



# 7. *Paternity*

Paternity is a very serious matter. What you do today can forever change yours and your child's life.

## **Disclaimer (a legal caution)**

North Penn Legal Services does not provide representation in paternity cases unless it is part of a child support case. This section is provided as an informational guide outlining basic information about paternity.

## **What is Paternity?**

In Pennsylvania, when a child is born to a woman who is unmarried, there is no legal relationship between the father and the child. A father of a child born to an unmarried woman is not the father for legal purposes. Therefore, paternity is the way to establish legal fatherhood.

## Is there an easy way to establish paternity?

Yes. The mother and the father may sign an Acknowledgment of Paternity form. You may get the form at the time of birth of the child from the hospital. If signed, the hospital will provide the Acknowledgment to the Department of Public Welfare.

You can also obtain the Acknowledgment of Paternity form at your local Domestic Relations Office or local Department of Public Welfare (County Assistance) office.

An Acknowledgment of Paternity form must include the signed consent of the birth mother and signature of the birth father. The signatures must be witnessed by someone other than the birth mother or birth father. Then, the form is recorded as an acknowledgment of paternity.

**Don't Sign If You Aren't Sure!** Once an Acknowledgment has been signed, it is legally binding. An Acknowledgment can then be used at any time in a child support case to require a man to pay child support, even if many years have passed since the man and woman separated and the man has had little contact with the child.

## Can I change my mind after signing the acknowledgement of paternity?

A voluntary Acknowledgment of Paternity may be cancelled by either party within 60 days after the form is signed or the date of a court proceeding related to the child, whichever is sooner. After the 60 days, the acknowledgment of paternity may be challenged in court **ONLY** on the basis of fraud, duress or material mistake of fact, which is difficult to prove.

## Can the mother put my name on a birth certificate without my consent?

An unmarried woman can no longer put a man's name on the birth certificate without his signature and permission.

## **Can I still be held legally responsible for a child even if I'm not sure I'm the father?**

A man can be held legally responsible for a child by the way he acts. If it can be clearly shown that a man has held the child out to be his biological child (acted as if he believes the child is his), and either received the child into his home or provided support for the child, then he can be held to be the child's legal father, where no other legal father has been established. The laws about presumption of paternity and estoppel are complicated legal issues that require the advice and counsel of a lawyer. You should get legal advice as soon as possible by calling your local legal services office.

## **I think I'm the father but the mother won't admit it. What can I do?**

For men who believe that they are the father of a child, but the mother is unwilling to sign an acknowledgment or give him any information about the child, he can still file an acknowledgment as a claim of paternity. This does not give him any rights regarding the child, but entitles him to notice if the woman tries to put the child up for adoption. Men can also file a Petition To Determine Paternity with the Family Court if they want to do more than get notice about an adoption and are prepared to be a father to the child, or can file for partial custody of the child to establish their rights to the child.

## **Are the laws in PA different if the mother and I are married?**

Yes. The biology of a child may not matter if the child is born to a married woman. If the woman is married at the time she becomes pregnant, the law will consider her husband to be the child's father. However, this rule does not apply if it can be shown that the man had no opportunity to have sex with his wife at the time of conception, or if he was unable to father a child.

**Note:** If the family unit is together, the court will not allow a third party to question paternity, even if he is the biological father. The laws about paternity, presumptions and estoppel are very complicated, and you should get legal advice before you make any decisions.

## **What if I am married but separated from my wife? Am I still assumed to be the father?**

If the husband and wife are separated or divorced at the time that paternity becomes an issue, then the "husband rule" may not apply. If the husband has acted like the child's father, the court could still decide that the husband is the legal father. The goal is to protect the child when the husband is the only father the child knows.

## **Can I make changes to my child's birth certificate?**

### **Minor errors:**

You can easily correct minor errors on a birth certificate such as spelling and typographical errors, the sex of the child, and date of birth of the child. The Division of Vital Records provides a complimentary Certification of Birth to the parents shortly after a child's birth. Parents should list the information to be corrected on the reverse side of this Certification of Birth under "Corrections Desired."

It will be necessary for the mother to sign in the designated area; however, it does not require notarization if it is returned to the Division promptly.

The individual requesting the correction must include a legible copy of his/her valid government issued photo ID, often a driver's license.

No fee is required if the original incorrect Certification of Birth is returned with your request to change it.

### **Changing names or removing the father's name on a birth certificate:**

In some cases, you may be able to remove the father's name from a birth certificate by obtaining a specific court order that satisfies requirements of the Division of Vital Records. However, this is a complicated procedure and may not be available to you in your situation. You must prove, or the parties must agree that there was some fraud or mistake that lead to putting the wrong father's name on the birth certificate. You should consult with an attorney about whether or not you can do so in your case.

In some cases, names can be changed by consent of both parents via signature on the back of the birth certificate. The signed and notarized original certificate is then submitted to Division of Vital Records and an amended one is issued. However, most name changes will require a court order.

If a parent is looking to change the first, middle or last names on the minor child's birth certificate, the parent must file paperwork with their local court requesting that the name be changed.

You should consult with an attorney about these changes. Most legal aid offices do not handle name change cases. You can contact North Penn Legal Services at 1-877-953-4250 to see what services may be available in your county.

**Many important topics related to paternity are addressed in the child support section of this handbook which follows this one. Please refer to that section to understand the relationship between paternity and child support.**