



A GUIDE FOR PATERNITY ACTIONS

Prepared by : 17 TRW / JA

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This guide is intended for use by Active Duty service members, retirees, their families, and other personnel eligible for legal assistance from the Goodfellow AFB Legal Office. The information is general in nature and presented to assist those eligible persons in preparing for a legal assistance appointment with a professional in the legal office. Rights and responsibilities vary widely according to the particular set of circumstances in each case. Laws can vary across states, services, and civilian jurisdictions and laws are changed from time to time. Do not rely upon the general restatements of background information presented here without discussing your specific situation with a legal professional.

Paternity Suits

If you are female and:

- Are pregnant, or
- Have a child not acknowledged or supported by the father

OR

If you are male and:

- Believe you will be or are the father of a child, or
- Are not allowed to visit a child you believe is yours:

Establishing Paternity

A paternity suit results in a judge's determination of parentage, specifically fatherhood. If the court finds that the alleged father is indeed the father of the child, it will issue an order designating him as the child's father. This establishes a parent-child relationship, granting the father certain rights, duties, privileges, and powers, such as custody, care, and support, unless there is a court order or an affidavit relinquishing his parental rights. Recommendation: If either party disputes paternity, it is advisable to hire an attorney to navigate the complex legal procedures involved. If both parties agree, a man can be established as the "legal" father using an Acknowledgment of Paternity (AOP) form. For a sample form and instructions, visit the Texas Department of State Health Services website.

Who Can File a Paternity Suit?

A paternity suit can be initiated by:

- The mother of the child
- The child
- The alleged father
- A support enforcement agency or another authorized government agency
- An authorized adoption agency or licensed child-placing agency
- A legal representative for a deceased, incapacitated, or minor individual who would otherwise be entitled to file suit
- A person related within the second degree by blood (e.g., parents, siblings, grandparents) to the mother if the mother is deceased

Timing of the Suit

A paternity suit can begin during pregnancy or after the child's birth. If initiated during pregnancy, the proceedings will be delayed until after the child is born for a blood test. A suit can be filed at any time, even after the child becomes an adult, if there is no presumed, acknowledged, or adjudicated father. If the child has a presumed, acknowledged, or adjudicated father, certain time constraints apply.

Blood Tests

A blood test involves taking samples from the mother, the alleged father, and the child. Blood tests provide a reliable method for determining parentage and preventing invalid paternity claims. If the

person who initiates the paternity suit refuses to submit to the blood test, the court will dismiss the suit. If the respondent refuses, the refusal may be used as evidence in court.

Legal Process

- **Filing a Complaint:** The suit usually begins after consulting with an attorney or a public welfare agency attorney. A formal legal document, known as a "complaint," is filed with the clerk of the court, alleging that a person is the father (or mother) of the child.
- **Serving the Complaint:** The complaint may be served on the respondent by personal service, registered or certified mail, but usually by a deputy sheriff. The respondent must "answer" the complaint by either admitting or denying paternity within a specific number of days as determined by the court.

Recommendation: If you are the respondent, consult with an attorney before answering the complaint. There is an informal method to admit paternity if you are willing.

- **Discovery Process:** After the answer is filed, each party can use discovery tools typical in civil cases to prepare the paternity case. This includes interrogatories (written questions), depositions (verbal questions under oath), blood tests, and other evidence-gathering methods.
- **Trial:** The trial may be by judge or jury. The court may not enter a decree that differs from the jury's verdict, except concerning the specific terms and conditions of access to the child, support, and the rights, privileges, duties, and powers of conservators (a suitable adult appointed to care for the child).
- **At trial,** both parties can present witnesses, evidence, and cross-examine the other party's witnesses. The court will address paternity and other issues such as support, visitation, court costs, attorney fees, and other necessary expenses.

Court's Decision

The court's findings will be based on a preponderance of the evidence (i.e., more likely than not), a standard used in civil cases. Paternity does not need to be proved "beyond a reasonable doubt," which is the standard in criminal cases. Either party may appeal the court's findings. **Recommendation:** Given the significant legal responsibilities associated with parenthood, it is crucial to consult an attorney for specific legal advice.

General Information for Jurisdictions Outside of Texas

While the specific procedures and laws may vary, many jurisdictions follow similar principles when it comes to resolving paternity issues:

- **Filing the Suit:** Generally, the suit is filed in the jurisdiction where the child or the alleged father resides.
- **Establishing Paternity:** Courts often use DNA testing to establish paternity. Voluntary acknowledgment forms are also commonly used.

- **Legal Representation:** It is advisable to consult with a family law attorney who is familiar with the specific laws of your jurisdiction.
- **Rights and Responsibilities:** Once paternity is established, the father may have rights and responsibilities, including custody, visitation, and child support.
- **Appeals:** Most jurisdictions allow for appeals of the court's decision.

Recommendation: Always check the specific laws and procedures in your jurisdiction and consult with a legal professional to ensure you are following the correct process.

NOTE: This guide is intended for general informational purposes only. It is advisable to periodically verify this information and consult with a legal professional for the most current and applicable advice. Due to the limited capacity of JAG attorneys, we can only provide basic guidance on these matters. We strongly recommend seeking out an attorney who specializes in family law for more comprehensive assistance. If you have any questions or need to schedule an appointment with a legal assistance attorney, please call the Legal Office at 325-654-3203.

More information can also be found through these resources:

Texas Department of State Health Services Vital Statistics:
<http://www.dshs.state.tx.us/VS/>

Texas Office of Attorney General:
<http://www.texasattorneygeneral.gov/>

For the Child Support Division of the Texas Office of Attorney General, you can use the contact numbers:
1-800-252-8014
1-866-255-2006

Reference: Texas Family Code - Title 5, Subtitle A, Chapter 160

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