

# Paternity

Paternity

## What is paternity?

Paternity means fatherhood. If a man's paternity of a child is established, it means that he is the legal father of that child. There are numerous rights and responsibilities that come along with establishing paternity, which may include the right to custody and visitation with the child, the right to access the child's school, medical and other records, and the responsibility to pay child support for the child. Because of the rights and responsibilities involved in establishing paternity, it is strongly suggested that you contact an attorney to get information which is specific to your situation.

## Why should I establish paternity for my child?

**WELLBEING:** Fathers are an important part of their children's lives. Studies suggest that when both parents share the responsibilities of parenthood, children are more likely to stay off drugs, finish high school, stay out of jail, delay pregnancy and earn more money as adults.

**IDENTITY:** Your child has the right to know both parents.

**MONEY:** Federal and state laws require both parents to support their children. This is true even with an unplanned pregnancy. Children supported by one parent often do not have enough money for their needs.

**BENEFITS:** Your child has the right to other benefits from both parents. These may include social security, insurance benefits (including medical), inheritance rights, veteran's benefits and other types of benefits.

**MEDICAL:** Children need to know if they have inherited any special health problems. If a child develops a special condition, it may be necessary to identify relatives with compatible tissue types. Employers usually require paternity to be established before a father can add his child to his health insurance plan.

## Does my child have a legal father?

Yes, if at least one of the following is true:

If the child is born while you are married, your husband is presumed to be the child's legal father; OR

If the child is born within 300 days after your marriage ended, your former husband is presumed to be the child's legal father; OR

DNA test results show that the probability of paternity is 98% or higher; OR

You and the child's father have signed an Affidavit Acknowledging Paternity form; OR

A court has entered an order.

**My child's father refuses to acknowledge paternity, sign the birth certificate or admit he is the father. What can I do?**

You can contact Family Support Division- Child Support Enforcement (FSD). FSD can order DNA testing.

You can contact an attorney who can file an action in court. A court can order DNA testing and legally establish paternity of a child.

**I gave birth to a child during my marriage, but my husband is not the father. What can I do?**

You can contact an attorney who can file an action in court. A court can order DNA testing and legally establish paternity of the child.

**How can I find out who the father of my child is?**

You can contact Family Support Division- Child Support Enforcement (FSD). FSD can order DNA testing to legally establish paternity of the child.

You and the child's father must each sign an Affidavit Acknowledging Paternity, and your husband must sign a Denial of Paternity. If this happens, your husband will NOT be the legal father of the child. Instead, the father's name will be on the child's birth certificate and he will be the legal father of the child.

**Why should I establish paternity for my child?**

You can contact an attorney who can file an action in court. A court can order DNA or genetic testing and legally establish paternity of a child.

**Who pays for DNA testing?**

If you and the child's father voluntarily decide to have DNA testing done, then you and he will have to agree on how you will pay for it. If the DNA testing is done through Family Support Division- Child Support Enforcement (FSD), FSD will pay the cost of the testing. If the testing shows that the male who is tested is the father, then the father may be ordered to pay FSD back for the cost of the testing. If the testing is ordered by a court, then the court will make an order about who should pay the cost of the testing.

**Do I have to give my child's father visitation with the child?**

This is covered under Custody article.

**Do I have to give my child the father's last name?**

No. You can choose the name that goes on the child's birth certificate. If the father is not in agreement with the name that you choose, he will have to file an action in court to try to have the child's name changed.

**How long after my child is born do I have to establish paternity?**

If you and the child's father are in agreement, you can each sign an Affidavit Acknowledging Paternity at any time, and it doesn't matter how old the child is. If you and the child's father are not in agreement, either of you can file an action in court to establish paternity until the child's 18th birthday.

**For Fathers**

## **What is paternity?**

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You can contact Family Support Division- Child Support Enforcement (FSD). FSD can order DNA or genetic testing so that you can find out for sure if you are the father of the child.

**WELL-BEING:** Fathers are an important part of their children's lives. Studies suggest that parent who share the responsibilities of parenthood, children are more likely to stay off drugs, finish high school, stay out of jail, delay pregnancy and earn more money as adults.

**IDENTITY:** Your child has the right to know both parents.

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**MEDICAL:** Children need to know if they have inherited any special health problems. If a child develops a special condition, it may be necessary to identify relatives with compatible tissue types. Employers usually require paternity to be established before you can add your child to your health insurance plan.

## **Am I my child's legal father?**

Yes, if at least one of the following is true:

If the child is born while you are married to the child's mother, you are presumed to be the child's legal father;  
OR

If the child is born within 300 days after your marriage to the child's mother ended, you are presumed to be the child's legal father; OR

DNA test results show that the probability that you are the father of the child is 98% or higher; OR

You and the child's mother have signed an Affidavit Acknowledging Paternity form; OR

A Court has entered an order.

My child's mother refuses to acknowledge my paternity of the child. What can I do?

You can contact Family Support Division- Child Support Enforcement (FSD). FSD can order DNA testing.

You can contact an attorney who can file an action in court. A court can order DNA testing and legally establish your paternity of the child.

You can add your name to the Putative Father Registry by filing a Notice of Intent to Claim Paternity with the Bureau of Vital Records. Filing this notice doesn't establish your paternity of the child, but it does create an official record of your claim to be the father of the child. You should contact the Bureau of Vital Records if you want to add your name to the registry.

### **My child was born while the child's mother was married to someone else. What can I do?**

You can contact an attorney who can file an action in court. A court can order DNA testing and legally establish paternity of the child.

I'm not sure that I'm the father of a child. How can I find out for sure?

You can contact Family Support Division- Child Support Enforcement (FSD). FSD can order DNA testing to legally establish paternity of the child.

You and the child's mother must each sign an Affidavit Acknowledging Paternity, and the husband of the child's mother must sign a Denial of Paternity. If this happens, the husband will NOT be the legal father of the child. Instead, your name will be on the child's birth certificate and you will be the legal father of the child.

You can contact an attorney who can file an action in court. A court can order DNA or genetic testing so that you can find out for sure if you are the father of the child.

### **Who pays for DNA testing?**

If you and the child's mother voluntarily decide to have DNA testing done, then you and she will have to agree on how you will pay for it. If the DNA testing is done through Family Support Division- Child Support Enforcement (FSD), FSD will pay the cost of the testing. If the testing shows that you are the father, then you may be ordered to pay FSD back for the cost of the testing. If the testing is ordered by a court, then the court will make an order about who should pay the cost of the testing.

### **If my paternity of the child is established, doesn't the child's mother have to give me custody or visitation with the child?**

See Custody article.

### **How can I make sure my child has my last name?**

You and the child's mother should try to agree on the child's name. If you and the mother cannot agree, then generally the mother gets to choose the name that goes on the child's birth certificate. If you are not in agreement with the name that she chooses, you will have to file an action in court to try to have the child's name changed.

### **How long after my child is born do I have to establish paternity?**

If you and the child's mother are in agreement, you can each sign an Affidavit Acknowledging Paternity at any time, and it doesn't matter how old the child is. If you and the child's mother are not in agreement, either of you can file an action in court to establish paternity until the child's 18th birthday.

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