



The Baby Mama Rule

The Legal Effect of Eliminating the Rule

What is the baby mama rule? It is the "slang term" for the statute which gives all custodial rights to a child born to an unwed mother. Often I hear fathers that were not married to a woman that has a child say that they have equal rights simply because they are the father. **This is incorrect.** They also make the claim that because their name is on the birth certificate that they automatically have equal rights of the child. **This is also incorrect.**

For those that are never wed fathers I suggest that you read the section on the rights of the never married that I put together that explains exactly what your rights are and what you need to do.

I'm going to be very clear as I go through this and explain that this law can **never** be removed because the end results would be far more catastrophic to families than the simple steps that an unwed father needs to take to become a part of his child's life.

As we examine this the first thing that we are going to look at is the actual language of Ohio's law. It is as follows:

3109.042 Custody rights of unmarried mother

An unmarried female who gives birth to a child is the sole residential parent and legal custodian of the child until a court of competent jurisdiction issues an order designating another person as the residential parent and legal custodian. A court designating the residential parent and legal custodian of a child described in this section shall treat the mother and father as standing upon equality when making the designation.

After reading the statute it is very clear in its intent and what it instructs the courts the courts in how they are to proceed. The statute even designates how the unwed father should be treated should they follow the appropriate steps under law. Often these unwed fathers think that they play by a different set of rules, which is a misguided thought process because once they have taken the appropriate steps of establishing paternity and filing for visitation or parental rights the courts are required to then use the current factors for determining custody (ORC 3109.04) just as they would if the parents were divorcing. Taking those steps gives the never married father the same rights to their children just as if he were a married and divorcing father that has the legal presumptions of the marriage license (ORC 3111.03), those steps are their equivalent.

Those that have called for this law to be totally eliminated are frankly very shortsighted in the effect of what would happen if that were to be done. While many think that this would automatically give equal rights to the father legally, they are 100% incorrect. If this law was changed or eliminated and a child was born to an unwed mother that child would legally be parentless or a ward of the state. When the child is born to an unwed mother there are witnesses and proof that the child is a product of the mother as it just came from within the body of that unwed mother. There is no proof at that point either presumptively or factually that any specific male is the father of that child. The child did not come out of the body of the father in any direct manner.

Removing the section of law would create a situation where the mother would now have to go through the establishment of paternity process. If the law were removed legally the child would automatically become a ward of the state at that point in the state would be responsible for all expenses up and to the point at which the mother had proven through the courts her paternity. These expenses would include the cost of the actual childbirth, the doctors involved in the childbirth; the hospital expenses and all care for the child until such point as the courts have legally established the mother's paternity. With the extreme expense of childbirth now, even with a simple childbirth, that expense to the state would likely be begin at \$25,000 per child. Should there be extra care needed because of some unforeseen circumstance that cost per child would skyrocket. That is not an expense that anyone should expect the state to pay for when the simplest language of the statute places the burden squarely with that of the unwed mother at this point.

Associate costs and numbers if the "Baby Mama Rule" were eliminated

2015 number of births to unwed mothers - **60,235**

Hospital cost of a live birth - **\$10,000**

Total cost that the State of Ohio would have to pay - **\$602,350,000**

Foster care expense while the Court process takes place

*\$550 per month with what will likely be a minimum 3 month process because of the extra case load on courts and DNA testing labs. **\$99,387,750***

DNA testing - \$400.00 x 60,235 - **\$24,094,000**

Court cost per parent - approximately **\$2500 ea - \$301,175,000**

When we look at these numbers we easily see that it is far more cost effective to leave the "Baby Mama Rule" in place and untouched for both parents and the State of Ohio.

Related Side Issue

A side issue that comes up from men that have fathered a child outside of marriage is a demand for automatic DNA testing at the birth of a child. What they miss with that is the liberty interests that are lost when the government holds a data base of "personal" information that comes with an unwarranted search and seizure of personal info for the small class of citizens involved and that should any requirement be made that a DNA test be involved in the birth of the child it would have to be extended to all 19 Million citizens of Ohio. In no way should anyone ever welcome that type of intrusion into their life in forced manner. Reliability of DNA is good but the reliability and security of all data bases is not. Mix ups have happened in DNA that has cost some their freedoms and in no way should anyone welcome a data base that holds such information for you and your child. Addition facts that this small group of fathers misses in the extreme expense associated with collecting the DNA, the expense of "collection officers" who would likely have to be armed for their own protection and the massive expense of securing and maintaining such a DATA base.

Estimated Costs

DNA testing costs - 11,646,273 x \$400 = **\$465,709,200**

Armed Officers to Collect (estimated 10 per county average) - \$57,410 x 10 x 88 = **\$50,520,800**



DATA Base and Security of same - **\$750,000,000**

Total Cost that they fail to realize - \$1,266,230,000

Conclusion

Overlooking this legality and thinking with emotion is what confuses many unwed fathers. Custody battles that result from these are expensive but so are the alternatives for society. The unmarried father truthfully has two choices to avoid the situation, the first is to abstain from premarital sex or the second is to simply use a condom when having premarital sex. Yes some men do get lured into situations where they are frankly thinking with a small head rather than the big head and only education can ever truly teach the never married father of the dangers that could befall them and the legal battles that they could easily prevent. If we educate our young men early enough of the consequences of their actions and the legalities that could befall them, the unwed birthrate would likely drop. Yes I am preaching but I am being truthful.

All sides need to be considered when you're asking for changes in law. All consequences need to be considered at the same time. What would appear on the surface to be a small change that would benefit a few such as the removal of the baby mama rule has an ever increasing domino effect on all members of society. The removal of this would be financially catastrophic for all citizens of the state and one that frankly is easily avoidable as it should be by looking at the entire picture.