

JURISPRUDENCE

RECOGNITION OF PATERNITY IN MARRIAGE RELATIONS

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<https://doi.org/10.5281/zenodo.10628888>

Abstract

A family is a group of people living together who are related by formal marriage and consanguinity. In our constitution, which is considered the basic law, the provisions on family and marriage rights include father, mother, spouse, and children as family members. The family is considered as the basis of society and is under the special protection of the state. The state always guarantees the protection of all the rights of the family provided for in the legislation. In addition, the determination of paternity in family relations is under the direct control of the state, as it forms the basis of children's rights.

Keywords: Embryo, surrogate, biological, complex, aspect, implantation, component, precedent, confidentiality

The subject of family law is the relations between family members. So, since these relationships are numerous and complex, not all of them are covered by legal norms. The subject of family law is the mutual relations of family members, including those relations within the framework of feelings of mutual love, friendship and respect. Subjects of family legal relations can be only citizens. Such relations arise from legal facts, i.e. marriage, kinship, paternity, maternity, adoption, transfer of a child to another family for upbringing and other actions [1].

The opening of a child's eyes to the world is the most important event in the life of the woman and man who gave birth to it. More precisely, babies born from their parents are the basis for the formation of legal relations between them, regardless of whether their parents are married or not. Whether the children's parents live together does not rule out blood kinship, that is, the origin of the child is taken as the basis here.

Analyzing the family component, it can be concluded that professional legal assistance is needed to resolve such issues while protecting the confidentiality of important life issues such as paternity determination or deprivation of paternity rights, refusal of paternity. The determination of paternity is carried out by the court and relevant executive authorities in accordance with the law.

As mentioned, the determination of paternity is directly under the control of the state, since it is the basis of children's rights. This right is reflected in the Family Code: "If a child is born within 300 days from the time of the dissolution or annulment of the marriage or the death of the child's father, if there is no other evidence, the child's father is considered to be the mother's husband (ex-husband) [3].

Determining the origin of children directly determines the rights and duties of parents. In order to determine the origin of the child from the mother, the document confirming that the mother gave birth to the child in the medical institution, if the baby was born outside the medical institution, is determined by the relevant executive authority on the basis of witness statements,

documents of the medical institution and other documents.

The determination of paternity is confirmed by the marriage certificate of the father and the mother. The paternity of a person who is not married to the baby's mother is determined by the application submitted by the child's father and mother to the relevant executive authority.

After the birth of a child, the registration of his parents is carried out. Establishing paternity of an adult is allowed only with his permission. If the person is incapacitated, it is carried out at the initiative of his guardian and the relevant executive authority.

If paternity is determined without the father's consent, the mother's written request, the child's birth certificate (certificate), the parent's identity document, and the court decision on paternity determination are submitted to the relevant authorities. Deprivation of paternity rights is ensured according to the court's decision. To be more precise: if father and mother do not properly fulfill their parental duties and obligations, they are deprived of their status. Of course, this happens during the court decision.

Legislation specifies the following reasons for deprivation of parental rights:

- if he does not fulfill his parental duties;
- if he does not fulfill his alimony obligation, that is, if he does not pay alimony intentionally;
- when he refuses to take his child from the maternity hospital or any treatment, education, social protection institution and other similar institutions without any good reason;
- in case of abuse of parental rights;
- when committing acts related to domestic violence against children;
- if he is a chronic alcoholic and drug addict;
- when he commits an intentional crime against the health or life of children or his wife (husband).

Article 1 of the UN Convention on the Rights of the Child defines the concept of a child. "Every person shall be considered a child for the purposes of this Con-

vention until he has reached the age of 18 years, provided that he has not reached the age of majority under the law applicable to the child." If the parent does not fulfill his obligations: if he does not approach the education and upbringing of the child in the right position, if he incites the children to commit illegal actions by abusing the parental rights, the child has the right to apply to the relevant executive power body to protect his rights, or to the court if he has reached the age of 14. Legislation recognizes the child as an individual and guarantees the protection of his legal interests and rights.

"It is the duty of all parents to take care of children and educate them. The state monitors the fulfillment of this duty." This principle of equality should be implemented regardless of whether they are married or not.

If the mother dies, if she is considered incapacitated, if it is impossible to determine the location of the mother, if she is deprived of parental rights, paternity is determined with the consent of the relevant executive power body, as well as on the basis of a written application of the child's father, and in the absence of this consent, by a court decision.

Father and mother who are officially married are reflected in the birth certificate as the parents of the child.

If the child was born out of wedlock and there is no joint application of the parents to establish paternity or a court resolution, the mother's surname is written instead of the child's father's surname in the birth certificate (certificate). The name of the child's father and grandfather is written according to the instructions of the child's mother.

If parents who are married and have a written permission to use artificial insemination or embryo implantation have a child after those methods, they are registered as the child's parents in the birth certificate (certificate) with the permission of the woman who gave birth to the child (surrogate mother).

The law states that if a person knew that he was not the real parent of the child when he was mentioned in the document as the father of the child, his later request to open a paternity dispute cannot be granted.

In addition, I would like to note that if the parties agree to artificial insemination and implantation of the embryo in accordance with the law, then the husband cannot open a paternity dispute. Because this process was implemented on the basis of voluntary principle [6].

The spouse who allowed the transfer of the embryo to another woman, as well as the woman who gave birth to the child (surrogate mother) cannot be based on that situation after the relevant notes about the parents are written on the birth document, (certificate) when disputing paternity (maternity).

The existence of family life is based on the fact that there is a biological blood kinship between the child and the parents. It should also be noted that the absence of blood kinship does not mean that the relationship should not automatically be considered a family life relationship.

Documents are composed of a joint application of the child's father and mother (parents) for the determi-

nation of paternity, documents confirming their identity, the child's birth certificate, a court decision on the determination of paternity in a court of law, when the mother is dead, considered incapacitated, if it is not possible to determine the mother's place of residence, and or if he is deprived of parental rights, the application of the child's father, his consent when paternity is established for an adult, and the consent of his guardian or the guardianship and guardianship body of the local executive authority if that person is considered incapacitated [5].

Parents (father and mother), based on the application of a single father - the child's father, parents or one of them when paternity is established by court order, that person and parents when paternity is established about an adult, an individual who is incapacitated when it is considered, the guardian or trustee, authorized persons on the basis of a power of attorney approved in notarial procedure, participate in the course of the considered process [4].

Refusal of paternity rights in many cases leads to a person's abandonment of parental duties. Couples wed and have children without entering into an official marriage. After a while, they separate, the other party refuses to give the child his last name. The main reason for this is to get rid of alimony. The literal meaning of the word alimony is called 'to help'. This obligation is obligatory for both parties. Violation of this obligation entails legal liability.

Parental rights allow the parent to exercise all rights on behalf of the child until he reaches the age of majority, that is, until he reaches the age of 18. Therefore, parental rights are a very important factor in terms of future rights of the child. There is no perfect parent, there are many ways to be a parent. Children and parents learn from each other. Children of all ages are constantly watching, listening and learning from their parents. As a parent, you learn more as your child grows. Your parenting needs to change with your children's changing needs [2].

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