ALABAMA DEPARTMENT OF HUMAN RESOURCES CHILD SUPPORT ENFORCEMENT DIVISION ADMINISTRATIVE CODE

CHAPTER 660-3-11 PATERNITY

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660-3-11-.01 General.

(1) As used in this Chapter, the following terms shall have the following meaning:

(a) "Acknowledgment of Paternity" - a document when properly completed by the natural mother and the father of a child, and filed with the Alabama Center for Health Statistics creates a legal finding of paternity and allows for the father's name to be on the child's birth certificate.

(b) "administrative process" - the procedure which allows the Department of Human Resources to issue genetic testing orders, administrative subpoenas, and other administrative enforcement actions without the assistance of the judicial system.

(c) "alleged father" - a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined. The term does not include:

1. a presumed father;

2. a man whose parental rights have been terminated or declared not to exist; or

3. a male donor who donates in compliance with Code of Ala. 1975, Section 26-17-702.

(d) "application fee" - the amount due from a non-public assistance client for receiving child support services.

(e) "establishment" - the work the Child Support Enforcement Division performs in order to determine paternity and obtain an order of child support.

(f) "genetic testing" - an analysis of genetic markers to exclude or identify a man as the father or a woman as the mother of a child. The term includes an analysis of one or a combination of the following:

1. deoxyribonucleic acid;

2. blood-group antigens, red cell antigens, human-1eukocyte antigens, serum enzymes, serum proteins, or red-cell enzymes.

(g) "genetic test fee" - the amount due for the genetic test which is paid by the State and later assessed to one individual for testing the father, mother, and child.

(h) "genetic testing results" - indicates probability of paternity by testing of blood or human tissue typing.

(i) "Title IV-D agency" - the child support enforcement agency in the state authorized to provide child support services.

(j) "paternity establishment" - the legal process through which paternity of a child is determined.

(k) "Family Assistance (FA)" - An entitlement program funded under Title IV-A of the Social Security Act.

(2) Paternity establishment refers to an action that results in the determination of a parent-child relationship. Paternity establishment is required before getting a child support order. The parent-child relationship extends equally to every child and to every parent regardless of the marriage status of the parent.

(3) Procedures for paternity establishment require that:

(a) A simple civil process exists for the voluntary establishment of paternity.

(b) Procedures exist for completing Acknowledgments of Paternity.

(c) A valid Acknowledgment of Paternity filed with the Alabama Center for Health Statistics creates a legal finding of paternity.

(d) Default judgments are sought under specific circumstances.

(e) Procedures provide for genetic testing in determination of paternity.

(f) Provision is made for the admission of genetic testing results unless written objections are filed with the court within 14 days after receiving the genetic testing results.

(g) Full faith and credit is given to other states' paternity acknowledgments and orders.

(h) An in-hospital paternity acknowledgment program is established.

(i) Jury trials are barred in paternity actions.

Author: Clifford Smith
Statutory Authority: Code of Ala. 1975, §§26-17-101 through 26-17-905; 30-3-197, as amended, P.L. 104-193; 45 C.F.R. 301-307; ALABAMA STATE PLAN - CHILD SUPPORT ENFORCEMENT DIVISION.
History: **New Rule:** Filed February 4, 2000; effective March 10, 2000. **Amended:** Filed July 8, 2009; effective August 12, 2009. **Amended:** Published November 29, 2016; effective January 13, 2020.

660-3-11-.02 Eligibility.

(1) Recipients of Family Assistance (FA) shall participate with the IV-D child support agency in establishing paternity.

(2) Children who are in the custody of the Department of Human Resources and who are receiving out-of-home care from a state agency or who are otherwise receiving foster care maintenance payments under Title IV-E of the Social Security Act are entitled to paternity establishment services.

(3) A Medicaid recipient who does not receive FA benefits shall cooperate with the IV-D agency in establishing paternity.

(4) Non-Family Assistance applicants may receive paternity establishment services by requesting and completing an application for services and paying an application fee. This service is available to both the mother and alleged father of the child.

Author: Janice Grubbs
Statutory Authority: Code of Ala. 1975, §§26-17-101 through 26-17-905; 30-3-197, as amended, P.L. 104-193; 45 C.F.R. 301-307; ALABAMA STATE PLAN - CHILD SUPPORT ENFORCEMENT DIVISION.
History: **New Rule:** Filed February 4, 2000; effective March 10, 2000. **Amended:** Filed July 8, 2009; effective August 12, 2009.

660-3-11-.03 Processes Involved In Paternity Establishment.

(1) Three processes are involved in the establishment of paternity.

(a) Uncontested Consent Process

1. In the uncontested consent process, both the mother and the alleged father must agree that the alleged father is the biological father of the child.

2. The alleged father and the mother can establish paternity by completing an Acknowledgment of Paternity through an in-hospital paternity process shortly after the birth of the child, or later at the Department of Human Resources office.

3. The Acknowledgement of Paternity, if properly completed and filed with the Alabama Center for Health Statistics, creates a legal finding of paternity.

(b) Administrative Process

1. An employee or agent for the Title IV-D agency has the authority to order genetic testing and to issue administrative subpoenas in the process of determining the paternity of a child. Subpoenas issued by an employee or agent of the Title IV-D agency in the process of establishing paternity may be served by certified mail, return receipt requested.

2. The State shall pay the genetic test fee subject to reimbursement from the appropriate party.

3. If genetic test results show a probability of 99 percent or higher, the alleged father is given an opportunity to sign a voluntary Acknowledgment of Paternity. He is given the chance to enter into a support agreement, including genetic test costs, retroactive support, and medical support.

4. If the alleged father refuses to acknowledge paternity or sign an agreement, the Department of Human Resources forwards the case to the state attorney for processing through the judicial system.

5. In all situations, whether or not the alleged father has signed an Acknowledgment of Paternity and a support agreement, the Department of Human Resources refers the case to the state attorney to obtain a judicial order of support from the appropriate court.

(c) Contested Process

1. In a contested case, the alleged father either denies paternity, refuses to pay child support, or fails to respond to notice given for genetic testing.

2. The Department of Human Resources refers the case to the state attorney for filing the paternity action through judicial procedures.

3. When a case is contested, service of process, pursuant to Rule 4 of the Alabama Rules of Civil Procedure is the way the alleged father is notified that a paternity action has been filed against him and when a hearing will be held.

4. Once the alleged father has been served, he has 14 days to contest the case or come in and voluntarily acknowledge paternity. After that time, a court hearing will be held to determine paternity.

Author: Clifford Smith
Statutory Authority: Code of Ala. 1975, §§26-17-101 through 26-17-905; 30-3-197, as amended, P.L. 104-193; 45 C.F.R. 301-307; ALABAMA STATE PLAN - CHILD SUPPORT ENFORCEMENT DIVISION.
History: New Rule: Filed February 4, 2000; effective March 10, 2000. **Amended:** Filed July 8, 2009; effective August 12, 2009. **Amended:** Published November 29, 2016; effective January 13, 2020.

660-3-11-.04 Procedure For Contesting Paternity.

(1) Any signatory of an Acknowledgment of Paternity has the right to rescind the acknowledgment within 60 days of signing, or the date of an administrative or judicial hearing relating to the child. This is done by the rescinding party filing a motion in court.

(2) After the 60-day period, a signed voluntary Acknowledgment of Paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact. The burden of proof is upon the challenger. The legal responsibilities, including child support, may not, except for good cause shown, be suspended during the challenge.

(3) A party who has been adjudged in a paternity proceeding to be the father of a child may, except in the case of adoption, reopen the case in court upon presentation of scientific evidence that he is not the father. The Department of Human Resources will not initiate action in this type of case.

Author: Janice Grubbs
Statutory Authority: Code of Ala. 1975, §§26-17-101 through 26-17-905; 30-3-197, as amended, P.L. 104-193; 45 C.F.R. 301-307; ALABAMA STATE PLAN - CHILD SUPPORT ENFORCEMENT DIVISION.
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