

# Paternity Establishment

A GUIDE TO ADDRESSING FREQUENTLY ASKED QUESTIONS

## WHAT IS PATERNITY ESTABLISHMENT?

### SPECIAL POINTS OF INTEREST:

Children deserve the love and support of both parents. Even if parents do not live together, they need to cooperate and work together to provide for their children.

The purpose of the Child Support Program is to provide children with the opportunity for a better life. By working with both parents to establish and enforce support orders, the Child Support Program helps children receive the financial and medical support ordered for them.

Ohio's Child Support Program touches more children than any other program in Ohio, except Education.

Formed on January 1, 1988, the Child Support Enforcement Agency is a federal, state, and local partnership empowered by the Social Security Act to locate parents, determine paternity, establish support obligations, and collect child support.

The Ohio CSEA Directors' Association is a professional organization dedicated to strengthening Ohio's Child Support Program.

#### During the State Fiscal Year of 2007:

- Statewide collections in Ohio reached just over \$2 billion.
- Ohio has a caseload of over one million, ranking 3rd in the nation affecting over one million children in Ohio.
- 57,179 paternities were established.

Paternity Establishment is the legal determination of fatherhood. Paternity establishment is important for many reasons. For children born outside of marriage, paternity establishment is the essential first step prior to the establishment of a child support or medical support order.

Paternity Establishment has many benefits both to the child and the father such as access to medical histories and the child's ability to qualify for benefits such as social security or veterans benefits that the father may be awarded. In addition, it is the right of both the child and the father to have a parental relationship established.

A man is only presumed to be the father of child unless one of the following occurs: the parties have signed a

Paternity Acknowledgement Affidavit and it has become final or an Administrative or Judicial Order is filed in which neither party objects. The man is then determined to be the father of the child.

If no presumption of paternity exists, or if only a presumption exists, the CSEA can assist in establishing paternity. This can include a situation where a married mother has conceived a child with someone other than her spouse.

Voluntary acknowledgement is when parents acknowledge paternity by completing a notarized form or affidavit at the hospital, local registrar's office, or the Child Support Enforcement Agency. Child Support Enforcement personnel work with local hospitals to facilitate the completion of the

acknowledgements at the hospital when the child is born.

Signing the form, known as an Acknowledgement of Paternity Affidavit, is voluntary. If there is uncertainty about paternity, genetic testing should be requested prior to signing the affidavit. The affidavit cannot be used as an acknowledgement of paternity if another man is legally presumed to be the father due to marriage, as described above, or if there is already an acknowledgement on file.



## HOW MIGHT A VOLUNTARY ACKNOWLEDGEMENT BE RESCINDED?

Either parent may rescind the acknowledgement no later than 60 days after the date of the latest signature by:

- Requesting an administrative parentage determination from the Child Support Enforcement Agency in the county in which the child or legal custodian of the child resides, and
- Obtaining and/or delivering the request to rescind the Acknowledgement of

Paternity Affidavit form (JFS 7029) to the Ohio Department of Job and Family Services, Office of Child Support, Central Paternity Registry. The written notice should include the name of the child, the name of the County Child Support Enforcement Agency, and the date the administrative parentage request was made to the county agency.

The Child Support Enforcement Agency will work

to determine whether or not there is a parent and child relationship between the alleged father and the child.

After the 60-day period, the only way for either parent to rescind the acknowledgement is to bring a private court action to rescind. This must be accomplished within one year after paternity was established. Generally speaking, a court action might be brought on the basis of fraud, duress, or material mistake of fact.

## HOW IS GENETIC TESTING CONDUCTED AT THE CHILD SUPPORT ENFORCEMENT AGENCY?

Genetic testing is generally conducted with buccal (oral, mouth, or cheek) swabs. The DNA specimen is collected by gently rubbing the cheek inside of the mouth with long swabs that look like large q-tips. The DNA test utilized with buccal swab specimens is the

same DNA test utilized with blood specimens. These tests are used in courts throughout the country and are more than 99% accurate.

If a man will not voluntarily acknowledge that he is the father, the

county Child Support Enforcement Agency can order genetic testing. When the resulting tests show that there is a 99% probability that the man is the father, paternity will be established.

## IS THERE LEGISLATION THAT ALLOWS A FATHER TO REQUEST THE COURT TO VACATE A FINDING OF PARENTAGE?

ORC 3119.962 lists conditions for granting relief from a final judgment of paternity. The conditions listed include providing the Court with genetic testing results, from tests administered no more than six months prior to the filing of the Motion, demonstrating a zero percent probability that the person filing the Motion is the father of the child.

The statute provides that even if the person seeking relief signed an acknowledgement of paternity or if the person is the presumed legal father, the person should not be denied the opportunity to file a Motion for relief from a paternity determination based

on the acknowledgement or presumed paternity.

Two recent Court of Appeals decisions held certain legislation to be violations of the constitutional requirement for the separation of legislative and judicial powers. (*Van Dusen v. Van Dusen and Poskarbiewicz v. Poskarbiewicz*)

Generally speaking, a Court is the authorized power to determine if it is in the best interest of a child to vacate a judgment establishing parentage. If such a judgment would be vacated, any support already paid would generally not be recovered, and any arrearage

owed would remain collectable.

County Child Support Enforcement Agencies, whose attorneys represent the state, are expected to contest attempts to disestablish paternity, especially in cases where the child and parent have received benefits from the state.



## IS A PERSON RECEIVING PUBLIC ASSISTANCE REQUIRED TO COOPERATE WITH THE CSEA?

In order to avoid sanctions, a person receiving public assistance is required to cooperate with the Child Support Enforcement Agency in establishing paternity and a support order. There

are exceptions for the claim of “good cause” if establishing an order would cause physical or emotional harm. Such a claim would need to be verified with evidence from a law enforcement

agency, court, medical office, child protective agency, social services agency, or other credible authority.

## WHAT QUESTIONS WILL THE CSEA ASK DURING THE PATERNITY ESTABLISHMENT PROCESS?

Either a mother or a putative father may request services from a Child Support Enforcement Agency. Specific contact and employment information about the mother and alleged father,

as well as specific details about the relationship will be asked. Answers will be documented on a notarized form. Some questions are very personal in nature but are required in the process

of determining the existence or non-existence of a parent and child relationship.

## WHAT PARTY DOES THE CSEA ATTORNEY REPRESENT?

The CSEA attorney represents the State of Ohio. No attorney-client relationship exists between the CSEA attorney and any individual party. The

CSEA attorneys have the responsibility to review cases for litigation, recommend appropriate legal proceedings, conduct pre-trial

negotiation and collection activities, and finalize proceedings and appropriate court orders.

Revised 2/09