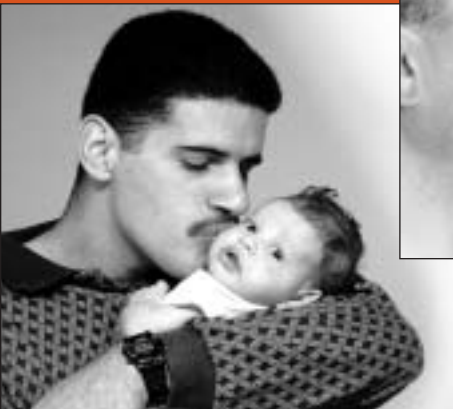


YOUNG FATHERS:

What's
it all
about?



The Rights and
Responsibilities of
Young Fathers in Iowa

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WHAT'S IT ALL ABOUT?**

**The Rights and Responsibilities of
Young Fathers in Iowa**

Family Planning Council of Iowa

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THIS INFORMATION IS FOR YOU....

about your **rights** and your **responsibilities** if the girl you are having sex with gets pregnant or has a baby.

These are answers to some of the questions young Iowa fathers have asked.

If the answers are not clear, or if you have other questions, call the Youth Law Center hotline, 1-800-728-1172.

This material is informational only and not to be taken as legal advice. Nothing in this pamphlet is intended to substitute for advice from an attorney about your specific situation.

Children need their fathers

Most young men want to be responsible and be involved in the lives of their child. Even if you are not married to your child's mother, you can still play an important part in your child's life. You do not need custody of your child to do that. Children want to know who their fathers are, and have a relationship with them. Being a part of your child's life is important for their happiness, and for yours.

A quick look

If the girl you are having sex with gets pregnant and has a baby, that makes you the father of that baby. You will have to help support and care for your baby until it is 18, or until somebody else adopts it. You do have rights. You have the

right to see your child and to help care for it. You have the right to be heard in court about being the child's actual father, about paying support, and about how your child is cared for.

If you don't want to deal with being a father just yet, you can postpone having sex until you are older, or you can use a condom every time you have sex.

WHAT HAPPENS IF I GET SOMEONE PREGNANT?

Marriage

Whether or not people should get married if they get pregnant is a personal decision.

There are some restrictions on marriage based on the age of the people wanting to get married.

- Anyone 18 or older can get married.
- A person who is 16 or 17 years old can only get married if their parents consent to the marriage in writing and a judge approves the marriage. The judge does not have to approve the marriage. Pregnancy is not a good enough reason for a judge to approve a marriage. The judge must also think you are mature enough for marriage.
- A person 15 or younger cannot get married in Iowa.

Abortion

Does she need my permission to have an abortion?

No. She does not need your permission to have an abortion, and the law does not permit you to stop her from having an abortion if that is what she wants and the doctor says it is safe.

Can I make her have an abortion?

No. Nobody can force a woman to have an abortion if she doesn't want it.

If she is under 18, do her parents have to be told that she is getting an abortion?

Yes, except in special cases. A doctor who is going to perform an abortion on a minor must tell that minor's parents of the abortion unless the minor gets an order from the juvenile court stating that the parents do not have to be told. The court may waive notice to the parents if the court determines that the minor is mature and notifying the parents is not in her best interests.

Support for the pregnant mother

If I get someone pregnant, do I have to provide financial or emotional support for her during the pregnancy?

Nothing in the law makes you provide emotional or financial support for the mother during the pregnancy.

However, you may have to provide support for the child once the child is born. If you don't provide emotional or financial support during the pregnancy, it may affect your ability to get visitation or custody and it may affect your parental rights if the mother tries to place the child for adoption.

Safe haven law

A parent of a newborn child may legally leave that child at a hospital or other health facility without any questions asked. The parent will not face any criminal penalties so long as the child has not been harmed.

A newborn child is a child 14 days of age or less.

A parent leaving a newborn child at a hospital or health center is giving up their parental rights to the child and the child will be placed for adoption.

A father of a newborn child who is left at a hospital or health center will be notified that his parental rights will be terminated only if he has filed a declaration of paternity with the Iowa Office of Vital Records.

RIGHTS AND RESPONSIBILITIES TO THE CHILD AFTER BIRTH

Do I have an automatic right to visit my child and have my child come stay at my home once the child is born?

No. You do not have an automatic right to visitation. If you and the mother can agree on a visitation arrangement, you certainly may have visitation. But, unless a judge grants you visitation, your contact with your child is up to the mother.

Must I automatically start paying child support once the child is born?

Parents are responsible for the support of their child. But, legally, you are not automatically required to begin paying support when your child is born. If you do provide emotional and financial support to the child and mother right away, that will help you get better visitation rights. Also, if you are ordered to pay child support by a court, the judge can require that you pay back child support for the months and years you previously did not support your child.

What happens if the mother of my child and I both want to be primary custodian or the caretaker of the child?

If you were never married and you have never been legally identified as the father, Iowa law states that the mother of a child born out of wedlock is the sole custodian of that child.

Paternity: the first step

If you want custody or court ordered visitation with your child and your child was born out of wedlock, you must first establish in a court that you are in fact the father of the child. This is called establishing paternity.

Establishing paternity means that the court names you as the father of a child. This is your first step in being involved with your child. Having paternity established does not mean you have been given custody of your child.

Why would I want to be officially named as the father of a child?

- Once paternity is established you will be permanently recognized as the father of your child.
- You have a chance to visit your child, or to share custody with its mother.
- You can participate in decisions related to the way your child is raised (such as religion and education).
- You need to be named as the father in case you want to ask the court to give you custody of your child.
- Your child will be healthier and happier knowing its father.

How is it decided who the father of the baby is?

If you are not married to your child's mother, you and the mother fill out a form called a "Paternity Affidavit." You can get this form at the hospital where your baby was born. It is not enough to just put your name on the birth certificate — you need to fill out the affidavit. If you have done this, the judge will usually name you as the father.

What if I don't think I am the father, or I am not sure if I am the father?

The court can order blood testing or other kinds of testing to determine whether or not you are the father of the child.

Going to court

If you are told about a court hearing, you need to be there. You can take your parents or some other person to help you. If you can afford a lawyer, you have the right to have one. Even if you don't have a lawyer, you still need to go.

The court will make decisions that will affect your life, and it is important that you be there to speak for yourself. If you do not appear at a court hearing, the judge can make a decision regarding your child anyway and it may be used against you that you did not appear.

What is it like to go to court?

A judge in a paternity/child custody case is expected to decide what is in your child's best interests. You are trying to help the judge make that decision.

- When you go to court, dress in a way that shows respect for the court.
- When addressing the judge say "Yes ma'am/yes sir," or "Yes your Honor/no your Honor."
- If at all possible, have an attorney with you. A listing of attorneys for low-income clients is in the back of this booklet.
- You may want to take a support person such as a parent or relative with you to court.

Custody and visitation rights

Custody: After paternity is established, the judge will award one parent custody (also called primary care) of the child.

Does the mother always get custody of the child?

The mother usually gets custody. The law says that custody should not be decided based on the gender of the parent. However, the law says that the parent who has provided the most care to the child should be strongly considered as the one to get primary custody. Usually mothers spend more time caring for children than fathers and this is the main reason why mothers more often get custody.

What if the court has given the mother custody but I don't think she is taking proper care of my child?

After a court has awarded custody to one parent, the other parent can then ask the court to change the custody order at a later date. However, the law is clear that courts should not change custody orders unless some significant change has occurred in the case.

What if I think the mother or someone else in her home is harming my child?

You can report to the Department of Human Services: **1-800-652-9516** if you believe that someone is abusing or neglecting your child.

Visitation

Can I visit my child before the court says I am the father?

This is up to the mother. If a court hearing is going on, the judge may give you temporary permission to visit your child, or even give you temporary custody of your child.

What is the common visitation schedule?

Every case is different and the judge will try and do what is best for your child.

Most judges will consider how much you were involved in your child's life before the case got to court, so you should stay actively involved in your child's life if possible.

If you and the child's mother can agree on a visitation plan yourselves, the judge will often use that plan.

In some cases the judge may determine where the visits take place and who should be there.

What if I take my child from its mother without asking the court?

The court's decision is the law. You can ask permission from your child's mother to change visits. However, if you want to change anything without her permission, you need to ask a judge. If you take your child without her consent, and don't follow the court decision, you can be arrested and/or fined.

Child support

Child support is financial support from one parent to the parent with primary custody of the child.

Who has to pay child support?

Both of the natural parents of a child born to people who are not married to each other are responsible for supporting their child.

You must pay child support if:

- You have told the court, or said in writing, that you are the father.
- The court decides that you are the father.
- The mother is receiving state assistance (welfare) for the child and you have been determined to be the father, the state can get a court order requiring you to pay child support.

What if the mother doesn't ask me for support?

Iowa law says that the parents of a child **cannot** agree to give up child support. That is because the support is for the child and not for the mother, so she cannot give up the child's right to support.

If you are told about a court hearing you need to be there. Otherwise, the judge can go ahead without you and set child support payments that you must pay.

How much will I be ordered to pay?

This depends on your income and the mother's income. Usually child support is 20%-25% of your after tax income for one child.

Even if you are a minor, you may be expected to pay something.

As you get older and earn more money, your payments may increase.

What if I don't have a job or choose not to work?

The court can assign you an income that the court believes you could earn if you were working. You would have to pay support based on that amount. If you do not pay the support, the money owed by you would continue to add up until you paid it.

What does child support pay for?

- Food and clothing
- A place to live
- School expenses
- Medical care for the child
- Other needs of the child

How long will I have to pay child support?

- Until the child turns 18 or graduates from high school.
- Until someone else adopts the child.

Iowa law also allows a court to order one or both of the parents to contribute a certain amount towards the child's college education.

Can I pay child support directly to the mother?

Absolutely not. Payments made directly to the mother and not through child support recovery or the clerk of court are considered **a gift to the mother**, and the court will order you to repay all of the child support through the proper channels.

Do I have to pay support if she denies me visitation?

Yes. If she denies you court ordered visitation, you still must pay support. You can always ask the court to require her to give you visitation, but in the meantime you must still pay your support.

If you do not pay the support the amounts will keep adding up and a judge could fine you or make you spend time in jail.

If I don't like the way the mother spends the child support I give her, do I still have to pay?

You must continue to pay court ordered child support.

The mother does not have to tell you how the money is being spent.

What happens if I just don't pay child support?

The court can have your employer take the amount from your paycheck and send it directly to the court. If you disobey a court order to pay support, a judge could find you in contempt of court and you could be sent to jail. Even if you go to jail, you will still owe the child support.

If you think that the payments are not fair, or you can't make them, you can ask the judge to change them.

TERMINATING PARENTAL RIGHTS

Terminating (also called losing) your rights as a parent means you will no longer have legal rights concerning your child.

Adoption

Under some circumstances a court can terminate your parental rights so that another person or couple can adopt your child.

Can I make the mother place the baby for adoption?

No, you cannot force a woman to place her baby for adoption if she does not want to.

Can the mother place my newborn baby for adoption without my permission?

Before your child can be adopted, your parental rights must be terminated by a court. In Iowa you are required to be given notice in writing that a court hearing is being held to try and terminate your parental rights. If you come to that hearing, you have two options:

1. Agree to the termination of your parental rights, or
2. Fight the termination of your parental rights

If you don't come to the hearing, your parental rights will likely be terminated.

If you fight the termination of your parental rights, the main issues for the judge will be the following:

- how involved you have been or tried to be in your child's life
- how involved you were in the mother's pregnancy
- whether you are ready and able to provide custodial care for your child
- whether you have publicly held yourself out as the father of the child

If the court does not know your whereabouts to give you notice of the termination of parental rights hearing, the notice to you may be published in the newspaper.

If your partner is pregnant and you think that she may place the child for adoption, or if you have a child and you think that the mother will try to have the child adopted, you can make sure that you will get a personal notice in writing of the hearing to terminate your parental rights by filing a declaration of paternity with the State Office of Vital Records.

This office is at the following location:

Declaration of Paternity
Iowa Department of Public Health
Office of Vital Records

Lucas State Office Building
321 E. 12th Street
Des Moines, Iowa 50319-0075

For what reasons can I lose my parental rights?

You can lose your parental rights in basically two types of cases:

1. A private citizen such as the mother of your child or a prospective adoptive parent asks the court to terminate your parental rights.
2. The state seeks to terminate your parental rights in a child abuse or neglect case.

Circumstances where a private citizen may ask to have my rights as a parent terminated:

You consent to give up your parental rights

You have abandoned your child. If your child is less than six months old, the following factors are considered in determining whether you have abandoned your child:

- Did you promptly take an interest in the child?
- Did you become or attempt to become actively involved in the child's life?
- Did you provide emotional or financial support for the mother during her pregnancy?
- Are you ready and prepared to provide custodial care for your child?
- Have you publicly held yourself out as the father of the child?

If your child is six months or older, the following factors are considered in determining whether you have abandoned your child:

- Whether you visited the child at least monthly when able to do so
- Whether you had regular communication with the child or the person providing care for the child
- Whether you have previously lived with the child for at least six months

You have failed to pay court ordered child support and do not have a good reason for failing to do so.

Circumstances where the state may seek the termination of your parental rights

Children who are abused or neglected may be removed from their parents' custody and placed in foster care or other appropriate placements such as with relatives. If the state removes children from their parents, the state must give the parents the opportunity to prove that they should get their child back. If parents fail or are unable to respond to the assistance provided by the state, the court may terminate the parents' parental rights.

What if I wasn't the person that harmed my child, can they still terminate my parental rights?

Yes. Even if you were not the person who abused the child, you must show the court that you are prepared to provide care for your child within a limited period of time or the court may terminate your parental rights.

If you don't want to lose your rights as a parent, you need to be at all court hearings. Otherwise, the court will make its decisions without you.

Will I get a court appointed attorney if someone is trying to terminate my parental rights?

If the state has removed your child in a child abuse or neglect case, you will get a court appointed attorney if you cannot afford your own attorney.

If a private party such as the child's mother or potential adoptive parents is trying to terminate your parental rights, you will not get a court appointed attorney.

OTHER IMPORTANT INFORMATION

Domestic violence

Once you live with or have a baby with your partner, any physical violence you commit against her is domestic violence or domestic assault.

Domestic violence may result in you losing your rights to visit your child altogether.

Domestic violence may result in you not being able to participate in any decisions concerning your child.

Sexual decision-making

Each young man must decide for himself when he believes he is emotionally and physically ready to have a sexual relationship with his partner. There are two very important legal issues for young men to think about when deciding whether to become or remain sexually active with a partner. They are:

1. When is sexual contact with another person criminal sexual abuse?
2. What are the possible legal and financial consequences to me if my partner gets pregnant?

In some circumstances sexual contact with another person may amount to criminal sexual abuse. In Iowa the punishments for sexually abusing another person are severe, so it is important for young men to educate themselves regarding these issues.

Sexual Abuse in Iowa generally requires two things: sexual contact with another person; and, lack of consent by the other person. What is important to note is that the Iowa law states that some persons may not give consent because of their age or other circumstances.

Consent means that the person has agreed to have sexual contact with you.

1. Sexual contact: This does not just mean sexual intercourse. Genital, anal, oral or digital (hand/fingers) contact with the sexual areas of another person is sexual contact. Also, forcing or allowing another person to have contact with your sexual areas is sexual contact.

Note: the term Rape no longer exists in the Iowa law as sexual abuse covers all types of sexual contact.

2. Lack of consent: A person who says or physically indicates that they do not want to have sexual contact has not consented. In some situations, such as age, the person cannot agree/consent to have sex no matter what.

Lack of consent because of age:

A person 13 years of age or younger cannot consent to sex with anyone. Having sexual contact with a person 13 years of age or younger is criminal sexual abuse no matter whether the person said she wanted to have sex or not.

A person 14 or 15 years of age cannot consent to sex with the following people:

- A person four or more years older than them.
- A person who lives in the same home as they do.
- A person who is related to them.

- A person in a position of authority over them who uses the authority to get sexual contact (such as a coach, teacher or boss)

If the girl agreed to have sex with me doesn't that make it legal?

No. If the girl falls within the age guidelines listed above and you have sexual contact with her, it is sexual abuse. **It does not matter what the girl says or does, the responsibility is on you.**

Examples:

1. A girl 13 years old tells her 16 year old boyfriend that she is willing to have sex, so they do. The 16 year old boy has committed criminal sexual abuse. If charged with this offense, he will be automatically sent to adult court and faces a 10 year sentence.
2. A girl 15 years old and her 20 year old boyfriend have sexual contact that the girl requests. The 20 year old has committed criminal sexual abuse. If charged with this offense, he faces a 10 year sentence.
3. A 13 year old girl and a 13 year old boy agree to have sexual contact. Neither is old enough to consent to sexual contact. Either or both have sexually abused the other and could be charged.

Lack of consent for other reasons:

- A person who suffers from a mental disability cannot give consent.
- A person who is unconscious cannot give consent.
- A person who is incapacitated due to alcohol or drug use cannot give consent.
- A person who has been given a drug which induces sleep cannot give consent.
- A person who does not have the mental ability to know right from wrong cannot give consent.

Protect yourself

Every time a young man and woman have sex, there is a chance that she will get pregnant. The only certain way to prevent pregnancy is to postpone having sexual intercourse. If you do decide to have sex, you can protect yourself and your sex partner from a pregnancy you don't want.

Using condoms: Every time you have sex with a girl without using a condom, you run the risk of becoming a father. Even if she says she is on birth control, you can't count on being protected. Her method of birth control may not work, or she may not be using it correctly. And the "safe time of the month"

may not be as safe as you think. Don't put your future into another person's hands. Look after your own interests, as well as hers. Use a condom. While they are not 100% effective in preventing pregnancy, they work very well if you learn how to use them correctly. They also help reduce the risk of getting a sexually transmitted disease including HIV.

Buying condoms: You have the right to buy condoms, no matter how young you are. However, a store does not have to sell condoms to you if they don't want to. Look for a store that has a condom display, so that you can read the labels and the prices.

Resources:

Iowa Legal Aid

1111 - 9th Street
Des Moines, Iowa 50314
(515) 243-2151 or (800) 532-1275

Polk Co. Bar Association Volunteer Lawyers Project

521 E. Locust
Des Moines, Iowa 50309
(515) 244-8617

The Youth Law Center provides legal advice to minors:
(800) 728-1172 or (515) 244-1172

For Young Dads Programs in your area, check these websites:

www.parentingmonthly.org

www.dhs.state.ia.us/fatherhood



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