



STATE STATUTES
CURRENT THROUGH JUNE 2022

The Rights of Unmarried Parents

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A person's parental rights have historically been tied to their being married to the baby's birth parent at the time of childbirth. However, as the percentage of births to unmarried birth parents 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 other parents who are not married to their children's birth parents. As society has become more accepting of nonmarital children, these individuals 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 other parents have challenged the termination of their parental rights under the 14th Amendment in cases in which birth parents relinquished their children for adoption. In a series of cases involving unmarried other parents, the U.S. Supreme Court affirmed the constitutional protection of such a person's parental rights when they have established a substantial relationship with their child. The court found that the existence of a biological link between a child and an unmarried other parent gives the other parent the opportunity to establish a substantial relationship, which it defined as the other parent'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 parentage 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 parent-child relationship between a person and their child. The term "legal father" generally refers to a person married to the birth parent at the time of conception or birth of the child or whose parentage 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 person who may be the biological other parent. These terms include the following:

- A "putative father" is a person who is the alleged biological other parent of a child but whose parentage has not been legally established.
- An "alleged father" is a person who alleges to be, or is alleged to be, the genetic other parent or a possible genetic other parent of a child but whose parentage has not been determined.
- An "acknowledged father" is a person who has established a parent-child relationship by signing an acknowledgment of parentage.
- An "adjudicated father" is a person who has been adjudicated by a court of competent jurisdiction to be the other parent of a child.
- A "presumed father" is a person who is recognized as the other parent 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 other parent of a child in any of the following circumstances:⁴

- The person and the child's birth parent are or were married to each other, and the child is born during the marriage or within 300 days after the marriage ended.
- Before the birth of the child, the person and the child's birth parent 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 person has acknowledged their parentage in writing.

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. This information is current 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.

- The person is obligated to support the child, either by voluntary agreement or court order.
- While the child is a minor, the person has resided with the child and openly claimed the child as their biological child.

USE OF PARENTAGE REGISTRIES

Before a person can assert any rights regarding the care of a nonmarital child, they must first establish their parentage of the child. Many States have provisions for a person to voluntarily acknowledge parentage or the possibility of parentage 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 parentage through forms that are filed with social services departments, registrars of vital statistics, or other similar entities.⁶

Acknowledgment of parentage or registration with a putative father registry ensures certain rights for an unmarried other parent, 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 other parent also may seek visitation with the child and usually will be required to provide financial support to the child.

ALTERNATIVE MEANS TO ESTABLISH PARENTAGE

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

In 44 States, the District of Columbia, and the Virgin Islands, a court may order the alleged other parent, the child, the child's birth parent, and any other person making a claim of parentage to submit to blood and other genetic tests as a means of determining the biological parentage of a child.¹⁰ When the results of genetic tests reveal that there

⁵ Parentage 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

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

is a high statistical probability that a person is the genetic other parent of a child, the court will make a judgment of parentage. In 15 States, a person can be declared not to be a child's genetic other parent (or a prior judgment of parentage may be nullified) when genetic tests exclude the person as the child's genetic other parent.¹¹

REQUIRED INFORMATION

States differ in the information they require for registration or acknowledgment of parentage. 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 parent consenting to the acknowledgment of parentage
- A signed, witnessed statement by the birth other parent acknowledging their parentage
- The signatures of the child's birth parent and the biological other parent
- The date the registration or acknowledgment was completed

In many States, the acknowledgment of parentage 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 parentage, parental rights and responsibilities, and child support obligations
- A statement that the person who signs the form is acknowledging that they are the biological other parent of the child named in the form and that they assume the parental duty of support of that child

REVOCATION OF A CLAIM TO PARENTAGE

Nearly all States, the District of Columbia, and the Virgin Islands make provisions in their statutes that allow persons who have registered with a parentage registry to revoke or rescind a notice of intent to claim parentage.¹² Of these States, approximately 13 allow a person who has registered a claim of parentage to revoke their 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 person who has submitted an acknowledgment of parentage is permitted to revoke or rescind their 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 parentage, whichever occurs first.¹⁴ In 34 States and the Virgin Islands,

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 parentage.

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

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

an acknowledgment of parentage 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 parentage 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 parents, 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.

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.

SUGGESTED CITATION:

Child Welfare Information Gateway. (2022). *The rights of unmarried parents*. U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau. <https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/parentage/>



U.S. Department of Health and Human Services
Administration for Children and Families
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