

## ***What is paternity?***

“Paternity” gives a man the rights and duties of the legal father of a child. These are the same rights that the child’s mother has with respect to custody of the child and decisions about the child’s upbringing. The legal father also has a duty to support the child.

## ***How is paternity established?***

There are several ways to establish paternity; they differ from state to state. In New Mexico, a man is presumed to be the legal father of a child born during (or within 300 days after) marriage to the child’s mother. He is still the legal father even if the marriage wasn’t valid. If a man and a child’s mother marry after a child’s birth, the man becomes the child’s legal father if he signs and files an Acknowledgement of Paternity form with the Vital Statistics Bureau or if he has agreed to be named as the father on the child’s birth certificate. A man who makes a written promise to support a child born before the parents marry also becomes the legal father of the child.

A man becomes the legal father whether or not he marries the mother if he has a relationship with a minor child that he claims as his own child and either lives with the child or supports the child financially. A man

not married to the mother can file an Acknowledgment of Paternity with the Vital Statistics Bureau; the bureau must then notify the mother, who can dispute his claim.

Sometimes paternity is established by a court decision. The mother of a child, any man who believes he is the father, or even the child (through an adult if the child is under age 18) can file a lawsuit for this purpose. The New Mexico Supreme Court and some local district courts have a packet of forms a person can use to establish paternity through the courts; it is better to have an attorney handle this kind of case.

A parent who receives TANF or Medicaid on behalf of a child gives the New Mexico Child Support Enforcement Division (CSED) the right to establish paternity. CSED can order a man who denies paternity to take a genetic test. The man must pay the cost of the test only if he is found to be the father. People who have not applied for TANF or Medicaid also can use this service of CSED.

To learn more about paternity and other services available from CSED, call (800) 288-7207.

## ***How soon after a woman learns she is pregnant can paternity be established?***

Paternity can be established only after the birth of the child.

***How long does a person have after the birth of a child to establish paternity?***

A paternity case can be started any time before the child reaches age 21. Delay by a possible father can mean that another man becomes the legal father of the child, as paternity can be established in several ways without using the courts.

***Once paternity rights are established, what are the legal rights of the parents?***

The legal parents have equal rights over the child unless a court changes those rights later on. A change could occur by an order of custody and visitation, by a termination of parental rights, by emancipation of the child, by making the child a temporary ward of the state, etc.

***If paternity has been established, can a father voluntarily terminate his status as a parent?***

In most cases, the legal father cannot voluntarily end his rights and duties to the child. Only the state has the right to ask a court to terminate someone's parental rights. However, if the mother of the child marries someone else who wants to adopt the child, the legal father can voluntarily end his rights and allow the adoption.

Adoption ends the father's duty to support the child.