

Understanding Parentage: What It Means and Why It Matters in Custody, Visitation, and Child Support

Part of the NCAP's Child Custody Resources for Survivors & Advocates



NATIONAL CENTER TO ADVANCE PEACE
for Children, Youth, and Families

The National Center to Advance Peace for Children, Youth, and Families (NCAP) is a coalition led by Caminar Latino and includes Ujima: National Center on Violence Against Women in the Black Community, the Alaska Native Women's Resource Center, the National Indigenous Women's Resource Center, and Futures Without Violence.



What is this tool?

This guide is part of a growing series of resources focused on the intersections of child custody and domestic violence. Like our Navigating Child Welfare Toolkit, it was created for survivors of domestic violence, advocates, and families navigating complicated systems while trying to stay safe and make informed decisions. This tool focuses on one of the first and most important steps in custody cases: establishing parentage.

Understanding who the law considers a child’s “legal parent” can affect everything, from who has the right to spend time with the child, to who can make decisions about their education or health care, and who must provide financial support. But for survivors of domestic violence, this process can come with extra risks and difficult choices.

We created this resource to help you understand what parentage is, how it’s legally established, and how it affects your rights. This tool includes special notes for survivor parents to help you think through safety, timing, and alternatives.

What is Parentage?

A person can be a biological parent to a child, a legal parent to a child, or both. A legal parent is one who is recognized by the law as a parent of the child, regardless of biological connection to the child. A biological parent is one who is genetically connected to a child. Custody issues arise when a biological parent, is not also considered a legal parent. Generally, legal parentage must be established before any steps can be taken for child support, visitation, or custody purposes.

Parentage means the law recognizes someone as a child's legal parent. Being a legal parent gives you the right to seek custody and visitation, and also the responsibility to provide child support. Parentage must be established before a person can ask the court for custody, visitation, or child support.

Legal Parentage When Parents are Married

If the parents are married when the child is born, the law automatically presumes both people are the legal parents. This is called the marriage presumption and it applies in all 50 states, D.C., and U.S. Territories.

- This means both parents share rights and responsibilities without having to prove anything in court.
- Some states extend this presumption up to 300 days after a divorce or separation, meaning the ex-spouse may still be considered the legal parent if the child is born within that timeframe.

Important: This presumption of parentage can be challenged, but the process varies by state and territory.

Establishing Parentage When Parents Are Unmarried

If the parents are not married, the law does not automatically recognize both parents. Extra steps are required to establish parentage. If no action is taken:

- The *birthing parent* is given *sole legal custody*.
- The other parent has no legal rights or responsibilities until parentage is established

How Can Parentage Be Established?

There are 4 common ways to establish legal parentage:

1. **Voluntary Acknowledgement of Parentage (VAP)** - This is a form usually signed at the hospital after birth.
 - a. It must be voluntarily signed by both parents.
 - b. Once filed, it becomes a legal document connected to the child's birth certificate.

Tip: If you need to make changes to or revoke a Voluntary Acknowledgment of Parentage (VAP) after it's been filed, you must contact your state's Vital Records office and complete a specific form. In many states, there is a limited window of time after the VAP is signed during which one parent can revoke it without the other parent's consent. This process and timeline vary by state, so it's important to act quickly and seek legal advice if you have questions.

In these 12 states, same-sex parents can also use the VAP form: California, Colorado, Connecticut, Maine, Maryland, Massachusetts, Michigan, Nevada, New York, Rhode Island, Vermont, Washington.

2. **Court Order (Adjudication of Parentage)**
 - a. If the VAP form isn't signed, either parent can go to court to establish parentage.
 - b. This may be called a "putative parent" proceeding.
 - c. The judge may consider many factors, including whether recognizing parentage is safe and in the child's best interest.

3. Administrative Process (Child Support Office)

Some states offer an administrative option to establish parentage—usually through the local child support office. This process can often be a less expensive and more accessible alternative to going through the courts on your own.

- Parentage can be established as part of a child support case without needing to file a separate court action.
- In many cases, child support offices can request a DNA test or help complete parentage forms.
- This route may be especially helpful when legal representation is not available or affordable.
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Tip: Contact your local child support office to ask if your state allows you to establish parentage this way. Every state has its own process and rules, so it's helpful to ask questions and make sure this path works for your situation.

4. Genetic Testing

- a. A DNA test can be used to confirm parentage.
- b. Often ordered by a court when parentage is being contested.
- c. May be required in some states to prove paternity if there is no signed acknowledgment form.

What Comes After Establishing Parentage?

Even if someone is recognized as a legal parent, they don't automatically get custody, visitation, or support orders. Those rights require separate legal actions.

Custody & Visitation

1. Establish parentage first.
2. File a case in court to create a custody or visitation plan.

Until parentage is established, the birthing parent has sole custody in every state.

Child Support

1. Establish parentage first.
2. Seek support through a court or state agency.

Every state handles this differently, but usually the local Department of Human Services or Child Support Office helps with the process.



Special Considerations for Survivors of Domestic violence

If you are a survivor of domestic violence, navigating parentage and custody can feel overwhelming, and frightening. You are not alone in feeling this way. These systems were not designed with survivors in mind. You might feel:

- Pressured to sign legal documents quickly
- Fearful of what will happen if the other parent gains legal rights
- Confused about your options or afraid to speak up
- Isolated, especially if the abuse has included emotional manipulation or legal intimidation
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These feelings are real and valid.

What to Consider Before Signing the Voluntary Acknowledgment

Hospitals often ask parents to sign a VAP form shortly after birth, at a time that can already feel rushed, painful, and disorienting. Survivors may be asked to sign in front of the person who uses violence, without legal counsel or emotional support, and without being told the long-term consequences. Here are some reasons you may want to delay signing:

- The other parent has been abusive or coercive
- You feel pressured or unsafe during the hospital stay
- You're not sure you want the other parent to have legal rights
- You need time to think through your options with a trusted advocate or attorney
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You are allowed to say no to signing in the hospital.

You Have Options

If you're not ready or don't feel safe signing the acknowledgment form right away, you can:

- Wait and seek legal advice first. You have the right to understand what you're signing and how it could affect your future.
- Request to sign the form later. It can be completed after leaving the hospital and filed with your local records office.
- Let the court decide. In some cases, it may be safer to ask the court to determine parentage, custody, and visitation. Courts are required to consider family or domestic violence in their decisions.

Letting a judge make the decision can feel scary too, but it may give you the opportunity to raise concerns, request supervised visitation, or ask for a safer parenting arrangement.

Getting Divorced While Pregnant

Some states allow you to file for divorce while pregnant, but won't finalize it until the baby is born.

As of 2025, these states generally require waiting to finalize a divorce until after childbirth: Alabama, Arkansas, Arizona, California, Delaware, Indiana, Maine, Mississippi, Missouri, Nebraska, Nevada, South Dakota, Texas, Wyoming.

Additional Resources

You do not have to go through this alone. Consider the following resources:

- A domestic violence advocate can help you understand your legal rights, safety options, and local support services.
- A legal aid organization or family law attorney can explain what parentage means in your state and help you navigate court proceedings safely.
- A hospital social worker may be able to delay paperwork or connect you with a legal advocate before you are discharged.

You can also request:

- A support person during any meetings or court hearings
- Remote hearings or protective measures (if available in your state) when facing the abusive parent in court
- Referrals to counseling, childcare, or housing resources if the process puts extra stress on your safety or stability

If you're unsure what to do next, we encourage you to speak with a legal advocate or domestic violence program in your area. They can help you think through your options and protect what matters most: you and your child.

Additional Resources:

- [Voluntary Acknowledgements of Parentage \(LGBTQ+\)](#) – Family Equality (2025)
- [Map of States Where Pregnant People Can't Get Divorced](#) – Newsweek (2024)
- [Putative Father Registries \(State by State\)](#) – National Council for Adoption
- [Parental Recognition Laws](#) – Movement Advancement Project (2025)

Disclaimer

This tool is for informational purposes only and does **not** provide legal advice. Each state has different laws. For questions about your situation, talk to a legal expert or advocate in your area.

Glossary

Legal Parent	A legal parent is someone who the law recognizes as having the rights and responsibilities of a parent. This includes the duty to care for and support the child. Legal parents can be biological parents, adoptive parents, or others who have gained parental rights through a court order (such as through a guardianship or parentage judgment). Legal parent status allows a person to make decisions about the child’s health, education, and welfare.
Biological Parent	A biological parent is the person whose genes were passed on to the child/ are genetically related. While biological parents are often legal parents, that is not always the case—especially if one parent gives up rights or if legal parentage hasn't been established yet.
Physical Custody	Physical custody means who the child lives with most of the time. It involves the day-to-day care, such as feeding, clothing, and supervision. Physical custody can be sole (the

	<p>child lives with one parent most of the time) or joint (the child lives with both parents on a schedule). The parent with physical custody is responsible for the child's basic needs and routine.</p>
<p>Legal Custody</p>	<p>Legal custody gives a parent the right to make major life decisions for the child. These decisions can include:</p> <ul style="list-style-type: none"> • What school the child attends • What medical care the child receives • Religious upbringing • Counseling or mental health care <p>Legal custody can be sole (one parent makes all decisions) or joint (both parents must work together and agree on major decisions).</p>
<p>Sole Custody</p>	<p>Sole custody means one parent has full control of one or both types of custody:</p> <ul style="list-style-type: none"> • Sole physical custody: the child lives primarily with one parent • Sole legal custody: one parent makes all major decisions about the child <p>The other parent may still have visitation rights, but does not share in decision-making or day-to-day parenting unless specified by the court.</p>
<p>Joint Custody</p>	<p>Joint custody means both parents share responsibility for the child. It can refer to:</p> <ul style="list-style-type: none"> • Joint legal custody: both parents must agree on important decisions • Joint physical custody: the child spends substantial time living with both parents

	<p>The time split doesn't have to be exactly 50/50, but both parents are involved.</p>
Adjudication of Parentage	<p>Adjudication of parentage is a legal process in which a court decides who the child's legal parents are—usually focused on establishing a parents legal rights and responsibilities. This often involves DNA testing and ends with a court order that declares a person to be the child's parent.</p>
Voluntary Acknowledgement of Parentage Form	<p>A Voluntary Acknowledgement of Parentage (often abbreviated as AOP or VAP) is a legal form signed by both parents—usually at the hospital after birth—stating who the child's biological parent is. Signing this form makes the person the child's legal parent without needing to go to court. It has the same effect as a court order.</p>





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