

## Why would an unmarried father want to “go to court” if there are not any problems?

There are many reasons for an unmarried father to “go to court” or file a motion to set up parenting time or custody. You may want to go to court or get a court-ordered agreement even if you do not have any problems seeing the child. A court ordered agreement will make sure your rights are protected. A court order may be especially important to get if you have the child living with you but do not have a court order that says that. Here are some reasons to go to court:

- **To make sure you get to spend time with your child.** If you never set up parenting time or custody rights in a court order, you can only have the child if it is okay with the custodial parent. This is because the law gives an unmarried mother sole legal and sole physical custody of the child. Only a court order can change that. If there is no court order, the custodial parent can change her mind about letting you see the child.

- **To get notice if the mother wants to move out of state.** If you have court-ordered parenting time rights, the mother cannot move out of state with the child unless you say it is okay. Or she has to get a court order saying it is okay to move. If there is no court order giving you parenting time rights, the custodial parent can move out of state without asking.



It does not matter if you are a big part of the child’s life. If the mother asks the court for permission to move, the court must look at several things to decide if she should be allowed to move. These things include your relationship with the child and how possible it would be to continue that relationship, looking at how far the mother is planning to move and your financial situation. See page 23 for more information.

- **To get notice if the mother wants to give someone else temporary custody.** Sometimes, a mother gives temporary custody to someone else. She does not have to tell you about it or ask you if it is okay UNLESS you have court-ordered rights. There is a form called a Delegation of Parental Authority that a custodial parent can use to give another person temporary custody of the child for up to 1 year. The legal father will only get a copy of this form if he has court-ordered parenting time rights that are not supervised. There also cannot be an Order for Protection (OFP) in place against the father.

- **To get holiday time with your child.** The court can order that you get to spend time with your child on certain holidays, birthdays, etc. You can also ask for vacation time with your child. The court order is enforceable. This means that that if the other parent is not letting you get the time you are supposed to, there are ways to make them follow the rules of the order.

- **To get make-up parenting time for time that you have been denied.** If the mother is not letting you see your child or if you have had problems with your parenting time, you can ask the court for help. The court can give you extra time with your child to make up for the court-ordered parenting time that you did not get.

### Question From An Unmarried Father

I signed a Recognition of Parentage but have not been to court, except for child support. My child’s mother drops my son off but is always cutting short my time with my kid. She insists that she take him right away even when she comes to get him hours early from what she told me, and sometimes I do not get to see him at all. Can she do this?

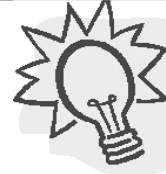
**Answer:** Yes. The child’s mother has sole legal and sole physical custody until a court changes this. If you want to be able to enforce the time you have with your child, you need to go to court to establish custody and parenting time. Otherwise, the mother cannot be made to let you spend time with your child.

• **To enforce your parenting time rights.** If you have ongoing and serious parenting time problems, the court can hold the other parent in contempt of court or change custody. The problems must be serious before the court will even think about these options. You must have gone to court at least once or more to try to make the other parent follow the parenting time order.



• **To qualify for the parenting expense adjustment.**

Under the new child support law in Minnesota, parents with court ordered parenting time can get a parenting expense adjustment. Your parenting time has to be between 10 and 45 percent of time with the child. The adjustment lowers the basic child support amount you have to pay by 12 percent. Only parents with court ordered parenting time are supposed to get the adjustment. See page 27.



**Going to court may not always be the best choice. You have other options. See a list of options in the section about Court-Ordered Parenting Time on page 20.**

## Your Situation From The Beginning...

**Mom and Dad are unmarried and have a child.**



**Mom has sole physical and sole legal custody until a court order says differently.**

**WHY?** The mother starts out automatically with sole physical and sole legal custody. This is because there is usually no question about who the mother is since she gave birth to the child. Because a father cannot be decided in the same way, the legal system waits for a signed Recognition of Parentage (ROP) or a court order that names a legal father. Only then can the father get the rights and responsibilities that are part of being a father.