



Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

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Establishing Parentage

A “parent and child relationship” is a legal relationship between a child and the child’s parents from which rights, privileges, duties, and obligations originate.

A man is presumed to be the father of a child if he and the child’s mother are married. For unmarried parents, a relationship between the father and child may be established by an acknowledgment of paternity or an administrative or judicial determination.

An acknowledgment of paternity must be signed by both parents, notarized, and filed with the Office of Child Support within the Department of Job and Family Services. Upon receipt, an acknowledgment becomes final and enforceable when the Office of Child Support enters the information into the birth registry unless the acknowledgment is rescinded within 60 days.

If no acknowledgment of paternity is filed, either parent may request an administrative determination of parentage from the county child support enforcement agency. Upon receiving a request, an administrative officer must order genetic testing and, based on the results, issue an administrative order regarding parentage. With some exceptions, a person initiating a judicial action to determine parentage must first request an administrative determination. In a judicial action, the court may order genetic testing or examine existing genetic test results, DNA records, and other evidence to determine the existence or nonexistence of a parent and child relationship.

A man may seek relief from a paternity determination if genetic testing reveals that there is a zero percent chance that the person is the biological father of the child.

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Parent and child relationship and presumption of paternity

The Revised Code defines “parent and child relationship” as the legal relationship that exists between a child and the child’s parents and upon which any statutory law confers or imposes rights, privileges, duties, and obligations. The parent and child relationship extends equally to all children and all parents, regardless of the parents’ marital status.¹

A mother may prove her relationship with her child by providing evidence that she gave birth to the child or through either an administrative or judicial determination of parentage. A father can prove his relationship with his child by completing an acknowledgment of paternity or through an administrative or judicial determination of parentage. An adoptive parent may prove a relationship with the parent’s child by proof of adoption.²

A man is presumed to be the biological father of a child under any of the following circumstances:

- The man and the child’s mother are, or have been, married to each other and the child is born: (1) during the marriage or (2) within 300 days after either the marriage is terminated³ or the man and the child’s mother legally separate;
- The man and the child’s mother attempted to marry before the child’s birth in apparent compliance of the law of the state where the marriage took place, but the marriage is or could be declared invalid under specified circumstances;
- An acknowledgment of paternity has been filed but has not yet become final.⁴

A presumption can be rebutted only by clear and convincing evidence that includes the results of genetic testing. An acknowledgment of paternity that becomes final is no longer a presumption and is considered a final and enforceable determination of paternity unless the acknowledgment is rescinded (see below).⁵

Acknowledgment of paternity

To establish paternity, a child’s mother or a man who alleges that he is the child’s father may file an acknowledgment of paternity (acknowledgment) with the Office of Child Support within the Ohio Department of Job and Family Services (ODJFS). The acknowledgment must be made in the form of an affidavit that ODJFS produces and include the notarized signatures of both the natural mother and the man alleging to be the natural father. The affidavit includes a notice of the rights and responsibilities and due process safeguards for the person who signs it. The notice also specifies that, by signing the document, both parents give up any right to bring

¹ R.C. 3111.01(A).

² R.C. 3111.02.

³ A marriage may terminate by death, annulment, divorce, or dissolution.

⁴ R.C. 3111.03(A).

⁵ R.C. 3111.03(B).

an administrative or judicial action to determine parentage.⁶ When unmarried mothers give birth, hospitals provide information and assistance to the baby's parents regarding acknowledgments.⁷

An acknowledgment is final and enforceable without ratification by a court when it is filed with the Office of Child Support, the information is entered into the birth registry that the Office maintains, and the acknowledgment is not rescinded.⁸ Once the acknowledgment is final and enforceable, the father assumes the parental duty of support to the child.⁹

Rescinding an acknowledgment of paternity

A person who has signed an acknowledgment may rescind it within 60 days after the latest signature on the affidavit. To do this, one of the persons who signed the acknowledgment must: (1) request a child support enforcement agency (CSEA) in the county in which the child or the child's caretaker resides to determine the existence of a parent and child relationship through genetic testing and (2) provide written notice to the Office of Child Support of the name of the CSEA conducting the genetic testing. The CSEA must issue an order determining whether a parent and child relationship exists between the man and child. The Office of Child Support must contact the CSEA to: (1) verify that the person seeking rescission contacted the CSEA and (2) direct the CSEA to notify the Office once the CSEA issues an order. The acknowledgment is rescinded when the Office receives an order from the CSEA.¹⁰

If 60 days have passed, the only way to rescind an acknowledgement is to file a court action on the basis of fraud, duress, or material mistake of fact. The court must treat the action as a judicial determination of a parent and child relationship (see **Judicial determination**, below). This action must be filed within one year after the acknowledgment has become final.¹¹

Administrative determination

If no acknowledgment of paternity has been filed and no presumption of paternity applies, a CSEA in the county where the child or child's caretaker¹² resides may make an administrative determination of parentage. The following individuals may request a determination from a CSEA:

- A child or the child's personal representative;

⁶ R.C. 3111.22, 3111.23, and 3111.31. The [acknowledgment of paternity affidavit \(PDF\)](#) can be found under the Child Support Program Manual section of the ODJFS eManuals website: emanuals.jfs.ohio.gov.

⁷ R.C. 3727.17.

⁸ R.C. 3111.25 and 3111.64.

⁹ R.C. 3103.031 and 3111.26.

¹⁰ R.C. 3111.27.

¹¹ R.C. 3111.28.

¹² A "caretaker" is a person with whom the child resides and who is the child's primary caregiver, a person receiving public assistance on the child's behalf, a person or agency with legal custody of the child, the child's guardian, or any other appropriate court or agency with custody of the child. R.C. 3119.01(C)(1).

- The child's caretaker;
- The mother or her personal representative;
- The alleged father or his personal representative;
- The CSEA of the county where the child resides if the child's mother, father, or alleged father is a recipient of public assistance.¹³

Upon receiving a request, the CSEA assigns an administrative officer to the case. The officer must order the child, mother, and alleged father to submit to genetic testing.¹⁴

If genetic testing results show a 99% or greater probability that the man is the child's biological father, the officer must issue an administrative order that the alleged father is the child's father. If the results indicate that identical siblings are the alleged father, the officer is not permitted to issue an administrative order and must refer the case to the court. If the results show less than a 99% probability that the alleged father is the child's father, the officer must issue an administrative order that the man is not the child's father. If either parent willfully fails to submit to genetic testing or if either parent or any other person who is the custodian of the child willfully fails to submit the child to genetic testing, the officer must issue an order stating that it is inconclusive as to whether the alleged father is the child's father.¹⁵

An administrative order must include a notice that the order is conclusive unless the mother, alleged father, or caretaker of the child objects to the determination by bringing an action for a judicial determination of a parent and child relationship within 14 days of the issuance of the administrative order. If the administrative order states that it is inconclusive as to whether the alleged parent is a biological parent of the child, any of the parties may bring an action for a judicial determination to establish parentage.¹⁶

Judicial determination

Generally, a person must request an administrative determination of parentage before bringing an action for a judicial determination.¹⁷ However, the parties can bypass an administrative determination under the following circumstances:

- If the alleged parent is deceased and probate proceedings for the person's estate have been or can be commenced;
- If a request for an order for child support has been filed in an action for divorce, dissolution of marriage, legal separation, or other action for child support, and a question arises as to the existence or nonexistence of a parent and child relationship;

¹³ R.C. 3111.38 and 3111.04(A).

¹⁴ R.C. 3111.41.

¹⁵ R.C. 3111.46 and 3111.47.

¹⁶ R.C. 3111.48, 3111.49, and 3111.50.

¹⁷ R.C. 3111.381(A).

- If a juvenile court or other court with jurisdiction issues a support order based on a presumption of parentage and a question arises as to the existence of a parent and child relationship.¹⁸

In addition, the following individuals may bring an action to determine the existence or nonexistence of a parent and child relationship without an administrative determination:

- The child's mother, when bringing an action to request an order allocating parental rights and responsibilities, the payment of reasonable expenses of the mother's pregnancy and confinement, or child support;
- A man, when bringing an action to request an order allocating parental rights and responsibilities, who may be the child's father but is not married to the child's mother at the time of conception or birth, has not adopted the child, and has not been determined to have established paternity through an acknowledgment of paternity or administrative or judicial determination in Ohio or another state;
- The child's caretaker, when bringing an action to request child support.¹⁹

An action to determine parentage may be brought until the child's 23rd birthday.²⁰ The child's mother, each man presumed to be the child's father, each man alleged to be the child's father, and the child's caretaker must be made parties to the action. The child also must be made a party to the action unless a party shows good cause for not doing so. The CSEA of the county in which the action is brought must be given notice of the action and an opportunity to be heard.²¹

The court may, and upon a request by any party to the action, must order the child's mother, the child, the alleged father, and any other person who is a defendant in the action to submit to genetic tests. These tests may be instead of, or in addition to, a DNA record of any of the parties required to submit to genetic testing that is stored in the DNA database established by the Superintendent of the Bureau of Criminal Identification and Investigation or the results of a genetic test conducted pursuant to an administrative determination of parentage. Genetic test results should be weighted in accordance with evidence (if available) of the statistical probability of the alleged father's paternity.²²

Other evidence of parentage may include any of the following:

- Evidence of sexual intercourse between parents at any possible time of conception;
- An expert's opinion based on the duration of the mother's pregnancy concerning the statistical probability of the alleged father's paternity;

¹⁸ R.C. 3111.381(F).

¹⁹ R.C. 3111.381(B)-(D) and 3107.01.

²⁰ R.C. 3111.05

²¹ R.C. 3111.07(A).

²² R.C. 3111.09 and 3111.10(C).

- Medical evidence relating to the alleged father’s paternity based on tests performed by experts; and
- All other relevant evidence.²³

The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.²⁴

Relief from paternity determination

A man may seek relief from a final judgment, court order, or administrative determination or order (including a final acknowledgment of paternity) determining that he is the father of a child. A court must grant relief if: (1) it receives genetic test results from a test administered no more than six months before the filing of the motion for relief and finds that there is a zero percent probability that the man is the child’s father, (2) the man has not adopted the child, and (3) the child was not conceived as a result of artificial insemination with the man’s consent. A court cannot grant relief if it determines, by a preponderance of the evidence, that the man knew that he was *not* the child’s biological father before certain actions have occurred. These actions include:

- The circumstances creating a presumption of paternity (see **Parent and child relationship and presumption of paternity**, above);
- Being named in a child support order or a final acknowledgment of paternity, or otherwise admitting or acknowledging himself to be the child’s father.²⁵

Assisted reproduction

If a married woman undergoes non-spousal artificial insemination and the woman’s husband consented to the procedure, the husband is legally regarded as the father of the child conceived as a result of the procedure, rather than the donor. Relatedly, a woman who gives birth to a child born as a result of embryo donation is legally regarded as the mother of the child. If her husband consented to embryo donation, he is legally regarded as the father of the child. No action or proceeding to establish parentage affects these relationships.²⁶

²³ R.C. 3111.10.

²⁴ R.C. 3111.13(A).

²⁵ R.C. 3119.961 and 3119.962.

²⁶ R.C. 3111.95 and 3111.97. If a husband has not consented to embryo donation, the husband is presumed to be the father of the child but this presumption may be rebutted by clear and convincing evidence that includes the lack of consent to the embryo donation. R.C. 3119.97(C).