

	<b>INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL</b>	
	<b>Chapter 9: Paternity Establishment</b>	<b>Effective Date: 10/28/2021</b>
	<b>Section 3: Judicial Establishment of Paternity</b>	<b>Version: 2.2 Revision Date: 09/23/2021</b>

**BACKGROUND**

Paternity may be established by an order of the Court.<sup>1</sup> In order for a case to be filed in a particular Court, the Court must have jurisdiction over the parties and the venue must be proper.

**POLICY**

1. Jurisdiction

- A Court has personal jurisdiction if the party:
- a. Files a paternity action;
  - b. Joins a paternity action;
  - c. Is served a summons in Indiana;
  - d. Enters an appearance for purposes other than contesting jurisdiction; or
  - e. Is subject to the power of the Court under any law of Indiana.<sup>2</sup>

Each county’s local rules determine the specific Court to which the paternity case may be assigned.

The proper venue for a paternity action is the county where the child, the mother, or the alleged father resides.<sup>3</sup> Change of venue is permissible under Indiana Trial Rule 76.<sup>4</sup>

Jurisdiction and venue for non-resident parties is governed by the Uniform Interstate Family Support Act.<sup>5</sup>

2. Parties to a Paternity Action

The child, the child’s mother, and each alleged father are necessary parties and shall be joined to each paternity action.<sup>6</sup>

If paternity is not already established, the Title IV-D Prosecutor’s Office shall file a paternity action upon the request of the child, the mother or expectant mother, or a man

<sup>1</sup> IC 31-14-2-1; 42 U.S.C. § 666(a)(2); 45 C.F.R. § 303.5(a)(2)  
<sup>2</sup> Ind. Trial Rule 4(a)  
<sup>3</sup> IC 31-14-3-2  
<sup>4</sup> Ind. Trial Rule 76  
<sup>5</sup> IC 31-18.5-2; Chapter 16: Intergovernmental Case Processing  
<sup>6</sup> IC 31-14-5-6

alleging to be the father or expectant father.<sup>7</sup> The Department of Child Services (DCS) Child Welfare may also request the Title IV-D Prosecutor's Office to initiate Title IV-D child support services, including establishment of paternity, if the child is the subject of a child in need of services proceedings.

### 3. Special Circumstance Affecting Filing of Petition

Neither the death of the mother nor the death or stillbirth of the child bars a petition to establish paternity if the petition to establish paternity is not otherwise barred.<sup>8</sup>

A petition to establish paternity, where child support is sought, must be filed during the lifetime of the alleged father or within five (5) months after his death.<sup>9</sup>

A petition to establish paternity may be filed in the child's name before the child reaches age 19, if public assistance has been furnished and there is an assignment of rights under Title IV-D on behalf of the child.<sup>10</sup>

## REFERENCES

- [IC 12-14-2-24](#): Establishing paternity required; exceptions; revocation; good faith effort to cooperate required; presumption of good faith effort; other considerations
- [IC 16-37-2-2.1](#): Paternity affidavits; requirements; forms; joint legal custody agreement; penalty; effect of paternity affidavit; genetic test; opportunity to consult
- [IC 31-14-2-1](#): Exclusive methods of establishing paternity
- [IC 31-14-3-2](#): Venue
- [IC 31-14-4-1](#): Persons permitted to file action
- [IC 31-14-4-3](#): Department or prosecuting attorney permitted to file action
- [IC 31-14-5-1](#): Verification of petition; caption
- [IC 31-14-5-4](#): Action by division or county office of family and children furnishing public assistance; time for filing action
- [IC 31-14-5-5](#): Action to be filed during lifetime or within five months of death of alleged father
- [IC 31-14-5-6](#): Necessary parties
- [IC 31-14-5-8](#): Action not barred by child's death or stillbirth or mother's death
- [IC 31-14-7-1](#): Presumptions; child's biological father
- [IC 31-18.5-2](#): Jurisdiction (UIFSA)
- [IC 31-25-4-13.1](#): Agreements with local government officials; contacting; attorney-client relationship; informing applicant; service level stipulation
- [IC 31-25-4-19](#): Services for other than TANF recipients or applicants; application; fees
- [IC 31-25-4-17](#): Support related duties of the bureau
- [In the Matter of the Paternity of M.A.M.](#), 137 N.E.3d 1019 (Ind.Ct.App. 2019)
- [Ind. Admin. Rule 1](#): Preparation and filing of statistical reports
- [Ind. Trial Rule 4](#): Process
- [Ind. Trial Rule 4.1](#): Summons: Service on individuals

<sup>7</sup> IC 31-14-4-1; IC 31-14-4-3; *In the Matter of the Paternity of M.A.M.*, 137 N.E.3d 1019, 1022-1023 (Ind.Ct.App. 2019)

<sup>8</sup> IC 31-14-5-8

<sup>9</sup> IC 31-14-5-5

<sup>10</sup> IC 31-14-5-4

- [Ind. Trial Rule 4.11](#): Summons: Registered or certified mail
- [Ind. Trial Rule 76](#): Change of venue
- [Ind. Trial Rule 81.1](#): Procedures for Cases Involving Family or Household Members
- [42 U.S.C. § 654](#): State plan for spousal and child support
- [42 U.S.C. § 666](#): Requirement of statutorily prescribed procedures to improve the effectiveness of child support enforcement
- [45 C.F.R. § 302.31](#): Establishing paternity and securing support
- [45 C.F.R. § 302.33](#): Services to individuals not receiving Title IV-A assistance
- [45 C.F.R. § 303.5](#): Establishment of paternity
- [45 C.F.R. § 303.11](#): Case closure criteria

## PROCEDURE

### 1. Securing Background Information

The Title IV-D Prosecutor's Office will receive certain basic information about a prospective paternity case via the IV-A/IV-D interface, the IV-E/IV-D interface, the Indiana Child Support Services Enrollment Form, State Form 34882, (Enrollment Form), or a Uniform Interstate Family Support Act (UIFSA) transmittal. The Title IV-D Prosecutor's Office may wish to conduct an in-person interview with the enrollee to obtain additional information about the other participant. If the enrollee is unable to come to the Title IV-D Prosecutor's Office due to distance or an intergovernmental case, additional information may be obtained via telephone, mail, or email.

### 2. Determining Not to File a Petition to Establish Paternity

The Title IV-D Prosecutor's Office is strongly encouraged to check Indiana Department of Health's Database Registration of Vital Events (DRIVE) or PanOptic systems to determine whether a paternity affidavit has been executed for the child or if paternity has already been established by the Court. DRIVE includes paternity affidavits executed in Indiana from January 4, 2021, to current date. PanOptic includes paternity affidavits executed in Indiana prior to January 4, 2021. Because the execution of a paternity affidavit establishes paternity without further order of the Court, the Title IV-D Prosecutor's Office need not file a petition to establish paternity, but instead files a petition to establish a child support order.<sup>11</sup> Similarly, if a Court has already established paternity, the Title IV-D Prosecutor's Office files a petition to establish a child support order and not a petition to establish paternity.<sup>12</sup>

If a paternity affidavit has been executed greater than 60 days and has not been set aside, the Title IV-D Prosecutor's Office shall not file a paternity action against another man named by the father or another man who alleges to be the father of the child.<sup>13</sup> However, if it is within 60 days of the execution of the paternity affidavit, the Title IV-D Prosecutor's Office may, at the request of the man who signed the paternity affidavit, file a request with the Court for genetic testing.<sup>14</sup>

<sup>11</sup> IC 16-37-2-2.1(j)(2)(A); IC 16-37-2-2.1(p); Chapter 10: Child Support Establishment

<sup>12</sup> Chapter 10: Child Support Order Establishment

<sup>13</sup> IC 31-14-4-1(7)(B)

<sup>14</sup> IC 16-37-2-2.1(k)

The Title IV-D Prosecutor's Office does not need to attempt to establish paternity in any case involving incest or forcible rape or in any case in which legal proceedings for adoption are pending, if, in the opinion of the Title IV-D Prosecutor's Office, it would not be in the best interests of the child to establish paternity.<sup>15</sup> If the Title IV-D Prosecutor's Office determines it is not in the child's best interest to establish paternity in those situations, the Title IV-D Prosecutor's Office may close the case and must document the circumstances appropriately.<sup>16</sup>

The Division of Family Resources (DFR) may determine that a Temporary Assistance for Needy Families (TANF) applicant has provided good cause to not cooperate with the Title IV-D Prosecutor's Office in establishing paternity or a child support order because the physical health or safety of the mother or child would be jeopardized.<sup>17</sup> The Title IV-D Prosecutor's Office shall not proceed on a case in which there has been a finding of good cause by DFR unless there has been a determination that support enforcement may proceed without the participation of the applicant.<sup>18</sup>

### 3. Preparing the Petition

Each petition must be verified and captioned "In the Matter of the Paternity of \_\_\_\_\_".<sup>19</sup> The caption shall not indicate that the Title IV-D Prosecutor's Office represents a particular party other than the State of Indiana.<sup>20</sup>

### 4. Filing the Paternity Action

In all Title IV-D cases, the Title IV-D Prosecutor's Office shall file the paternity action pursuant to local court rules. One (1) petition must be filed for each child of the case.<sup>21</sup> Once paternity is established for all children with the same custodial party (CP) and non-custodial parent (NCP) in common, the Court shall consolidate all of the cases into a single paternity case.<sup>22</sup>

### 5. Serving the Summons

The summons and a copy of the petition shall be served, in general, upon both parties by:

- a. Registered or certified mail;<sup>23</sup>
- b. Personal service;<sup>24</sup>
- c. Leaving a copy of the summons and petition at the party's home;<sup>25</sup> or

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<sup>15</sup> 45 C.F.R. § 303.5(b)

<sup>16</sup> 45 C.F.R. § 303.11(b)(6)(iii); Chapter 17: Case Closure, Section 12: Not in Best Interest of Child to Establish Paternity in Case of Incest, Forcible Rape, or Pending Adoption Proceedings (CGCA)

<sup>17</sup> IC 12-14-2-24(b)(4); Chapter 4: Temporary Assistance for Needy Families (TANF) Cases, Section 3: Cooperation with the Title IV-D Prosecutor; Good Cause; Sanctions for Non-Cooperation

<sup>18</sup> 45 C.F.R. § 302.31(c)

<sup>19</sup> IC 31-14-5-1

<sup>20</sup> IC 31-25-4-13.1(e)

<sup>21</sup> Ind. Admin Rule 1(B)(4)(c)

<sup>22</sup> Ind. Trial Rule 81.1(H)

<sup>23</sup> Ind. Trial Rule 4.1(A)(1)

<sup>24</sup> Ind. Trial Rule 4.1(A)(2)

<sup>25</sup> Ind. Trial Rule 4.1(A)(3)

d. Serving the party's agent as provided by rule, statute, or agreement.<sup>26</sup>  
If using registered or certified mail, a return receipt should be requested and returned showing receipt of the summons and petition.<sup>27</sup>

## FORMS AND TOOLS

1. [BOW/Paternity Code Desktop Guide](#)
2. [Database Registration of Indiana's Vital Events \(DRIVE\)](#)
3. [Panoptic Paternity Affidavit Access](#)
4. [Signing Up for Access Indiana and DRIVE](#)

## FREQUENTLY ASKED QUESTIONS

1. Q. May the Title IV-D Prosecutor's Office file a petition to establish paternity if the alleged father submitted the Enrollment Form?  
  
A. Yes. Anyone may apply for services.<sup>28</sup> If paternity has not been legally established for the child with any father the Title IV-D Prosecutor's Office shall file a petition to establish paternity on behalf of the alleged father.<sup>29</sup>
2. Q. May the Title IV-D Prosecutor's Office file a petition to disestablish paternity for a NCP who executed a valid paternity affidavit and now says he is not the child's father and more than 60 days have passed?  
  
A. No. A Title IV-D Prosecutor may only file a petition to rescind a paternity affidavit within 60 days of the execution of the paternity affidavit.<sup>30</sup>
3. Q. May the Title IV-D Prosecutor's Office file a paternity action when a child is born during an intact marriage where the alleged father is not the husband?  
  
A. Yes. There is a presumption that the husband is the child's father.<sup>31</sup> However, upon receipt of an Enrollment Form, the Title IV-D Prosecutor's Office shall file an action at the request of the child, mother, or a man alleging to be the father.<sup>32</sup>

## RELATED INFORMATION

Paternity affidavits scanned after January 4, 2021, should be available in DRIVE. Paternity affidavits scanned prior to January 4, 2021, can be found in PanOptic.

### Related Resources

1. Chapter 3: Case Initiation

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<sup>26</sup> Ind. Trial Rule 4.1(A)(4)

<sup>27</sup> Ind. Trial Rule 4.11

<sup>28</sup> IC 31-25-4-19; 42 U.S.C. § 654(4); 45 C.F.R. § 302.33(a)(1)(i)

<sup>29</sup> IC 31-14-4-1(7)(b); IC 31-25-4-17(a)(7); *In the Matter of the Paternity of M.A.M.*, 137 N.E.3d 1019, 1022-1023 (Ind.Ct.App. 2019)

<sup>30</sup> IC 16-37-2-2.1(k); IC 31-14-4-1(7)(B)

<sup>31</sup> IC 31-14-7-1(1)

<sup>32</sup> IC 31-14-4-1

2. Chapter 4: Temporary Assistance for Needy Families (TANF) Cases
3. Chapter 10: Child Support Establishment
4. Chapter 16: Intergovernmental Case Processing
5. Chapter 17: Case Closure

<b>REVISION HISTORY</b>
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Version	Date	Description of Revision
Version 1	11/17/2017	Final Approved Version
Version 2	08/20/2020	Combined prior Sections 3 and 4. Updated to address more commonly occurring issues with establishing paternity and added additional information about Panoptic.
Version 2.1	04/26/2021	Updated Procedure #4 to reflect new Trial Rule.
Version 2.2	10/28/2021	Updated to reflect DRIVE information.