



ISSUE BRIEF | Center for American Values

SECURING FATHERS' RIGHTS AND ENFORCING THEIR RESPONSIBILITIES COULD HELP PREVENT ABORTION

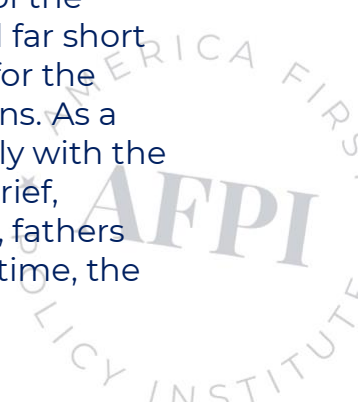
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TOPLINE POINTS

- ★ During pregnancies, the father is often sidelined and bears virtually no responsibility or rights to make important decisions.
- ★ Women seeking abortion often say they don't feel supported by the father in significant ways, and many say that when a man gets a woman pregnant, he is already a father with responsibilities to both mother and child.
- ★ Protecting fathers' rights while enforcing their responsibilities to the mother can help reduce the number of abortions that take place.

Summary

While mothers must have the full financial and emotional support of the father during and after a pregnancy, current case law and policy fall far short of securing the rights of the father. This creates a difficult situation for the father, who has virtually no voice in the debate surrounding abortions. As a result, the decision regarding whether to have an abortion rest solely with the mother. Many fathers are deeply wounded and suffer from anger, grief, shame, guilt, and remorse when their children are aborted. As such, fathers must have the ability to protect their unborn children. At the same time, the



responsibilities of the father to pregnant mothers are not enforced through any meaningful legal or policy framework. This void often leaves mothers without the financial and emotional support they need during and after pregnancy. Sadly, many women believe that the only real option they have is abortion. Women deserve more support, especially from the fathers of their children. Policies that protect fathers' rights and enforce fathers' responsibilities would help provide more American mothers with the critical support they need and would likely lead to fewer abortions.

Fathers' Rights

In 1976, the U.S. Supreme Court ruled in *Planned Parenthood v. Danforth* that a father has no constitutional right to prevent a pregnant mother from obtaining an abortion. In doing so, the Court reasoned that a mother is more directly affected by pregnancy. As it explained, the reality of the pregnancy places the physical burden of the pregnancy solely on the mother. Therefore, the right to make final decisions rests with the mother. In other words, the Court said that because the woman actually carries the baby, the father should not have a say over her decision.

U.S. courts typically subordinate fathers' rights regarding pregnancies to the rights of the mother. However, fathers can assert their rights through private agreements to obtain certain items, such as the medical history of the mother and the right to be present during delivery. In these private agreements, the father often agrees to pay the full costs of the pregnancy and obtains full, permanent custody of the child. Nevertheless, the father has no right to prevent the woman from obtaining an abortion if she chooses to do so.

In 1992, the Supreme Court went a step further in this area by ruling in *Planned Parenthood v. Casey* that it is unconstitutional to force a mother to notify a father of a pregnancy. A plurality of the Court stated that the spousal notice requirement would impose a substantial obstacle for the woman to obtain an abortion. The Court's reasoning was that the requirement gave too much power to the husband over the wife.

However, in light of the historic 2022 *Dobbs v. Jackson Women's Health Organization* Supreme Court ruling finding no constitutional right to abortion, these precedents undermining fathers' rights to protect an unborn child should be revisited. Because of the changing landscape surrounding abortion, fathers now have a stronger opportunity to assert their voice in the



debate who have equal rights to the child. This is an important time to reframe this issue by asserting the critical role that fatherhood plays in supporting the pregnancy and the life of children. Fathers have a larger role to play in these critical decisions, and they should not be denied this right. Additionally, policymakers should consider measures to protect the rights of fathers who are eligible for custodial rights. This includes pre-abortive paternal notifications and policies to support negotiated agreements empowering worthy fathers to prevent abortion and assume full custody of their unborn child.

Fathers' Responsibilities

While the rights of the father to an unborn child must be secured, the responsibilities of the father to unborn children and their mothers must also be imposed. Mothers deserve to have the support they need during and after the pregnancy. [The Guttmacher Institute found 73%](#) of abortive mothers said they could not financially support a child at the time of their abortion. Fathers must be made responsible for providing for the welfare of their unborn child and the mother. Current federal law does not mandate paternal child support for unborn children, but the [2022 Unborn Child Support Act](#) gives pregnant mothers the ability to receive child support payments from fathers while pregnant. This legislation would allow a court to award child support payments for unborn children retroactively to conception as determined by a physician. This action would be taken in consultation with the mother. The Act would also require judges to block paternity tests if a possible father is a violent danger to the mother or child. Legislation like this imposes a responsibility on fathers and holds them accountable to support the mother and unborn child and protects women and children from harm.

The [U.S. Census Bureau reported in 2020](#) that 69.8% of custodial parents were owed child support payments. However, fewer than half (45.9%) of these parents received full payments. To ensure fathers of unborn children are held responsible, policymakers and judicial systems must do more to enforce current child support programs. In particular, policymakers should accelerate the timeline for pregnant mothers to receive child support to manage immediate pregnancy expenses and avoid retroactive delays. This will help ensure fewer abortions as mothers receive the financial support they need to deliver their babies.



What Americans think

Americans feel strongly about the responsibilities of the father during the mother's pregnancy. In fact, 78% of Americans believe that if a man gets a woman pregnant, a father is financially responsible for an unborn child immediately at conception.¹ When asked, "When a man gets a woman pregnant, is he already a father with responsibilities to both the mother and the child?" 71% of Americans agreed.² These two facts clearly indicate that Americans firmly believe that the father has immediate responsibility for the unborn.

Regarding the rights of the father, 62% of Americans believe that the father of the unborn child must be notified before the mother obtains an abortion.³ The American public clearly feels that the father of the unborn child has a significant role during the pregnancy. They not only should be responsible for the child's and mother's welfare, but they should also have their due rights as a parent from the onset of life in the womb.

Fathers play a critical role in bringing life into the world. In the U.S., the rights of fathers to their unborn children have been suppressed for too long. It's time for fathers to have their voices heard, and it's also time to hold them to their proper responsibilities in supporting mothers and their unborn children. Going forward, state and federal policymakers must take these realities into consideration as they chart a way forward in the shifting landscape of abortion. Policies should support greater rights for fathers but also stronger guarantees of financial support from the fathers to expecting mothers. When policymakers focus on achieving both of these goals, they can make important progress that will benefit women, children, and fathers, and promote the sanctity of life.

¹ Scott Rasmussen Polling/RMG Research

² Scott Rasmussen Polling/RMG Research (Conducted July 28-30, 2022)

³ Scott Rasmussen Polling/RMG Research (Conducted February 3-4, 2022)

