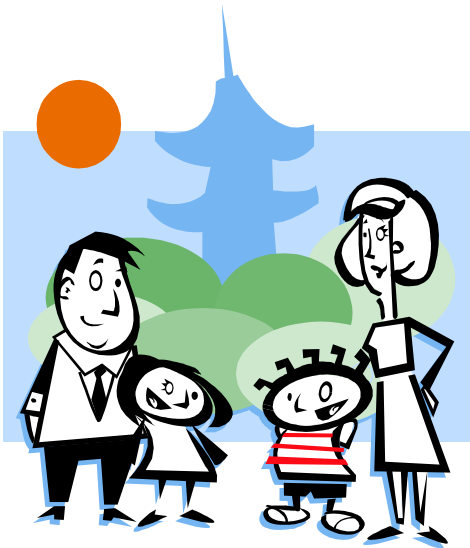


What about Family Law matters?

The Family Law Act states that children have the right to know and be cared for by both parents.

Failing to have the father's name on the birth certificate will not prevent them from seeking Family Court Orders in relation to the child should you separate. Even if the individual is proven not to be the father through DNA testing if they have been a father figure to the child/ren a court may decide that it is in the children's best interests for them to continue having contact with them.

Parents are jointly responsible for the long term care, welfare and development of children. Separation, divorce or re-marriage does not change these responsibilities.



Disclaimer of Liability

The information in this brochure is intended as a guide only and is not a substitute for professional legal advice. The information in this brochure is current at the time of printing and may change without notice. Please contact your nearest Community Legal Centre, Legal Aid Office or the Registry of Births, Deaths and Marriages in your State for any changes in the law.

Reprinted December 2009

Where to go for more information:

Centrelink: 13 61 50

Child Support Agency: 13 12 72

Registry of Births, Deaths Marriages:

Victoria 1300 369 367
<http://online.justice.vic.gov.au/bdm/home>

NSW 1300 655 236
www.bdm.nsw.gov.au

Child Support Legal Services (part of Legal Aid):

Victoria 1800 677 402

NSW 1800 451 784

Child Support Community Legal Centres (for advice and casework):

Victoria:

Barwon CLC (03) 5221 4744
Springvale Monash CLC (03) 9562 3144
Peninsula CLC 1800 064 784

NSW:

Illawarra CLC (02) 4276 1939
South West Sydney CLC (02) 9601 7777
Macarthur CLC (02) 4628 2042

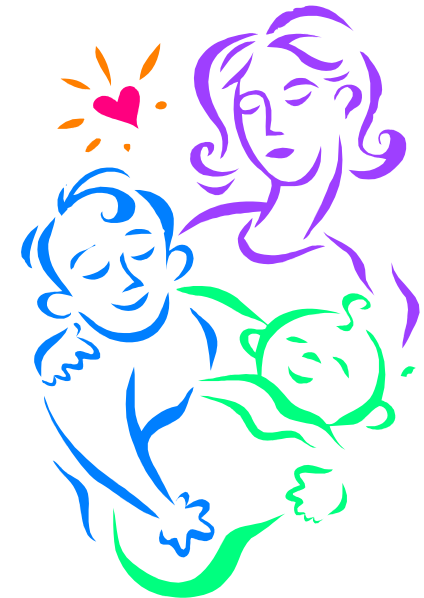
Hume Riverina Community Legal Service
1800 918 377



hume riverina
community legal service

Registering the Birth of Your Baby

Information for Parents About
the Birth Registration Process
and Family Law Issues



Produced by:-

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hume riverina
community legal service

Do I have to register the birth of my baby?

Yes, it is a legal requirement that you register the birth of your baby within 60 days. The Birth Certificate is necessary as proof of age and identity, and may be required for school enrolments, driver's licenses, government benefits and bank accounts. Birth Certificates are also required if you make an application to the Family Court for Orders regarding your child/ren.

Be careful when completing the birth registration form. There are legal penalties for not giving all the information asked for or for giving false or misleading information.

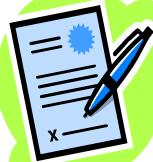
How do I register my baby's birth?

The hospital or midwife will provide you with a form to complete for registering your baby's birth. The Births, Deaths and Marriages Act in your State requires that both parents complete and **sign** the Birth Registration Statement. However, the registrar may accept a Birth Registration Statement from one parent if satisfied that it is not practicable to obtain the signature of the other. Unless a father has signed the Birth Registration Statement, he will not be named on the Birth Certificate. If the parents were married at the time of the child's birth, however, there is a presumption of parentage and the father will be named on the Birth Certificate even if he is not the biological father.

What if the father won't sign?

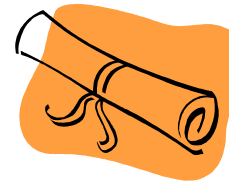
If you know the identity of your baby's biological father, you should name him on the Birth Registration Statement even if he will not sign it. If this happens a father is not named on the Birth Certificate, but his name may be kept on file at the Registry of Births, Deaths and Marriages in some States.

If only one parent has signed the Birth Registration Statement, he or she must attach a letter to the Registrar explaining why the other parent has not signed.



What if I don't know who the father is?

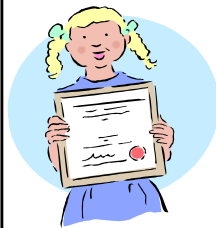
If you do not know who the father is, you must leave the father's name blank and attach a letter explaining why the father is unknown.



What will happen if the father is not named on the birth certificate?

This is potentially important in relation to Child Support. Centrelink will expect you to take reasonable steps to obtain Child Support after the birth of your baby or after separation before they will pay you more than the base rate of Family Tax Benefit Part A.

If the father's name does not appear on the Birth Certificate, the mother must prove that the other person is the child's parent by way of 'proof of parentage', which involves the person signing a statutory declaration agreeing that they are the parent of the child, or through a 'presumption of parentage', which includes living together at any time from 44 weeks to 20 weeks before the birth of the child, or being married at the time of birth.



The Child Support Agency will refuse to accept an application for child support if 'proof of parentage' or a 'presumption of parentage' cannot be met. You can object in writing to the Child Support Agency if this happens. If your objection is not successful, you can apply to the court for a declaration that you were entitled to a child support assessment. A solicitor, Community Legal Service or Legal Aid can provide further advice about this. This application may include applying for an order to have DNA testing if the parties involved won't agree to be tested. The court will order such testing if there are reasons to doubt the identity of the father. Once testing is completed the court can make a declaration as to paternity.

DNA testing

At any time couples can voluntarily undertake DNA testing and share the costs involved. The cost of DNA testing is around \$550 to \$900. This includes the cost of testing the mother, the child and the person whom you think is the father. DNA testing may be carried out by taking a mouth swab from each individual. After making arrangements through a laboratory this can be done through your local pathology centre, hospital or GP.

The DNA report alone is not enough evidence for the Child Support Agency to accept an application for a child support assessment but they will accept a Birth Certificate that has the correct father's name on it as proof of parentage. You will need to make a new application for a child support assessment when you obtain the corrected birth certificate. Proving paternity can take five to six months and sometimes longer if the matter goes to court.

You can get a letter from a solicitor, Community Legal Service or Legal Aid to give to Centrelink stating that you are in the process of proving paternity. Centrelink will then adjust your Family Tax Benefit Part A temporarily to help you.



In relation to Centrelink or Child Support what happens if I do not know the identity of the father?

If you do not know the identity of the father, you will be referred to a Centrelink Social Worker who has authority to grant an exemption so that you do not have to pursue the identity of the father of your child. Centrelink will give you a form to complete and you will be required to have an independent third party sign a statement verifying that you do not know the father's identity. Centrelink needs to be satisfied that you know nothing that could be used to identify the father, e.g. his name, address, workplace, family etc.