

## Paternity Establishment and Legitimation Frequently Asked Questions

### **PATERNITY ESTABLISHMENT:**

**Question:** What is “paternity establishment”?

**Answer:** Establishes the biological condition of being a father

**Question:** How is paternity “legally” established?

**Answer:** Establishing paternity for a child in Georgia may be done in one of the following ways:

1. The child’s parents are legally married to each other at the time of the child’s birth;
2. Unwed parents sign a **Paternity Acknowledgment Form**
  - 2.1. At the hospital when the child is born, or later at either
  - 2.2. The State Office of Vital Records in Atlanta or
  - 2.3. The Vital Records Office in the county where the child was born;  
**NOTE:** in some counties, the Paternity Acknowledgment Forms are processed at the Probate Court Office rather than the Vital Records Office.
  - 2.4. Effective July 1, 2008, parents may complete the PA form anywhere as long as a Notary Public witnesses their signatures. It is then the responsibility of the parents to submit the original PA document to the State Office of Vital Records for filing.
3. Court order, (divorce decree, separation agreement, or other judicial or administrative order).

**Question:** The mother of the child is married; however the biological father of the child is not her husband. How can they prove the biological father is the legal father?

**Answer:** Georgia law presumes the husband to be the biological father of the child. For legal advice regarding this issue, please contact an attorney.

**Question:** The mother of my child is deceased, and paternity has not been established. How can I establish paternity for my child?

**Answer:** Genetic testing labs typically offer “motherless” parentage testing. You should discuss this option with the laboratory.

### **DNA/PATERNITY TESTING**

**Question:** Whom do I contact to arrange for DNA testing to be sure I’m the child’s father?

**Answer:** If you have a case with the Division of Child Support Services in Georgia, contact an agent to discuss parentage testing.

If you have a case with a Child Support Office in a state other than Georgia, contact that office to discuss parentage testing.

If you do not have a case with Child Support and want to arrange for independent testing, there are several labs and clinics that perform parentage testing. You may search telephone listings or search for labs on the Internet. When deciding which lab to use, you should review the laboratory’s credentials to ensure that it is accredited by the American Association of Blood Banks (AABB).

You may also contact the Paternity Program at 1.866.296.8262 or 706.721.7001 for a listing of DNA labs.

**Question:** What is the cost of a DNA test to determine parentage?

**Answer:** Costs vary, depending on the lab you choose. If you have a case with the Georgia Division of Child Support Services Division (DCSS) and DNA testing is scheduled through them, there is no initial cost for the testing. If the test results

indicate the father cannot be excluded as the child's biological father, the DCSS must then be reimbursed for the tests at a rate of \$31.00 per person. Costs for three people (mother, father, and child) total \$93.00 when scheduled through the Georgia DCSS.

**Question:** What happens after I receive the results of the genetic test?

**Answer:** **If a court case has been initiated and is pending the results of the test...**

Your legal representative OR the DCSS will proceed with the court case in one of the following ways:

**1. If the test results show you are not the biological father of the child...**

A court order will be presented to the court asking for dismissal of the court case because genetic testing has excluded you as the father.

**2. If the test results shows you cannot be excluded as the biological father of the child...**

You will be contacted and given the opportunity to sign a consent court order establishing paternity and resolving other issues that may have been included in the petition to establish the court case.

You will be notified of the time and place for a court hearing to resolve the issues included in the petition to establish the court case.

**3. If no court case is pending....**

If you, the mother and the child voluntarily had paternity testing, and no other party(ies) are involved, any resulting action is your decision. You may petition the Superior Court to establish paternity and/or legitimate the child based on the parentage testing, or you may decide not to pursue a court order.

OR

You may decide to voluntarily acknowledge paternity and legitimate the child by signing a **Paternity Acknowledgment Form**. (See section in this handout on voluntarily establishing paternity by completing a "PA" form immediately following this section.)

**Note: Parents of a child born out of wedlock may sign a PA form to establish paternity for their child at any time – there is no time limit. Effective July 1, 2008, voluntary legitimation of a child born out of wedlock must be done before the child's first birthday [O.C.G.A. § 19-7-21(a)(b)]. After the child's first birthday, legitimation must be addressed by a judicial action in the Superior Court unless the child's parents marry each other after the child is born.**

## **VOLUNTARILY ESTABLISHING PATERNITY BY COMPLETING A "PATERNITY ACKNOWLEDGMENT (PA) FORM"**

**Question:** Is Voluntary Paternity Establishment legal?

**Answer:** "... When both the mother and father have signed a voluntary acknowledgment of paternity and the acknowledgment is recorded in the putative father registry established ... the acknowledgment shall constitute a legal determination of paternity [O.C.G.A. § 19-7-46.1(b)].

**Question:** Where can I obtain a **Paternity Acknowledgment form**?

**Answer:** **Paternity Acknowledgment forms** are provided in birthing hospitals at the time of a child's birth to unmarried parents. The forms are also available at (1) State Office of Vital Records in Atlanta; (2) county Vital Records office or the Probate Court in the county of the child's birth; (3) Telephone the Paternity Hotline at

706.721.7001 or 1.866.296.8262 and a form with instructions will be mailed to you.

**Question:** How do I locate a [local Vital Records Office](#)?

**Answer:** Press the “Ctrl” button on your computer keyboard and click on the link above or go to <http://www.vitalrec.com/>.

**Question:** What does signing a Paternity Acknowledgment (PA) form mean?

**Answer:** There are two sections on the PA form. The top section must be completed and signed by both parents to establish paternity for the child and to name the child. Each parent’s signature must be notarized.

The bottom section must be signed and dated by both parents if they wish to “legitimate” the child in addition to establishing paternity.

The Notary Public must witness both the parents’ signatures on the top portion of the document (Paternity Establishment) and the bottom portion (Legitimation), if the parents elect to voluntarily legitimate their child.

**Note: Parents of a child born out of wedlock may sign a PA form to establish paternity for their child at any time – there is no time limit. Effective July 1, 2008, voluntary legitimation of a child born out of wedlock must be done before the child’s first birthday [O.C.G.A. § 19-7-21(a)(b)]. After the child’s first birthday, legitimation must be addressed by a judicial action in the Superior Court unless the child’s parents marry each other after the child is born.**

**Question:** What does it mean to “legitimate” my child?

**Answer:** The meaning of “legitimation” varies from state to state depending on the state’s individual “legitimation” laws.

In Georgia, a child cannot inherit or receive certain benefits from the father if he is not “legitimate.”

Additionally, a father cannot petition a court for custody and visitation rights unless the child has been “legitimated.” A father CAN include all three issues (legitimation, custody and visitation) in the same court petition. However, a father cannot petition a court for only custody and visitation rights if the child is not legitimate.

**Question:** How can I get a copy of the signed Paternity Acknowledgment form?

**Answer:** The facility that processes your signed Paternity Acknowledgment form (birthing hospital, local Vital Records Office, County Probate Court, or State Office of Vital Records) usually provides each parent with an unofficial copy of the signed document. .

**Question:** When my baby is born, the father will be in jail, but he wants to sign the **Paternity Acknowledgment form**. How can we get this done?

**Answer:** Some birthing hospitals will assist in this process if the father is in a nearby, local jail. If the hospital does not assist in this process, you may obtain a **Paternity Acknowledgment form** from a [local Vital Records Office](#), a Probate Court Office, the [State Office of Vital Records](#), or the Paternity Unit (706-721-7001 or 1-866-296-8262). You may then take the form to the jail where both you and the father should sign the form.

**Remember:** A Notary Public must witness both the mother and father’s signatures if the form is completed anywhere other than a hospital or Vital Records Office/Probate Court.

Another option is for you and the father to go to the State Office of Vital Records in Atlanta or the Vital Records Office or Probate Court in the county of the child’s birth after he is released from jail.

**Question:** Does the **Paternity Acknowledgment Form** have to be notarized?  
**Answer:** Yes, parents' signatures must be notarized.

**Question:** What documents are the father and mother required to produce in order to sign a **Paternity Acknowledgment Form**?  
**Answer:** A valid picture identification such as a drivers license, state ID from any state, school, work, military, or foreign identification.

**Question:** Is there a time frame in which to complete a **Paternity Acknowledgment Form**?  
**Answer:** Unwed parents can complete the top portion of the PA form (to establish paternity) at any time and send to the State Office of Vital Records for filing. The "child" can be an adult of any age.  
However, effective July 1, 2008, the bottom portion of the PA form (to voluntarily legitimate the child) must be completed and submitted to the State Office of Vital Records prior to the child's first birthday [O.C.G.A. § 19-7-21(a)(b)]. After the child's first birthday, legitimation must be addressed by a judicial action in the Superior Court unless the child's parents marry each other after the child is born.

**Question:** What is the cost for filing the **Paternity Acknowledgment Form**?  
**Answer:** There is no cost if the form is completed at the hospital at the time of the child's birth or if the form is completed and submitted to the State Office of Vital Records by the child's first birthday. After the child's first birthday, the fee is \$10.00.

## RESCINDING THE PATERNITY ACKNOWLEDGMENT FORM

**Question:** What is a **Rescission Form**?  
**Answer:** Both the mother and father have 60 days from the date they signed the **Paternity Acknowledgment Form** to change their mind about administratively establishing paternity for their child. Either the mother or father may submit a completed **Rescission Form** to the State Office of Vital Records to cancel the **Paternity Acknowledgment**. **Note: A rescission will not cause a change to the birth certificate.**

**Question:** Where can I get a rescission form?  
**Answer:** From the [State Office of Vital Records](#), [local Vital Records Office](#), (click the links) and Probate Court Offices.

**Question:** What happens when I submit a Rescission Form within 60 days of signing the **Paternity Acknowledgment**?  
**Answer:** two things happen:  
1. The Paternity Acknowledgment is voided;  
2. The father's name is removed from the Putative Father Registry.

## FATHER'S RIGHTS

**Question:** What rights does a father have if he signs a Voluntary **Paternity Acknowledgment Form**?  
**Answer:** The only right that results from signing a **Paternity Acknowledgment Form** is the father's right to be notified of a pending adoption. Additional father's rights (such as visitation and custody) must be addressed in a Superior Court.

## CHILD SUPPORT, CUSTODY AND VISITATION ISSUES

**Question:** If genetic tests show that I cannot be excluded as the child's father, do I automatically have visitation rights and have the same custody rights as the mother?

**Answer:** No. Georgia law requires that a child be legitimated by the father before the father can request custody and visitation rights through the court system.

**Question:** Who has custody of the child after both parents sign the Paternity Acknowledgment form?

**Answer:** **O.C.G.A. § 19-7-22(g)(1):** "... Custody of the child shall remain in the mother unless or until a court order is entered addressing the issue of custody. ..."  
**O.C.G.A. § 19-7-25:** Only the mother of a child born out of wedlock is entitled to his custody, unless the father legitimates him as provided in Code Section 19-7-22. Otherwise, the mother may exercise all parental power over the child.

**Question:** The dad signed the **Paternity Acknowledgment form** and now wants custody of the child. What should he do to obtain legal custody of the child?

**Answer:** a) If the father signed the legitimation section of the **Paternity Acknowledgment Form**, his next action would be to file a petition with a Superior Court to obtain legal custody of the child.  
b) If the father did not sign the legitimation section of the **Paternity Acknowledgment Form**, his next action would be to file a petition with a Superior Court to legitimate the child and obtain legal custody.

## NAMING THE CHILD

**Question:** Can the mother identify her child's surname (last name) as anything she wants on the birth certificate if she is divorced separated or her marriage was annulled?

**Answer:** OCGA 31-10-9 states: (1) If the mother was married either at the time of conception or at the time of birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court having jurisdiction, in which case the name of the father as determined by the court shall be entered;

(2) If the mother is not married at either the time of conception or at the time of birth, the name of the putative father shall not be entered on the certificate of birth without the written consent of the mother and the person to be named as father;

(3) In any case in which paternity of a child is determined by a court of competent jurisdiction, the name of the father and the surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court;

(4) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate; or

**(5) Except as provided in paragraph (3) of this subsection, in all other cases, the surname of the child shall be the legal surname of the mother at the time of the birth entered on the certificate as designated by the mother.** When a paternity acknowledgment is completed, the surname of the child shall be entered as designated by both parents.

**Question:** If a mother is single and has never been married, can she name the child any last name she wants?

**Answer:** See above.

**Question:** If both parents sign the **Paternity Acknowledgment form**, can the child have the father's last name on the birth certificate?

**Answer:** Yes. The **Paternity Acknowledgment form** has a place for the child's name. The child's name can be whatever both parents agree to. If the **Paternity Acknowledgment form** is completed after the birth certificate information is sent to Vital Records by the birthing hospital, the State Office of Vital Records will update the child's birth certificate with the name specified on the **Paternity Acknowledgment form**.

**Question:** If a mother or father signs a Rescission Form within 60 days after signing the Paternity Acknowledgment (PA) form, will this change the child's last name on the birth certificate?

**Answer:** No. A court order will be required to change the birth certificate.

**Question:** Who has the final word on naming the child?

**Answer:** If the parents are not married to each other, and a **Paternity Acknowledgment form** is completed, both parents must agree to the child's name listed on the form. If the parents cannot agree on the child's name, then a **Paternity Acknowledgment form** cannot be completed. In this situation, the mother will name the child (please refer to previous questions/answers in this section).

## BIRTH CERTIFICATES

**Question:** Where can I get a copy of my child's birth certificate?

**Answer:** In person from the [State Office of Vital Records](#), a [local Vital Records Office](#), or Probate Court in the county of the child's birth. You can order birth certificates online at <http://health.state.ga.us/programs/vitalrecords/birth.asp> (click the link).

**Question:** How can I get the father's name on my child's birth certificate?

**Answer:** **If there is no father listed on the child's birth certificate**, you and the father may complete a **Paternity Acknowledgment (PA) Form** and submit to the State Office of Vital Records. The father's name will be added to the child's birth certificate when the **PA form** is processed.  
**If your child's birth certificate has a father listed, or if that field has any information (such as refused, unknown, etc.)**, you must provide a certified copy of a court order to the State Office of Vital Records in order to add a father's name. The court order must specifically state the name to be removed and the name to be added.