

**CAUTION:**  
**Read This Before You Sign!**



What Unmarried Moms Need to Know About...

# **Voluntary Establishment of Paternity**

This brochure provides useful information to mothers who:

- Are not married to the father of their child, &
- gave birth to their child on or after July 1, 1999

*This publication is designed to provide general information. This publication should not be utilized as a substitute for professional legal advice.*

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**Aloha United Way**

## What is paternity?

Establishing paternity means establishing who a child's legal father is. Paternity is an issue only when a child is born to parents who were not married to each other at the time of the child's birth. Establishing paternity gives the father legal *rights* and *responsibilities* to the child.

## What happens if paternity is NOT established?

If paternity is not established, either through a Family Court order or through a Voluntary Establishment of Paternity form (VEP), then the child's mother will be considered the child's only legal parent. The father has no legal rights or obligations to the child *until* paternity has been established. *If your child's father is abusive, you may not want to establish paternity. However, it does not stop the father from establishing via Family Court.*

## What's going to happen after the birth of my child?

If you give birth after July 1, 1999, shortly after giving birth, a nurse or a hospital employee will ask both parents if they want to sign a VEP Form. The form is called "VOLUNTARY ESTABLISHMENT OF PATERMTY BY PARENTS." The hospital employee will ask both parents to fill out the form, sign, and date it in the hospital employee's presence.

**If you don't understand what a VEP form is or what it does, don't sign it. This will not be your only chance to establish paternity.**

## How can paternity be established?

There are two ways to establish paternity:

### 1) Family Court Action.

Paternity can be established through Family Court by the mother of the child, any man who believes he is the father of the child, the husband of the child's mother or by anyone on his/her behalf. The Child Support Enforcement Agency (CSEA) will start a Family Court paternity action for parents who are requesting child or medical support or if the mother of the child is collecting welfare for the child.

### 2) Voluntary Establishment of Paternity Form

From July 1, 1999, hospital and birthing center employees will give unmarried parents of newborn children a VEP form after the birth of their child. If both parents sign this form, that will immediately establish who the father of the child is, without having to go through Family Court, and will also put the father's name on the birth certificate. This form can either be signed at the hospital at the time of the child's birth, or later at Department of Health (DOH).

For babies born in Hawaii before July 1, 1999, if the father's name is on the birth certificate, he is not the legal father unless paternity was established through Family Court. For babies born after July 1, 1999, if the father's name is on the birth certificate, then he is considered the legal father of the child.

**What is the difference between establishing paternity in Family Court vs by signing the Voluntary Establishment of Paternity Form?**

Child Custody and Visitation - If paternity is established through Family Court, then a custody/visitation order for the child will be decided at the same time. If paternity is established through the VEP form, there will be no custody or visitation order and the parents will have equal rights to the child. In the latter case, you will have to go to court to get or change a custody/visitation order.

Child Support - If paternity is established through Family Court, then child support will be ordered at the same time. If paternity is established through a VEP form, then there will not automatically be a child support order. If the parents separate, then a child support order can be entered if one of the parents files a motion in Family Court or requests services from CSEA.

Length of Process - establishing paternity through Family Court will take a lot longer than establishing paternity through the VEP form. If both parents sign the VEP form, paternity is established once the forms are turned in to DOH.

**When in the child's life can paternity be established?**

Family Court: If you want to establish paternity for your child through Family Court, you can apply with Family Court any time before the child reaches age 21.

Voluntary Establishment: If you want to establish paternity using the VEP process, both parents can sign the

form at the hospital at the time of birth or later at DOH. The form can be signed any time before the child reaches age 21.

**What if I signed the Voluntary Establishment form and I changed my mind?**

*If you signed the form within the last 60 days:* you must sign a Rescission of Voluntary Establishment of Paternity form at DOH within 60 days. Either parent may sign the rescission form, which must be notarized.

*If you signed the form more than 60 days ago:* it may be difficult to set aside the paternity order; you should consult with a private attorney if you're in this situation.

**If one of us decides to revoke the voluntary establishment of paternity within the 60 days, will DOH notify the other parent?**

If one parent revokes the voluntary establishment within 60 days, DOH will tell the other parent. If you have a child born after July 1, 1999, and you are unsure whether paternity has been established, you must request a birth certificate at DOH; if the father's name is on the birth certificate, then paternity has been established.

**Is there a way for me to put the father's name on the birth certificate without establishing paternity?**

No. Starting July 1, 1999 DOH will require that paternity be established before the father's name can be put on the birth certificate.

## What if I am currently married, but my husband is not the father of the child?

In this case, your husband will be considered the legal father of the child, even if he is not the biological father. The VEP form cannot be used in this situation. To establish paternity, you must go through Family Court.

## Should I sign the form if I'm not sure who the father is?

If you're unsure about the father's identity, **DO NOT SIGN** the VEP form. It is very hard to get rid of a paternity order once it has been established. You will probably not be able to set aside the order even if it turns out that the baby actually had a different father.

### **If mother and child receive welfare benefits and paternity hasn't been established**

If the state is providing welfare benefits to mother and child, CSEA may automatically start a paternity action if you didn't sign a VEP form. CSEA will do this to pay the state back for welfare benefits you receive. If you don't want paternity to be established, you must have "good cause" and you must tell your worker about that reason. For example, if there was abuse in your relationship, or if the child was conceived as a result of rape or incest, you should tell your DHS worker you don't want to establish paternity.

### **Are You Safe?**

- *Is your partner extremely jealous?*
- *Does your partner often get upset when you disagree with him?*
- *Does your partner lose his temper! A lot?*
- *Does your partner often drink or use drugs?*
- *Does your partner want all of your attention all of the time?*
- *Has your partner ever threatened to harm you or loved ones?*
- *Has your partner ever abused pets?*
- *Has your partner ever destroyed your property?*
- *Has your partner ever pushed, shoved, or hit you?*
- *Has your partner ever threatened to kill you or himself?*
- *Has your partner ever threatened to take your child away?*

If you answered "Yes" to any of these questions, there's a good chance you're afraid of your partner sometimes. And that's the best way to spot domestic violence - when one person is afraid of the other.

If you are not safe, your children may not be safe either. Most men who hurt their female partners also eventually hurt their kids.

If your child's father has been abusive towards you, or if you believe he could harm you or your child, **you should not sign** the Voluntary Establishment of Paternity form. If parents establish paternity by each signing the form, there will be no court order about custody or visitation for the child, but you will each have equal rights to the child.

If you feel pressured to sign the form or that you've made a mistake by signing it, you can cancel the VEP within 60 days. To do this, you must sign a Rescission of Voluntary Establishment of Paternity in front of a notary; forms are available at DOH. DOH will notify your child's father about the revocation. Call DOH first to schedule an appointment (see numbers at back of brochure). If DOH doesn't have a notary, Legal Aid and most banks offer them.

### **Referrals**

If you are not safe, please call the following agencies to discuss your and your child's safety and/or legal options:

- Domestic Violence Action Center & Legal Hotline (1-800-690-6200)
- Legal Aid Society of HI (1-800-499-4302)