

# Frequently Asked Questions – Paternity Establishment

## **Acknowledgement of Paternity Affidavit**

### ***Where can I go to complete an Affidavit?***

At the time of birth, the parents may complete the Affidavit at the hospital or birthing facility. Afterward, the Affidavit can be completed at the health department.

### ***The father is out of state and won't be able to sign the Affidavit. Can I send it to him?***

Yes. After he completes his section, shows proper identification and has his signature notarized, he can mail the Affidavit directly to the Office of Vital Statistics, if the mother has completed her section, signed and had her signature notarized prior to the Affidavit being mailed to the father.

### ***What happens if the father does not sign the Affidavit?***

At the hospital, both parents may complete and sign the Affidavit to establish paternity for a child born to an unmarried mother. If both parents do not sign the Affidavit, the father's name will not be on the birth certificate and the child has no legal father at that time. As the Affidavit must be signed by both biological parents, if either one chooses not to, paternity cannot be established by this method. However, the parents may choose to establish paternity at a later time.

### ***What if I change my mind after I sign the Affidavit?***

The Voluntary Acknowledgement of Paternity form is considered a "legal document" in the State of Kentucky from the time that it is notarized. Even if the birth clerk has not yet filed it with the State Office of Vital Statistics, it is considered a "legal document." If a parent changes his/her mind within 60 days, he/she can rescind (cancel) the signature. This process removes the man as the legal father of the child.

Rescission forms are available through the local health department. They can be completed and signed in front of any notary public. Once a rescission is filed by the Office of Vital Statistics, if the requirements of the rescission are met and filed, the Office of Vital Statistics will track the rescission for 60 days and remove the father's name from the child's birth certificate at that time.

Upon the expiration of the 60-day rescission period, a verified voluntary acknowledgement of paternity may only be challenged in court

### ***Can the parents complete an Affidavit if neither one is a U.S. citizen?***

Yes, as long as the child was born in Kentucky the parents can sign an Affidavit of Paternity. However, parents will still be required to show proper identification to complete the Affidavit.

### ***If the parents sign the Affidavit, does the father have the right to take the child away from the mother?***

Paternity establishment and custody are separate issues. Once paternity is established, the father may seek custody or visitation. If you have additional questions, please seek the advice of a licensed attorney.

### ***If the parents sign the Affidavit, will the Child Support Office start to collect support?***

Both parents have a duty to provide support for their child. If either parent requests a child support order, or if the custodial parent is receiving certain types of public assistance, a child support order will be established.

### ***How do I get proof we signed an Affidavit until the new birth certificate is ready?***

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You may request a copy of the Affidavit at the time you sign the form. Otherwise, copies will NOT be issued.

### ***I, or the father of my child, is under the age of 18. Can we sign the Affidavit?***

Kentucky law does allow minor parents to complete the Acknowledgement of Paternity Affidavit to establish paternity. If either parent is a minor, establishment of paternity must be pursued through the court.

## **Genetic Testing**

### ***How do I get genetic testing?***

Unmarried parents interested in child support services may obtain genetic testing through the local child support office, by completing an application for services. Parents may request child support services in either the county where the alleged father resides or owns property or in the county where the mother resides. (If the father is applying, he can do so in his county of residence). After getting the results of the genetic tests, the child support office will take steps to petition the court to issue a paternity order.

If you are not interested in child support services, you may contact a Private Genetic Testing Company for more information about genetic testing.

### ***How much does genetic testing cost?***

Prior to July 14, 2018, the Department of Child Support Services (DCSS) paid the cost of genetic testing and recouped the cost of the testing from the alleged father when paternity was established. Beginning July 14, 2018, DCSS now pays the cost of genetic testing and does not pursue recoupment from the alleged father when paternity is established.

### ***We're not sure if he's the father, but he wants to be on the birth certificate. What should we do?***

If either parent is unsure as to whether an individual is the biological father of the child, the parents should consider pursuing genetic testing. The Affidavit should not be used unless both parents are certain that the individual is the biological father.

### ***How old does my child need to be to have genetic testing?***

Genetic testing can be performed on newborns. The lab that performs DNA testing for DCSS can perform buccal swab testing, which takes a sample from the inside of the cheek instead of using a blood sample.

### ***The father is out of state. How can we get genetic testing?***

The mother may contact the local child support office in her county for assistance in obtaining genetic testing when the father lives out of state.

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## **Special Situations**

***The father is taking care of the child but has not been established as the legal father. The mother is not available to sign an Acknowledgement of Paternity Affidavit. How can he establish paternity?***

The Affidavit is a voluntary form to be completed by both biological parents. If either parent is unavailable or unwilling to sign the Affidavit, the other parent may pursue paternity establishment through DCSS, which may include genetic testing.

***The father is deceased. How can I prove that he is the father?***

As a general rule, DCSS cannot file an action solely to establish paternity after the alleged father is deceased. If an action had been filed prior to the alleged father's death by DCSS, you may contact your local child support office to see if they can still assist you. However, you may need to pursue the matter through court on your own or by hiring your own attorney.

***I am legally married but my husband is not the biological father. The biological father is here and he wants to be on the birth certificate. What do we do?***

In Kentucky, when a woman is married at the time of the child's birth or conception, or any time in between, the law presumes her husband to be the legal father – even if he is not the biological father. The husband and his information may be included on the child's birth certificate as part of the birth registration process at the hospital. If the mother has been separated from her husband for 10 months or more prior to the child's birth, the name of the father shall not be entered on the birth certificate.

If all three parties (mother, husband and child's father) are willing, they may complete a Three-Way Paternity Affidavit (VS-8C). This form allows the husband to deny that he is the father of the child and then allows the mother and the child's biological father to acknowledge paternity. All three individuals must complete the form, and their signatures must be notarized. Parents who wish to establish paternity in this way must contact the Office of Vital Statistics. If all three parties are not in agreement, a determination of paternity must be obtained through the court.

***We want to change the child's name. How can we do that?***

If the parents are establishing paternity using the Voluntary Acknowledgement of Paternity Affidavit, they may change the child's name on the Affidavit. Parents should enter the child's name exactly as they would like it to read on the "Child's Name Should Read" line (Please note: This form can only be used if the parents have not already established paternity through any method).

If paternity has already been established by parents already completion of a paternity affidavit or through a court action, and the parents now wish to change the child's name, they may go to their local probate court to pursue a legal name change.