

Establishing Paternity

WHAT IS PATERNITY?

Paternity means fatherhood. Establishing paternity gives your child a legal father.

WHY IS ESTABLISHING PATERNITY IMPORTANT?

Establishing paternity can make a difference for your child's whole life.

If the parents are not married to each other at the time of conception or when the child is born, they should both think about establishing paternity now.

Even if the parents live together or plan to marry, establishing paternity assures the child and parents certain rights.

Identity: It is important to know who we are. By knowing both parents, a child will gain a sense of belonging.

Financial: If paternity is not established, your child could be denied some benefits:



- Social Security for a deceased or disabled parent
- Inheritance rights
- Veteran's benefits
- Life insurance
- Health insurance

The law requires both parents to support their child. Establishing paternity is the first step in making plans to provide the financial support your child will need in a way that is fair to both parents.

Establishing paternity can make it possible to collect support later, even if the father cannot or will not pay support now.

Medical: It is important for parents and a child to know of inherited health problems from either side of the family. Also, medical insurance might be available for a child through a parent's employer, union, or military service

Relationships:

BOTH PARENTS have:

- A right to establish a healthy relationship with; and,
- The responsibility to care for their son or daughter.

Making the relationship legal from the beginning:

- Provides a greater opportunity for a healthy relationship; and,
- Ensures the father's rights to a relationship with his child.

Birth Certificate and Name:

If paternity is established:

- The birth certificate will show the father's name; and,
- The child may have either the father's or mother's last name.

If the parents are not married when the child is born and paternity is not established:

- The father will not be listed on the birth certificate; and,
- The child will have the mother's last name.

Custody:

Legal and physical custody of a child may be changed by a court in a proceeding under IC 31-14.

Physical Custody: The mother will have primary physical custody of the child.

Legal Custody: The mother will have **sole** legal custody of the child unless:

- The Paternity Affidavit is signed after July 1, 2010; and,
- Both parents agree to joint legal custody; and,
- All the steps required to establish joint legal custody are completed.

Legal custody identifies who will have the authority and responsibility for major decisions about your child's upbringing. This includes:

- Decisions about the child's education, health care, and religious training; and,
- Access to the child's school and medical records.

Joint Legal Custody means both mother and father share the authority and responsibility associated with legal custody.

For joint legal custody to exist based on a Paternity Affidavit, all of the following must be done:

- Both parents must agree to joint legal custody.
- Both parents must indicate their agreement to share joint legal custody by checking the two option boxes in Section F, item 1 on the Paternity Affidavit.
- Both parents must sign Section F, item 1 and initial items 3 and 4 on the Paternity Affidavit.
- Both parents must sign Section E of the Paternity Affidavit after July 1, 2010.
- Genetic testing must be performed by an accredited laboratory. A home paternity test would not be admissible for legal purposes.
- The test results must show the man who signed the Paternity Affidavit to be the biological father.
- The test results must be submitted to a local health department within 60 days of the child's birth.

IF the genetic test proves the man is not the father, OR if you fail to provide the results to the local health department within 60 days of the child's birth:

- The joint legal custody agreement **will** be void, and
- The mother will have sole legal custody
- The establishment of paternity **IS STILL VALID**
- The man who signed the Paternity Affidavit will still be the legal father of the child.

HOW IS PATERNITY ESTABLISHED?

Marriage: A man is presumed to be a child's father if:

- He and his wife are married when the child is born or
- If the child is born not later than 300 days after the marriage ends.

If a husband says he is not the child's father or another man claims to be the child's father, a court may require a genetic test to determine paternity.

Paternity Affidavits at the Hospital:

Parents can establish paternity **within the first 72 hours** after their child's birth by both parents completing and signing a Paternity Affidavit at the hospital. This is the easiest way to establish this legal relationship between the child and father.

Paternity Affidavits at the Local Health Department: Paternity can also be established by completing a Paternity Affidavit at the local health department:

- Any time before the child is emancipated (age 21 unless otherwise ordered by a court)
- As long as no father is listed on the birth certificate.

Court Determination:

Paternity may be established by filing a paternity action in court. Parents may agree to the paternity or may request a genetic test.

If a man has signed a Paternity Affidavit and then wants genetic testing, he must request it within 60 days of the date he signed the Affidavit or the court can deny his request.

YOUR LEGAL RIGHTS AND RESPONSIBILITIES REGARDING PATERNITY AFFIDAVITS

Things to Know In General:

Signing a Paternity Affidavit is voluntary.

You may not be able to reverse paternity and its legal responsibilities once you sign a Paternity Affidavit.

The father can sign a Paternity Affidavit even if he is married to someone else.

A woman who knowingly or intentionally falsely names a man as the child's biological father commits a Class A misdemeanor.

Information about your child's paternity and the process to establish paternity will be treated confidentially by hospital staff, the Health Department, the Prosecutor's Office and attorneys.

If you have not signed a Paternity Affidavit and are afraid to establish paternity because of domestic violence, you should contact the Prosecutor's Office. They can provide privacy protection.

Since signing a Paternity Affidavit has legal consequences, you may want to consult an attorney before signing.

You must receive both written and oral information about your alternatives, rights, and responsibilities, and the effects of signing a Paternity Affidavit.

Beginning July 1, 2010:

- **If you are under age 18 you must be given a chance to consult with an adult you choose before signing a Paternity Affidavit.**
- **The Paternity Affidavit must be presented to each parent separately and without the presence of the other parent.**

Otherwise the signed Paternity Affidavit will be voidable.

If:

- You are the presumed father, and
- You do not establish paternity now,
- But you want the right to notice and a hearing regarding any adoption of the child,

you must register with the Indiana Putative Father Registry through the Indiana State Department of Health at (317) 233-7085.

If you do not sign a Paternity Affidavit and are unsure about the paternity of the child, you may contact the Prosecuting Attorney's office in your county for help establishing paternity.

A man has the right to request a court hearing if he is not sure he is the father of the child.

If the mother is receiving public assistance (TANF or Medicaid), she may be required to cooperate in establishing paternity and obtaining a support order or face losing those benefits.

The custodial party may contact the Prosecuting Attorney's Office in their county for the child support services below through the IV-D program. There is a small fee if the parent is not receiving public assistance.

- Establishing paternity
- Finding the absent parent
- Getting a court order for the payment of child support and medical support
- Enforcing child support and medical support orders

If paternity is established, the child's mother or the IV-D agency have a right to obtain a child support and medical support order requiring the father to pay support, and they may collect on those orders.

Things to Know If a Paternity Affidavit Is Completed:

- No further court action is required to establish the paternity of the child.
- No additional evidence of paternity is required for child support and medical support payments to be ordered.

- The custody rights of the parents are specified in the Paternity Affidavit unless determined otherwise by a court. See **Custody**.
- The father will have parenting time as outlined by the Indiana Parenting Time Guidelines, unless a court rules differently.
- A man has the right to withdraw/rescind his acknowledgment of paternity only within sixty (60) days of the date the Paternity Affidavit is completed. To do so, he must file an action in a court with jurisdiction over paternity and may need to submit to and pay for genetic testing. After 60 days the father may not be able to reverse paternity, even if genetic tests prove the child is not his.
- The mother does not have the right to withdraw/rescind her acknowledgment of paternity.

WHY DO I NEED TO THINK ABOUT THIS AT THE TIME OF THE CHILD'S BIRTH?

- You do not need to sign a Paternity Affidavit now. It is the father's right to obtain a genetic test first. But if you choose to establish paternity, there are reasons to begin the process immediately. To start a paternity case, call your county prosecutor.
- If you want parenting time above what is outlined in the Indiana Parenting Time Guidelines, contact an attorney. See **GETTING LEGAL HELP** for free legal representation if you cannot afford an attorney.
- If you sign the Paternity Affidavit, you will not need to have a court hearing to establish legal paternity.
- If you complete the Paternity Affidavit before completing the birth certificate, the child will carry the father's name and you can avoid the trouble and expense of having it changed later.
- Completing the Paternity Affidavit before applying for your child's Social Security number will ensure the child's information is correct the first time.
- Child and medical support orders can be established more quickly when paternity has already been established.

IMPORTANT RESOURCES

www.IN.gov/dcs

GETTING LEGAL HELP

Indiana Bar Association 317-639-5465

www.in.gov/judiciary/selfservice

www.lsoi.org/stc_site

www.in.gov/dcs/support

INDIANA PARENTING TIME AND CHILD SUPPORT GUIDELINES

www.in.gov/judiciary/childsupport

CHILD SUPPORT KIDS LINE

800-840-8757

www.in.gov/dcs/support

INDIANA PUTATIVE FATHER REGISTRY

317 233-7085

www.in.gov/isdh/20371.htm

CHILD ABUSE AND NEGLECT HOTLINE

800-800-5556

www.in.gov/dcs/2398.htm