



YOUR RIGHTS AS AN UNWED PARENT

WHAT ARE MY RIGHTS AS AN UNWED PARENT?

Under Florida law, the mother is the natural guardian of a child born out of wedlock. A guardian is someone to whom the law has entrusted the custody and control of another person. The unwed mother has legal custody of the child automatically. Naming the father on a birth certificate does not grant them any rights in the State of Florida.

WHAT IF THE MOTHER AND FATHER GET MARRIED?

If unwed parents get married, there is no need to file a paternity action because the marriage will legitimize the child. The father will automatically become the legal father and have the same rights to the child as the mother does.

DOES THE FATHER HAVE VISITATION RIGHTS?

The mother can allow the father visitation rights if she wants to. However, visitation does not have to be given unless it has been court ordered. If visitation is allowed, the mother can make reasonable restrictions to the visitation.

If the father refuses to return the child after visiting with the child, unfortunately the police may not assist the mother in getting the child back, especially if the father is listed on the child's birth certificate.

If there is a concern that the father may snatch the child, we suggest that you make reasonable restrictions as to visitation or even refuse to allow visitation until a court order is in place. For example, visitation may occur at the mother's home or in a public place.

WHO SHOULD PAY CHILD SUPPORT?

The party who physically has the child should be receiving child support. You must file a paternity action to have the father named as the legal father. A parenting plan, timesharing and child support can be ordered in the paternity case. Either parent may file for paternity and either party can seek primary timesharing with the child.

WHAT IF THE NATURAL FATHER OR SOMEONE ELSE TRIES TO TAKE THE CHILD?

If there is no court order which names someone else as the legal guardian, the natural mother is the only legal guardian of the child. The father cannot attempt to take the child without first obtaining a court order. If the father attempts to do so, the mother should call the police. Under Florida law, anyone attempting to take the child without a court order can be charged with the crime of "interference with custody". However, it is important to remember that anyone who tries to take the child can defend himself/herself of the charge by claiming that they reasonably believed that the child's welfare was in danger.

If you ever believe your child is in physical danger, you may want to contact the Jacksonville Sheriff's Office or the Department of Children and Families to file the appropriate report.

WHAT CAN BE DONE IF THE FATHER OR SOMEONE ELSE HAS ALREADY TAKEN THE CHILD?

Contact the police immediately and make a report. The Sheriff's Office may assign a detective from the Missing Person's Division to investigate the case. If the police locate the child, but refuse to return him/her to you, you should immediately file an action in Family Court and ask that the child be returned to you.

WHAT IF I DO NOT QUALIFY FOR LEGAL AID?

If you need help finding a private lawyer to take your case, the Lawyer Referral Service may help you. The Lawyer Referral Service can arrange for you to meet with a lawyer for 30 minutes for \$50. Costs for additional services will be subject to arrangement with the lawyer. You can call the service at 399-5780 for an appointment.

If you cannot retain an attorney, you may file your own case. The Florida Supreme Court provides free family law forms and instructions on their website at www.flcourts.org. If you do not have internet access at home, you may use the internet at your local public library.

RESOURCES

Jacksonville Bar Association

Lawyer Referral Service
(904) 399-5780

Child Support Enforcement Program

921 North Davis Street, Bldg. A,
Suite 350 (Duval)
Suite 250 (Nassau)
Jacksonville, FL 32209
(800) 622-5437

3540 Highway 17 N, Suite 123 (Clay)
Green Cove Springs, FL 32043
(800) 622-5437

75 King Street, Room 241 (St. John's)
St. Augustine, FL 32084
(800) 622-5437

Jacksonville Area Legal Aid, Inc.

126 West Adams Street, Jacksonville, FL 32202
(904) 356-8371

3540 Highway 17, Suite 101
Green Cove Springs, FL 32043
(904) 284-8410

222 San Marco Avenue, St. Augustine, FL 32084
(877) 827-9921

Jacksonville Area Legal Aid, Inc. is supported in part by:

The City of Jacksonville
NE Florida Area Agency on Aging
Florida Department of Elder Affairs
United Way of Northeast Florida
Office of Attorney General

Baker, Clay, Duval, Nassau County Filing Fees
Victims of Crimes Act/Violence Against Women Act

The Florida Bar Foundation - with funds provided by Florida's Interest on Trust Accounts Program

Family Court Services

Room 413, Duval County Courthouse
330 East Bay Street, Jacksonville, FL 32202
(904) 630-2111

Room 309, Clay County Courthouse
825 North Orange Avenue
Green Cove Springs, FL 32043
(904) 278-3636

Nassau County Annex
76347 Veterans Way, Yulee, FL 32034
(904) 491-2028

St. John's County Self-Help Coordinator
(904) 827-5631

Prepared by: Jacksonville Area Legal Aid, Inc., A United Way Agency

Revised 01/09

The information provided in this brochure is not a substitute for legal advice.

The laws described here may change without notice.