Legal Paternal Relativity

What Mothers 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 state may provide job search assistance, job skills training, basic education, or work experience opportunities to parents who pay child support.

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. As the mother, you have primary physical placement of your child when your child is born.

Temporary Assistance for Needy Families (TANF): 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.

PATERNITY (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 the father’s name is added to your child’s birth record, your child has special rights. These rights include child support, insurance, tribal enrollment and inheritance rights. It might make your child eligible for social security and veteran’s benefits if the father dies or becomes disabled. It ensures that the child has access to his or her family health history (for things like diabetes and sickle cell). You may believe there is no need to establish paternity because the father plans to help you and your child. This may change at any time. Therefore, it is important to legally establish paternity now.

Only when the father’s name is added to the child’s birth record can the child be sure of who both parents are. This will tell your child who his or her father is, that he or she is important to the father, and that the father is proud of him or her.

How do I establish paternity?
Paternity can be established at any time after the birth of your child. There are four ways paternity can be established.

1) If you are not married and you are sure who the father is, the easiest way is for you and the father to sign a Voluntary Paternity Acknowledgment form after your baby is born. This will fully
establish legal paternity. The father's name will be added to the birth certificate. It will allow a court to order child support.

You can fill out the form and have it notarized at the hospital when your baby is born. All hospitals in Wisconsin have this *Voluntary Paternity Acknowledgment* form.

This form is also available from your local 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 the Register of Deeds office in some county government buildings or the state Vital Records Office in Madison.

2) You and the father can stipulate (legally agree) to the establishment of paternity and 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). Your child support agency will explain how this can be done. The courts need to approve this agreement. (You may ask the child support agency to have genetic tests done before you sign this agreement. See page 4 about genetic tests.)

3) If the father of your baby does not sign a legal agreement, the man you name will be notified to appear at a hearing. You should attend this hearing too. His rights and responsibilities will be explained to him. If he says he is the father in court, he may be ordered to pay child support. If the man named the father denies he is the father or states he is not sure, genetic tests will be ordered. If these tests show he probably is the father, and the case is still not resolved, then another hearing will be scheduled. You and he will have to appear at this hearing.

4) If you and the father get married after your child is born, you and the father can sign a *Legitimation* form. You can get this form at your local child support agency and from the state Vital Records Office. “Legitimation” gives your child and the father the same rights as if you had been married before the child was born. This form should be signed by both parents, notarized, and mailed to the state Vital Records Office in Madison.

For help with paternity establishment, make an appointment with your local child support agency (listed in the phone book under “county government” or tribal name).

**Should I still sign a *Voluntary Paternity Acknowledgment* form even if I live with the father?**

You may believe there is no need to establish paternity now because you live with the father, and he plans to help with the child. This may change. Therefore, it is important to legally establish paternity now. You may still want to ask the court to give the father shared custody so he can make legal decisions about the child (for example, medical decisions).

**Will I need a lawyer?**

The child support agency attorney does not represent you, but represents the interests of the state. You may hire a private
attorney if you wish. The child support agency attorney will handle all legal issues regarding paternity establishment.

**What if I do not know who the father is or I am not sure?**
Your child support worker will help you identify the father of your child. If more than one man could be the father, you will be asked to provide their names and information about each of them so genetic tests can be done.

**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. This type of testing is becoming more common. In both types of testing, samples are taken from you, the alleged father, and your 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 you or the alleged father are not sure who the father is or when the man you named as the father says he is not 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.

**Who pays for these genetic tests?**
The child support agency pays for the tests until the paternity is established. When it is determined who the father is, you or the father may be ordered to contribute towards the costs of the tests.

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**What if the baby's father is in school?**
If the father is in school and cannot help you support your baby, the court may or may not decide to wait to set support until he graduates and is working. If he is under 18, the court may order his parents and your parents to help with the support. Discuss this with your child support worker.

**What if the baby's father does not have a job or does not make much money?**
The court may order him to look for work if he is unemployed and able to work or if he doesn't make much money. The court may consider the father's financial circumstances when setting support. The court may order him into the Children First Program to help him make enough money to pay child support. Voluntary programs may also be available to help the father get a job or a better job.

**What does paternity have to do with W-2, Medicaid, TANF, child care and food stamps?**
When you participate in the W-2, Medicaid, TANF, Child Care, or the Food Stamp Programs, you are required to help your child support worker and the court establish paternity. If the father has been ordered to pay child support and you are taking part in W-2 or TANF, the father might be able to take part in the W-2 or TANF Program for Noncustodial Parents to help him make enough money to pay child support.
**What if he threatens me or I am scared to report who the father is?**

If you are threatened, it is possible to get help from the court. You should contact your child support worker or the police if anyone threatens to hurt you or your child. (You may ask the police for a restraining order against a person who threatens you.) If you are participating in the W-2, TANF, Medicaid, Child Care or Food Stamp Programs, and you or your child are threatened, you may have “good cause” to refuse to name the father of your child. You will need to fill out some forms and provide evidence that you or your child are in danger. The W-2/Economic Support Agency will then investigate your situation. If the agency worker agrees that you or the child is in danger, you will not lose any assistance by not reporting the alleged father’s name.

**Can the baby’s father or family take the baby away from me?**

Under Wisconsin law, when a child’s parents are not married, and the father has not been legally determined, sole custody is always with the mother. When a court process establishes paternity, the custody remains with the mother until the court orders it changed. The court may presume it is best for your child if you and the father share custody. (Custody means making legal decisions for the child.) If you and the father cannot agree on visitation (also called physical placement), you or the father can ask the court to set the arrangements. The court will be interested in what you and the father think about custody and placement (visitation) arrangements.

**Paternity (Legal Fatherhood)**

I am living with the father. Will establishing paternity mean I have to receive support?

Establishing your baby’s paternity is separate from child support. Establishing paternity gives a child a legal father, and gives the child important rights. By itself, it does not establish a child support order. Establishing your baby’s paternity now will make it easier for you if you decide in the future you need child support. If you would like child support, paternity must be established first.

If you establish paternity by using the Wisconsin Voluntary Paternity Acknowledgment form, you may not have to get a child support order. If you ask your child support agency to establish paternity, the agency may ask the court for a child support order. If, after paternity is established, the agency does get a child support order, you may ask the court to end the order. (This is not an option for those receiving W-2 and TANF services, child care assistance, Medicaid, or food stamps.)

For more information about child support, read the Wisconsin Child Support Program booklet. (See page 8.)
**Other Child Support Publications**

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

The Wisconsin Child Support Program
Chapter DWD 40 - Child Support Percentage of Income Standard
Child Support -- What the Paying Parent Needs to Know
Grandparent Liability Fact Sheet
KIDS -- Wisconsin’s Automated Child Support System
Medicaid, Child Support, and Repayment of Birth Costs
Medicaid, Child Support, and You
Paternity: What Fathers 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 Fact Sheet
W-2, Child Support and You - Cooperation and Good Cause

**Who can I call for help?**

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](http://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).

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