

**LEGAL****REQUIREMENTS**

42 USC 666(a)(5)  
45 CFR 302.31  
45 CFR 302.33  
45 CFR 302.36  
45 CFR 302.70  
45 CFR 303.5  
45 CFR 303.7  
MCL 333.2824  
MCL 333.21532  
MCL 552.1101 - 552.1901  
MCL 600.705  
MCL 722.711-722.730  
MCL 722.1001 - 722.1013

**FEDERAL**

Regulations and law require states to:

- Attempt to establish paternity and secure support in IV-D cases on behalf of children born out-of-wedlock.
- Establish paternity of children under the age of 18.
- Attempt to establish paternity within 90 calendar days from the date of locating the alleged father, **or** provide documentation of unsuccessful attempts to serve process in accordance with the state's guidelines.
- Provide paternity establishment services on an interstate basis using:
  1. Long arm jurisdiction where minimum contacts can be established (use long arm whenever possible) as defined in UIFSA (Uniform Interstate Family Support Act) or RJA (Revised JUDICATURE Act), **or**
  2. UIFSA or RJA where long arm jurisdiction cannot be used, and the respondent is under the jurisdiction of the UIFSA state.
- Adopt laws and procedures for voluntary acknowledgment of paternity in birthing hospitals.
- Recognize paternity acknowledgment as a basis for seeking a support order without further proceedings to establish paternity.
- Prosecuting Attorney or Friend of the Court must provide services to the petitioner or respondent in proceedings under UIFSA (MCL 552.1312). The petitioner or the respondent may request services in the context of establishment of an order, enforcement or review of an order, or a modification of that order.

- Give full faith and credit to a determination of paternity made by another state whether established through voluntary acknowledgment, administrative, **or** judicial processes.

**STATE**

The primary means of establishing paternity when the child and putative father live in Michigan are through:

- A voluntary Affidavit of Parentage completed and filed according to the Acknowledgment of Parentage Act, **or**
- A court order under the Paternity Act.

The Public Health Code mandates that all birthing hospitals offer the opportunity to acknowledge paternity to unwed parents as part of the birth registration process.

The Acknowledgment of Parentage Act states that:

- An Affidavit of Parentage is valid and effective if signed by the mother and father and those signatures are notarized by a notary public authorized by the state in which the affidavit is signed.
- A completed and notarized affidavit establishes paternity and the affidavit may be the basis for court ordered child support, custody, or parenting time without further adjudication under the Paternity Act.
- A minor parent may sign an affidavit with the same effect as if they were of legal age.
- After a mother and father sign an affidavit, the mother is presumed to have custody of the minor child unless otherwise determined by the court or agreed upon by the parties in writing.
- The mother or the man who signed the affidavit, the child who is the subject of the affidavit, or a Prosecuting Attorney may file a claim for revocation of an affidavit.

The Paternity Act:

- states that an action to determine paternity cannot be brought under this act if paternity was established under the Acknowledgment of Parentage Act or under the law of another state;
- eliminates the opportunity for either party to request a trial by jury;
- states that the court may order recoupment of genetic testing expenses from the father if paternity is established. Documentation of these expenses is admissible without foundation testimony and constitutes prima facie evidence of costs.

**CASE EVALUATION** Evaluate the need for paternity services at:

- application, **or**
- upon receipt of a referral for IV-D services, **or**
- when changes in circumstances occur.

## **ESTABLISHING PATERNITY**

Attempt to obtain a voluntary Affidavit of Parentage for:

- all IV-D clients who had a child born out of wedlock and the child is under the age of 18, (See the section on Exceptions).
- putative fathers requesting assistance in establishing paternity. See Item 110 - IV-D Eligibility.

Consider the marital status of the mother in determining whether establishing paternity is necessary in a IV-D case.

Initiate action to establish paternity in the following situations:

- The mother was not married from conception to the birth of a child "born out of wedlock."
- A court of competent jurisdiction has determined that a child born or conceived during a marriage is not the issue of a marriage.

Determine whether the case should be referred to the Prosecuting Attorney under UIFSA, or the Paternity Act using long arm jurisdiction.

Action to establish paternity need not be taken in cases:

- involving incest or forcible rape or in any case in which legal proceedings for adoption are pending; **and**
- when action is not in the best interest of the child.

Paternity action **may** be suspended for cases where the mother and putative father do not voluntarily acknowledge paternity and the putative father is not currently able to pay support due to incapacity, incarceration, or institutionalization.

Action must be suspended or terminated when required by policy in Item 150 - Good Cause for Not Cooperating.

Record in a reminder file the date and anticipated change in circumstances for suspended cases. Re-evaluate the potential for action at that time.

## CLASSIFYING CHILDREN

The CSES application provides for tracking of certain paternity information. Enter information on the IV-D Basic Maintenance (IVD BASS) Screen. The following fields are part of the Child Group:

\*W - This field is used to indicate if the child was born out of wedlock.

\*P - This field is used to indicate paternity has been established for a child born out of wedlock.

Use the following procedures for classifying children on the IVD BASS screen.

1. Determine if the child under the age of 18 was born out of wedlock.
2. Enter/change data in the fields as follows:

Born out of wedlock.

Enter: - "Y" (Yes), or  
- "N" (No)

Paternity established

Enter: - " Y" (Yes), or  
- "N" (No, paternity not established yet) or  
- Leave blank (child has not been coded)

## DEFINITION OF CHILD "BORN OUT OF WEDLOCK"

The Paternity Act defines a child born out of wedlock as "a child begotten and born to a woman who was not married from the conception to the date of birth of the child, **or** a child that the court **has determined** to be a child born or conceived during a marriage but not the issue of that marriage."

Both spouses are presumed to be the natural and legal parents of the child **if** the child is born **or** conceived during the marriage. This legal relationship exists unless a court of competent jurisdiction rules that the child is not an issue of the marriage.

## TIMEFRAMES

Initiate referrals for paternity and/or support order establishment within federal timeframes specified in Item 200--Court Action Referrals.

## SAFEGUARDING INFORMATION

Inform the client that the Affidavit of Parentage is a legal public document and that her address appears on the affidavit and the putative father will receive a copy of the signed and notarized affidavit. See Item 500--Safeguarding Records.

**PATERNITY  
VERIFICATION**

Search the Michigan Central Paternity Registry (CPR), call the Probate Court, or call the other state's paternity data base for verification of paternity establishment on a IV-D case. The CPR was set up for OCS to verify paternity establishment for the sole purpose of pursuing child support. Provide paternity services in cases where a child is under the age of 18 and paternity is at issue.

Accessing the CPR requires a case number. Use the FIA case number if it exists or the CSES case number.

The Central Paternity Registry data base contains:

- Acknowledgments filed with birth certificates since 1989.
- Hospital acknowledgments filed since January 1994.
- ALL acknowledgments completed after June 1, 1997.
- ALL Notices of Order of Filiation after January 1, 1997.

Refer to Item 500 on Safeguarding Records for use of information in the Central Paternity Registry.

The affidavits on file at the Department of Community Health (DCH) from 1989 through May 31, 1997 will not be available to the public. These records will be identified by the system and include the statement "Confidential -- For Administrative Use - Not for Distribution" on screens and printouts.

**Note:** The Probate Courts may have on file affidavits not meeting criteria for Central Paternity Registry data base.

Requests for certified copies of affidavits filed prior to 1989 should be directed to the Probate Court of jurisdiction.

**Note:** Request certified copies of affidavits for contested cases only. OCS monitors requests for certified copies.

Take the following actions on original affidavits completed and signed prior to June 1997 but not filed with the Probate Court:

1. Attempt to file the original affidavit in the Probate Court in the mother's county of residence.
2. Send the original affidavit to the Central Paternity Registry, Department of Community Health for filing if the Probate Court refuses to file the affidavit.
3. Use the affidavit as evidence of paternity.

**Note:** Orders of Filiation are recorded in the CPR starting June 1, 1997. The Circuit Court or the County Clerk send all Orders of Filiation

to the Central Paternity Registry, DCH. The Order of Filiation has a \$35 fee. The birth certificate will not be changed to reflect the Order of Filiation if the party does not pay the \$35 fee. The Order of Filiation information will be recorded into the CPR regardless of whether the fee was paid. If the party pays the fee, the birth certificate will be changed. The court must indicate to the DCH which party should receive the changed birth certificate and provide the name and address of that individual. If the court does not provide this information, a corrected copy is not issued. This record is changed at DCH only. The party will have to pay a fee to get a copy of the birth certificate if they request a copy at a later date.

**Multiple Affidavits**

All properly completed affidavits sent to DCH are entered into the CPR. Take the following steps when multiple affidavits are found on the same child:

1. Refer cases with multiple affidavits to the Prosecuting Attorney for determination.
2. Use the affidavit containing the signature of the biological father as determined in court proceedings to make the support referral.
3. Ask the Prosecuting Attorney to file a claim for revocation on the additional affidavit(s) for that child according to procedures in MCL 722.1011.

**Note:** Notice of Order of Filiation supersedes the Affidavit of Parentage form(s).

**CORRECTIONS TO  
THE CENTRAL  
PATERNITY  
REGISTRY**

Information in the CPR should be identical to information on the affidavit.

Copy affidavits that contain different information than the CPR. Identify differing information. Mail copy to CPR for investigation and correction in the CPR, if appropriate. The CPR address is as follows:

Central Paternity Registry  
Division of the Registrar  
MI Department of Community Health  
3423 N. M.L. King Blvd.  
Lansing, MI 48909

**CASE  
INFORMATION**

Obtain information regarding the putative father. The information can be obtained through an interview, or if the Prosecuting Attorney requires,

provide a paternity questionnaire for the client to complete. See Exhibit 1 for sample of a Paternity Questionnaire (FIA-4610).

Assist the client in determining the timeframes during which conception occurred and with whom she was having sexual relations when she became pregnant.

Ask questions designed to obtain definite and non-evasive answers.

Provide services to locate a putative father when necessary.

Use the case information to initiate a referral to the Prosecuting Attorney and to begin additional paternity referrals, if a blood test exclusion for the primary putative father results.

## METHODS OF ESTABLISHING PATERNITY

There are two methods for establishing paternity for unwed parents. They are:

- Voluntary acknowledgment, **or**
- Court order

## VOLUNTARY ACKNOWLEDGMENT

Obtain an Affidavit of Parentage form from a mother and putative father who are willing to voluntarily acknowledge paternity. The Affidavit of Parentage is executed under the Acknowledgment of Parentage Act any time during the lifetime of the child.

## Parents' Rights & Responsibilities

Explain and provide **all** unwed parents with the brochure ("What Every Parent Should Know About Establishing Paternity" -- FIA Pub 780) which explains their rights and responsibilities prior to signing the Affidavit of Parentage.

**Note:** The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 requires that the mother and father be given notice orally and in writing on the consequences, and rights and responsibilities that arise from signing the Affidavit of Parentage form.

The mother and father waive the following rights by signing the Affidavit of Parentage:

- Their right to blood or genetic testing to determine if the man is the biological father of the child;
- Any right to a court-appointed attorney, including the PA, to represent either party in a court action to determine if the man is the biological father of the child; and

- the right to a trial to determine if the man is the biological father of the child.

### Affidavit Form

Use Form B-229 -- Affidavit of Parentage or a computer generated facsimile (CSES + version approved by DCH) for unwed parents to voluntarily acknowledge paternity under the Acknowledgment of Parentage Act. The B-229 with a revision date of 1/97 must be used. See Exhibit 2 for a sample of the affidavit form and instructions on completing the form.

The following items must be completed on the Affidavit of Parentage form to be accepted by DCH and filed in the CPR.

- Name of child at birth
- Child's birth place
- Child's date of birth
- Mother's name
- Mother's state of birth
- Father's name
- Father's state of birth
- Signatures of mother and father
- Signature of notary
- Date signed, date notary expires

**Note:** Affidavits completed outside the hospital setting do not change the birth certificate. Unwed parents completing the affidavit outside the hospital and wanting the father's name to appear on the birth certificate should:

- Complete an Application to Name a Father on a Michigan Birth Record --B-79b (Community Health Form). This form is available at Local Registrar's offices or by calling the CPR at 517-335-8656 and leaving the name, address, and telephone number on voice mail.
- Get a certified copy of an affidavit filed PRIOR to June 1, 1997 from the Probate Court.

**Note:** The Department of Community Health receives all original affidavits filed after June 1, 1997. Therefore, it is NOT necessary to send a certified copy of affidavits filed after June 1, 1997.

Make a note on the Application that the affidavit was completed after June 1, 1997 so that Community Health can verify the recording in the Central Paternity Registry. (The Affidavit of Parentage form should be submitted to DCH several weeks prior to submitting the application to change the birth certificate so that there is time for the affidavit to be entered into the CPR).

- Pay the required fee (currently \$26.00. This fee includes a certified copy of the replacement record.) and

- Submit all these items to:

Division of the Registrar  
 MI Dept of Community Health  
 3423 North M. L. King Street  
 POB 30195  
 Lansing, MI 48909

### Form Distribution

Forward the completed original affidavit form to the Central Paternity Registry for recording.

Central Paternity Registry  
 Division of the Registrar  
 MI Dept. of Community Health  
 3423 North M. L. King Blvd.  
 Lansing, MI 48909

**Note:** Starting June 1, 1997 Probate Courts will no longer receive Affidavit of Parentage forms. Probate Courts will retain and be responsible for affidavits filed prior to June 1, 1997.

Provide the mother and father with a copy of the completed affidavit at the time of signing.

Retain a copy of the affidavit for FIA records.

Upon completion of the affidavit, refer the case to the Prosecuting Attorney for support action, when appropriate.

### Minor Parents

Provide paternity services to minor mothers and/or fathers.

**Note:** A minor parent may sign an Affidavit of Parentage form with the same effect as if they were of legal age.

### Claim for Revocation

The Acknowledgment of Parentage Act, effective June 1, 1997, allows the mother, the man who signed the acknowledgment, the child or Prosecuting Attorney to file a claim for revocation.

A claim for revocation can be filed either as:

- Original action in the Circuit Court of the county where either the mother or man resides. If neither party lives in this state, file the claim in the county where the child resides.
- Motion in an existing action for child support, custody or parenting time in the county where the action is and all provisions in this act apply as if it were an original action.

A claim for revocation must be supported by a signed affidavit with facts that constitute one of the following:

- Mistake of fact,
- Newly discovered evidence that by due diligence could not have been found before the acknowledgment was signed,
- Fraud,
- Misrepresentation or misconduct,
- Duress in signing the acknowledgment.

The court will decide what further action is necessary.

The Clerk of the Court forwards a copy of the Order of Revocation to the State Registrar. The State Registrar vacates the acknowledgment and may amend the birth certificate as prescribed by the Order of Revocation.

## **COURT ORDERED PATERNITY**

Initiate a paternity referral to the Prosecuting Attorney on problem cases.

### **Referrals for Paternity**

Forward a paternity referral to the Prosecuting Attorney when:

- The mother and/or putative father refuse to complete and file an Affidavit of Parentage under the Acknowledgment of Parentage Act.
- More than one putative father is named.
- A voluntary Affidavit of Parentage was not obtainable on an out-of-state request.

### **Referrals for Support**

Forward a support referral to the Prosecuting Attorney when:

- Paternity has been established, either voluntarily or through court order.
- There is a legal father through a marriage, unless a court has declared him not the legal father of said child.

### **Methods of Referral**

Use the Court Action Referral (see Item 200) for referring paternity and/or child support requests to the Prosecuting Attorney. Referrals may be generated using CSES.

Identify a referral type code when referring a case to the Prosecuting Attorney through CSES. The following referral codes are applicable to cases discussed in this item:

- DM (Divorce) - referrals to intervene in Michigan divorce actions when the status of a child born or conceived during the marriage is at issue;
- DP (Paternity) - referrals to establish paternity and a support obligation when the putative father lives in Michigan or Michigan retains long arm jurisdiction.
- UI (UIFSA Initiation) - all support and paternity establishment proceedings outgoing to another state under the Uniform Interstate Family Support Act. The UI code should be used when the respondent is under the jurisdiction of a another state.

**Note:** Until the UI code is available on CSES, use the OT (Other Type) code. Under the "comment" section indicate which code should really have been used.

- DS (Family Support) or DZ (Status of Minors) - referrals to establish a support obligation when:
  - Parents are not married, but a voluntary acknowledgment of paternity has been completed and filed with the probate court prior to June 1997 or the Office of the State Registrar, Department of Community Health after June 1, 1997; **or**
  - Parents are married, but no divorce or separation proceedings have been started.

## OUT-OF-STATE ACKNOWLEDG- MENTS

Search the Michigan Central Paternity Registry, the Probate Court, or call the other state's paternity data base to verify that paternity has been established when indicated by the client. Provide paternity services in cases where a child is under the age of 18 and paternity is at issue.

Give full faith and credit to a determination of paternity made by another state, whether established through that state's voluntary acknowledgment, administrative, or judicial processes.

Refer the case to the Prosecuting Attorney for support action, if applicable.

## ORDERING FORMS

Order the affidavit and brochure on parent's rights and responsibilities following instructions for stocked items in Appendix 1 -- the Forms & Publication Section.