

Text zu Anerkennung Vaterschaft bzw Unterhaltsverpflichtung

Record of instruction prior to acknowledgement of paternity and/or prior to acknowledgment of an obligation to maintain

Prior to acknowledgement of paternity and/or prior to acknowledgment of an obligation to maintain the child ..., d.o.b. ..., under German law, the records clerk has instructed Mr ..., d.o.b. ..., as follows:

I was first informed that the period of conception by statutory presumption is as follows:

I have been further informed that the acknowledgement of the **blood relationship** between the child and me is the justification for **any legal consequences**. I am therefore obliged to provide maintenance for the child, beyond the age of majority if necessary. Furthermore, the mother of the child may demand that I reimburse the costs of confinement and maintenance before and after the birth in case of need; under certain conditions the claim for maintenance to look after the child may continue for at least three years after the birth.

The acknowledgement means that the child becomes my legal **heir**.

I have a right but also a duty of **contact** with the child. Contact with the child can be regulated by the family court in case of conflict, but it can only be restricted or excluded under certain legal conditions. In principle, the mother of majority age is entitled to sole **custody** of the child of parents who are not married to each other. As a condition of joint custody, the mother and I must both make an officially recorded declaration to the effect that we wish to exercise joint custody. Joint custody also occurs by law if I marry the mother.

Alternatively, the family court may on request from one parent transfer parental custody in whole or in part to the mother and me jointly or to me alone, as long as this is not expected to be inconsistent with the best interests of the child. This condition will be deemed to be met for legal purposes if I apply to a court to transfer joint parental custody to me and the mother and no arguments to the contrary have been submitted by the mother or are otherwise apparent.

In principle, the child receives the **name** of the mother as its birth name. In the case of joint custody, I will decide with the mother whether the child receives her name or my name as its birth name. If joint custody is already in place at the time the birth is registered, the mother and I will designate the name when registering the birth with the civil registry office. If we fail to designate a name on this occasion, a notarially certified declaration must be submitted to the civil registry office within one month.

If on the other hand the child initially has the name of the mother entitled to sole custody by law and joint custody is subsequently established, the mother and I may designate a new name for the child within three months. A name designated on the basis of joint custody is irrevocable in all cases; this also applies to any further joint children.

Even in the case of sole custody, the child may receive my name if I am in agreement and the mother and I submit a formally valid declaration to the civil registry office.

My acknowledgement of paternity only becomes effective when the **mother** gives her formal **approval**. If the mother is unable to exercise parental custody, e.g. if she is still a minor, her declaration requires the approval of her legal representative. The child is also required to give its approval to my acknowledgement of paternity. This declaration will be given through its legal representative, e.g. a legal guardian. If the child is over 14 years old, it may give its own approval with the consent of its legal representative.

In principle, an acknowledgement of paternity cannot become effective as long as the paternity of another man, e.g. the mother's husband, is effective in law. If the child is born after the initiation of a **divorce proceeding** between its parents, another man may acknowledge paternity. However, this must be done no later than one year after the divorce decree enters into force. In this case the acknowledgement of paternity becomes effective as soon as the mother's – previous – husband also gives his consent (which must likewise be done within the one-year period).

I cannot in principle revoke the acknowledgement of paternity. I only have a right of revocation if the acknowledgement has still not become effective after one year, e.g. because the requisite consent is still absent.

I can **contest** the paternity **in court** if I learn of circumstances that argue against my being the father. Such a contestation is only possible within a period of two years. The period begins as soon as I learn of circumstances that argue against my being the father. The mother or the child may also contest the paternity.

The paternity becomes ineffective with retrospective effect as soon as the court establishes that the acknowledging party is not the father of the child. An acknowledgement is further ineffective if it does not comply with the provisions of the German Civil Code (Bürgerliches Gesetzbuch), as long as no more than five years have passed since the entry was made in the register of births, marriages and deaths.

If one or more of the parties is a **foreign national**, the acknowledgement of paternity may also have legal consequences under the law of their country, e.g. with regard to the name or the nationality of the child. In case of doubt, any relevant information may be obtained from the diplomatic representation of the country concerned. The civil registry offices will also pass on any information available to them. The child of a foreign mother acquires German citizenship as a result of the acknowledgement of paternity by a German man.

I also undertake to **pay maintenance**. This formal obligation will become effective as soon as my acknowledgement of paternity enters into effect. I know that I am obliged to pay statutory maintenance for the child entitled to maintenance. This obligation does not end when the child reaches the age of majority, if the child is still in education, for example. The obligation to maintain, which is to be notarised, may not therefore be limited to the period of minority without the agreement of the child's representative. The minor child who does not live in a household with me may choose between fixed (total amount) and fluid (percentage of the applicable minimum maintenance) maintenance. The statutory minimum maintenance is based on the tax allowance for the material subsistence level of a child (child allowance). If this allowance is increased, the statutory minimum maintenance increases in line with it. I am aware of the current amount of this.

The child benefit for the child is to be used to meet its cash requirements. As long as the child is a minor, only half of the child benefit will be used for this purpose. This will benefit me by reducing my payment obligation, as the mother performs her obligation to maintain in equal measure by caring for the child. When the child reaches the age of majority, the mother must meet its cash requirements pro rata – as a proportion of the deductible income of both parents – if she has the capacity to do so. The child's own income, e.g. apprenticeship pay or BAföG assistance, must be set off against this requirement in the same way as the full child benefit.

As well as ongoing maintenance, my child may assert a claim to cover **additional requirements** in certain circumstances, e.g. in the event of illness. In certain cases, it may also demand performance by reason of an irregular exceptionally high need (special need) that is not covered by the regular maintenance. This includes basic equipment for the baby.

My child may demand from me **maintenance with retrospective effect from birth**, because legal reasons previously prevented it from asserting a claim for maintenance. If other people or agencies, e.g. the "fictitious father", the social services office or youth welfare office, have provided maintenance for my child until now, however, its claim against me is now transferred to them. To this extent, I cannot formally undertake to pay for the child.

Under the German Civil Code I am also obliged to supply **information** on my personal and financial circumstances every two years on request, insofar as this is required in order to establish a maintenance claim. Before the end of a two-year period, information may only be demanded again 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 may be enforced by applying to the family court.

If the child's maintenance requirements change or my circumstances (income, marital status etc.) change, the child and/or I may request an **amendment to the maintenance amount** and apply to the family court for enforcement. It is essential to attempt to reach an amicable out-of-court settlement without recourse to the courts in order to avoid court costs.

With this official record I hereby submit to **immediate enforcement**. If I do not make the maintenance payments in due time, my assets, wage, salary or other income may be impounded on the basis of this record. Moreover, the child may demand interest on arrears which, depending on the applicable base rate, may be considerably higher than 5 per cent. This must be specified separately. The evasion of a statutory maintenance obligation may be liable to a fine or imprisonment of up to three years.

I hereby confirm that I have been duly instructed as set out above and that I have received a copy of this record.

F, ... (date)

Signature of the father Signature of the interpreter

It is hereby confirmed that the record has been handed over and signed in person.

F, ... (date)

Signature of the records clerk