it is helpful to know, if possible, why the parent does not want to allow you to have contact. Different situations call for different responses. Here are some examples of typical reasons parents give for not permitting contact between children and a grandparent.

- ▶ Sometimes newly separated parents want to distance themselves from anything that reminds them of their former relationship, and later are able to be more reasonable.
- ▶ Sometimes the custodial parent (the parent who has the children most of the time, or who has the right to make decisions about the children) wants to have the children close during a difficult time so that they feel more secure.
- ▶ A parent may feel that the grandparent's home is dangerous for toddlers because the home is not “baby-proof.”
- ▶ A parent may feel that the grandparent does not respect or tries to undermine the parent's rules about food, religion, behavior, etc.
- ▶ In some cases, the custodial parent believes that the grandparent has “taken sides” against him or her.
- ▶ In some cases, the custodial parent sees that a grandparent has actively supported the other parent when that parent has been physically abusive or has a serious alcohol or drug problem.



- ▶ Some abusive, alcoholic, or drug-using parents come from homes where one of the grandparents also is abusive or an addict.
- ▶ In rare cases, the custodial parent is abusive of the children or suffers from addiction and does not want the grandparent or other relative to find out.

It may be possible to talk through some kinds of problems with the parents. If this option doesn't seem realistic at first, you may be able to get some help with the discussion from a **court mediator**. Several counties in Oregon offer **mediation** services through their **family courts**, and a trained mediator often can help people face painful issues in a constructive way. The services are confidential. In some counties, the service is available only if you have filed court papers, but in others the service is open to all. There may be a fee for the service if no court case is pending. The Family Court clerk can tell you about the range of services offered in your county.

Meanwhile, you should try to maintain reasonable phone contact if possible, and to send cards and letters. Sending lavish gifts is not a good idea; you do not want to be accused of trying to “buy” the affection of the grandchildren. It also is important not to get into discussion with the children about the behavior of their parents toward you or toward each other.

Many grandparents find they are able to spend time with the children when the other parent has time with the children, even when the first parent refuses access when she or he has the children. This solution is often the least stressful and least expensive for relatives who want to continue their relationship with the children.

What if nothing seems to work? In some cases, it may be advisable to seek **visitation** rights through the court.

#### **THE SHORT ANSWER**

**Learning the reason the parent is uncooperative can help you come to an informal agreement in many cases; visiting the children when the other parent has them is often an option, too.**

## 4b. Court-ordered visitation

*“Since my daughter’s death, my son-in-law has refused even to talk to me, much less allow me to have a relationship with my grandkids. Other relatives, friends, even our minister have tried to talk with him, to no avail. Can a court force him to let me see my grandkids?”*

*“My former daughter-in-law remarried last year. Her new husband wants to adopt my grandson. How would a stepparent adoption affect my rights?”*



In Oregon, it is possible for some grandparents and others to get court-ordered visitation with the grandchildren. How to go about it varies, depending on the family situation.

Except in the case of a stepparent adoption, relatives can seek court-ordered visitation by participating in a case already underway; or they can start a case of their own. (Rights in a stepparent adoption are discussed later in this section.)

If the parents are in the process of divorcing or deciding custody, a grandparent can **intervene** in the court case to ask for time or contact with the children. If the parents agree to your proposal, the process will be relatively simple and brief. When the judge signs the order, you will have enforceable rights that can be changed only by another court order.

If either one of the parents objects to your request for time with the grandchildren, the law requires you to demonstrate certain things. You will have to show that:

- ▶ You have had an ongoing relationship with the child for at least a year, spending time together regularly;
- ▶ Continuing contact with you is in the child’s best interest; and
- ▶ By denying contact with you, the parent is not acting in the best interest of the child.

Oregon law presumes that parents act in a child’s best interest, and it can be difficult to prove that a parent is going against that interest. In addition, the law requires this proof to be strong. Getting the right of contact over a parent’s objection is not easy.

When considering how to decide the case, the judge must look at these questions:

- ▶ Are you or were you the child’s primary caretaker?
- ▶ Would it be harmful to the child not to have contact with you?
- ▶ Would spending time with you interfere unreasonably with the child’s time with the custodial parent?
- ▶ Has the parent encouraged or unreasonably denied or limited contact between you and the child?

If no court custody case is going on right now between the parents, you can start a case yourself. You would start the case by filing a formal **petition** in **circuit court**. (There are no standard, “do-it-yourself” forms for this purpose.) At a hearing, you would have to prove the things described above, and the judge would have to consider the same factors as those listed above.

Note that the parents cannot lawfully divorce or even get binding, enforceable custody rights without using the court. Many cases don’t involve any hearings in a courtroom, however, so it may be hard to tell whether a case is being processed by the court. Even the parent who has filed court papers may not understand that he or she has a “case” going on. The best way to find out if a case is open is to ask the circuit court clerk in the county (or counties) where the parents live if a divorce or custody case is going on between them. If there is an open case, ask for the case number and the date the case was filed; this information will be important for an attorney to know if you seek legal advice.

The rules in a stepparent adoption case are a little different. Until a few years ago, adoption ended more than the rights of the former parent. It also ended any rights of the mother and father of that parent. Now the law contains protections for these grandparents.

When a stepparent files court papers for adoption, he or she must give legal notice to the “parents of the party whose parental rights would be terminated.” The right to this notice applies only to actual grandparents, not to any other relative. This notice is unnecessary only if the stepparent convinces the court that there is a very good reason not to notify the grandparents.

After getting the notice, a grandparent has 30 days to file court papers asking for the right to have regular contact with the

grandchild. At a hearing on this request, the grandparent must make a strong showing that:

- ▶ The grandparent and the child had a “substantial relationship” before the adoption.
- ▶ Regular visits with the grandparent would not interfere significantly with the relationship of the child and the adoptive family.
- ▶ Visits with the grandparent would be in the child’s best interest.

A grandparent who already has court-ordered visiting rights (or even court-ordered custody) when a stepparent starts an adoption case should not ignore the notice. The old court order may not be enforceable when the child gets a new legal status. Getting timely legal advice will be important.

#### **THE SHORT ANSWER**

**Grandparents who have a strong relationship with grandchildren may be able to get court-ordered contact with them.**

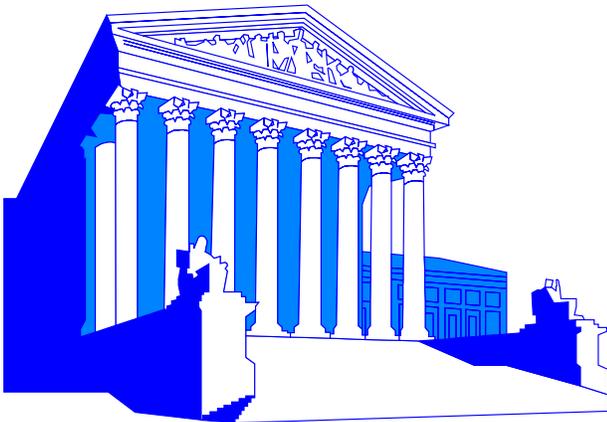
## **4c. Considerations for court**

Going to court is not a step that a person should take lightly. There are many things to take into account. The most obvious one is how strong your case is: do you have enough information to convince the judge that the parents are doing the wrong thing by keeping their child away from you?

Another consideration is the financial cost of going to court. Lawyers are expensive. On the other hand, you should be able to take advantage of court mediation services, which are usually able to help people resolve their differences early in the case—before the cost adds up. In a few cases, a court may order one or more of the parties to undergo a psychological examination, another significant expense. Preparing for your case can mean time away from your job, if you are employed. And, as the case goes through the system, you may spend months waiting to get a hearing and a decision.

Even if you win the right to spend time with your grandchildren, you most likely will not be able to convince the court that the parents should reimburse you for your costs. If you lose your case, particularly if your position is weak under the law, the court can even require you to pay the attorney fees of the parents in the case. Worse, winning the case in court may not make getting access to the children much easier if the parents are determined to resist and you are unable to go back to court because of the expense.

There are personal costs, too: a court case is very stressful, even for the person who is almost certain to “win.” If your health is poor, a court battle can be risky indeed. If that is your situation, your decision to go to court should include a consultation with your doctor as well as one with your lawyer.



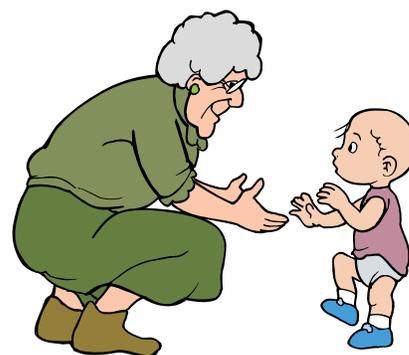
## Part 5

# Taking Over Primary Care of Children

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*“My son was widowed 6 years ago. He just found out he has cancer and must undergo extensive treatment. He won’t really be able to be there for the kids and wants to know if I can help out.”*

*“My daughter and son-in-law are in trouble with the law because of a drug problem. They want me to take care of their child for a while, until they have dealt with their addiction.”*



Every family has its problems. A job loss can sometimes mean the loss of the family home. Some families experience violence, drug use, alcohol abuse. Some families deal with severe mental or physical illness. A child’s parents may be killed or seriously injured in a traffic accident. Sometimes parents wind up facing criminal charges and even spending time in jail or prison. Any of these problems will have a serious impact on the well-being of the children. And any of these problems might mean that a grandparent or other relative will be called upon to take over as the head of the family, for a short time or a long one. How can the law help you deal with this responsibility?

### 5a. Temporary power of attorney for child care

Depending on the situation, a temporary power of attorney for child care may be the right choice if you are able to take on the responsibility of being the full-time caretaker for the child. See Part 3 for more information about powers of attorney and Part 3c for a sample power of attorney form.

## 5b. Guardianship—with the parents' cooperation

One option for longer-term caregiving is guardianship. A **guardianship** can give you more power over the child than can a power of attorney. For one thing, a parent cannot decide arbitrarily to take the child away; a judge would have to agree that returning the child to the parent is appropriate. For another, Oregon's law about financial support for children applies to guardianships, and you would be entitled to seek child support from both of the parents while you are taking full-time care of the child. (You may not actually get financial support if the parents have no income, but the law makes it possible for the state to force payment when there is income.)

Guardianship requires the filing of court papers and the signing of an order by a judge. It does not necessarily mean a “court battle,” however. If the parents agree to make you the child's guardian, they can consent in writing when you file the court papers, and the process will not take long. In some cases, the child may be a tribal member or eligible to be a tribal member. In those cases, it will be necessary to communicate with the tribe about the case. See Part 7.

Once the problem that gives rise to the guardianship has been resolved, the parents—or you—can have the guardianship ended by a new court order. If no one goes back to court to end the guardianship, it will end by itself when the child turns 18.

There are some potential financial drawbacks to becoming a child's guardian, especially for people with moderate or middle incomes. The child may need medical care, for example, and the guardian may not have access to health insurance. In contrast, a child who lives in a low-income household away from his or her parents may be eligible for medical and dental coverage and monthly cash assistance with or without a guardianship.

Even for families who qualify for the Oregon Health Plan, that program does not cover all kinds of illnesses, conditions, or treatment. For the child with significant medical needs that aren't covered by the Oregon Health Plan, the household's inability to get assistance to pay for his or her health care can be a serious problem. Oregon's DHS may have some help for guardian

families that don't qualify for the Oregon Health Plan, such as the Oregon Healthy Kids Program. It can also refer families to low-cost community clinics and resources for free or low-cost prescriptions.

See Parts 8c and d for a description of some of the benefits available.

#### **THE SHORT ANSWER**

**A temporary power of attorney or a court-ordered guardianship may help the grandparent intervene in a difficult, potentially long-term family crisis.**

## **5c. Guardianship—without the parents' cooperation**

*“Can I get guardianship over my grandchildren if the parents do not agree?”*

The legal proceeding to obtain guardianship when the parents agree is fairly simple; it becomes longer and more complicated when they do not. If the parents are currently involved in a divorce or **custody** case, you can intervene in the case just as you could if you were seeking the right to visit the child. If there is no case under way between the parents, you would start a case yourself by filing a **petition**.

What you have to prove and what the judge has to consider in a guardianship case are somewhat different from what is required for visitation, however.

To get a guardianship over a parent's objection, you must be able to show that you had a “parent-child” relationship with the child for a period at least part of which occurred within the 6 months before you file your petition for the guardianship. The law defines a “parent-child” relationship this way:

- ▶ You have or had **physical custody** of the child (that is, the child lived with you without the parents) or you lived in the

same household as the child (with one or both of the parents or with other people).

- ▶ You provide or provided for the necessities of life for the child—food, clothing, care, education, religious training, etc. (You can do this by providing these things physically, or by providing money that would allow someone else to do this physically).
- ▶ You do or did have day-to-day interaction with the child (not just babysitting on weekends).
- ▶ The relationship with you fulfilled the child’s physical and psychological needs for a parent.

How do you count the required 6-month period? Here are some examples: If the child has been living with you (with or without others) during the last 6 months and is still living with you, you can file now. If the child moves out, you can still file during the next 5 months. If the child lived with you until 5 months ago, you can file now, but it will be too late to file (unless the parents agree in court papers to your becoming the guardian) after another month goes by.

You also must persuade the judge that, based on the evidence, it is more likely than not the legal parent is currently not acting in the best interests of the child (because of abandonment, instability, abuse, imprisonment, addiction, etc.). Then you must show that it is in the child’s best interest for the child to have you—rather than someone else, such as the other parent or a different relative—as his or her primary caretaker.

Evaluating the case, the judge must look at these questions:

- ▶ Is the legal parent unwilling or unable to care adequately for the child?
- ▶ Is or was the grandparent recently the primary caregiver for the child?
- ▶ Would it be harmful for the child if the grandparent or other relative were not made the guardian of the child?
- ▶ Has the legal parent encouraged or unreasonably denied or limited contact between the child and the grandparent?

Just as in a case to obtain the right to contact the children, you need to weigh the pluses and minuses of going to court. See “Considerations for court,” Part 4c.

There is another kind of guardianship, one that a **juvenile court** establishes. It has different rules. See Part 5e.

In cases (except plain divorce cases and custody cases just between the parents) involving children who are enrolled or eligible to be enrolled as members of a federally recognized Indian tribe, the tribe has the right to be informed about the case at the time it is filed. Under the Indian Child Welfare Act (ICWA), the tribe has the right to intervene in the case to make sure that the children’s extended family is involved in the child’s care. When a grandparent is participating in the case, the tribe is unlikely to become involved. If your grandchild is a tribal member or eligible to be one, be sure to alert your attorney to the need to notify the tribe. For more information about when and how ICWA applies, see Part 7.

#### **THE SHORT ANSWER**

**Establishing a court-ordered guardianship over the objection of either of the parents can be difficult, and may be impossible for grandparents who do not already have a strong relationship with the child.**

## **5d. Legal custody**

*“My grandchildren have been living with me informally for a couple of years. We rarely hear from their parents, who have split up and are usually out of the state. Would it make sense for me to seek full legal custody of the children?”*

When Oregon law mentions the word “custody,” it may be talking about more than one thing. Custody sometimes means **actual custody**—that is, the children are actually living with someone regardless of who has legal rights over them; it may mean



**legal custody**, which is the court-granted right to make decisions over children’s schooling, medical care, religious training, and other basic choices on behalf of the children. Legal custody can often include **physical custody**—the right of someone to have the children live with him or her.

In the situation described above, the grandparent has actual custody of the children without any legal rights over them: no ability to require a doctor to care for the children’s health, no way to force the parents to provide support for the children, no confidence that the parents won’t just show up someday and whisk the children away from their stable home. Like guardianship, legal and physical custody give the grandparent enforceable control over the children.

Custody and guardianship differ from each other in one important way. Courts look at guardianships (except those established in juvenile court proceedings, Part 5e) as temporary, no matter how long they last, because a guardianship can end when the problem that gave rise to it has been resolved. In contrast, courts look at custody as a permanent situation. Once someone has obtained legal custody over children, anyone else—even a parent—must show that continuing that situation is not in the children’s best interest. Ending custody is harder than ending a guardianship.

A legal custodian can approve a child’s marriage or **adoption**. The custodian also is entitled to financial support from the parents on behalf of the child.

The standards the grandparent or other relative has to meet to get custody are the same as the ones described in Parts 5b and 5c to get a guardianship. Because custody is theoretically permanent, however, a relative should expect to show that the parent likely is unwilling or unable to look after the best interest of the child both now and into the future.

As noted in the section on guardianship (see Parts 5b and 5c), a child who has little income or few resources may be eligible for ongoing health coverage and a small amount of cash assistance from the state. The child may still be eligible after the child

becomes a member of a relative's household, such as through the establishment of legal custody, if the relative's income is low.

As mentioned in the section on guardianship, the Indian Child Welfare Act (ICWA) requires that those who file a case involving children enrolled or eligible to be enrolled in a tribe must give notice to the tribe when the case is filed. The failure to give the necessary notice can invalidate the court decision in your case. For more information, see Part 7.

## 5e. Juvenile dependency cases

*“My daughter called last night at midnight; the police had just come for her, and they took the children to the county. What’s going to happen now?”*

Sometimes parents get into trouble with the law; if they are arrested, the police must make arrangements—perhaps very short-term—for the children. If the police or other government agents believe that children are in danger because of abandonment, neglect, or abuse by their parents, they may remove the children from the home while they conduct an investigation. In these cases, the children are placed in **protective custody** until a court determines either that it is safe for them to return home with services from the state, or that it is not safe and the children must live somewhere else for a while.

During the investigation, the grandparent may be contacted by a child protective services worker or by a special volunteer called a CASA—a court-appointed special advocate—whose job is to look out for the children's best interest.

The CASA compiles a report for the use of the court in deciding what to do next to protect the children.

While this investigation goes on, the court begins **dependency proceedings**. If the court decides the children cannot be safe in their own home, it will try to place the children with other relatives when possible. The court must look at:

- ▶ The ability and willingness of the relative to cooperate with authorities in restricting contact with the parents or others considered to be unsafe for the child;

- ▶ The ability and willingness of the relative to prevent anyone from trying to influence the child regarding the facts of the case;
- ▶ The ability of the person to take care of the child’s physical, emotional, and educational needs; and
- ▶ Which relative has the closest relationship with the child.

After the placement is made, the court keeps the case open while state caseworkers attempt to work with the parents to improve conditions in the home. During this time, the state has legal custody of the children even though the children may be living with their grandparents or other relatives.

In **juvenile court** proceedings, the children and the parents are entitled to free legal assistance if they do not have the ability to pay for an attorney; other persons do not have this right, and may have to pay for legal representation—or go without it.

A legal grandparent, but not other relatives, may be able to ask the juvenile court to place the children with him or her whether or not the grandparent tries to become formally involved in the case as described below. If you learn that your grandchildren are in the custody of the **Department of Human Services (DHS)**, you can get notice of court proceedings involving your grandchildren and the right to talk at hearings by writing to the DHS office in the county where the case is going on and asking for those rights. If you do this, be sure to keep a copy of the request. Although you can deliver the letter personally, it would be better to send it by **certified mail** with a return receipt, so you can prove you asked for these rights if you need to.

A grandparent or other relative who wants to be considered as a permanent “placement” for the children may be able to intervene in the dependency proceedings. To **intervene**, the person must have a “caretaker relationship” with the children.

A caretaker relationship is a relationship between grandparent and grandchildren:

- ▶ That was in place during the year before the case started, or for at least 6 months while the case was pending, or for half the child’s life if the child is under 6 months old; and

- In which the person provided daily for the love, nurturing, and other necessities required to meet the child’s psychological and physical needs.

The grandparent must describe his or her involvement in the child’s life, why intervention is helpful to the court in determining the best interests of the child, and why the parents cannot adequately present a case on behalf of the child. The court does not have to agree to the intervention.

If the court does allow a relative to become an **intervenor**, that person can offer to provide a temporary home for the child or be a resource in other ways. Once a court allows the person to intervene and the court decides to place the children somewhere other than a parent’s home, the intervenor can offer to care for the child permanently.

At some point, the state may ask the court to terminate the parental rights of one or both parents and ask the court to permit someone to adopt the children. It may also ask the court to create a permanent guardianship. This kind of guardianship is different from the kind described in Parts 5b and 5c; when a juvenile court orders a permanent guardianship, the parents do not have the right to ask the court to terminate it.

It is important for grandparents concerned about the future of their grandchildren to get legal representation as early in the juvenile dependency proceedings as possible; early involvement will help their chance of getting guardianship or visitation rights with the children later on.

Juvenile court proceedings involving children who are enrolled or eligible to be enrolled in a federally recognized Indian tribe have special requirements. Under the Indian Child Welfare Act, the state must alert the tribe when the case is filed. The tribe has the right to intervene in support of the child’s extended family—including grandparents—on behalf of the children. See Part 7 for more information.

#### **THE SHORT ANSWER**

**Grandparents have greater rights than other relatives in juvenile court cases. Still, early involvement can be crucial.**

## 5f. Adoption

*“My daughter says she wants me to take care of her children permanently, but she wants to keep in contact with them. And she doesn’t want to pay child support. Is this kind of arrangement possible?”*

**Adoption** is a legal proceeding that substitutes someone new for a former parent or set of parents. Once a child has been adopted, the former parents no longer have any rights over the child nor any responsibility (not even the duty to provide financial support) for the child. The person or persons who adopt take over all aspects of the parent relationship. Thus, it is possible for a grandmother to become a child’s legal mother.

Some parents who don’t want to or can’t support their children financially find that adoption by a grandparent or other relative is more appealing than granting custody or guardianship rights to that person. And there is nothing in Oregon law that prohibits most former parents and their former children from continuing to have some contact if the adopting person agrees to it. In fact, a court can include the parties’ agreement in its judgment of adoption.

Sometimes continuing contact is not advisable. Some obvious examples include contact with former parents who have a history of sexually molesting or physically abusing children and who have not benefited from treatment, parents whose mental health problems or drug addictions make them dangerous, etc.

Like other kinds of legal proceedings to take over the care of children, adoptions can be by agreement if both of the legal parents consent to it in writing, or contested if one or both of them are unwilling to end their rights over the child. If the case involves a child who is aged 14 or older, the child also must agree to the adoption.

Even in an adoption by consent, the grandparent must “pass” a criminal background check done by the state; in some cases, the relative must submit to a **home study**. (The results of the home study must accompany the court petition for adoption.)

A home study can be both expensive and time-consuming. The relative can ask the court to waive the requirement of a home study if:

- ▶ The relative is a grandparent, sibling, aunt, or uncle of the child; and
- ▶ The child has lived with the relative since birth for at least 6 months or has lived with the relative continuously for at least 1 year immediately before the relative filed the petition for adoption.

Generally speaking, a grandparent can adopt grandchildren over the parents' objections only when the state has initiated proceedings to terminate the parents' rights because of abuse, neglect, or abandonment of the children. (See Part 5e about juvenile dependency proceedings.) However, there are some situations in which the law allows relatives to go forward with an adoption without the express consent of a parent. The case can go forward without consent when:

- ▶ A court has ruled that the non-consenting parent is mentally ill or mentally retarded and the parent is still in that condition at the time of the adoption case; or
- ▶ The parent is in prison for a term of more than 3 years and has served at least 3 years of the term; or
- ▶ The court finds that the non-consenting parent has willfully abandoned or neglected the child without a good reason for a minimum of 1 year; or
- ▶ In a divorce case, the parent was not given custody of the child.

The parent who fits into one of these categories can ask for a hearing about the proposed adoption after being notified about the case. Whether that parent asks for a hearing or not, the court must still decide whether adoption is in the child's best interest.

When deciding whether to approve the adoption, the court relies to some extent on a placement report submitted by the Department of Human Services (DHS), which recommends or discourages the proposed adoption. (The requirement for the report can be waived if the child is age 14 or older.) DHS bases its recommendation on how well it believes both the child and the adopting person can adjust to the adoption.

In some situations, the state provides financial support to adoptive families. Continuing changes in the state's ability to provide this kind of support mean that a grandparent who is considering adoption of grandchildren should get up-to-date information directly from DHS.

Adoptive families who do not get this kind of assistance may qualify for other kinds of help if their income and resources are very low. See Part 8c and 8d for more information about health coverage, a health insurance subsidy, **SNAP (Supplemental Nutrition Assistance Program)**, and monthly cash assistance.

The Indian Child Welfare Act applies to adoption cases if the child to be adopted is enrolled in or eligible to be enrolled in a federally recognized tribe. The tribe is entitled to notice when the case is filed. The tribe has the right to look at solutions that can keep the child connected to the tribe. See Part 7 for more information about the role of a tribe in these cases.

#### **THE SHORT ANSWER**

**After passing a criminal background check, a grandparent can adopt a grandchild with permission of the parents. In some cases, a home study must be conducted by the state. In a few circumstances, permission of the parents may not be required.**

## Part 6

### Violence in the Family

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*“My daughter recently left her husband, an extremely violent person. She is afraid of him—and so am I. What can I do to protect myself and the grandchildren when they are with me?”*

If the parent who is violent has done nothing to you, you have no way to protect yourself from otherwise lawful contact from him or her. You can, however, talk to a **domestic violence shelter** advocate about some practical steps you can take to prevent a confrontation.

On the other hand, a grandparent who receives threats—or worse—from a parent of the grandchildren should always report the incident to the police. It is also important to create a logical **safety plan** in the event finding a safe place becomes urgent. Local domestic violence shelter organizations can be very helpful for this purpose.

When a parent has been the victim of violence by the other parent, the person may be able to get a **Family Abuse Prevention Act (FAPA)** restraining order from the court. In a FAPA order, the court will designate which parent will be responsible for the children. You should have a copy of the responsible parent’s order, and tell the police if the other parent violates the order with regard to contact or time with the children. A FAPA order requires the violent parent to stay away from the spouse or other adult family-member victim. A FAPA order can force the violent person to move out of the family home. If the person then violates the order, he or she can be arrested.

You yourself cannot get a FAPA order unless you were living in the same place with the parent who was violent or seriously threatened violence. If you are at least 65 years old, though, or if you have a disability, you are likely eligible for a similar kind of



restraining order for elderly or disabled persons. Both FAPA and elder-abuse protection orders are available at no charge to people who meet the requirements of the protection laws. Forms are available at the offices of court clerks and from domestic violence shelters.

Depending on the behavior of the violent parent, you also may be eligible for a **stalking protection order**. There is no age limit or family-relationship requirement for stalking orders. Stalking orders can require someone to stay away from you even if there has been no violence; you simply have to show that the person's repeated behavior toward you has been intentionally threatening and frightening (stalking). Examples of "stalking" behavior include keeping watch outside a person's home or workplace, placing harassing or hang-up phone calls, following a person, sending frightening letters, etc. There is no cost to obtain this kind of order.

People who violate restraining or stalking orders can be arrested immediately and, in some instances, be charged with a new crime. It's a good idea to talk to a domestic violence advocate or an attorney about how to get a stalking order.

#### **THE SHORT ANSWER**

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**Using court-issued protection orders and common-sense safety plans can help avoid conflict or prevent further violence.**

## Part 7

# Tribal Involvement in Court Cases that Affect Children

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*“The father of my grandchildren is an enrolled member of an Indian tribe. I plan to become the guardian of those children. Does the law require me to do anything different in court?”*

A federal law called the **Indian Child Welfare Act (ICWA)** comes into play when a non-parent seeks the right in court to become a foster placement, a guardian, a custodian, or the adoptive parent of a child with ties to a federally recognized Indian nation. This law does not apply to bands that are not recognized by the government.

Congress passed this law as a part of changes to long-standing public policy that had broken up Native families and clans—for example, sending children to distant schools where they were punished for using their own language, and allowing whites to adopt Native children without their families’ knowledge or permission.

Under ICWA, a recognized tribe with which a child is connected has the right to participate in any court case that determines who (other than a parent) will have custody and control over that child. The role of the tribe in the case is to ensure that the decision takes into account the child’s connection to the tribe and to family and clan members within the tribe who can protect the child’s relationship with his or her heritage and culture.

*“When does ICWA apply to a case involving a child?”*

ICWA applies to foster care placements, cases to terminate parental rights, adoption, and custody or guardian rights to a non-parent in divorce proceedings.

- ▶ ICWA normally does not apply to juvenile court when an Indian child has been charged with an offense, or to a divorce or custody case in which only the parents are involved.

The tribe determines whether a child is a member or eligible for membership, as that status is what gives the tribe the right to enter the case. Every tribe has its own rules about membership. Sometimes a child may be eligible for membership in more than one tribe. In that case, each of the tribes is entitled to notice.

In Oregon, there are nine federally recognized tribes. Their names and contact information are listed in Part 10f. Because the federal government had separate treaties with each tribe, eight of the nine tribes have what is called **concurrent jurisdiction** with state circuit courts over civil cases involving Indian children. That means the tribes permit cases involving tribal members to be heard in state courts. In each case involving children that is filed in state court, the tribe that is or may be the child's tribe is entitled to notice at the time the case starts. The ninth tribe, the Confederated Tribes of the Warm Springs Reservation, does not share jurisdiction over these cases if tribal members or the member child is "domiciled" on the reservation. A domicile is a person's official address (such as an address for voting, driver's license, etc.). The Warm Springs court will hear these cases itself. If an ICWA case filed in state court involves an on-reservation Warm Springs member or member-eligible child, the tribe will have the case transferred to the tribal court.

If a grandparent in a foster care, guardianship, custody, or adoption case believes that a grandchild might be eligible for membership in a tribe—even if the grandparent doesn't know which tribe that might be—the grandparent, or his or her lawyer, must give this information to the circuit court immediately. The parties have a duty to get information about the child's status from the tribe; if the tribe does not have this information, the parties must seek it from the Bureau of Indian Affairs. If a case involving any Indian child goes forward in state court without notice to the relevant tribe or tribes, the court decision can be invalidated.

#### **THE SHORT ANSWER**

**Both the court and the tribe must receive notice that ICWA may apply to a case that affects guardianship, foster placement, custody, or adoption.**

## Part 8

# Day-to-Day Issues for Caretaker Relatives

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The legal issues that arise from the rights of parents are only one part of the questions grandparents and other relatives face when they take on responsibility for grandchildren. They may face problems with children's schools, their health care and insurance, the impact of the cost of care on small retirement incomes, their landlords, and more. This Part looks at some of these typical problems. Oregon's companion book to this one, *A Resource Guide for Grandparents and Other Relatives Raising Children in Oregon* (2009) has more information about day-to-day issues.

### 8a. School registration

*“My grandchildren just moved in with me from another school district. How do I enroll them in school?”*

If your grandchildren live with you rather than with their parents, you have the right to enroll them in a school in the school district where you and the grandchildren live. Still, school districts sometimes resist admitting some children, suspecting that families give false addresses just to get their children into a better school.

If you are facing resistance, you should know that Oregon law protects children living with non-parents by requiring school districts to allow children to attend school in the district where they reside.

Oregon Revised Statute 339.133 states: “Children between the ages of 4 and 18 shall be considered resident for school purposes in the school district in which their parents, guardian, or persons in parental relationship to them reside.” When you go to the school to register your grandchild, be prepared to show that you



are in a parent-child relationship with him or her. This proof is easy if you have a court order showing the child is supposed to be living with you. Otherwise, a temporary power of attorney for child care signed by a parent, along with your records of how long the child has lived full-time with you, or information about the reason the child is living with you, should satisfy the school. The power of attorney form alone is not enough proof. (Review the information about powers of attorney in Parts 3a and 5a.)

The records you use can include letters (including the envelopes) the child has received at your home; receipts for bills you have paid for food, clothing, and health care; notes from witnesses (like your neighbor or your landlord, and the child's parent or other relatives); and even utility bills and phone bills that have been higher because you have someone new in your home. You may have a hard time proving the children live with you if they have just moved in. You may need to show school personnel a copy of the wording of ORS 339.133. In unusual cases, you may need the help of a lawyer to talk to the school. See the end of this book for help finding legal assistance.

#### **THE SHORT ANSWER**

**Schools are obliged to admit students who live in their district.**

## **8b. Problems at school**

*“My grandson moved in with me because his life at home was so unstable. Now he’s having problems at school.”*

It's unfortunate, but normal, for children who have been through hard times at home to suffer from depression, insecurity, and anxiety. These feelings may result at school in problems concentrating, inappropriate anger or violent behavior, or severe withdrawal. In addition, some children have learning disorders that get worse when the children are under stress.

It's important to meet and stay in touch with your grandchild's teachers, who likely can spot behavior and mood problems early

on. Most schools nowadays have student counselors, too, who can often help students—and their grandparents—work through tough issues. School counselors cannot provide in-depth mental health counseling, but they can guide you to resources that can give that kind of service.

A child with a genuine learning disability may need help from a tutor or a strong advocate to persuade his or her school that it needs to offer special services. Sometimes these services take the form of an “IEP,” an individual education plan that the school must craft with help from the student’s family. Some schools are very helpful in this way; some resent having to spend additional money on students who need help. In most communities, there are parents’ groups that help families work for better services from their children’s schools. Children have a legal right to an education that is appropriate for them.

Depending on how much legal authority you have over a child, you may be able to work directly with the school; you may have to permit the child’s parents to make decisions if you do not have the authority you need. Having a temporary power of attorney for child care, like the power described in Part 3, should be sufficient.

#### **THE SHORT ANSWER**

**Teachers and school counselors can be a resource for grandparents and children, especially if grandparents have authority to make decisions about the child’s education.**

### **8c. Medical costs and insurance**

Even if you have permission from the parents to make medical decisions for your grandchild, you may not be able to force them to pay for medical or dental treatment for him or her. That may mean that the money comes out of your own pocket, unless insurance coverage or help from the state is available.

Grandparents who have private insurance should check their policy (especially the definitions section of the policy) to

see if it covers dependents. A very few insurance policies will cover any dependent living in the policyholder's home. Others require the dependent to be a child of the policyholder or require the policyholder to be the child's legal guardian. If your policy seems unclear, do not be afraid to ask your insurance agent for clarification. To be safe, though, make sure any good news from your agent is in writing, or you will not be able to enforce the promise later.

Your health insurance company may allow you to add the children to your policy. If it does, there likely will be an extra cost. For households whose incomes are low enough, the Family Health Insurance Assistance Program (FHIAP, pronounced "fee-app") may help pay for that cost.

Medicare and "Medi-Gap" policies do not cover minor dependents under any circumstances. Medicaid, known in this state as the Oregon Health Plan (OHP), is a form of health coverage based on financial need that may be available. For most children who qualify, this program includes coverage for dental care as well as medical care.

Low-income grandparents and other relatives may themselves already be enrolled in OHP. If they are, they can easily enroll other low-income family members in OHP, too. So long as you can show that your grandchildren are living with you and that they have few financial resources of their own, you do not need to go through any court process or even get a parent's power of attorney before you are able to get OHP coverage for the children. Even if you are not financially eligible for OHP coverage yourself, grandchildren living with you may be eligible separately for coverage.

OHP does not cover every kind of illness, condition, or treatment. Sometimes the OHP agency denies coverage for certain care. It is possible in some of those cases to get an exception; if you receive a notice of denial, you should contact a legal aid office about that possibility as soon as you can.

To find out more about OHP benefits, contact your local Oregon Health Plan office or call (800) 359-9517.



## 8d. Financial help

*“I was happy to be able to take in my teenage grandson when his parents were having problems. Now I have a problem—my food bill is four times higher than it was when I lived by myself! How can I afford to keep him?”*

Many grandparents struggle with the increased financial burden of caring for their grandchildren. Fixed retirement pensions or Social Security payments are often not enough to meet all the needs of a growing child. In fact, one U.S. grandparent in five who takes over parenting duties ends up living in poverty. For low-income families, Oregon offers several kinds of assistance—some of it short-term, some of it longer term. This help is good news for grandparents.

### **1. SNAP (formerly food stamps) and WIC**

You may already be receiving SNAP benefits (a debit card that you can use at grocery stores). Even if you are not getting SNAP benefits now, you may be eligible to receive them. Many lower income people are unaware that they may qualify for this important benefit.

SNAP benefits cannot be used for anything but food. By spending SNAP benefits instead of money for food, however, you can free up limited cash for other kinds of necessities that SNAP won't cover: aspirin, bandages, shampoo, trash bags, soap, toothbrushes, laundry detergent, toilet paper, etc.

The average monthly amount of SNAP benefits per household is around \$180. How much your household might qualify for will depend on how many people are in the household and how much income they have. This sounds obvious, but the law considers several things when it defines **household**. If you are taking care of a grandchild in your home, even if you are not the legal guardian or legal custodian of the grandchild, you and the grandchild are in the same household legally. (If the child's parent is receiving SNAP benefits and claims that the child is a member of his or her household, you may have to prove to DHS (Oregon Department of Human Services) that the child really is staying with you.)

If your income and assets are small and the grandchild receives little or no income, your household should be eligible for SNAP benefits. If the child has little or no income but you have a moderate income, your household may qualify for only a small amount of assistance. However, any SNAP eligibility may qualify the child to have free or reduced-cost lunches at school and other benefits. Unlike the Oregon Health Plan (Medicaid) program, SNAP does not allow a child to qualify as a **separate household** for the benefit.

The **WIC** (Women, Infants, Children) program offers food assistance and nutritional screening to children under the age of 5. Grandparents can apply for WIC. While the WIC program has income guidelines, they allow services for someone with a higher income than that eligible for SNAP.

## ***2. Financial assistance for needy families***

Another resource for households is **TANF**, or temporary assistance to needy families. This benefit is cash paid monthly to the household for care of the children. Households that qualify for TANF are automatically eligible for the Oregon Health Plan, too. (See above.)

In some cases, the grandparent's income and resources may be low enough that both the grandparent and the child will qualify for a modest monthly TANF payment. Even if the grandparent's income and assets are too high, however, the child may be able to qualify separately for a small payment. The child will then qualify for the Oregon Health Plan.

Relatives need to demonstrate that they are related by blood or marriage to the child and that they have care, custody, and control of the child (in other words, the child lives with them).

## ***3. Social Security and SSI***

If you become the guardian of a grandchild after the death of the parents, the child may be eligible for Social Security survivors' benefits until age 18. Even if the parents are living, the child may be eligible for these benefits if one of the parents is receiving Social Security disability payments.

If a parent who was receiving disability payments goes to jail or prison, federal law may terminate the payments to the parent. The child, however, should continue to receive payments until age 18 (or 19 if the child is still in school—not college—at age 18). If payments to the child are cut off, you should contact the local Social Security Administration office as soon as possible. You may need help from a lawyer in this situation, too.

A grandparent who adopts a grandchild will be glad to know that, even though adoption terminates all parental rights, the adoption does not cause the child’s survivor’s benefits to end.

Some children who have severe disabilities—including serious learning disabilities—may be eligible for a federal program called **SSI**—Supplemental Security Income. This program provides Medicaid coverage and a small amount of monthly cash assistance. SSI is available only to people whose household income and assets are very low. Social Security regulations determine whose income is counted as being available to the child. Getting help from a lawyer familiar with this program can be very helpful to you in determining whether the child’s disability might qualify him or her for benefits and how much income your family can have and still qualify for the program.

#### ***4. Childcare subsidy***

If you are caring for young children, you may qualify for a **childcare subsidy** if you work outside the home. Ask the DHS Children and Families staff about this program.

#### **IMPORTANT**

**It is important to know that public agency staff have to interpret and apply rules that are complex and frequently changing. These agencies must allow you to apply for benefits, in writing; don’t let a worker discourage you from applying. And remember that any denial of benefits must be in writing, giving specific reasons for the denial.**

**If you believe that you have been denied a benefit you think you qualify for, ask right away—in writing—for a hearing. There is no cost for a hearing. Then try to get an appointment with a legal aid program or other law office that deals with public benefits law as soon as possible.**

After reviewing the rules related to your case, the lawyer should be able to tell you whether your appeal is likely to succeed. If the chances are poor, you may choose to withdraw your appeal. There is no cost to do so.

## ***5. Low-cost housing***

Another possible resource is low-cost housing. Help with housing can happen in two ways—first, help with rental money (called “housing vouchers”) for a place owned by a private landlord; or, second, housing that has reduced rent because of government subsidies that go to the owners. For both of these kinds of programs, seniors must have fairly low incomes and resources, although not as low as the limits for TANF or SNAP. There may be a long wait for this kind of housing in some areas. For information about low-cost housing opportunities, contact your local housing authority (names vary; your county government will know the name of your agency), the Oregon Housing and Community Development Department, the U.S. Department of Agriculture Rural Development program, or the U.S. Department of Housing and Urban Development (HUD).

## ***6. Child support***

For some grandparents, it may be possible to get **child support** for the children from the parents. With few exceptions, persons who obtain legal guardianship or custody of children get a court order for such support. (You may not have to ask for support if you can show the court that you reasonably believe one of the parents will try to harm you or the child if you try to get support.) Getting a court order for support means that the state can **garnish** wages and can seize tax refunds and some other kinds of income or resources, even if the parent does not want to pay. In many cases, unfortunately, the parent does not have the money to pay even when the court orders payment.

## **7. Tax benefits**

If you provide more than 50 percent of the financial support for a child, you generally can claim the child as a dependent for income tax purposes. There are exceptions to this rule, depending on your legal relationship, so talk with an IRS representative or your attorney before claiming the child. If the child has lived with you for more than half of the year, and you have earnings from work that are relatively low, you also may qualify for the Earned Income Tax Credit. Even if you do not have enough earnings to file a tax return, you must file a return in order to claim the tax credit.

## **8. Resources for college**

College is expensive. Thinking about it early is best. Grandparents can set up college savings accounts, such as IRS “529” accounts and other kinds of accounts, to help prepare for the cost. In addition, qualifying Oregon children in lower income homes can start, as early as age 12, saving in an “Individual Development Account” (IDA). As they make monthly deposits designated for college, they earn \$2 in donations for every \$1 they save. A local community action agency or other assistance agency should be able to give you more information about this program.

Students and their caretakers can learn more about student grants and loans from numerous websites, including that of the National Consumer Law Center (<http://www.nclc.org>).

## **8e. Getting a break from child care**

If you are frazzled from the unexpected burdens that come with taking care of children, you also may be able to get some occasional help to substitute for you while you shop, get medical care, or even take a much-needed nap.

The Family Caregiver Support Program (FCSP) provides services to family caregivers that include information, assistance, individual counseling, support groups, training, **respite**, and supplemental services.

You are eligible for the Family Caregiver Support Program (availability varies by county) if you are “a grandparent or step-grandparent of a child, or a relative of a child by blood or marriage, and you are at least 60.” You must live with the child and be the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to care for the child. You do not have to have legal custody or guardianship over the child.

You can reach the Family Caregiver Support Program through Aging Services or DHS, depending on where you live. See Parts 10e and 10g.

## **8f. Living in “seniors only” rental housing**

*“I want my grandchildren to live with me. But I live in ‘seniors-only’ rental housing. Will I be evicted if they move in here?”*

The answer to this question varies greatly, depending on what kind of “seniors-only” housing you live in. Your rights will depend in part on the terms of your rental agreement, state law, federal law and, in some cases, federal regulations.

Fortunately, all seniors-only housing has written rental agreements, so you have a place to start in answering this question.

First, look at your rental agreement for a definition of the kind of seniors-only housing you live in. Is it for persons all of whom are over age 62? Or is it for households in which at least one person is over age 55?

If the housing is of the second kind, you may be able to have your grandchildren live with you. Your rental needs to be large enough for your “new” family. In addition, the complex where you live must have enough 55-and-over residents (80 percent or more) to make it possible for younger people to continue to move in. In a 55-and-over complex, you have the right to get from the management a list of the ages of people in each unit. A court may have to decide whether the policy of keeping your family together is more important than the policy of providing child-free housing for elders.

Second, see if your rental agreement tells you (if you don't know this already) whether the housing complex is owned and financed by a private landlord; owned by a private landlord but financed by federal or state government loans; run by a federal government agency, such as HUD (the Department of Housing and Urban Development) and RD (the Department of Agriculture's Rural Development agency); funded or run by a state agency; or run by a local housing authority.

For housing that is financed or owned by a government agency—even if it is operated by a private landlord—a variety of helpful laws and regulations can come into play, depending on the kind of financing involved and the agency.

If you live in any kind of housing that is “subsidized” or has “below-market rent” or rent based on the amount of your income and resources, it is highly likely that some of these laws and regulations apply to your situation. Often in these kinds of housing, the definition of “family” or “household” is broad enough to cover an elder who is caring for grandchildren. Unfortunately, the regulations differ from one type of housing to another, so no general answer “fits all.”

Before you welcome your grandchildren into your rented home, it is important to get some specific legal information about your rights. Not to do so might mean, in the worst case, that you and your grandchildren are lawfully evicted from affordable housing and have nowhere else to go.



#### **THE SHORT ANSWER**

**Get legal advice about your rights before inviting your grandchildren to live with you in seniors-only housing.**

## 8g. Housing discrimination against families

*“But I don’t live in seniors-only housing! Why is my landlord telling me I can’t have my grandkids here?”*

In all but “senior housing,” Oregon’s landlord-tenant law says that landlords who limit the number of occupants per rental must avoid discriminating against children; it specifically requires that landlords cannot limit occupancy to fewer than two people per bedroom of 70 square feet or larger.

Furthermore, the law takes into account the size of the total living space, because sometimes rooms like dining areas, studies, and dens can qualify as bedrooms so long as they have ready access to a fire exit.

Even if their rental agreements and the law allow for grandparents to bring their grandchildren into their homes, some landlords are unfamiliar with the rights of all families (except in some seniors-only housing) to have children in their homes. Your landlord may attempt to evict you in violation of the law simply because you now have children—even though you are not violating any law. If you receive a “no cause” or a “too many occupants” eviction notice or if your landlord tries to increase your rent based on the number of people living in the unit, get legal help! Contact the Fair Housing Council of Oregon, too, which can sometimes help. See Part 10 for more information. Do not delay in getting assistance.

### **THE SHORT ANSWER**

**In all kinds of housing except some seniors-only places, it is illegal for landlords to discriminate against families with children. Get legal assistance as soon as you can if you believe you are experiencing discrimination.**

*“My landlord says my grandchildren can’t even visit me in my home. Is that legal?”*

Neither private nor public landlords can prohibit visitors to tenants on the basis of the visitor’s age. They can prohibit visits by certain visitors on the basis of the person’s past conduct at the complex, and sometimes because of their conduct in other places. This reason applies to children, too: a landlord is perfectly justified in barring visits from children who have a history of setting fires, sexually abusing other children, torturing pets, or deliberately damaging the landlord’s property.

A landlord who puts a blanket prohibition against child visitors, however, is likely violating housing laws. The Fair Housing Council of Oregon can give you more information and ideas about what to do.

Public and subsidized landlords can put reasonable limits on how often a tenant can have a visitor and how long visitors can stay. A limit that says children can stay only for a few hours at a time is not reasonable.

Check your rental agreement for the terms at your complex; if the limits don’t seem reasonable to you, get some legal advice.

**THE SHORT ANSWER**

**Unless your grandchildren have caused problems in the past where you live, you have the right to have whomever you like as company.**

## **8h. Other housing situations**

*“Are my rights different if I own my own home but rent space in a manufactured dwelling park? What if I live in a co-op or a condominium complex or a retirement center?”*

If you live in a mobile home park for people of all ages, the landlord can make reasonable rules about occupancy so long as the rules do not discriminate unlawfully against children.

If you live in a seniors-only park, there may be lawful restrictions against children depending on the terms of the rental agreement and whether the park is for age 55-and-over households or is an exclusively 62-and-over complex.

Cooperative and condominium dwellers also may live in general-population or seniors-only housing. Although the rules in these places may put varying restrictions on apartments and houses in the complex, laws about discrimination apply to all kinds of housing, not just to rental housing. Read your contract and get legal advice if you have concerns about your legal right to have your grandchildren in your home. Retirement centers have such varied ranges of services that it is impossible to give a general answer to the question of whether grandchildren can live there with their relatives. The centers are subject to state law, however, and elders who want the law clearly to allow grandchildren to live with them can urge legislators to put some guarantees into the law for that purpose.

#### **THE SHORT ANSWER**

**Conditions vary greatly among different kinds of housing. Specific legal advice about your situation is essential.**

## **8i. Traveling and moving**

*“I’m planning a trip to Ireland this summer. May I take my granddaughter along?”*

Grandparents and other relatives who are legal guardians or custodians can obtain passports for minor children who do not already have passports. They will need to submit proof of their legal status (a court-certified copy of their court order should be enough) to the Office of Homeland Security of the U.S. State Department, along with the other required information for passport applications.

When the grandchildren get passports, grandparents will likely need to show immigration officials at ports of departure and entry

that they have the parents' permission to take the child outside the United States. A version of the temporary power of attorney form sample shown in Part 3c can be used for that purpose.

Grandparents who are not legal guardians or custodians will need to obtain the cooperation of the child's parents (or custodial parent, if there is a court order of custody) to apply for a passport on behalf of the child. Even if your travel plans don't take you out of the country, all commercial airports require government-issued identification for all passengers—including children.

It is a good idea to get the parents' written permission (or power of attorney) for any travel, especially extended travel or a move, with grandchildren, so you can deal with medical and other emergencies. Another good reason to get written permission is self-protection: if the parents get into a dispute with you or with each other over your right to have the children, you want to be able to show that you were acting in good faith.

For grandparents who are legal guardians or custodians, it is important to check your court order to see if it contains any limitations on how far or where you can travel or move with the grandchildren. It is a good idea to consult an attorney about your rights, too, as the court order alone may not contain all of the information about how state law can affect your ability to take the grandchildren to a new home. If the parents or other relatives have "parenting time" rights with the grandchildren, you likely will need to notify them of your plans to move so that a new parenting time schedule can be established and approved by the court before you leave. (In a few cases, courts have even prohibited custodial parents from permanently leaving the state with their own children when the other parent objects.)



### **THE SHORT ANSWER**

**Never take children away from their home area without documentation that you have the right to do so.**

## Part 9

# Planning for the Future

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*“If I die or become disabled, what will happen to the kids?”*

One thing that young parents rarely think about is their own health and mortality. These topics are never far from the minds of seniors. For grandparents who are parenting their grandchildren, these issues have special significance.

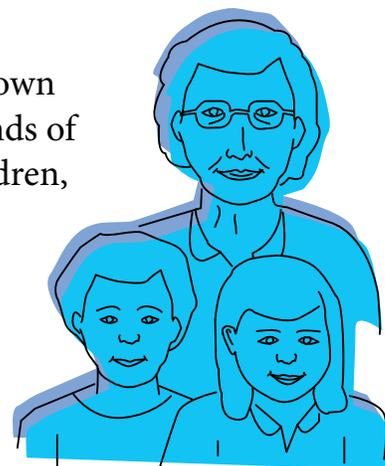
Thanks to community-based support that makes it easier for seniors to stay independent and in their homes, it is easier than it once was for grandparents to continue caring for their grandchildren. To find out about such services, contact your local Area Agency on Aging (see Part 10g).

Still, caring for children in these circumstances can be difficult without outside help. In some cases, depending on the ages and needs of the children, it may become impossible.

What happens will depend to some extent on the legal relationship of the grandparent and the grandchildren. If you have adopted the children, you have the right to name a temporary or permanent guardian for them through formal court proceedings. You can even arrange for someone else to adopt them by going through court. If you have legal custody, you also have the right to name a guardian for the children, although you must give notice of the filing of the case to the parents so long as their parental rights have not been terminated by a court.

You don't have to use formal court proceedings merely to authorize someone else to exercise a temporary power of attorney for children; you can use a form like the one in Part 3c. You cannot authorize someone else to have powers that you do not yourself possess, however.

You also can specify in a will whom you would like to act as guardian for the children at your death. If the children's parents



are no longer living or if you have adopted the children outright, your wish is likely to be followed by the court so long as the person you select is a reasonable choice. If the parents are alive, they can object to your choice; the court will have to decide.

A will can be important, too, if you want the grandchildren to inherit from you. If you do not have a will, your own children will automatically inherit in equal shares. A will can allow you to set up a simple (or complex!) **trust** on behalf of the children, so that a responsible adult can supervise the use of their inheritance.

**Caution:** If you think that you may be eligible someday for Medicaid long-term health care coverage, it is probably **not** a good idea to give your grandchildren now what they stand to inherit later! Medicaid eligibility regulations are very strict; the law presumes you are giving away property only to become eligible for free care. See a lawyer about health-care planning before taking this step.

One other resource that some caretaker grandparents overlook is their life insurance policies. The policies can name the grandchildren as beneficiaries. Some grandparents who do not have such insurance may be able to obtain it, making it possible for the grandchildren to have at least some financial security in the future. It is possible, also, that certain retirement and investment plans have a death benefit. You can name the grandchildren or a trust for the grandchildren as the beneficiary of this kind of benefit.

#### **THE SHORT ANSWER**

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**A range of options is available, depending on your situation. It is a good idea to talk to a lawyer about planning for your future health care and your estate so the children can be taken care of.**

# Part 10

## Resources

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### 10a. Organizations

#### **AARP Grandparents Information Center**

888-687-2277

[www.aarp.org/grandparents](http://www.aarp.org/grandparents)

#### **Administration on Aging**

202-619-0724

[www.aoa.gov](http://www.aoa.gov)

#### **Child Welfare Information Gateway**

800-394-3366

[www.childwelfare.gov](http://www.childwelfare.gov)

#### **Child Welfare League of America**

202-688-4200

[www.cwla.org](http://www.cwla.org)

#### **Children's Defense Fund**

202-628-8787 or

800-233-1200

[www.childrensdefense.org](http://www.childrensdefense.org)

#### **Fair Housing Council of Oregon**

(Housing discrimination)

503-223-8197

[www.fhco.org](http://www.fhco.org)

#### **Generations United**

202-289-3979

[www.gu.org](http://www.gu.org)

**10a.**  
**Organizations**

**GrandsPlace**

860-763-5789  
[www.grandsplace.org](http://www.grandsplace.org)

**National Committee of Grandparents for Children's Rights**

866-624-9900 (to speak with a grandparent)  
888-659-3745 (to speak with a resource specialist)  
[www.grandparentsforchildren.org](http://www.grandparentsforchildren.org)

**National Council on Aging**

“Benefits CheckUp”  
[www.benefitscheckup.org](http://www.benefitscheckup.org)  
(Federal benefits available to caregivers)

**The Brookdale Foundation Group**

212-308-7355  
[www.brookdalefoundation.org](http://www.brookdalefoundation.org)

**The Urban Institute**

202-833-7200  
[www.urban.org](http://www.urban.org)

**U.S. Department of Housing and Urban Development**  
(Housing discrimination)

800-669-9777  
Portland Field Office  
971-222-2600  
[www.hud.gov](http://www.hud.gov)



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## 10b. Legal assistance

### **AARP Legal Services Network**

(For members only—reduced-fee legal services)

866-330-0753

[www.aarp.org/lbn](http://www.aarp.org/lbn)

### **American Bar Association**

Kinship Care Legal Research Center

800-285-2221

[www.abanet.org/child/kinshipcare.shtml](http://www.abanet.org/child/kinshipcare.shtml)

### **Area Agencies on Aging**

Free initial consultations for ages 60 and older; not available in all locations. See Part 10g.

### **Lawyer Referral Service/Modest Means Panel**

Oregon State Bar

(Reduced-fee initial consultations)

503-431-6408

800-452-8260 ext. 408

[www.osbar.org/public/ris/ris.html#referral](http://www.osbar.org/public/ris/ris.html#referral)

### **Legal aid offices**

Some have free services for age 60 and over, no income limitations; all offer free services for very-low-income persons of all ages. See part 10h.

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## **10c. Information and services**

### **AARP Oregon state office**

866-554-5360

[www.aarp.org/states/or](http://www.aarp.org/states/or)

### **Children and Families local offices**

Listed under “State Government”

### **Oregon Department of Human Services local offices**

See part 10e.

### **Oregon SAFENET**

800-723-3638

[www.211info.org](http://www.211info.org)

### **Social Security Administration**

Listed under “Federal Government”

### **211 United Way Information and Referral Line**

211 or 866-698-6155

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## 10d. Support groups in Oregon

Support groups for grandparents and others raising children exist throughout Oregon. Because these groups are informal, membership and contact information may change frequently. For information that is more current than this guide could provide, see <http://www.orparc.org/services/groups/>. If the ORPARC listing in your community is not current, contact your local area Agency on Aging for direction.

## 10e. Oregon Department of Human Services offices, by county

Baker	541-523-8416
Benton	541-967-2078
Clackamas	971-673-7300
Clatsop	503-397-3292
Columbia	503-397-3292
Coos	541-888-2667
Crook	541-504-1320
Curry	541-888-2667
Deschutes	541-504-1320
Douglas	541-440-3301
Gilliam	541-298-4961
Grant	541-889-9194
Harney	541-889-9194
Hood River	541-298-4961
Jackson	541-776-6186
Jefferson	541-504-1320
Josephine	541-776-6186
Klamath	541-883-5511

**10e. Oregon  
Department  
of Human  
Services  
offices**

Lake	541-883-5511
Lane	541-687-7373
Lincoln	541-967-2078
Linn	541-967-2078
Malheur	541-889-9194
Marion	503-378-3402
Morrow	541-567-2253
Multnomah	503-731-3111
Polk	503-378-3402
Sherman	541-298-4961
Tillamook	503-397-3292
Umatilla	541-567-2253
Union	541-523-8416
Wallowa	541-523-8416
Wasco	541-298-4961
Washington	503-598-3100
Wheeler	541-298-4961
Yamhill	503-378-3402

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## 10f. Oregon county circuit courts and tribal courts

Baker	541-523-8209
Benton	541-766-6828
Clackamas	503-655-8447
Clatsop	503-325-8555
Columbia	503-397-4322
Coos	541-396-3121
Crook	541-447-6541
Curry	541-247-3295
Deschutes	541-388-6549
Douglas	541-672-3311
Gilliam	541-384-2311
Grant	541-575-4034
Harney	541-573-6641
Hood River	541-386-3535
Jackson	541-774-6147
Jefferson	541-475-4451
Josephine	541-476-2309
Klamath	541-883-5503
Lake	541-947-6051
Lane	541-682-4020
Lincoln	541-265-4102
Linn	541-967-3845
Malheur	
(Guardian)	541-473-5151
(Custody)	541-473-5171
Marion	503-588-5225

**10f. Oregon  
county  
circuit courts  
and tribal  
courts**

Morrow	541-676-5264
Multnomah	503-988-3022 ext.2
Polk	503-623-9217
Sherman	541-565-3606
Tillamook	503-842-3402
Umatilla	541-278-0341
Union	541-962-9500
Wallowa	541-426-4543
Wasco	541-506-2714
Washington	503-846-2016
Wheeler	541-763-2400
Yamhill	503-434-7530
Burns Paiute Tribal Court	541-573-2793
Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians	541-888-9577
Confederated Tribes of Grande Ronde Tribal Court	503-879-2303
Confederated Tribes of the Warm Springs Reservation	541-553-3454
Coquille Indian Tribal Court	541-756-0904
Cow Creek Band of Umpqua Tribal Court	541-677-5586
Klamath Tribes Judiciary	541-783-3020
Confederated Tribes of the Siletz Indians of Oregon	541-444-8228
Confederated Tribes of the Umatilla Indian Reservation Tribal Court	541-276-2046

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## 10g. Area Agency on Aging offices

### **Area Agency on Aging**

125 N. 17th St  
St. Helens, OR 97051  
503-397-3511

### **Central Oregon Council on Aging**

1135 S.W. Highland Ave  
Redmond, OR 97756  
541-548-8817  
[www.councilonaging.org](http://www.councilonaging.org)

### **Clackamas Area Agency on Aging**

2051 Kaen Rd, 1st floor  
P.O. Box 2950  
Oregon City, OR 97045  
503-655-8640

### **Clatsop Northwest Seniors and Disability Services**

2002 S.E. Chokeberry Rd  
Warrenton, OR 97146  
503-861-4200

### **Community Action Program East Central Oregon**

721 S.E. 3rd, Suite D  
Pendleton, OR 97801  
800-752-1139  
541-276-1926  
[www.capco-works.org](http://www.capco-works.org)

### **Community Connection of Northeast Oregon**

2810 Cedar St  
Baker City, OR 97814  
541-523-6591  
[www.ccno.org](http://www.ccno.org)

### **Douglas County Senior Services Division**

621 W. Madrone St, Room 316  
Roseburg, OR 97470  
541-440-3580  
800-234-0985  
[www.co.douglas.or.us/dch/SS/index.htm](http://www.co.douglas.or.us/dch/SS/index.htm)

### **Grant County Services AAA**

142 N.E. Dayton  
John Day, OR 97845  
541-575-2949

### **Harney County Senior Citizens, Inc.**

17 S. Alder St  
Burns, OR 97720  
541-573-6024

## *10g. Area Agency on Aging offices; continued*

### **Klamath Basin Senior Citizen Council**

P.O. Box JE  
Klamath Falls, OR 97602  
541-883-7171

### **Eugene AAA, Lane Council of Governments**

1015 Willamette, Suite 200  
P.O. Box 11336  
Eugene, OR 97440  
541-682-4498  
[www.sdslane.org](http://www.sdslane.org)

### **Cottage Grove AAA, Lane Council of Governments**

37 N. 6th St  
Cottage Grove, OR 97424  
541-682-7800

### **Malheur Council on Aging**

842 S.E. First Ave  
P.O. Box 937  
Ontario, OR 97914  
541-889-7651

### **Mid-Columbia Council of Governments**

1113 Kelly Ave  
The Dalles, OR 97058  
541-298-4101

### **Portland West Aging Services**

421 S.W. Oak, Suite 175  
Portland, OR 97204  
503-998-5460

### **North Salem Aging & Disabilities Services**

3410 Cherry Ave N.E.  
P.O. Box 12189  
Salem, OR 97309-0189  
800-469-8772  
503-304-3400  
[www.nwsds.org](http://www.nwsds.org)

### **Oregon Cascades West Council of Governments**

1400 Queen Avenue S.E., Suite 206  
Albany, OR 97322  
800-638-0510  
541-967-8630  
[www.ocwcog.org](http://www.ocwcog.org)

### **Rogue Valley Council of Governments**

155 N. First St  
P.O. Box 3275  
Central Point, OR 97502-2209  
541-664-6674

### **Area Agency on Aging**

93781 Newport Lane  
P.O. Box 1118  
Coos Bay, OR 97420-4030  
800-858-5777  
541-269-2013

### **Tillamook Northwest Senior and Disability Services**

5010 E. Third St  
Tillamook, OR 97141  
800-584-9712  
503-842-2770

*10g. Area Agency on Aging offices; continued*

**Washington County Disability,  
Aging, & Veterans Services**

180 E. Main St, Suite 208

Hillsboro, OR 97123

503-846-3060

[www.co.washington.or.us/HHS/DAVS](http://www.co.washington.or.us/HHS/DAVS)

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## 10h. Legal services programs, by county

### **Baker**

OLC Ontario Regional Office  
541-889-3121  
888-250-9877

### **Benton**

LASO Albany Regional Office  
541-926-8678  
800-817-4605

### **Clackamas**

LASO Oregon City Regional Office  
503-655-2518  
800-228-6958

### **Clatsop**

LASO Hillsboro Regional Office  
503-640-4115  
877-296-4076

### **Columbia**

LASO Hillsboro Regional Office  
503-640-4115  
877-296-4076

### **Coos**

OLC Coos Bay Regional Office  
541-269-1226  
800-303-3638

### **Crook**

LASO Bend Regional Office  
541-385-6944  
800-678-6944

### **Curry**

OLC Coos Bay Regional Office  
541-269-1226  
800-303-3638

### **Deschutes**

LASO Bend Regional Office  
541-385-6944  
800-678-6944

### **Douglas**

LASO Roseburg Regional Office  
541-673-1181  
888-668-9406

### **Gilliam**

LASO Pendleton Regional Office  
541-276-6685  
800-843-1115  
800-228-6958 (persons over 60)

### **Grant**

OLC Ontario Regional Office  
541-889-3121  
888-250-9877

### **Harney**

OLC Ontario Regional Office  
541-889-3121  
888-250-9877

### **Hood River**

LASO Oregon City Regional Office  
503-655-2518  
800-228-6958

### **Jackson**

Center for Non-profit Legal Services  
541-779-7291  
541-779-7000 (persons over 60)

## *10h. Legal services programs, by county; continued*

### **Jefferson**

LASO Bend Regional Office  
541-385-6944  
800-678-6944

### **Josephine**

OLC Grants Pass Regional Office  
541-476-1058  
541-471-3033 (persons over 60)

### **Klamath**

LASO Klamath & Lake Counties  
541-273-0533  
800-480-9160

### **Lake**

LASO Klamath & Lake Counties  
541-273-0533  
800-480-9160

### **Lane**

Lane County Legal Aid & Advocacy  
Center  
541-485-1017  
800-422-5247

### **Lincoln**

LASO Lincoln County Regional Office  
541-265-5305  
800-222-3884

### **Linn**

LASO Albany Regional Office  
541-926-8678  
800-817-4605

### **Malheur**

OLC Ontario Regional Office  
541-889-3121  
888-250-9877

### **Marion**

Marion-Polk Legal Aid, LASO Regional  
Office  
503-581-5265  
800-359-1845  
LASO Woodburn Farmworker Office  
503-981-5291  
800-662-6096

### **Morrow**

LASO Pendleton Regional Office  
800-843-1115  
541-276-6685

### **Multnomah**

LASO Multnomah County Office  
503-224-4086  
888-610-8764  
503-669-8350 (Spanish)  
503-323-7350 (Russian)  
LASO Native American Tribal Issues  
503-223-9483

### **Polk**

Marion-Polk Legal Aid, LASO Regional  
Office  
503-581-5265  
800-359-1845

### **Sherman**

LASO Oregon City Regional Office  
503-655-2518  
800-228-6958

## *10h. Legal services programs, by county; continued*

### **Tillamook**

LASO Hillsboro Regional Office  
503-640-4115  
877-296-4076

### **Umatilla**

LASO Pendleton Regional Office  
541-276-6685  
800-843-1115

### **Union**

LASO Pendleton Regional Office  
541-276-6685  
800-843-1115

### **Wallowa**

LASO Pendleton Regional Office  
541-276-6685  
800-843-1115

### **Wasco**

LASO Oregon City Regional Office  
503-655-2518  
800-228-6958

### **Washington**

LASO Hillsboro Regional Office  
503-640-4115  
877-296-4076

### **Wheeler**

LASO Pendleton Regional Office  
800-843-1115  
541-276-6685

### **Yamhill**

LASO Hillsboro Regional Office  
503-472-9561 (McMinnville satellite)  
503-640-4115, 877-296-4076 (Hillsboro)

# Part 11

## Glossary

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**actual custody**—A person has physical custody of a child if the child lives with the person and the person takes care of the child. Actual custody does not have any legal rights attached to it. See **legal custody** and **physical custody**.

**adoption**—a legal process that substitutes someone new for a former parent or set of parents

**certified mail**—a way to send mail that provides proof the mail was received

**childcare subsidy**—financial help from DHS for payment to day care providers

**child support**—the duty of parents to provide financial support for their children. Also, an order by a court for one or both parents to pay a regular amount to the person who has physical custody of their child

**circuit court**—the trial court in Oregon

**concurrent jurisdiction**—an agreement between a tribe and the state for the state to handle certain kinds of cases involving children who are tribal members or are eligible to be tribal members

**court mediator**—a trained worker in some family courts who helps people create their own solutions to their problems instead of relying on a judge to decide for them

**custodial parent**—the parent who, as the result of a court decision, has the right to make decisions affecting a child's interest and the primary responsibility for taking care of the child

## Glossary

**custody**—the responsibility for someone’s care. See **actual custody**, **legal custody**, and **physical custody**.

**defendant**—also known as a respondent; the person against whom someone starts a case in court

**Department of Human Services**—an Oregon government agency responsible for several programs to assist low-income Oregonians, such as the Oregon Health Plan, SNAP, the TANF (financial help for families) program, child protection, child adoption, and other services

**dependency proceedings**—action taken by juvenile court to protect children from neglect or abuse by their parents and other family members

**DHS**—the Oregon Department of Human Services

**domestic violence shelter**—in many Oregon communities, an organization that can provide temporary safe space to victims of family violence. These organizations generally also provide counseling, safety planning, and other services to families escaping abuse.

**Family Abuse Prevention Act (FAPA)**—an Oregon law that makes it possible for adult victims of violence within the family to get court orders restraining the abuser from further violence. The law provides for arrest if the abuser violates the order; it can name the victim, at least temporarily, as the custodial parent of children, and can force the abuser out of the family home.

**Family Court**—a part of the state circuit courts that deals with legal problems among family members over divorce, child custody, guardianship, paternity, and violence in the family

**full legal custody**—See **legal custody**.

**garnish**—to take a portion of a person’s wage or self-employment income to collect on a debt

**guardian**—a person who gets the legal right from a court to control and care for another person, such as a minor child

**guardianship**—a court-ordered legal right to one person to make decisions for another person, including decisions about the person’s physical, medical, and educational needs

**home study**—an evaluation by a trained worker to see whether a proposed living situation will be suitable for the people who would be living together

**household**—a person or group of people with a certain relationship who live in one home together. Many government programs that provide assistance to needy families base the help on the number and income of the people in a household. A household does not necessarily mean everyone who lives in a place together; the relationship of the people is what determines who makes up the household. The definition is different for different programs.

**ICWA**—Indian Child Welfare Act. A federal law that requires parties to give formal notice to the tribe in cases involving Indian children or children eligible for membership in a tribe

**intervene**—See **intervenor**.

**intervenor**—a person permitted by the court to make a claim in a case when the person is not the plaintiff or defendant in the case

**juvenile court**—a special court that deals with offenses against children by family members, and with offenses by children against persons and property

**legal custody**—the right, given by court order, to make decisions in a child’s interest

**mediation service**—a service offered by most family courts, in which a trained worker helps families work out agreements to solve their own problems instead of relying on a decision by a judge

**Medicaid**—a government-sponsored program to provide health-care coverage to low-income persons. In Oregon, it is called the Oregon Health Plan.

## *Glossary*

**OHP**—the Oregon Health Plan (Oregon’s Medicaid program)

**Oregon Health Plan**—a government-sponsored program to provide health-care coverage for low-income Oregonians

**parenting time**—the periods of time when, according to a court order, a parent has the authority to take care of the parent’s children

**paternity**—fatherhood. As a legal term, it means that, by one of several legal processes (including a court decision), a man is declared to be a child’s legal father.

**petition**—the first papers filed in a court to start a family law case

**physical custody**—the responsibility for taking care of a child

**plaintiff**—also known as a petitioner, the person who starts a case in court

**power of attorney**—a document that gives another person the legal authority to act on your behalf

**protective custody**—the temporary removal of children from their home, by the state, for their own protection; generally used only in emergency situations

**respite**—planned or emergency short-term relief to caregivers from the demands of ongoing care for an individual with special needs or at risk of abuse or neglect

**safety plan**—a set of ideas and actions a person can take if it becomes necessary to escape from an abusive situation

**separate household**—See household.

**SNAP (formerly food stamps)**—Supplemental Nutrition Assistance Program, a program administered by DHS that provides food benefits to eligible families

**stalking**—threatening conduct by another, even if there has been no actual violence

**stalking protection order**—A court order to restrain a stalker from further contact; violation results in arrest

**surrogate**—a woman who carries the fetus of another and gives birth to the other’s child on behalf of that person

**TANF**—temporary financial assistance for needy families or caretaker relatives. This program is administered by DHS and can include a small amount of cash monthly.

**temporary power of attorney for child care**—a document, valid for up to 6 months (longer for parents on active military duty), that allows another person to care for your children and gives the person the authority to deal with the children’s medical and other issues

**trust**—funds or other property set aside for use over time on behalf of a person. A trustee handles the funds and distributes them according to the instructions of the person who created the trust.

**unfit**—a child’s parent (or other legal guardian) is unfit if a court determines the person is permanently unwilling or unable to act in the child’s best interest. A court can terminate the parent-child relationship without the parent’s consent only if it is convinced the parent is unfit.

**visitation**—a legal right, given by a court order, for a parent or other person to spend certain periods of time with the children. In Oregon, this right is called **parenting time** when it refers to time spent by a parent with his or her children.

**ward**—a child who is the responsibility of a guardian