



The Rights of Unmarried Mothers

This brochure applies to the following situation: You are the mother of a child. You and the father of the child have never been married to each other. You were not married to anyone else when the child was born. There are no court orders giving anyone custody of or visitation with the child.



An unmarried mother has legal custody of her child.

In Ohio, an unmarried woman who gives birth to a child automatically has legal custody of the child unless a court has given custody to someone else. Ohio Revised Code 3109.042 says:

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 designating the residential parent and legal custodian of a child described in this section shall treat the mother and father as standing upon an equality when making the designation.

Under this law, an unmarried mother has legal custody of the child without having to go to court. That means the mother has the right to decide who sees the child and for how long, the right to restrict visitation, the right to enroll the child in school, the right to obtain medical treatment, the right to get public benefits for the child, and the right to do anything else a parent with legal custody can do.



A court can still decide custody.

If the child's father files a court action for custody, the judge will give each parent an equal chance to prove that granting custody to that parent is in the child's best interest. A court can award custody to the father even if the child has lived with the mother.

When deciding what is in the best interest of the child, the judge will consider the following factors:

1. The wishes of each parent;
2. The wishes and concerns of the child;
3. The child's interaction with the parents, siblings, and other people who impact the child (neighbors, friends, teachers);
4. The child's adjustment to the home, school, and community;
5. The mental and physical health of all persons involved;
6. The parent most likely to honor and facilitate visitation;
7. Whether a parent has failed to make ongoing child support payments;
8. Whether the custodial parent has willfully denied visitation to the other parent;
9. Whether either parent is planning to establish a residence out of state; and
10. Whether either parent has abused children or been a perpetrator of domestic violence.



Allowing visitation

You should consider allowing reasonable visitation with the father unless:

- You have concerns for the health or safety of the child during visitation or
- You have concerns that your spouse may unreasonably keep the child from you.

The reason for this is that the judge will consider which parent is more likely to allow the other parent visitation with the child in the future. One way to prove that you will allow visitation with the other parent in the future is to allow visitation now, even if a court has not ordered visitation. If visitation is unreasonably refused, it may be held against you and could result in custody being granted to the other parent.

Even if paternity has not been established, you should allow visitation when everyone agrees about who the father is.



Establishing paternity and child support

Establishing paternity does not affect an unmarried mother's custody of the child. An unmarried mother has sole legal custody of the child until a court issues a custody or visitation order. If paternity has not been established, your local Child Support Enforcement Agency can help you establish paternity and get child support. You cannot get child support until paternity is established.

Even if the Child Support Enforcement Agency has established paternity and child support, a father does not have custodial or visitation rights until a court says so.

The information on this flyer is not legal advice.

If you are seeking representation or legal advice, please contact SEOLS.

An attorney-client relationship does not exist between you and SEOLS.

How to contact SEOLS:

Athens Office **740.594.3558**
800.686.3669

Serving Athens, Gallia, Meigs, Morgan, Noble,
Vinton, and Washington Counties

Chillicothe Office **740.773.0012**
800.686.3668

Serving Fairfield, Fayette, Hocking, Jackson,
Pickaway, Pike, and Ross Counties

Newark Office **740.345.0850**
888.831.9412

Serving Knox, Licking, Muskingum, and Perry
Counties

New Philadelphia Office **330.339.3998**
800.686.3670

Serving Coshocton, Guernsey, Holmes, and
Tuscarawas Counties

Portsmouth Office **740.354.7563**
800.837.2508

Serving Adams, Lawrence, and Scioto Counties

Steubenville Office **740.283.4781**
800.837.4781

Serving Belmont, Carroll, Harrison, Jefferson, and
Monroe Counties