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South Carolina Laws Concerning Grandparents Seeking Custody of Grandchildren

Grandparents sometimes transition to the role of parent after obtaining custody. Grandparents residing in the state of South Carolina may make the decision to seek custody of their grandchildren for a variety of reasons. Regardless of the cause, custody must be obtained through the appropriate legal measures. The Palmetto State has a myriad of laws in place to help ensure that the best interests of the child, biological parents and the grandparents are represented when custody decisions are made.

Best Interest of the Child

The state of South Carolina places a strong emphasis on standards regarding the best interests of the child when determining whether or not grandparents should be awarded custody of their grandchildren. All parents have the right to make their own decisions in regard to the raising of their children unless it is determined through clear and convincing evidence that the actions of the parents create an unstable or unhealthy climate for the child. At that point, what is considered to be in the best interest of the child outweighs the rights of the parent under South Carolina law. In most cases, the wishes of the child are also taken into consideration if the child's age, maturity level and experience are determined to be adequate in order to express a preference.

Burden of Proof

In order for a parent's rights to custody to be terminated, whether temporarily or permanently, clear and convincing evidence must be presented that the parents actions or inability to properly care for their child put the child at risk, either physically or emotionally. Examples of what would be considered sufficient in regard to proof includes a documented history of drug abuse, criminal arrests, documented cases of domestic violence toward the child or documented instances of abandonment for any period of time. A petition for custody must be submitted before the court of jurisdiction in which the child resides and must be documented with copies of police records, medical records or documents submitted by the department of social services, or other local agencies, designated to perform investigations of child abuse and neglect.

Adoption Issues

In matters of adoption, grandparents have no rights to custody of their grandchildren if the biological parents have placed their child for adoption and the adoption has been finalized. The legal adoption of a child gives adoptive parents the same rights

and privileges as those of natural parents in regard to the exclusive rights to raise their child. The only exception to a grandparent's rights to custody for a grandchild that has been placed for adoption under South Carolina law is if the grandparents are successfully granted custody of their grandchild before an adoption is finalized by prospective adoptive parents.

Source: *"South Carolina Laws Concerning Grandparents Seeking Custody of Grandchildren"*

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