

# LawHelpNewMexico

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## Paternity

### **What is paternity?**

Paternity establishes a person as the legal father of a minor child in cases where the parents are not married and gives the father custody of the child and parental rights and responsibilities. Parental rights include custody and timesharing rights, and the right to make decisions about the child's upbringing. The legal father also has a duty to support the child.

### **How is paternity established?**

There are several ways to establish paternity. In New Mexico, a man is presumed to be the legal father of a child born during (or within 300 days after) marriage to the child's mother.

If the parents are not married, paternity can be established by filing an Acknowledgment of Paternity with the Vital Statistics Bureau. Once the acknowledgment is submitted, the Bureau will notify the mother, who has an opportunity to dispute the man's claim.

Sometimes paternity is established by a court decision. The mother of a child, any man who believes he is the father, or even the child (through an adult if the child is under age 18) can file a lawsuit for this purpose. If paternity is contested, the Court may order DNA testing to determine if the named father is really the father. The New Mexico Supreme Court and some local district courts have a packet of forms a person can use to establish paternity through the courts.

A parent who receives TANF or Medicaid on behalf of a child gives the New Mexico Child Support Enforcement Division (CSED) the right to establish paternity. CSED can order a man who denies paternity to take a genetic test. The man must pay the cost of the test only if he is found to be the father. People who have not applied for TANF or Medicaid also can use this service of CSED.

To learn more about paternity and other services available from CSED, call (800) 288-7207.

## **How soon after a woman learns she is pregnant can paternity be established?**

An acknowledgment of paternity or a denial of paternity can be signed before or after the birth of a child. It takes effect after the birth of the child.

Once paternity is established how are custody and timesharing determined?

Legal custody and visitation are determined either by agreement of the parties or by a decision by the Court regarding the child's best interests.

## **How long does a person have after the birth of a child to establish paternity?**

A paternity case can be started anytime before the child reaches age 21.

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