

THREE PATHWAYS TO PATERNITY

1 MARRIAGE

Key Facts

The couple must be legally married.

Married couples do not need to take any additional steps to establish paternity.

Note: Texas recognizes informal (common law) marriages. The man and woman must be at least 18 years old and meet other legal requirements.

Requirements

- Legal marriages can be held anywhere as long as they are performed by an authorized officiant.
- Must obtain a marriage license from the county clerk's office.
- Each person needs valid ID.
- Must be 18 years old or, if at least 16, must have parental consent or a court order.
- 72-hour waiting period after getting the marriage license.
- Cost – \$60 license fee that can be waived once completing a pre-marital education course.

2 AOP LEGAL DOCUMENT *Acknowledgment of Paternity (AOP)*

Key Facts

The Acknowledgment of Paternity is a legal form created by the Texas Vital Statistics Unit (VSU).

It can be signed by unmarried parents of any age who agree on their child's paternity.

The AOP can be signed any time before or after the birth of the child, usually completed at the hospital after a child is born.

Requirements

- Both parents must be advised of the consequences of signing the AOP.
- If either or both parents want DNA testing they can arrange for it privately (but it isn't required to sign the AOP).
- If the baby's mother is married (or was married within 300 days of the birth), her husband (or ex-husband) must sign "Denial of Paternity" on the AOP.
- There are no costs or fees.
- Parents have 60 days from the date the AOP was filed at VSU, or before a court hearing relating to the child, whichever occurs first, to take back his/her acknowledgment.
- To rescind the AOP, the person must complete the VSU form (VS-158).
- If more than 60 days have passed, the AOP can only be challenged on the basis of fraud (a lie), duress (force) or material mistake of fact.
- The filed AOP does NOT set up a court order, child support amounts or visitation periods.

THREE PATHWAYS TO PATERNITY *Continued*

3 COURT ORDER

Key Facts

A court order is an official ruling signed by a judge.

It can be filed any time after the birth of the child.

The initial paperwork is done by the Child Support Division or an attorney's office; the order is established in court.

Requirements

Two ways to get a court order – agreed order or a paternity petition.

AGREED ORDER

- If parents agree on paternity, they can also ask for a DNA test and sign an agreed order.
- They may not have to appear in court.
- Child support and visitation will be confirmed by the court.
- If parents are minors, their parents/guardians may have to sign the order.

PATERNITY PETITION

- Either parent can ask the OAG or private attorney to file a paternity petition.
- The petition asks the court to decide on paternity.
- If summoned to court, both parties – mother and alleged father – should appear in court.
- The court can order DNA testing.
- The court will set a time and location and legally notify the alleged father.
- The court sets the amount of child support, medical support and visitation periods.

Costs: – The court charges a fee.
– OAG charges minimal fees for child support services.
– Attorney fees will vary.

PATERNITY TESTING

If there is any doubt that an alleged or presumed father is the biological father of a child, a simple laboratory test can be performed to prove that a man is or is not the biological father of a child. Samples from the mother, child and alleged and/or presumed father can be compared. The results are more than 99 percent accurate. The alleged or presumed father can request the test or a court can order it (if he denies he is the father and refuses to take the test). If the alleged or presumed father does not take the test despite a court order to do so, the court can declare him the child's legal father by default.

If there is a case open with the Child Support Division, the Office of the Attorney General will pay for paternity testing.