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Written record of briefing on the acknowledgement of paternity or obligation to pay maintenance

Legal consequences of acknowledging paternity

I have been informed that by acknowledging that I am the father of the child, I am accepting my kinship with the child and all the legal consequences thereof. I thus owe the child maintenance, possibly even after the child has come of age.

Moreover, if required, the child's mother can also demand the reimbursement of her childbirth costs and maintenance from me before and after the birth. In certain conditions, she may be entitled to receive maintenance for the care of the child for at least three years after the birth.

My acknowledgement of paternity means the child becomes my legal heir.

Right to contact

I have not only a right but also a duty to maintain contact with the child. In the event of a conflict, contact with the child can be regulated by the family court, but it can only be restricted or excluded under certain legal conditions.

Parental custody

As a rule, when the parents are not married to one another, the custody of the child is granted solely to the adult mother. Joint custody requires the mother and me to declare in a publicly certified form that we wish to have joint custody. Joint custody comes into effect by law if I marry the mother.

Otherwise, the family court can, at one parent's request, transfer full or partial parental custody to the mother and me jointly or to me alone if this is not expected to conflict with the best interests of the child. This condition is presumed to have been fulfilled by law if I apply to the court for parental custody to be transferred to the mother and me jointly and the mother does not put forward any reasons against this, and none are otherwise apparent.

Surname

As a rule, the child receives the mother's surname as its birth name. If we share joint custody, I shall decide with the mother whether the child will be given her or my surname as its birth name. If the mother and I have already had our joint declaration of parental custody certified before the birth, we have to determine the child's surname when registering at the registry office. If we are not yet able to name the surname at that point, we must do so within one month by submitting a certified declaration to the registry office.

If, on the other hand, the child initially bears the surname of the mother, who has sole custody, as its birth name by law, and joint custody is later established, then the child's surname may be newly designated by the mother and me within three months. In all cases, when the surname is designated based on joint custody, this is irrevocable and applies to all other joint children. If one parent has sole custody and the child is to be given my surname, the mother and I must declare our agreement to this to the registry office.

Acknowledgement of paternity

My acknowledgement of paternity is only effective if the mother approves it in a document. If the mother is not able to exercise parental custody, e.g. because she is still a minor, her declaration must be approved by her legal representative. The child's consent to my acknowledgement of paternity is also required. This is declared by the child's legal representative, e.g. an official guardian. If the child is over 14 years of age, he or she can consent, with the approval of his or her legal representative.

As a rule, an acknowledgement of paternity cannot become effective as long as the paternity of another man is still legally effective, for example that of the mother's husband. If the child is born after the commencement of divorce proceedings, another man may acknowledge paternity. However, this must occur no later than one year after the divorce decree becomes final. In this case, the acknowledgement of paternity takes effect as soon as the mother's ex-husband also agrees (which should also happen within the year).

In principle, I cannot revoke the acknowledgement of paternity. As an exception, I have the right to revoke it if the acknowledgement has not yet taken effect after one year, for example because a party has still not provided the required approval.

I can contest the paternity if I become aware of circumstances that argue against my paternity. This contestation is only possible within two years of the date when I learn of the circumstances arguing against my paternity. The mother or child can also contest my paternity.

The paternity becomes retroactively ineffective as soon as the court determines that the person acknowledging it is not the child's father. The acknowledgement is also ineffective if it does not comply with the provisions of the Civil Code (BGB), unless more than five years have passed since the entry in the register of births, marriages and deaths. On request, I can be told the legal conception period (legally defined period of possible conception) for the child.

Acknowledgement of paternity and nationality

If one or more of the participants is a foreign national, the acknowledgement of paternity may also have legal consequences under the law of their native country, e.g. with regard to the child's surname or nationality. In case of doubt, information can be obtained from the diplomatic mission of the country in question. The registry offices will also provide information within their means. A child whose mother is a foreign national acquires German nationality when a German acknowledges the paternity.

Payment of maintenance

I would also like to commit to paying maintenance. This declaration of commitment will take effect as soon as my acknowledgement of paternity is legally effective. I know that I owe the legally established level of maintenance to the child that is entitled to maintenance. This obligation does not end when the child comes of age if he or she is still, for example, in education. It is thus not permitted to limit this certifiable obligation to pay maintenance to the period when the child is a minor without the consent of the child's representative. A child that is a minor and not living in the same household as me can choose between a maintenance sum that is fixed (in figures) and dynamic maintenance (a percentage of the applicable minimum maintenance sum). The minimum statutory maintenance is based on the level of the exemption for dependent children under tax law. If that exemption is raised, the statutory minimum maintenance increases accordingly. I am aware of the current level.

The child benefit due to the child is to be used to cover his or her cash requirements. As long as the child is a minor, half of the child benefit is thus set off by a reduction in the payments on my part; only half, as the mother contributes equally to the child's maintenance by caring for the child. When the child reaches majority, the mother must also, if capable, support the child's cash requirements proportionately, based on both parents' respective eligible incomes. The child's own income, e.g. his or her pay as a trainee, or BAföG funding, is also set off against his or her needs along with the full child benefit. In addition to ongoing maintenance payments, my child may be able to claim additional needs, e.g. in case of illness. In some cases, the child can also claim special requirements if irregular, exceptionally high costs arise that are not covered by the normal maintenance payments. This includes the essentials for a newborn baby.

My child can request maintenance from me retrospectively, starting from birth, if it was previously prevented from claiming maintenance for reasons related to the law. If, however, until that date other persons or bodies have paid maintenance for the child, e.g. the ostensible father (believing he is the biological father), the social services or the youth welfare office, then

the child's claim towards me has been transferred to them. To that extent, I cannot make a certified commitment to pay the child.

Duty of information

Under the Civil Code (BGB), every two years I am also obliged to provide, upon request, information about my personal and financial circumstances to the extent necessary to establish a maintenance claim. Before the end of a two-year period, information may be demanded only if it is credibly established that the person with a duty to give information later acquired a substantially higher income or further assets. The right to information can be enforced by applying to the family court.

If the child's need for maintenance or my living circumstances (such as my income or marital status) change, the child or I may request a change in the amount of maintenance and enforce it by applying to the family court. In order to avoid court costs, an attempt must be made to agree upon an out-of-court, amicable settlement before the court is involved.

Enforcement of judgements

By this acknowledgement, I submit to the immediate enforcement of judgements. If I do not pay the maintenance due, then my assets or my wages, salary or other income may immediately be seized on the basis of this document. Moreover, the child may demand interest on arrears, which may be well over five per cent depending on the current basic rate of interest. This interest must be determined separately. Intentional violation of the obligation to pay maintenance can be punished with a fine or imprisonment for up to three years.

The fact that this written record has been received will be stated on the original certificate.

If you have any questions, please contact the youth welfare office (*Jugendamt*) department for children's legal advisers and certification (*Sachgebiet Beistandschaften/Beurkundungen*).

Office hours	Mon	9 to 12
	Tues, Thurs	9 to 12 and 1 to 5
Phone	(03 51) 4 88 56 16	
Email	beistandschaften-beurkundung@dresden.de	

Imprint

Publisher:
City of Dresden

Youth Welfare Office
Phone (03 51) 4 88 47 41
Fax (03 51) 4 88 46 03
Email jugendamt@dresden.de

Press and Public Relations Office
Phone (03 51) 4 88 23 90
Fax (03 51) 4 88 22 38
Email presse@dresden.de

Post Office Box 12 00 20
01001 Dresden
www.dresden.de
facebook.com/stadt.dresden

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