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# PATERNITY

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## A. The Mother-Child and Father-Child Relationship

The mother-child relationship is established between a woman and a child by:

- The woman giving birth to the child;
- An adjudication of the woman's maternity; or
- The adoption of the child by a woman.

The father-child relationship is established between a man and a child by:

- An un rebutted presumption of a man's paternity of the child. [Tex. Fam. Code § 160.204](#);
- An effective acknowledgment of paternity under Subchapter D, unless the acknowledgment has been rescinded or successfully challenged;
- An adjudication of the man's paternity;
- The adoption of a child by the man; or
- The man's consenting to assisted reproduction by his wife.

## B. Types of Fathers

- Presumed
- Alleged (or putative)
- Acknowledged
- Adjudicated
- Unknown

## C. Presumed Father

A man is a Presumed Father if:

- He is married to the mother of the child and the child is born during the marriage;
- He is married to the mother of the child and the child is born before the 301st day after the date the marriage is terminated by death, annulment, declaration of invalidity, or divorce;
- He is married to the mother of the child before the birth of the child in apparent compliance with the law, even if the attempted marriage is or could be declared invalid and the child is born during

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the invalid marriage or before the 301st day after the date the marriage it terminated by death, annulment, declaration of invalidity or divorce;

- He married the mother of the child after the birth of the child in apparent compliance with law, regardless of whether the marriage is or could be declared invalid, he voluntarily asserted his paternity of the child; and
  - the assertion is in a record filed with the bureau of vital statistics,
  - he is voluntarily named as the child's father on the child's birth certificate, or
  - he promised in a record to support the child as his own;

During the first two years of the child's life, he continuously resided in the household in which the child resided, and he represented to others that the child was his own. [Tex. Fam. Code § 160.204\(a\)](#).

## D. Alleged Father

A man is an Alleged Father (sometimes called putative father) if:

- He alleges himself to be, or is alleged to be, the genetic father or possible genetic father of a child, but his paternity has not been determined.

An alleged father cannot establish paternity or create a presumption of paternity by registering with the Paternity Registry, but timely registration entitles him to notice of an action for termination of parental rights or adoption of a child he may have fathered.

There are several ways an alleged father may establish paternity:

- The mother of a child and the man claiming to be the biological father may sign an acknowledgment of paternity with the intent to establish the man's paternity. [Tex. Fam. Code § 160.301](#). A valid acknowledgment of paternity filed with the vital statistics unit is the equivalent of an adjudication of the paternity of a child and confers all rights and duties. [Tex. Fam. Code § 160.305](#).
- Both the mother and father can testify in open court and ask the court to establish paternity.
- Genetic testing. DFPS may obtain genetic testing through the Office of the Attorney General.

As soon as a legal father is established, any other potential candidates can be dismissed.

## E. Acknowledged Father

A man is an Acknowledged Father if:

- He has executed an Acknowledgement of Paternity (AOP). A valid AOP filed with the VSU is the equivalent of an adjudication of paternity.

## F. Adjudicated Father

A man is an Adjudicated Father if:

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- He has been adjudicated by a court to be the father of a child. Adjudication can be accomplished by an admission of paternity under penalty of perjury during a hearing. Also, a signed Acknowledgment of Paternity that has been filed

## **G. Paternity Registry**

The Vital Statistics Unit (VSU) maintains a paternity registry. A man who wants to be notified of a proceeding for the adoption or the termination of parental rights regarding a child he may have fathered must register before the birth of the child or not later than the 31st day after the child's birth. The registrant has the responsibility of keeping his information current with the bureau. A man who has filed with the paternity registry within the requisite time frame is entitled to be served with notice of a suit involving the child. Registering with the paternity registry also establishes a basis for personal jurisdiction of a person who is not a Texas Resident.

If no father-child relationship can be established and DFPS seeks termination of parental rights or adoption, DFPS must obtain a certificate of the results of a search of the paternity registry. If DFPS has reason to believe that conception or birth of the child have may occurred in another state, DFPS must obtain a certificate from paternity or putative father registry of that state.

