

# QUICKLAW

ANSWERS YOUR QUESTIONS

## UNWED FATHER

### What does a "child born out of wedlock" mean?

A child born out of wedlock is a child whose natural parents were not married to each other at the time of the child's conception or at any time after the birth of the child.

### Do I have to pay maintenance to support my child?

Yes, you have a duty to maintain your child and the child has a right to receive maintenance from you but there are no other rights and duties between the two of you. The fact that you must maintain your child does not mean you have an automatic right to see your child.

### May I see my child any time I wish?

- No, a mother has full parental power over her child born out of wedlock.
- You do not have any parental rights.
- You can apply to the High Court for certain rights, like the right to see your child.

### Do I have a right to decide on issues regarding my child?

An example would be what type of school the child attends.

- No, the mother has full parental power over the child and decides on all the child's day-to-day

activities as well as all the important decisions in the child's life, except if the High Court makes a different ruling after an application to court.

### How do I obtain rights to my child?

- We suggest that you seek the help of an attorney.
- The attorney will assist you to make an application to the High Court.
- The High Court may grant you the following rights:-
  - Access and/or
  - Custody and/or
  - Guardianship
- Whether or not the Court will grant any of the abovementioned rights to you will depend on the best interests of the child.

### How are the best interests of a child determined?

It is generally accepted that a child has a right to know and form a bond with both his/her parents, but whether this would be in the best interests of a child is really a question of fact and each case will be judged according to its own facts.

### What will the court take into account in determining the best interests of the child?

*The Court will take the following into consideration:-*

- The relationship between you and the mother.
- Whether either of you have a history of violence or abuse towards each other or your child.
- The relationship between you and the child.
- The relationship between the mother and the child.
- The effect that separating the child from you or from the mother or any other person is likely to have on the child.
- The degree of commitment that you have shown

towards the child.

- Whether you have paid any maintenance toward the child.
- Whether the child was born of a customary marriage or a religious union.
- Your reasons for applying for the order.
- The attitude of the child to the granting of the application.
- Any other factor that the court considers relevant.

### How can I ensure that I have a say in my child's life?

*By being awarded certain rights, you are protected against the following:-*

- The mother will not be able to have the child adopted without your consent.
- The consent of both parents will be required for obtaining a passport or for the marriage of the child while he/she is still a minor.
- If you are granted co-guardianship the mother may not take the child out of the country without your consent.
- If the mother dies you will automatically become the sole guardian and custodian of the child, unless the court orders otherwise.

### How do I apply for rights to my child?

- A formal application must be made to the High Court.
- The High Court will make an order once all aspects have been considered.
- The mother of the child has a right to oppose the application.
- You will need an attorney to assist you with this application.

#### KEY:

1. WEDLOCK - means marriage
2. ACCESS - parents' rights to see their children
3. CUSTODY - the duty of taking care of someone

## LEGALWISE BRANCHES & TEL NUMBERS

BELLVILLE	021 949-1860
BENONI	011 421-8131
BLOEMFONTEIN	051 447-5262
CAPE TOWN	021 419-6905
CENTRAL SERVICES	011 470-4000
DURBAN	031 306-3800
EAST LONDON	043 722-0811
EMPANGENI	035 772-2182
FLORIDA	011 470-4208
GERMISTON	011 873-4022
HAZYVIEW	013 737-6365
HEAD OFFICE	011 670-4500
JOHANNESBURG	011 836-8422
KEMPTON PARK	011 394-5457
KIMBERLEY	053 832-5964
KING WILLIAM'S TOWN	043 642-1975
KLERKSDORP	018 462-9240
MAFIKENG	018 381-2308
NELSPRUIT	013 755-3290
NEWCASTLE	034 315-5503
PIETERMARITZBURG	033 342-6010
PIETERSBURG	015 297-5844
PINETOWN	031 702-0202
PORT ELIZABETH	041 585-4370
PRETORIA	012 328-6225
QWA-QWA	058 713-0932
RANDBURG	011 787-5059
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RUSTENBURG	014 594-2082
SECUNDA	017 634-4122
SOWETO	011 984-2722
UITENHAGE	041 922 6551
ULUNDI	035 870-1621
UMTATA	047 532-5911
VANDEBBIJLPARK	016 931-2440
VEREENIGING	016 422-1531
WELKOM	057 357-1452
WITBANK	013 656-4290



Legal Power and Protection

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# Unwed Father

I AM THE FATHER OF  
A CHILD BORN OUT  
OF WEDLOCK,  
WHAT ARE MY RIGHTS?



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Legal Power and Protection

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