

# Colorado Legal Services

Legal help for low-income Coloradans seeking assistance with civil legal needs

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What is Paternity a

## What is Paternity and How Do I Establish It in Colorado?

### **How do I establish paternity?**

If you were married at the time of the baby's birth, or if your baby was born within 300 days after your marriage ended, your husband is presumed by law to be the father. If paternity testing excludes your husband, the child's suspected father will either admit paternity or be tested; if test results don't exclude this person, he can be named as the father.

For more information, go to the Colorado Child Support Services website [by clicking here](#).

### **What if I was NOT married when my child was born?**

The father of the child can agree that he is the father and sign an affidavit stating that he is the father. The father can consent to being named as the baby's father on the child's birth certificate. If the father of the child refuses to sign the affidavit, or if you were married to someone other than the father when you became pregnant or when the child was born, the court will have to decide. If you are able, talk with an attorney if you are in this situation. You can find an attorney on the Colorado Bar Association website [here](#). Follow the instructions, and if you need to find an attorney who may give you a free consultation, or offer a lower price during the process select "My Family", "I want to prove or disprove a child's father", enter the state and city where you live, and on the next screen "Select Payment Options" choose "Sliding Scale Based on Income", "Unbundled Services" and "Free Initial Consultation". Once you get the list of attorneys you can contact, ask them for details about all of the above options.

### **What if I am not sure who the father is or if my child's father refuses to admit he is the father?**

Contact your county Department of Social Services office by [clicking here](#).

They will help you find out what action is necessary to establish paternity. They will probably need to serve the father with legal papers naming him as the father and asking for child support. Cases can be brought in the county where the child or the father lives, where public assistance has been provided for the child, or where a probate case is being heard (if the father is deceased).

A man who has had sexual intercourse in the State of Colorado is presumed to have submitted to the jurisdiction of Colorado courts to hear a paternity case. The alleged father will have the right to obtain paternity DNA testing. After reviewing the results of paternity DNA tests with results of 97% or higher, a child's father will often admit to paternity. If that happens, an order may then be signed by the court without the need for a court hearing. A man must fight his designation as a child's father within 5 years of the child's birth.

A child can bring a paternity action, if paternity has not been determined, before the child becomes 21 years old.

### **What are paternity DNA tests?**

These are genetic tests which compare many different markers in the possible father's DNA with similar markers of the mother's and the child's DNA. The DNA can be collected by specific county Department of Social Services offices, a hospital or other medical facility.

The test results will either provide an almost 100% certainty that a man is your child's father, or show that he is not your child's father. These tests are accepted as proof in a court case to determine paternity.

### **What if I think I am a child's father, but the child's mother does not agree?**

You have the right to know if you are the father of a child. Contact your county Department of Social Services office by [clicking here](#), or the office serving the county where the child's mother lives. They will help you find out what action is necessary to establish paternity. Ask about the fee to establish paternity.

If you are the father, you will be required to repay the state for the cost of paternity test. Ask about the cost of the paternity test.

### **Who has custody of the child after paternity is determined?**

Establishing paternity does not equal getting custody. You will get a child support order, but custody and parenting time (visitation) orders are not handled by Social Services in the paternity action. If you can, talk to an attorney about this.

You can find an attorney on the Colorado Bar Association website [here](#). Follow the instructions, and if you need to find an attorney who may give you a free consultation, or offer a lower price during the process select "My Family", "I want to prove or disprove a child's father", enter the state and city where you live, and on the next screen "Select Payment Options" choose "Sliding Scale Based on Income", "Unbundled Services" and "Free Initial Consultation". Once you get the list of attorneys you can contact, ask them for details about all of the above options.

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