

Rights and duties of parents

Parents exercise parental authority jointly. They have rights and duties regarding the custody, supervision and education of their children, which they may delegate. They must feed and maintain their children. The rights and duties of parents toward their children remain the same regardless of whether the parents are married, in a civil union, de facto spouses or single, whether they live together or not, whether they are separated or divorced, whether filiation has been established by blood, or whether the child was born through assisted procreation or was adopted.

In addition to their duties and obligations relating to parental authority, parents are generally the tutors of their minor children, and represent them in the exercise of their civil rights and the administration of their property.

Naming a child

Parents jointly choose their child's name, which consists of a surname and a given name or names. The surname may contain at most two parts, taken from the surnames of the child's parents. A change of surname or given name requires authorization from the Registrar of Civil Status or a court.

Contact information

Registrar of Civil Status

Phone: 418 644-4545 or 514 644-4545

Toll-free: 1 877 644-4545

Teletype (TTY): 1 800 361-9596

Website: www.etatcivil.gouv.qc.ca

For more information

The information summarized in this document was valid at the time of printing. For more information, go to www.justice.gouv.qc.ca or contact:

Ministère de la Justice

1200, route de l'Église

Québec (Québec) G1V 4M1

Phone: 418 643-5140

Toll-free: 1 866 536-5140

E-mail: informations@justice.gouv.qc.ca

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FILIATION



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Filiation is the relationship which exists between a child and the child's parents, whether the parents are of the same or the opposite sex. The relationship can be established by blood, by law in certain cases, or by a judgment of adoption. Once filiation has been established, it creates rights and obligations for both the child and the parents, regardless of the circumstances of the child's birth.

Types of filiation

Filiation by blood

When a child is born, the individual who delivers the baby completes an attestation of birth for the Registrar of Civil Status, stating the place, date and time of the birth, the sex of the child and the name and domicile of the mother, and gives a copy to the persons who are required to file a declaration of birth.

Both parents, or one of the parents, must file a declaration of birth with the Registrar of Civil Status. The declaration of birth must be completed in the presence of a witness who then signs it. It states, among other things, the name chosen for the child and the family relationship between the child and the person or persons making the declaration.

The declaration and the copy of the attestation of birth must be filed with the Registrar of Civil Status within 30 days of the child's birth. The Registrar uses the information to draw up the child's act of birth. A later declaration may be filed in certain circumstances.

Filiation by assisted procreation

A parental project involving assisted procreation exists when a single individual or spouses of the same or the opposite sex decide to have a child using the genetic material of another individual. The filiation of a child born by assisted procreation is established in the same way as that of a child with blood filiation.

Nullity of surrogate mother agreements

A surrogate mother contract is any agreement under which a woman agrees to conceive or carry a child for another individual or a couple, either free of charge or for a consideration. All such agreements are null.

Filiation by adoption

Adoption is a legal act that establishes the same rights and obligations between the adoptive parent and the adopted child as filiation by blood. The filiation by adoption replaces the child's original filiation, and the child ceases to belong to his or her original family. However, on certain conditions, a minor child may be adopted without breaking the child's original filiation.

Filiation is established by the judgment of adoption, which is automatically filed with the Registrar of Civil Status by the court.

Proof of filiation

Paternal and maternal filiation is proved by the child's act of birth, as drawn up by the Registrar of Civil Status. If there is no act of birth, filiation can be proved by uninterrupted possession of status, by a legal presumption, or by voluntary acknowledgement.

Uninterrupted possession of status

Uninterrupted of status consists of a series of facts showing the relationship between the child and the person who is said to be the father and mother, such as the fact of having been brought up by them and being recognized as their child.

Legal presumption

Where a child is born during the marriage or civil union of two persons of opposite sex, or within 300 days after the dissolution of the marriage or civil union, the mother's spouse is presumed to be the child's father. This is referred to as the presumption of paternity. The presumption is set aside if the child is born after the mother marries or enters into a civil union with another person.

It is possible, though, for the mother to contest her spouse or ex-spouse's paternity in the year following the child's birth. The presumed father can also contest the filiation and disavow the child, by proving before a court within the prescribed time that he is not the father.

A presumption also exists when a child is born through assisted procreation to an opposite-sex couple, or to a same-sex couple if both spouses are female, who are married or in a civil union. This is referred to as the presumption of parenthood. However, specific provisions govern donors of gametes (sperm or eggs) for a parental project using assisted procreation.

The presumptions of paternity and parenthood do not apply to de facto spouses, or to same-sex male spouses in a marriage or civil union.

Voluntary acknowledgment

If paternity or maternity cannot be established by the act of birth, by uninterrupted possession of status or by the presumption of paternity or parenthood, the father or mother can make a declaration voluntarily acknowledging the child and attesting to paternity or maternity. The declaration is binding only on the person who makes it and cannot, on its own, disprove a filiation that has already been established and has not been set aside by the court.