



- of Hawaii -

David Reber, Esq.  
President, Board of Directors

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Executive Director

RE: The Rights of Unmarried Parents of a Child

Dear Applicant:

This letter is in regards to your recent application for services with the Legal Aid Society of Hawai`i. It is our understanding that you had a child while not married to the other parent of your child. The rights of the unmarried parents of children depend on certain factors. Based on the information you provided for us, we selected the section below which is appropriate to your situation and which describes each parents' rights to the child.

If you are the **mother** of the child, you automatically have rights to the child, unless your rights have been terminated by a court order. A mother needs only to show the child's birth certificate to prove her rights. However, the situation for **fathers** who are not married to the child's mother is very different. The father's rights depend several things, including whether or not paternity was legally established.

See Sections A - C below. We have marked the section that applies to your situation.

**A. The Child Was Born Before July 1, 1999 & Paternity Was Not Established**

Under Section 584-4(a) of Hawai`i's Uniform Parentage Act, if the child was born before July 1, 1999, a father can establish a presumption that he is a natural parent of a child if he acknowledges paternity by signing the child's birth certificate. However, that presumption is not the same as establishing legal paternity, and the presumption does not carry with it any legal rights or obligations. In other words, a father who has not established legal paternity does not have any automatic rights to the child (such as custody or visitation), nor does he have any automatic obligations to the child (such as paying child support). Until legal paternity is established either (1) by a court action or (2) by both parents signing a Voluntary Establishment of Paternity by Parents form, a presumed natural

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father does not have legal rights to the child even if he signed the birth certificate and the child carries his name.

**B. The Child Was Born Before July 1, 1999 & Paternity Was Established**

If paternity was established through a court order, that court order should outline each parents' rights to the child. The paternity order should include orders on custody, visitation, and child support so you must look at your court order to determine each parents' rights and responsibilities to the child. If you do not have a copy, you should get one by going to the Family Court where paternity was established and requesting a copy. Because paternity records are not available to the public, you must bring a picture ID with you.

**C. The Child Was Born On or After July 1, 1999 & Paternity Was Not Established**

As of July 1, 1999, paternity can be established either through: (1) a court order or (2) by both parents signing a Voluntary Establishment of Paternity by Parents form. If neither of these ways was used to establish paternity, then the situation is similar to section "A" above: the father has no legal rights or obligations to the child and the mother is the only legal parent of the child.

**D. The Child Was Born On or After July 1, 1999 & Paternity Was Established**

As of July 1, 1999, paternity can be established either through: (1) a court order or (2) by both parents signing a Voluntary Establishment of Paternity by Parents form at the hospital or at the Department of Health. The way paternity was established affects each parents' rights to the child.

! *If paternity was established through a court order*, see Section "B" above for information on each parents' rights to the child.

! *If paternity was established by both parents signing a Voluntary Establishment of Paternity by Parents form*, then the mother and father each have equal rights to the child. Unlike a court order, this form does not set out child custody, visitation, or support orders at the same time, so both parents have equal rights. If you would like to get custody, visitation, or child support orders, you will need to go to court. Call Legal Aid for more information.

Thank you for applying for services with Legal Aid. We hope that this letter clarifies some of your questions. Please call us if you have more questions.

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Very Truly Yours,  
Legal Aid Intake