



FAMILY COURT OF THE STATE OF DELAWARE

3rd PARTY GRANDPARENT VISITATION

Who may file a Petition for 3rd party/grandparent visitation?

Any adult person who is not a parent of the child with whom they seek visitation may file if they:

- have a substantial and positive prior relationship with the child OR
 - are an aunt, uncle, grandparent or adult sibling of the child(ren) OR
 - A guardian ad litem on behalf of the child if:
 - The child is seeking visitation with a minor sibling or half sibling
- OR**
- The adult person with whom visitation is sought consents to visitation
- AND**
- Has a substantial and positive prior relationship with the child
- OR**
- Is the grandparent, aunt, uncle or adult sibling of the child

Can I or my relatives file for visitation with my child if my parental rights have been terminated?

Only if more than 3 years have passed since rights were terminated and the child has not been adopted.

OR

Only if the adoptive parents have previously entered into a written notarized agreement or court-approved agreement for continued visitation.

What if I am a parent seeking visitation with my child?

A parent may file a Petition for Parental Visitation. In cases of parental visitation, the Court applies a different standard when making its decision. Please see the Parental Visitation Instruction Packet for more information.

What will a visitation order provide?

A visitation order will provide the parties with a schedule of contact with a child. A visitation order will not address custody or guardianship of a child.

What if the other party and I agree on a visitation schedule?

You may file a Consent Order along with your Petition for 3rd Party/Grandparent Visitation. A Judicial Officer will review your consent order. If the Consent Order is signed by the Judicial Officer, it becomes a Court Order, which must be followed.

Will I attend mediation?

After all of the Respondents have been served with the Petition for 3rd Party/Grandparent Visitation and each of the Respondents has had an opportunity to file an Answer, the Court normally will schedule your visitation matter for Mediation. ALL PARTIES are required to attend. Mediation will not be scheduled if there is an active no contact order between the parties or a finding of domestic violence, or if one of the parties is a sex offender as defined by Delaware law.

How does the Court decide if I will get visitation?

The Court will determine whether to grant visitation based on the following factors:

1. Whether visitation is in the child's best interests **AND**
2. One of the following is true as to each parent:
 - The parent consents to the visitation **OR**
 - The child is dependent, neglected, or abused in the parent's care **OR**
 - The parent is deceased **OR**

- The visitation will not substantially interfere with the parent/child relationship and the parent's objection is unreasonable (this factor only applies if a parent objects)

What happens if both parents object to my visitation?

If the child has two parents and the child is not dependent, neglected or abused in either parent's care, visitation may not be granted where both parents object.

How can I file my petition and related paperwork?

Petitions and papers may be filed at or mailed to the Family Court in each county.

Family Court also now accepts petitions and papers by email. To file your petition by email, you must send the petition and all required forms to:

FC_CustodyVisitation@delaware.gov. Please see the below list for the forms that must be filed with your petition. Family Court will serve the other parties your petition.

You may also use FC_CustodyVisitation@delaware.gov to file with the Court answers, motions, and any other required papers. Although you can file these documents with the Court by email, you must still serve copies of these documents on the other parties personally or by mail.

****Before filing by email, please review the Civil Filing by Email FAQ:**

<https://courts.delaware.gov/family/faqs>

Required Forms For Visitation

- [Petition for 3rd Party Visitation](#) (Form 172)
- [Custody Separate Statement](#) (Form 346)
- [Information Sheet](#) (Form 240)

Required Forms for Visitation Modification (to modify an existing Visitation Orders)

- [Petition to Modify Parental Visitation](#) (Form 351)
- [Custody Separate Statement](#) (Form 346)

- [Information Sheet](#) (Form 240)

Situational Forms (Please review all forms and scenarios)

- [Affidavit of Unknown Address](#) (Form 241)
This form should be filed if you do not know where the Respondent(s) live
- [Consent Order - Visitation](#) (Form 349V)
File this document only if you and the Respondent(s) have already agreed on how the visitation matters should be arranged
- [Affidavit of Non-Military Service](#) (Form 405)
This form should be filed if you know that the Respondent is NOT in the military service of the United States of America and ONLY if the Respondent has not filed an answer or otherwise entered an appearance with the Court by the day of your hearing
- [Waiver of Rights under the Servicemembers' Civil Relief Act](#) (Form 420)
 - File this form only if the Respondent is in the military
 - If the Respondent does not file an Answer or Affidavit of Appearance, you must have the Respondent(s) sign the form
 - If you are unable to reach the Respondent to obtain any of these documents, you must file a Motion to Appoint and Attorney ([see Motion Packet](#))

Family Court Contact Information

New Castle County	Kent County	Sussex County
500 NORTH KING STREET WILMINGTON, DE 19801 (302) 255-0300	445 SOUTH GOVERNORS AVENUE DOVER, DE 19904 (302) 672-1000	100 EAST MARKET STREET GEORGETOWN, DE 19947 (302) 855-7400

For more information, visit the [Family Court webpage](#) or scan the QR code.

