

IN THE COURT OF COMMON PLEAS, JUVENILE DIVISION, GEauga COUNTY, OHIO
Judge Timothy J. Grendell

Information Sheet
Determining Paternity

WARNING

This Information Sheet is intended to provide you with an overview of the subject matter, effective as of the date noted in the upper left-hand corner. This Information Sheet is not intended to provide you with all legal information that may be necessary for you to decide upon a course of action, and the information provided may not be error-free, complete, or accurate. Moreover, this Information Sheet may not accurately describe the cited sections of the Ohio Revised Code or cited case law. Finally, this Information Sheet is not intended as a substitute for legal advice from a competent licensed attorney, who is familiar with all of the relevant facts of your case, and therefore the Help Center recommends that you seek legal advice from a competent licensed attorney that you select before taking any action. While the Help Center can provide you with a limited amount of general legal information, neither the Help Center staff nor any other Court employee can give you any legal advice.

Background

When the mother and father of a minor child are unmarried, before the Court can make an allocation of or modification to parental rights and responsibilities¹ with respect to a minor child, including child support, the Judge must first determine who are the mother and father or rather must first establish a parent and child relationship for both parents.² In practically all cases, unless the mother and father admit the father and child relationship, establishing the father and child relationship is more challenging than establishing the mother and child relationship.³ The mother can establish her parent and child relationship by presenting to the Court a birth certificate, which shows that the mother gave birth to the minor child.⁴ This Information Sheet only addresses the situation of an unmarried mother (at least where the mother is unmarried for 300 days before the minor child's birth). If the mother is married and if there is a question whether her husband is the biological father, then the Court recommends that all parties consult with legal counsel. Additionally, this Information Sheet does not address the complex issues arising if the minor child is born as the result of artificial insemination or embryonic donation.

Typically, the unmarried mother will seek to establish the father and child relationship in order to obtain a child support order. The father will seek to establish the father and child relationship in order to obtain legal custody⁴ or parenting time (i.e., "visitation rights"). The mere fact that a man is the biological father

¹ See R.C. Chapter 3109 for a description of parental rights and responsibilities, particularly R.C. 3109.04 and 3109.042.

² See R.C. 3111.01 for the definition of "parent and child relationship."

³ If the father is an adoptive father, rather than the biological father, then the father and child relationship is established by presentation of a Certificate of Adoption issued by the Ohio Dept. of Health.

⁴ R.C. 2151.011(A)(21) - "Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual

does not automatically provide that man with any parental rights or impose any parental responsibilities. For such rights and responsibilities to be legally recognized, one of three conditions must be met:

- (a) (Presumption) the man must be presumed to be the father, typically when the man is married to the mother; or
- (b) (Acknowledgment) both the mother and biological father formally acknowledge the father and child relationship;
- (c) (Determination/Order) an administrative determination (by the Child Support Enforcement Agency) or a court order must establish the father and child relationship, in either case typically based upon genetic testing.⁵

Determining the Father and Child Relationship.

Presumption.⁶ A man is presumed to be the biological father of a child under any of the following circumstances:

- (1) The man and the child's mother are or have been married to each other, and the child is born during the marriage or is born within 300 days after the marriage is terminated by death, annulment, divorce, or dissolution or after the man and the child's mother separate pursuant to a separation agreement.⁷
- (2) If the man and the child's mother attempt, before the child's birth, to marry each other by a marriage that was solemnized in apparent compliance with the law of the state in which the marriage took place, then the marriage is or could be declared invalid, and either of the following applies:
 - a. The marriage can only be declared invalid by a court and the child is born during the marriage or within 300 days after the termination of the marriage by death, annulment, divorce, or dissolution; or
 - b. The attempted marriage is invalid without a court order and the child is born within 300 days after the termination of cohabitation.
- (3) A Paternity Affidavit (discussed below) has been filed but has not become final.

If a presumption of the father and child relationship exists, then the man may request that the Judge allocate parental rights, such as naming the man as the residential parent or grant the man parenting time. Likewise, the mother may seek an administrative determination with the Child Support Enforcement Agency (CSEA) or a court order requiring the man to pay child support. If the man or the mother disputes the presumption of the father and child relationship, then that presumption can only be

parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court.

⁵ A formal adoption process would also establish the father's parental rights and responsibilities.

⁶ R.C. 3111.03

⁷ This presumption applies even in the case where a man marries a woman who is pregnant. Moreover, the presumption applies to a same-sex couple where the child is conceived by artificial insemination. See *In re L.E.S.*, 2024-Ohio-65 (5th App. District).

rebutted by clear and convincing evidence, which typically results from genetic testing.⁸ However, if the presumption arises from the signing of a Paternity Affidavit and the Paternity Affidavit becomes final, as provided by law,⁹ then the Paternity Affidavit is no longer a presumption, but rather is considered a final and enforceable determination of paternity unless the Paternity Affidavit is rescinded, as provided by law,¹⁰ but subject, in all events, to an action for relief from a paternity determination, as explained at the end of this Information Sheet. Finally, if two or more conflicting presumptions arise, then the Judge shall determine, based upon logic and policy considerations, which presumption controls.

Where no presumption of the father and child relationship arises, then there are three ways to establish the father and child relationship when the mother is unmarried.

- Acknowledgment (signing the Paternity Affidavit)
- Administrative Determination
- Court Order

Acknowledgment. The simplest way to establish the father and child relationship¹¹ is by a formal “voluntary” acknowledgment, known as an Acknowledgment of Paternity Affidavit (“Paternity Affidavit”), which must be signed by both parents.¹² If both parents are known and available upon the birth of the child, typically the hospital staff will arrange for both unmarried parents to sign a Paternity Affidavit and then make the appropriate notation of both parents on the child’s birth certificate.¹³ Additionally, the Paternity Affidavit may be obtained from and signed at the local office of CSEA, which is at 12480 Ravenwood Drive, Chardon, Ohio 44024, or the local office of Vital Statistics Registrar,¹³ which is at 470 Center Street, Building #8, Chardon, Ohio 44024. If you otherwise obtain, complete, and sign (and have notarized) a Paternity Affidavit, then you must deliver it to the local office of the Vital Statistics Registrar within 10 days after signing. In all events, the Paternity Affidavit must be accurate in all respects and each signature must be notarized.

The Paternity Affidavit is final and enforceable when: (1) it is filed with the Central Paternity Registry, (2) the information has been entered into the birth registry, and (3) the Paternity Affidavit has not been rescinded or is not subject to rescission as permitted by law, and the father and child relationship is established.¹⁴ Once the father and child relationship is established, the father may file a complaint with the Court requesting legal custody (become the “residential parent”) or parenting time, and, if the father is not the residential parent, then the father may be ordered to pay child support. Moreover, any relative of the father may file a complaint with a court for reasonable companionship time (i.e., “nonparent visitation rights”), but carefully review the juvenile information sheet titled “Nonparent Rights.”¹⁵ Finally, after a Paternity Affidavit is final and enforceable, the mother (or other legal guardian of the child) may file a complaint with the Court seeking child support

⁸ However, there is another exception to a rebuttal presumption where the birth results from artificial insemination. See R.C. 3111.95

⁹ R.C. 3111.25

¹⁰ R.C. 3111.27 allows either parent to rescind a Paternity Affidavit within 60 days after signing. A Paternity Affidavit may be rescinded following a genetic test in accordance with R.C. 3111.46.

¹¹ R.C. 3111.01

¹² A Paternity Affidavit must conform to the requirements specified in R.C. § 3111.31.

¹³ R.C. 3111.71 and 3111.72

¹³ R.C. 3705.091

¹⁴ R.C. 3111.25 and 3111.27

¹⁵ R.C. 3109.12(A)

from the father or may contact the local CSEA office for assistance and file a request for child support with the local CSEA office.¹⁶

Note: If CSEA has established the father and child relationship and has determined child support, if no legal proceeding is pending before the Court, and if the father intends to become the residential parent or desires parenting time, then the father could consider using and filing with the Court form GC Juv 001 (Complaint For Allocation of Parental Rights and Responsibilities for Care of Children and Parenting Time), together with (1) GC JF 1.0 (Jurisdiction Affidavit), (2) GC JF 2.0 (Parent History Affidavit) for each parent, (3) GC JF 7.0 (Instructions for Service), and (4) a filing fee, or if the father only desires parenting time, then the father could consider using and filing with the Court form GC Juv 026 (Complaint For Parenting/Companionship Time), together with (1) GC JF 1.0 (Jurisdiction Affidavit), (2) GC JF 2.00 (Parent History Affidavit), (3) GC JF 7.0 (Instructions for Service), and (4) a filing fee.

Additionally, if a relative of the father desires companionship time, and if a legal proceeding is pending before the Court, then that relative should review the information sheet titled "Nonparent Rights."

Establishing the parent and child relationship is important for a minor child. Of course, knowing the identity of both parents provides an emotional benefit. Additionally, the child receives the same legal rights and privileges that are held by children whose parents are married. Those rights include:

- Financial support from both parents;
- Legal documentation identifying both parents;
- Having the name of both parents on the child's birth certificate;
- Health and life insurance benefits from both parents;
- The right to inherit from both parents; and
- The right to receive social security and veteran's benefits from both parents

Administrative Procedure. The Paternity Affidavit results from a man and mother voluntarily admitting that he is in fact the biological father of a child. If an alleged father does not so admit the father and child relationship by signing a Paternity Affidavit, then the mother has two methods to obtain a legally binding determination of a father and child relationship between the alleged father and the child, which is required to obtain a child support order. Likewise, if the mother does not admit the father and child relationship by signing a Paternity Affidavit, then the father has the same two methods to obtain a legally binding determination of a father and child relationship between the alleged father and the child, which is required to obtain legal custody or parenting time. The first method is for the mother or father, as the case may be, to file with CSEA a request for an administrative determination of the father and child relationship.¹⁷ The second method is a court order, discussed below. Upon the filing of such request, CSEA will assign an administrative officer to the case, who will then order genetic testing of the mother, father, and child.¹⁸ Unlike the Court, CSEA will pay the significant cost of the genetic testing.

If the test indicates a probability of at least 99 percent, then the officer will determine the alleged father is in fact the biological father and issue an administrative determination establishing the father

¹⁶ R.C. 3111.29

¹⁷ See R.C. 3111.38 and see Ohio Adm.Code 5101:12-40, which describes the CSEA process to determine paternity.

¹⁸ R.C. 3111.41

and child relationship.¹⁹ If the alleged father or the mother refuses to submit to genetic testing, or the mother refuses to allow the child to be so tested, then the administrative officer shall enter an order indicating an inconclusive finding.²⁰ However, after such inconclusive finding, either parent may file a complaint with the Court to determine paternity, as described below. If the administrative determination establishes the existence or nonexistence of a parent and child relationship, then the mother, the alleged father, or the child's legal guardian may object to the finding by filing a complaint with the Court as described below; provided however that the filing must be made within 30 days after the issuance of such administrative determination. If no such filing is timely made, then the administrative determination is final and enforceable by the Judge,²¹ but subject to, in all events, an action for relief from a paternity determination, as explained at the end of this Information Sheet.

Note: If either parent objects to the CSEA determination, then consider using and filing with the Court form GC Juv 018 (Complaint/Motion – Objection to Administrative Determination). If filed as a complaint (which is required if no proceeding is pending before the Court), then file the complaint together with (1) GC JF 1.0 (Jurisdiction Affidavit), (2) GC JF 7.0 (Instructions for Service), and (3) a filing fee deposit. If filed as a Motion, then file the Motion together with (1) GC JF 7.0 (Instructions for Service) and (2) a filing fee deposit.

Court Order. As an alternative to an administrative procedure discussed above, if the parents of the minor child are not married, then either parent may file a complaint with the Court to establish the parent and child relationship.²² The complaint must name the mother, each man presumed to be the father, each man alleged to be the father, and the minor children. Moreover, CSEA must be notified of the filing. The Judge may appoint separate legal counsel for the minor child.²³ However, with a few exceptions, a complaint to determine the parent and child relationship cannot be filed with the Court unless that person filing the complaint has first made a request for an administrative determination of the parent and child relationship in the manner described above.²⁴ One exception is that the mother may file a complaint with the Court to determine the father and child relationship if the mother also includes in the complaint a request to determine the allocation of parental rights and responsibilities. Likewise, the alleged father may file a complaint with the Court to determine the father and child relationship if the father also includes in the complaint a request to determine the allocation of parental rights and responsibilities.²⁵

Similar to an administrative proceeding, the Judge will promptly order genetic testing to determine the parent and child relationship.²⁶ The person filing the complaint must prepay the cost for genetic testing.²⁷ The Judge may also consider other evidence of paternity.²⁸ Additionally, while the action

¹⁹ R.C. 3111.46

²⁰ R.C. 3111.47

²¹ R.C. 3111.49

²² See R.C. 3111.04

²³ R.C. 3111.07

²⁴ R.C. 3111.381

²⁵ See R.C. 3111.381(B), (C), (D), and (E), for the exceptions

²⁶ R.C. 3111.09

²⁷ R.C. 3111.10

²⁸ R.C. 3111.10

is pending, the Judge, on the Judge's motion or upon motion of any party to the action, may issue a temporary order for the support of the minor children.²⁹

Note: If either parent wants the Judge to determine paternity, child custody, parenting time, or child support rather than CSEA, then consider using and filing with the Court form GC Juv 001 (Complaint For Allocation of Parental Rights and Responsibilities for Care of Children and Parenting Time), together with (1) GC JF 1.0 (Jurisdiction Affidavit), (2) GC JF 2.0 (Parent History Affidavit) for each parent, (3) GC JF 7.0 (Instructions for Service), and (4) a filing fee. Please note that the cost of the genetic testing must be paid by the parties, whereas if CSEA determines paternity, then CSEA will pay the cost of genetic testing.

Additionally, if the father only desires parenting time, then the father could consider using and filing with the Court form GC Juv 026 (Complaint For Parenting/Companionship Time), together with (1) GC JF 1.0 (Jurisdiction Affidavit), (2) GC JF 2.0 (Parent History Affidavit) for each parent, (3) GC JF 7.0 (Instructions for Service), and (4) a filing fee.

Statute of Limitations.

No action to establish paternity may be filed after a child attains the age of 23 years.³⁰ This becomes important for a child who needs to establish paternity in order to have rights of inheritance from the biological father.

Name Change of Minor Child. In a paternity proceeding, if the Court has established the father-child relationship, then the father may request and the Court may change the surname (i.e., the "last name") of a minor child to that of the father's surname if the Court determines the change of surname to be in the best interest of the child.³¹ To determine the best interest of the child the Court shall consider the following factors:

- the effect of the change on the preservation and development of the child's relationship with each parent;
- the identification of the child as part of a family unit;
- the length of time that the child has used a surname;
- the preference of the child if the child is sufficiently mature to express a preference;
- whether the child's surname is different from the surname of the child's residential parent;
- the embarrassment, discomfort, or inconvenience that may result when a child bears a surname different from the residential parent's;
- parental failure to maintain contact with and support of the child; and

²⁹ R.C. 3111.111

³⁰ R.C. 3111.05

³¹ *Bobo v. Jewell*, 38 Ohio St. 3d 330 (1988)

- any other factor relevant to the child's best interest.

Additionally, the probate court has a process to change the name of a minor. See the probate information sheet titled "Name Change and Conform Legal Name."

New Birth Certificate.

After the father and child relationship is established, whether by (1) an acknowledgment of paternity that is final, (2) administrative determination, or (3) court order, upon submission of documentary evidence of such facts to the Department of Health, the Department must issue a new birth certificate. The new birth certificate must have the same overall appearance as that which would have issued if the parents had married before the child's birth. Once the new birth certificate is issued, the original ceases to be a public record. The Department of Health must forward a copy of the new birth certificate to the registrar of vital statistics in the district where the child was born. The original, and all index references to it, must be destroyed, and the new certificate substituted in the same manner as others in the registrar's possession.

Relief from Paternity Determination.

Even after a father and child relationship has been established, by presumption, acknowledgment, court order, or administrative procedure, the man may file a complaint (if no legal proceeding is pending) or motion with the Court (if a legal proceeding is already pending in the Court concerning the minor child) requesting that the Judge grant relief from a final determination of paternity or child support order.³² Except as otherwise provided below, the Judge shall grant such request if all the following apply:³³

- (a) The Court receives genetic test results from a genetic test administered no more than six months before filing the motion for relief that finds that there is a zero per cent probability that the person is the father of the child;
- (b) The person has not adopted the child; and
- (c) The child was not conceived because of artificial insemination.

Note: If either parent wants the Judge to grant relief from a CSEA paternity determination, then consider using and filing with the Court form GC Juv 018 (Complaint/Motion – Objection to Administrative Determination), provided that such filing is made within the time period required by the Ohio Administrative Code. If filed as a complaint (which is required if no proceeding is pending before the Court), then file the complaint together with (1) GC JF 1.0 (Jurisdiction Affidavit), (2) GC JF 7.0 (Instructions for Service), and (3) a filing fee deposit. If filed as a Motion, then file the Motion together with (1) GC JF 7.0 (Instructions for Service) and (2) a filing fee deposit.

Additionally, a man may seek relief from a court order or administrative determination regarding paternity or child support by filing with the Court GC Juv 040 (Complaint/Motion – Relief from Order), together with (1) GC JF 1.0 (Jurisdiction Affidavit) if filed as a

³² R.C. 3119.961

³³ R.C. 3119.962

complaint, (2) GC JF 2.0 (Parent History Affidavit), (3) GC JF 7.0 (Instructions for Service), and (4) a filing fee deposit.

A court may not grant relief from a final judgment, court order or administrative determination or order regarding paternity or child support if the court determines that the man knew he was not the biological father before he signed a Paternity Affidavit or before the Paternity Affidavit became final.³⁴

If the Judge grants relief from a court order that established paternity, then the Judge may issue an order that terminates child support and that cancels any child support arrearage.³⁵ Of course, once the court determines that there is no father and child relationship, the man no longer has any parental rights such as child custody rights or parenting time.

If the establishment of the father and child relationship is final, then CSEA will not provide a genetic test for a father who is seeking relief from the Court of a final paternity determination. The father must arrange for and pay the cost of the genetic test without CSEA assistance. An example would be where the father has signed a Paternity Affidavit and the Paternity Affidavit has not been timely rescinded in accordance with law.³⁶

Criminal Act. Ohio law provides that no person, by using physical harassment or threats of violence against another person, shall interfere with the other person's initiation or continuance of, or attempt to prevent the other person from initiating or continuing, an action to determine paternity.³⁷ A person who acts in that manner can be charged and convicted of a felony in the fifth degree.³⁸

LEGAL PRACTICE IN THE JUVENILE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO AND INDIVIDUALS WHO ARE HANDLING THEIR OWN LEGAL MATTERS. IF AN INDIVIDUAL WISHES TO HANDLE HIS OR HER OWN CASE, THAT PERSON MAY ATTEMPT TO DO SO, HOWEVER DUE TO THE COMPLEXITY OF THE LAW AND THE DESIRE TO AVOID COSTLY ERRORS, MANY PERSONS WHO HAVE MATTERS BEFORE THE COURT ARE REPRESENTED BY AN ATTORNEY.

IF YOU CHOOSE TO REPRESENT YOURSELF AND USE THE COURT'S FORMS, BE AWARE THAT STATE LAW PROHIBITS THE JUDGE, MAGISTRATE, AND EMPLOYEES OF THE GEauga COUNTY JUVENILE COURT, INCLUDING THE HELP CENTER STAFF, FROM PROVIDING YOU WITH LEGAL ADVICE. IF YOU NEED LEGAL ADVICE, THEN YOU SHOULD CONTACT AN ATTORNEY OF YOUR CHOOSING.

³⁴ R.C. 3119.962(B)

³⁵ R.C. 3119.962 and 3119.964

³⁶ R.C. 3111.27

³⁷ R.C. 3119.19

³⁸ R.C. 2919.231(B)