



## Paternity Establishment: Information for Practitioners Working with Unmarried Fathers

This National Responsible Fatherhood Clearinghouse (NRFC) resource provides information on paternity establishment for practitioners who work with unmarried fathers. Laws and procedures vary from state to state; therefore, we provide information that is generally true across states, but recommend practitioners are prepared to discuss state-specific information with their participants. For help finding more information, you or the fathers you work with can call the NRFC Helpline at 1-877-4DAD-411. You can also go to our online state profiles, which include information about specific laws on paternity establishment for each state and territory.

### Paternity Establishment Definition

- Paternity establishment means that a man is legally recognized as the father of a child and his name can be included on the child's birth certificate.
- When a child is born to married parents, the husband is automatically established as the legal father.<sup>1</sup>
- When a child is born to unmarried parents, additional steps are necessary to establish paternity.

### Rights and Responsibilities of Fathers

- A legally recognized father has the right to be involved in his child's life.
  - If he does not live in the same household as his child he may need to develop a written parenting agreement with the mother or other caregivers to define his role in the child's life (e.g., when does he spend time with his child, does the child live part of the time with him, who picks the child up after school?).
  - If the parents cannot come to agreement over their roles in their child's life, they may need to develop a legal, written agreement with a mediator or through a family court.
- A legally recognized father is expected to contribute financially to the upbringing of his child. If he does not live in the same household as the child, he may be legally required to pay child support.

### Process of Establishing Paternity

- Specific laws and procedures vary by state, but in all states a father who is not married to the child's mother can voluntarily establish paternity in a legal document, often known as an "Acknowledgement of Paternity." There may be more than one form for the father to complete. He must complete these forms to have his name added to the birth certificate.
- Signatures on the forms may need to be witnessed or notarized. Signing the forms (or not) is *the father's choice*, but both parents must sign to complete the process. Once signed, the father is legally acknowledging paternity and will be expected and/or required to financially support the child.
- If the child is born in a hospital, the hospital staff should be able to provide paternity acknowledgement forms, explain the process, and answer any questions either parent has.
- **Fatherhood programs should advise men: "If you are not certain you are the father, do not complete a paternity acknowledgment form without genetic testing."**
  - If either the man or the child's mother is uncertain that he is the father, he or she can confirm paternity through independent or state-requested genetic testing before signing the forms.
  - Depending on the circumstances, genetic testing costs and related expenses may be the responsibility of the father, both parents, or a state agency.

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- After a child's birth, although some states may charge a fee for the service, all states offer parents the opportunity to acknowledge paternity through state vital records offices, or other offices designated by the state, at any time until the child reaches the age of 18.<sup>ii</sup>
  - The vital records office keeps track of records like birth certificates, marriage licenses, and death certificates. In most states, paternity acknowledgement forms and additional information will be available there. For help locating a state's vital records office, the Centers for Disease Control (CDC) maintains a [vital record directory](#) with links to state and territory offices.
  - State child support offices or health departments may also be able to provide these forms or additional information; the CDC also maintains a list of [state health departments](#).
  - Paternity can still be acknowledged when the child is older than 18, but the process may then be more complicated and expensive as it could involve filing court papers and/or appearing in court.

## Paternity Establishment and Child Support

- The child support office will only become involved if its services are requested by either parent, or if the custodial parent applies for social services that include benefits for the child.
  - If a parent applies for social services that include benefits for the child, both parents must be identified before the family can receive services and the social service agency must report the name of the noncustodial parent to the local child support office.
- If child support does become involved, paternity establishment is required before formal child support payments can be set. If paternity has not been established, the child support office will contact the man who has been named as the father and ask if he acknowledges or disputes paternity.
  - In some states, paternity will need to be established through a court order and the child support office or a court may order genetic testing. If the man is identified as the biological father, he may be charged for the cost of the tests.
  - If the father does not show up for genetic testing or respond to other notices from the child support office or court, paternity can still be established--and child support payments set--by court order.<sup>iii</sup>
- **Fatherhood programs can play a critical role in this process.** Trusted, knowledgeable fatherhood practitioners can help men navigate local paternity establishment and child support processes. Programs should ensure that program staff are trained to help fathers understand and respond to any written documents or requests from a child support office or court. Fathers should understand that attending child support or court-ordered hearings provides the opportunity to accurately represent themselves and avoid unnecessary fines and costs.

## Benefits of Paternity Establishment for Unmarried Fathers

- While an informal agreement with the mother may work well in many situations, establishing paternity is required for any legally enforceable rights and responsibilities.
- Specific rights may be agreed upon with the mother or, if the parents cannot reach agreement, may be determined by a family court judge. These rights may include:
  - Physical custody or timesharing (also known as "parenting time" or visitation).
  - The father's right to share in decision-making for his child (for example, decisions about education or medical care). This is generally known as legal custody.
  - The father's right to be notified about any court proceedings regarding his child (for example, if the mother wants to put the child up for adoption or give someone else custody).<sup>iv</sup>
  - The father's right to have a say in other decisions (for example, if the mother wants to move out of the state with the child).
- When a father has the legal right to spend time with his child, it increases the likelihood that he will be able to develop a relationship and contribute to the child's overall well-being.

## Benefits of Paternity Establishment for Children

- Establishing paternity can:

- Ensure the child will have access to the father's available family medical history. This can help health professionals make important decisions about medical care and treatment.
- Allow for the child to be covered by the father's health insurance.
- Grant the child access to any inheritance, social security, or military veteran benefits.
- Knowing who their father is can help children better understand their extended family, family history, and, ultimately, themselves, particularly as they mature into adulthood.
- Perhaps most importantly, research has shown that fathers are more likely to be present and engaged in their children's lives when paternity has been established.<sup>v</sup> Research also shows that children benefit from their fathers' support and positive involvement, especially at young ages.<sup>vi</sup>

### Potential Repercussions of Not Establishing Paternity

- If a father chooses not to establish paternity, he will not have a legal foundation to pursue rights related to custody, which include having a say in what is best for his child; being involved in decisions about his child's welfare; or spending time with his child.
- If a child support case is opened and the man named as the father has not established paternity, he may be ordered to report for genetic testing or appear at a paternity hearing. As explained above, it is important that he respond to such requests and attend any hearings; if he does not, paternity may be established by court order.
  - In some states, fathers may be held responsible for associated administrative and court costs.
  - Once paternity is established, the court may also assign a child support order.
  - **It is important that fathers attend scheduled hearings to ensure that paternity is established correctly and that any child support orders accurately reflect their ability to pay.**
- If a father has not established paternity, he would have no legal right to provide a home for his child if the mother is not able to look after the child (e.g., she has a serious illness, she dies, or the child welfare agency determines there is a reason to remove the child from her custody). In such situations:
  - The child welfare agency could place the child in a foster home or in the care of another family member.
  - The father could still acknowledge paternity at that time, but only if the child welfare agency has his information on record and is able to contact him.
  - Some states maintain a registry of "putative" (possible or alleged) fathers through which a man can acknowledge a child *may* be his and indicate he wishes to be contacted in the event of any adoption or parental termination actions. The New Hampshire Circuit Court Administrative Office maintains a [List of Putative Father Registries](#) with contact information for each state.

### Rescinding Paternity

- A father can take back (or "rescind") his paternity acknowledgment within 60 days after paternity is first established.
- After 60 days, procedures to petition to rescind an acknowledgement of paternity vary by state. Courts prioritize the "best interest of the child;" but the process and outcome can be a stressful experience for everyone. If paternity is established by a court order it may be difficult or impossible to rescind. The laws differ in each state and will require complicated legal actions.
  - The best way to avoid this experience is to be mindful prior to signing an acknowledgement of paternity (for example, by getting genetic testing if either parent is unsure of paternity).

This brief was developed by Kimberly Turner at Child Trends, with assistance from Elizabeth Karberg and Mindy Scott at Child Trends and Nigel Vann and Stacey Bouchet at Fathers Incorporated, on behalf of the National Responsible Fatherhood Clearinghouse under the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance.



## References

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- <sup>i</sup> This presumption can be challenged in court if another man is believed to be the biological father.
- <sup>ii</sup> Office of Child Support Enforcement, [Child Support Handbook: Answers to your questions](#).
- <sup>iii</sup> Office of Child Support Enforcement, [Child Support Handbook: Answers to your questions](#).
- <sup>iv</sup> Child Welfare Information Gateway. (2014). The rights of unmarried fathers. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau.
- <sup>v</sup> Mincy, R., Garfinkel, I., & Nepomnyaschy, L. (2005). In-hospital paternity establishment and father involvement in fragile families. *Journal of Marriage and Family*, 67(3), 611-626.
- <sup>vi</sup> Sarkadi, A., Kristiansson, R., Oberklaid, F., & Bremberg, S. (2008). Fathers' involvement and children's developmental outcomes: A systematic review of longitudinal studies. *Acta Paediatrica*, 97(2), 153-158.