



2024 Edition

# Rights of Grandparents and Third Parties in Connecticut

A Guide to Resources in the Law Library

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See Also:

- [Child Custody Actions in Connecticut](#)
- [Child Visitation in Connecticut](#)

*For Child Abuse and Neglect and Termination of Parental Rights Juvenile Court matters, see the following research guides:*

- [Child Abuse and Neglect in Connecticut](#)
- [Termination of Parental Rights in Connecticut](#)

*Prepared by Connecticut Judicial Branch, Superior Court Operations,  
Judge Support Services, Law Library Services Unit*

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<https://jud.ct.gov/lawlib/selfguides.htm>

This guide links to advance release opinions on the Connecticut Judicial Branch website and to **case law hosted on Google Scholar and Harvard's Case Law Access Project**.  
The online versions are for informational purposes only.

References to online legal research databases refer to in-library use of these databases.  
Remote access is not available.

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<https://www.jud.ct.gov/policies.htm>

# Introduction

A Guide to Resources in the Law Library

- Grandparent: “means a grandparent or great-grandparent related to a minor child by (A) blood, (B) marriage, or (C) adoption of the minor child by a child of the grandparent;” Conn. Gen. Stat. § [46b-59](#)(1) (2023).
- Any Person: **“We view the 1983 amendment that extended standing to any third person as a reflection of the legislature’s recognition that persons other than parents may have substantial relationships with children that warrant preservation.”** [Roth v. Weston](#), 259 Conn. 202, 220, 789 A.2d 431 (2002).
- “In an ideal world, parents might always seek to cultivate the bonds between grandparents and their grandchildren. Needless to say, however, our world is far from perfect, and in it the decision whether such an intergenerational relationship would be beneficial in any specific case is for the parent to make in the first instance. And, if a fit parent’s decision of the kind at issue here becomes subject to judicial review, the court must accord at least some special weight to the parent’s own determination.” [Troxel v. Granville](#), 530 U.S. 57, 70, 120 S.Ct. 2054, 147 L.Ed. 2d 49 (2000).
- Third Party: **“When construing similarly broad language concerning third party visitation in [Roth](#), we noted that the 1983 amendment to the visitation statute extending standing to ‘any person’; Public Acts 1983, No. 83-95; reflected ‘the legislature’s recognition that persons other than parents may have substantial relationships with children that warrant preservation.’** *Roth v. Weston*, supra, 259 Conn. 220. We also recognized that, ‘in many households, grandparents, as well as people who have no biological relationship with a child, undertake duties of a parental nature and that states have sought to ensure the welfare of children by protecting those relationships. Some states have done this expressly ... while others have done so by judicial gloss....’” [Fish v. Fish](#), 285 Conn. 24, 43, 939 A. 2d 1040 (2008).
- Parent vs. Third Party: **“Where the dispute is between a fit parent and a private third party, however, both parties do not begin on equal footing in respect to rights to ‘care, custody, and control’ of the children. The parent is asserting a fundamental constitutional right. The third party is not. A private third party has no fundamental constitutional right to raise the children of others. Generally, absent a constitutional statute, the non-governmental third party has no rights, constitutional or otherwise, to raise someone else’s child.”** [McDermott v. Dougherty](#), 385 Md. 320, 353, 869 A.2d 751 (2005) cited in [Fish v. Fish](#), 285 Conn. 24, 45-46, 939 A. 2d 1040 (2008).

Table 1: Petition for Right of Visitation with Minor Child. Order for Payment of Fees.

Conn. Gen. Stat. § <a href="#">46b-59</a> (2023)	
Definitions	<p>(a) As used in this section:</p> <p><b>(1) "Grandparent" means a grandparent or great-grandparent</b> related to a minor child by (A) blood, (B) marriage, or (C) adoption of the minor child by a child of the grandparent; and</p> <p><b>(2) "Real and significant harm" means that the minor child is</b> neglected, as defined in section 46b-120, or uncared for, as defined in said section.</p>
Petition Requirements and Standard of Proof	<p>(b) Any person may submit a verified petition to the Superior Court for the right of visitation with any minor child. Such petition shall include specific and good-faith allegations that (1) a parent-like relationship exists between the person and the minor child, and (2) denial of visitation would cause real and significant harm. Subject to subsection (e) of this section, the court shall grant the right of visitation with any minor child to any person if the court finds after hearing and by clear and convincing evidence that a parent-like relationship exists between the person and the minor child and denial of visitation would cause real and significant harm.</p>
Factors the Court May Consider	<p>(c) In determining whether a parent-like relationship exists between the person and the minor child, the Superior Court may consider, but shall not be limited to, the following factors:</p> <p>(1) The existence and length of a relationship between the person and the minor child prior to the submission of a petition pursuant to this section;</p> <p>(2) The length of time that the relationship between the person and the minor child has been disrupted;</p> <p>(3) The specific parent-like activities of the person seeking visitation toward the minor child;</p> <p>(4) Any evidence that the person seeking visitation has unreasonably undermined the authority and discretion of the custodial parent;</p> <p>(5) The significant absence of a parent from the life of a minor child;</p> <p>(6) The death of one of the minor child's parents;</p> <p>(7) The physical separation of the parents of the minor child;</p> <p>(8) The fitness of the person seeking visitation; and</p> <p>(9) The fitness of the custodial parent.</p>
Additional Factors for Grandparents	<p>(d) In determining whether a parent-like relationship exists between a grandparent seeking visitation pursuant to this section and a minor child, the Superior Court may consider, in addition to the factors enumerated in subsection (c) of this section, the</p>

	history of regular contact and proof of a close and substantial relationship between the grandparent and the minor child.
Terms and Conditions of Visitation (Best Interest of the Child)	(e) If the Superior Court grants the right of visitation pursuant to subsection (b) of this section, the court shall set forth the terms and conditions of visitation including, but not limited to, the schedule of visitation, including the dates or days, time and place or places in which the visitation can occur, whether overnight visitation will be allowed and any other terms and conditions that the court determines are in the best interest of the minor child, provided such conditions shall not be contingent upon any order of financial support by the court. In determining the best interest of the minor child, the court shall consider the wishes of the minor child if such minor child is of sufficient age and capable of forming an intelligent opinion. In determining the terms and conditions of visitation, the court may consider (1) the effect that such visitation will have on the relationship between the parents or guardians of the minor child and the minor child, and (2) the effect on the minor child of any domestic violence that has occurred between or among parents, grandparents, persons seeking visitation and the minor child.
Visitation Rights Shall Not Be Deemed to Have Created Parental Rights	(f) Visitation rights granted in accordance with this section shall not be deemed to have created parental rights in the person or persons to whom such visitation rights are granted, nor shall such visitation rights be a ground for preventing the relocation of the custodial parent. The grant of such visitation rights shall not prevent any court of competent jurisdiction from thereafter acting upon the custody of such child, the parental rights with respect to such child or the adoption of such child and any such court may include in its decree an order terminating such visitation rights.
<b>Attorney's Fees and Other Fees</b>	(g) Upon motion, the court may order the payment of fees for another party, the attorney for the minor child, the guardian ad litem, or any expert by any party in accordance with such party's financial ability.

# Section 1: Visitation with Grandchildren

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A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to the rights of grandparents to visitation with their grandchildren in family matters in Connecticut.

SEE ALSO:

- [Child Visitation Actions in Connecticut](#)  
§ 2. Third party visitation actions
- [Best Interest of the Child Standard in Connecticut](#)

DEFINITIONS:

- “Grandparent’ means a grandparent or great-grandparent related to a minor child by (A) blood, (B) marriage, or (C) adoption of the minor child by a child of **the grandparent;**” Conn. Gen. Stat. § [46b-59](#)(1) (2023).
- Parent-Like Relationship: “. . . any third party, including a grandparent or a great-grandparent, seeking visitation must allege and establish a parent-like relationship as a jurisdictional threshold in order both to pass constitutional muster and to be consistent with the legislative intent.” [Roth v. Weston](#), 259 Conn. 202, 222, 789 A.2d 431 (2002).
- Right to Visitation: **“Any person may submit a verified petition to the Superior Court for the right of visitation with any minor child. Such petition shall include specific and good-faith allegations that (1) a parent-like relationship exists between the person and the minor child, and (2) denial of visitation would cause real and significant harm. Subject to subsection (e) of this section, the court shall grant the right of visitation with any minor child to any person if the court finds after hearing and by clear and convincing evidence that a parent-like relationship exists between the person and the minor child and denial of visitation would cause real and significant harm.”** Conn. Gen. Stat. § [46b-59](#)(b) (2023).
- Harm: **“The harm alleged in a visitation petition results from the child’s lack of access to the petitioner rather than from the parent-child relationship, which is deemed to be beneficial.”** [Fish v. Fish](#), 285 Conn. 24, 47, 939 A.2d 1040 (2008).
- Best Interest of the Child: “If the Superior Court grants the right of visitation pursuant to subsection (b) of this section, the court shall set forth the terms and conditions of visitation including, but not limited to, the schedule of visitation, including the dates or days, time and place or places in which the visitation can occur, whether overnight visitation will be allowed and any other terms and conditions that the court determines are in the best interest of the minor child, provided such conditions shall

not be contingent upon any order of financial support by the court. In determining the best interest of the minor child, the court shall consider the wishes of the minor child if such minor child is of sufficient age and capable of forming an intelligent opinion. In determining the terms and conditions of visitation, the court may consider (1) the effect that such visitation will have on the relationship between the parents or guardians of the minor child and the minor child, and (2) the effect on the minor child of any domestic violence that has occurred between or among parents, grandparents, persons seeking visitation and the minor child.” Conn. Gen. Stat. § [46b-59](#)(e) (2023).

- Roth Standards Are Applicable to Modifications and Initial Applications: “Furthermore, the *Roth standards apply equally whether a third party initially moves for an order of visitation or a parent moves to modify such an order.*” [Martocchio v. Savoie](#), 153 Conn. App. 492, 502-503, 101 A. 3d 953 (2014).

#### STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2023).  
[Chapter 815j](#). Dissolution of Marriage, Legal Separation and Annulment  
§ [46b-56](#). Orders re custody, care, education, visitation and support of children. Best interests of the child. Access to records of minor child by noncustodial parent. Orders re therapy, counseling and drug or alcohol screening.  
§ [46b-56b](#). Presumption re best interest of child to be in custody of parent.  
§ [46b-59](#). Petition for right of visitation with minor child. Order for payment of fees.

#### COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Conn. Practice Book (2024).  
[Chapter 25](#). Procedure in Family Matters  
§ 25-3. Action for custody of minor child  
§ 25-4. Action for visitation of minor child  
§ 25-5. Automatic orders upon service of complaint or application  
§ 25-57. Affidavit concerning children  
§ 25-62. Appointment of guardian ad litem

#### LEGISLATIVE:

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each **report's** publication. Current law may be different from what is discussed in the reports.

- ***Grandparents' Visitation Rights***, Michelle Kirby, Connecticut General Assembly, Office of Legislative Research Report, [2023-R-0117](#) (June 7, 2023).
- ***Grandparents' Visitation Rights in Connecticut and Select States***, Michelle Kirby, Connecticut General Assembly, Office of Legislative Research Report, [2015-R-0082](#) (February 17, 2015).
- ***Updated Report: Caselaw on Grandparents' Visitation Rights in Connecticut***, Susan Price and Duke Chen,

Connecticut General Assembly, Office of Legislative Research Report, [2011-R-0333](#) (October 25, 2011).

- *Grandparent Visitation Over a Parents' Objection*, Susan Price, Connecticut General Assembly, Office of Legislative Research Report, [2011-R-0022](#) (January 10, 2011).
- *Grandparents' Rights*, Soncia Coleman, Connecticut General Assembly, Office of Legislative Research Report, [2009-R-0439](#) (December 30, 2009).

#### COURT FORMS:

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) for the current forms.

- Connecticut Judicial Branch – Superior Court [JD-FM-221](#). Verified Petition for Visitation – Grandparents & Third Parties (rev. 12/21) [JD-FM-185](#) Motion for Intervention in Family Matters (rev. 8/17) [Filing for Custody or Visitation \(or both\)](#)

#### CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Delena v. Grachitorena](#), 216 Conn. App. 225, 231, 283 A.3d 1090 (2022). **“Of emphasis in the court’s decision was its consideration of the factors set forth in § 46b-59 (c) (1) and (2), particularly the length of time since the plaintiff has had contact with the children. The court found the plaintiff’s testimony that she had a recent parent-like relationship with the children not credible, determining that her relationship with the children has ‘changed substantially from when it started.’ The court noted that the department did not consider the plaintiff a Connecticut resident at the time of the termination of parental rights in 2017, that the department took custody of the children in 2014, and that the plaintiff had seen the children only ‘once in four years.’ Section 46b-59 (c) does not require a court to consider all nine factors enumerated, or to place greater emphasis on some factors over others. Consequently, the court did not err when it concluded that it could not find that the plaintiff had shown by clear and convincing evidence that she has a parent-like relationship with the children, in part because of the length of time since the plaintiff had seen the children and because her relationship with them had ‘changed substantially from when it started.’”**
- [Igersheim v. Bezruczyk](#), 197 Conn. App. 412, 420-421, 231 A. 3d 1276 (2020). **“Exercising plenary review of the issue, we conclude that the initial, verified petition did not contain the required specific, good faith allegations of real and significant harm. Section 46b-59(a) (2) defines “[r]eal and significant harm” to mean ‘that the minor child is neglected, as defined in section 46b-120, or uncared for, as defined in said section.’ Other than a general statement that denial of visitation would ‘[j]eopardize [a] relationship with [his] grandparents,’ the plaintiff’s verified petition contained no specific references to harm, much less specific allegations of harm that the**

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minor child would endure if visitation were denied. See [Fuller v. Baldino](#), 176 Conn. App. 451, 460, 168 A.3d 665 (2017). The petition, then, lacked the specific allegations necessary to meet the jurisdictional thresholds of § 46b-59(b). Consequently, we conclude that the trial court did not have subject matter jurisdiction over the plaintiff's **petition for visitation.**"

- [Hunter v. Shrestha](#), 195 Conn. App. 393, 401-402, 225 A.3d 285 (2020). **"We first address the allegation that denial of visitation would cut the child off from her maternal side of the family. Although it may not be in the child's best interest not to share a relationship with extended family, this allegation is not commensurate with the level of harm contemplated in [Roth](#). Second, the plaintiffs allege that denying visitation will have the effect of the child feeling that they have abandoned her, citing the early abandonment by the child's mother. Again, while the absence of a parent and maternal family members could be detrimental to the child, it does not rise to the level of harm set forth in § 46b-120 . . . Finally, the plaintiffs' allegation that denying visitation will 'compound [the child's] early childhood trauma [and] harm her' ignores the requirement that facts must be pleaded with sufficient specificity to warrant the court's intrusion. The plaintiffs do not allege how the child will be harmed and, without more, these allegations do not rise to the level of abuse, neglect, or abandonment contemplated by [Roth](#). Accordingly, the trial court properly determined that the plaintiffs' petition failed to allege the second jurisdictional element set forth in [Roth](#) and properly dismissed the petition for lack of subject matter jurisdiction."**
- [Boisvert v. Gavis](#), 332 Conn. 115, 119-120, 210 A. 3d 1 (2019). **"The principal issue in this appeal is whether an order granting a third party's petition for visitation pursuant to General Statutes § 46b-59 over the objection of a fit custodial parent must include a provision requiring the third party to abide by all of the parent's decisions regarding the care of the child during the visitation. We conclude that neither § 46b-59 nor the due process clause of the fourteenth amendment to the United States constitution requires the trial court to impose such a broad term and condition on an order of third-party visitation. With respect to the more limited claim of the custodial parent, the defendant James Gavis, that the denial of his postjudgment motion for a no contact order between the minor child and the child's maternal aunt violated the defendant's fundamental parental right to make decisions regarding his child's associations, we conclude that the defendant failed to meet his burden of demonstrating any such constitutional violation because he failed, as a threshold matter, to articulate a reason in support of the requested term and condition."**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [DiGiovanna v. St. George](#), 300 Conn. 59, 69, 12 A. 3d 900 (2011). “We conclude that the trial court improperly determined that the best interest of the child standard can overcome the [Roth](#) standard for ordering visitation. We further conclude that the trial court improperly failed to consider and to invoke its authority to issue orders to compel the defendant’s compliance with any such visitation order.”
- [Warner v. Bicknell](#), 126 Conn. App. 588, 596-597, 12 A. 3d 1042 (2011). “We conclude, on the basis of precedent from our Supreme Court and the relevant case law on subject matter jurisdiction, that the plaintiff was not relieved of the requirements of [Roth](#) simply because there previously had been an agreement regarding visitation. In the absence of specific, good faith allegations that the plaintiff had a parent-like relationship with the child and that the denial of visitation would cause real and significant harm to the child, the court lacked jurisdiction to consider the plaintiff’s application for visitation.”
- [Carrier v. King](#), 105 Conn. App. 391, 392-393, 939 A. 2d 1 (2008). “In [Roth](#), our Supreme Court stated that the issue was not whether a child should have the benefit of relationships with persons other than their parents, but whether there was sufficient reason for the state to interfere with the constitutional right of parents to raise their children free from state interference. [Roth v. Weston](#), supra, at 223, 789 A.2d 431. The Supreme Court held that ‘[t]he petition [for visitation] must ... contain specific, good faith allegations that denial of the visitation will cause real and significant harm to the child... [T]he petitioner must prove these allegations by clear and convincing evidence. Only if that enhanced burden of persuasion has been met may the court enter an order of visitation.’” (Emphasis added.)
- [Fennelly v. Norton](#), 103 Conn. App. 125, 140-141, 931 A. 2d 269 (2007). “The plaintiffs’ application for visitation contained not a single specific allegation of either the requisite relationship or harm. The mere act of checking a box on the application for visitation form that provides that ‘[t]he applicant has/had a relationship with the child(ren) that is similar in nature to a parent-child relationship and denial of visitation would cause real and significant harm to the child(ren)’ does not suffice for the specific, good faith allegations required by [Roth](#). The plaintiffs did not attach an affidavit to their application for visitation . . . It therefore was incumbent on the plaintiffs to state, in their application for visitation, the facts that supported the conclusion that they possessed a relationship with the children that is similar in nature to a parent-child relationship and that denial of the visitation would cause real and significant harm to the children. Without such factual specificity, subjecting a fit parent to

**unwanted litigation is unwarranted.”**

**WEST KEY  
NUMBERS:**

- *Child Custody*
  - V. Visitation
    - 175. Visitation in general.
    - 180. Right of biological parent as to third persons in general.
    - 181. Ability of parties to cooperate.
    - 182. Person entitled in general.
    - 183. Custody of siblings.
  - VII. Particular Status or Relationship
    - B. Grandparents
      - 282. Grandparent visitation and access to child.
      - 283. —In general.
      - 284. —Grandparent rights as derivative.
      - 285. —Conduct of parent or custodian.
      - 286. —Objections of parent.
      - 287. —Interference with parental rights.
      - 288. —Parent unavailable.
      - 289. —Death of parent.

**ALR INDEX:**

- Grandchildren
- Visitation

**ENCYCLOPEDIAS:**

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

Online databases are available for in-library use. Remote access is not available.

- 67A *CJS Parent and Child*, Thomson West, 2023 (also available on Westlaw).
  - VIII. Special Parental Relationships
    - C. Grandparents
      - § 367. Grandparent visitation rights
- 51 *COA 2d 573, Cause of Action by Grandparent to Obtain Visitation Rights to Grandchild*, by Elizabeth O'Connor Tomlinson, J.D., Thomson West, 2012 (also available on Westlaw).
- 69 *POF 3d 281, Grandparent Visitation and Custody Awards*, by Karl A. Menninger, II, Thomson West, 2002 (also available on Westlaw).

**TEXTS &  
TREATISES:**

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- 2 *Child Custody and Visitation Law and Practice*, by Sandra Morgan Little, Matthew Bender, 2024 (also available on Lexis).
  - Chapter 11. Disputes Between Parents and Third Parties
    - § 11.02. The constitutional basis of parental rights
    - § 11.03. The parental preference standard
    - § 11.05. The best interests standard
- 8 Connecticut Practice Series, *Family Law and Practice with Forms*, 3d ed., by Arnold H. Rutkin, et al., Thomson West, 2010, with 2022-2023 supplement (also available on Westlaw).
  - Chapter 42. Child Custody and Visitation
    - § 42:49. Visitation—With third parties

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- *2 Handling Child Custody, Abuse and Adoption Cases*, 3d ed., by Ann M. Haralambie, Thomson West, 2009, with 2023-2024 supplement.  
Chapter 10. Third-Party Custody and Visitation  
§§ 10:15-10:22. Third-Party Visitation
- *1 Legal Rights of Children*, 3d ed., by Thomas R. Young, 2023-2024 ed., Thomson West (also available on Westlaw).  
Chapter 3. Secondary Custodial Rights: Visitation, Parent Time, and Parenting Time  
§ 3:5. Grandparents—Generally  
§ 3:6. —Effect of termination of parental rights  
§ 3:7. —Effect of adoption on visitation rights of natural grandparents  
**§ 3:8. Siblings and other “family members”**  
§ 3:9. The wishes of the child with regard to visitation decisions  
§ 3:10. Terms of visitation
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2024 ed., LexisNexis.  
Chapter 8. Custody and Visitation  
Part III: Determining Who May Seek Custody and Visitation.  
§ 8.07. CHECKLIST: Determining who may seek custody and visitation  
§ 8.10. Assessing the rights of third parties to seek custody and visitation  
§ 8.11. Commencing an action or intervening  
§ 8.12. Contesting third-party custody and visitation claims
- *A Practical Guide to Divorce in Connecticut*, Hon. Barry Armata and Campbell Barrett, editors, Massachusetts Continuing Legal Education, 2013, with 2018 supplement.  
Chapter 8. Issues Relating to Children: Jurisdiction, Child Custody, Visitation, and Other Issues  
§ 8.9.2. Third-party visitation

#### LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

- John A. Pappalardo, [We All Need Somebody to Lean On: Using the Law to Nurture Our Children, Beginning with Third-Party Visitation](#), 39 *Pace Law Review* 569 (2018-2019).
- Jeff Atkinson, *Shifts in the Law Regarding the Rights of Third Parties to Seek Visitation and Custody of Children*, 47 *Family Law Quarterly* 1 (2013).
- Carla A. Barone, *Grandparent Visitation Rights: A Parent’s Right*, 21 *Connecticut Lawyer* 28 (2011).
- Sonya C. Garza, [The Troxel Aftermath: A Proposed Solution for State Courts and Legislatures](#), 69 *Louisiana Law Review* 927 (2009).

- Lindsay J. Rohlf, *The Psychological-Parent and De Facto-Parent Doctrines: How Should the Uniform Parentage Act Define "Parent"?*, 94 Iowa Law Review 691 (2009).
- Lauren F. Cowan, [\*There's No Place Like Home: Why the Harm Standard in Grandparent Visitation Disputes Is in the Child's Best Interests\*](#), 75 Fordham Law Review 3137 (2006).
- John R. Logan, *Connecticut's Visitation Statute After 'Troxel v. Granville,'* 11 Connecticut Lawyer 4 (2000).

Table 2: Troxel vs. Granville

<p><a href="#">Troxel v. Granville</a>, 530 US 57, 120 S. Ct. 2054, 147 L. Ed. 2d 49 (2000).</p>	
<p><a href="#">p. 65</a></p>	<p><b>"The liberty interest at issue in this case — the interest of parents in the care, custody, and control of their children — is perhaps the oldest of the fundamental liberty interests recognized by this Court."</b></p>
<p><a href="#">pp. 68-69</a></p>	<p><b>"Accordingly, so long as a parent adequately cares for his or her children (i.e., is fit), there will normally be no reason for the State to inject itself into the private realm of the family to further question the ability of that parent to make the best decisions concerning the rearing of that parent's children."</b></p>
<p><a href="#">pp. 72-73</a></p>	<p><b>"Considered together with the Superior Court's reasons for awarding visitation to the Troxels, the combination of these factors demonstrates that the visitation order in this case was an <i>unconstitutional infringement on Granville's fundamental right to make decisions concerning the care, custody, and control of her two daughters</i>. The Washington Superior Court failed to accord the determination of Granville, a fit custodial parent, any material weight. In fact, the Superior Court made only two formal findings in support of its visitation order. First, the Troxels 'are part of a large, central, loving family, all located in this area, and the [Troxels] can provide opportunities for the children in the areas of cousins and music.' App. 70a. Second, '[t]he children would be benefitted from spending quality time with the [Troxels], provided that that time is balanced with time with the childrens' [sic] nuclear family.' <i>Ibid</i>. These slender findings, in combination with the court's announced presumption in favor of grandparent visitation and its failure to accord significant weight to Granville's already having offered meaningful visitation to the Troxels, show that this case involves nothing more than a simple disagreement between the Washington Superior Court and Granville concerning her children's best interests. The Superior Court's announced reason for ordering one week of visitation in <b>the summer demonstrates our conclusion well: 'I look back on some personal experiences .... We always spen[t] as kids a week with one set of grandparents and another set of grandparents, [and] it happened to work out in our family that [it] turned out to be an enjoyable experience. Maybe that can, in this family, if that is how it works out.'</b> Verbatim Report 220-221. As we have explained, <i>the Due Process Clause does not permit a State to infringe on the fundamental right of parents to make child rearing decisions simply because a state judge believes a 'better' decision could be made. Neither the Washington nonparental visitation statute generally — which places no limits on either the persons who may petition for visitation or the circumstances in which such a petition may be granted — nor the Superior Court in this specific case required anything more. Accordingly, we hold that § 26.10.160(3), as applied in this case, is unconstitutional.</i>" [Emphasis added.]</b></p>

Table 3: Roth v. Weston

<a href="#">Roth vs. Weston</a> , 259 Conn. 202, 789 A.2d 431 (2002).	
<a href="#">pp. 209-210</a>	<p>"The dispositive issue on appeal is whether, in light of the United States Supreme Court decision in <a href="#">Troxel</a>, § 46b-59, as interpreted by this court in <a href="#">Castagno v. Wholean</a>, 239 Conn. 336, 339-52, 684 A.2d 1181 (1996), is unconstitutional, either facially or as applied in this case. Specifically, the defendant claims that, despite the judicial gloss we placed upon § 46b-59 in <a href="#">Castagno</a>, the statute nevertheless violates the rights of parents to rear their children under the due process clause of the fourteenth amendment to the federal constitution and article first, § 8, of the Connecticut constitution. He further claims that even if the statute survives his facial attack, it is unconstitutional as applied by the trial court to the extent that it permits third party visitation contrary to the desires of a fit parent. Tied to this challenge is the threshold issue of jurisdiction. Accordingly, we resolve the claims together."</p>
<a href="#">pp. 216-217</a>	<p>"Moreover, <a href="#">Troxel</a> confirms that among those interests lying at the core of a parent's right to care for his or her own children is the right to control their associations. <i>Id.</i> The essence of parenthood is the companionship of the child and the right to make decisions regarding his or her care, control, education, health, religion and association . . . Furthermore, <a href="#">Troxel</a> confirms that the family integrity is the core element upon which modern civilization is founded and that the safeguarding of familial bonds is an innate concomitant of the protective status accorded the family as a societal institution. <a href="#">Troxel v. Granville</a>, <i>supra</i>, 65-66."</p>
<a href="#">p. 221</a>	<p>"Therefore, we acknowledge that a person <i>other than</i> a blood relation may have established a more significant connection with a child than the one established with a grandparent or some other relative. Conversely, we recognize that being a blood relation of a child does not always translate into that relative having significant emotional ties with that child. Indeed, as § 46b-59 implicitly recognizes, it is not necessarily the biological aspect of the relationship that provides the basis for a legally cognizable interest. <b>Rather, it is the nature of the relationship that determines standing.</b>"</p>
<a href="#">p. 229</a>	<p>". . . interference is justified only when it can be demonstrated that there <b>is a compelling need to protect the child from harm.</b>"</p>
<a href="#">p. 240</a>	<p>"In the absence of the essential allegations and proof in support thereof, both of the nature of the relationship between the plaintiffs and the defendant's minor children as well as the harm that the children would suffer were visitation denied, the trial court did not have jurisdiction over the petition for visitation."</p>

## Section 2: Custody of Grandchildren

A Guide to Resources in the Law Library

### SCOPE:

Bibliographic resources relating to the rights of grandparents or third parties to seek custody of their grandchildren in family and juvenile matters in Connecticut.

### SEE ALSO:

- [Child Visitation Actions in Connecticut](#)  
§ 2. Third party visitation actions

- [Best Interest of the Child Standard in Connecticut](#)

### DEFINITIONS:

- Standing for Custody Application: "Parental rights are further protected by the standing requirement, the fact that third parties cannot initiate custody proceedings, unlike third parties who are permitted to initiate proceedings in visitation cases . . ." [Fish v. Fish](#), 285 Conn. 24, 72, 939 A. 2d 1040 (2008). (Emphasis added).
- Presumption: ". . . we conclude that the statutory presumption in favor of parental custody may be rebutted only in exceptional circumstances and only upon a showing that it would be clearly damaging, injurious or harmful for the child to remain in the parent's custody." [Fish v. Fish](#), 285 Conn. 24, 56, 939 A. 2d 1040 (2008).
- Custody vs. Visitation Petition: "**In summary, we conclude that third party custody petitions challenge the liberty interest of a parent in a way that is fundamentally different from visitation petitions . . .**" [Fish v. Fish](#), 285 Conn. 24, 55-56, 939 A. 2d 1040 (2008).
- Harm: ". . . the harm alleged in a third party custody petition arises from the fundamental nature of the parent-child relationship, which may be emotionally, **psychologically or physically damaging to the child.**" [Fish v. Fish](#), 285 Conn. 24, 47, 939 A. 2d 1040 (2008). (Emphasis added).
- Three Prongs of *Fish* Test: "**...a nonparent who seeks to intervene in a custody matter has the burden of proving by a fair preponderance of the evidence all of the following: that he or she has a parent-like relationship with the child in question; that it would be clearly detrimental to the child to remain in the custody of the parent or parents; and that third-party custody is in the best interests of the child.**" [Briscoe v. Dominguez](#), Superior Court, Judicial District of Hartford at Hartford, No. FA104053445S (October 21, 2014) (2014 Conn. Super. LEXIS 2530) (2014 WL 6462292).

## STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2023).
  - [Chapter 319](#). Department of Children and Families
    - § [17a-10b](#). Commissioner to use best efforts to notify grandparent when child removed from custody of parent.
  - [Chapter 319a](#). Child Welfare
    - § [17a-98a](#). Kinship navigator program.
    - § [17a-101m](#). Identification of relatives when child removed from parent's or guardian's custody. Notification of relatives.
  - [Chapter 815j](#). Dissolution of Marriage, Legal Separation and Annulment
    - § [46b-56](#). Orders re custody, care, education, visitation and support of children. Best interests of the child. Access to records of minor child by noncustodial parent. Orders re therapy, counseling and drug or alcohol screening.
    - § [46b-56b](#). Presumption re best interest of child to be in custody of parent.
    - § [46b-57](#). Third party intervention re custody of minor children. Preference of child.

## COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Conn. Practice Book (2024).
  - [Chapter 25](#). Procedure in Family Matters
    - § 25-3. Action for custody of minor child
    - § 25-4. Action for visitation of minor child
    - § 25-5. Automatic orders upon service of complaint or application
    - § 25-57. Affidavit concerning children
    - § 25-62. Appointment of guardian ad litem

## LEGISLATIVE:

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each **report's** publication. Current law may be different from what is discussed in the reports.

- *Grandparents Raising Grandchildren*, Nicole Dube, Connecticut General Assembly, Office of Legislative Research Report, [2012-R-0391](#) (August 30, 2012).
- *Grandparents' Rights*, Susan Price, Connecticut General Assembly, Office of Legislative Research Report, [2006-R-0383](#) (September 18, 2006).
- *Grandparents' Custody of Grandchildren*, Saul Spigel, Connecticut General Assembly, Office of Legislative Research Report, [2003-R-0596](#) (September 22, 2003).

## COURT FORMS:

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) for the current forms.

- Connecticut Judicial Branch – Superior Court
  - [JD-FM-185](#) Motion for Intervention in Family Matters (rev. 8/17)
  - [Filing for Custody or Visitation \(or both\)](#)

## CASES:

- [Fonseca v. Rivera](#), Superior Court, Judicial District of New Haven at New Haven, No. NNHFA235058743 (December 21, 2023) (2023 Conn. Super. LEXIS 3377) (2023 WL 9165176). "The law applicable to this situation is clear

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and unambiguous. The child must be in the custody of a parent over a grandparent, no matter how devoted or capable the grandparent may be. The father will be unavailable for over one year and possibly as long as two years. In light of this long absence custody of the child **must vest in the other available capable parent."**

- [Aviles v. Arroyo](#), Superior Court, Judicial District of Hartford at Hartford, No. HHD-FA17-5048118 (October 23, 2018) (2018 WL 5883954) (2018 Conn. Super. LEXIS 3594). **"In the present case, the minor child is an acknowledged child with a legal father. Aviles' status in relation to the child, therefore, is that of a third party. The law is clear that a third party may not initiate custody proceedings; [Fish v. Fish](#), 285 Conn. 24, 71-72, 939 A.2d 1040 (2008); and may only intervene in existing legal controversies. [Manter v. Manter](#), 185 Conn. 502, 504-05, 441 A.2d 146 (1981); see also General Statutes §§ 46b-57 and 46b-59. Further, a third party seeking custody must allege a parent-like relationship with the child in order to have standing. [Fish v. Fish](#), *supra*, 285 Conn. 44 (holding that 'to avoid constitutional infirmity' standing requirement applicable to third-party visitation actions is equally applicable to third-party custody awards and third parties seeking intervention in existing custody proceedings); see also [Roth vs. Weston](#), 259 Conn. 202, 234-35, 789 A.2d 431 (2002)."**
- [In re Leeanna B.](#), 142 Conn. App. 60, 66, 62 A.3d 1135 (2013). **"Here, the paternal grandmother filed two motions to intervene in the custody case in the family division. Both of those motions were denied without prejudice. She did not appeal from either judgment. The paternal grandmother also filed a motion for contempt in the custody case in the family division, but she was not a party to that action, the court twice having denied her intervenor status. Because she was not a party to that action, she had no standing to file a motion for contempt in that action, and the family division should have dismissed her motion."**
- [Fish v. Fish](#), 285 Conn. 24, 939 A. 2d 1040 (2008). **"We conclude that the pleading requirements and burden of proof that we articulated in [Roth](#) are not constitutionally mandated in third party custody proceedings, which present issues that are different from those raised in visitation proceedings. We also conclude, however, that the trial court improperly failed to apply a standard of harm more stringent than the 'best interests of the child' when it granted Husaluk's motion to intervene and awarded her custody over the opposition of the defendant." (p. 28)**

**"We therefore examine the relevant custody statutes to determine whether they provide fit parents who oppose**

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third party custody petitions with sufficient protection to survive a constitutional challenge and, if not, whether § 46b-56b, in particular, should be subject to the same judicial gloss that we placed on the visitation statute at issue in [Roth](#).” (pp. 39-40)

“The relevant statutes concerning visitation and custody are overly broad in exactly the same fashion; they fail to define with particularity those persons who may seek visitation and custody other than parents. For this reason, as in the case of visitation, a literal application of the custody statutes could place them in ‘constitutional jeopardy.’ [Castagno v. Wholean](#), supra, 239 Conn. 345. Accordingly, we conclude that, to avoid constitutional infirmity, the standing requirement that a third party allege a parent-like relationship with the child should be applied for all of the reasons described in [Roth](#) to third party custody awards and to third parties seeking intervention in existing custody proceedings.” (p. 44)

- [In re Kristy L.](#), 47 Conn. Supp. 273, 286, 787 A.2d 679 (2001). “. . . the grandparents’ rights are derivative of the parent’s rights, and when the parent’s rights are terminated, the grandparents no longer have a legally protected interest.”
- [Franklin v. Dunham](#), 8 Conn. App. 30, 33, 510 A.2d 1007 (1986). “The defendant grandmother relied heavily on the recommendation of the family relations officer that custody be awarded to the grandmother. ‘We have never held, and decline now to hold, that a trial court is bound to accept the expert opinion of a family relations officer. As in other areas where expert testimony is offered, a trial court is free to rely on whatever parts of an expert’s opinion the court finds probative and helpful.’ [Yontef v. Yontef](#), 185 Conn. 275, 281, 440 A.2d 899 (1981).”

WEST KEY NUMBERS:

- *Child Custody*
  - II. Grounds and Factors in General
    - B. Factors Relating to Parties Seeking Custody
      - 42. Right of biological parent as to third persons in general.
    - C. Factors Relating to Child
      - 76. Welfare and best interest of child.
      - 78. Child’s preference of custodian.
  - V. Visitation
    - 183. Custody of siblings.

ALR INDEX:

- Grandchildren
- Custody and Support of Children

ENCYCLOPEDIAS:

- 69 *POF* 3d 281, Grandparent Visitation and Custody Awards, by Karl A. Menninger, II, Thomson West, 2002 (also available on Westlaw).

TEXTS &  
TREATISES:

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- 2 *Child Custody and Visitation Law and Practice*, by Sandra Morgan Little, Matthew Bender, 2024 (also available on Lexis).
  - Chapter 11. Disputes Between Parents and Third Parties
    - § 11.02. The constitutional basis of parental rights
    - § 11.03. The parental preference standard
    - § 11.04. Determination of parental fitness: Factors to be considered
    - § 11.05. The best interests standard
    - § 11.05E. Joint custody of parent and nonparent
    - § 11.05F. Grandparent seeking custody
    - § 11.06. Standing
    - § 11.06B Limitations on nonparent to whom custody may be given
    - § 11.07. Role of the expert witness
    - § 11.08. Bibliography
  
- 8 Connecticut Practice Series, *Family Law and Practice with Forms*, 3d ed., by Arnold H. Rutkin, et al., Thomson West, 2010, with 2022-2023 supplement (also available on Westlaw).
  - Chapter 42. Child Custody and Visitation
    - § 42:12. Custody claims by third parties
    - § 42:13. —Applicable standards
    - § 42:49. Visitation—With third parties
  
- 2 *Handling Child Custody, Abuse and Adoption Cases*, 3d ed., by Ann M. Haralambie, Thomson West, 2009, with 2023-2024 supplement.
  - Chapter 10. Third-Party Custody and Visitation
    - §§ 10:1-10:14. Third-Party Custody
  
- 1 *Legal Rights of Children*, 3d ed., by Thomas R. Young, 2023-2024 ed., Thomson West (also available on Westlaw).
  - Chapter 2. Child Custody
    - § 2:21. Preference of the natural parent(s) over others—Preference of natural parent(s) over grandparent(s)
    - § 2:23. Preference of the natural parent(s) over others—Preference of natural parent(s) over adult siblings or other relatives
  
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2024 ed., LexisNexis.
  - Chapter 8. Custody and Visitation
    - Part III: Determining Who May Seek Custody and Visitation.
      - § 8.07. CHECKLIST: Determining who may seek custody and visitation
      - § 8.10. Assessing the rights of third parties to seek custody and visitation

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References to online databases refer to in-library use of these databases.

§ 8.11. Commencing an action or intervening  
§ 8.12. Contesting third-party custody and visitation claims

- *A Practical Guide to Divorce in Connecticut*, Hon. Barry Armata and Campbell Barrett, editors, Massachusetts Continuing Legal Education, 2013, with 2018 supplement.  
Chapter 8. Issues Relating to Children: Jurisdiction, Child Custody, Visitation, and Other Issues  
§ 8.9.1. Third-party custody

Table 4: Third Party Custody Statutes – Conn. Gen. Stat. (2023)

Section No.	Text of Statute	Requirements
<p>§ <a href="#">46b-56(a)</a></p>	<p>“In any controversy before the Superior Court as to the custody or care of minor children, and at any time after the return day of any complaint under section 46b-45, the court may make or modify any proper order regarding the custody, care, education, visitation and support of the children if it has jurisdiction under the provisions of chapter 815p. Subject to the provisions of section 46b-56a, the court may assign parental responsibility for raising the child to the parents jointly, or may award custody to either parent or to a third party, according to its best judgment upon the facts of the case and subject to such conditions and limitations as it deems equitable. The court may also make any order granting the right of visitation of any child to a third party to the action, including, but not limited to, grandparents.”</p>	<p>“. . . in cases in which a third party seeks to intervene in a custody proceeding brought pursuant to § 46b-56 (a), the party must prove by a fair preponderance of the evidence facts demonstrating that he or she has a relationship with the child akin to that of a parent, that parental custody clearly would be detrimental to the child and, upon a finding of detriment, that third party custody would be in the child’s <b>best interest.</b>” <a href="#">Fish v. Fish</a>, 285 Conn. 24, 89, 939 A. 2d 1040 (2008).</p>
<p>§ <a href="#">46b-57</a></p>	<p>“In any controversy before the Superior Court as to the custody of minor children, and on any complaint under this chapter or section 46b-1 or 51-348a, if there is any minor child of either or both parties, the court, if it has jurisdiction under the provisions of chapter 815p, may allow any interested third party or parties to intervene upon motion. The court may award full or partial custody, care, education and visitation rights of such child to any such third party upon such conditions and limitations as it deems equitable. Before allowing any such intervention, the court may appoint counsel for the minor child or children pursuant to the provisions of sections 46b-12 and 46b-54. In making any order under this</p>	<p>“In cases in which the trial court considers awarding custody to a third party who has not intervened pursuant to § 46b-57, the court may award custody to the third party provided that the record contains proof of the foregoing facts by a fair preponderance of the <b>evidence.</b>” <a href="#">Fish v. Fish</a>, 285 Conn. 24, 89, 939 A. 2d 1040 (2008).</p>

	<p>section, the court shall be guided by the best interests of the child, giving consideration to the wishes of the child if the child is of sufficient age and capable of forming an intelligent preference.”</p>	
<p>§ <a href="#">46b-56b</a></p>	<p>“In any dispute as to the custody of a minor child involving a parent and a nonparent, there shall be a presumption that it is in the best interest of the child to be in the custody of the parent, which presumption may be rebutted by showing that it would be detrimental to the child to permit the parent to have custody.”</p>	<p>“. . . the statute is facially <b>constitutional.</b>” <a href="#">Fish v. Fish</a>, 285 Conn. 24, 47, 939 A. 2d 1040 (2008).</p>