

Indiana Legal Services, Inc

Using the law to fight poverty, empower clients, and improve access to justice.

www.indianalegalservices.org

General Information About Paternity

What is establishing paternity?

Establishing paternity is the way to legally determine the father of a child who is born to an unmarried woman. Signing the father's name on a birth certificate is not enough to legally determine paternity. (However, if the mother is married when the child is born, the husband is legally considered the father of the child and paternity does not need to be legally determined).

There are two ways to establish paternity:

1. The mother and father can sign a paternity affidavit.
2. A paternity case can be filed in court.

Who can file a paternity case in court?

1. The mother (or pregnant woman).
2. The man who thinks he is the father of a child.
3. The mother (or pregnant woman) and father together.
4. The child.
5. The division of family and children.
6. The prosecuting attorney.

The prosecuting attorney must file a paternity action if any of the people listed above request it, and the prosecutor will represent the child. The prosecutor will file the paternity case for free or for a \$25 fee. The prosecutor will also usually ask for a child support order, but the prosecutor will not help with custody or visitation problems.

When should I file a paternity case?

Generally, it must be filed within two years of the child's birth. There are some exceptions. For example, a child can file the case up until the child's 20th birthday. If the child has received public benefits, the office of family and children can file as long as it is before the child's 19th birthday or the child's graduation from high school (whichever is earlier). There are some other exceptions also. Check with your local prosecutor if you want to file for paternity.

I just had a baby, and I am not married. I don't like the father. Do I have to establish paternity?

You don't have to file for paternity unless you want a child support order. (However, if you are receiving TANF, you may have to establish paternity and help get a child support order). Keep in mind, however, that the father can also file a paternity action even if you don't want to.

Can I file a paternity action after the father has died?

Yes, but the paternity action must be filed during the father's life or within 5 months of his death. You may want to file a paternity action even after the father has died so that the child may be able to inherit from the father, or so the child may be able to get Social Security benefits based upon the father's work history.

Do we have to have blood tests done?

No. If nobody asks for blood tests, the court does not have to order them. However, if anyone asks, the court must order blood or genetic testing. The parents may have to pay for some or all of the testing costs.

What is a paternity affidavit?

A paternity affidavit is another way to establish paternity. It can be signed at the hospital within 72 hours of the child's birth, or at the local health department. Both the mother and the father must sign the affidavit. Within 60 days of the signing the affidavit, however, anyone who is entitled to file a paternity case can file a case and ask for genetic testing. After 60 days, the paternity affidavit can be cancelled only if there is proof that the persons were tricked or forced into signing the affidavit.

What happens after the man is found to be the father of a child?

The court will issue orders on custody, visitation and child support. The court can also change the child's last name to the father's last name.

When does child support begin in a paternity case?

After paternity is established, the court must start the support order from at least the date the paternity case was filed. The court may even go back to the date of the child's birth to begin the support order.

Who has custody of a child born to an unmarried woman?

The mother of the child has legal custody until a court issues an order saying someone else has custody. So if no court has issued a custody order, the mother of a child born to an unmarried woman has legal custody of that child. Even if the father has signed a paternity affidavit, the mother still has legal custody unless a court has entered a different custody order.

What if I want to file for paternity?

You can contact your local county prosecutor's office for help with filing a paternity case.

What if I think I might be the father of a newborn child?

If you want parental rights with the child, you should file for paternity. You should also register with the "putative father's registry." If you register with this, you will get notice of any proposed adoption of the child. You should do this immediately if you want to be notified in case of an adoption. You can contact your local health department, vital records division, to register.

LSC Code 1360100

Last revised 08-03

 [Establishing Paternity - PDF Brochure.pdf](#)

 [Establishing Paternity - PDF Brochure Español.pdf](#)

Printed: July 14, 2020

<http://www.indianalegalservices.org/node/105/general-information-about-paternity>

©Indiana Legal Services, Inc