

A Legal Guide for Unwed Dads

By Jeffery M. Leving, Esq.,
Law Offices of Jeffery M.
Leving, Ltd. Chicago, IL

As a strong leading advocate for the rights of fathers, I am frequently asked how the law treats unmarried fathers differently from married fathers. This is an important question, because more than 40 percent of American children are born each year to unwed parents leaving many children fatherless and at risk. Therefore, I think it is worthwhile to take a moment to address the current state of the law when it comes to the rights of unwed fathers in paternity and custody disputes. While there are a great number of misconceptions about legal issues surrounding unmarried parents, the law is very clear. When a child is born to unwed parents, the mother enjoys all parental rights. The father has none and this is extremely unjust. In order to gain a legal footing, dads must be proactive in taking the correct legal steps to secure their rights.

Many fathers are incorrectly advised that all they need is to have their name on the baby's birth certificate to establish paternity. In reality—though laws vary from state to state—when a man is listed on the birth certificate as a parent, it does create the pre-



sumption that he is the father, but this does not give him a superior

right to custody of a child born out of wedlock, nor does it automatically convey parental rights or duties to the father.

In Illinois, for example, a parent's rights are established under the Illinois Parentage Act of 2015. Under this statute, in order to establish paternity, an unwed father must either take a paternity test and obtain a court order establishing paternity or complete a Voluntary Acknowledgment of Paternity form. A father signing this form becomes legally responsible for the child. Therefore, experts caution that men should determine with certainty that they are indeed the biological father before signing because the completed form confers legal parenthood regardless of actual paternity. Should a dispute regarding biological paternity arise, there are legal ways of attempting to reverse this process, but they are complicated and must be completed within a narrow window of time.

Once an unmarried father has established paternity, he can then seek custody and parenting time (formerly called "visitation"). In order to determine parent suitability for custody and parenting time,

every state has a statute that lists criteria to be considered in making these determinations. Although these criteria vary from state to state, there are many common requirements. Depending on the age of the child, the child's wishes as to which parent the child wishes to live with may be considered by the Court. Other practical factors, such as proximity to school and relatives, are important considerations. Negative factors that courts seriously consider include the presence of domestic violence by a parent or non-biological partner.

These legally established parental standards point to the most important factor for a father seeking custody or parenting time. In order to prevail in Court, a father's best bet is to meet all the criteria for successful parenting. Be available to spend meaningful time with your child and assume responsibility for important tasks in childrearing, including scheduling and attending pediatrician and dental appointments, play dates, and parent/teacher conferences, ensuring homework is completed, and establishing routines around bedtime, meals and chores. Ex-

emplary behavior is particularly important with unmarried fathers because they will generally not have the track record of communication and conduct that an ex-husband can demonstrate. Therefore, unwed dads can and must prove themselves worthy by being worthy to the court.

In short, unwed fathers seeking an enduring and meaningful role in their child's upbringing should follow these important steps:

1. Be certain of paternity;
2. Act quickly to secure your rights in Court; and
3. Do not give up hope.

While the information I have provided here is essential for every father to know, it is not a substitute for legal advice. Should you be currently seeking legal advice regarding establishing paternity, or securing custody and parenting time, I urge you to contact me. And remember, it is always impossible until it's done.

To learn more about Jeffery M. Leving and his legal victories against all odds, follow him on Facebook and Twitter.

DADS RIGHTS - LEGAL HOUR
HOSTED BY ATTORNEY JEFFERY M. LEVING

WPWX
POWER 92
92.3 FM
#1 IN THE STREETS

EVERY SATURDAY 9 - 10 AM



DADSRIGHTS.COM  **DADS' RIGHTS** 312 - 356 - DADS

[f /FathersRightsMovement](#) [t /fathersmatter](#) [i /dadsrights](#) [v /jefferyleving](#)