



**PATERNITY
GUIDE FOR
UNMARRIED
PARENTS**



**Put Your
Child
First**



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Child
First



A child born to unmarried parents does not automatically have a legal father. Legal fatherhood can mean a lot to your child and to you as parents. Children with two parents involved in their lives are more likely to succeed in a variety of ways. This pamphlet will tell you how you can make this important commitment to your child and where to get help doing it.



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What is paternity?

PATERNITY MEANS LEGAL FATHERHOOD.

If you and your child's other parent are not married to each other, you can establish paternity by

- **signing a paternity acknowledgment form in the hospital at the time of the child's birth, at the city or town clerk's office in the community where the child was born, or at the Registry of Vital Records and Statistics (RVRS), or**
- **asking a court to establish paternity.**

Otherwise your child will have no legal father.

**WANT TO ESTABLISH PATERNITY?
WE CAN HELP YOU.**

**Visit the web site of the Massachusetts Department of Revenue
Child Support Enforcement Division (DOR) at:**

www.mass.gov/cse

or call DOR at:

800-332-2733 (toll free number)

617-660-1234 (local callers)

800-255-5587 TTY/TDD/TT (hearing impaired)



Why is it important to establish paternity?

IDENTITY

When parents establish paternity for a child, they both say, “Yes, this is my child.” This gives a child a sense of identity and connection with both sides of the family. Knowing both parents can improve a child’s chance of success in life.

HEALTH

More and more, medical research shows how important it is to know about any diseases or physical problems or characteristics that may have been passed down from both sides of someone’s family. Knowledge of both parents’ family medical history will help doctors treat — or even prevent — medical problems that a child might have inherited.

FINANCIAL SUPPORT

Families with children who are supported by two parents are more likely to have enough money to meet their needs than families supported by only one parent. By establishing paternity, both parents make a commitment to support their child to the best of their abilities.

BENEFITS

When parents establish paternity, they make their child eligible for coverage under either parent’s health insurance. If anything should happen to the father, the child may also be entitled to receive Social Security, pension, veteran’s and inheritance benefits.

PUBLIC ASSISTANCE

If a parent receives public assistance, he or she is usually required to cooperate with the Child Support Enforcement Division of the Massachusetts Department of Revenue (DOR) to establish paternity and a child support order. If the parent does not cooperate, his or her benefits may be reduced.



How do I establish paternity for my child?

Parents who are not married to each other can establish paternity — legal fatherhood — for their child only if both parents sign a paternity acknowledgment form or if either of them asks a court to establish paternity.

Signing a Paternity Acknowledgment Form: The Easy Way To Establish Paternity For Your Child

Parents can establish paternity for their child by signing a form called the VOLUNTARY ACKNOWLEDGMENT OF PARENTAGE. (This is sometimes called acknowledging paternity.) Once both parents have signed this form and their signatures have been notarized, the man becomes the legal father of the child and his name goes on the child's birth certificate. No one has to go to court.

Parents can acknowledge paternity this way in three places —

- **The hospital**

Parents can complete the *Voluntary Acknowledgment of Parentage* form shortly after the birth of their child, while the mother and child are still in the hospital. The birth registrar at the hospital can help with this. There is no fee when the parents sign the acknowledgment in the hospital.

- **City or Town Clerk's Office**

If parents do not establish paternity before they leave the hospital, they can still acknowledge paternity for their child by completing a *Voluntary Acknowledgment of Parentage* form and filing it at the city or town clerk's office in the community where the child was born. Both parents' signatures must be notarized, which the city or town clerk can do. The clerk may charge a fee for filing.

- **Registry of Vital Records and Statistics (RVRS)**

A *Voluntary Acknowledgment of Parentage* form can also be completed at RVRS, regardless of the community where the child was born. There is a fee associated with this service. In certain circumstances, the process be done through the mail. Please check the RVRS web site under the "Amendments and Corrections" section at <http://www.mass.gov/dph/bhsre/rvr/rvr.htm> for complete details.

Parents can acknowledge paternity for their child any time in the child's life.

If a parent has questions about, or is unsure, who a child's biological father really is, a parent **should not** sign the *Voluntary Acknowledgment of Parentage* form. Instead, the parent should ask a judge or DOR for paternity tests.



Undoing a Paternity Acknowledgment

Legal fatherhood for the child is established as of the date both parents sign the acknowledgment form, if it is properly completed and filed. However:

- **If, within 60 days** of the date both parents signed the acknowledgment form, either parent files a complaint in Probate and Family Court to “rescind” the acknowledgment (that is, have it declared null and void), then the court will order paternity tests. The complaint must be filed in the court of the county in which the child and one of the parents lives.
- **If, within 60 days** of signing, the parent questioning paternity is a party to a court hearing about the child (for instance, to establish a child support order, a custody and visitation order, or in a care and protection proceeding), the parent must raise the issue of the child’s paternity at the hearing. If the parent fails to raise the paternity issue at the hearing the acknowledgment is as binding as a court judgment of paternity, whether or not the 60 day rescission period has expired. Neither party can rescind the acknowledgment later, even if it has not been 60 days since the acknowledgment was signed.
- **After 60 days**, the acknowledgment is as binding as a court judgment of paternity and has the same legal force and effect. However, parents can challenge the acknowledgment, **BUT only in court, only within one year of the date both parents sign, and only on limited grounds of fraud, duress or material mistake of fact.**

The court will generally order the parents and child to undergo paternity tests that determine whether the man is the biological father of the child by comparing certain genetic characteristics that show up in blood or tissue samples from the child and both parents. These samples are obtained either by rubbing a cotton swab on the inside of the cheek or, on rare occasions, by a simple blood draw.

Going to Court to Establish Paternity: Another Way to Establish Paternity For Your Child

Another way to establish paternity is for either parent, a child, or DOR to start a court action to establish paternity.

As part of the court action, a judge may order the biological mother, the man who may be the father, and the child to have paternity tests. These tests are generally quick, easy, and painless. After reviewing the test results and any other relevant information, the judge will decide whether or not the man is the father of the child. If the judge enters an order that the man is the child’s



legal father, this will establish paternity for the child and the father's name will go on the child's birth certificate.

A judge may establish paternity of a child without paternity tests. If the man named as the father does not appear in court, the judge may consider evidence other than paternity tests, such as the mother's testimony, to establish paternity. Also, paternity testing may be completed even if the mother is not available.

At any time during the court process, the parents can sign a *Voluntary Acknowledgment of Parentage* form, and there will no longer be a need for a judge to determine paternity. During the court process, the judge or DOR may require you to have paternity testing before signing the *Voluntary Acknowledgment of Parentage* form. The parents give up their right to the 60 day rescission period if they sign the *Voluntary Acknowledgment of Parentage* form during the court process.

What are paternity tests?

Paternity tests are used to determine whether a man is the biological father of the child. The tests can be done in two ways —

- a “buccal swab” test, where a cotton swab is rubbed on the cheeks inside the mouth, or
- a simple blood draw.

The mother, the child and the man who may be the father will all be tested. The blood or tissue samples (from the cotton swab) will be compared to see what special characteristics – known as “genetic markers” – the child shares with the mother and the man who may be the father. In certain circumstances, the testing can also be done just on the child and the man who may be the father, even if the mother cannot be tested.

These tests are extremely accurate in showing whether or not a man is the biological father of a child.

Who pays for the paternity tests?

If the tests show that the man is the child's biological father, he may be required to pay for the tests. If the tests show that he is not the father and DOR is providing services to the family, then DOR pays the cost.



How does someone receive child support services from DOR?

DOR can help parents to establish paternity and establish child support and medical support orders. DOR can also collect child support for the families it serves and assist parents in going back to court to request a change to the child support or medical support order. Any parent or guardian of a child under 18 years old, or man who believes he may be the parent, can ask for our help to establish paternity and establish a child support and medical support order. Information about the child support program can be found on our web site at www.mass.gov/cse or by calling our toll free number 800-332-2733. Applications for our services are also available on the web site.

There is no charge for child support services from DOR. When a parent applies for our services, we will do our best to help that parent establish paternity for the child and get the support to which he or she is entitled. Whether we succeed depends upon how much information the parent gives us, how up to date and accurate it is, and what financial resources are available to support the child once we locate the other parent.

If a parent receives public assistance from the Department of Transitional Assistance or medical assistance from the Division of Medical Assistance, the parent can talk to a caseworker about the services DOR provides. The parent receiving public assistance is usually required to cooperate with efforts to establish paternity and a child support and medical support order as a condition of receiving public assistance. If the parent is found not to be cooperating, the family's public assistance benefits could be reduced (unless the parent qualifies for a good cause waiver as explained in the next section).

What if the parent living with the child has safety concerns about the other parent? Should parents in these cases still establish paternity and apply for child support services? Are these parents required to cooperate with child support in order to receive public assistance?

If you are afraid that the other parent will harm you or your child, you should take steps to protect yourself and your family. You should speak to a social worker or seek help from a domestic violence program or shelter for battered women. You can also consult with court personnel about getting a restraining order.

For emergencies and assistance to battered women, call your local police or the statewide domestic violence hotline (SafeLink 877-785-2020) for referrals to services and shelters.

If you are receiving services from DOR, it is important for you to communicate any safety concerns to the DOR staff handling your case. We can provide you



with valuable information to help you determine whether child support services are safe for you and your children. DOR cannot guarantee your safety, but we can take some additional precautions.

If you receive public assistance benefits from the Department of Transitional Assistance (DTA) or medical assistance benefits from the Division of Medical Assistance (DMA), the law usually requires you to cooperate in establishing paternity and orders for child support and medical support. You need to determine what is safe for you and your child at the time you apply for benefits. If you believe that giving information about the father and cooperating with DOR will put you or your child at risk of harm, you should talk to your caseworker at the Department of Transitional Assistance or the Division of Medical Assistance about claiming “good cause.”

“Good cause” is a legal term that means your cooperation would not be in the best interests of the child and that, if you cooperate, you or your child will be at risk of serious physical or emotional harm. If you have suffered domestic violence or sexual abuse, you can claim good cause. Good cause may also apply if you are considering adoption for your child. If DTA or DMA finds that you have good cause, then DOR will suspend efforts to establish paternity or a child support or medical support order. If your circumstances change and you would like to pursue establishment of paternity or a child support order at later time, DOR can then resume work on your case.

Some Common Questions:

What if the parents are already living together and are both supporting their child? Do they really need to establish paternity?

Yes. A child has no legal father until paternity is established, even if both parents are living with the child. Although in most situations living with both parents gives the child a stronger sense of identity and family, sometimes families do not stay together. There may be important reasons to separate, especially when there is high conflict between the parents. By establishing paternity, both parents make a commitment to support their child, even if they do not live together. Furthermore, if a parent is receiving public assistance or medical assistance benefits, he or she is usually required to cooperate with DOR to establish paternity and a child support and medical support order—except in cases where the parent qualifies for a good cause waiver as explained earlier.



Will the child's birth certificate include the father's name?

If the child's mother and biological father were not married to each other when the child was born, the birth certificate will include the father's name only if:

- The parents acknowledge paternity by signing a *Voluntary Acknowledgment of Parentage* form in the hospital at the time of the child's birth – or later at a city or town clerk's office, at RVRS, or during a court proceeding – or
- A judge establishes paternity in court and orders that the father's name be included on the child's birth certificate. This can be done at any time at the request of either parent. For example, a father whose name does not appear on the birth certificate can ask the court to establish paternity and have his name added to the birth certificate.

For information on cases in which the mother was married to someone other than the biological father when the child was born, see pages 12-13.

For some children born before 1994, the father's name is already on the birth certificate. Doesn't that child already have a legal father?

No. Before 1994, the father's name would appear on a child's birth certificate if both parents completed an affidavit in the hospital swearing that he was the child's father, but this did not establish legal fatherhood. The father's name may be on the birth certificate, but that child is not yet entitled to all the benefits of legal fatherhood unless the parents have been to court since then to establish paternity

If parents of a child born before 1994 want to establish legal fatherhood now, they can still do so, either by completing a *Voluntary Acknowledgment of Parentage* form at the city or town clerk's office or at RVRS, or by going to court.

Will the child have the father's last name?

Generally, the mother can decide what the child's name will be. Parents can **choose** a child's first, middle and last name together if they fill out the *Voluntary Acknowledgment of Parentage* form in the hospital when the child is born. Parents can **change** a child's legal first, middle and last name if they fill out the *Voluntary Acknowledgment of Parentage* form later at a city or town clerk's office or at RVRS. Parents can also change their child's legal name by going to court.



How long after a child is born can someone establish paternity for that child?

Paternity can be established at any time in a child's life. Parents can establish paternity for an older child by completing a *Voluntary Acknowledgment of Parentage* form and filing it at the city or town clerk's office in the community where the child was born or at RVRs, or by going to court. Either parent can apply for DOR services, and we will be able to assist in establishing paternity for a child under 18 years of age.

What if the parent who is living with the child is not sure where the other parent is?

DOR will try to locate the other parent if the parent who is living with the child (known as the custodial parent) applies for our services or receives public assistance or medical assistance benefits. In certain circumstances, if the child is living with someone other than his or her biological mother or father, DOR will try to locate both parents. A custodial parent must give us as much identifying information as possible about the other parent or parents in order for us to be successful in establishing paternity. Identifying information includes a full name, Social Security number, date and place of birth, residential and mailing addresses, telephone numbers (home, work, cell), the name and address of his or her employer, the names of his or her parents, information about his or her motor vehicle or recreational vehicle, and information about any property he or she may own.

What if the mother is not sure who the father is?

If the mother applies for DOR services or receives public assistance or medical assistance benefits, we will also try to help her determine who the father is. She will have to provide us with some basic information about the man she believes is the father of the child. Once DOR is able to locate the man the mother believes is the father of the child, we will ask the mother, the child and the man who may be the father to have a paternity test. A judge can also order paternity tests if either the mother or the man who may be the father files a complaint in the Probate and Family Court.

What if the mother was married to someone other than the biological father when the child was born?

If the mother was married to someone else —

- when the child was conceived,
- during the pregnancy, or
- at the time the child was born,



then the man who was then married to her will be considered the legal father — even if they weren't living together.

Before the mother and the biological father can acknowledge parentage of the child, the mother and the mother's husband must sign a form called *Affidavit of Non-Paternity* which states that the mother and her husband agree that the husband is not the father of the child.

The *Affidavit of Non-Paternity* form must be accompanied by either a court order relating to the child's paternity or a *Voluntary Acknowledgment of Parentage* form completed by both the mother and the biological father in order for a city or town clerk's office or RVRS to accept it for filing.

What if the father is married to someone else?

He can acknowledge paternity even if he is married to someone else.

Will information about me be given to the other parent?

The process of acknowledging paternity requires that parents provide certain information about themselves. Also, parents generally need to know how to reach each other to discuss issues that relate to their child.

If you believe that the disclosure of your information would place you or your child at risk of physical or emotional harm, you can request that DOR take additional steps to safeguard your information. However, DOR cannot guarantee that your information will remain confidential because some laws require us to share information. For example, your address may appear in court documents or we may need to provide information to the other parent's employer to set up health insurance coverage for your child. In addition, under certain circumstances the court can order that DOR release your information to the other parent.

If I have to go to court to establish paternity, will I have to face the other parent?

You will have to face the other parent in court. The mother and biological father, someone from DOR (if either parent is receiving child support services from us), or the parents' private attorneys (if either parent has one) will appear before the judge at the same time in a courtroom for a hearing. If you have safety concerns about the other parent, let DOR staff know so they can take steps to separate the parents.

Will there be a trial?

If there is a court proceeding to establish paternity, there may be a trial. The trial is usually an informal hearing and there is no jury — the judge listens



to both sides and may order paternity tests. If the man who is named as the father does not appear in court after he receives notice to appear, the judge can still enter an order that the man is the child's legal father. The judge can also make an order for child support, medical support, or both.

Even if the court process has already begun, the mother and the biological father may agree to sign the *Voluntary Acknowledgment of Parentage* form at any time. If they sign the form, there will be no need for the judge to decide paternity and that part of the hearing will end. However, the judge may still make an order for child support, medical support, or both. The parents give up their right to the 60 day rescision period if they sign the *Voluntary Acknowledgment of Parentage* form during the court process.

What if either parent is under 18 years old?

Parents of any age can have paternity testing and establish paternity for their child. A parent under the age of 18 can – without anyone's consent – have paternity testing, sign a *Voluntary Acknowledgment of Parentage*, or go to court to establish paternity.

What if the parents live in different states?

They can still establish paternity for their child. There is a law for establishing paternity when the parents live in different states.

How do I get a child support order for my child?

Once paternity is established, a judge will decide what the parent who does not live with the child (the noncustodial parent) should pay as child support. The court can order the noncustodial parent to pay child support and to provide medical insurance coverage. If you are establishing paternity in court, the judge who makes a decision on the paternity of your child will often also enter a child support order, medical support order, or both as part of the same hearing.

In Massachusetts, most child support orders are calculated using the Massachusetts Child Support Guidelines. The judge will order a noncustodial parent to pay a certain amount of money to support the child based on the income of both parents and on the number of children covered by the order. The judge may also consider whether the noncustodial parent has another family to support.

The amount of the child support order can be set in two ways:

- The judge will calculate the order for the parents according to the guidelines, or



- The judge may approve an agreement between the parents if the amount of child support to be paid through the agreement fits within the guidelines.

What if the noncustodial parent is still in school or has no job? Can paternity still be established? Can the noncustodial parent still be ordered to pay child support?

Parents should still establish paternity for a child even if the noncustodial parent is still in school or has no job. A child's chance of success in life is improved when he or she has the benefit of knowing both parents and being supported by them.

The noncustodial parent is responsible for his or her child even if he or she is still in school or has no job. Remember that supporting a child is a life-long commitment for both parents – not just a year or two, but 18 years or more.

In setting a child support order, the judge will look at the noncustodial parent's income and other circumstances to decide the amount of the child support order. The judge may also order the noncustodial parent to get a job after school to help support the child. As the noncustodial parent's circumstances change — for example, if he or she gets a job or wins the lottery — the judge may change the amount of child support he or she must pay.

Does the noncustodial parent have to pay child support if he or she lives in another state?

Yes. State and federal law provide for collecting child support and enforcing support orders across state lines.

How long will a noncustodial parent have to pay child support?

A noncustodial parent must pay support according to the terms of the court order until the court terminates or modifies the order. In Massachusetts, parents must pay support until the child turns 18 years old unless the court has ordered that child support payments continue beyond age 18.

If the child lives with and is principally dependent on the custodial parent, a judge may order the noncustodial parent to pay child support up to the age of 21. If the child is dependent on the custodial parent because the child is enrolled in an educational program, a judge may order the noncustodial parent to pay child support up to the age of 23. If the child is disabled, a judge may order the noncustodial parent to pay child support past age 23.



What happens when a child's mother is going to marry someone other than the child's father and her future husband plans to adopt the child? Should paternity still be established for the child?

It depends on the circumstances of a particular situation, but establishing paternity is generally a good idea for several reasons —

- The biological father of the child will have to be notified of any plans to adopt his child.
- He should be paying child support until the child is adopted.
- Circumstances may change with the mother's plans to marry or with her future husband's plans to adopt the child.
- The child will also benefit from having his or her biological father legally identified.

Can the biological father visit his child if the child lives with the mother (or other legal guardian)?

If parents cannot work out visitation arrangements on their own, either parent can ask a court to order visitation once paternity is established. DOR does not handle visitation or custody issues.

How does establishing paternity affect custody of the child?

By law, when parents are not married, the mother has custody of their child unless a court orders otherwise. A father who has legally established paternity can ask a court to make a decision about custody and visitation. The court will decide what is best for the child. DOR does not handle custody issues.

How do I establish paternity for my child if the mother of my child doesn't want to?

If you are otherwise eligible for DOR services, you can apply and we will help you establish paternity.

What if I'm not sure that I am the father?

If you are not sure that you are the father of a child, you should not complete a *Voluntary Acknowledgment of Parentage* form unless you have already taken paternity tests and the results indicate that you are the child's biological father. You can apply for DOR services and, if eligible, we will arrange for paternity testing for you, the mother and the child. You can also file a complaint in the Probate and Family Court and ask a judge to order paternity tests for you, the mother and the child. DOR will also ask the court for a child support order, if appropriate.



How can I get more information?

Access DOR's web site at: **www.mass.gov/cse**

Access the Registry of Vital Records and Statistics web site at: **www.mass.gov/dph**

DOR's toll-free customer service line: **800-332-2733**

(617-660-1234 for local callers)

Hearing impaired: **800-255-5587 TTY/TDD/TT**

SafeLink Domestic Violence Hotline: **877-785-2020**





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**Massachusetts Department of Revenue
Child Support Enforcement Division**

**Want to establish paternity? We can help you.
For more information, visit our web site at:**

www.mass.gov/cse