

Legal Notes: Augusts 2017

Grandparents, ideally, have their grandchildren for a few hours, stuff them with bad food, take them fishing, or go to the Children's Museum, and then send them toddling back home to mom and dad. Sometimes, for good or bad reasons, grandparents are called upon to take a bigger role in their grandchildren's lives.

If a grandparent has to care for their grandchildren for an extended period of time, there are a number of legal procedures that should be explored. We are talking about a voluntary arrangement, agreeable to both the parent(s) and the grandparents. Involuntary arrangements, such as termination of parental rights, are not being discussed in this article.

A few years ago, the legislature put into place an easy mechanism for transferring some, but not all powers, of a parent. In past articles I've written about the importance of powers of attorney for finance and health care. A parent can also sign a power of attorney transferring parental rights. All parental powers are transferred except some of the big ones, e.g. consent to marriage, legal custody and enrollment in the armed forces. Otherwise, the grandparent has all the powers of the parent.

There are some other limitations. The power of attorney is only good for one year and then must be re-executed. All parents who have legal custody must sign the power of attorney, so this includes parents who have legal custody but don't have primary placement, a distinction that is often confused. There may be other limitations, such as the ability to get a grandchild on the grandparent's health insurance policy. Finally, the parent can revoke the power of attorney at any time.

Another avenue is to pursue a legal guardianship. The main difference between the guardianship and the power of attorney are the permanency of the rights. A guardianship will be in place until the child is an adult. The parent can't revoke the guardianship at will. The guardianship is more expensive as it requires not only the hiring of an attorney, but a guardian ad litem as well.

Being a grandparent can be fun and games, but if you're taking on a more serious role for your grandchildren, be sure you have the tools to do so.