

What is the definition of the parent-child relationship?

The legal definition of a parent-child relationship is established either with proof of a biological relationship or proof of legal adoption by the parent or parents.

Does the relationship between the parent and child depend on the parents' marital status?

No, the legal parent-child relationship exists regardless of marital status and it extends equally to every child and every parent.

A man is presumed to be the natural or biological father of a child if:

- He and the child's birth mother are married or have been married to each other and the child is born during that marriage or within 300 days after the marriage ends because of death, annulment, declaration of invalidity of marriage, divorce, or court order of legal separation; or
- **Before** the child's birth, the father and the child's birth mother have tried to legally marry although the attempted marriage is or **could be declared invalid**, and:
 - ⇒ If the marriage could be declared invalid only by the court and the child is born during the attempted marriage or within 300 days after it ends; OR
 - ⇒ If the attempted marriage **is declared invalid by the court** and the child is born within 300 days after the parents stop living together.

- **After** the child's birth, the father and the child's birth mother have tried to legally marry although the attempted marriage is or could be declared invalid, and:
 - ⇒ The father has admitted in writing that the child is his and filed the statement with the court or the office of vital statistics, unless paternity already has been decided as a legal fact.
 - ⇒ The father agrees to be named as the child's father on the child's birth certificate.
 - ⇒ The father has either volunteered or has been forced by a court or administrative order to support the child.
- While the child is under the age of 18, the father lets the child come to his home and the father tells people that the child is his.
- The father has admitted in writing that the child is his and filed the statement with the court or the office of vital statistics, and the mother does not deny, within a reasonable time, that he is the father. Any other man who might be presumed to be the father must agree, in writing, that he is not the father.
- The father has genetic or other paternity tests at a court-approved agency, and these tests show that there is a 97 percent or higher chance that he is the father.

A woman is presumed to be the natural or biological mother if:

- The mother has a birth certificate or similar paperwork that proves she gave birth to the child; or
- Any of the ways listed above for a man to prove he is a father also may be used by a woman to prove she is the mother.

Who is allowed to go to court in order to determine who the father of a child is?

- The child;
- The natural or biological mother;
- The man presumed to be the father;
- The State of Colorado;
- The Colorado Department of Human Services;
- A county department of social services.

When can they file a case with the court?

- Any time if they are trying to prove a parent-child relationship;
- To prove that a man is NOT the father of the child, parties must file within a reasonable time after the man finds out someone may claim he is the father, and definitely before the child's fifth birthday.
- The person who files with the court must admit if there are restraining orders against either party within the past 90 days.

How much time do you have to establish paternity?

An action to determine the existence of the father and child relationship can be brought at any time before the child's 18th birthday. This action may be brought by the mother, the father, the child, or by a representative of the child support enforcement agency.

The child support enforcement agency can bring an action on behalf of the child at any time before his or her 21st birthday, if the amount of time allowed to bring the suit was less than 18 years when the child was born. A child can bring an action any time before his or her 21st birthday.

What evidence is used in paternity cases to prove the existence of a parent-child relationship?

- Evidence of sexual intercourse between the mother and the alleged father at any time that would make it possible for the child to have been conceived during that encounter;
- An expert's opinion that based on the duration of the mother's pregnancy, there is a chance that the man could be the father;
- Medical or anthropological evidence. Genetic tests can be done at the county child support division. Contact your county department of human services for more information.
- Any other evidence relevant to paternity cases.

What is the court process in a paternity case?

- An informal hearing will be held if it is determined by the court to be in the child's best interests. The court can order that the hearing be held before a magistrate.
- The court may determine that it is in the best interest of any of the parties to the case for the hearing not to be open to the public.
- A record of what happens at this hearing will be kept if any party requests it or the court orders that a record be kept.
- If any witness refuses to testify, the court can order the witness to testify and produce evidence related to all relevant facts

in the case. The refusal of a witness who has been granted immunity in return for statements in court or for evidence they give the court is a civil contempt of court meaning he or she may go to jail until they testify.

- Any party may seek a restraining order, injunction, temporary orders as to custody, parenting time, and support as soon as the court enters an order determining the existence of the parent-child relationship. *NOTE:* Issues of temporary custody, parenting time, and support are decided under a different set of rules established by Colorado law.

This brochure is published as a customer service by the Colorado Judicial Branch. For more information, call the courthouse in your community.

Answers To Your Questions About

Paternity



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