Legal Fatherhood

Parenting
Taking Responsibility for Your Baby

What Fathers Should Know
LEGAL TERMS

Legal terms can be confusing. These definitions might help you understand the paternity process better.

**Alleged father:** The man named by the mother to be the child’s father.

**Children First Program:** A program where the county or tribe may provide job search assistance, job skills training, basic education, or work experience opportunities to parents who pay child support. This program is ordered by the court.

**Conceptive period:** The time a child was likely to have been conceived. It is a period of 60 days, about 240 to 300 days before birth.

**Custody:** The authority given to one or both parents by the court to make major decisions regarding the child. One parent (sole custody) or both parents (joint custody) may have custody.

**Guardian:** A person other than the parent who is legally responsible for a child. Most children do not have a legal guardian. This only happens when a court gives legal custody to someone other than the parent(s).

**Physical Placement:** (also called visitation) Periods of time a child spends with a parent.

**Primary Physical Placement:** Where the child lives most of the time.

**Temporary Assistance for Needy Families (TANF):** A federal program that provides time-limited assistance to needy families with children.

**Wisconsin Works (W-2):** A state work program which provides assistance to parents in finding a job. W-2 provides assistance with child care, transportation, job training and education.

1

LEGAL FATHERHOOD

**What is paternity?**

"Paternity" means fatherhood. "Paternity establishment" means identifying and legally deciding who is the father of a child.

**Why is it important to establish paternity?**

Your baby has a right to a mother and father, even when you are not married. When your name is added to your child's birth record, your child has special rights. These include child support, health insurance, tribal enrollment rights and inheritance rights. It may make your child eligible for social security benefits if you die or become disabled. It ensures that the child knows the family health history (for things like diabetes and sickle cell).

Only when your name is added to the child's birth record can the child be sure of who both parents are. By adding your name, you will be telling your child that you are his or her father, that he or she is important to you, and that you are proud of your child.

When legal fatherhood is established, the father’s parental rights have to be considered before your baby can be placed for adoption.

**How is paternity legally established?**

Wisconsin law requires paternity establishment for all children. Paternity can be established any time after the birth of your child.

There are four ways paternity can be established.

1) If you are sure you are the father, the easiest way to establish paternity is for you and the mother to sign a *Voluntary Paternity Acknowledgment* form after your baby is born. This fully
establishes legal paternity. Your name will be added to the birth certificate. It will allow a court to order child support if necessary. This form does not create a child support order. This form alone does not give the father custody or placement (visitation) rights. If you want genetic testing, you should not sign the form before the tests are done.

You and the mother can sign the form and have it notarized at the hospital when your baby is born. All hospitals in Wisconsin have this form.

This form is also available from your county or tribal child support agency. Your child support agency can help you with this form. You can find the telephone number for your child support agency in your phone book under “county government” or tribal name.

The Voluntary Paternity Acknowledgment form is also available from your local register’s of deeds office or the state Vital Records Office in Madison.

2) You and the mother may stipulate (legally agree) to the establishment of paternity and to formal arrangements for making child support payments. The stipulation may also include arrangements for making decisions about your child (custody) and visiting your child (physical placement). The courts need to approve this agreement. (Your child support agency can explain how this can be done without having to go to a court hearing. You may ask the child support agency for genetic tests before you sign this agreement. See page 5 about genetic tests.)
To decide who the father is, the child support agency or the court will order genetic tests. If the tests show that you are not the father, your case will be dismissed. If the tests show a 99% or greater probability of paternity, you will be presumed under the law to be the father.

If I believe I am the father, what should I do?
Even if you plan to help your baby and the mom, it is important to legally establish paternity. If the mother does not agree, you can go to court to establish paternity. Your child support agency may be able to help you with this. By doing this you can ensure that your rights and your child's rights are protected. Fathers can build a positive relationship with their children even if they are not married to or in a relationship with the mother. There may be classes and support groups in your area for dads.

Should I still sign the Voluntary Paternity Acknowledgment form even if I live with the mother?
You may believe there is no need to establish paternity now because you live with and plan to help the mother and child. This may change. Therefore, it is important to legally establish paternity now.

Her parents do not want me around, or she says the baby is not my child. What should I do?
If you believe you are the child's father, it is your right and responsibility to establish paternity, even if the mother or her parents do not want you around. Your attorney or the child support agency can help you with the process of establishing paternity.

Will I need a lawyer?
The child support agency attorney may bring a court action to establish paternity but cannot represent you. When you are named as a possible father, you may want legal representation. If you are under 18 and named as a possible father, an attorney will be appointed for you unless you have your own attorney. If you are 18 or over, you may hire a lawyer.

Genetic tests...What do they do?
There are two different types of genetic tests that can be done. One is done with blood samples. The other is called a "buccal swab" test. Most places offer this swab test instead of a blood test. For this test, q-tips are rubbed inside the mouth to obtain cell samples. In both types of testing, samples are taken from you, the mother, and the baby. The results from these tests will determine the probability of a specific man being the father. The court uses these results to rule on paternity when the father or mother are not sure or do not agree who is the father. By law, a man is presumed to be the father when the test results show at least a 99% or greater probability that he is the father. You have the right to object to the test results in court.

Who pays for these genetic tests?
The child support agency pays for the tests until paternity is established. If the tests show you are the father, you or the mother
may be ordered to contribute to the costs of the tests. If the tests show you are not the father, you will not be charged for the tests.

**Will I have to pay child support?**
If you are found to be the father, you will be expected to support your child.

**What if I am in school?**
If you are in school and cannot help support your baby, the court may decide to wait to set support until you graduate and are working. The court will balance your need for an education with the needs of your child. If you are under 18, the court may order your parents to help with the support.

**What if I do not have a job or do not make much money?**
The court tries to be fair when setting child support payments so that everyone has enough money to live. The court may take your ability to pay into consideration when setting the support. The court may order you to look for work if you are unemployed and able to work. The court may send you to the Children First Program which can help you find a job.

For more information about child support, see the booklet *Child Support -- What the Paying Parent Needs to Know*. Booklets are listed on page 8.

**What does paternity have to do with Wisconsin Works (W-2), Temporary Assistance for Needy Families (TANF), Medicaid, child care, and food stamps?**
If your child receives benefits from the W-2 or TANF Program and you are ordered to pay child support, you might be able to participate in the W-2/TANF Noncustodial Parent Program. This program can help you find a job.

When your child receives benefits from the W-2 Program, the TANF Program, the Medicaid Program, the child care program, or food stamps, the state requires that the county or tribe establish a child support order. They will ask for your cooperation. If you receive food stamps, you will have to cooperate with the child support agency.

**Could I go to jail?**
You will not go to jail just because you are the child's father. If you purposely refuse to pay the court-ordered child support, you could be charged with contempt or criminal non-support.

**Can I get custody of the child?**
Under Wisconsin law, when a child's parents are not married, the mother has sole custody until the court orders otherwise. You do not need to have legal custody to visit your child.

If you and the mother do not agree on legal custody, you may ask the court for shared legal custody.

If you and the mother do not agree on visitation (physical placement), you may ask the court for physical placement.
Both parents would have to prepare a “Parenting Plan,” and then the court would decide what is best for the child. Custody and placement issues can be discussed with your family court counseling service.

Other Child Support Publications

The following publications are available from your child support agency (listed in your phone book under “County Government” or tribal name).

Chapter DWD 40 - Child Support Percentage of Income Standard
Child Support - What the Paying Parent Needs to Know
Grandparent Liability Fact Sheet
Help Your Baby Get a Step Ahead
KIDS - Wisconsin’s Automated Child Support System
Medicaid, Child Support and the Repayment of Birth Costs
Paternity: What Mothers Should Know
Payment of Child Support for Substitute Care
Percentage of Income Standard Fact Sheet
Review and Adjustment (Changing a Child Support Order)
Tax Intercept Program
When Teens Become Parents
The Wisconsin Child Support Program

These items are on the Internet at:
www.dwd.state.wi.us/bcs/pubs.htm

Who can I call for help?

Or

Contact your county or tribal child support agency (listed in your phone book under “county government” or tribal name)

Child Support information is on the Internet at:
www.dwd.state.wi.us/bcs

DWD is an equal opportunity employer and service provider. If you have a disability and need information in an alternate format, or need it translated to another language, please contact (608) 266-9700 or (608) 267-0927 (voice/TDD).

For civil rights questions call (608) 267-0927 (voice/TDD).

PES-673 (R. 11/2000)