

PATERNITY PACKET

What does "paternity" mean?

Paternity is a legal word for "fatherhood". When you establish paternity, this means that you have gone through a legal process to identify a man as the biological father of a child.

How may the paternity of a child be established?

Paternity of child can be established in the following ways:

- (1) The mother and father can sign a voluntary acknowledgment of paternity. This acknowledgment form is recorded in the putative father registry maintained by the Department of Human Resources. For more information about the Georgia Paternity Acknowledgement Program, call 1-866-296-8262.
- (2) The mother or the father or any other person allowed by law to start a paternity action may file a petition in the Superior Court or the State Court to establish paternity.
- (3) If the Department of Human Resources seeks to establish paternity of a child, the Office of State Administrative Hearings has the authority to decide the issue of paternity. However, the man who has been identified as the putative father can deny that he is the father of the child and demand a trial in the Superior Court.

Who can start an action to establish paternity?

An legal action to establish paternity of a minor can be brought by the child, the mother of the child, a person who is alleged to be the father, any relative taking care of the child, and, in certain circumstances, the Department of Human Resources (in the name of and for the benefit of the child).

Where can an action to establish paternity be filed?

If the father is a Georgia resident, the suit may be brought in the state or superior court of the county in which the father resides. If the father is a nonresident, the suit may be brought in the state or superior court where the child resides.

Does the mother of the child have to be a party to the legal action and does she have to be notified?

If the mother is subject to the jurisdiction of the court where the petition for paternity has been filed, she must be a party to the law suit. If she is not subject to the court's jurisdiction, she must at least be given notice of the petition for paternity and she must be given an opportunity to be heard in the court.

After paternity is established, does the father have any rights to the child?

Under Georgia law, the birth mother is the only person entitled to custody of a child born out of wedlock, unless the father has gone through the process of legitimating the child. In a paternity action if the court finds that a man is the father of a child, the court can also order that the man have visitation rights with the child (if the court finds that visitation would be in the best interests of the child).

If the father's name is on the birth certificate, does he have any rights to the child?

Under Georgia law, the birth mother is the only person entitled to custody of a child born out of wedlock, unless the father has gone through the process of legitimating the child. This is the case even if the father's name is on the birth certificate. The father must go through legitimation to have rights to a child born out of wedlock.

Does it matter if the father's name or social security number is on the child's birth certificate?

If a man's name or social security number is on the child's birth certificate and someone files a petition to establish paternity, the burden of proof is on the man to prove that he is not the father.

If the birth certificate of the child does not contain any information about the father, the person or agency that filed the paternity action must prove that the man is the father.

Can DNA testing be used to prove or disprove paternity?

Any party to the action may make a motion for the court to order DNA testing. The court must grant the motion unless someone shows that there is good cause not to order DNA testing. The person who requests the testing is responsible for any costs of the testing.

What is the result of a finding that the man is the father of the child in a paternity case?

If the court finds that a man is the father of a child, the father has a duty to support the child financially. This means that the man must pay child support. The court's order may also provide that the father has the right to visit with the child (visitation privileges) if the court finds that visitation would be in the best interests of the child.

What happens if a paternity action is brought before the child is born?

In this situation, all legal proceedings will be stayed until after the birth **except** service of process, discovery, and the taking of depositions.

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

))
_____,)
Plaintiff,)
v.)
_____) Civil Action File No. _____
Defendant)
)
)
)

COMPLAINT FOR DETERMINATION OF PATERNITY

COMES NOW, _____, Plaintiff in the above styled action, and files this Complaint pursuant to O.C.G.A. § 19-7-40 et seq., and respectfully shows the Court the following:

1.

Venue (Check only one: a, b, c, or d)

a) Defendant is a resident of _____ County, Georgia, and has acknowledged service of the Complaint and Summons and has waived further service of process.

b) Defendant is a resident of _____ County, _____ (State) and has signed an ACKNOWLEDGEMENT OF SERVICE AFFIDAVIT OF WAIVER OF VENUE AND PERSONAL JURISDICTION.

c) Defendant is a resident of _____ County, Georgia and may be served at his/ her residence/ work address of:

_____.

d) The Defendant was formerly a resident of the State of Georgia and presently is a resident of the State of _____. Defendant may be served by a second original pursuant to the Long Arm Statute, O.C.G.A. § 9-10-91(5).

Defendant may be served at the following address:

_____.

2.

Child born or unborn (Choose a or b)

a) The Plaintiff/ Defendant, _____,
is the father of the minor child known as _____,
who was born on the _____ day of _____, 20_____.

b) The Plaintiff/ Defendant, _____,
is the father of the child which the Plaintiff/ Defendant is now carrying, and is due to
be born on or around the _____ day of _____, 20_____.

3.

Plaintiff's identity

a) The Plaintiff is the mother of the minor child known as
_____, who was born on the _____ day of
_____, 20____ OR who is expected to be born on the _____ day
of _____, 20____. The Plaintiff resides at the following address:
_____.

b) The Plaintiff is a relative of the child in whose care the child has been
placed, more specifically _____.
The Plaintiff resides at the following address: _____.

c) The Plaintiff is one who is alleged to be the father, more specifically
_____.
The Plaintiff resides at the following address: _____.

d) The Plaintiff is the child, _____.
The Plaintiff resides at the following address: _____.

4.

Child's residence

The said minor child resides at the following address:
_____.

5.

Child custody

- The Plaintiff is entitled to the custody of said Child.

6.

Right to child support

- That Plaintiff is entitled to child support from Defendant for the support, education, and maintenance of said minor Child.

7.

Guardian ad litem

- A guardian ad litem should be appointed, if in the Court's discretion the Court deems it necessary, to represent the interests of the child.

8.

Child named as party

- If the Court deems necessary, the child should be made a party to this action.

9.

Fees of Attorney and Guardian ad litem

- The Plaintiff is needs an attorney to represent him/ her in bringing this action and is entitled to reasonable attorney's fees and other expenses of this proceeding payable by Defendant. Defendant should be required to pay reasonable counsel fees for said attorney as the Court deems appropriate. Furthermore, Defendant should be required to pay fees of the guardian ad litem if the Court sees fit to appoint such a Guardian.

10.

Paternity testing

- In the event Plaintiff/ Defendant disputes paternity of the child, the Court should order the making of blood and/or genetic tests as soon as possible to establish paternity.

11.

Costs of Litigation

- Plaintiff asks that Defendant be required to bear the costs of this action.

12.

Child Support Amount

Please go to <http://www.georgiacourts.org/csc/> to complete and print out the Child Support Worksheet. Your papers will NOT be accepted for filing without these worksheets and schedules.

- The Plaintiff/ Defendant asks that the Plaintiff/ Defendant _____ be required to pay to the Plaintiff/ Defendant, as support of the minor child(ren), the sum of \$ _____ * per week/ bi-weekly/ month, starting on _____, and continuing per week/ bi-weekly/ month thereafter until each respective child reaches the age of eighteen (18), or so long as the child is enrolled in and attending secondary school (not to exceed age twenty (20)), marries, dies, or becomes otherwise emancipated. The child support obligation shall be reduced as follows as each child becomes emancipated:

*This amount was derived from line 13 of the Child Support Worksheet, which is attached hereto as Exhibit 1.

13.

Child Support Method of Payment (Check a, b or c)

- a) Plaintiff asks that all payments of child support shall be paid directly to the Plaintiff at the following address: _____.
- b) Plaintiff asks that all payments of child support shall be paid directly to the Plaintiff by the Defendant’s employer via an income deduction order. The Plaintiff’s address is: _____.
- c) Plaintiff asks that all payments of child support shall be paid to Georgia Child Support Enforcement pursuant to an Income Deduction Order.

14.

Health Insurance

The Plaintiff asks that _____ be required to maintain a policy of medical, dental, and hospitalization insurance for the benefit of the minor child(ren) for so long as the child support obligation set forth herein exists. The Plaintiff asks that costs not covered under the insurance policy shall be divided as follows:

The Plaintiff asks that _____ shall provide him / her with an insurance identification card or such other acceptable proof of insurance coverage and shall cooperate with the Plaintiff in submitting claims under the policy.

WHEREFORE, Plaintiff prays the following:

[Check all items of relief that you want from the Judge.]

(a) That process issue and Defendant be served with a copy of Plaintiff's Summons and Complaint to Establish Paternity;

(b) that paternity of _____ be established, declaring _____ to be the father of said minor child;

(c) that Plaintiff be awarded custody of said minor Child;

(d) that Plaintiff be awarded child support from Defendant for the support, education, and maintenance of said minor child;

(e) that Plaintiff be awarded reasonable attorney's fees and litigation expenses associated with this proceeding, pursuant to O.C.G.A. section 19-7-50;

(f) that the minor child be made a party to this action and a Guardian Ad Litem be appointed to represent the child, pursuant to O.C.G.A. § 19-7-44, and that Defendant be required to pay any fees associated with the appointment of the Guardian Ad Litem;

(g) that blood tests be required as provided by O.C.G.A. section 19-7-45;

(h) That any hearing or trial in this matter be held in closed Court without admittance of any person other than those necessary to the action or proceeding, pursuant to O.C.G.A. section 19-7-53, to protect the privacy of the minor child and the parties;

(i) that the Plaintiff have a trial by jury;

(j) that the Judge issue an order changing the surname of the child to _____.

(k) that the Judge issue an order directing the Georgia Department of Vital Records to issue a new birth certificate;

(l) That a rule nisi issue requiring Defendant to show cause, if any Defendant can, on a day certain why the prayers of this Complaint should not be granted;

(m) That the Court award such additional relief as the Court may deem proper under O.C.G.A. § 19-7-40 et seq.

Plaintiff *pro se*

Address: _____

Telephone Number(s): _____

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

))
_____,)
Plaintiff,)
v.)
_____) Civil Action File No. _____
Defendant)
)
)
)

VERIFICATION

Personally appeared before the undersigned officer, duly authorized to administer oaths in the state of Georgia, _____, who after being duly sworn, deposes and states that she is the Plaintiff in the above-styled action and verifies that the facts contained in the within and foregoing Petition to Establish Paternity are true and correct to the best of her information, knowledge, and belief.

This _____ day of _____, 20____.

_____,
Plaintiff *pro se*

Sworn and subscribed before me

This _____ day of _____, 20____.

Notary Public, State of Georgia

My Commission Expires _____.

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____,
Plaintiff,
v.
_____,
Defendant
)
)
)
)
) Civil Action File No. _____
)
)
)
)
)

ACKNOWLEDGEMENT OF SERVICE AND SUMMONS

The undersigned Defendant hereby acknowledges service of the above Summons and Complaint for Determination of Paternity and states that (s)he has received a copy of said Complaint, and Defendant hereby waives any further service of process.

This the _____ day of _____, 20____.

_____,
Defendant *pro se*

Sworn to and subscribed before me

This _____ day of _____, 20____.

_____,
Notary Public, State of Georgia
My Commission Expires _____.

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

))
_____,)
Plaintiff,)
v.)
_____) Civil Action File No. _____
Defendant)
)
)
)

**DEFENDANT’S ACKNOWLEDGEMENT OF SERVICE
AFFIDAVIT OF WAIVER OF VENUE AND PERSONAL JURISDICTION**

I, _____, the named Defendant in the above-styled case, after being duly sworn do hereby depose and say that I am a resident of _____ County, _____ (state), and that the Plaintiff in the above-styled case is a resident of _____ County, Georgia. I affirm that I have received a copy of said Petition/Complaint, and I hereby waive any and all further notice, service, and issuance of process.

After being duly informed that I have a constitutional right to a trial by judge or jury on the above matter in the county of my residence, and with that knowledge, I hereby expressly waive my right to venue in the county of my residence, and consent to venue and personal jurisdiction in the county of this superior court.

This ____ day of _____, 20____.

_____,
Affiant

Notary Public

Sworn to and subscribed before me this ____ day of _____, 20____.

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

))
_____,)
Plaintiff,)
v.)
_____) Civil Action File No. _____
Defendant)
)
)
)

RULE NISI

The above Complaint for determination of Paternity having been read and considered, let the same be filed and let _____, the putative father of said child appear before this Court on the _____ day of _____, 20__, at ____ o'clock, __.m., to show cause, if any he have, why the relief demanded in said Complaint should not be granted.

Let the said _____ be served with a copy of said Complaint and this Order as provided by law.

This _____ day of _____, 20__.

Judge, Superior Court
_____ County, Georgia

Presented by:

Plaintiff *pro se*

IN THE STATE OR SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____,
Plaintiff,
v.
_____,
Defendant
)
)
)
)
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) Civil Action File No. _____
)
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing **Complaint to Establish Paternity** upon the following counsel for party OR party (if no counsel of record) by delivering or causing to be delivered by hand a copy of same as follows:

[Name and address of counsel of record, or of parties if no counsel of record.]

This _____ day of _____, 20____.

Plaintiff *pro se*

Address _____

Telephone Number _____

IN THE STATE OR SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____,
Plaintiff,
v.
_____,
Defendant
)
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)
)
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) Civil Action File No. _____
)
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DOMESTIC RELATIONS FINANCIAL AFFIDAVIT OF PLAINTIFF

1. AFFIANT'S NAME: _____ Age _____
Spouse's Name: _____ Age _____
Date of Marriage: _____ Date of Separation _____

Names and birth dates of children for whom support is to be determined in this action:

Name	Date of Birth	Resides with
_____	_____	_____
_____	_____	_____
_____	_____	_____

Names and birth dates of affiant's other children:

Name	Date of Birth	<u>Resides with</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. SUMMARY OF AFFIANT'S INCOME AND NEEDS

(a) Gross monthly income (from item 3A) \$ _____
(b) Net monthly income (from item 3C) \$ _____

