

Paternity

Background. When a child is conceived and born outside of a marriage, certain legal requirements need to be followed in order to establish the legal father for the child. Paternity can be established voluntarily outside of court proceedings or voluntarily or involuntarily through court proceedings.

Paternity Established Voluntarily Out of Court. At the time of a hospital birth of a child, the birth mother and the man identified by her as the father of the child are typically offered the option of voluntarily consenting to list the man as the birth father on forms submitted to the Department of Health and Welfare's Bureau of Vital Records. This is not a decision that should be taken lightly by either the birth mother or the man who believes he is the father since revoking the consent may not be possible.

Court Proceedings to Establish Paternity. The Idaho Department of Health and Welfare's Medicaid Program often provides payment for pre-natal care, labor and delivery care, and care of the child after birth. The application by an unmarried woman for these services includes an agreement on her part that she will cooperate in establishing paternity of the child. Once the child is born, the Medicaid Office notifies the Department of Health and Welfare Child Support Services of the need to initiate a court case to establish paternity. The Department of Health and Welfare then brings suit against both parents seeking their cooperation with the court process. The man named as the father is given the option of voluntarily agreeing that he is the father or he can request a paternity test. In addition to establishing paternity, the purpose of this court case is to establish a child support award payable by the father to the mother of the child. The Department's court case does not attempt to determine child custody or visitation.

Consequences of a Default Judgment. Unfortunately, some men named as the father in a paternity case fail to respond to this lawsuit. The court then enters a "default" judgment finding the man to be the father of the child and setting an amount of child support payable by the father as requested by the Department of Health and Welfare and requiring the father repay a portion of the birth costs. There is no court order for custody or visitation. Many men who allow this to happen regret it later and then seek legal advice for a more costly and complicated effort to pursue a relationship with the child and a more appropriate amount of child support.

The Parents' Relationship. Paternity cases can involve parents who barely know each other or those who have a long-term relationship similar to a successful marriage where they live together and are capable of jointly making decisions involving the child. Obviously, in situations where there is a great deal of conflict between the birth mother and the man named as the father, there is the potential for disagreement regarding custody and visitation, child support, and other matters such as the child's name. Often, family and friends will offer advice based upon mistaken or incomplete knowledge of the laws and court practices regarding paternity.

The Best Approach. Timely understanding of both parents' legal rights and responsibilities is critical for a successful resolution of paternity matters. The establishment of paternity sets in motion a complicated personal and legal relationship which has significant psychological and financial consequences. It is not too soon for a pregnant woman or girl and the man or boy identified by her as the father to seek legal advice even before the child is born.