



## Understanding Paternity Cases in Family Court

Paternity cases in Family Court are crucial for establishing a child's biological father and determining parental rights and responsibilities. Here's a comprehensive guide to navigating the process:

### What is Paternity?

- Paternity cases identify a child's biological father for legal purposes, affecting parental rights and obligations.

### Establishing Paternity:

- **Marital Presumption:** In marriage, the husband is presumed to be the legal father.
- **Acknowledgement of Paternity:** Unmarried parents can establish paternity by signing this form, typically done at birth or before the child turns twenty-one.
- **Paternity Petition:** Filed in Family Court to declare someone as the legal father if no acknowledgment is signed.
- **Exception for Married Women:** If a woman is married at the time of birth or conception, the acknowledgment of paternity form cannot be used.

### Filing a Paternity Petition:

- Any involved party—mother, father, guardian, or Department of Social Services—can file.
- Both parties receive notice of the court date.

### Court Process:

- **Agreement:** If all parties agree on paternity, the court may issue an Order of Filiation.
- **DNA Test:** If disagreement persists, the court may order a DNA test for all involved parties.
- **Trial:** If necessary, a trial is scheduled where evidence, including DNA test results, is presented. The burden of proof varies based on circumstances.
- **Final Order:** Upon completion, the judge signs an Order of Filiation if paternity is established.

### **DNA Testing Process:**

- Conducted at a laboratory by swabbing cheeks of the involved parties and the child.
- The requesting party typically covers the cost, but reimbursement may occur if the respondent is confirmed as the biological father.
- The court may share or cover the cost if needed.

### **Legal Representation:**

- Parties can represent themselves or hire attorneys.
- Court-appointed attorneys may be available based on income eligibility.
- Assistance from Legal Aid may be an option for those in need.

### **Equitable Estoppel:**

- Courts may apply this principle to deny paternity if establishing it could result in injustice, especially when a child already has an established relationship with someone else as their father.

### **LGBTQ+ and Donor-Conceived Cases:**

- New York State recognizes various family compositions and methods of reproduction through parentage proceedings.
- Parents, regardless of marital status or sexual orientation, can establish parentage through legal means, including signing an Acknowledgment of Parentage or filing a Parentage Petition in Family Court.

Understanding the intricacies of paternity cases is essential for navigating legal matters surrounding parental rights and responsibilities in Family Court effectively.

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