

Answers to Your Questions About

Paternity



**Excellence
In
Customer Service
Colorado Judicial Branch
<http://www.courts.state.co.us>**

April 2001

What is the definition of the parent-child relationship?

The parent-child relationship can be established between a child and the natural mother by proof of her having given birth to the child or by any other proof between a child and the natural father or between a child and an adoptive parent by proof of adoption.

Does the relationship between the parent and child depend on the parents' marital status?

No, the legal parent-child relationship exists *regardless* of marital status. The parent and the child relationship extends equally to every child and to every parent.

A man is presumed to be the natural father of a child if:

- He and the child's natural mother are married or have been married to each other and the child is born during the marriage, within 300 days after the marriage is terminated by death, annulment, declaration of invalidity of marriage, dissolution of marriage (divorce) or after a decree of legal separation is entered by the court.
- Before the child's birth, he and the child's natural mother have tried to marry one another by a marriage solemnized in obvious compliance with law, although the attempted marriage is or could be declared invalid, and:
 1. If the attempted marriage could be declared invalid only by the court, the child is born during the attempted marriage or within 300 days after its termination by death, annulment, declaration of invalidity of marriage, dissolution of marriage (divorce); **OR**
 2. If the attempted marriage is invalid with a court order, the child is born within 300 days after you stop living together.
- After the child's birth, he and the child's natural mother have married, or tried to marry, each other by a marriage solemnized in obvious compliance with law, although the attempted marriage is or could be declared invalid; and
 1. He has acknowledged his paternity of the child in writing filed with the court or registrar of vital statistics, if this acknowledgment has not previously become a legal finding.
 2. With his consent, he is named as the child's father on the child's birth certificate.
 3. He is obligated to support the child under a written voluntary promise or by court order or by an administrative order.
- While the child is under the age of majority, he receives the child into his home and openly holds out the child as his natural child.
- He acknowledges his paternity of the child in writing filed with the court or registrar of vital statistics. In addition, the mother does not dispute that claim within a reasonable amount of time, and any man presumed to be the father gives his written consent.
- He undergoes genetic or other tests of inherited characteristics by a court-approved agency, and these tests show that there is a 97 percent or higher likelihood that he is the father.

How is the relationship between the biological mother and the child determined?

This relationship can be determined with:

- A birth certificate or similar documentation proving that she gave birth to that child.
- Any proof listed under the father-child relationship.

Who may bring legal action in a paternity case?

- The child.
- The natural mother.
- The man **presumed to be the father**.
- The State of Colorado.
- The Colorado Department of Human Services.
- A county department of social services.

When can they bring legal action?*

- At any time to prove a parent-child relationship.
- To prove that a man is not the father of the child, but **only** if the action is brought within a reasonable amount of time after obtaining knowledge of relevant facts. However, this **cannot** be done more than **five years** after the child's birth.
- The filing party **must** disclose any restraining orders against either party **within 90 days prior** to the paternity action.

What is the time frame for establishing paternity?

An action to determine the existence of the father and child relationship can be brought at any time before the child's 18th birthday by the mother or the father of said child, by the child, or by the delegate child support enforcement agency.

The child support enforcement agency can bring an action on behalf of the said child at any time before the child's 21st birthday, if the statute of limitations in affect at the time of the child's birth was less than 18 years. A child can bring an action any time before his or her 21st birthday.

What evidence is used in paternity cases to prove the existence of a parent-child relationship?

- Evidence of sexual intercourse between the mother and the alleged father at any possible time of conception.
- An expert's opinion concerning the statistical probability of the father's paternity based on the duration of the mother's pregnancy.
- Blood tests or other tests of inherited characteristics.
- Medical or anthropological evidence.
- Genetic tests.
- Any other evidence relevant to paternity cases.

What is the court process in a paternity case?

- An informal hearing will be held if it is determined by the court to be in the child's best interests. The court can order that the hearing be held before a magistrate.
- The court may determine that it is in the best interest of any of the parties to the case for the hearing not to be open to the public.
- A record of what happens at this hearing will be kept if any party requests so or the court orders that a record be kept.
- If any witness refuses to testify, the court can order the witness to testify and produce evidence related to all relevant facts to the case. The refusal of a witness who has been granted immunity to obey to testify or produce evidence is a civil contempt of the court.
- Any party may seek a restraining order or injunction. Also, any party can seek temporary orders as to custody, parenting time, and support once the court enters an order determining the existence of the parent and child relationship. NOTE: Issues of temporary custody, parenting time, and support are decided under a different set of criteria established by Colorado law.

This brochure is published as a public service by the Colorado Judicial Branch. For more information, call the courthouse in your community.