

GRANDPARENT VISITATION STATUTE HELD CONSTITUTIONAL

By Richard S. Victor, Law Offices of Richard S. Victor, PLLC

On June 5, 2007, the Michigan Court of Appeals in the case of *Keenan v Dawson* held in a 3-0 decision, in an opinion written by Court of Appeals Judge Christopher M. Murray that Michigan's Grandparent Visitation Statute, as amended in 2004, is constitutional. Michigan's law provides rights for grandparenting time to grandparents who are otherwise denied the opportunity to see their grandchildren by a fit parent, in cases following the death of a parent, divorce of a child's parents, a child born out of wedlock, or in other situations involving a child's family. In accordance with Michigan's law the court would give deference to a parent's denial but, a grandparent would have a right to come before the court and show that the denial to allow a grandchild to see their grandparent could cause a substantial risk of harm to the child's mental, physical, or emotional health. In the *Keenan v Dawson* case, the grandchild was twenty months old when his mother was found dead with a suspicion of murder. Allegations of an acrimonious marriage between the child's parents had been involved which caused a split between the child's surviving father and the mother's parents. After the child was denied any contact with his grandparents, the grandparents filed a request in the Kent County Circuit Court for grandparenting time. Following a trial and, testimony from child psychologists, the Judge found that the minor child would be subject to emotional harm and turmoil, in light of his mother's death, if he were denied any contact with his maternal family. The Court also held that, based on testimony from the child psychologists, a two year old child would have no lasting memory of persons in their lives and, therefore the child would have no memory of his mother. Therefore the trial court concluded that

visitation with his maternal grandparents would help reduce a substantial risk of emotional harm and suffering that the minor child would experience as he grows older. The Court then went on to determine that it would be in the minor child's best interest to grant visitation between the minor child and his maternal grandparents, which would then allow the child to know about his biological mother and her roots.

Following an appeal of the Judge's decision by the child's father claiming that Michigan Grandparent Visitation Law was unconstitutional, the Michigan Court of Appeals held that not only was the Grandparent Law constitutional, but the argument that a child being denied the opportunity and right to have knowledge of his maternal family, following a death such as what occurred in this case, could create a substantial risk of harm to the child and therefore, the grandparents had complied with Michigan's law in order to overcome the preference of the surviving father, who wanted to deny any contact between the child and his maternal grandparents.

Richard S. Victor, a Bloomfield Hills, Michigan Family Law Attorney and Founder of the national non-profit Grandparents Rights Organization (GRO), is thrilled with this decision as it finally has Michigan's rights protecting grandparents a matter of public records with the court standing firm that Michigan's Legislature created a good law when it amended Michigan's Grandparent Law in 2004 and that the Michigan Courts have found that it is constitutional and therefore enforceable by the courts to protect grandparents and grandchildren in the State of Michigan. For more information regarding the rights of grandparents and grandchildren go to www.grandparentsrights.org or contact Richard S. Victor or Daniel R. Victor, legal counsel for the Grandparents Rights Organization at (248) 646-7177.