



STATE STATUTES
CURRENT THROUGH JUNE 2022

The Rights of Unmarried Parents

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A father's parental rights have historically been tied to him being married to the baby's birth mother at the time of childbirth. However, as the percentage of births to unmarried mothers has increased from 4 percent of total U.S. births in 1950 to more than 40 percent in 2020,¹ there has been a corresponding rise in the number of biological fathers who are not married to their children's mothers. As society has become more accepting of nonmarital children, these fathers have sought to establish their rights to their children—including whether to parent their children, sustain a relationship with them, or exercise consent in the adoption process.²

¹ Osterman, M., Hamilton, B., Martin, J., Driscoll, A., Valenzuela, C. (2022). [Births: Final data for 2020](#). National Vital Statistics Reports, 70(17).

² Evan B. Donaldson Adoption Institute. (2007). [Safeguarding the rights and well-being of birthparents in the adoption process](#). National Center on Adoption and Permanency.

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Over the past several decades, unmarried fathers have challenged the termination of their parental rights under the 14th Amendment in cases in which mothers relinquished their children for adoption. In a series of cases involving unmarried fathers, the U.S. Supreme Court affirmed the constitutional protection of fathers' parental rights when they have established a substantial relationship with their children. The court found that the existence of a biological link between a child and an unmarried father gives him the opportunity to establish a substantial relationship, which it defined as the father's commitment to the responsibilities of parenthood, as demonstrated by being involved or attempting to be involved in the child's upbringing.³

For this publication, laws for making determinations of paternity were collected for all States, the District of Columbia, and the U.S. territories, and an analysis of this information informs the discussion that follows.

DEFINING THE PARENT-CHILD RELATIONSHIP

While there is no standard definition of "father" in statutes across the States, there are several terms that describe the status of a father-child relationship between a man and his child. The term "legal father" generally refers to a man married to the mother at the time of conception or birth of the child or whose paternity has been otherwise determined by a court of competent

jurisdiction. When the parents of a child are not married to one another, States use an array of terms to describe the status of a man who may be the biological father. These terms include the following:

- A "putative father" is a man who is the alleged biological father of a child but whose paternity has not been legally established.
- An "alleged father" is a man who alleges to be, or is alleged to be, the genetic father or a possible genetic father of a child but whose paternity has not been determined.
- An "acknowledged father" is a man who has established a father-child relationship by signing an acknowledgment of paternity.
- An "adjudicated father" is a man who has been adjudicated by a court of competent jurisdiction to be the father of a child.
- A "presumed father" is a man who is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding.

In approximately 27 States, the District of Columbia, American Samoa, and the Northern Mariana Islands, a person may be presumed to be the father of a child in any of the following circumstances:⁴

- The man and the child's birth mother are or were married to each other, and the child is born during the marriage or within 300 days after the marriage ended.

³ Stanley v. Illinois, 405 U.S. 645 (1972); Quilloin v. Walcott, 434 U.S. 246 (1978); Caban v. Mohammed, 441 U.S. 380 (1979); Lehr v. Robertson, 463 U.S. 248 (1983)

⁴ The word "approximately" is used to stress the fact that States frequently amend their laws and applies to all data in this publication. The information in this publication is current only through June 2022. Alabama, Arizona, Arkansas, California, Colorado, Delaware, Hawaii, Idaho, Kansas, Maine, Massachusetts, Minnesota, Missouri, Montana, Nevada, New Jersey, New Mexico, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Washington, and Wisconsin use one or more of the elements listed to define a presumed father.

- Before the birth of the child, the man and the child's birth mother attempted to marry, and the marriage is or could be declared invalid, and the child is born during the marriage or within 300 days after the marriage is terminated.
- The man has acknowledged their paternity in writing.
- The man is obligated to support the child, either by voluntary agreement or court order.
- While the child is a minor, the man has resided with the child and openly claimed the child as his biological child.

USE OF PATERNITY REGISTRIES

Before a man can assert any rights regarding the care of a nonmarital child, he must first establish his paternity of the child. Many States have provisions for a man to voluntarily acknowledge paternity or the possibility of paternity of a child born outside of marriage and record the fact in a putative father registry. Approximately 28 States have established registries for this purpose.⁵ In 21 States, the District of Columbia, and the Virgin Islands, there are provisions for voluntary acknowledgment of paternity through forms that are filed with social services departments, registrars of vital statistics, or other similar entities.⁶

⁵ Paternity registries have been established in Alabama, Alaska, Arizona, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New York, North Dakota, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and Wyoming. For more information about the use of registries, see the [Putative Father Registry webpage](#) of the Academy of Adoption and Assisted Reproduction Attorneys.

⁶ California, Colorado, Hawaii, Idaho, Kansas, Maine, Maryland, Massachusetts, Mississippi, Nevada, New Jersey, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, and Wisconsin

⁷ Alabama (for births occurring after January 1, 1997), Georgia, Illinois, Indiana, Minnesota, Missouri, Montana, New Hampshire, South Carolina, Tennessee, and Virginia

⁸ Alabama, Arizona, Arkansas, Connecticut, Florida, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Mexico, North Dakota, Rhode Island, Texas, and Virginia

⁹ Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Kansas, Kentucky, Massachusetts, Minnesota, Missouri, Montana, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Rhode Island, South Carolina, Tennessee, Texas, and Washington

Acknowledgment of paternity or registration with a putative father registry ensures certain rights for an unmarried father, such as the right to receive notice of court proceedings regarding the child, petitions for adoption, and actions to terminate parental rights. In 11 States with putative father registries, filing with the registry is the primary means for establishing this right of notice.⁷ An acknowledged father also may seek visitation with the child and usually will be required to provide financial support to the child.

ALTERNATIVE MEANS TO ESTABLISH PATERNITY

In 21 States, Guam, and the Northern Mariana Islands, a man may claim paternity to a child by filing an acknowledgment or affidavit of paternity with a court.⁸ In 26 States, American Samoa, and the Northern Mariana Islands, a man may consent to the placement of his name as the father on a child's certificate of birth as a means of asserting his paternity.⁹ A man, the child, the child's birth mother, or other interested persons may also petition the court to establish a man's paternity. The court, after weighing all available evidence, will determine the child's paternity.

In 44 States, the District of Columbia, and the Virgin Islands, a court may order the alleged father, the child, the child's birth mother, and any other person making a claim of paternity to submit to blood and other genetic tests as a means of determining the biological paternity of a child.¹⁰ When the results of genetic tests reveal that there is a high statistical probability that a man is the genetic father of a child, the court will make a judgment of paternity. In 15 States, a man can be declared not to be a child's genetic father (or a prior judgment of paternity may be nullified) when genetic tests exclude him as the child's genetic father.¹¹

REQUIRED INFORMATION

States differ in the information they require for registration or acknowledgment of paternity. The information that is needed to complete the registration typically includes the following:

- The full name, Social Security number, date of birth, and address of each parent
- The full name, date of birth, and residence of the child
- A signed, witnessed statement by the birth mother consenting to the acknowledgment of paternity
- A signed, witnessed statement by the birth father acknowledging his paternity
- The signatures of the child's birth mother and the biological father
- The date the registration or acknowledgment was completed

¹⁰ Alaska, Arizona, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, North Carolina (when the child is age 3 or older), North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming

¹¹ Alabama, Arizona, California, Idaho, Indiana, Michigan, Minnesota, Mississippi, Missouri, North Carolina, South Dakota, Texas, Utah, West Virginia, and Wisconsin

¹² All States except West Virginia have made some provision for revoking claims of paternity.

¹³ Alabama, Delaware, Kentucky, Missouri, Montana, Nebraska, New Mexico, New York, Oklahoma, South Carolina, Tennessee, Wisconsin, and Wyoming

In many States, the acknowledgment of paternity form also will provide essential information to the registrants, including the following:

- A statement of rights and responsibilities, including any rights afforded to a minor parent
- A statement of the alternatives to and consequences of signing the acknowledgment
- Information concerning the legal implications of completing the form, including the procedure for establishing paternity, parental rights and responsibilities, and child support obligations
- A statement that the man who signs the form is acknowledging that he is the biological father of the child named in the form and that he assumes the parental duty of support of that child

REVOCAION OF A CLAIM TO PATERNITY

Nearly all States, the District of Columbia, and the Virgin Islands make provisions in their statutes that allow men who have registered with a paternity registry to revoke or rescind a notice of intent to claim paternity.¹² Of these States, approximately 13 allow a man who has registered a claim of paternity to revoke his claim at any time.¹³ In Florida, a registration that is submitted prior to a child's birth may be withdrawn only prior to the child's birth.

In approximately 37 States, the District of Columbia, and the Virgin Islands, a man who has submitted an acknowledgment of paternity is permitted to revoke or rescind his acknowledgment, but the right of rescission is time limited—usually up to 60 days after the acknowledgment is submitted—or prior to a court proceeding to establish paternity, whichever occurs first.¹⁴ In 34 States and the Virgin Islands, an acknowledgment of paternity may not be revoked after the rescission period has expired except by court action based on fraud, duress, or material mistake of fact.¹⁵

ACCESS TO REGISTRY RECORDS

Access to information maintained in paternity registries also varies from State to State. Many jurisdictions permit certain persons access to registry records. In general, these are people with a direct interest in a case. Typically, persons entitled to access include birth mothers, courts, attorneys, licensed adoption agencies, prospective adoptive parents, State departments of social services, State offices of child support enforcement, registries of other States, or any other person upon a court order for good cause.

¹⁴ Alaska, Arizona, California, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Louisiana, Maine, Maryland, Massachusetts, Michigan (up to 1 year after the child's birth), Minnesota (within 6 months after genetic testing has excluded the person as a genetic parent), Mississippi (within 1 year), Montana, Nebraska, Nevada, New Hampshire, New Jersey, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, Washington, and Wisconsin

¹⁵ Alaska, Arizona, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, Washington, and Wisconsin

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be complete, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

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