

Father's Custody Rights in PA

Rights as a Father

As a parent, the father of a child has rights to that child. For example, a father is entitled to see his child. This means that he can ask the court for physical custody or visitation rights.

Pennsylvania offers various forms of physical custody, including sole, primary, partial, and shared. Shared physical custody resembles a 50/50 type of arrangement. In contrast, primary custody involves one parent having physical custody for the majority of the time. In these cases, the other parent is usually awarded partial custody, which is physical custody for the minority of the time.

In addition to asking the court for physical custody, a father can also ask the court for legal custody. Legal custody is the right to participate in important decision-making such as the child's religion, medical treatment, choice of school, and more. Pennsylvania offers two variations of legal custody: sole legal custody, where one parent gets to make all of the decisions, and shared legal custody, in which both parents get to partake in the decision-making.

Along with rights, being a father also imposes responsibilities. Children are entitled to support from both of their parents. Therefore, in the event that the parents are no longer together, child support may be on the table.

Establishing Paternity

Paternity is just a fancy way of saying that someone is the legal father of a child. Being a legal parent is what gives you all of the rights and responsibilities that were discussed above, so paternity is extremely important. There are various ways in which paternity may be established under Pennsylvania law.

When a child is born to an "intact marriage," there is a presumption that the husband is the father of the child. This means that the husband (also referred to as the "presumptive father") is entitled to the same rights and responsibilities to the child as the mother is. But what if the presumptive father *isn't* the biological father? Pennsylvania's presumption of paternity can be difficult to overcome, but there are exceptions where the husband was biologically incapable of fathering the child and where the husband was not near the mother at the time of conception. If a presumption of paternity exists, *no question as to paternity can be raised*, and not even *DNA testing can be introduced to rebut it*. This means that a third-party (the real biological father) cannot attack paternity if the child was born to married parents and their marriage is still in-tact.

However, if the marriage is *no longer in-tact*, a third-party who believes he is the biological father (as well as the presumptive father) may attack paternity.

There are several ways to establish paternity when a child is born to unmarried parents. If the mother and father both agree, they can establish paternity up until the child turns 18 by signing an acknowledgment of paternity. Once the acknowledgment of paternity has been signed and filed, the father becomes the legal parent of the child. Both parties have the right to cancel the acknowledgment within 60 days of signing, however if they fail to do so it may only be challenged in court on the basis of fraud, duress or material mistake of fact.

Where either one of the parties will not sign an acknowledgment of paternity, the other party may seek to establish paternity involuntarily by initiating court proceedings. If the father will not sign, the mother can file a Petition to Determine Paternity or a Complaint for Child Support with the Family Court. In this case, the court may require the father to submit to a DNA test. If paternity is confirmed by the DNA test, the court can issue an order of paternity. Additionally, a support order may also be entered. If on the other hand the mother refuses to sign a paternity acknowledgment, the father can still sign and file it himself. However, without the mother's signature it will not give the father any rights to the child, except to be notified of any proceeding to terminate parental rights (for example, an adoption proceeding). If the father does want rights to the child, he should instead seek to establish paternity involuntarily by filing a Petition to Determine Paternity with the Family Court. If a DNA test confirms paternity, the court can issue an order of paternity and potentially an order for support.

*(For more information on this topic or any topic in divorce, custody, mediation, child support, collaborative law, PFA matters, alimony, or other family law matters, visit www.Pittsburgh-Divorce-Lawyer.com or contact **Notaro & Associates, PC** at **412-281-1988** for a free phone consultation with an attorney. You can also schedule online by clicking [here](#).)*