Fathers and Families – Tools and Tips

**Navigating Child Support**

Divorced or never-married fathers are often court-ordered to pay child support. Whether the child support order was established through private or Department of Social Services (DSS) mechanisms, most support payments are processed through the Clerk of Court where they are monitored. The following tips may help avoid trouble and provide guidance to navigate the system:

* Establish paternity. While this will obligate you to pay child support, it paves the way for the child to know who his biological father is and to visitation entitlement.
* Before establishing paternity, if in doubt at all, request a DNA test to verify that you are the father. Nearly four out of every ten fathers when tested are not found to be the biological father.
* If/when you are requested to attend a hearing to establish child support, by all means attend the hearing. Avoiding the hearing to establish child support may result in an order being set that is beyond your ability to pay. If you can not attend, compose a written request for a hearing on a future date. Bring documentation showing your current income. Do not overstate your income.
* If you can not pay the entire child support payment due, at least pay a portion of it. Show the court that you are making a good-faith effort. If you consistently can not pay due to a job change or job loss, request a modification to lower the payment amount through DSS or Family Court. See the Pro Se Modification Self Help Guide, Instructions to Completing Forms. Sample letters and forms are below.
* If you have a DSS order and lose your job, notify them immediately. If you have a private child support order, contact the custodial parent as soon as possible should you lose your job. Always document your employment search efforts.
* If you and the mother agree on a visitation schedule, you may be able to include this agreement in a child support order established through DSS. This is only a possibility where the mother and father agree on visitation terms. Sample Parenting Time Guidelines may help mothers and fathers work out a visitation schedule.
* Document payments made and keep receipts of purchases, fees, etc. paid on your child’s behalf at the mother’s request. Gifts to the child will usually not be counted by the Court in lieu of court-ordered support payments. Therefore, make your court payments first.
* Document when you work and when do and do not work and the reasons why. You may need this detailed information if you are required to attend a hearing.
* Keep a personal file that includes copies of all correspondence with DSS, Family Court, the Clerk of Court’s office, the mother, etc. regarding child support and visitation.
* Do not ignore correspondence from official agencies. Attend all scheduled hearings unless the court excuses you.
* Private child-support collection agencies often harass fathers. Contact DSS if you believe you’re being harassed. Do not make child support payments through a private child support collection agency. It may not be reported to the Clerk of Court’s office and the court may believe you are not making payments. Pay according to the child support the Family Court ordered.

Pro Se Modification Self Help Guide and Instructions for Completing Forms (pdf)

Pro Se Modification Forms (pdf)

**Establishing Paternity**

Children benefit when fathers establish legal paternity.

Boosts Self Esteem

Children respond best when they receive love and support from both parents. They gain a sense of belonging and benefit knowing that both of their parents care for them. It is important that they know who their father is and that he cares about them

Creates Family Identity.

When children know they are part of a family, they are likely to be more secure in who they are. Establishing paternity identifies the father’s side of the family and encourages development of a relationship with his family.

Enables Shared parenting.

Parenting is the responsibility of both the father and the mother. Studies show that early establishment of paternity may lead to increased involvement by the father which often results in a decrease in high risk behavior by the children. More resources are available when both parents share the responsibility of raising their child.

Provides Health History

Establishing paternity helps establish the child’s health history. It is important for children and their physicians to know the family’s medical history.

Other Benefits Offered

Participation by both parents may expand children’s access to health insurance and/or benefits such as Social Security or inheritance.

**Establishing Paternity**

When a child is born within a legally recognized marriage, the male spouse of the mother is automatically designated as having legal paternity without any other action begin taken by the mother or her husband, regardless of whether or not he is the biological father. If the couple is unmarried or the biological father is someone other than the spouse of the mother, the biological father must complete the defined process to establish legal paternity. IF YOU ARE NOT CERTAIN THAT YOU ARE THE FATHER, DO NOT COMPLETE A PATERNITY ACKNOWLEDGMENT FORM.

**How** **can Lega**l **Patern**i**ty be estab**li**shed by an unmarr**i**ed father?**

There are several ways that a father can establish legal paternity and different points in time when it can be done. The methods for establishing legal paternity are as follows:

**In-hospital Paternity Establishment**

Prior to the child being born or while the mother is still in the hospital giving birth, the unmarried father can sign a Paternity Acknowledgement Affidavit. By signing the Affidavit (mother must sign as well) the father is acknowledging that he is the biological father. At the point where the signatures of mother and father are notarized, legal paternity exists. The father’s name will appear on the birth certificate and the father must consent to the name of the child before the child’s name appears on the birth certificate. However, the father signing the birth certificate alone without signing a Paternity Acknowledgement Affidavit does not constitute paternity. The father is only allowed 60 days to rescind the Affidavit through the Department of Vital Records after the Affidavit is signed.

**Department of Health and Environmental Control (DHEC)**

If the parents do not complete the Paternity Acknowledgement Affidavit at the hospital and they later wish to voluntarily establish paternity and place the father’s name on the birth certificate, they must complete the Affidavit at either the State DHEC Office or the county health department in the county where the child was born. Trained staff is available to answer questions and notarize parents’ signatures. There is a $15.00 fee for completion of the Affidavit at these locations.

**Department of Social Services/Child Support Enforcement Division**

Fathers may apply to DSS/CSE to establish legal paternity and conduct DNA testing.

The father must fill out a Non-Custodial Parent Application for Services (available at all DSS child support offices) and pay a $25.00 fee for the processing of the Application through DSS/CSE. This method is useful in situations where the mother has been unwilling to complete the Paternity Acknowledgement Affidavit. The DNA test costs the father absolutely nothing up front. However, fathers should be made aware that if DNA test results are positive, DSS will most likely encourage the mother to seek child support if the parents do not reside together. In addition, if the DNA test does come back positive, the father will be asked to repay the cost of the test ($125.00) over a period of time. The payments are often broken down into small, reasonable payments and should not prevent any father from seeking this route. If the DNA test is negative, the father will not be required to pay the DNA test fee and child support will not be pursued.

**DSS/Child Support Administrative Hearing**

If a father never established legal paternity through any of the above methods and the mother has applied to DSS/CSE to establish a child support order, DSS/CSE becomes responsible for pursuing the establishment of legal paternity prior to setting the child support order. The majority of fatherhood participants have established legal paternity through this method. Unfortunately, many of them are unaware that legal paternity was established at this hearing, and they are also unaware of the significance of legal paternity. During administrative hearings, DSS/CSE caseworkers will often ask the man if he is the biological father of the child without offering explanation as to the significance of his response. A father may respond in the affirmative, even though doubts exist; thus, a father may be completely unaware that by saying yes, legal paternity is forever established. If there is any doubt in the father’s mind regarding whether or not the child is his, a DNA test should be requested by the father at the initial DSS/CSE administrative hearing. Recent statistics from DSS/CSE indicate that in over 45% of the cases where a DNA test was requested by the father, the DNA test came back negative. Therefore, it is important that the test be requested if the father has any doubt. A doubtful father inevitably becomes a more reluctant payor once the child support order has been established.

**Private lawsuits and private genetic testing**

The last two methods are rarely seen in fatherhood programs geared to low-income fathers because both are relatively expensive methods for establishing legal paternity. However, the father may not involve DSS and instead pursue legal paternity by hiring an attorney to bring suit. The lawsuit, although identical to the case brought by DSS/CSE, will be considerably more expensive. In addition, the father may avoid going through DSS/CSE by utilizing a private lab.

However, the cost for the genetic test through most private labs is approximately $600.00 or more, and the money must be paid up front before the test is conducted.

A Guide to Paternity and Visitation (pdf)

**Could you be the father of a child born out of wedlock? Do you know about the Responsible Father Registry?**

You must act to protect your rights. South Carolina has the Responsible Father Registry which allows you to place your name, address and the names of the birth mother and child (if known) on the Registry. You can file before or after the child is born but you must do so before an action to terminate parental rights or for adoption has been filed with the court.

Once your name is listed on the registry, your parental rights cannot be terminated and your child cannot be adopted without you being given notice. If you move or change your address, you must notify the Registry of the change of address or you will lose your right to receive notification. Once you register, you will receive a certificate from the Department of Social Services that verifies that you have filed this claim.

If you do not file the claim of paternity with the Registry, the law states that you have given up your right to receive notice or be named as a party and served with papers if a case for termination of parental rights or adoption is filed. The law does require that you be given notice if any one of these four situations exists: (1) a court has found you to be the father of the child, (2) your name is on the birth certificate, (3) you are openly living with the child, the child’s mother, or both, or (4) the mother has named you as the father in a sworn, written statement.

You, as the father, are the only one who can file this claim; no one else can do it for you. If, at a later date, you decide that this was not the right thing for you to do, you may file a revocation with the Department of Social Services. This action cancels the claim.

There is no cost to you to file the claim, revoke the claim or change your address.

When you file the claim, you are not admitting paternity of the child; and, your claim can not be used in court as evidence in any proceeding. The Department of Social Services keeps the Registry which is not subject to public information. The Registry can only be checked under these circumstances: (1) when the Department of Social Services has an open child welfare case and has filed a written request, or (2) when a child placing agency or an attorney handling an adoption or termination of parental rights case files a written request. The Department of Social Services may not use the registry to locate non-custodial parents to establish or enforce child support.

You may file a claim with the Responsible Father Registry online at <https://ssl.sc.gov/DSSFatherRegistry/FatherReg/RegIndex.aspx>. You will need to create an account and complete the on-line form. Or, print out the form, complete it by hand and mail it to the following:

South Carolina Department of Social Services

Responsible Father Registry

P.O. Box 1520

Columbia, SC 29202

Visit [www.scchildrencomefirst.org](http://www.scchildrencomefirst.org) for more information.

**Obtaining Visitation**

Legal paternity is the legal connection between father and child and is the premise for every parental right that a parent has including the right to seek visitation and/or custody. So before pursuing legal visitation, an unwed father must establish legal paternity.

Spending consistent, quality time with your child is an important part of being a responsible father. Even so, sometimes the child’s mother will not allow visitation for the father. There are practical, legal steps to take to help improve visitation.

1. If you have a strained relationship with the mother, seek help to improve communication skills
2. Pay your child support. It is more difficult to obtain visitation rights when child support payments are not up-to-date.
3. Arrange for a safe and child-friendly environment in which to spend time with your child.

In addition to practical steps, there are legal steps for obtaining visitation.

H**o**w **does a father estab**li**sh** l**ega**l **v**i**s**i**tat**i**on r**i**ghts?**

Once legal paternity has been established, fathers may seek legal visitation rights. The majority of fatherhood program participants establish legal paternity through a DSS/CSE administration hearing. However, the role played by state agencies in general and specifically DSS/CSE in assisting fathers to establish legal visitation rights is often misunderstood. Although DSS/CSE can establish legal paternity and establish a child support order, DSS/CSE the agency receives no federal funds to establish legal visitation rights for the father. In fact, DSS/CSE is not permitted to utilize any of their current funding for visitation issues without first receiving a written waiver from the federal government. There are no state agencies that assist fathers with establishing legal visitation rights in South Carolina. Legal aid assistance is also unavailable to any father who exceeds the minimal income guidelines that have been mandated. Generally speaking, if the father works a full-time job at minimum wage, then he exceeds these very minimal guidelines. For these fathers, the fact that they are working to consistently pay child support, ironically, disqualifies them from receiving any legal assistance to establish their legal visitation rights. The end result is that most low-income fathers seeking visitation rights must hire a private attorney to establish it. Since this process is beyond the financial means of many low-income fathers, most continue to rely solely on the goodwill of the custodial parent for contact with their children. Without a legal visitation order, low-income fathers have no recourse if the custodial parent terminates the visitation schedule. Unfortunately, many fathers retaliate and withhold child support payments; however, that action only worsens the father’s legal problems.

U**se of the Pro** S**e** Vi**s**i**tat**i**on** C**om**pl**a**i**nt**

The term **Pro Se** simply refers to the filing of legal paperwork by a party to the action.

In other words, the father is not represented by an attorney, but files the legal paperwork himself to establish legal visitation rights. In the past, most Family Court judges were unwilling to entertain pro se complaints for legal visitation in their courtrooms because they did not fully understand the limited choices available to low-income fathers. Increased awareness and education of the judi­ciary on this issue, has caused more Family Court judges throughout the state to allowing pro se complaints for visitation to be filed and heard in their courtrooms. In addition, under the leadership of our State Supreme Court, Family Court judges have been reminded that pro se petitioners who correctly file their legal paperwork have every legal right to a court hearing on the issue before the court. Click here to receive instructions to complete a Pro Se Packet for Visitation that can be used by a father for establishing his legal visitation rights as a pro se litigant.

**Where does the father f**il**e h**i**s Pro** S**e** Vi**s**i**tat**i**on** C**om**pl**a**i**nt?**

Complaints for visitation, in general, must be filed in the county/state in which the child resides. Under most scenarios, this means that the father will file the visitation complaint in the same county where the child support action commenced. However, the unfortunate father whose child has moved out of state must file their legal paperwork in the county and state where the child currently resides.

**“Parenting Time” Guidelines**

Prior to filing the pro se complaint, the father seeking visitation should consider what he is looking for from the Family Court in terms of a visitation schedule. The visitation schedule should be a practical schedule that takes into account the age and needs of the child, along with the expected work hours of the father. Parenting Time Guidelines are available which can assist fathers to determine age appropriate visitation schedules. These guidelines highlight that the needs of the child must be first and foremost in the mind of the father. In essence, this means that a visitation schedule requested for an infant will differ significantly from a visitation schedule for a school aged child. Attached are sample Parenting Time Guidelines which can be used by fathers when requesting a suitable visitation schedule from the court. (link to Parenting Time Guidelines pdf)

**Final Visitation Order**

Finally, it is important that the language in the final visitation order specify the visitation schedule. If it is not clear, the court is powerless to enforce a vague Visitation Order. The following wording appeared in a Visitation Order, “father is entitled to reasonable and liberal visitation rights.” Although it sounds good, it is unenforceable because no specific visitation schedule has been outlined. Since the father may not have the skills to prepare the order as detailed as needed, he can offer the guidelines to the court as an attachment to the Final Order. The judge can then reference the parenting time guidelines and relevant sections that were decided upon in the Final Order.

**Connection between Child Support and Visitation**

The current law views child support and visitation as two totally separate issues.

Therefore, the payment history of the father should not be an issue at the visitation hearing. Likewise, the Court will not entertain the father’s complaints regarding his lack of visitation at child support hearings. When visitation is brought up by fathers during hearings, many interpret the Court to be uncaring; this is not necessarily true. The reality is that the issue of visitation is not before the Court on that day. However, if the father has a legal visitation order in which the child spends more than 109 overnights with the father (30% of the child’s time), the father may request to have his child support obligation calculated differently using the Shared Parenting Worksheet. The use of this worksheet will result in a lower child support obligation each month because it takes into account the time spent with the father. A copy of the Shared Parenting Worksheet may be obtained at any regional DSS/CSE office. For the father, it is yet another incentive to formalize the visitation schedule through a legal visitation order.

**What** i**f the** F**ather has a** l**ega**l **v**i**s**i**tat**i**on order but** i**s be**i**ng den**i**ed h**i**s** vi**s**i**tat**i**on r**i**ghts by the** M**other?**

Current South Carolina law permits a father to file a Pro Se Affidavit stating that his visitation rights are being denied. This form affidavit is available at every Family Court clerk’s office in the state. The Court will schedule a Rule to Show Cause hearing asking the mother to show cause as to why the father is being denied visitation. If the mother is found in contempt, the penalties are up to one year in jail and/or a $1500.00 fine. The availability of a similar affidavit will vary from state to state. However, most states have in place a similar process. Fathers must simply contact the Family Court where the original visitation order was issued and inquire as to the process practiced by that particular county.

A Guide to Paternity and Visitation (pdf)

Parenting Time Guidelines. (pdf)

**PARENTING - DADS MAKE A DIFFERENCE**

Society has slowly acknowledged fathers’ unique, vital contributions to child development. An infant only eight weeks old can tell whether a male or female is interacting with them. This diversity alone gives children a broader, richer experience than children raised by one gender. Generally, mothers and fathers parent differently; so, consider the information below as generally accepted by child development experts, realizing exceptions can and do occur.

**Fathers play differently.**

Mothers cuddle babies while fathers bounce them. Fathers roughhouse within limits while mothers soothe. One style encourages independence, the other security.

**Fathers push limits.**

Fathers encourage children to take risks. Mothers protect and exercise caution. Together, they balance out and help children remain safe while building confidence.

**Fathers communicate differently.**

Mothers use simple words and effectively speak on the children’s level. Fathers challenge a child to expand his vocabulary and linguistic skills, vital to academic success. Child will experience both styles in life.

**Fathers discipline differently.**

Educational psychologist Carol Gilligan points out that fathers stress justice, fairness, and duty teaching objectivity and consequences, while mothers stress sympathy, care, and help. To exercise one over the other is not enough; using them together creates a healthy, proper balance.

**Fathers prepare children for real life.**

Most mothers primarily see the outside world as potentially harmful to their children and want to shelter them (i.e. accidents). Fathers focus on preparation for the world’s harshness and the consequences evoked by displaying certain attitudes and behaviors. Developing both views is necessary.

**Fathers teach respect for women.**

Girls growing up with positive, involved dads are more likely to develop healthier relationship with boys in adolescence and men in adulthood. Having witnessed and experienced proper behavior from men in their lives helps young women build emotional security and protects against predatory males. Fathers also help weed out bad candidates for suitors and potential husbands. Boys raised with fathers are more likely to be good husbands if they emulate their fathers’ successes and learn from their failures.

Adapted from Palmetto Family Council “How Daddies Make a Difference: The unique Contributes of Fathers to Proper Child Development” Palmetto Perspective November 1999

**CHILD WELFARE**

**What should I do if the Department of Social Services has taken my child from the custodial mother and placed in foster care?**

The South Carolina Department of Social Services is working diligently to keep children with their families and out of fostercare. Fathers can play a key role in helping to ensure that his child is in a safe and loving environment even when he is a non-custodial father and the child does not live with him. Fathers can be involved in developing a family treatment plan to help strengthen the family support system so that the child can live safely with the mother or father. More and more non-custodial fathers are being considered for temporary and even permanent placement when his child is removed from the custodial mother’s care for abuse or neglect.

When a father learns that his child has been placed in fostercare, he should contact DSS and tell them the child’s name, the custodial mother’s name and his name and identify that his is the biological father. A father should go to DSS and meet face to face with the caseworker as soon as possible. DSS is required to conduct a diligent search for the non-custodial parent so they may already be looking for you to seek your help and to determine if you are in a position to care for the child temporarily. It is far more beneficial for you and your child if you contact DSS Fostercare Division as soon as you have learned that the child has been removed from the custodial mother.

Depending on your situation and how long your child has been placed in fostercare may affect what happens next. However, by working with DSS you may gain visitation, be involved in developing a treatment plan, gain temporary or even permanent custody, and more importantly be there for your child.

If you need assistance to gain parenting education and a stable living situation so that you may be considered for placement, contact the Fatherhood program.

**Earned Income Tax Credit Benefits Low-wage Earners**

Do you qualify for Earned Income Credit

The **Earned Income Credit (EIC)** and the **Child Tax Credit (CTC)** are federal tax benefits for low- and moderate-income workers. Did you know that many low-wage tax filers in 2012 may be eligible for an EIC worth up to $5,751?  Workers raising children who earned less than about $46,000 in 2011 may be eligible for the EIC. The extra benefits provided by the EIC and other valuable federal tax credits may help many working families pay their household bills and meet their children’s needs even through salary cutbacks or periods of unemployment.  The sad part is that many do not claim the credits they are eligible for.  In 2011, over 27 million eligible families and individuals claimed Earned Income Credits worth $59.7 billion!  Even if workers do not earn enough to owe income tax (although they pay federal excise payroll taxes, as well as state and local taxes), they can qualify for these tax credits, but may not realize it.  Workers not raising children who earned less than about $13,600 also can qualify.

**What is the Earned Income Credit (EIC)?**

The EIC is a tax benefit for working people who earn low or moderate incomes. It has several important purposes: to offset taxes, to supplement very low wages, and to provide a work incentive.

The EIC can offset some or all of the taxes workers must pay, such as payroll taxes, and can help cover any federal income tax workers may still owe at tax time. Besides offsetting taxes, workers earning low wages may also get cash back through the EIC refund. Workers who qualify for the EIC and claim it on their federal tax return can receive a refund check from the IRS even if their earnings were too small to owe income tax. In addition to the EIC, some families also can get the CTC, which can be worth up to $1,000 per child.

**What is the Child Tax Credit (CTC)?**

The Child Tax Credit is a federal tax credit worth up to $1,000 in 2011 for each qualifying child under age 17 claimed on the worker’s tax return. Since 2001, the CTC has been available to millions more low- and moderate-income working families and provided many families a larger CTC than they could have received in the past. This “Additional CTC” is refundable, meaning some families can get the credit even if they owe no income tax. Eligible families can receive the “Additional CTC,” or CTC refund, in a check from the IRS.

**To find out more information**, please go to the Center on Budget and Policy Priorities website at [www.eitcoutreach.org](http://www.eitcoutreach.org).