

3 Things to Know About Utah Child Custody Laws for Unmarried Parents

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Having a child is a miraculous experience. Having a child with a person you are not married to is no less miraculous, but it does present ***some legal challenges*** that can be overwhelming. **Last year, more than 40 percent of all births in the US occurred to unmarried women.** While the percentage of babies born to unwed parents in the state of Utah accounts for only 19 percent of all births, that is still nearly ***10,000 children whose parents are faced with challenging legal circumstances in the wake of their birth.***

Fortunately, many of the difficulties surrounding ***child support, custody, taxes, and decision making*** can be ***mitigated by addressing these three things:***

1. Establish Paternity at or Before Birth

Before a father can be legally considered a father to a child, he must have established paternity. At that point, the court can create ***visitation agreements, draft custody arrangements, allow access to the child's medical history, and create financial arrangements.***

Without an established paternity, the child has no legal claim on their father's financial benefits including ***Social Security insurance benefits, veteran's benefits, health insurance benefits, or inheritance rights.***

Even if a father's paternity is not in question, ***no child support order can be put into place until paternity is legally established.*** This can be done in one of two ways. If there is no question who the father is, a man may ***gain rights to their child*** by ***signing a Voluntary Declaration of Paternity*** (Utah Code Section 78B-15-302). This form can easily be filled out in the hospital shortly after the baby is born and does not require a paternity test as it is completely voluntary. However, if the child's paternity is in question or if the child's mother contests paternity, then a man must ***take a paternity test*** in order to determine the child's biological connection.

2. Primary Custody Falls to the Mother

No matter how fit the father is, in Utah the unmarried mother gains a natural right to custody after the child is born. As a result, she has legal control over the child and her rights are superior not only to the father's, but also to any other person. Fortunately, ***the father of the child can take action to be awarded legal custody***

or visitation of a child as long as his paternity is already established. If his name is on the **birth certificate**, he will be automatically recognized as the child's legal parent and have as much legal claim in courts as the mother. **If his paternity is not established at birth**, his **rights to custody** will be **based on his suitability as a parent** once paternity is established.

Legal paternity is especially important **if a mother abandons her child** or if her **parental rights are called into question**. A father who has his paternity established at birth will **automatically gain primary custody** of a child **if they are removed from the mother's custody** by the Division of Family and Child Services. Otherwise, if the father is not listed on the birth certificate, he will have to establish paternity, be subjected to a *home study* and *await a decision* while the child waits in foster care.

3. Taxes are a Sticking Point

Each year, only one parent can claim the child as a dependent on their income tax forms. Fortunately, **who claims the child as a dependent can change from year to year**. Many parents work out a plan based on *income, custody arrangements and financial agreements* that **benefit everyone involved**. The parent receiving child support does not claim it as income, meaning **child support is not taxed**. However, the parent paying the child support cannot claim the support as a tax deduction. While income taxes do not necessarily affect the day-to-day interaction with a child, it is an **important part of the legal framework of a financial agreement**.

Salt Lake City, Utah Family Law Attorney David Pedrazas Can Help

At the **Law Office of David Pedrazas**, PLLC, family law attorney David Pedrazas can **help you resolve any paternity or child custody issues** you are currently facing. With **over 15 years of experience** serving Utah families, he is not only **familiar with the unique challenges that face unmarried parents**, he also provides **caring, tenacious representation** to ensure you **receive the rights your child deserves**. For more information on your parental rights or to schedule a **free consultation**, **contact the Law Office of David Pedrazas** today. Give us a call at **801-263-7078**.