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Lack of proof of guardianship can leave open the possibility of parental child abduction.

Children can be hurt by family conflict. It is much better for children if parents can resolve their differences by agreement rather than going to court and this can be particularly challenging for parents who are not married to each other.

Many unmarried parents do not know that it is possible for fathers to become joint legal guardians in respect of their children with the agreement of the mother and without going to court. A Statutory Declaration (SI 5 of 98) must be completed by both parents in the presence of a Peace Commissioner or a Commissioner for Oaths. These Declarations are not recorded. At the oral presentation to the Family Law Reporting Project Committee of the Courts Services Board, Treoir highlighted that if a Declaration is lost there is no means of proving that a father has guardianship rights. Being able to prove guardianship is important for many reasons such as, passport, medical care and adoption. Furthermore, the lack of proof of guardianship can leave open the possibility of parental child abduction. Acquiring guardianship rights is a significant life event and it is inconceivable that such a significant event is not recorded at all. It would be difficult to envisage a situation where if a marriage certificate was mislaid there is no record of the marriage having taken place.

Margaret Dromey, CEO, Treoir said

“Guardianship is the most significant right a parent can have in respect of a child. Parents and children deserve to have guardianship taken seriously and the initiation of a Guardianship Register is a way of affirming the seriousness of guardianship”.

The Family Reporting Project Committee was established by the Courts Service Board to consider the recommendations in the final report of Dr. Carol Coulter on the Family Law Reporting Pilot Project. Treoir commends Dr. Coulter on her work and commitment to the Family Law Reporting Project and believes that her recommendations, if implemented, will go a long way to improving the current shortcomings of the courts system.

For further information

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