

The Rights of Unmarried Mothers

This pamphlet is designed to supply information to parents of a child who has never been married and there are no court orders about the child.



Who has legal custody of a child when parents are unmarried?

In Ohio, an unmarried mother has legal custody of her child unless a court gives custody to someone else.

Ohio Revised Code § 3109.042(A) states: An unmarried female who gives birth to a child is the sole residential parent and legal custodian of the child until a court of competent jurisdiction issues an order designating another person as the residential parent and legal custodian. A court appointing the residential parent and legal custodian of a child described in this section shall treat the mother and father as standing equally when making the designation.

The unmarried mother does not have to go to court for custody, she has legal custody automatically. This means she has the right to make every decision for the child, including:

- Deciding who sees the child and for how long, including restricting visitation to the other parent
- enrolling the child in school
- obtaining medical treatment for the child
- applying for and receiving public benefits for the child
- anything else a parent with legal custody can do for a child



How can the unmarried father/other parent obtain parenting rights?

If the other parent wants legal custody, parenting time (visitation), and other parenting rights they must file a court action. The Court will give each parent an equal chance to prove that granting custody to that parent is in the child's best interests.

The Court will consider multiple factors when deciding what is in the child's best interests:

1. The wishes of each parent
2. The wishes and concerns of the child, if the Court completes an "in camera" interview
3. The child's interactions with important people in the child's life
4. The child's adjustment to the child's home, school, and community
5. The mental and physical health of all people involved
6. The parent most likely to make sure the other parent has visitation
7. Whether either parent has failed to make child support payments
8. Whether either parent or member of the household has been convicted of a criminal offense that resulted in a child being an abused or neglected child; convicted of a sexually oriented offense; or convicted of an offense with a family or household member victim

9. Whether there is reason to believe either parent has acted in a manner resulting in a child being abused or neglected
10. Whether either parent has willfully denied visitation to the other parent, *and*
11. Whether either parent has or is planning to set up a residence out of state



As an unmarried mother do I have to let the other parent see their child?

You should consider allowing reasonable visits with the other parent unless you have concerns for the health and safety of your child during the visitation and/or you have concerns the other parent may unreasonably keep the child from you.

You should consider allowing reasonable visits because in a custody case, the Court will look at which parent is more likely to allow the other parent to visit with the child in the future. One way to prove that you will allow visitation with the other parent is to allow visitation now, even though you do not have to. If visitation is unreasonably refused, it may be held against you and could result in custody being granted to the other parent. This advice stays true even if paternity has not been proven but everyone agrees who the other parent of the child is.



Establishing Paternity and Support?

Establishing paternity does not affect an unmarried mother's legal custody of the child. An unmarried mother has sole legal custody of the child until a court issues a custody or visitation order. The other parent can establish paternity by completing an acknowledgment of paternity affidavit at the hospital when the child is born or by asking to establish paternity through the local Child Support Enforcement Agency. Child support cannot be granted until paternity has been proven.

The information on this flyer is not legal advice.

**If you are seeking representation or legal advice, please contact LASC or SEOLS.
An attorney-client relationship does not exist between you and LASC or SEOLS.**

Contact for Services: Intake line: 1-844-302-1800

www.columbuslegalaid.org

www.seols.org

LASC provides services in Central Ohio and has offices in Columbus and Marion.

SEOLS provides services in thirty-four counties in Southeastern Ohio and has offices in Athens, Chillicothe, New Philadelphia, Newark, Portsmouth, and Steubenville