

Registering a Birth

Have you recently had a baby? Here's what you need to do to register the birth in Victoria.

It is important to be aware of what you must do regarding registration of births as it can impact on your child support and social security entitlements. You can rely upon birth certificates as evidence to support a 'presumption of parentage' if you have parenting proceedings in the Federal Circuit and Family Court of Australia.

Registering a birth in Victoria

Births must be registered in Victoria by lodging a Birth Registration Statement (BRS) with the Registrar of Births, Deaths and Marriages not more than 60 days after the birth. You may be fined up to \$1,849.20* if you do not register. Both parents must sign the BRS, unless the registrar is satisfied that they are not able to obtain the signatures of both parents.

*Penalty unit rate as of 23 May 2023

Naming the father on the birth certificate

You are not legally required to provide the name of the father on your child's birth certificate. You can complete a statutory declaration explaining why you do not wish to list the father on the birth certificate and submit to Births, Deaths and Marriages. However, it is an offence for you to provide false information or list someone else as the father.

If you name the father on the birth certificate, this can be used as evidence to support the presumption of equal shared parental responsibility. This means you must check with the father regarding long-term decisions for the child. However, this does not mean the father will spend time with your child. If there are disagreements, an application can be filed in the Federal Circuit and Family Court of Australia. The father can also make this application without being named on the birth certificate. The father may be able to rely on the presumption of parentage (for example if you lived together or were in a de facto relationship) or seek a DNA test.

If the father does not sign the birth certificate, you may need to provide a statutory declaration explaining why the father has not signed. The registry will then follow the father up and give them 28 days to respond before deciding whether to list them on the birth certificate.

Birth certificates and child support

Both parents are responsible for financially supporting their children. This applies to all parents whether separation has occurred or not. Child support is managed by the Child Support Agency and either party can apply for a child support assessment.

If the father is not listed on the birth certificate, you may need to take additional steps to apply for child support, such as a paternity test. Your options may include requesting the father's consent to a child support assessment or applying to the Federal Circuit and Family Court of Australia for orders confirming the father of the baby. If you do not apply for the assessment or take steps to seek an exemption, your family tax benefit payments may be impacted.

Case study:

Kate and Leo had a brief casual relationship in early 2022. After they broke up, Kate found out she was 12 weeks pregnant. Kate had lost contact with Leo and could not let him know she was pregnant. In October 2022, Kate gave birth to a baby girl, Evie. Following the birth of Evie, Kate had to decide whether she would list Leo on the birth certificate for Evie. Kate ultimately decided she would like Leo to be named as Evie's father on the birth certificate. Kate signed and returned the documents to Births, Deaths and Marriages. The registry had contacted Leo but no response was received. Following this, Kate completed a statutory declaration explaining the circumstances as to why Leo may not be responding to letters.

In the meantime, Kate made an application for an administrative child support assessment so that she could continue to receive her family tax benefit payments. After being contacted by the Child Support Agency, Leo contacted Kate via a mutual friend requesting a paternity test to establish that he is Evie's father before agreeing to be listed on the birth certificate or paying child support.

NCLC could assist Kate with:

1. Advice regarding birth certificate requirements in Victoria;
2. Advice as to the considerations when deciding to name the father on the birth certificate, including presumption of parentage and child support;
3. And, negotiations with Leo regarding the completion of a paternity test, child support and ongoing parenting arrangements should he choose to have a relationship with Evie.

If you need assistance with birth certificate-related legal issues or you would like more information, please contact NCLC on (03) 9310 4376.