PATERNITY LAWS

ANALYSIS AND TABULAR SUMMARY OF STATE LAWS RELATING TO PATERNITY AND SUPPORT OF CHILDREN BORN OUT OF WEDLOCK

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The tabular summary of existing State legislation on paternity and support of children born out of wedlock presented on pages 24 to 55 is concerned with the special laws that outline legal procedures for establishing the paternity of a child and for obtaining his support by the father. This material represents, therefore, only one of the several types of statutes affecting the rights, disabilities, or protection of the child born out of wedlock. A complete summary of legislation on illegitimacy would require reference to statutes relating to birth and marriage, inheritance, nonsupport and desertion, custody and guardianship, special provisions for legitimation, and protective measures for children.

Special Statutes Relating to Paternity

Legitimation

Three different methods are outlined in the statutes by which the parents of a child born out of wedlock may give him the status of a child born in wedlock: (1) marriage of the parents after the birth of the child; (2) petition to a court for legitimation of the child if the parents are not married; or (3) the father's taking the child into his own home and acknowledging paternity. Legitimation of a child on marriage of his parents is a natural and generally approved provision. Information is not available on the extent of use of the other two methods of legitimation or on their social significance to the child.

Marriage of the parents.

Most of the States, Alaska, Hawaii, Puerto Rico, and the District of Columbia have provided that on marriage of the parents and the father's acceptance of the child as his own, the status of the child is changed for all purposes to that of a child born in wedlock. Although

These provisions are not included in the tabular summary on pp. 24 to 55.

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only 10 States and Hawaii (/) have enacted legislation authorizing change in the birth certificate on legitimization of a child, such changes have been made in other States on request of the parents and evidence of their marriage, since the law specifically states that the birth is legitimated by marriage.

The laws of Arizona, Kansas, and Tennessee make no reference to the status of a child on marriage of the parents. However, in Arizona a child may be legitimated by his acceptance in the home of the father, which would be the natural result of marriage of the parents, and in Tennessee the parents may obtain a change in the status of the child through application to a court having jurisdiction in such matters. Kansas has no such provisions. In four other States (Colorado, Maine, Nebraska, and Wyoming) the law refers only to the right of inheritance from the father on marriage of the parents and does not specify legitimation of the child.

Maine, however, in a law enacted in 1935 authorized the registrar of vital statistics to change the birth records of a child whose parents had later married to read in all respects as though the child had been born in lawful wedlock. It is probable, therefore, that a similar interpretation might be made of the laws of Colorado, Nebraska, and Wyoming.

The law of Louisiana differs from that of other States in being based on the Napoleonic Code. Only the child of persons who might legally have married at the time of the child's conception, may be legitimated on marriage of his parents. Such children, called natural children, are the only children born out of wedlock whose interests are protected by the Louisiana law. (/) In addition to legitimation on formal acknowledgment of paternity and marriage of the parents, such a child may be "legitimated" for purposes of inheritance by either the natural mother or father on declaration of intentions before a notary public or two witnesses. The law of Puerto Rico is similar in origin and similarly defines a natural child.

Petition to a court.

In a few States the statutes provide that the father of a child born out of wedlock, although not married to the mother, may petition a court of proper jurisdiction to legitimate the


(2) In the past a father was prohibited by statute from adopting his child whom he could not legally acknowledge. Under the 1936 adoption law (Laws of 1936, act 233) no such prohibition is made.

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child. In Georgia, Mississippi, North Carolina, and Tennessee formal court action is taken on
such a petition, and the court renders a decision on the change in status and the name of the
child. A less formal procedure is provided in Alabama, Michigan, and Greenville County, S. C.,
where a child may be legitimated when a written acknowledgment of paternity is made by the fa-
thor or by both parents and presented before the court. 1/

Although the laws of this group of States vary somewhat in their provisions, the following
illustrations show their general character:

Georgia: Legitimation by order of court; petition; notice of proceedings.—A father of
an illegitimate child may render the same legitimate by petitioning the superior court
of the county of his residence, setting forth the name, age, and sex of such child, and
also the name of the mother; and if he desires the name changed, stating the new name and
praying the legitimation of such child. Of this application the mother, if alive, shall
have notice. Upon such application, presented and filed, the court may pass an order
declaring said child to be legitimate, and capable of inheriting from the father in the
same manner as if born in lawful wedlock, and the name by which he or she shall be known.
[Code 1933, sec. 74-103.]

Michigan: Legitimation.—When, after the birth of an illegitimate child, his parents
shall intermarry, or without such marriage, if the father shall, by writing under his
hand, acknowledge such child as his child, such child shall be considered legitimate for
all intents and purposes: Provided, That such acknowledgment shall be executed and ac-
knowledged in the same manner as may be by law provided for the execution and acknowledg-
ment of deeds of real estate, and be recorded in the office of the judge of probate of
the county in which such father is at the time a resident. [Comp. Laws 1929, sec.13443.]

Adoption by the father.

A few States included in their early adoption laws a provision for legitimation of a child
that originated in New York in 1865. In that year the Revision Commissioners, under author-
ity given by the State legislature in 1857, reported a "Civil Code" to the legislature, proposing
a law regulating the adoption of children and containing the provision that when the father of
a child born out of wedlock acknowledged him and received him into his family, the child was
thereby adopted and legitimated from the time of birth. It is interesting to note that the
"Civil Code" was not adopted by the legislature; 2/ and that such provision is not included in
the earliest adoption law of New York 2/ but was nevertheless incorporated in and is still
found in the adoption laws of nine States. 4/

1/ Delaware has a somewhat similar provision (Rev. Code 1935, sec. 3573) but apparently has
used the term "legitimate" in a more restricted sense, since the child may not inherit from his
father under the inheritance laws of the State.

2/ See historical data in Consolidated Laws of the State of New York, 1909, Preface, p. XXV.
3/ Laws of 1873, ch. 830.
4/ Arizona, Rev. Code 1928, sec. 126; California, Deering's Civil Code 1931, sec. 230; Idaho,
9483; North Dakota, Comp. Laws 1913, sec. 4450; Oklahoma, Stat. 1931, sec. 1743; South Dakota,
The following excerpt from the law of Oklahoma is similar to legislation on this subject in the other States of the group:

Adoption of illegitimate child by father.--The father of an illegitimate child by publicly acknowledging it as his own, receiving it as such, with the consent of his wife, if he is married, into his family, and otherwise treating it as if it were a legitimate child, thereby adopts it as such, and such child is thereafter deemed for all purposes legitimate from the time of its birth. The status thus created is that of a child adopted by regular procedure of court. [Oklahoma Stat. 1931, sec. 1715.]

Acknowledgment of paternity for purpose of inheritance

The right of a child born out of wedlock to inherit from the father is denied in most States unless the child is legitimated. Such a right would, of course, benefit the child only if the father died intestate, the right of a parent to disinherit his child by his last will and testament being generally recognized in the various States. Some States, however, give the right of inheritance to a child whose relationship has been acknowledged by his father. Such an acknowledgment, authorized by statute, is merely for the purpose of enabling a child born out of wedlock to inherit from the father in case the father dies intestate or to give the child an opportunity to become his lawful heir.

In order to give such an acknowledgment a legal status the statutes of a number of States require that the father must acknowledge the child in writing, in the presence of witnesses. The law in Maine is to the same effect but requires acknowledgment before a justice of the peace or a notary public. A few other States declare by statute that a child born out of wedlock shall inherit from the father whenever he has been acknowledged by him as his child. Although in Iowa, Kansas, and New Mexico acknowledgment of the child must have been "general and notorious," or else in writing, no provision is made for witness of the signature. The law of Utah merely declares the child to be an heir of "the person who acknowledges himself to be the father." Indiana gives the child born out of wedlock the right to inherit, if the father has acknowledged paternity during his lifetime; but the child may not so inherit if the father is survived by legitimate children or their descendants. Similarly, in Louisiana, children of illegitimate birth acknowledged by the father may inherit from him, but only if he is not survived by descendants, ascendants, or a surviving wife.

In nearly all the States, and Alaska, the District of Columbia, and Hawaii, the child of illegitimate birth has the right to inherit from his mother to the same extent as the child born in lawful wedlock. The exceptions to be noted are as follows: In the District of Columbia the

child does not inherit the mother's real estate if the mother was incapable of making a will; in New York the child may inherit only if the mother leaves no lawful children or descendants; and in North Carolina the child born out of wedlock may not inherit real estate conveyed or devised to his mother by his father if there are legitimate children. In a few of these States the laws giving the right of inheritance from the mother include various provisions relating to inheritance from the legitimate children or from the relatives of the mother.

Connecticut is the only State that does not by statute authorize a child born out of wedlock to inherit from the mother. In that State, however, the word child in the statutes on descent and distribution has been interpreted by the court to include a child born out of wedlock to the extent that he may inherit from the mother. 1/ In Louisiana and Puerto Rico, a child of illegitimate birth, but only a "natural child" (a child born of parents who could legally have married at the time of the child's conception or, in Puerto Rico, at the time of the child's birth, and who has been acknowledged by his mother) may inherit from his mother, but only if she has left no legitimate descendants.

Laws Relating to Establishment of Paternity and Provisions for Support

Development of legislation

Under the English common law, which with few exceptions is the basis of legislation in the United States, the child born out of wedlock was described as "filius nullius," or "nobody's child." The basic English law called the bastardy law was enacted during Elizabeth's reign and placed responsibility upon both parents. 2/ Its main purpose was to relieve the parish from the burden of support. The possibility of the mother's recovering for support of the child from the father was not clearly stated until the nineteenth century. 3/

Legislation on the support of bastards, following the lines of the English law, was introduced in America at an early period. In 1673 a general law was enacted in Connecticut, which specifically defined the requirements for the conviction of the father and for the child's support. According to an early writer, the law provided that "where any man is legally convicted to be the father of a bastard child, he shall be at the care and charge to bring up the same by such assistance of the mother as nature requireth, and as the court from time to time (according

1/ Heath v. White, 5 Conn. 228.
2/ 18 Elizabeth, ch. 3 (1575-1576).
3/ 49 George III, ch. 68 (1809).
to circumstances) shall seem meet to order." Several changes pertaining to proof of the case were made in 1702. 1/

The history of American legislation on the subject of support of children born out of wedlock shows that the main consideration in the early legislation of the various States was the probability that such a child might become a public charge and that the pecuniary interests of the local jurisdiction, in which the child's mother resided, must be protected. The early laws on paternal support of children born out of wedlock clearly reflected this sentiment, were closely connected with the State's statute on poor relief, and were largely intended to reimburse the particular locality for any aid extended to the mother or to the child.

There were no radical changes in this point of view during the nineteenth century, and laws enacted in the early stages of independent State government have in many States remained practically unaltered until more recent times or until the present day. In Massachusetts, until the new act of 1913, the leading features of the law of 1785 were retained. The Georgia law is still substantially that of 1793. In Florida there has been no radical change since 1828, and in Alabama, Kentucky, and Tennessee, since 1852. In Alabama, however, the annual sum to be paid for support has since been increased; and in Tennessee support is required for a longer period than formerly.

The pertinent legislation during the latter part of the nineteenth century did not progress much beyond the early purpose of indemnifying the local jurisdiction rather than protecting the child and its mother. It is interesting that, in spite of the more modern social thought of extending all possible care and protection to children by means of numerous statutory provisions, the paternity legislation of a number of States has remained stationary both in terminology and in purpose. Proceedings to obtain support of children of illegitimate birth, for example, are treated in English lawbooks generally under the title "affiliation," but in the United States the stigmatising terminology, "bastard" and "bastardy proceedings," still appears in the statutes or in recent official codifications of a number of States. Some of the States that have eliminated these terms from the recent statutes still carry them in the later codification of State laws as chapter or section headings or in scattered laws pertaining to such children. This is shown in column 3 of the tabular summary on pages 24 to 65. It is interesting to note that New York in 1925 prohibited the use of the term "bastard" or "illegitimate child" in any local law, or in any public or judicial proceeding, or in any public record or public document.

and required that instead the term "child born out of wedlock" shall be used. 1/

It was not until recent times that the States enacted laws reflecting a more social point of view in regard to the child born out of wedlock. The laws enacted in Wisconsin and Minnesota illustrate the interesting contrast between the earlier and the more recent laws for establishing paternity and obtaining paternal support of the child.

An early Wisconsin law 2/ authorized the local authorities in charge of poor relief to apply to the justice of the peace for examination of the mother and apprehension of the father when a child of illegitimate birth was, or was "likely to become," a "public charge" and empowered these authorities to make a compromise and arrangement with the putative father in regard to the child's support. In 1865 the Supreme Court of Wisconsin 3/ declared the "very obvious intent" of this law to be to compel the father 4/ to pay the mother such sums of money as she, with the approval of the town authorities, may agree to receive in full satisfaction for that purpose 5/ to indemnify and save the town harmless from all expense for the maintenance of such child, or any charges incurred by the town for the lying-in and support of the mother during her sickness." This case has often been cited by the courts of other States in support of their similar decisions on these points.

A similar early law of Minnesota 6/ was also designed primarily for the protection of the financial interests of the particular locality. In 1882 the Supreme Court of Minnesota 7/, in interpreting this law, said that its purpose was "only to enforce upon a father the natural duty which he owes to his illegitimate offspring, and to prevent its becoming a public charge."

In contrast, the recent laws of these two States are clearly designed for the welfare of the child. The Wisconsin law declares its purpose to be: "To effectuate the protection and welfare of the child involved in proceedings hereunder." 8/ The law of Minnesota declares its primary purpose to be: "To safeguard the interests of illegitimate children and secure for them the nearest possible approximation to the care, support, and education that they would be entitled to receive if born of lawful marriage, which purpose is hereby acknowledged and declared to be the duty of the State." 9/

1/ Cahill's Consolidated Laws 1930, General Construction Law, sec. 59.
5/ State v. Smer, 29 Minn. 132, 12 N.W. 347 (1882).
7/ Minnesota, Mason's Stat. (1927), sec. 3272(d).
The thought of indemnifying the local governmental units for support of the child still dominates the legislation of many States, as is shown in columns 3 and 5 of the tabular summary on pages 24 to 65. This is reflected in provisions that empower the poor authorities to make the complaint for establishment of paternity or for compelling support of the child; or require that the accused give bond to the county, saving it from the burden of supporting the child; or authorize a justice of the peace to force the mother to disclose the name of the father, or else give bond for support of the child, and to imprison her if she fails to do this.

The philosophy now underlying public assistance is that every effort should be used to discover and make available all possible sources of support for an applicant before aid is granted but the use of punitive methods to obtain support from relatives, except in instances of flagrant delinquency, is generally considered unsound social practice. The procedure in many jurisdictions of referring all applications for public support of children born out of wedlock to a prosecuting attorney or to the court for adjudication of paternity and for an order for support from the father is most undesirable, since it substitutes a legal approach to the problem for a social approach, which is especially needed in cases that involve such complicated problems of human and social relationships. If, as the law of Minnesota declares, the primary purpose of paternity action is to assure the welfare and support of the child, it is obvious that this can be obtained only by placing his interests above the aim of conserving public funds.

The Uniform Illegitimacy Act, 1/ which has been adopted with few changes by five States (Iowa, Nevada, North Dakota, South Dakota, Wyoming) and in part by two others (New Mexico and New York), has contributed many socialized procedures to paternity proceedings. This act contains such progressive provisions as the following: A clear statement of the father's responsibility and the means for discharging this responsibility (see column 2 of the tabular summary), the requisite of judicial approval of any settlement of the case between the father and the mother; the safeguarding of payments made for support of the child by making them payable to a trustee when this method is desirable; the use of probation as a method of dealing with the father's failure to support the child; jurisdictional provisions designed to reach the absconding or the nonresident father; the use of civil procedure in court hearings and jury trial only when demanded; and the omission from records and documents of all explicit reference to illegitimacy.

1/ This act was drafted in 1922 by the National Conference of Commissioners on Uniform State Laws and by it approved and recommended for enactment in all the States. The conference is composed of commissioners appointed by legislative or executive authority from the States, the District of Columbia, the territory of Alaska, and the Island Possessions of the United States.

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General characteristics of the laws

The purpose of most of the present laws on paternity and support of children born out of wedlock is to impose upon the father the duty of supporting his child and to enforce his performance of this duty. To accomplish this end, paternity of the child must first be established. The statutes in two States, however, have additional features. The begetting of a child out of wedlock is made a misdemeanor and prosecuted as such in Pennsylvania (under a charge of fornication and bastardy) and in Massachusetts; paternity proceedings may be had in connection with the prosecution, and the court may also issue an order for support of the child. 1/ If the father fails to provide support the court may enforce the order in Massachusetts, but in Pennsylvania action must be taken under a special nonsupport law.

In a number of States, as is shown in column 2 of the tabular summary, the paternity and nonsupport law defines the responsibility of the father or of the parents for providing support, care, and education for the child born out of wedlock. The statutes of Arizona and North Dakota declare further that every child is the legitimate child of his natural parents. It is difficult to measure the practical significance of this affirmation, since in both these States the birth of a child out of wedlock is registered as an illegitimate birth.

Another general characteristic of paternity laws that should be noted is the time limit within which action must be initiated. As is shown in column 3 of the tabular summary, action must be initiated within a prescribed period after the birth of the child, according to the laws of 22 States, Hawaii, and the District of Columbia. This period of time varies from 6 months in Hawaii to 4 years in Utah, the usual period specified by the other States being 2 years. Recognizing that acknowledgment of paternity through affirmation or by contribution to a child’s support constitutes a definite claim upon the father, a few States have further provided that action may be initiated within a reasonable period after such acknowledgment has been made or support has been discontinued. The latter provision is important because if the father supports a child during the statutory period in which action might have been initiated and he later defaults in payments, recovery of support for the child is not possible without this provision unless the nonsupport law is made applicable to children born out of wedlock.

As is shown in column 3 of the tabular summary, court action in most States is initiated by the mother or by public-welfare authorities if the child is or may become a public charge. The recovery from the father of public expenditures for care of the child is the sole purpose of


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the paternity laws of Georgia and Tennessee. Although action may be initiated by a justice of
the peace in Tennessee on knowledge of a birth out of wedlock, the justice may order support
only when the child is a public charge. In Georgia paternity action is limited to a child who
is or may become a public charge.

The laws of 12 States / and the District of Columbia are notable in providing that action
can be taken only on complaint of the mother or her representative. In 3 of these States
(Minnesota, North Dakota, and Ohio) and the District of Columbia, the State department or a
local public agency is authorized to initiate action on the death of the mother or as the mother's
next friend, but the intent of the law is clearly that of assisting or representing the
mother in establishing the child's paternity and obtaining support for him. Action may be
taken by a representative of the State department of welfare for the benefit of a child who is
a ward of the department or for any other child. Public-welfare authorities must initiate
action in Rhode Island, but this is apparently designed for the protection of the child rather
than for the purpose of reimbursing the local public unit. The public agency is further re-
ponsible for receiving and disbursing all payments for the child's support.

Jurisdiction

Courts having jurisdiction.

The jurisdiction in preliminary hearings is usually vested in a justice of the peace, a
county judge, or a magistrate having power to commit (see column 4 of the tabular summary).
In at least half the States the jurisdiction in the preliminary hearing is vested in a justice
of the peace. The requirement of a preliminary hearing by a minor court seems to be a sur-
vival of the early procedure in regard to paternity action, which placed the enforcement of
bastardy acts in these courts. It apparently is a useful procedure for holding a man who pro-
tests the charge for later adjudication of the case by a trial court, which may be unable to
deal with the case immediately. Unquestionably it presents an unnecessary and trying experi-
ence to both the mother and the man involved in a large proportion of the cases brought into the
court. As is shown by column 4 of the tabular summary this procedure has been eliminated in a
number of States / and the District of Columbia and Hawaii.

/ Alabama, Colorado, Florida, Illinois, Indiana, Kansas, Kentucky, Minnesota, North Dakota,
Ohio, Utah, and West Virginia.

/ Arkansas, Delaware, Kentucky, Montana, New Jersey, New Mexico, New York, North Carolina,
Ohio [in the juvenile court], Oklahoma, and Rhode Island. In two additional States (Massachu-
setts and Pennsylvania) the law authorizes an entirely criminal action, which does not require a
preliminary hearing in a lower court.

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Much variation is found in the laws in the courts given jurisdiction to try the case. The courts most often designated are county, circuit, district, or superior courts. Such courts commonly have jurisdiction of civil and criminal cases; and they could, therefore, use either a civil proceeding or a criminal proceeding as authorized by the paternity laws.

There appears to be an increasing tendency to vest jurisdiction over paternity proceedings in juvenile or in domestic-relations courts. This is a progressive step for the better protection of the mother and the child, especially if the court is given entire charge of the proceedings. Such a court is much better equipped to give sympathetic consideration to the social problems involved than is a justice of the peace or a court having general jurisdiction. Jurisdiction is vested exclusively in the juvenile court in the District of Columbia and in Hawaii; in the family court of Philadelphia, Pa., and in the domestic-relations court in two counties in North Carolina; and, concurrently with other courts of general jurisdiction, in the juvenile court or the domestic-relations court in New Jersey, New York, and Ohio, and in certain counties of Illinois and South Carolina (see column 6 of the tabular summary). The courts in all these States except Illinois, in which the preliminary hearing by a justice of the peace is retained, have entire charge of the proceedings - the preliminary proceedings as well as the trial of the case.

Place of Jurisdiction.

Most of the State laws require that the action be initiated in the court of the place in which the mother resides or in which the child is born, and only a few vest jurisdiction in the court of the place in which the father resides or is found. If the father resides elsewhere or leaves the place in which the mother resides and the child is born before the father is arrested or is served with notice of the complaint, a special problem arises. The court of the place in which he might be found would not have jurisdiction, and it is often difficult to induce him to return to the locality in which the court has jurisdiction. It is, therefore, a distinct advantage to let the mother initiate proceedings in the place in which the father resides or is found. In a number of States the laws have solved the problem of cases in which the accused has gone to another part of the State by authorizing initiation of the action in the place in which the father resides or is found (see columns 4 and 6 of the tabular summary).

With respect to the mother's right of action when she lives in a State other than the one having jurisdiction over the accused, the Uniform Illegitimacy Act expressly provides that the fact that the mother or the child is not a resident of the State in which action is initiated, is not a bar to the jurisdiction of the court; for example, if the mother lives in Idaho, from
which the accused absconded to Nevada, she may initiate proceedings in the latter State. The enforcement of an order for support made in another State is authorized by the provision that the judgment of the court of another State rendered in a paternity proceeding may be acted upon in the mother's State of residence.

Reciprocal State legislation on these points would be desirable.

Nature of the proceedings

The procedure outlined by the statutes of most States is clearly to provide a means whereby a man unwilling to acknowledge parenthood of a child can be brought to trial so that the paternity of the child may be adjudicated and support for the child ordered and enforced when necessary. In actual practice, paternity procedure is often initiated even though the father is willing to acknowledge paternity and accept legal responsibility for the child's support. In a recent study of paternity action in two cities it was found that the father acknowledged paternity in about half the cases in which support was ordered. Only a few State statutes provide a simplified procedure that makes it possible to deal with paternity cases, in such a way that the mother and father do not have to go through a long-drawn-out and humiliating experience in court. It is a frequent practice, therefore, for the father whose cooperation is obtained through social agencies to make an informal agreement with the mother to assist in supporting the child rather than to establish a legal relationship to the child.

In analyzing procedures outlined in the laws a clear distinction must be drawn between those that relate to establishment of the legal responsibility of the father and those that relate to failure to support the child. In all the States except Massachusetts and Pennsylvania the begetting of a child out of wedlock is not a crime, but failure of a father to support his child is defined in State laws as either a misdemeanor or a felony. It is interesting to note, therefore, that although action to establish paternity is not a criminal action most State laws initiate such action under criminal procedure, although subsequent procedure may be largely civil in character.

Criminal and semicriminal procedure.

The statutory procedure in most of the States is criminal or semicriminal in character. The criminal provisions of the laws include: Arrest of the accused under a warrant; a preliminary hearing in a lower court (usually by a justice of the peace) or, in a few States, in the court having final jurisdiction; detention under bond to appear for trial, or commitment to jail on failure to give bond; and trial by jury. The civil provisions of the laws include: The use
of a summons instead of a warrant to bring the accused before the court; proceedings under the rules of evidence as in civil cases, particularly with respect to admissibility of evidence, the competency of witnesses, and authority to render judgment in the absence of the defendant.

Even when the statutory provisions are predominantly criminal, the supreme courts in some States have held that the proceedings under the pertinent statute are civil proceedings and that the trial is governed by principles of civil and not criminal law, even though the statutes include features, such as warrant for arrest and trial by jury, that are incident to a criminal proceeding. / In States in which the statutes include a civil procedure, the courts have not hesitated to hold that the proceeding is predominantly civil. 2/

Realizing the undesirability of a public proceeding, which is generally used in criminal cases, a few States authorize the justice of the peace to exclude the public from the preliminary hearing or give this authority to the court of general jurisdiction dealing with these cases. 2/ In States in which the juvenile court has jurisdiction over paternity cases, the authority to exclude the public from hearings -- which is usually given to the juvenile court -- is probably extended to paternity cases. Private hearings are specifically authorized in the paternity law of New York.

Chancery procedure.

In the States in which jurisdiction over paternity cases is in juvenile or domestic-relations courts an opportunity is provided for the use of chancery procedure. Chancery procedure involves: Initiation of action by petition rather than by complaint; social investigation before the hearing; the use of a summons to obtain appearance at the hearing; informal hearings in which all persons are excluded except those immediately interested in the case; decisions based on the needs of the child rather than the guilt of the father; and the use of probation as a means of dealing with failure to support a child.

Unfortunately most of the State laws that place jurisdiction in juvenile or domestic-relations courts have not given the court discretion to adapt the procedure to the needs of the

1/ In civil cases preponderance of evidence, and not proof beyond all reasonable doubt as in criminal cases, will sustain a complaint.
2/ Maloney v. People, 38 Ill. 62, 63; Rawlings v. People, 102 Ill. 475; Glasgow v. Hedrick, 88 Mont. 551, 294 Pac. 375; In re Comstock, 10 Okla. 299, 61 Pac. 921; In re Walker, 61 Neb. 803, 86 N.W. 510.
2/ Michigan, Minnesota, North Dakota, and Wisconsin.
particular case. In Illinois, for example, action must be started before a justice of the peace; and in the District of Columbia, Hawaii, Ohio, and in the localities of North Carolina and South Carolina, that place jurisdiction in juvenile and domestic-relations courts, a warrant for arrest and bail or bond are required in all cases. Under the recent legislation of New Jersey, which establishes juvenile and domestic-relations courts, some latitude is given to the courts in dealing with paternity cases, but certain procedures required by the paternity law still seem to be in force. New York is the only State in which the paternity law seems to offer a possibility of dealing with cases of acknowledged paternity under chancery procedure.

It should not be difficult to frame adequate statutory provisions which would authorize the father to file in a juvenile court or other competent court a petition to acknowledge paternity and to agree to provide for the support of his child, and which would authorize the court to consider the petition under the same procedure as that provided for children's cases. That many cases of adults coming before the juvenile court can be satisfactorily dealt with under a chancery procedure has been demonstrated by juvenile courts. This procedure is recommended by the committee on juvenile-court legislation of the National Probation Association, which drafted the Standard Juvenile-Court Act.

Support of the child

Court order for support.

In most States the court is given discretion to order the amount of payment for the support of the child. However, as is shown by column 8 of the tabular summary, the laws of nine States specify the maximum amounts that may be ordered. The amounts vary from $15 a month in Maryland to $40 in Delaware, and from $50 a year in Florida to $350 a year during the first 2 years and $500 thereafter in Oregon. The amount authorized in some of these laws has little relation to the actual cost of proper and adequate care, maintenance, and education of a child during its years of dependency. The provisions in the laws of three States for one amount of payment during the first 1 or 2 years and a different amount in later years apparently reflect two different points of view: (1) That the cost of care increases as the child becomes older (in Oregon), or (2) that the mother is less able to contribute to the support of the child during its infancy, hence a larger payment is required during the first year (in Illinois and Utah).

1/ Alabama, Delaware, Florida, Illinois, Maryland, Oregon, South Carolina, Tennessee, and Utah.

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In more than one-third of the States (see column 8 of the tabular summary) the laws expressly confer continuing jurisdiction upon the court and power to change or modify the order for support later. The law of Wisconsin, for example, provides that—

Whenever the judgment for the future support of the child has not been satisfied by the payment of the lump sum directed to be made, the court shall have continuing jurisdiction over proceedings brought to compel support and to increase or decrease the amount thereof until the judgment of the court has been completely satisfied.

The statutory authority given to a court for later modification of the support order is useful in that it takes care of any later conditions that might warrant either an increase or decrease in the amount of support needed for the child.

The length of time during which a child must be supported by his father is defined in all but 15 1/3 of the State paternity laws. As is shown in the tabular summary, a few States do not specify a definite age at which support may be terminated but require support either during minority, as for a child born in lawful wedlock, or until the child is able to support himself.

In the remaining States and in Hawaii support is required until the child has reached a specified age, which varies from 10 years in Alabama, Florida, and Illinois to 18 years in Mississippi, and Utah.

Most paternity laws provide for periodic payments for support of the child at a time ordered by the court, but a few specify that payments shall be made weekly or monthly. Payments made under a judgment for support of a child, whether paid periodically or in a lump sum, must be used for this purpose. This fact is recognized in a number of State laws, and safeguards for the use of such funds have been made. The laws of some States 2/ provide that all payments must be made to the court or to a State or local welfare agency, or to a trustee appointed by the court, the funds to be used under the court’s direction. In another group of States 2/ the laws give the court discretion to appoint a trustee, when it is deemed necessary, to assist in the collection of payments and to assure proper use of the money. This group includes several States that adopted many of the provisions of the Uniform Illegitimacy Act, which also requires that if the mother does not reside in the jurisdiction, a trustee must be appointed.

When appointment of a trustee is authorized the court may be given wide discretion to appoint any individual, agency, or corporation or may be directed to name a State or local welfare

1/ Colorado (not beyond 18 years of age), Connecticut, Indiana, Kansas, Kentucky, Maine, Michigan, Montana, Nebraska, New Hampshire, North Carolina, Ohio, Oklahoma, Pennsylvania, and West Virginia.


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agency as the trustee. This latter plan is desirable, because such agencies are equipped to provide services to the mother as well as to assure adequate care for the child, since many children born out of wedlock and their mothers are receiving public assistance.

Enforcement of order for support.

The objective of paternity legislation is to obtain support for the child born out of wedlock, but the extent to which this objective may be realized depends largely upon the adequacy of statutory provisions for enforcing the court order for support. The outstanding weakness of many paternity laws is that they do not contain effective provisions for collecting money from the man who because of poverty is unable to pay the judgment when it is rendered or to procure a bond to secure future payments ordered by the court.

The paternity laws of most of the States, 1/ the District of Columbia, and Hawaii authorize the courts to order the adjudged father to give a bond with sufficient sureties to secure the payments ordered by the court for the support of the child. In about half these States the bond is mandatory, and in the remaining States 2/ the court is given discretion to order a bond filed. This latter provision is particularly desirable, because it allows the court to require a bond from the man financially able to provide sureties but to use other methods for the man without resources who can make payments in small amounts.

On failure to pay the bond required by the court, practically all the laws provide for imprisonment of the offender; such imprisonment is mandatory in some States but at the discretion of the court in others. When the court is given discretion to order a bond filed, imprisonment is a means of punishment for not conforming to the order, but when a bond must be filed regardless of the man's ability to provide it, imprisonment simply results in penalizing many men for their lack of financial resources. 2/ The length of time a man may be held for failure to provide bond in different States is shown in column 9 of the tabular summary.

The most significant feature of the provisions under which a man may be released from imprisonment for failure to file bond is his liability to provide support for the child in the future. The laws of 15 States, 4/ the District of Columbia, and Hawaii specifically state

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1/ Bonds are not required by the laws of Montana, New Mexico, and Ohio, and the order for support is enforced through a separate nonsupport law in Colorado and Pennsylvania.


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that on release from prison the man is still liable for support of the child; and in 3 States (Mississippi, New Hampshire, and Rhode Island), the court may impose conditions for his release. It is impossible to judge whether the lack of such provisions in the laws of other States has been interpreted by the courts as authorizing release from all responsibility for support on completion of a term of imprisonment or whether in the light of other provisions of the law the court will hold the man for further support of the child. A ruling of the attorney general in Maryland clarified the situation in that State. This ruling held that imprisonment did not abate responsibility for further support. 1/

The purpose of paternity action is to obtain support for the child, but this end is hardly served by providing instead a period of punishment for the father, since only a few States have provided in the paternity laws that payment shall be made for work done by the father during imprisonment and used for support of the child. Yet the statutes of more than a fourth of the States 2/ that have paternity laws make no provision for obtaining support for a child except through ordering a bond and imprisoning the father for failure to comply with the order. Furthermore, none of these laws provide for holding the father for continuing support after his release from imprisonment. It is always possible, however, that a court through its inherent discretion in interpreting the law may use other methods for carrying out its purpose, even when the statutes do not state alternative procedures.

Because a large number of men dealt with in paternity cases are unable to contribute to the support of a child except in small periodic payments, the most effective laws are those that hold all adjudged fathers for support and authorize regular payments to be made under the supervision of the court or of a public-welfare department. About a third of the States having such provisions expressly authorize the court to place the adjudged father on probation, 3/ but several others achieve this same purpose by requiring payments to be made to the court or to a State or county welfare department. 4/

Less effective methods of obtaining continuing support from the adjudged father have been provided in another group of States. In some of these States the court is responsible for collection of payments and is authorized to issue execution on payments when due or to deal with

1/ Maryland: Opinion of Attorney General, November 1936.
2/ Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Nebraska, New Jersey (cases in magistrate court only), Tennessee, and West Virginia.
3/ Colorado (nonsupport law), Delaware, Iowa, Maryland, Massachusetts, Michigan, Nevada, New Hampshire, New Jersey (in the juvenile and domestic-relations courts), New York, North Carolina, North Dakota, Ohio, Pennsylvania (special nonsupport law), South Dakota, and Wyoming.
4/ Connecticut, Minnesota, Rhode Island; Utah, Washington, and Wisconsin. In the District of Columbia the court may order the terms of payment and place the adjudged father on probation.
the father for contempt of court on failure to make payments. In the remaining States the court has no responsibility for collection, but the statutes authorize the bringing of a civil action to collect the judgment. The New Hampshire law is the only State law authorizing release from imprisonment on terms set by the court that has failed to outline some method for recovering support from the adjudged father.

A few States have statutory provisions making the judgment against the defendant a lien on his real estate or authorizing attachment of his property to satisfy the judgment. Most of the men involved in paternity cases do not own property, and therefore these provisions are less valuable than the methods that exercise more personal pressure.

Express statutory provisions for proceeding against the estate of a decedent father, although of considerable importance, are found in only a few States. The Uniform Illegitimacy Act provides that when paternity has been judicially established during the life of the father, his obligation for support of the child is enforceable against his estate, with due regard, however, to the rights of his surviving widow and legitimate children. The Maryland law provides that in such a case the court may order the judgment to be paid out of his estate, but limits the amount to be paid to $500 or not more than one-half the amount that one of his legitimate children might receive. The law of another State, Arkansas, merely provides that the judgment may be revived against the father's executor or administrator. It is most desirable to safeguard the rights of the widow and legitimate children in authorizing proceedings against the estate of an adjudged father. When the law is silent on this point, and judgment is collected from the estate of the father, it is conceivable that nothing may be left for the care of his legitimate children.

Application of desertion and nonsupport laws.

The protection given by the desertion and nonsupport laws of some States is made available to children born out of wedlock either by the express inclusion of such children in the provisions of the nonsupport law, or by provisions in the paternity law that the desertion and nonsupport law is applicable to the adjudged or acknowledged father of a child of illegitimate birth.

1/ Mississippi, Montana, New Mexico, Oklahoma, Oregon, and South Carolina.
2/ Arizona, Hawaii, Maine, and Vermont.
In the 10 States in which the father of a child born out of wedlock is liable for nonsupport under the desertion and nonsupport law as he would be for a child of legal marriage, some differences exist as to the applicability of these laws to the father who does not have the child in his custody. The nonsupport laws of four States (Alabama, California, Delaware, and Wisconsin) specifically state either that the law applies to the father of a child born out of wedlock whether or not the child is in his custody or that it applies to the father of any child born out of wedlock. In the remaining States of this group the inclusion is more general. It is interesting to note, however, that rulings on this point have been made in three of these States. An attorney general's opinion in Minnesota upheld the application of the law to the father of a child born out of wedlock even though he did not have the custody and a court in Colorado affirmed that the law applied to such a father even when paternity had not been established. A contrary ruling was given in Missouri, when it was held that the law applied only to the father having custody of the child. The Missouri decision apparently excludes any father who does not have custody of a child, regardless of the status of the child's birth, and has seriously weakened the effect of the law as a means of obtaining support for children from their fathers.

The Commission on Uniform State Laws considered the desirability of applying nonsupport laws to fathers who do not have custody of children born out of wedlock. As a result, the Uniform Illegitimacy Act drafted by this group states that failure of a parent to support a child in his custody shall be governed by the laws applicable to the failure to support a legitimate child. Washington and four of the States that have adopted the Uniform Illegitimacy Act (Nevada, North Dakota, South Dakota, and Wyoming) have incorporated this provision in their paternity acts. In Iowa and Minnesota the nonsupport law is applicable to any acknowledged or adjudged father who fails to support his child.

In discussing the Uniform Illegitimacy Act, Ernst Freund stated in 1922 that "nonpayment of alimony is an offense wholly different in grade and character from the abandonment of the lawful and acknowledged family. Even if the latter can justly be treated as a felony the former cannot." More than a third of the State laws specifically state that abandonment or failure of a man to support his wife or children is a misdemeanor and not a felony, and the inclusion of

1/ Opinion of Attorney General, May 23, 1922.

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children born out of wedlock under these laws would not raise the issue presented by Mr. Freund. It should be noted, however, that abandonment and nonsupport of children is a felony in the three States in which a ruling of an attorney general or a court has established or disapproved the application of the laws to a father who does not have custody of a child born out of wedlock.

The enforcement provisions of paternity laws lessen the necessity for recourse to nonsupport laws for obtaining support of children born out of wedlock. The nonsupport laws are valuable, however, in certain situations; for example, if the father has assumed parental responsibility during the period in which paternity action could be initiated and no provision is made in the paternity law for initiating such action on termination of support, the only method of enforcing support is through the nonsupport law.

Settlement of case without court hearing.

As is shown in column 2 of the tabular summary, the laws of nearly half the States have defined the conditions under which a man may make final settlement of a case after paternity proceedings have been initiated against him.

Court approval of such settlement is required in 11 States, 1/ and a court record is necessary in two others (Ohio and Kansas). The law of Oregon is notable because it requires that all settlements must be approved by the judge of the juvenile court, although paternity cases are dealt with by other courts. In all States in which court approval is required, provision for the support of the child must be made in all settlements and, in some States, for the mother's expenses and court costs. A few States have placed limitations on the requirement of court approval of a settlement: In Indiana the court need not approve if the mother is over 21 years of age; and in Illinois court approval is not required if the settlement is for $800 or more. Although court approval is required in Utah, the law states that unless the settlement is for $500 or more it is not final. In Illinois a settlement for less than $800 is not final.

In six States the chief consideration in legislation authorizing settlement of cases is apparently to protect the local unit from the burden of supporting the child. In Connecticut, Michigan, and Rhode Island the local public-welfare officials may compromise with the father if sufficient settlement is made to relieve the local unit of any necessity for support of the child. In Arizona the settlement with the mother is not binding unless approved by the board.

1/ Illinois, Indiana (if mother a minor), Iowa, Minnesota, Nebraska, Nevada, New Mexico, New York, North Dakota, Oregon, South Dakota, Utah, Wisconsin, and Wyoming.
of supervisors of the county, the bond of the putative father to indemnify the county being sub-
ject to the approval of the justice of the peace; in Vermont neither the mother nor the overse-
ers of the poor may compromise without consent of the other; and in Maine the mother may not
make a settlement if the overseers object to it.

In Nebraska and New York court approval of all settlements is required but approval of the
welfare authorities is also required if the child is receiving public support. The Minnesota
law, which authorizes a court-approved settlement for support made with the acknowledged father
of a child born out of wedlock, also authorizes the county authorities to compromise with the
putative father for the expenses incurred by the county for care of the child and for the con-
finement expenses of the mother.

It is interesting to note that in the laws of all but nine \(^1/2\) of the States that author-
ize a settlement to be made for the support of a child, such settlement may be made with the
"accused person" or the reputed father. In these States, therefore, any man financially able
can make a settlement and evade responsibility for accepting the child as his own. The Wis-
consin law, however, provides that unless the man denies paternity he shall be adjudged the
father. In the laws of the nine States that authorize settlement with an acknowledged or
adjudged father, his paternal relationship must be established before a legal compromise may
be effected.

The statutes of only three States have made specific provisions for safeguarding the use
of funds obtained for support of the child in a settlement out of court. The Minnesota law
authorizes the State department of welfare to hold such funds for support of the child or to
use them as directed by the court. The public-welfare law of New York authorizes local
public-welfare officials to hold and disburse funds received in a settlement or to pay such
sums to the mother if she gives security. The Rhode Island law provides that State or local
public-welfare officials shall receive and pay out for the support of the child all funds re-
ceived for his care. Even when the procedure to be followed is not outlined in the law, it
may be presumed that authority given to a court to approve a settlement may include authority
to provide by some plan for proper use of the funds.

Although the laws of only two States, Illinois and Utah, specify the minimum amount that
is acceptable for the final compromise of a case, it is interesting to compare these amounts
with the total maximum amount that might be made available for support of the child if peri-
odic payments were made as provided for under other sections of the law. In Illinois the

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\(^1/2\) Iowa, Maine, Minnesota, Nevada, New Mexico, New York, North Dakota, South Dakota,
and Wyoming.

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maximum that might be expected from periodic payments is $1,100, and court approval is not re-
required for a final settlement of $600 or more. In Utah the potential maximum from periodic pay-
ments for 18 years is $2,759, and final settlement is authorized if $500 or more is paid. In
comparing these amounts it should be realized that studies of payments for support in paternity
cases show that very few men have paid the full amount of the court order throughout the years
specified in the law. Limited earning capacity of the father and his later marriage and in-
creasing responsibilities for children born in wedlock are serious handicaps to obtaining ade-
quate support for the child born out of wedlock.

Summary

The most striking feature of the existing paternity laws is the large number of laws that
are wholly unadapted to modern social conditions. Such laws fail to take into consideration the
progress in social attitudes toward illegitimate birth and the socialized procedure increasingly
used by the courts in all situations involving family relations and the welfare of children.
The principle of punishing the man responsible for the birth of a child out of wedlock still domi-
nates many of the laws; in some States punishment may be substituted for continuing responsibil-
ity for support of the child. Another undesirable feature of many laws is the persistence of
the terminology and thinking of the old bastardy laws of the eighteenth and nineteenth centuries,
which were intended chiefly to obtain reimbursement of public expenditures for care of the child.

Far too many laws are based on the assumptions that every man against whom action is brought
can pay the amount required to support the child through a number of years or can provide secur-
ity to guarantee payments in installments, and that imprisoning the man will bring forth undis-
closed assets. The experience of the courts has proved that such provisions apply to only a few
of the men dealt with in paternity cases.

Another assumption of most of the laws is that paternity must always be proved and that crimi-
nal procedure must be used to bring the man before the court. Here again the experience of
some courts and social agencies has shown that many men, if approached in an understanding and
helpful way, will acknowledge paternity. It is evident that there is great need for changes in
the procedure of the court in order to encourage the legal recording of the paternity of a child
born out of wedlock rather than to discourage it, as most laws now do, by the requirement of
criminal procedure.

In the previous discussion of the various provisions of the paternity laws throughout the
country, evidence has been given of wide variation in the procedures authorized and in the ef-
ficience of the laws. There is apparently great need for reevaluating the paternity laws of
many States. The most significant and effective provisions made by the laws of different States are summarized in the following outline:

1. Elimination of the terms "bastard" or "bastardy" from all laws relating to the child born out of wedlock.

2. Initiation of court action only by the mother or a welfare agency representing her interest and that of the child.

3. Initiation of court action within a reasonable period after paternity has been acknowledged or after payments for support have ceased, regardless of the age of the child.

4. Elimination of a preliminary hearing in a minor court.

5. Jurisdiction within a court dealing with cases of children or cases involving domestic relations and equipped to make a social investigation before the hearing and to provide case-work services.

6. Authority for the court to use, whenever possible, chancery procedure for initiating action, obtaining appearance at hearings, and in hearing the case.

7. Authority for the court to use other means, when chancery procedure cannot be used, to compel attendance at hearings. Hearings in such cases to be conducted as in civil cases with jury if demanded and the public excluded from all hearings.

8. Initiation of action in the jurisdiction in which the father resides or is found as well as in the mother's place of residence.

9. Authority for the court to make an order for support that will take into consideration both the needs of the child and the father's ability to pay.

10. Continuing jurisdiction of the court, with authority to change and modify the order for support when this is deemed desirable.

11. Authority for the court to use probation as a means of enforcing the support order and to require a bond with surety only when this is considered desirable.

12. Provision for holding the father liable to pay the judgment regardless of commitment to jail for failure to fulfill conditions imposed by the court.

13. Provision for assuring that funds will be used for support of the child by requirement that all payments be made through the court or a welfare agency, whether such payments are made through settlement or after court hearing, in a lump sum or in installments at periods designated by the court.

14. Provision that no settlement of a case can be made without the approval of the court and unless adequate provision has been made for support of the child.

15. Elimination of all reference to illegitimacy or to the illegitimate status of the birth of a child born out of wedlock in all records kept by the court, except records of paternity proceedings, which should be held confidential and made available only on court order. All papers requiring a declaration by or notice to the mother should refer to her as having sole custody of the child or to the child as being in sole custody of the mother.
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<th>State and legal reference</th>
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<th>Court action to establish paternity</th>
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<td>Court having jurisdiction</td>
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<td></td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>ALABAMA</td>
<td>Mother, during pregnancy or within 1 year after birth of bastard child or later, if defendant has acknowledged or supported child.</td>
<td>Justice of the peace in county in which mother is pregnant or is delivered.</td>
</tr>
<tr>
<td></td>
<td>Bond not over $1,000 to be approved by justice of the peace. On failure to give bond, defendant must be committed to jail until bond is furnished or he is otherwise discharged by law.</td>
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<tr>
<td>ALASKA</td>
<td>No provision for establishment of paternity or for support.</td>
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<td>ARIZONA</td>
<td>Justice of the peace shall discharge defendant if he (1) pays or secures to be paid, such money or other property as mother, with written approval of county board of supervisors, may agree to receive in full satisfaction; (2) pays county expenses for mother's confinement and gives approved bond for the maintenance of the child born or to be born. Every child is the legitimate child of its natural parents and is entitled to support and education as if born in wedlock. Rev. Code 1928, secs. 275-283.</td>
<td>Mother, during pregnancy or after birth of child born out of wedlock, or county board of supervisors if child may become a public charge.</td>
</tr>
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<td></td>
<td>Justice of the peace.</td>
<td></td>
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<tr>
<td></td>
<td>Approved recognizance with sureties, not less than $500 nor more than $1,000. On failure to give bond defendant shall be committed to county jail until he answers the complaint.</td>
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</tr>
<tr>
<td>ARKANSAS</td>
<td>Mother, during pregnancy or after birth of a bastard child. County judge may bring mother before court and require her to disclose father of child or to give security to indemnify county from costs of maintenance of child until he reaches 7 years of age.</td>
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</tbody>
</table>

1/ Although Arizona has adopted the Uniform Illegitimacy Act, this provision still appears in the latest official codification.
and obtain support of the child

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<tr>
<th>Court hearing jurisdiction</th>
<th>Procedure in court hearing</th>
<th>Judgment</th>
<th>Enforcement of judgment</th>
<th>Persons to whom money for support of child is to be paid</th>
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</thead>
<tbody>
<tr>
<td>Circuit court or &quot;court of like jurisdiction&quot; of county. Appeal may be made to supreme court or court of appeals.</td>
<td>If defendant cannot be found, facts in complaint must be taken as admitted and judgment rendered.</td>
<td>If defendant is adjudged father of the child, judgment must be rendered against him for the costs and he must be required to pay for support of the child a sum not exceeding $100 a year for 10 years as court may provide.</td>
<td>Approved bond shall be required. On failure to give bond, defendant shall be sentenced to hard labor for 1 year or until he provides bond or pays the judgment and costs. Proceeds of such labor shall be paid to judge of probate for support of child.</td>
<td>Judge of probate shall be custodian of funds and shall pay them to father or other person having custody of child.</td>
</tr>
<tr>
<td>Superior court. Trial is by jury. Examination taken before justice shall be read to jury on demand of defendant.</td>
<td>Father shall give bond, approved by court, to county for performance of judgment and order, and for payment of county's expenses for mother's confinement. Failing to give bond, he shall be committed to jail until he complies with order or is discharged. After 90 days' imprisonment, he may be discharged if court hearing shows his inability to pay; but he is not released from liability for support. After such discharge mother or county supervisors may recover by action any sum due under the judgment.</td>
<td>Manner of payment to be fixed by court.</td>
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</tr>
<tr>
<td>County court. Appeal may be made to circuit court. Defendant may demand a jury. If defendant denies paternity the court or judge shall hear evidence. Case shall be continued until child is born.</td>
<td>If it is found that the accused is the father of the child, he shall pay a monthly sum of not less than $10 from birth of child to age of 14 years. Father shall pay confinement expenses for a sum not less than $25.</td>
<td>Bond of $100 with approved security shall be required to secure monthly payments and to indemnify county from cost of maintenance of child. On failure to pay confinement expenses or to give bond, father shall be committed to jail. The judgment may be revived against the executor or administrator of the father's estate.</td>
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</table>

2/ The desertion and nonsupport law applies to the father of a child born out of wedlock.

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<table>
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<th>State and legal reference</th>
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<td>Court having jurisdiction</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>CALIFORNIA</td>
<td>Parents of a child of illegitimate birth must give child support and education suitable to his circumstances. A civil suit to enforce the obligation of the father may be maintained by the mother or guardian. The desertion and nonsupport law applies to the father of a child born out of wedlock.</td>
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<tr>
<td>COLORADO</td>
<td>Mother, either during pregnancy or within 12 months after birth of bastard, complain to a justice of the peace.</td>
<td>Justice of the place in county in which the child is born or, if unborn, county in which the mother resides.</td>
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<tr>
<td>CONNECTICUT</td>
<td>Complaint may be settled by agreement of mother and father either with consent of the selectmen of town in which the mother has her residence or with the consent of her parent or guardian, or if provision has been made to satisfaction of the court to relieve the parent, guardian, or town from expenses for maintenance of child. When town has brought suit, selectmen may compromise suit for a fixed sum, or on seeking for its payment for benefit of town.</td>
<td>Mother, during pregnancy or within 3 years after birth of child born out of wedlock, upon filing with the commissioner of the superior court the certificate of a reputable physician that she is pregnant or has been delivered of a child. If sufficient security is not offered to indemnify town against support of child, town may bring suit or may continue suit mother fails to complete.</td>
</tr>
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</table>
and obtain support of the child

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<td>District court of county</td>
<td>Trial is by jury.</td>
<td>Court shall render judgment according to verdict of jury. If the jury finds for mother, it may assess proper damages for support of child and may direct payment annually or otherwise for any term of years not exceeding 16.</td>
<td>After judgment, execution shall be issued for payment of damages or, if jury makes an allowance, execution may be issued annually for the sum allowed. 1/</td>
<td></td>
</tr>
<tr>
<td>Court of common pleas for county</td>
<td>Trial is by jury on demand of either party. Court may order continuance of case; and if mother continues constant in her accusation, it shall be evidence that accused is father of child.</td>
<td>If defendant is found guilty, court shall order him to stand charged with maintenance of child, &quot;with the assistance of the mother,&quot; and to pay a certain sum weekly for such time as court judges proper. Court shall order father to pay to mother one-half of the expense of lying-in and nursing and for support of the child until the time of rendering judgment.</td>
<td>Bond with sufficient surety may be required to perform court orders and to indemnify the town liable for child's support. Failing this, father may be committed to jail until he complies; and he may not be released as a poor debtor until after 6 months from date of commitment. After release he continues to be liable. Clerk of court shall, within 24 hours after judgment, notify selectmen of town who shall have general supervision of child's welfare during continuance of order. Clerk of court shall issue execution of sum ordered to be paid monthly.</td>
<td>If mother fails to apply allowance paid toward child's support, court may discontinue allowance and direct it paid to selectmen of town for child support.</td>
</tr>
</tbody>
</table>

1/ The desertion and nonsupport law applies to the father of a child born out of wedlock.
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<tr>
<th>State and legal reference</th>
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<th>Court action to establish paternity:</th>
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<tr>
<td><strong>1</strong> Delaware Code 1939, secs. 3570-3572: 3575; 6467-6469.</td>
<td>Father is responsible for maintenance of his illegitimate child under 15 years of age.</td>
<td>Persons who may make complaint</td>
<td>Court having jurisdiction</td>
</tr>
<tr>
<td></td>
<td>Mother, during pregnancy or after birth of illegitimate child, or any other person upon oath, may complain to justice of the peace. Justice, on his own knowledge of birth of illegitimate child, shall cause mother to disclose father, or to give bond to indemnify State board of charities, and, if she fails to do this, commit her to jail.</td>
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</tr>
<tr>
<td><strong>2</strong> District of Columbia D. C. Code 1929, title 18, secs. 281-288.</td>
<td>Mother, during pregnancy or within 2 years after birth of a bastard, or board of public welfare, or any next friend if the bastard is under 2 years of age.</td>
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</tr>
</tbody>
</table>
### Adjudication

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<tr>
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<td>Justice of the peace in county in which mother may be at time of complaint.</td>
<td>Trial in Justice's court shall be held after arrest of defendant if child is born, or, if not yet born, 1 month after its birth.</td>
<td>If defendant is adjudged the father of the child, Justice of the peace may make order directing defendant to pay not less than $15 nor more than $60 a month for maintenance of the child until he is 16 years of age. Such order shall be subject to change by the Justice or his successor from time to time as circumstances may require.</td>
<td>Defendant shall be released from custody on probation upon giving recognizance, reasonable bailable, with surety in such sum as Justice may order to secure performance of his order, and conditioned that the defendant shall personally appear before the Justice whenever ordered to do so. On refusal to give recognizance, defendant shall be committed to jail until he complies or is released by the court of general sessions on his own recognizance. This court on appeal may approve original recognizance and commit defendant for noncompliance therewith.</td>
<td>On failure to appear in Justice's court to enter into a new recognizance, the former recognizance is forfeited and sent for collection to the attorney general of the State. Payment shall be made to the mother or other person keeping the child. Justice shall notify State board of charities that bond was given.</td>
</tr>
<tr>
<td>Court of general sessions on appeal.</td>
<td>If paternity is denied and case is tried on appeal to court of general sessions, trial shall be by jury.</td>
<td>If accused admits paternity, or jury finds him to be the father, court may order him to make annual payments, until child is 18, of such sums and in such installments, monthly or otherwise, as seems best to the court and order such keeping, maintenance, and education of the child as may be proper.</td>
<td>If defendant failed to give bond before the judgment, bond may be required, conditioned for payments in such installments as court shall direct. On failure to give bond, he shall be committed to jail until he gives bond or pays sums adjudged; but, after 6 months, he may, on taking poor debtor's oath, be discharged from jail but is still responsible for support of his child. If child dies, the father shall be discharged upon payment of the amount due to the time of death of the child.</td>
<td>Manner of payment as court shall direct to be provided in the bond. Court may order payments to be made through the Metropolitan Police at police precinct wherein father resides.</td>
</tr>
<tr>
<td>Juvenile court, if child is born in the District or the mother is a resident thereof.</td>
<td>Trial is not to be held until after birth of child. Trial is by jury if demanded by defendant. If defendant fails to appear, bond shall be forfeited, execution issued thereon, and trial shall proceed and orders be made as if he were present.</td>
<td>If accused admits paternity, or jury finds him to be the father, court may order him to make annual payments, until child is 18, of such sums and in such installments, monthly or otherwise, as seems best to the court and order such keeping, maintenance, and education of the child as may be proper.</td>
<td>If defendant failed to give bond before the judgment, bond may be required, conditioned for payments in such installments as court shall direct. On failure to give bond, he shall be committed to jail until he gives bond or pays sums adjudged; but, after 6 months, he may, on taking poor debtor's oath, be discharged from jail but is still responsible for support of his child. If child dies, the father shall be discharged upon payment of the amount due to the time of death of the child.</td>
<td>Manner of payment as court shall direct to be provided in the bond. Court may order payments to be made through the Metropolitan Police at police precinct wherein father resides.</td>
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<td>FLORIDA</td>
<td>Mother, during pregnancy or after birth of bastard.</td>
<td>County Judge, or justice of the peace of county in which mother may be pregnant or delivered.</td>
<td>Judge shall require defendant to give bond with sufficient security.</td>
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<tr>
<td>Code 195, secs. 27-296, 74-301 to 74-307.</td>
<td>The father of a bastard &quot;shall be bound to maintain him.&quot; If he fails or refuses to perform this duty, &quot;the law will compel him.&quot;</td>
<td>Justice of the peace who knows or has information on oath of case of pregnancy with or birth of a bastard child that is likely to become chargeable to the county, may have the mother arrested and brought before him, before or after birth of the child, to disclose on oath its father or to give security in the sum of $750 for support and education of the child until it is 10 years of age.</td>
<td>Justice of the peace of county in which case arises. If father fails to give security for support of child until he is 10 years of age and for confinement expenses of the mother, justice of the peace shall require him to give recognizance and be held for action of the grand jury. If father fails to disclose father or give security for support of the child or security to appear before the county court or superior court, the justice shall commit her for not over 3 months or hold her for the higher court.</td>
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1/ If surety for support given to justice of the peace by mother or father no further action taken.
and obtain support of the child

**Adjudication**

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<td>Circuit court.</td>
<td>Trial shall be by jury.</td>
<td>If defendant is found to be father of the child, he shall be ordered to pay not exceeding $50 yearly for 10 years towards the child's support, maintenance, and education. Father may be ordered to pay all necessary incidental expenses attending the birth of the child.</td>
<td>Father shall give bond with approved security for payment of the sum adjudged; execution may be issued as often as money is due and payable; and judgment shall specify a certain time for which he shall be imprisoned, but for not over 1 year, for failure to comply with judgment. If child is not born alive or dies at any time, father's bond for support shall be void.</td>
<td>The yearly sum is payable, under father's bond, to the mother.</td>
</tr>
<tr>
<td>County court or superior court.</td>
<td>If father fails to give security for support and education of child and confinement expenses of the mother, he is guilty of misdemeanor and may be indicted by a grand jury.</td>
<td>If father is fined the fine shall be used for maintenance of the child and for payment of the confinement expenses. Amount of judgment on bond recovered by county official shall be appropriated periodically by the court as situation of child requires. When child has or shall become chargeable to the county, the county official shall institute action for the full amount of any bond.</td>
<td>Fines shall be paid to ordinary of the county.</td>
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<td>When parents or guardian of mother or next friend of the child have complained, mother may settle by agreement with father only with consent of the court and of these persons, unless provision is made, approved by court, to indemnify any parent, guardian, city or county, or the Territory for all expenses for maintenance and education of the child.</td>
<td></td>
<td>Mother, during pregnancy or within 6 months after birth of child. Parents or guardian of mother or next friend of child.</td>
<td></td>
<td>Bond with good sureties and in sum to be fixed by the judge. If defendant fails to give bond, judge shall commit him to jail until he gives bond or is discharged by due process of law. Money collected from forfeiture of appearance bond shall be applied to payment of judgment.</td>
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<tr>
<td><strong>IDAHO</strong></td>
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<tr>
<td>No provision for establishment of paternity. A law enacted in 1925 was declared unconstitutional and no superseding law has been enacted.</td>
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<tr>
<td>Mother, before or after birth of child, may release reputed father from all legal liability if he pays to her not less than $800 or, if less, on such terms as are consented to in writing by a judge. A release obtained from her for less than $800 and without such consent does not bar her suit against father.</td>
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<td>Mother during pregnancy, or within 2 years after birth of the bastard, or within 2 years after date father has acknowledged paternity in open court.</td>
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<tr>
<td>Justice of the peace, or judge of county court or of municipal court in county in which mother may be pregnant or delivered, or in which accused may be found.</td>
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| Justice shall require bond of defendant, with sufficient security or, if he fails to give bond, commit him to jail.
and obtain support of the child

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<td>Juvenile court or domestic-relations court.</td>
<td>Trial is not to be held until after birth of child. Trial shall be by jury on demand of defendant. If he fails to appear, the trial shall proceed and orders be made as if he were present. So prosecution shall afterwards be made against mother for any transaction to which she has testified.</td>
<td>If accused admits paternity, or court or jury finds against him, the court shall order annual payments, until child is 14 years of age, of such sums, or installment payments, and in manner is deemed best.</td>
<td>Court may require bond with sureties in sum fixed by judge for payment of the sums adjudged. If defendant fails to give bond, court may commit him to jail until he gives it or pays the total sum adjudged; if unable to pay or give bond, he may be released from imprisonment but not from his obligation to support the child. Any interested person or city, county, or Territory may, after father's release, bring a civil suit for sums for which the father is liable under the judgment. Court may order his personal property, rents and profits of real estate, and his wages applied to payment of the judgment. If child dies, father is discharged on payment of sum due at time of death.</td>
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<tr>
<td>Juvenile court as a branch of circuit and county courts; municipal court in cities and villages of not less than 15,000 nor more than 500,000; municipal court in Chicago; in practice bastardy cases are assigned to domestic-relations branch of this court.</td>
<td>Case is not tried until after birth of child. Trial shall be by jury.</td>
<td>If defendant is found to be the father, or if he has in open court acknowledged paternity, he shall be ordered to pay in equal quarterly installments a sum not exceeding $500 for the first year after birth of the child and $100 a year for the next 3 years for the child's support, maintenance, and education, and to pay all court costs.</td>
<td>Bond with sufficient security, approved by the court shall be required for payment of the yearly sum ordered. If father refuses to give bond, he shall be committed to jail; but after 6 months imprisonment he may be discharged for insolvency or inability to give bond. If he defaults in any payments and he or his sureties fail to pay within 30 days after having been cited to appear in court, court shall give judgment and issue execution against their property and may also commit father to jail for contempt for non-payment of any installment. Such judgment may be made a lien on real estate.</td>
<td>The yearly sum is payable quarterly to the clerk of the court. Money received shall be appropriated for support of the child as directed by the court but shall be paid to child's guardian if one is appointed.</td>
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<td>The mother may discontinue the suit by recording a statement that provision has been made for child's maintenance; but, if she is a minor, this dismissal is subject to approval of court only recorded. Such recording precludes any further action.</td>
<td></td>
<td>If the justice adjudges defendant the father, he shall require his bond of from $500 to $1,000 with sufficient sureties. If he fails to give bond, justice shall commit him to jail until he gives bond or is legally discharged.</td>
</tr>
<tr>
<td><strong>2</strong> IOWA</td>
<td>Code 1935, secs. 1260/1266/1269.</td>
<td>Mother, during pregnancy or after birth of child, or other interested person, or authorities charged with child's support, or guardian of child in case of mother's death or disability; but not after 2 years from birth, unless paternity has been judicially established or acknowledged by father in writing or by supporting child.</td>
<td>Judge or magistrate having power to commit for trial in county in which father temporarily or permanently resides or in which mother or child resides or is found. Complaining mother's or child's residence in another state does not bar jurisdiction.</td>
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<td></td>
<td>Parents owe child maintenance, education and support and are liable for child's funeral expenses, and mother may recover from father, under specified conditions by civil action, reasonable share of support of child. Compromise with father by mother or child or authorized persons is binding only when adequate provision is secured by payment or otherwise and approved by the court. The performance by father of such compromise shall bar other remedies of mother for support of child. Father's responsibility is discharged by complying with a judicial decree for support, or with terms of judicially approved settlement, or after the child is adopted into another family.</td>
<td></td>
<td>Judge shall issue a warrant or may with consent of mother issue a notice to defendant as in civil cases. Bond or recognizance required, with sufficient security. If defendant refuses security, he shall be committed to jail and held to answer the complaint. If security for appearance is forfeited, it shall be applied to payment of judgment.</td>
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<tr>
<td>Circuit court of county.</td>
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<td></td>
<td>If defendant fails to appear, case shall be heard as if he were present. Trial may be by the court or a jury. If defendant fails to appear, trial shall be conducted as in civil cases. If defendant fails to appear, trial shall be by jury, if demanded by either party, and shall be conducted as in civil cases. Where the testimony is preliminary hearing may be read in evidence if she is deceased or cannot be found and shall be so read when demanded by defendant. Action survives against personal representatives of defendant who dies after preliminary hearing.</td>
<td>If jury finds defendant to be the father of child, or if he confesses paternity in court, he shall be adjudged father of the child; and court shall make order securing maintenance and education of child by annual payment of such sum as may be adjudged proper. Judgment shall specify terms of payment. If child dies before judgment, suit is not abated; and, if after judgment, court may reduce amount of judgment.</td>
<td>Father must pay the judgment, or court shall require him to give good security for it; or, failing to do so, he shall be committed to jail but may be released after 12 months' imprisonment on showing that he is unable to pay or to give security. Execution may be issued on judgment whenever any amount is due.</td>
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<tr>
<td>District court.</td>
<td>Unless either party objects, judge shall exclude persons other than immediate relatives.</td>
<td>If defendant is found guilty, court shall declare his paternity and order support of child. Judgment shall be for annual amount, equal or varying, payable at such periods as court directs until child reaches age of 16 years. The father is liable for expenses of mother's pregnancy and confinement. The judgment may provide for payment of expenses incurred by or for the mother in connection with the birth of the child. Court retains jurisdiction until judgment is satisfied, and may increase or decrease amounts to be paid and determine custody of the child. The judgment of another State may be sued upon and a judgment made a judgment in the State of Iowa.</td>
<td>Court may require bond, with sureties, for payment of judgment. On failure to pay, judgment shall be given against sureties and execution issue. On failure to give bond or to make payment, father may be committed to jail and, after 1 year, discharged; but his liability to pay judgment is unchanged. Instead of commitment, or as a condition of release from jail, court may place father on probation and may recommit him for violation of terms. His obligation is enforceable against his estate, the rights of the lawful children and widow being regarded. A lien on his real property is created from time of judgment. The law on abandonment and nonsupport of a child is applicable to one whose paternity has been judicially established or who has acknowledged paternity in writing or by furnishing support.</td>
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<td>Rev. Stat. 1923, secs. 62-2501 to 52-2501.</td>
<td>Mother may at any time before judgment dismiss the suit by recording that satisfactory provision for maintenance of the child has been made. Such recording precludes any further action.</td>
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<tr>
<td>KENTUCKY</td>
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<tr>
<td>Carroll's Stat. 1920, secs. 157-161, 978.</td>
<td>Mother, within 3 years after birth of bastard.</td>
<td></td>
<td>Judge of court of county where defendant is found shall require him to give bond, with good security, in sum of not over $2,500, to appear in court of county in which clerk issued the warrant for his arrest; or, on failure to give bond, commit him to county jail until he gives bond or is discharged by due process of law. If bond for appearance is forfeited, judgment shall be given thereon.</td>
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<tr>
<td>LOUISIANA</td>
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<tr>
<td>Civil Code 1930, Arts. 230, 260-265.</td>
<td>There is no procedure for establishing paternity without acknowledgment by the father. A child born out of wedlock cannot be acknowledged by its father unless he and the mother could legally have married at the time the child was born. Parents owe their acknowledged illegitimate child &quot;alimony&quot; (necessary nourishment, lodging, support, and education) until he can earn his own subsistence.</td>
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<td>District court of county</td>
<td>If defendant denies the charge, trial shall be by the court or a jury. Trial shall be governed by law regulating civil actions. Rules of evidence and competency of witnesses shall be as in civil cases. In case mother has died, her testimony taken in writing before justice of the peace may be read in evidence. Death of mother does not abate suit, if child is living, and a guardian for such suit shall then be appointed. If putative father has died, the right of action shall survive against his estate.</td>
<td>If defendant is found guilty, or if he has confessed paternity, he shall be adjudged father of the child and court shall make such order as may seem just for securing the maintenance and education of the child by annual payments. Amounts and times of payment are at discretion of the court. Death of the child does not bar the prosecution, but the court may allow such sum as is just or, if death occurs after judgment, reduce the amount allowed.</td>
<td>Judgment shall require father to give security, with sureties, for payment of judgment; or, in default thereof, he shall be committed to jail until security is given, but for a period not exceeding 1 year. Execution may issue whenever any amount is due.</td>
<td>Annual payments shall be made to mother or, if she has died or is an improper person, to such person as court may direct.</td>
</tr>
<tr>
<td>County court of county in which child was born or in which mother resides, if child was born in another State. Appeal may be taken to circuit court and from there to court of appeals.</td>
<td>Trial by jury. If defendant fails to appear, trial shall proceed and orders be made as though he were present. If finding of jury is against defendant, jury shall find what sum he shall pay yearly and for how many years; court shall order the annual payment in periodical installments, and make proper order for the keeping, maintenance, and education of the child.</td>
<td>If defendant has failed to give bond before judgment, he shall after judgment give bond, with good security, approved by court, for payment of the sums adjudged, and on his failure to give this bond, court shall commit him to jail until he gives bond or is discharged for insolvency. Payments of installments under bond may be enforced by attachment or by execution. If child dies before expiration of bond, father and sureties are discharged upon payment of amount due at the time of the child's death.</td>
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<td>Code 1930, ch. 111, secs. 1-4; sec. 5 as amended by Laws of 1957, ch. 219; secs. 6-11.</td>
<td>Mother, who has been examined by a justice of the peace, may not settle with father, if not objected to in writing by overseers of the poor of town interested in her or child's support.</td>
<td>Persons who may make complaint</td>
<td>Courthouse of the justice of the peace in which mother resides.</td>
</tr>
<tr>
<td></td>
<td>Mother, during pregnancy or after birth of bastard child. Town may complain in her behalf. In case of her decease, her executor or administrator may prosecute her action.</td>
<td></td>
<td>Bond, with sufficient sureties required, in a reasonable sum. If defendant does not give bond, he shall be committed to jail until he does.</td>
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<tr>
<td><strong>MARYLAND</strong></td>
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<tr>
<td>Eggle's Ann. Code 1904; 1935 Supp. (Art. 12, secs. 1-12).</td>
<td>Mother, during pregnancy or within 2 years after birth of bastard child or, when accused has made payments for child's support, after date of last payment for support. Justice of the peace, upon written information, shall have mother brought before him on warrant to disclose the father of child.</td>
<td></td>
<td>Bond of not over $500, with good securities required. In default of such security, justice shall commit defendant to custody of sheriff until bond is given or final judgment rendered. The court may periodically direct that proceeds from forfeiture of appearance bond of father be applied to support of the child. If mother fails to disclose father, the justice of the peace shall require her bond, with sufficient securities, to indemnify the county for any support of her child. On failure to give bond, the justice may commit her to jail for not over 1 year or suspend sentence and parole her for 2 years.</td>
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<th>Judgment</th>
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<th>Persons to whom money for support of child is to be paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>Superior court.</td>
<td>Before trial, mother must declare that during her confinement she accused defendant and has been constant in her accusation. Trial is not held until after child is born. Trial is by jury.</td>
<td>If jury finds defendant guilty or if he has admitted paternity, he shall be adjudged father of the child and stand charged with its maintenance, with the assistance of the mother, as the court orders. The court shall also order him to pay for support of the child before judgment. Court shall order adjudge father to pay expenses of mother’s delivery, nursing, medicines, and medical attendance during her sickness and convalescence.</td>
<td>Father shall give approved bond, with sureties, to both the complainant and the town that is liable for maintenance of the child, bond to the latter to be deposited with the clerk of the court for use of the town. If bond is not given by father, he shall be committed to jail. After 6 months he may be liberated on taking the poor debtor’s oath of which he must give 15 days’ notice to mother and the clerk of the town in which child has legal settlement. Execution may issue, as in actions for tort, to enforce order relative to costs of suit and mother’s confinement expenses. The mother and the town may later recover defendant, by action of debt, any sum of money due under order of the court.</td>
<td></td>
</tr>
<tr>
<td>Circuit court of county from which warrant was issued.</td>
<td>Trial shall not be held until after birth of child and be conducted as in other criminal cases and may be by jury. Testimony of mother before justice of the peace is admitted, if she has died before the trial.</td>
<td>If defendant is found guilty, court shall order him to give bond of not over $500, with security, conditioned to pay until child reaches age of 18 years a sum not exceeding $15 a month for support, as court shall direct; and if the child dies before that, to pay the funeral expenses. Court shall order father to pay to mother all or part of her expenses during her confinement. Court may periodically, on petition of interested person, modify its order for support. The court may direct the mother to give bond of not over $500, with security, to the State to indemnify the county for any support of her child until it reaches the age of 12 years.</td>
<td>Court shall order bond of not over $500, with security, to perform order for support, and if father fails to give bond, court shall commit him to jail or house of correction for not more than 2 years. The court, instead, may place his no probation upon his giving recognizance, conditioned to comply with the order, to appear in court whenever ordered. If he violates the order of the court, sentence may be imposed under the original conviction. If child dies, person bonded and his sureties are discharged. If father dies after judgment, court may order payment of a sum not exceeding $500, but not exceeding one-half of the amount received by any of his lawful children, from his estate to mother or custodian for support of the child.</td>
<td>Monthly payments shall be made to mother or custodian of child, or to the county, or the City of Baltimore, if child is a public charge. If father’s recognizance is forfeited, sum recovered may in the court’s discretion be paid to mother, custodian, or county or the City of Baltimore for support of the child.</td>
</tr>
</tbody>
</table>

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<table>
<thead>
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<td>Father's responsibility for support; means of discharging responsibility without court hearing</td>
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<td>Court having jurisdiction</td>
</tr>
<tr>
<td>Massachustts</td>
<td>Preliminary procedure</td>
<td>Method of obtaining appearance in court</td>
</tr>
<tr>
<td>Gen. Laws (Ter. Ed.) 1932: Ch. 46, secs. 1 and 13 as amended by Laws 1933, ch. 280, and sec. 2a as amended by Laws 1937, ch. 76; 121, sec. 8; 210, sec. 1; 211a, sec. 26; 273, secs. 11-19; 275, sec. 16a.</td>
<td>Father must contribute reasonably to the support and maintenance of his illegitimate child, during its minority, whether begotten within or without the State.</td>
<td></td>
</tr>
<tr>
<td>Michigan</td>
<td>Superintendents of the poor of county may make with the father equitable compromise and arrangement for the support of his illegitimate child, born or to be born, and then discharge him from all liability for such support.</td>
<td>Mother, during pregnancy or after birth of child, superintendents of the poor of the county shall, when mother asks for aid in support of the child, ask justice of the peace of such county to inquire into the facts of the case.</td>
</tr>
<tr>
<td>Comp. Laws 1929, secs. 12774; 12775; 12811-12811; 12813; 12814 as amended by Laws 1937, No. 154; 12817 and 12820 as amended by Laws 1933, No. 8; 1934-1935; 1935-1936; 1938-1939; 1940-1942.</td>
<td></td>
<td>Approved recognizance, with sufficient sureties, required in sum of $100 to $500. Justice may commit defendant to jail until he furnishes recognizance.</td>
</tr>
</tbody>
</table>

1/ Judge may exclude the general public from the hearing.
AND SUPPORT OF CHILDREN BORN OUT OF WEDLOCK

<table>
<thead>
<tr>
<th>Court hearing jurisdiction</th>
<th>Procedure in court hearing</th>
<th>Judgment</th>
<th>Enforcement of judgment</th>
<th>Person to whom money for support of child is to be paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>Superior court or district court of the county</td>
<td>Criminal procedure: Whoever, not being the husband of a woman, gets her with child is guilty of a misdemeanor. The judge shall exclude the general public from the court room, adjaeting only persons who may have a direct interest in the case. Adjudication of paternity shall not be made against objection of defendant until child is born or mother is at least 6 months pregnant.</td>
<td>If defendant pleads guilty, or implicitly confesses, or is found guilty, the court shall adjudge him the father of the child. The court may make such order as may be expedient relative to the care and custody of the child and may periodically revise such order. The court, after considering the means of the defendant and the mother of the child, may make an order for payment to the mother or to a probation officer of a sum determined by the court for expenses of pregnancy and confinement. In case of death of the child, court may order father to pay the funeral expenses.</td>
<td>If defendant fails to comply with any order for payment of mother’s expenses, the court may commit him to jail for not over 2 months. Father who neglects to contribute reasonably to the support and maintenance of his illegitimate child during its minority, whether begotten within or without the State, is guilty of a misdemeanor, and he may be proceeded against as provided in the law on abandonment and nonsupport (Id., ch. 27, secs. 1-10).</td>
<td>If money is forfeited or recovered upon a recognizance or deposit given by the defendant, the court may order it paid to the probation officer to be spent by him, under court’s direction, for the support of the child.</td>
</tr>
<tr>
<td>Circuit court of the county</td>
<td>If, at next term of circuit court, mother has not been delivered or is not able to attend trial, court may continue the case.</td>
<td>If defendant is found guilty or admits truth of accusation, he shall be adjudged father of the child and stand chargeable with the maintenance of the child, with the assistance of the mother, in such manner as the court shall order. Father shall stand chargeable with confinement expenses of the mother. The court may on petition, and after notice to all other interested parties, modify its orders.</td>
<td>Father shall give approved bond, with sureties, to perform order and indentify county; or he may be imprisoned until he gives bond but if unable to procure bond, he may be placed on probation. On default of any installment payment, judge shall issue execution against father and sureties or may commit father to county jail for 1 year or until he pays, his earnings to be applied to support of child. After 1-year’s imprisonment, father may be released on taking poor debtor’s oath, but he is not released from any civil liability under the support order. Mother and the county superintendent may later recover by an action any sum payable under such order. Court may enforce performance of the order as in enforcing alimony in divorce cases. Judgment may be made a lien on real estate and recorded in court.</td>
<td></td>
</tr>
</tbody>
</table>

and obtain support of the child

Adjudication

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<table>
<thead>
<tr>
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<th>Preliminary procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>MINNESOTA</td>
<td>Person adjudged father of child shall be subject to all obligations for the care, maintenance, and education of the same as the father of a legitimate child. He is liable for county expenses for care and support of the child prior to judgment of paternity. State board of control, or duly appointed guardian for child, may accept from the acknowledged father such sum as is approved by the court in full settlement of all obligations for care, maintenance, and education of child and shall hold or dispose of such sum as ordered by the court. This shall not affect liability of father for such expenses as mother may recover by civil action; and shall not apply to cases in which judgment of paternity has been made. The county board, either before or after judgment, may make such compromise or settlement with putative father as it deems just, for expenses paid by county.</td>
<td>Persons who may make complaint</td>
</tr>
<tr>
<td>MESSISSIPPI</td>
<td>Mother, during pregnancy or within 1 year after birth of bastard, board of supervisors of county shall, if child becomes a public charge, bring suit against father within 1 year after child becomes a public charge but not after he is 10 years of age. If justice discharges the defendant, mother may appeal to circuit court. If mother dies after preliminary examination, guardian ad litem shall be appointed by court to prosecute case. If mother dies before beginning suit, suit may be started by child before he is 5 years old and by person interested in his support.</td>
<td>Justice of the peace of county in which child is born or in which mother or father resides.</td>
</tr>
</tbody>
</table>

1/ Judge may and at the request of parties shall exclude public from preliminary examination.
and obtain support of the child

<table>
<thead>
<tr>
<th>Court having jurisdiction</th>
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<tr>
<td>District court.</td>
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<td></td>
<td>The judge, upon request of either party, shall exclude the public from the trial. If defendant is found guilty or admits paternity, he shall be adjudged father of the child, and shall be subject to all the obligations for the care, maintenance, and education of the child and to all penalties for failure to perform these obligations, as in case of a legitimate child. If defendant fails to pay the amount of the judgment for expenses incurred by the county, he shall be committed to the county jail until he pays or is discharged unless a stay of execution is granted on giving a bond to the county.</td>
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<td>If mother has died, her testimony, in writing before the justice of the peace, may be read in evidence.</td>
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</table>

| Circuit court.            | Judge may exclude public from court room. Trial may not be held before birth of child and is by jury. If father has died after preliminary examination, the action may be prosecuted against his personal representative. If mother has died, her testimony, in writing before the justice of the peace, may be read in evidence. If jury finds for complainant, it may assess such damages as it may think proper in her favor or, if she is deceased, in child's favor, to be paid annually or otherwise for a period not exceeding 15 years, and court shall give judgment accordingly. If death of child does not bar suit, and court shall give judgment for such sum as is just. | Circuit court shall, if suit is by county, and may, if suit is by mother, require father to give bond to amount of damages assessed but not over $1,000, with sureties approved by court, to secure payment of the judgment for support and education of the child. Bond to be filled in chancery court and execution may issue thereon. Father may be committed to jail until he gives bond but may be discharged after 6 months on terms prescribed by court. If jury makes annual allowance, execution may be issued annually, each allowance to constitute a separate lien on property of defendant. |
|                           |                                           |          |                         |                                                        |

2/ The desertion and nonsupport law applies to the father of a child born out of wedlock.
<table>
<thead>
<tr>
<th>State</th>
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<th>Court action to establish paternity</th>
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<tr>
<td>and legal reference</td>
<td>for support; means of discharging responsibility without court hearing</td>
<td>Persons who may make complaint</td>
<td>Court having jurisdiction</td>
</tr>
<tr>
<td>1</td>
<td>MISSOURI</td>
<td>No provision for establishment of paternity; but the insertion and nonsupport law applies to children born out of wedlock.</td>
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<tr>
<td>2</td>
<td>MONTANA</td>
<td>after birth of a bastard child or during pregnancy of its mother, any person may complain to the district court, charging the proper person with being the father.</td>
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<tr>
<td>3</td>
<td>NERBRASKA</td>
<td>Mother, during pregnancy or after birth of bastard child. County board may bring suit, if mother fails to do so or to complete prosecution; or if sufficient security is not offered to save county from expense.</td>
<td>Any justice of the peace.</td>
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<tr>
<td>4</td>
<td>NEVADA</td>
<td>Mother, during pregnancy or after birth of child born out of wedlock, or other interested person, or authorities charged with child's support, or guardian of child in case of mother's death or disability; but not after 2 years from birth, unless paternity has been judicially established or acknowledged by father in writing, or by supporting child. If proceedings are brought by public authority, mother shall be made party defendant.</td>
<td>Judge or magistrate having power to conduct for trial in county in which father temporarily or permanently resides, or in which mother or child resides or is found. Concluding mother's or child's residence in another state does not bar jurisdiction.</td>
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<tr>
<td>Code 1929, secs. 3407-3409; NVL 2011, secs. 1851; NVL 2011-3422.</td>
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<tr>
<td>5</td>
<td>PARENTS owe child maintenance, education, and support and are liable for child's funeral expenses, and mother may recover from father under specified conditions by civil action a reasonable share of support of child. Compromise with father by mother or child or authorized person is binding only when adequate provision is secured by payment or otherwise and approved by the court. The performance by father of such compromise shall bar other remedies of mother for support of child. Mother's responsibility is discharged by complying with a judicial decree for support, or with terms of judicially approved settlement, or after the child is adopted into another family.</td>
<td></td>
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and obtain support of the child

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<tbody>
<tr>
<td>District court of county in which mother resides.</td>
<td>Case is tried as in &quot;an ordinary action.&quot;</td>
<td>If defendant is found guilty, he must be charged with maintenance of the child in such sum and manner as the court directs. Court may at any time on notice to defendant, enlarge, diminish, or vacate any order.</td>
<td>Clerk of court may issue execution for any sum ordered; to be paid immediately, and afterwards whenever necessary to compel compliance with court order. Defendant may be committed to jail until he complies with the order. A lien is created on real property of defendant for payment of money and performance of any order, from time of filing complaint. Court may seize property under an attachment.</td>
<td></td>
</tr>
<tr>
<td>District court.</td>
<td>Trial shall not be held until after birth of child, when mother shall be able to attend. Trial shall be by jury.</td>
<td>If jury finds defendant guilty, or if he confesses before trial, he shall be adjudged father of the child and stand charged with its maintenance in such sum as court may direct.</td>
<td>Court shall require father to give security to perform his order, or, if he fails to give security, shall commit him to jail until he complies with the order.</td>
<td></td>
</tr>
<tr>
<td>District court.</td>
<td>Except with consent of defendant, trial shall not be held until after birth. If defendant fails to appear, trial shall proceed as if he were present.</td>
<td>If defendant is found guilty, court shall declare his paternity and order support of child. Judgment shall be for annual amounts, equal or varying, payable at such periods as court directs until child reaches the age of 16 years. The father is liable for expenses of mother's pregnancy and confinement. The judgment may provide for payment of expenses incurred by or for the mother in connection with the birth of the child. Court retains jurisdiction until judgment is satisfied and may increase or decrease amounts to be paid and determine custody of the child.</td>
<td>Court may require bond, with sureties, for payment of the judgment. On failure to pay, judgment shall be given against sureties and execution be issued. On failure to give bond or to make payments, father may be committed to jail and after 1 year discharged; but his liability to pay is unchanged. Instead of consent, or as a condition of release from jail, the court may place father on probation on such terms as it may direct and may require him for violation of terms. If father fails to support child not in his custody or to comply with the judgment, he is guilty of a misdemeanor. The failure of parent to support an illegitimate child in his or her custody shall be governed by the law applicable to failure to support a legitimate child. Father's obligation is enforceable against his estate, the rights of his lawful children and widow being regarded.</td>
<td></td>
</tr>
</tbody>
</table>

1/ The desertion and nonsupport law applies to the father of a child born out of wedlock.

2/ A criminal prosecution for failure to support child shall not bar or be barred by civil proceedings to compel support.

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<tbody>
<tr>
<td>NEW HAMPSHIRE</td>
<td>Public Laws 1926, chs. 211, secs. 1-12; 316, sec. 6; 917, secs. 11-13. Laws of 1927, ch. 143, sec. 8.</td>
<td>Mother, during pregnancy or within 1 year after birth of bastard. If mother abandons the complaint or fails to make one, selectmen of town, or county commissioner (when mother is dependent on county), may prosecute or complain within 1 year after birth of child.</td>
<td>Justice of the peace in county in which offense is committed or in which defendant resides.</td>
</tr>
<tr>
<td>NEW JERSEY</td>
<td>Rev. Stat. 1937, secs. 2:215-4, 2:281-4; 9:15-1 to 9:16-4, 9:17-1 to 9:17-17, 9:18-16 to 9:18-15, 9:18-30 22:5-4, 22:5-19.</td>
<td>Child born out of wedlock is entitled to support and education from its father and mother as if born in lawful wedlock.</td>
<td>Mother, during pregnancy or after birth of bastard child. Director of welfare in counties having one, or overseer of the poor, if child is or may become chargeable to a &quot;municipality&quot; (defined to include city, town, township, village, borough and any municipality governed by a board of commissioners or improvement commission).</td>
</tr>
</tbody>
</table>

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and obtain support of the child

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<tr>
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<tr>
<td>6</td>
<td>Superior court.</td>
<td>Trial shall be by jury if either party requests.</td>
<td>Court shall order defendant to pay such sum as it deems reasonable.</td>
<td>Court may order father (or mother, or both) to give security to absolve town from all charge for maintenance of child. Defendant disobeying any court order may be committed; but, if poor or unable to give security, he may be discharged on terms deemed expedient by court.</td>
<td>Persons who shall be paid as provided for in the law.</td>
</tr>
</tbody>
</table>

"Magistrate" (defined to include Justices of the peace, judges of city criminal courts, judges of juvenile and domestic-relations courts or police justices, recorders, and other officers having powers of a committing magistrate) of county in which mother resides.

Appellate jurisdiction: Court of quarter sessions.

Trial is by jury, when demanded in these courts and, when appealed, in courts of quarter sessions. Mother, in preliminary examination or at trial, may be compelled to name father; and, if she refuses, may be committed to jail after recovery from her confinement.

Death of mother does not abate the action. Proceedings before the Juvenile court may be instituted by complaint, but judge may hear case in a summary manner.

The magistrate, or the jury, shall decide whether defendant is the father of the child, and make an order of filiation, and shall order the sum to be paid, weekly or otherwise, by the father for support of the child.

If mother is indigent, the judge shall determine the sum to be paid by father for sustenance of mother during her confinement.

On appeal, the court of quarter sessions may reduce or increase the sum ordered by the lower court to be paid.

Defendant shall enter into approved bond, with sureties, to comply with order of filiation, and is sum sufficient to indemnify municipality for expenses for support of bastard and confinement of mother.

On failure to give bond, father shall be committed to jail until he gives bond or is discharged for insolvency. If father is later able to give bond or to comply with court order, the court may, on application of overseers of the poor, commit him to jail until he does this. Action may be brought against signers of bond to compel compliance with the court order and to indemnify the municipality. In cases heard in juvenile courts, sentence may be suspended and mother placed upon bond, with sureties, to secure payments awarded. On failure to comply with terms, he may be adjudged in contempt or penalized as provided by the law.
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</thead>
<tbody>
<tr>
<td>NEW MEXICO</td>
<td>The father owes the child maintenance and support until it reaches the age of 16 years or, if child cannot work, until its full age. He is liable for child's funeral expenses. Compromise with father by mother or child or authorized person is binding only when adequate provision is secured by payment or otherwise and approved by the court. The performance by father of such compromise shall bar other remedies of either for support of child. Father's responsibility is discharged by complying with a judicial decree for support, or in terms of judicially approved settlement, or after the child is adopted into another family.</td>
<td>Persons who may make complaint</td>
<td>Court having jurisdiction</td>
</tr>
<tr>
<td></td>
<td>Mother, during pregnancy or after birth of child, the attorney general or a district attorney if child is a public charge (mother is then made a party defendant), or child or his guardian in case of mother's death or disability; but not after 2 years from birth unless paternity has been judicially established or acknowledged by father in writing or by supporting child. If proceeding is brought by public authority, mother shall be made party defendant.</td>
<td>Method of obtaining appearance in court</td>
<td>Summon shall be issued as in civil actions.</td>
</tr>
<tr>
<td>NEW YORK /</td>
<td>Parents are liable for the necessary support and education of the child and for the child's funeral expenses, and court shall order father to pay these. Compromises made by the mother or child or authorized person on their behalf with the father is binding only when adequate provision for support is secured by payment or otherwise and approved by the court; but compromise shall not be approved until opportunity to be heard has been given to local public-welfare officials. The performance by father of such compromise shall bar other remedies of mother for support of child.</td>
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<tr>
<td>Cabell's Code.</td>
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<td>Laws 1930:</td>
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<tr>
<td>Domestic Relations</td>
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<tr>
<td>Law, secs. 119-121; 120 as amended by laws 131, ch. 215; 136, ch. 662; 185-187; 189-91 as amended by laws 1933, ch. 138; 127 as amended by laws 1935, ch. 138; 804; 128-138.</td>
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<tr>
<td></td>
<td>Mother or her representative, during her pregnancy or after birth of a child born out of wedlock, but not after 2 years from birth, unless father has acknowledged paternity in writing or by furnishing support. Local public-welfare officials for child under 16 who is or is likely to become a public charge. Guardian or next friend of child, if mother has died or is disabled.</td>
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<td></td>
<td>Court shall issue a warrant or may issue summons as in civil cases, to apprehend father and bring him before the court for adjudication. When a warrant is issued, the court or magistrate shall require defendant to give an undertaking, with security in sum of not less than $500, that he will appear in court and obey its orders and, if suit was instituted by public-welfare officials, to indemnify local unit against expense for support of child and care of mother. If defendant fails to give undertaking, he may be committed to jail. Money forfeited on undertaking is applicable to payment of judgment.</td>
<td></td>
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</tbody>
</table>

1/ The provisions shown are those of the law of State-wide application; provisions of special laws applying to particular localities are not included.
and obtain support of the child

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<tr>
<td>District court of county in which father temporarily or permanently resides or in which mother or child resides or is found. Residence of mother or child in another State does not bar jurisdiction of court.</td>
<td>Except with consent of defendant, trial shall not be held until after birth of child. If defendant fails to appear, trial shall proceed as if he were present. If mother is not found at time of trial, case proceeds as if she was deceased. Trial shall be by jury unless waived by parties. Procedure shall be as in civil actions.</td>
<td>If defendant is found guilty, court shall declare his paternity and order support of child. Judgment shall be for annual amounts, equal or varying, payable at such periods as court directs, until child reaches age of 16 years. The father is liable for expenses of mother's pregnancy and confinement. The judgment may provide for payment of such expenses. Court retains jurisdiction until judgment is satisfied and may increase or decrease the amount to be paid and determine custody of the child.</td>
<td>The defendant may be adjudged to be in contempt of court for failure or refusal to comply with the judgment and order of the court. Failure of the father to support his child, or his noncontribution with judgment for support, is punishable by fine of not over $1,000, or by imprisonment of not over 2 years, or by both. On filing complaint, court may order defendant to transfer his property. Complainant may secure attachment of or garnishment, upon giving a bond. The judgment is a lien on his real property. Father's obligation is enforceable against his estate, subject and subordinate to like claims to support of the widows and lawful children.</td>
<td>Court may require payment to mother, or to some person or corporation designated by court as trustee; payment shall be made to a trustee if mother does not reside within jurisdiction of court. Trustee shall report to court annually, or as often as court directs, the amounts received and paid.</td>
</tr>
<tr>
<td>Children's courts in counties in which such courts have been established: county court in Chautauqua, Ontario, and Monroe Counties; court of special sessions in New York City. Complaint may be made in county in which mother, child, or putative father resides or is found. Residence of mother or child in another State does not bar jurisdiction of court. Appellate division of the supreme court has jurisdiction of appeals.</td>
<td>The court may exclude all persons who are not directly interested in the case. If defendant fails to appear, trial shall proceed as if he were present. The trial shall be by the court without a jury. Even complainant is a poor-law officer, the county attorney or city corporation counsel shall prosecute the case. Both mother and father are competent to testify; but the father shall not be compelled to give evidence. A blood-grouping test may be used as evidence of paternity.</td>
<td>The court shall make an order of filiation and support and education of the child. The order shall specify the sum to be paid weekly or otherwise until child reaches the age of 16 years and shall provide for the payment of necessary expenses for support of child before such order was made. Father is liable for expenses of mother's confinement and recovery and such expenses for her pregnancy as court may deem proper. Court has continuing jurisdiction to increase or decrease the amount fixed by order of filiation.</td>
<td>Court may require bond, with sureties, for payment of the order of filiation or to indemnify the local unit for support of child. On failure to pay, judgment shall be given against sureties and any issues. On failure to give bond or to make payments, father may be committed to jail and shall be held in jail for a term not exceeding 1 year but is still liable to pay judgment. Instead of commitment, or as a condition of release from jail, court may place him on probation on such terms as it may direct, and if he violates these terms he may be committed to jail. When bond is violated or money is exhausted and child still needs support, welfare official may apply for new bond. Father's obligation is enforceable against his estate, the rights of his lawful children and widow being regarded. The judgment is a lien on his real estate.</td>
<td>Court may require payment to mother, or to some person or corporation designated by the court as trustee; payment shall be made to a trustee if mother does not reside within jurisdiction of the court. If child is or is likely to become a public charge local public-welfare official shall be made trustee. Trustee shall report to court annually, or as often as court directs, the amounts received and paid. Local public-welfare officials may hold money received from compromise or pay it to the mother if she gives security for child's support.</td>
</tr>
</tbody>
</table>

**Note:** A criminal prosecution for failure to support shall not bar or be barred by civil proceedings to compel support.
<table>
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<th>Father's responsibility for support: means of discharging responsibility without court hearing</th>
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<th>Persons who may make complaint</th>
<th>Court having jurisdiction</th>
<th>Method of obtaining appearance in court</th>
</tr>
</thead>
<tbody>
<tr>
<td>NORTH CAROLINA</td>
<td>Any parent must support his or her illegitimate child, under 16 years of age.</td>
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<td></td>
<td>Father may bring proceedings for support of child under 18 years of age, or, if child may become a public charge, superintendent of public welfare or a similar official may bring proceedings within 3 years after birth of the child.</td>
<td></td>
<td>Court shall require a bond of not less than $100 for appearance of defendant for trial.</td>
</tr>
<tr>
<td>NORTH DAKOTA</td>
<td>Parents owe child maintenance, education, and support and are liable for child's funeral expenses, and mother may recover from father, under specified conditions by civil action, reasonable share of support of child. Compromise with father by mother or child or authorized person is binding only when adequate provision is secured by payment or otherwise and approved by the court. The performance by father of such compromise shall bar other remedies of mother for support of child. Father's responsibility is discharged by complying with judgment for support, or with terms of judicially approved settlement, or after the child is adopted into another family. Every child is the legitimate child of its natural parents and is entitled to support and education as if born in wedlock. Comp. Laws, Supp. 1925, secs. 10500.1 to 10500.40. 1/</td>
<td>Mother, during pregnancy or after birth of child born out of wedlock, or authorities charged with child's support, or guardian of child in case of mother's death or disability; but not after 2 years from birth of child, unless paternity has been judicially established or acknowledged by father in writing or by supporting child. If proceedings are brought by public authority, mother shall be made party defendant.</td>
<td>Judge or magistrate having power to commit for trial in county in which father temporarily or permanently resides or in which mother or child resides or is found. 2/ Complaining mother's or child's residence in another State does not bar jurisdiction.</td>
<td></td>
<td>Judge shall issue a warrant or may with consent of mother summon defendant. Bond or recognizance, with sufficient surety, for appearance in district court. If defendant refuses to give security, he shall be compelled to jail and held to answer the complaint. If security for appearance is forfeited, it shall be applied to payment of judgment.</td>
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1/ Although North Dakota has adopted the Uniform Illegitimacy Act, this provision still appears in the latest official codification.

2/ Judge shall exclude the general public from preliminary examination.
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<th>AND SUPPORT OF CHILDREN BORN OUT OF WEDLOCK</th>
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<td>Superior court of county, county recorder's court, city recorder's court, municipal court, or domestic-relations court (Mecklenburg and Forsyth Counties) of county in which either mother or father resides or is found or in which child is found.</td>
<td>Proceedings to determine paternity of the child may be instituted before birth; but court may continue case until child is born. Mother is a competent witness but may not be compelled to testify against the defendant. Death of mother does not bar proceedings.</td>
<td>The court may order defendant to pay mother for expenses of birth and medical attention. / The court is given discretion to modify orders from time to time as circumstances may require.</td>
<td>The court order may include any or all of the following alternatives: Commit defendant to prison for not over 6 months; civil sentence and continue the case; release defendant on probation conditioned upon compliance with terms of probation; apprise defendant of the county how to be employed; require defendant to sign recognizance, with good security, for compliance with any order made by the court. Any parent who neglects or refuses to support his or her illegitimate child under 14 years of age is guilty of a misdemeanor.</td>
</tr>
<tr>
<td>District court.</td>
<td>Notice of proceeding shall be given by clerk of district court to State board of administration, which shall assist complainant or the court. Except with consent of defendant trial shall not be held until after birth. If defendant fails to appear, trial shall proceed as if he were present. Trial shall be by jury, if demanded by either party, and is conducted as in civil cases. Mother's testimony in preliminary hearing may be read in evidence if she is deceased or cannot be found and shall be so read when demanded by defendant. Action survives against personal representative of defendant who dies after preliminary hearing; and if neither dies or cannot be found action does not abate and child is substituted as complainant.</td>
<td>If defendant is found guilty, court shall declare his paternity and order support of child from date of birth. Judgment shall be for annual amounts, equal or varying, payable at such periods as court directs until child reaches age of 18 years. The father is liable for expenses of mother's pregnancy and confinement. The judgment may provide for payment of expenses incurred by or for the mother in connection with the birth of the child. Court has continuing jurisdiction until judgment is satisfied to increase or decrease amounts to be paid and to determine custody of child. When paternity has been established or acknowledged by father, legal representative of mother, or person who has furnished support, may recover from father. The judgment of another State may be sued upon and made a judgment in the State of North Dakota.</td>
<td>The court may require bond, with sureties, for payment of judgment. On defendant's failure to pay, judgment shall be given against sureties and execution issued. On failure to give security or to make payments, father may be committed to jail and, after 1 year, discharged; but his liability to pay judgment is unchanged. Instead of committing, or as a condition of release from jail, the court may place father on probation on such terms as it may direct and may require him for violation of terms. If father fails to support his child, get in his custody or to comply with the judgment, he is guilty of misdemeanor. The failure of a parent to support the child in his or her custody shall be governed by the law applicable to failure to support a legitimate child. / Father's obligation is enforceable against his estate, rights of his lawful children and widow being regarded.</td>
</tr>
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/ The attorney general of North Carolina in July 1937 expressed an opinion that although the matter of responsibility for support of the child was omitted in the recent revision of the law the courts still had authority to order support.

/ A criminal prosecution for failure to support child shall not bar or be barred by civil proceedings to compel support.
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<td><strong>Ohio</strong></td>
<td>If during preliminary examination, or before a judgment, defendant pays or secures money or property in full satisfaction of her claim, under an agreement acknowledged in presence of justice or judge, who shall record it, defendant shall be discharged. This shall not bar any prosecution for failure to support his child under any non-support law.</td>
<td>Mother, during pregnancy or after birth of bastard child. In case of death or disability of mother, executor or guardian, probation officer of juvenile court, or representative of State department of public welfare may make and prosecute the complaint.</td>
<td>Justice of the peace, municipal courts in certain localities, or juvenile court.</td>
</tr>
<tr>
<td><strong>Oklahoma</strong></td>
<td>Any person, during pregnancy of mother or after birth of bastard child. County commissioners, when child or its mother may become a county charge, are required to make complaint.</td>
<td>Judge issues warrant for arrest of accused. If he demands trial by jury, he may be required to give recognizance in sum fixed by court, for appearance and trial at next term of court. Proceeds from forfeiture of recognizance shall be used for support of child.</td>
<td></td>
</tr>
</tbody>
</table>

Provided by the Maternal and Child Health Library, Georgetown University
## AND SUPPORT OF CHILDREN BORN OUT OF WEDLOCK

<table>
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<th>Court having jurisdiction</th>
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<th>Judgment</th>
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<td>Court of common pleas, municipal courts in certain localities, or juvenile court.</td>
<td>Trial shall be by jury, if defendant demands it.</td>
<td>If defendant confesses paternity or is found guilty, he shall be adjudged father of the child and be ordered to pay a reasonable weekly sum for support and maintenance of the child until it is 16 years of age. If the child is not alive at the time of judgment, a sum for maintenance until its death and funeral expenses shall be ordered. Defendant shall also be ordered to pay for the mother’s support and expenses caused by pregnancy and childbirth.</td>
<td>Court shall require defendant to give security to perform its order. If he fails to give security, court shall commit him to jail until he complies with order; but after 3 months he may be discharged if he is insolvent. This shall not bar his prosecution, authorized by any statute, for nonsupport of children born out of wedlock.</td>
<td>In case of death or disability of mother, probate officer of juvenile court, or representative of State Department of public welfare acting as guardian ad litem, shall receive any sum, paid in settlement or under court order, as trustee to be spent as court may order. Executor or administrator may recover on any bond for benefit of her estate.</td>
</tr>
<tr>
<td>County court of county in which mother resides. Appeal may be taken.</td>
<td>Case shall be tried summarily when defendant is brought before court, except when jury trial is demanded.</td>
<td>If found guilty, defendant shall be charged with maintenance of child in such sum and in such manner as court shall direct. Court may at any time enlarge, diminish, or vacate order or judgment.</td>
<td>Court shall require defendant to secure performance of order in such manner as court shall direct. Execution may issue immediately and thereafter periodically for collection of sums ordered to be paid. From time of filing complaint, a lien on real estate of defendant is created for payment of any money and performance of any court order. Judge may issue attachment on complaint, specifying value of property to be seized.</td>
<td>On forfeiture of appearance bond, proceeds recovered shall be paid into county court to be held in trust for the child and paid out under order of court.</td>
</tr>
</tbody>
</table>

1/ Action for failure to support a child born out of wedlock may be taken against the father under the abandonment and nonsupport law or under the juvenile-court law.

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<td>Mother, during pregnancy or after birth of child born out of wedlock. Any public officer, authorized to make arrests, may complain if child may become a public charge; and justice shall then cross-examine mother and issue warrant for arrest of father.</td>
<td>Any justice of the peace. Judge of juvenile court of county in which mother resides may make a complaint, for purposes of making a compromise with the accused.</td>
</tr>
<tr>
<td>Oregon</td>
<td></td>
<td>Mother, during pregnancy or after birth of child born out of wedlock. Any public officer, authorized to make arrests, may complain if child may become a public charge; and justice shall then cross-examine mother and issue warrant for arrest of father.</td>
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<td>Any justice of the peace. Judge of juvenile court of county in which mother resides may make a complaint, for purposes of making a compromise with the accused.</td>
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**Pennsylvania**


Laws of 1917, ch. 107; secs. 3, 14, 25-26, 29.


**Puerto Rico**


There is no procedure for establishing paternity without acknowledgment by the father. "Natural" children (those whose parents could have married at the time of birth or conception of the child) can be acknowledged in the birth record or in the testament or in any other public document. Every parent of legitimate, legitimated, natural, acknowledged illegitimate, or adopted child who fails to support such child is guilty of a misdemeanor.
AND SUPPORT OF CHILDREN BORN OUT OF MATRIMONY

and obtain support of the child

Adjudication

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<tr>
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<td>7</td>
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<td>9</td>
<td>10</td>
</tr>
<tr>
<td>Circuit court</td>
<td>Judge may, if requested by either party, shall exclude the general public from the trial. Defendant is entitled to jury trial and appeal as provided in civil actions. If mother fails to prosecute proceeding, proper officer of county, or person interested in child's support, may prosecute to final judgment. Judgment shall be had upon the uncorroborated testimony of the mother. If defendant is found guilty or admits guilt, he shall be adjudged father of child and stand chargeable with child's future maintenance in a yearly sum of from $50 to $350 for the first 2 years and $150 to $500 for each succeeding year until child reaches age of 16 years; and with the expenses for child's support since its birth. Judgment shall make father chargeable for all confinement expenses of mother. If father shall give a bond for performance of judgment, he shall be discharged. If he fails to give bond, he shall be committed to jail until he complies with the judgment. After 90 days, he may be released according to law, but he may be recommitted for nonpayment of sums due. The court may order execution against father and his sureties, or against him after his release from jail, when sums become due.</td>
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<tr>
<td>Court of oyer and terminer, family court (Philadelphia), county court (Allegheny County), or court of quarter sessions of county in which child is born.</td>
<td>If mother persists in extremity of labor or in court that defendant is father of child, this may be given in evidence to convict him of fornication. Criminal procedure: Fornication is declared a misdemeanor; and the man charged by mother to be the father of the child shall be the reputed father. Mother may be convicted of fornication.</td>
<td>On conviction the defendant shall be sentenced to pay a fine not exceeding $100 for the use of the poor of the city, county, or town and to pay the mother as directed by the court for support of the child. If she files with clerk of the court of common pleas a certified copy of the sentence, the clerk may enter the sentence as a judgment payable to installments as provided therein. Father shall be required to give security in sum directed by court, with one or more sureties, to perform its order. On default of payment an order for execution may issue for collection of installments due, without benefit of execution of father's property or wages. On failure of father to support his child he may be dealt with under the law concerned with nonsupport of children born out of wedlock.</td>
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<tr>
<td>RHODE ISLAND</td>
<td>State and Federal Social Services Administration, Bureau of Maternal and Child Health, or person named by it, may, either before or after complaint, accept from father such sum as shall be sufficient for living-in expenses and for support of child until he is 16 years of age and shall stop further proceedings.</td>
<td>Director of public aid for town, or person appointed by State Department of Public Welfare, may complain to justice or clerk of district court during mother's pregnancy or after birth of illegitimate child.</td>
<td>Justice or clerk may issue warrant to apprehend father. District court may continue case until child is born and, in such case or when plea is not guilty, defendant shall give recognizance in sum directed by court, with sureties, to appear at trial and to perform the order of the court. Such recognizance is also required for appearance in superior court on appeal. Money forfeited under appearance bond may be applied to payment of judgment.</td>
<td></td>
</tr>
<tr>
<td>SOUTH CAROLINA</td>
<td>Code 1922, secs. 1751-1762; 1720 as amended by Laws 1920, Act 562; 1928, Act 485.</td>
<td>Mother of a bastard child or person complaining against mother.</td>
<td>A magistrate of the county in which mother resides or is delivered.</td>
<td>The defendant shall give recognizance with sureties, in penal sum of from $100 to $1,200, conditioned for annual payment of one-twelfth part of such sum for maintenance of child until he is 12 years of age, to indemnify county. Refusing to give recognizance, he shall be committed to prison until he gives it. If mother brought before magistrate fails to declare who is father, the magistrate shall commit her to jail until she does this or gives security that child shall not become chargeable to county.</td>
</tr>
<tr>
<td>Ibid., secs. 255-256. (Greenville County and Spartanburg County.)</td>
<td>Mother, or county commissioners if child is likely to become a county ward, may Complaint within 3 years after birth of child.</td>
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<td>District court of the district in which mother resides.</td>
<td>If defendant fails to appear in the district or the superior court, the court may make order as if he were present. Death of complainant shall not abate complaint. On appeal to superior court trial is by jury unless waived by defendant. Depositions, taken as in civil cases, may be used at trial</td>
<td>If defendant pleads guilty or is found guilty at trial, the court shall adjudge his father of the child and order him to pay, by installments or otherwise, such sum of money as court deems necessary for support and education of the child until he is 15 years of age. Court shall order father to pay expenses for lying-in and pregnancy. On appeal, the superior court may make orders to the same effect.</td>
<td>District court and superior court may order that bond with sureties be given to secure payment of the sum, or installments thereof, ordered by the court to be paid. On failure of defendant to comply with order or to give bond, he shall be committed to jail until he complies with order or is discharged. He may be discharged entirely or on terms deemed expedient by court. Money forfeited on appearance bonds shall be applied as court shall direct for purposes of judgment order.</td>
<td>Court shall order payments into court, or to such person as it may designate, all payments to be applied for purposes ordered. If settlement is made with father, the director of public aid, or the State department of public welfare, shall hold money paid by father and pay and use it for lying-in expenses and support of child.</td>
</tr>
<tr>
<td>Court of sessions.</td>
<td>Defendant is tried by jury in court of sessions if in preliminary proceeding he denies paternity or is unable to give recognition for maintenance of the child.</td>
<td>If defendant is convicted, he shall be required to give recognition for maintenance of the child until he is 12 years of age. This sum shall be doubled if twins are born.</td>
<td>Father must give recognition, with sureties, in penal sum of $300 to $1,200, conditioned for annual payment of one-twelfth of such penal sum for maintenance of the child until 12 years of age; and in default thereof, he may be proceeded against as are defendants convicted of misdemeanor; provided, that on the annual payment of such sum as the court may direct the execution shall be until another installment falls due.</td>
<td>In case a child is apprenticed, any money paid by either under a recognition shall be paid to supervisor of poor to be spent under order of court for benefit of child.</td>
</tr>
<tr>
<td>Children's court in Greenville County and Spartanburg County.</td>
<td>Defendant shall pay mother $200, give bond that child shall not become a public charge, and stand charged with child's maintenance as children's court may order.</td>
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<td><strong>SOUTH DAKOTA</strong></td>
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<td>Code 1957, sect. 2990-4 to 2990-25; 2990-26 as modeled by Code 1931, ch. 26; 2990-27 to 2990-212.</td>
<td>Parents owe child maintenance, education, and support and are liable for child's funeral expenses, and neither may recover from father unless specified conditions by civil action a reasonable share of support of child. Compromise by mother or child or authorized person with father is binding only when adequate provision is secured by payment or otherwise and approved by the court. The performance by father of such compromise shall bar other remedies of mother for support of child. Father's responsibility is discharged by complying with judgment for support, or with terms of judicially approved settlement, or after the child is adopted into another family.</td>
<td>Father, during pregnancy or after birth of child born out of wedlock, or authorities charged with child's support, or guardians of child in case of mother's death or insanity; but not after 2 years from birth of child, unless paternity has been judicially established or acknowledged by father in writing or by supporting child. If proceedings are brought by public authority, mother shall be made party defendant.</td>
<td>Judge or magistrate having power to commit for trial in county in which father temporarily or permanently resides or in which mother or child resides or is found. Complaining mother's or child's residence in another State does not bar jurisdiction.</td>
<td>Judge or magistrate shall issue a warrant or may with consent of mother summons defendant as in civil cases. Bond or recognizance, with sufficient security, if defendant refuses to give security, he shall be committed to jail and held to answer the complaint. If security for appearance is forfeited, it shall be applied to payment of judgment.</td>
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<td>Code 1937, sects. 4957, 10237, 11540-11957.</td>
<td>The father of an illegitimate child is liable to proceedings for purposes of indemnifying the county against charges for maintenance of the child.</td>
<td>Justice of peace, on his own knowledge of birth of illegitimate child, may question mother after 30 days after birth of child.</td>
<td>Justice of the peace in county in which mother resides.</td>
<td>Justice shall bind father, in sum of $500, with sureties, or commit him to jail until he gives bail or is otherwise discharged. If mother refuses to declare father, she shall give sufficient security against child's becoming a county charge or be committed to jail until she declares father or gives security.</td>
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**AND SUPPORT OF CHILDREN BORN OUT OF WEDLOCK**

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<td>Circuit court</td>
<td>Except with consent of defendant trial shall not be held until after birth. If defendant fails to appear, trial shall proceed as if he were present. Trial shall be by jury, if demanded by either party, and be conducted as in civil cases. Mother's testimony in preliminary hearing may be read in evidence if she is deceased or cannot be found and shall be so read when demanded by defendant. Action survives against personal representatives of defendant who dies after preliminary hearing, and if mother dies or cannot be found action does not abate and child is substituted as complainant.</td>
<td>If defendant is found guilty, court shall declare his paternity and order support of child. Judgment shall be for annual amount, equal or varying, payable at such periods as court directs until child reaches age of 16 years. The father is liable for expenses of mother's pregnancy and confinement. The judgment may provide for payment of expenses incurred by or for the mother in connection with the birth of the child. Court retains jurisdiction until judgment is satisfied and may increase or decrease amounts to be paid and determine custody of the child. When paternity has been established or acknowledged, legal representative of mother, or person who has furnished support, may recover from father. The judgment of another State may be sued upon and made a judgment in the State of South Dakota.</td>
<td>Court may require bond, with sureties, for payment of judgment. On defendant's failure to pay, judgment shall be given against sureties and execution issued. On failure to give bond or to make payments, father may be committed to jail and, after 1 year, discharged; but his liability to pay judgment is unchanged. Instead of commitment or as a condition of release from jail, court may place father on probation and may recommit him for violation of terms. If father fails to support his child in his custody or to comply with the judgment, he is guilty of misdemeanor. The failure of a parent to support the child in his or her custody shall be governed by the law applicable to failure to support a legitimate child.</td>
<td>Court may require payment to mother, or to some person or corporation designated by court as trustee; payment shall be made to a trustee if mother does not reside within jurisdiction of court. Trustee shall report to court annually, or as often as court directs, the amounts received and paid.</td>
</tr>
<tr>
<td>County court</td>
<td>Court may continue case under recognition until child is born. On appeal to circuit court or criminal court, trial shall be by jury.</td>
<td>On hearing before county court, defendant shall be adjudged father, unless he files affidavit showing that case should be tried; and that court shall then try it. If defendant is found guilty or confesses, he shall be charged with maintenance of child (but only if child is or is likely to become a county charge) in an annual sum not exceeding $50 a year until child is 12 years of age or custody is otherwise disposed of by the court.</td>
<td>Bond with good security shall be required to save any county from charges for maintenance of child. Court may enforce its judgment by collection of money forthwith by execution, collection of installments when due, or by attachment and imprisonment for contempt, or otherwise. The county board may take judgment upon bail bonds and enforce their collection. The judgment is not satisfied by defendant's subsequently legitimating his child.</td>
<td>Sums paid not to be property of mother but shall be paid to clerk of county or probate court to be spent by the judge for use of the child. The county court is given &quot;general supervision&quot; over illegitimate children.</td>
</tr>
</tbody>
</table>

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1/ A criminal prosecution for failure to support shall not bar or be barred by civil proceedings to compel support.

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<table>
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<tr>
<th>State and legal reference</th>
<th>Father's responsibility for support; means of discharging responsibility without court hearing</th>
<th>Preliminary procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Texas</td>
<td>No provision for establishment of paternity or for support.</td>
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</tr>
<tr>
<td>Utah</td>
<td>Father may compromise all his legal liability by paying mother not less than $500, or mother may release him for less on terms consented to in writing and approved by district court, but release for less shall not bar future action, sum paid to be credited on judgment.</td>
<td>Mother, during pregnancy or within 4 years after birth of bastard child.</td>
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<tr>
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<td></td>
<td>Justice of the peace of county in which mother may be pregnant or is delivered or in which the accused is found. Mother to be questioned by county attorney.</td>
</tr>
<tr>
<td>Vermont</td>
<td>In cases in which overseer of the poor prosecute, he or the mother may, with consent of the other, compromise with the accused.</td>
<td>Mother, during pregnancy or after birth of bastard child. Overseer of the poor of town charged with support of child. If mother neglects to accuse father within 30 days after birth, overseer may complain to justice, who shall have her arrested, to be examined upon oath. If mother or other person gives security for support of child, the overseer has no such powers.</td>
</tr>
<tr>
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<td>Defendant shall be required to give to mother recognizance, with sufficient sureties, of from $500 to $1,000; and if he fails to do this, he shall be committed to jail until he gives recognizance or is discharged by law.</td>
</tr>
<tr>
<td>Virginia</td>
<td>No provision for establishment of paternity or for support.</td>
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and obtain support of the child

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<tr>
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<tr>
<td>District Court.</td>
<td>If defendant pleads not guilty, case is set for trial or may be continued until mother is able to attend.</td>
<td>If defendant is found guilty or confesses, the court shall order him to pay not over $200 for the first year after child's birth and not over $150 annually for the next 17 years for support, maintenance, and education of the child.</td>
<td>Defendant may be required to give to State a bond with security approved by judge, for payment of the yearly sum in quarterly installments to clerk of court. On failure to give bond, he shall be committed to jail until he complies with order or is discharged for insolvency. On default of any payment, judgment may be given against principal and surety and execution issued thereon. Court may adjudge father guilty of contempt of court for nonpayment and may be committed to jail.</td>
<td>Money shall be paid to clerk of court and shall be used for support of child, as court shall direct, or be paid to guardian if one is appointed for child.</td>
</tr>
<tr>
<td>County court.</td>
<td>Trial may be by jury on request of either party. Mother shall not be compelled to testify until 30 days after her delivery.</td>
<td>If defendant is found guilty, he shall be adjudged father of the child and stand charged with its support, with assistance of the mother, in such proportion as court deems proper, and for such time as child is unable to support itself; and he shall also pay such portion of expenses already accrued as court deems just.</td>
<td>Father shall give to mother recognizance with sufficient sureties, and in such sum as court may direct, to perform orders of the court; and failing to do this he may be committed to jail. He may be released from jail after 6 months by taking poor debtor's oath, but judgment remains in force. If father fails to make payments, judgment may be entered against him and his sureties, and if execution is unsatisfied he may be committed to jail unless he pays or gives new recognizance. If mother marries before child is born, accrued shall be discharged from bond or custody.</td>
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<tr>
<td>WASHINGTON</td>
<td>Mother, during pregnancy or within 2 years after birth of child born out of wedlock; or her father, mother, or guardian.</td>
<td>Justice of the peace of county in which mother has resided for 30 days and in which she is pregnant or delivered, or county in which the defendant may be found.</td>
<td>Bond with sufficient surety. On failure to give bond, justice shall commit defendant to jail until he is discharged by law.</td>
</tr>
<tr>
<td>WEST VIRGINIA</td>
<td>Mother, within 3 years after birth of bastard child.</td>
<td>Justice of the county in which mother resides.</td>
<td>Justice of county in which defendant is found shall require bond of from $500 to $1,000 with good securities.</td>
</tr>
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<td>Superior court of county in which proceeding is brought</td>
<td>Case may be tried by jury if demanded by either party. Testimony of mother reduced to writing by justice of the peace may be used by either party at trial. Prosecuting attorney shall not dismiss case except upon showing to court that provisions for care, education, and support of child have been made. Death of mother does not bar suit, if child is living.</td>
<td>If finding is against defendant or he confesses, he shall be charged by judgment to pay a specified sum each year until child reaches the age of 16 years. For care, education, and support of child. Defendant shall also be charged to pay confinement expenses of mother. Death of child does not bar the prosecution, but the court shall give judgment for such sum as it just. Judgment may provide that surname of defendant shall henceforth be the lawful surname of the child. Any judgment may be modified at any time.</td>
<td>Court shall require approved bond, with surety, conditioned for payment of specified yearly sums in equal quarterly installments. On failure to give bond, court shall give judgment and execution for sums due and shall commit defendant to jail for contempt until he complies with order or is discharged for insolvency. On default of installment payments. court may give judgment against defendant and sureties and issue execution thereon and any commitment defendant to jail for contempt until he pays. In addition to the enforcement of support provided above, the defendant may be prosecuted criminally under any law relating to parental support of minor children.</td>
<td>Payments shall be made to clerk of the court, who shall make them to mother or guardian for support, care and education of child in manner directed by court.</td>
</tr>
<tr>
<td>Circuit court.</td>
<td>If defendant pleads not guilty trial shall be by jury if not waived by the parties. If defendant fails to appear, court shall, unless plaintiff demands a jury, try the case and give judgment on the appearance bond.</td>
<td>If defendant is found guilty, court shall order him to pay, for maintenance, education, and support of the child, such sums as court deems proper for each year, until such time as court may fix. Court retains jurisdiction until child is 21 years of age and may make any further orders increasing or decreasing the amounts to be paid or requiring a new bond.</td>
<td>Bond, in penalty and with sureties, shall be ordered by court, for performance of its order. Court shall commit father to jail until he gives bond, or mother and county court consent to his discharge, or circuit court discharges him when it is satisfied that he cannot pay or give bond, or until he is otherwise legally discharged. Whenever conditions of any bond are broken, circuit court may give judgment in favor of county court, against the father and his sureties for the money due.</td>
<td>Payment shall be made to county court or as circuit court otherwise directs.</td>
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</tbody>
</table>

1/ The desertion and nonsupport law applies to the father of a child born out of wedlock.
<table>
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<th>Method of obtaining appearance in court</th>
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<td>WISCONSIN</td>
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<td>Stat. 1935, secs. 166.23 to 166.26, 166.105, 166.11 to 166.23.</td>
<td>The mother may at any time before final judgment enter into an agreement with the alleged father, which shall contain all the facts and orders to be included in the judgment, except that the father may deny paternity in the agreement. By its terms the defendant admitting paternity must submit to the jurisdiction of the court and consent to entry of judgment; if paternity is denied the agreement, if approved by the court, is filed but judgment shall not be rendered until there is default in agreed payments. An agreement may also be made by the district attorney in cases where the mother fails to prosecute the proceeding or where the child is likely to become a public charge. The district attorney shall draft all agreements.</td>
<td>Mother, during pregnancy or after birth of an illegitimate child, District attorney, if for the best interest of the child and if child is likely to become a public charge, shall bring the case before a justice of the peace.</td>
<td>Any justice of the peace. 1/ Any Judge of a court of record and all court commissioners, except in Milwaukee County, have concurrent jurisdiction with justices of the peace.</td>
<td>Justice shall issue a warrant or may with consent of mother summon defendant. If action is started by summons and defendant does not appear, justice may issue orders as if defendant were present. Otherwise, justice shall require recognition, with sureties approved by him, in a sum of from $200 to $1,000 or shall commit defendant to jail if he fails to give security. Forfeiture of security for appearance in circuit court may be applied to payment of judgment.</td>
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<td>WYOMING</td>
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<td>Rev. Stat. 1931, secs. 20-401 to 20-436.</td>
<td>Parents owe child maintenance, education, and support and are liable for child's funeral expenses, and mother may recover from father, under specified conditions by civil action, a reasonable share of support of child. Compromise with father by mother or child or authorized person is binding only when adequate provision is secured by payment or otherwise and approved by the court. The performance by father of such compromise shall bar other remedies of mother for support of child. Father's responsibility is discharged by complying with judgment for support, or with terms of judicially approved settlement, or after the child is adopted into another family.</td>
<td>Mother, during pregnancy or after birth of child born out of wedlock, or authorities charged with child's support, or guardian of child in case of mother's death or disability; but not after 8 years from birth, unless paternity has been judicially established or acknowledged by father in writing or by supporting child. If proceedings are brought by public authority, mother shall be made party defendant.</td>
<td>Justice of the peace of county in which father temporarily or permanently resides or in which mother or child resides or is found. Complying mother's or child's residence in another State does not bar jurisdiction of court.</td>
<td>Judge shall issue a warrant. Bond or recognizance with sufficient security. If defendant refuses security, he shall be committed to jail and held to answer the complaint. If security for appearance is forfeited, it shall be applied to payment of judgment.</td>
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1/ Judge may exclude the general public from preliminary examination.
and obtain support of the child

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<td>Circuit court of county in which action is started.</td>
<td>Court may continue case until child is born. Private counsel in behalf of complainant may appear with the district attorney, who prosecutes the case. Judge may exclude general public from trial. Trial shall be by jury if either party demands it, otherwise by the court. Blood-grouping test may be used as evidence of paternity. If mother dies, becomes insane, or cannot be found in the jurisdiction, proceeding does not abate, but child shall be substituted as complainant. If defendant fails to appear, trial shall proceed as if he were present. If defendant is found guilty, adjudged father of the child, unless paternity is denied in such agreement, and shall be charged with support of child until he is 16 years of age, either by payment (a) of a specified monthly sum until child is 16, or (b) of a lump sum within 60 days after judgment or in specified monthly instalments on condition that on default of an instalment the entire amount becomes due. Defendant shall be ordered to pay mother, town, or county, all expenses of mother during last 6 months of pregnancy and for support of child to entry of judgment, including funeral expenses, if child has died. Court has continuing jurisdiction to increase or decrease the amounts to be paid until judgment is satisfied. Unless the father gives approved bond, payable at such periods as court directs until child reaches age of 16 years. The judgment may provide for payment of expenses incurred by or for the mother in connection with the birth of the child. Court retains jurisdiction until judgment is satisfied and may increase or decrease amounts to be paid and determine custody of the child. When paternity has been established or acknowledged, legal representative of mother, or person who has furnished support, may recover from father. The judgment of another State may be sued upon and made a judgment in the State of Wyoming.</td>
<td></td>
<td>All payments shall be made to a trustee to be held by him for benefit of the child and paid to his legal custodian in manner and amounts directed by the court. The trustee shall be the county relief officer, clerk of the court, or other person or State board or officer named by the court. The trustee, if other than a county official, shall give bond, and report to court at least annually the amounts received and paid. Unexpended funds on hand when a child is adopted are payable to him on reaching majority and, when a child dies, are payable to his mother or adoptive parents.</td>
<td></td>
</tr>
<tr>
<td>District court.</td>
<td>Except with consent of defendant trial shall not be held until after birth. If defendant fails to appear, trial shall proceed as if he were present. Trial shall be by jury, if demanded by either party, and be conducted as in civil cases. Mother's testimony in preliminary hearing may be read in evidence if she is deceased or cannot be found and shall be so read when demanded by defendant. Action survives against personal representatives of defendant who dies after preliminary hearing; and if mother dies or cannot be found action does not abate and child is substituted as complainant. If defendant is found guilty, court shall declare his paternity and order support of child. Judgment shall be for annual amounts, equal or varying, payable at such periods as court directs until child reaches age of 15 years. The judgment may provide for payment of expenses incurred by or for the mother in connection with the birth of the child. Court retains jurisdiction until judgment is satisfied and may increase or decrease amounts to be paid and determine custody of the child. When paternity has been established or acknowledged, legal representative of mother, or person who has furnished support, may recover from father. The judgment of another State may be sued upon and made a judgment in the State of Wyoming. Court may require security by bond, with sureties, for payment of judgment; and on failure to pay, judgment shall be given against father and mother and execution issued. In default of such security, father may be committed to jail and, after 1 year, discharged; but his liability to pay judgment is unchanged. Instead of commitment, or as a condition of release from jail, court may place father on probation and may require him for violation of terms. If father fails to support his child not in his custody, or to comply with the judgment, he is guilty of misdemeanor punishable by fine of not over $1,000 or imprisonment of not over 1 year, or both. The failure of a parent to support the child in his or her custody shall be governed by the law applicable to failure to support a legitimate child. Father's obligation is enforceable against his estate, the rights of his lawful children and widow being regarded.</td>
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2/ The desertion and nonsupport law applies to the father of a child born out of wedlock.

3/ A criminal prosecution for failure to support shall not bar or be barred by civil proceedings to compel support.

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APPENDIX 1.—Uniform Illegitimacy Act

An act relating to children born out of wedlock and to make uniform the law relating thereto:

Be it enacted

Article 1. Obligation of Support

Section 1. (Obligation of Parents.) The parents of a child born out of wedlock and not legitimated (in this act referred to as "the child") owe the child necessary maintenance, education, and support.

They are also liable for the child's funeral expenses.

The father is also liable to pay the expenses of the mother's pregnancy and confinement.

The obligation of the parent to support the child under the laws for the support of poor relatives applies to children born out of wedlock.

Section 2. (Recovery by Mother from Father.) The mother may recover from the father a reasonable share of the necessary support of the child.

In the absence of a previous demand in writing (served personally or by registered letter addressed to the father at his last known residence), not more than two years' support furnished prior to the bringing of the action may be recovered from the father.

Section 3. (Recovery by Others than Mother.) The obligation of the father as herein provided creates also a cause of action on behalf of the legal representatives of the mother, or on behalf of third persons furnishing support or defraying the reasonable expenses thereof, where paternity has been judicially established by proceedings brought by the mother or by or on behalf of the child or by the authorities charged with its support, or where paternity has been acknowledged by the father in writing or by the part performance of the obligations imposed upon him.

Section 4. (Discharge of Father's Obligation.) The obligation of the father other than that under the laws providing for the support of poor relatives is discharged by complying with a judicial decree for support or with the terms of a judicially approved settlement.

The legal adoption of the child into another family discharges the obligation for the period subsequent to the adoption:

Section 5. (Liability of the Father's Estate.) The obligation of the father, where his paternity has been judicially established in his lifetime, or has been acknowledged by him in writing or by the part performance of his obligations, is enforceable against his estate in such an amount as the court may determine, having regard to the age of the child, the ability of the mother to support it, the amount of property left by the father, the number, age, and financial condition of the lawful issue, if any, and the rights of the widow, if any.

The court may direct the discharge of the obligation by periodical payments or by the payment of a lump sum.

Article 2. Statutory Proceedings to Enforce the Obligation of the Father

Section 6. (Non-exclusiveness.) Proceedings to compel support by the father may be brought in accordance with sections 7 to 28 of this act. They shall not be exclusive of other proceedings that may be available on principles of law or equity.

Section 7. (Complainants.) The proceeding to compel support may be brought by the mother, or if the child is or is likely to be a public charge, by the authorities charged with its support. After the death of the mother or in case of her disability, it may also be brought by the child acting through its guardian or next friend.

If the proceeding is brought by the public authorities, the mother, if living, shall be made a party defendant.

Section 8. (Time of Bringing Complaint.) The proceeding may be instituted during the pregnancy of the mother or after the birth of the child, but, except with the consent of the person charged with being the father, the trial shall not be had until after the birth of the child.

Section 9. (Complaint—where Brought.) The complaint may be made to any judge or magistrate having power to commit for trial.

1Drafted by the National Conference of Commissioners on Uniform State Laws and approved and recommended by it for enactment in all the states at its conference at San Francisco, Calif., August 3-8, 1928.
Section 10. (Form of Complaint.) The complaint shall be in writing, or oral and in the presence of the complainant reduced to writing by the judge or magistrate or the clerk of the court. It shall be verified by oath or affidavit of the complainant.

Section 11. (Substance of Complaint.) The complainant shall charge the person named as defendant with being the father of the child and demand that he be brought before the judge or magistrate to answer the charge.

Section 12. (Process.) The judge or magistrate shall issue his warrant for the apprehension of the defendant, directed to any officer in the State authorized to execute warrants, and such warrant may be executed in any part of the State. With the consent of the complainant, a summons may be issued in the first instance as in other civil cases, instead of a warrant, which summons shall be personally served.

Section 13. (Preliminary Hearing.) Upon the return of the warrant, or upon return of the summons showing service on the defendant, the judge or magistrate before whom the complaint is made, or, in his absence, any other judge or magistrate having power to commit, shall proceed to examine the complainant and any other witnesses and receive any other evidence that may be produced, touching the charge. The defendant shall have the right to be present at the examination and to controvert such charge, if he so desires. The examination shall be reduced to writing.

Section 14. (Result of Preliminary Hearing.) If the examination fails to show probable cause the defendant shall be discharged without prejudice to further proceedings.

If the examination shows probable cause, the judge or magistrate shall bind the defendant in bond or recognizance, with sufficient security, to appear at the next (term) of the court to be held in the county. On neglect or refusal to furnish such security, he shall commit the defendant to jail to be held to answer the complaint.

The warrant, the examination reduced to writing, and the security, shall be returned to the court.

Section 15. (Continuance of Trial.) If the child is not born at the time set for trial, the case shall, unless the defendant consents to trial, be continued until the child is born, and the defendant shall remain bound or held until trial.

Section 16. (Trial.) The trial shall be by jury, if either party demands a jury, otherwise by the court and shall be conducted as in other civil cases.

Both the mother and the alleged father shall be competent but not compellable to give evidence, and if either gives evidence he or she shall be subject to cross-examination.

Section 17. (Absence of Defendant.) If the defendant fails to appear, the security for his appearance shall be forfeited and shall be applied on account of the payment of the judgment, but the trial shall proceed as if he were present; and the court shall upon the findings of the judge or the verdict of the jury make such orders as if the defendant were in court.

Section 18. (Effect of Death or Absence or Insanity of Mother.) If after the complaint the mother dies or becomes insane or cannot be found within the jurisdiction, the proceedings do not abate, but the child shall be substituted as complainant. The testimony of the mother taken at the preliminary hearing, and her deposition taken as in other civil cases, may in any such case be read in evidence and in all cases shall be read in evidence, if demanded by the defendant.

Section 19. (Death of Defendant.) In case of the death of the defendant, after the preliminary hearing, the action may be prosecuted against the personal representatives of the deceased with like effect as if he were living, subject as regards the measure of support to the provision of Section 6 except that no arrest of such personal representative shall take place or bond be required of him.

Section 20. (Finding for Defendant.) If the verdict of the jury at the trial or the finding of the court be in favor of the defendant and there be a motion for a new trial, he shall be held until such motion be disposed of; and if a new trial is granted, the same course shall be pursued as in case of a continuance.

Section 21. (Judgment.) If the finding or verdict be against the defendant, the court shall give judgment against him declaring paternity and for support of the child.

The judgment shall be for annual amounts, equal or varying, having regard to the obligation of the father under Section 1, as the court directs, until the child reaches the age of sixteen years.

The payments may be required to be made at such periods or intervals as the court directs.

In addition to providing for support, the judgment may also provide for the payment of the necessary expenses incurred by or for the mother in connection with the birth of the child.

Section 22. (Payment to Trustee.) The court may require the payments to be made to the mother, or to some person or corporation to be designated by the court as trustee.

The payments shall be directed to be made to a trustee if the mother does not reside within the jurisdiction of the court.

The trustee shall report to the court annually, or oftener as directed by the court, the amounts received and paid over.

Section 23. (Security, Commitment, Probation.) The court may require the tether to give security, by bond or with sureties, for the payment of the judgment. In default of such security, when required, the court may commit him to jail. After one year the person so committed may be discharged (in accordance with the law relating to the discharge of insolvent debtors), but his liability to pay the judgment shall not be thereby affected.
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records of judicial proceedings in which the question of birth out of wedlock is at issue, requiring a declaration by or notice to the mother of a child born out of wedlock or otherwise requiring a reference to the relation of a mother to such a child, it shall be sufficient for all purposes to refer to the mother as the parent having the sole custody of the child or to the child as being in the sole custody of the mother, and no explicit reference shall be made to illegitimacy, and the term natural shall be deemed equivalent to the term illegitimate when referring to parentage or birth out of wedlock.

Section 36. (Construction of Act.) This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Section 37. (Short Title.) This act may be cited as the Uniform Illegitimacy Act.

Section 38. (Operation and Repealing Clause.) This act applies to all cases of birth out of wedlock where birth occurs after this act takes effect, except that Section 35 applies to all cases occurring after this act takes effect.

As to all such cases, all acts and parts of acts inconsistent with this act are hereby repealed.

Section 39. (Time of taking Effect.) This act shall take effect on ( ).
APPENDIX 2.—Text of the Paternity Laws of Selected States

MINNESOTA

Mason's Statutes 1927
(Laws through 1935)

Illegitimate Children

Section 4455. Duties of State Board of Control.—It shall be the duty of the board of control when notified of a woman who is delivered of an illegitimate child, or pregnant with child, likely to be illegitimate when born, to take care that the interests of the child are safeguarded, that appropriate steps are taken to establish his paternity, and that there is secured for him the nearest possible approximation to the care, support and education that he would be entitled to if born of lawful marriage. For the better accomplishment of these purposes the board may institute such legal or other action as is deemed necessary; may make such provision for the care, maintenance and education of the child as the best interests of the child may from time to time require, and may offer its aid and protection in such ways as are found most advisable to the unmarried woman approaching motherhood.

Section 3261. Complaint—warrant.—On complaint being made to a justice of the peace or municipal court by any woman who is delivered of an illegitimate child, or pregnant with a child which, if born alive, might be illegitimate, accusing any person of being the father of such child, the justice or clerk of the court shall take the complaint in writing, under her oath, and thereupon shall issue a warrant, directed to the sheriff or any constable of the county commanding him forthwith to bring such accused person before such justice or court to answer such complaint; which warrant may be executed anywhere within the State. Such complaint shall be filed and further proceedings had either in the county where the woman resides or in the county where the alleged father of the child resides or in the county where the child is found, if it is likely to become a public charge upon such county.

Section 3262. Action how entered—proceedings.—The justice shall enter an action in his docket, or the clerk of court in his register of actions, in which the State shall be plaintiff and the accused defendant, and shall make such other entries as are required in criminal actions. On the return of the warrant with the accused, the justice or judge shall examine under oath the complainant, and such other witnesses as may be produced by the parties, respecting the complaint, and shall reduce such examination to writing. He may at his discretion, and at the request of either party shall, exclude the general public from attendance at such examination.

Section 3263. Defendant to give bond—may plead guilty.—If there is probable cause to believe the defendant guilty as charged in the complaint, the justice or judge shall require him to enter into a recognizance, with approved sureties, in the sum of not less than three hundred dollars nor more than one thousand dollars, to appear before the district court of the proper county at the next term thereof, or if such court is then sitting in the county, at a date fixed by the justice or judge, and thereupon shall issue a warrant, directed to the sheriff or any constable commanding him to bring such accused person before such justice or court to answer such complaint; which warrant may be executed anywhere within the State. If the defendant fails to give such recognizance, the justice or judge shall commit him to the county jail, there to be held to answer such complaint at the next term of such court, or at the date so fixed; provided, however, that said accused may appear before the court at any time and enter a plea of guilty to such complaint. Thereupon the justice or judge shall certify the examination and return the same and all process and papers in the case to the clerk of such court.

Section 3264. Proceedings in district court.—At the next term of said court, or at the date fixed by the justice or judge, if the complainant has not been delivered or is not able to attend, or for any other sufficient reason, the court may continue the cause, and such continuance shall renew the recognizance, which shall remain in force until final judgment. If the sureties shall at any term of court surrender the defendant and ask to be discharged, or if the court shall at any time deem it proper, it may order a new recognizance to be taken, and commit the defendant until it is given.

Section 3265. Trial—judgment and proceedings to enforce the same.—Upon the trial in district court the judge may at his discretion exclude the general public from attendance at such trial and hearing at the request of either party. The examination taken before the justice or judge of the municipal court shall in all cases be read to the jury when demanded by the defendant. If he is found guilty, or admits the truth of the accusation, he shall be adjudged to be the father of such child and thenceforth shall be subject to all the obligations for the care, maintenance and education of such child, and to all the penalties for failure to perform the same, which are or shall be imposed by law upon the father of a legitimate child of like age and capacity. Judgment shall also be entered against him for all expenses incurred by the county for the lying-in and support of and attendance upon the mother.
Section 3265. Action by mother of child against father.—In the event of judgment of
paternity as provided in Section 3218 the mother shall be entitled to recover of the father
in a civil action all expenses necessarily incurred by her in connection with her confinement,
including her suitable maintenance for not more than eight weeks prior thereto and not
more than eight weeks thereafter; and for the burial of the child if the same shall have been
stillborn, or shall have died after birth, and all necessary expenses and doctor’s bills in
connection with her or said child’s sickness. The provisions of this section shall apply
only to such expense or portion thereof as is not otherwise provided for by order of the
court.

Section 3266. Petition for discharge—Notice.—Any person who has been imprisoned ninety
days for failure to pay any such money judgment for expenses incurred by the county as here-
before set forth, may apply to said court, by petition setting forth his inability to pay
the same, and praying to be discharged from imprisonment, and shall attach to such petition
a verified statement of all his property, money and effects whether exempt from execution or
otherwise. Thereupon the court shall appoint a time and place for hearing said application, of
which the petitioner shall give at least ten days’ notice to the county attorney.

Section 3267. Hearing—Discharge.—At the hearing the defendant shall be examined on
oath in reference to the facts set forth in such petition and his ability to pay such money
judgment, and any other legal evidence in reference to such matters may be produced by any
of the parties interested. If it appears that the defendant is unable to pay such judgment,
the court may direct his discharge from custody, upon his making affidavit that he has not
in his own name any property, real or personal, and has no such property conveyed or conceal-
ed, or in any manner disposed of with design to secure the same to his own use or to avoid
in any manner payment of such judgment. The court, as a condition of such discharge may re-
quire the defendant to pay such judgment in monthly or other installments, as the earning
capacity of the defendant may justify. If upon such hearing it appears that the defendant
has property, but not sufficient to pay such judgment, the court may make such order concern-
ing the same in connection with such discharge as justice may require. The defendant’s dis-
charge as aforesaid shall not affect the right of the county to collect upon execution any
portion of such judgment remaining at any time unsatisfied, subject to all the provisions of
law relating to judgments for the payment of money; or the right of the court to recommence
the defendant if at any time it shall appear to the court that the defendant is possessed of
means to pay said judgment but will not do so.

Section 3268. Complaint by others than mother.—If a woman is delivered of an illegiti-
mate child, or is pregnant with a child likely to be illegitimate when born, the county
board of the county where she resides, or any member thereof, or the State board of control,
or any person duly appointed to perform in said county any of the duties of said board rel-
ating to the welfare of children, may apply by complaint to a justice of the peace of the
county or to a municipal court to inquire into the facts and circumstances of the case.
Such complaint shall be filed and further proceedings had, either in the county where such
mother resides, or in the county of the residence of the alleged father of such child, or in
the county where such child may be found, if it is likely to become a public charge therein.

Section 3269. Action by other of child against father.—In the event of judgment of
the father as to his support of such child, the time and place where it was begotten, and any other facts he deems neces-
sary for the discovery of the truth, and thereupon shall issue his warrant to apprehend
the father. Thereafter the proceedings shall be the same as if the complaint had been made by such woman under the provision of this chapter, and with the same effect in all
cases the complaining and the accused may require the attendance of such woman as a witness.

Section 3270. Procedure—Warrant.—Such justice or the judge of the municipal court may
summon the woman to appear before him, and examine her on oath respecting the father of
such child, the time and place where it was begotten, and any other facts he deems neces-
sary for the discovery of the truth, and thereupon shall issue his warrant to apprehend
the father. Thereafter the proceedings shall be the same as if the complaint had been made by such woman under the provision of this chapter, and with the same effect in all
cases the complaining and the accused may require the attendance of such woman as a witness.

Section 3271. Compromise by board.—The county board, either before or after judgment,
may make such compromise and settlement with the putative father of any illegitimate child,
as they deem equitable and just, for expenses incurred by the county for which judgment may
be or shall have been entered pursuant to Section 3219.
Section 3272. (a) Settlement by father.--The State board of control or duly appointed guardian of the person of an illegitimate child shall have authority to accept from the acknowledged father of the child such sum as shall be approved by the court having jurisdiction of proceedings to establish the paternity of the child, in full settlement of all obligations for the care, maintenance and education of such child; and shall hold or dispose of the same as ordered by said court. Such settlement shall discharge the father of all further liability, civil and criminal, on account of such child; provided that such settlement shall not affect any liability of the father under Section 3274; and provided that this section shall not apply to any case where a judgment of paternity has been entered pursuant to the provisions of this statute.

Section 3272. (b) Clerk to report name of adjudged father.--Upon the entry of a judgment determining the paternity of an illegitimate child the clerk of the district court shall notify in writing the State registrar of vital statistics of the name of the person against whom such judgment has been entered, together with such other facts disclosed by his records as may assist in identifying the record of the birth of the child as the same may appear in the office of said registrar. If such judgment shall thereafter be vacated that fact shall be reported by the clerk in like manner.

Section 3272. (c) Physician may testify.--In any proceeding under this chapter a licensed physician or surgeon may testify concerning the fact and probable date of inception of the pregnancy of his patient without her consent, and shall so testify when duly called as a witness.

Section 3272. (d) Purpose of act.--This chapter shall be liberally construed with a view to effecting its purpose, which is primarily to safeguard the interests of illegitimate children, and secure for them the nearest possible approximation to the care, support and education that they would be entitled to receive if born of lawful marriage, which purpose is hereby acknowledged and declared to be the duty of the State; and also to secure from the fathers of such children repayment of public moneys necessarily expended in connection with their birth.

Section 3272. (e) Records private.--All records of court proceedings in cases of alleged illegitimacy shall be withheld from inspection by, and copies thereof shall not be furnished to, persons other than the parties in interest and their attorneys, except upon order of the court.

Section 3272. Invalidity of any provision shall not affect validity.--The provisions of this act are severable one from another and in their application to the persons and interests affected thereby. The judicial declaration of the invalidity of any provision, or the application thereof, shall not affect the validity of any other provision, or the application thereof.

Section 8723. Inheritance of illegitimate child.--An illegitimate child shall inherit from his mother the same as if born in lawful wedlock, and also from the person who, in writing and before a competent attesting witness, shall have declared himself to be his father; but such child shall not inherit from the kindred of either parent by right of representation, unless during his lifetime his parents inter-marry, in which case he shall no longer be deemed illegitimate.

Section 8724. Estate of illegitimate child.--If any illegitimate child dies intestate and without lawful issue, his estate shall descend to his mother, or, in case of her prior decease, to her heirs at law.

Section 6579. Legitimation of illegitimate children.--Illegitimate children shall become legitimized by the subsequent marriage of their parents to each other, and the issue of marriages declared null in law shall nevertheless be legitimate.

Provided by the Maternal and Child Health Library, Georgetown University
Chapter 14 (Domestic Relations Law)

Section 119. Definitions.--1. A child born out of wedlock is a child begotten and born: (a) out of lawful marriage; (b) while the husband of its mother was separate from her a whole year previous to its birth; or (c) during the separation of its mother from her husband pursuant to a judgment of a competent court.

2. When the word "child" is used in this article it shall refer to a child born out of wedlock.

3. When the word "mother" is used it shall refer to the mother of a child born out of wedlock. (Added by Laws of 1925, ch. 255, April 1.)

Section 120. Obligation of parents; liability for support and education.--1. The parents of a child born out of wedlock are liable for the necessary support and education of the child. They are also liable for the child's funeral expenses. The father is liable to pay the expenses of the mother's confinement and recovery, and is also liable to pay such expenses in connection with her pregnancy, as the court in its discretion may deem proper. In case of the neglect or inability of the parents to provide for the support and education of the child, it shall be supported by the county, city, or town chargeable therewith, under the provisions of the poor law.

2. If the father dies, an order of filiation or a judicially approved settlement made prior to his death shall be enforceable against his estate in such amount as the court may determine, having regard to the age of the child, the ability of the mother to support and educate it, the amount of property left by the father, the number, age and financial condition of the lawful issue, if any, and the rights of the widow, if any.

Section 121. Agreement or compromise.--1. An agreement or compromise made by the mother or child or by some authorized person on their behalf with the father concerning the support and education of the child shall be binding upon the mother and child only when the court having jurisdiction to compel support and education of the child shall have determined that adequate provision is fully secured by payment or otherwise and has approved said agreement or compromise. Provided, however, that if in the county of Erie all such agreements or compromises shall be approved by the county court of said county. The approval of the court shall not be required for an agreement or compromise made by a duly constituted official of a city under specified power heretofore granted by special act of the legislature applicable only to such city.

2. No agreement or compromise under this section shall be approved by the court until notice and opportunity to be heard has been given to the superintendent of the poor of the county or the overseer of the poor of the city or town where the mother resides or the child is found.

3. The performance of the agreement or compromise, when so approved, shall bar other remedies of the mother or child for the support and education of the child. (Added by Laws of 1925, ch. 255, April 1.)

Section 122. Proceeding to enforce obligation of father.--1. A proceeding to compel support and education in accordance with this article may be brought by the mother, or her personal representative, or, if the child is or is likely to become a public charge on a county, city, or town, by a superintendent of the poor of the county, or an overseer of the poor of the city or town where the mother resides or the child is found. Complaints may be made in the county where the mother or child resides or is found or in the county where the putative father resides or is found. The fact that the child was born outside of the State of New York shall not be a bar to entering a complaint against the putative father in any county where he resides or is found or in the county where the child is found. After the death of the mother or in case of her disability, it may also be brought by the child acting through a guardian or next friend.
2. Proceedings to establish the paternity of the child may be instituted during the pregnancy of the mother or after the birth of the child, but shall not be brought after the lapse of more than two years from the birth of the child, unless paternity has been acknowledged by the father in writing or by the furnishing of support. Provided, however, that a superintendent of the poor of a county or an overseer of the poor of a city or town shall be empowered to bring suit in behalf of any child under the age of sixteen who is or is likely to be a public charge.

3. (Am. 1930, ch. 482, p. 1486.) The complaint shall be made to, and for the purpose of this article jurisdiction is conferred upon, the children's court in the counties where such courts have been established under the children's court act of the State of New York; the county court in Chautauqua county, Ontario county, and Monroe county; the children's court of Onondago county; and the courts heretofore exercising jurisdiction in bastardy cases of the city of New York. (Subd. 3 as amended by law of 1931, ch. 210, January 1, 1932.)

4. The complaint shall be in writing, or oral and in the presence of the complainant reduced to writing by the judge or the clerk of the court. It shall be verified by oath or affirmation of complainant.

5. The complainant shall charge the person named as defendant with being the father of the child and demand that he be brought before the court to answer the charge.

6. The court shall issue a warrant for the apprehension of the defendant, directed to any officer in the State authorized to execute warrants, commanding him without delay to apprehend the alleged father and bring him before the court, for the purpose of having an adjudication as to the filiation of the child, and such warrants may be executed in any part of the State. But in the discretion of the court, a summons may be issued as in civil cases, instead of a warrant. Such summons shall be personally served as directed by the court.

Section 120. When defendant is arrested.—1. When the defendant is arrested he shall be taken before the court issuing the warrant, or, if he be arrested in another county, before the county judge, the judge of the children's court, or a magistrate within that county. The court issuing the warrant or said judge or magistrate shall take from the defendant an undertaking in an amount not less than five hundred dollars with surety in the form of a commercial surety bond or personal security approved by the court or cash or liberty bond collateral to the effect:

a. That, if the suit is instituted by the public authorities as provided in section one hundred and twenty-five, paragraph one, the defendant will indemnify the county or city or town where the child was or may be born and every other county, city, or town against any expense for the support and education of the child or for the support of its mother during her confinement and recovery, and that he will pay any order of filiation that may be made or that the sureties will do so; or

b. That he will appear and answer the charge at the court which issued the warrant and obey its order thereon.

2. If a summons has been issued the defendant shall be required to appear in the court where the complaint has been made.

3. When the defendant is arrested in another county and does not give security as provided in paragraph one of this section, he shall be taken before the court which issued the warrant.

4. When either of the undertakings mentioned in paragraph one of this section is given, the court issuing the warrant or the judge or magistrate shall discharge the defendant and shall indorse a certificate of the discharge upon the warrant. If the defendant has been arrested in another county, the judge or magistrate before whom he has been taken shall deliver the warrant and the undertaking, cash or liberty bond collateral, to the officer, who shall return it to the court issuing the warrant, by which the same proceedings shall be had, as if it had taken the undertaking.

5. If the defendant does not give an undertaking as provided in paragraph one of this section the court issuing the warrant may commit him to jail to be held to answer the complaint.

Section 124. Adjournment of trial.—The court, on application of either party, on good cause shown, may grant such adjournments as may be necessary. When the adjournment is granted upon request of the defendant, the court shall require that the defendant be bound or be held in jail until the trial and may so require when the adjournment is granted at the request of the complainant.

Section 125. Effect of death or absence or insanity of mother.—If, after the complaint has been made, the mother dies or becomes insane or cannot be found within the State, the proceedings do not abate, but the child may be substituted as complainant.

Section 126. Trial.—1. The trial shall be by the court without a jury. Both the mother and the alleged father shall be competent to testify but the alleged father shall not be compelled to give evidence, and if either gives evidence he or she shall be subject to cross examination. The court may exclude the general public from the room where proceedings are had, pursuant to this article, admitting only persons directly interested in the case, including officers of the court and witnesses.
If the defendant fails to appear, the security for his appearance shall be forfeited and shall be applied on account of the payment of the order of filiation, but the trial shall proceed as if he were present; and the court shall upon the finding of the judge make such orders as if the defendant were in court.

Section 126.—(a). Blood-grouping tests.—The court, on motion of the defendant, shall order the making of one or more blood-grouping tests by a duly licensed physician and the results thereof may be received in evidence. (Added by Laws of 1935, ch. 186.)

Section 127. (Am. 1936, ch. 851, p. 1780, adding subsec. 3.) Order 1. If the finding be against the defendant, the court shall make an order of filiation, declaring paternity and for the support and education of the child.

2. The order of filiation shall specify the sum to be paid weekly or otherwise, until the child reaches the age of sixteen. In addition to providing for the support and education, the order shall also provide for the payment of the necessary expenses incurred by or for the mother in connection with her confinement and recovery; for the funeral expenses if the child has died; for the support of the child prior to the making of the order of filiation; and such expenses in connection with the marriage of the mother as the court may deem proper.

3. When an order of filiation has been made, the clerk of the court shall forthwith transmit to the State commissioner of health on a form prescribed by him, a written notification as to such order, together with such other facts as may assist in identifying the birth record of the person whose paternity was in issue. If such order shall be abrogated by a later judgment or order of the same or a higher court that fact shall be immediately communicated to the State commissioner of health on a form prescribed by him by the clerk of the court which entered such order. Whenever it appears to any clerk aforesaid that the person whose paternity has been established was born in New York city, the clerk shall transmit the written notification aforesaid to the commissioner of health of such city instead of to the State commissioner of health.

Section 128. Payment to trustee.—The court may require the payment to be made to the mother, or to some person or corporation to be designated by the court as trustee, but if the child is or is likely to become a public charge on a county, city, or town, the superintendent of the poor of that county or the overseer of the poor of that town shall be made the trustee. The payment shall be directed to be made to a trustee if the mother does not reside within the jurisdiction of the court. The trustee shall report to the court annually, or oftener, as directed by the court, the amounts received and paid over.

Section 129. Security; commitment; probation.—1. The court may require the father to give security by bond, with sufficient sureties approved by the court, for the payment of the order of filiation. In case the action has been instituted by the county superintendent of the poor or the overseer of the poor, the defendant shall also be required to give security that he will indemnify the county, city, or town where the child was born and every other county, city, or town against any expense for the support and education of the child or for the support of its mother during her confinement and recovery, which said undertaking shall also require that all arrears shall be paid by the principal and sureties. In default of such security, when required, the court may commit him to jail, or put him on probation. At any time within one year he may be discharged from jail, but his liability to pay the judgment shall not be thereby affected.

2. Where security is given and default is made in any payment the court shall cite the parties bound by the security requiring them to show cause why judgment should not be given against them and execution issued thereon. If the amount due and unpaid shall not be paid before the return day of the citation, and no cause be shown to the contrary, judgment shall be rendered against those served with the citation for the amount due and unpaid together with costs, and execution shall issue thereon, saving all remedies upon the bond for future default. The judgment is a lien on real estate and in other respects enforceable as such as other judgments or such sums as may have been deposited as collateral. In lieu of bond when forfeited, may be used for the benefit of the mother or child, as provided for in the order of filiation.

3. If at any time after an order of filiation in paternity proceedings shall have been made, and an undertaking given thereon, in accordance with the provisions of this act and such undertaking shall not be complied with, or that for any reason a recovery thereof cannot be had, or if the original undertaking shall have been complied with, and the sureties discharged therefrom, or if money were deposited in lieu of bail, and the same shall have been exhausted, and the child born out of wedlock still needs support, the overseers of the poor of any county, city, or town or the commissioner of public welfare where the child born out of wedlock, for whose support the order of filiation was made, shall be at the time, upon giving proof of the making of the order of filiation, the giving of the above mentioned undertaking, and the noncompliance therewith, or that the sureties have been discharged from their liability, or that for any reason a recovery cannot be had on such undertaking, apply to the court in such county, city, or town, having jurisdiction in filiation proceedings, for a warrant for the arrest of the defendant against whom such order of filiation was made, which shall be executed in the manner provided in the code of criminal procedure for the execution of the warrant; upon the arrest and arraignment of the defendant the said court, and upon proof of the making of the order of filiation, the giving of the above mentioned undertaking, and the noncompliance therewith, or that for any reason a recovery cannot be had on such undertaking, the said court shall make an order requiring him to give a new undertaking, which shall also require that all arrears shall be paid by the principal and...
Section 130. Contempt process.—The court also has power, on default as aforesaid, to adjudge the father in contempt and to order his commitment to jail in the same manner and with the same powers as in case of contempt for default in giving security. The commitment of the father shall not operate to stay execution upon the judgment of the bond.

Section 131. Continuing jurisdiction.—The court shall have continuing jurisdiction over proceedings brought to compel support and education and to increase or decrease the amount fixed by the order of filiation until the judgment of the court has been completely satisfied.

Section 132. Support by mother.—1. If a mother of a child born out of wedlock be possessed of property and shall fail to support and educate her child, the court having jurisdiction, on the application of the guardian or next friend of the child or, if the child shall be chargeable or likely to become chargeable, of the officers mentioned in section one hundred and twenty-two, may examine into the matter and after a hearing may make an order charging the mother with the payment of money weekly or otherwise for the support and education of the child.

2. The court may require the mother to give security, by bond, with sufficient sureties approved by the court, for the payment of the order. In default of such security, when required, the court may commit her to jail, or put her on probation. At any time within one year she may be discharged from jail, but her liability to pay the judgment shall not be thereby affected.

3. Nothing in this section shall be deemed to relieve the father from liability for support and education of the child in accordance with the provisions of this article.

Section 133. False declaration of identity.—The making of a false complaint as to the identity of the father, or the aiding or abetting thereof, is punishable as for perjury.

Section 134. Probation.—Upon a failure to give security as provided in section one hundred and twenty-nine or section one hundred and thirty-two, the court, instead of imposing sentence or of committing the father or mother to jail, or as a condition of his or her release from jail, may place his or her on probation, upon such terms as to payment of support to or on behalf of the mother or child, and as to personal reports, as the court may direct. Upon violation of the terms imposed, the court may proceed to impose the sentence and commit or remit to jail in accordance with the sentence.

Section 135. Jurisdiction.—Jurisdiction over proceedings to compel support is vested in the courts enumerating in section one hundred and twenty-two, paragraph three. It is not a bar to the jurisdiction of the court that the complaining mother or child resides in another county or State, if the defendant be a resident of this State.

Section 136. Appeals.—An appeal in all cases may be taken by the defendant, a guardian ad litem appointed by the court for the child, the mother or her personal representative, the county superintendent of the poor, the overseers of the poor, or the commissioner of public welfare, from any final order or judgment of any court having jurisdiction of filiation proceedings, as provided for in this article, to the appellate division of the supreme court of the respective department within thirty days after the entry of said order or judgment.

No appeal however shall operate as a stay of execution unless the defendant shall give the security provided in section one hundred and twenty-nine of this article and further security to pay the costs of such appeal. If any such appeal shall be taken by a guardian ad litem, appointed for the child by the court, the court may in its discretion grant an order to audit and pay allow payment, for the actual disbursements made by the said guardian ad litem for printing the papers necessary for taking the appeal. In appeals in cases of filiation, a printed case on appeal or a printed brief shall not be required. When allowed by the judge and duly audited, said disbursements shall become a county charge and shall be paid by the county.

Section 137. Prosecuting official.—It shall be the duty of the county attorney, or the attorney designated by the board of supervisors, or the corporation counsel of a city, in the county, city, or town in which the complaint is made to prosecute either in person or by an assistant all cases relating to children born out of wedlock where the complainant is a poor law official.

Section 138. General provisions.—In all records, certificates or other papers hereafter made or executed, other than birth records and certificates or records of judicial proceedings in which the question of birth out of wedlock is at issue, requiring a declaration by or notice to the mother of a child born out of wedlock or otherwise requiring a reference to the relation of a mother to such child, it shall be sufficient for all purposes to refer to the mother as the parent having the sole custody of the child, and no explicit reference shall be made to illegitimacy.

Section 139. Construction.—All provisions of the penal law or of the code of criminal procedure or other statutes inconsistent with or repugnant to the provisions of this article shall be considered inapplicable to the cases arising under this article.
RHODE ISLAND

General Laws of 1923
(Laws through 1926)

CHILDREN BORN OUT OF WEDLOCK

Laws of 1926, ch. 843.

Section 1. Father of illegitimate child to be apprehended.—Whenever complaint in writing and under oath shall be made by the director of public aid to any town in the State that any woman who shall reside or belong in such town has been delivered of an illegitimate child, or is pregnant with a child, which, if born alive, might be illegitimate, to any justice or clerk of a district court of the judicial district within which such town is situated, and naming the father of such child, or, whenever complaint in writing and under oath shall be made by any person designated and appointed so to do by the State public-welfare commission to any justice or clerk of a district court that any woman within the judicial district of such justice or clerk has been delivered of an illegitimate child, or is pregnant with child which, if such child, might be illegitimate, and naming the father of such child, such justice or clerk may issue his warrant under his hand and seal returnable forthwith directed to each and all sheriffs, deputy sheriffs, town sergeants and constables within the State, requiring the officer charged therewith to apprehend such person named as the father of the child and have his brought with such warrant before said district court relative to said complaint to be dealt with according to law. The complainant in any such case shall not be required to enter into any recognizance for costs.

Section 2. Establishment of paternity. Expenses and support. Bond.—If the person so accused and charged to be the father of the child shall plead guilty or nolo contendere or admit the truth of the accusation in said complaint before said district court, said district court shall adjudge him to be the father of said child and shall order him to pay either into the court or to such person as may be designated by the court, by installments or otherwise, as such court shall determine, such sum of money as in the judgment of said court shall be necessary to defray the expenses of the lying-in of such woman and all other expenses incurred or arising by reason of the pregnancy of such woman or the birth of such child, and for the support and education of such child until the child shall arrive at the age of sixteen years, and the costs of such complaint. All payments so made shall be used or applied for the purposes set forth in such order.

If said accused shall plead not guilty to said complaint before said district court a trial shall be had, and said accused shall be required by said court to recognize, with sufficient surety or sureties in such sum as said court shall direct, to appear before said court for trial whenever the same shall be held, and also to abide and perform the order of said court. If on such trial the accused person shall be adjudged by said court to be the father of said child a like order shall be made as if he had pleaded guilty or nolo contendere, or admitted the truth of the accusation in said complaint, before said court.

Whenever payment shall be ordered by said district court to be made on installments or otherwise the court may also order that a bond with surety or sureties be given to said court for the payment of said sum of money or said installments thereof.

Section 3. Continuance of complaint pending birth of child.—If the woman shall not have been delivered at the time of the return of said warrant, said district court may continue the complaint for hearing or trial before said district court from time to time, or to such time as said woman shall have been delivered, and may require said accused to recognize with surety or sureties for his appearance at such time.

Section 4. Appeal to the superior court.—From all judgments and orders of said district court there shall be an appeal to the superior court for the county in which said district court is held, such appeal to be claimed either by the complainant or respondent in said district court within five days after such judgment or order; and in case such appeal shall be claimed by the complainant he shall be required to enter into a recognizance to prosecute such appeal, with effect or in default thereof to pay all costs which may accrue on said complaint to said respondent; and in case such appeal shall be claimed by the respondent he shall be required to recognize with surety or sureties, in such sum as said district court shall direct, to appear

1/ The title of ch. 107 of General Laws of 1923 (secs. 1565-1582) is amended by section 2 of ch. 843, Laws of 1926, to read: "of children born out of wedlock." Sections 14 to 18 (or secs. 1578-1582) of ch. 107, are repealed by the 1926 law.

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in the superior court on the assignment day for said appeal, and whenever his appeal is called for trial, and there prosecute his appeal with effect, and abide and perform the order of said superior court thereon. The assignment day for such appeals shall be the same as for appeals in criminal cases in the superior court. Upon such appeal the clerk or justice of the court shall forthwith certify and transmit all the papers in the case to the clerk of the superior court, who shall receipt for the same.

Section 5. Trial in superior court to be by jury, unless waived.—The trial in the superior court shall be by jury unless waived by the parties when the same shall be by the court, and new trials may be granted on petition of either party under like restrictions as in civil cases.

Section 6. Action of the superior court after trial.—If on trial in the superior court the jury shall find the respondent to be the father of such child, or if, on waiver of a trial by jury, he shall be adjudged to be the father of said child by the court, or if said respondent shall plead guilty or no contest and admit the truth of the accusation under said complaint, said superior court shall make a new order requiring said respondent to pay either into the court or to such person as may be designated by the court, by installments or otherwise, as such court shall determine, such sum of money as in the judgment of said court shall be necessary, to defray the expense of the lying-in of such woman, and all other expenses incurred or arising by reason of the pregnancy of such woman or the birth of such child, and for the support and education of such child until the child shall arrive at the age of sixteen years, and the costs of such complaint. Whenever payment shall be ordered by the superior court to be made on installments or otherwise, the court may also order that a bond with surety or sureties be given to said court for the payment of said sum of money or said installments thereof.

Section 7. Depositions as in civil cases.—Depositions, taken according to the law regulating the taking of depositions in civil cases, may be used in the trial of cases brought under this chapter before said district court and superior court.

Section 8. Failure of the accused to appear before the district or superior court.—If the accused shall fail to appear in pursuance of any recognizance requiring him to appear before said district court, said court may proceed to make an order as if said accused had appeared and pleaded guilty to said complaint, or if said accused shall fail to appear before the superior court as required by recognizance, or on appeal from said district court to the superior court, the superior court shall proceed to make an order as if said accused had appeared and pleaded guilty to said complaint, and in all such cases said recognizance shall be held good as security for the performance of said order, and all sums of money recovered thereon shall by such court be applied for the purposes of such order in such manner as said court shall direct.

Section 9. Commitment to jail upon failure to comply with order of court.—Any respondent, who shall neglect or fail to comply with the order of any court requiring him to make payment, or to give bond, or recognizance in accordance with the provisions of this chapter shall be committed to jail in the county, in which such court is, there to remain until he shall comply with such order, or be discharged pursuant to law. If any person committed to jail by virtue of this chapter is poor and unable to pay such sum or sums as may be ordered, or to comply with the order of the court, the court by whom said order was made, on application for that purpose, may at any time wholly discharge such person from such jail and imprisonment, or at any time may release him from such imprisonment in jail for such time or times and on such terms and conditions as it may deem expedient. Whenever such person so released shall fail or neglect to abide by or perform the terms and conditions of his release, such court may issue a capias to apprehend him, and may commit him again to such jail, thereto to remain, until he shall have complied with the original order made by said court, or be discharged or released in accordance with the provisions of this section, or be discharged pursuant to law.

Section 10. Complaints not to be abated by reason of death of complainant.—No complaint under the provisions of this chapter shall abate by reason of the death of the complainant, but the successor in office of the director of public aid, if he be the complainant, or the director of public aid, in the event of the death of the person designated and appointed by the State public welfare commission as complainant, such other person as said commission may then designate and appoint, may appear and prosecute said complaint to final judgment in the same way as the original complainant could have prosecuted the same if he had survived.

Section 11. Payments for mother and child to director of public welfare or to State public welfare commission.—The director of public aid of any town, in the case of any woman mentioned in section one of this chapter who shall reside or belong in such town, and the State public welfare commission, or the person designated and appointed by it for that purpose, in the case of any such woman within the State, shall have authority either before or after complaint made as hereinbefore provided, to take and accept from the acknowledged or putative father of the child such sum or sums of money as in the judgment, commission, or committee, or any agent of such organization or its agents shall be sufficient for the purpose of paying the expenses of the lying-in of such woman, the support and education of such child until such child shall arrive at the age of sixteen years, and all other expenses incurred or arising by reason of the pregnancy of such woman or the birth of such child, and thereupon shall stay all further proceedings as to said sum or sums of money in their respective official capacity, and pay over, use and apply the same for the purposes for which such money was paid over to him or it.

Section 12. Birth record of child. Secretary of State board of health to be notified of judgments.—Upon the entry of a judgment determining the paternity of an illegitimate child, the
The clerk of the court entering such judgment shall notify in writing the secretary of the State Board of health of the name and the person against whom such judgment has been entered, together with such other facts disclosed by his records as may assist in identifying the record of the birth of the child as the same may appear in the office of said secretary. If such judgment shall thereafter be vacated that fact shall be reported by the clerk in like manner.

Section 13. Illegitimate child to become legitimized, when.—Illegitimate children shall become legitimized by the subsequent marriage of their parents to each other, and the issue of marriages declared null in its shall nevertheless be legitimate.
Section 166.01. Proceedings on complaint.—On complaint being made to any justice of the peace by any female who shall have been delivered of an illegitimate child or who shall be pregnant with a child which, when born, may be illegitimate, accusing any person of being the father of such child, the justice shall take such complaint in writing, under oath of such female, and shall thereupon issue his warrant against the person accused, directed to the sheriff or any constable of his county, commanding his forthwith to bring such accused person before the justice to answer such complaint. With the consent of the complainant, a summons may be issued in the first instance, as in civil cases, instead of a warrant, which summons shall be personally served.

Section 166.02. Proceedings on return of warrant or summons.—On the return of such warrant, if the accused be in custody or shall appear, or upon return of the summons, showing personal service on the defendant, the justice shall examine the complainant under oath respecting the cause of complaint, and the accused may cross-examine her and put any questions necessary to his defense. If, in the opinion of the justice, the evidence is not sufficient to sustain the charge as the same shall appear by the evidence adduced in the cause, he shall reduce the proceedings to writing; the proceedings for cause shown may be adjourned from time to time and on such adjournment the accused shall be recognized for his appearance for such examination in a sum not less than one hundred dollars nor more than one thousand dollars, and with sureties to the satisfaction of the justice, or the defendant may deposit money in lieu of sureties, and in default thereof he shall be committed, pending such examination, to the county jail. The accused shall be entitled to a removal of such action as in criminal examination before justices of the peace.

Section 166.03. Discharge of the accused.—If the accused person shall enter into agreement with the complainant as provided in section 166.07, the justice shall make a memorandum of said agreement on his docket, and upon entry of judgment on such agreement shall discharge such accused person.

Section 166.04. Recognizance and commitment.—(1) In case any person accused as aforesaid shall not comply with the provisions of the preceding section and there is probable cause to believe the accused person guilty the justice shall bind such person in a recognizance with one or more sureties, to be approved by the justice, in a sum of not less than two hundred dollars nor more than two thousand dollars, to appear at the next term of the circuit court for the proper county, and from time to time thereafter until final judgment, to answer the said complaint and to abide the order of said court thereon. The defendant may deposit money with his recognizance in lieu of sureties and such sureties may deposit money in lieu of justification. On the neglect or refusal of such defendant to furnish such security, the justice shall cause him to be committed to the county jail, there to be held to answer to such complaint.

(2) Such justice shall thereupon certify and return the examination and all testimony so taken before him with all process and papers in the case to the clerk of said circuit court. In case any examination has been had as provided by law, and the person complained of has been discharged for want of sufficient evidence to raise a probability of his guilt, and the district attorney shall afterwards discover admissible evidence sufficient, in his judgment, to convict the person discharged, he may, notwithstanding such discharge, cause another complaint to be made before any officer authorized by law to make such examination, and thereupon another proceeding shall be had.

Section 166.05. Change of venue.—All cases begun under the provisions of this chapter shall be tried in the county where the action is properly commenced unless it shall appear to the satisfaction of the court by affidavit that a fair and impartial trial cannot be had in such county, in which case the court may direct that the accused be tried in some adjoining county where a fair and impartial trial can be had; the accused shall be entitled to a change of venue but once and no more.

Section 166.06. Jurisdiction of illegitimacy actions.—Any judge of a court of record, in vacation as well as in open court, and all court commissioners, except in counties containing cities having a population of one hundred fifty thousand or more, shall have concurrent jurisdiction.
jurisdiction with justices of the peace in all complaints and proceedings arising under this chapter.

Section 166.07. Settlement agreements.—A female who has been delivered of an illegitimate child or who shall be pregnant with a child which, when born, may be illegitimate, may enter into an agreement with the person claimed by her to be the father of the child. Such agreement may be entered into at any time prior to final judgment, either before or after issuance of process. The agreement shall include a determination of all facts and orders set forth in section 166.11 to be included by the court in its order for judgment, except that where the parties are unable to agree as to the father of the child related to the paternity of the child, they may deny paternity in the agreement. By the terms of the agreement the defendant must submit personally to the jurisdiction of the court, and consent to entry of judgment in accordance with the terms of the agreement. Upon motion of the district attorney, the judge of the court of record having power to enter final judgment in illegitimacy proceedings, being satisfied with the terms of the agreement, shall order judgment in accordance therewith if paternity of the child is admitted. Where the paternity of the child is not admitted, after said agreement is approved by the court, it shall be filed but judgment shall not be rendered until there is a default of the payments agreed upon, when, upon motion of the district attorney, judgment shall be rendered and entered forthwith. No other agreement or settlement of any illegitimacy proceedings shall be valid.

Section 166.08. Prosecution by district attorney.—The district attorney shall appear and prosecute all illegitimacy proceedings including both the preliminary examination in justice court and the proceedings in the trial court. Private counsel in behalf of the complainant may appear with the district attorney, but attorneys' fees shall not be taxed for such purpose. The district attorney shall draft all agreements referred to in section 166.07.

Section 166.09. Continuance; bail.—If at the next term of the court to which the accused is to be transferred or to which the venue has not yet been changed the complainant shall not have been delivered or shall not be able to attend, or if at any time there shall be any other sufficient reason therefor the court may order a continuance of the cause from term to term as shall be judged necessary. If the sureties in the recognizance shall at any time thereafter hold liable or if the court shall find it proper to continue the case the court may order a new recognizance to be taken and the defendant shall be committed until he gives such new recognizance.

Section 166.10. Trial; evidence.—Upon the trial of the proceedings the issue shall be whether the accused is guilty or not guilty. The trial shall be by jury, if either party demands a jury, otherwise by the court. If the mother be dead or become insane or cannot be found within the jurisdiction, the proceeding is not abated, but the child shall be substituted as complainant. The testimony of the mother taken at the preliminary hearing may in any such case be read in evidence, and in all cases it shall be read in evidence if demanded by the defendant upon the trial. The judge may at his discretion exclude the general public from attendance at such trial.

Section 166.105. Evidence; blood tests.—Whenever it shall be relevant to the prosecution or the defense in an illegitimacy action, the trial court, by order, may direct that the defendant submit to one or more blood tests to determine whether or not the defendant can be excluded as being the father of the child. The result of the test shall be receivable in evidence but only in cases where definite exclusion is established. The tests shall be made by duly qualified physicians, or other duly qualified persons, not to exceed three, to be appointed by the court and to be paid by the county. Such experts shall be subject to cross-examination by both parties after the court has caused them to disclose their findings to the court or to the court and jury. Whenever the court orders such blood tests to be taken and one of the parties shall refuse to submit to such test, such fact shall be disclosed upon the trial unless good cause is shown to the contrary.

Section 166.11. Judgment.—(1) If the accused shall be found guilty, or shall admit the truth of the allegation, or shall have entered into a settlement agreement, he shall be adjudged to be the father of such child, unless paternity shall have been denied in such settlement agreement, and shall be ordered to pay to the mother or town or county all expenses incurred by them for lying-in and attendance of the mother during the last six months of pregnancy, and also for the care and support of the child, including funeral expenses if child be dead at time of trial, from the time of its birth until the date of the entry of judgment, and to pay to the county the costs of the action, and to stand chargeable for the future support of the child until it shall attain the age of sixteen years. Payments for such future support shall be directed to be made in either of the following methods: (a) Payment of a specified monthly sum until the child is sixteen years of age; (b) payment of a specified lump sum within sixty days after entry of judgment or in specified monthly installments subject to the condition that upon default in any installment the entire amount shall become due and payable. All payments for the future support of the child shall be paid to a trustee and shall be held by him for the benefit of the child and by him shall be paid to the person having legal custody of the child in such manner and amounts as the court may direct.

(2) All of the foregoing matters shall be ascertained and fixed by the court and shall be inserted in the judgment, together with an order directed to the clerk of the court to file with the State registrar of vital statistics a certified copy of all judgments determining the paternity of the child, and a report showing the name, date, and place of birth of the child and parents, place of residence, age, birthplace and occupation of the father and mother. Judgments entered upon agreement of the parties shall conform to the above unless the parties are unable to agree as to the paternity of the child, when such adjudication may be omitted.

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(3) All such judgments shall be satisfied of record by the clerk on payment to him of the costs and the filling of satisfaction of judgment executed and acknowledged by the complainant and trustee, if a trustee be appointed, and whenever ordered so to do by a written order of the court.

Section 166.12. Continuing jurisdiction.—Whenever the judgment for the future support of the child has not been satisfied by the payment of the sum as directed, the court shall have continuing jurisdiction over proceedings brought to compel support and to increase or decrease the amount thereof until the judgment of the court has been completely satisfied. Nothing in this section shall in any way be considered a derogation of section 381.30.

Section 166.13. Bond or commitment.—If the person so adjudged to be the father of such child shall cause to be paid the cost of the prosecution, and any lump or total sum adjudged to be paid, he shall be discharged and the judgment satisfied of record; or if he shall give a bond to the proper town or county in such sum and with such surety as shall be approved by the court, conditioned for the performance for such judgment and the payment of all sums ordered thereby to be paid as therein directed, he shall be discharged; otherwise he shall be committed to the county jail until he shall comply with and perform such judgment or shall be otherwise discharged according to law, unless the court shall stay execution of such commitment. Any execution of commitment so stayed shall issue at any time when it shall appear to the court that the defendant has defaulted on any of the provisions of the judgment.

Section 166.14. When and how discharged; liability thereafter.—Any person who shall have been so imprisoned ninety days may apply for his discharge from imprisonment in the manner provided by law for the discharge from imprisonment of persons confined in jail upon executions against the person; but notice of the application for such discharge shall be given to the complainant, if living, and if living within the State, and also to the district attorney at least fifteen days before such application for discharge is made. Upon defendant's release, if the defendant shall at any time fail to comply with the judgment of the court with reference to the continued support of the child, he may be summarily dealt with as for contempt of court, and shall likewise be subject to all the penalties for failure to care for and support such child which are imposed by law upon the father of a legitimate child of like age and capacity, and in case of failure to abide by any order of the court, the defendant shall be fully liable for the support of such child without reference to such order.

Section 166.15. Execution.—The court, upon motion by the mother of such child, or the trustee named in the judgment, or of the district attorney, may, from time to time, order execution to issue against the defendant and his sureties in any bond given is formand to secure the performance of any such judgments, or against a defendant who shall have been discharged under the preceding section for such sum as may, at any time become due thereon and remain unpaid.

Section 166.16. Absence of defendant at trial.—If the defendant fails to appear, the security for his appearance shall be forfeited and shall be applied on account of the payment of the judgment, but the trial shall proceed as if he were present.

Section 166.17. Records; private.—All records of court proceedings in cases under this chapter shall be withheld from inspection by, and copies shall not be furnished to persons other than the parties in interest and their attorneys except upon order of the court.

Section 166.18. Trustee.—(1) The trustee to whom payment for the future support of the child shall be made pursuant to the judgment or agreement shall be the county official in charge of the relief of the poor, the clerk of the court, or such other person, corporation or State board or officer authorized so to act as may be designated by the court. Such trustee shall furnish such bond as the court may require, except that whenever a county officer shall be designated as trustee he shall not be required to furnish bond other than that furnished in his official capacity. The trustee shall administer such funds under the direction of the court and shall report to the court annually or oftener, as directed by the court, the amounts received and paid over.

(2) If upon the adoption of the child into another family there remain in the hands of the trustee unexpended funds received pursuant to the judgment, the trustee shall hold the funds until the child reaches majority when the same shall be paid over to him. When upon the death of the child, and after payment of funeral expenses, unexpended funds remain in the hands of the trustee, such funds shall be paid over to the mother of the child; provided, that in case the child shall have been adopted, the unexpended funds in the hands of the trustee shall become a part of the child's estate subject to the inheritance rights of the adoptive parents.

Section 166.19. Prosecution by district attorney.—When the mother of an illegitimate child commences any such proceeding and fails to prosecute the same, the district attorney, whenever he shall determine it to be to the best interest of the child, shall prosecute the proceedings commenced by the mother to final judgment.

Section 166.20. Inquiry by district attorney.—If any female shall be delivered of an illegitimate child which is or is likely to become a public charge, or shall be pregnant with a child likely to be born an illegitimate child, and to become a public charge, the district attorney, if he believes it to be to the best interest of the child, shall apply to any justice of the peace of the county, who shall thereupon examine such female on oath respecting the father of such child, the time when and the place where such child was begotten and as to such other circumstances as he may deem necessary; and such justice shall reduce such examination to writing and shall thereupon issue his warrant, without further or formal complaint, to
apprehend the reputed father, and the same proceeding shall be had thereon and with the like
effect as are hereinafter provided in cases of complaint made by such female.

Section 166.21. Warrant; attendance of female.—Any warrant issued under this chapter
may be executed in any part of this State; and in all cases the justice may compel the said
female to attend and testify the same as witnesses in other cases.

Section 166.22. Agreement by district attorney.—In all cases where the mother commences
any proceedings under this chapter and fails to prosecute the same, or where she has been de-
levered of an illegitimate child which is likely to become a public charge or shall be preg-
nant with a child likely to be born an illegitimate child and to become a public charge, the
district attorney of the county in which she resides shall have power to make an agreement
with the putative father in the same manner and with the same force and effect as might be
made by the mother.

Section 166.23. Construction of chapter 166.—This chapter shall be so interpreted and
construed as to effectuate the protection and welfare of the child involved in any proceedings
hereunder.

Section 245.36. Legitimation of children.—In any and every case where the father and
mother of an illegitimate child or children shall lawfully intermarry, such child or children
shall thereby become legitimated and enjoy all the rights and privileges of legitimacy as if
they had been born during the wedlock of their parents; and this section shall be taken to
apply to all cases prior to its date, as well as those subsequent thereto; provided, that no
estate already vested shall be divested by section 237.06 and sections 245.12 to 245.38. The
issue of all marriages declared null in law shall, nevertheless, be legitimated.

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