

EB-Merkblatt: Englisch

Bulletin concerning the legal regulation of paternity, child support and custody rights for children of unwed parents

(Under Swiss Law)

1 Legal Foundations

If parents are not married to one another, the father must legally acknowledge his child with the Vital Statistics Registry Office (Art. 260 ZGB). If no legal acknowledgement occurs, both the mother and the child may bring a legal complaint to establish the paternal relationship between the father and the child (Art 261 Para. 1 ZGB).

Parents must provide for the support and maintenance of their children (Art. 276 ff. ZGB). The legal duty of support lasts from birth to the regular completion of an appropriate education, at least however until the child reaches majority age (Art. 277 ZGB).

The amount of support (alimony) can be established by negotiated agreement. This support regiment, though, is subject to and requires the approval of the Guardianship Authority (Art 287 Para.1 ZGB). If no agreement can be reached, the child may bring a legal complaint against the father, mother or both for the payment of support for the future and for one year prior to the initiation of the legal action (Art. 279 Para.1 ZGB).

If the parents are unmarried, then parental custody belongs to the mother (Art. 298 Para. 1 ZGB). At the joint request of the parents, the Guardianship Authority will convey joint custody to them, insofar as this accords with the welfare of the child or children and insofar as a legally viable agreement concerning the proportion of child care and the division of child support costs is presented (Art. 298a Para.1 ZGB).

2 Paternity

Every child has the right to know his/her father.

2.1 What does the legal regulation on paternity do for the child:

- Registration of the father in the vital statistics registry and therewith also in the child's legal documents (birth certificate, certificate of residence, identity documents, etc.)
- The child has a legal claim to support payments from the father, and in some cases also payments from his social security and pension
- The child has inheritance rights
- Legal right to appropriate personal contact between father and child as well as the right to information and about the father and access to the father's personal data.

2.2 Acknowledgement of Paternity

The father can legally acknowledge his child prior to birth or as soon as possible thereafter. He reports to the Vital Statistics Registry Office to do this. This acknowledgement can be done at any Vital Statistics Registry Office (in Switzerland or abroad).

Depending on the father's nationality and marital status, different documents are required. The Vital Statistics Registry will inform you which papers are necessary.

[Zivilstandsamt, Stadthausquai 17, Stadthaus, 8001 Zürich, Tel. 044 412 31 50](#)

3 Custody, Care and Support

Under parental custody is meant the right and duty to care for the child, to guide it, raise it, represent it and administrate its personal property. Care is a portion of parental custody and encompasses daily supervision and care for the child as well as the authority to decide where the child will be domiciled.

If the parents are not married to each other, parental custody and care are assigned to the mother. Parents can apply for joint custody of their child by submitting a joint application to the Guardianship Authority.

Parents must provide for the material support of their child (food, clothing, lodging, costs for child care, education, etc.). This support will be provided through care and raising and through monetary payments.

3.1 Maternal Custody

If custody remains with the mother, she is responsible for all important decisions in the child's life.

A child support contract will be negotiated with the father. In this contract, the amount of monthly financial support that he must provide for the maintenance of his child will be established.

The child support contract must be approved by the Guardianship Authority.

3.2 Joint Parental Custody

Joint parental custody assumes that the parents are able to communicate with each other and that they are able and willing to resolve conflicts with each other and in the interest of the child.

The parents in this case set forth in a written agreement that they are jointly responsible for their child and that they will make future decisions concerning the child together.

Both parents will take part in the care and supervision of the child and will have regular contact with him/her and will maintain a good relationship with him/her. The time commitments required of the parents will be set down in the agreement.

The agreement must also establish how the parents will distribute the support costs for the child. If the parents have separate residences, a concrete amount for support expenses must be stipulated.

The agreement for joint parental custody must be approved by the Guardianship Authority.

4 How are Paternity, Custody and Child Support Settled?

The Guardianship Authority must make sure that paternity and responsibility for child support are established for each child born out of wedlock.

The *Elternberatungsstelle* offers guidance in all matters concerning paternity, custody and child support. The Office assists parents in working out a *child support contract* or an *agreement on joint parental custody*. Tax and salary or wage statements and all other necessary documents must be presented in order to determine the amount of child support for the composition of the agreement.

The *Elternberatungsstelle* will submit four copies of the settlement worked out in cooperation with the parents to the Guardianship Authority of the City of Zurich for approval. Each of the parents will receive an approved copy of the settlement along with the corresponding decision from the Authority.

5 Paternity and Child Support Claims

If a father disputes paternity and/or his obligation to provide support, paternity and/or the obligation to provide support must be established by a ruling of the district court. Additionally, the Guardianship Authority must if needed provide legal assistance for the child. This assistant will submit the legal action to the district court.

6 Fees

The approval of the agreement concerning joint parental custody/ the child support contract by the Guardianship Authority is subject to a fee. Any consultation of the *Elternberatungsstelle* will not be listed separately in the statement of fees.

7 Parental Rights / Parental Duties

The relationship to both parents is very important for the child's development. For this reason, it must be actively fostered by all involved parties. To this end, the law grants the non-custodial parent the following particular rights:

7.1 Right to Receive Information

The non-custodial parent can obtain information concerning the status and development of his/her child from third parties who are involved in providing care for the child (e.g. teachers, doctors).

7.2 Duties to Provide Information

The non-custodial parent should be provided by the custodial parent with information concerning special events (e.g. an important test) in the child's life. Prior to decisions that are of significance to the child's development (e.g. medical interventions), he/she should be brought in to the decision making process. This entails the right to have a say in a matter, not the right to share equally in making the decision. If information cannot be provided beforehand, the non-custodial parent must be informed as soon as possible after the event (e.g. after an accident). If the non-custodial parent is not in the least interested in the child's development, then the custodial parent is not obligated to pursue the duty to inform and consult on his/her own initiative.

7.3 Right of Visitation

The right of visitation is both a right and an obligation: The non-custodial parent has both the right to have personal contact with his/her child and the obligation to exercise this right.

The relationship between parents and child is of decisive importance for the child's development.

If parents cannot come to an agreement concerning the right of visitation, they may report to the responsible Social Services Office for a clarification. Should it prove impossible to reach an agreement even with this support, they may request a ruling on the right of visitation from the Guardianship Authority.

8 Additional Information

8.1 Legal claims of the Unwed Mother against the Father of her Child (Art. 295 ZGB)

- for the costs childbirth and other expenses incurred resulting from the pregnancy and birth, with deduction of those costs paid by health insurance
- for costs of support at least four weeks prior to and eight weeks after the birth with deduction of any payments made by employers, unemployment insurance, etc.
- for other expenses made necessary by the pregnancy and/or delivery of the child, including the child's first accoutrement and furnishings.

All expenses must be attested with receipts.

In case of a dispute, the mother can bring a legal action for compensation against the father or his heirs before the court responsible for the paternity suit; she must do this within one year of the birth, at the latest.

8.2 Advances on and Collection of Alimony

If the parent responsible for paying support does not pay or does not regularly pay the alimony as stated in the contract or judicial ruling, assistance may be requested in collection or the alimony payments can be demanded in advance, provided that prerequisites for this are fulfilled. The *Alimentenstelle* will collect the support payments due from the parent who is responsible for paying support. For information concerning assistance in collection and advanced payment of alimony, contact the *Alimentenstelle*

Tel. 043 / 444 63 40

www.stadt-zuerich.ch/alimentenstelle

8.3 Daycare Allowances (German Abbr.: KKBB)

Parents who are living in difficult financial circumstances are entitled to an allowance to provide support during the child's first two years. The *Alimentenstelle* will provide information concerning the requirements for receiving this Daycare Allowance (German abbreviation KKBB) at

Tel. 043 / 444 63 40

www.stadt-zuerich.ch/kkbb