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|  | INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL | |
| | Chapter 9: Paternity Establishment | Effective Date: 11/17/17 |
| | Section 4: Judicial Establishment of Paternity | Version: 1 Revision Date: 11/17/17 |

BACKGROUND

N/A

POLICY

Paternity may be established by an order of the court.¹

The child, the child’s mother, and each alleged father are necessary parties and shall be joined to each paternity action.²

If paternity is not already established, the Title IV-D Prosecutor shall file a paternity action upon the request of the child, the mother or expectant mother, a man alleging to be the father or expectant father, or the Department of Child Services (DCS) Child Welfare.³

The Title IV-D Prosecutor 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, it would not be in the best interests of the child to establish paternity.⁴

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.⁵

There are circumstances in which paternity should be established that are not as common, including:

1. A petition to establish paternity, where child support is sought, must be filed during the lifetime of the alleged father or within five months after his death.⁶
2. A petition to establish paternity may be filed in the child’s name before the child reaches age nineteen, if public assistance has been furnished and there is an assignment of rights under Title IV-D on behalf of the child.⁷

¹ IC 31-14-2-1; 42 U.S.C. § 666(a)(2); 45 C.F.R. § 303.5(a)(2)

² 31-14-4-1(7)(B); IC 31-14-5-6

³ IC 31-14-4-1; IC 31-14-4-3; See Chapter 5: DCS Child Welfare Cases

⁴ 45 C.F.R. § 303.5(b)

⁵ IC 31-14-5-8

⁶ IC 31-14-5-5

⁷ IC 31-14-5-4

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](#): Birth certificate and paternity affidavit; persons responsible for filing or preparation; release of paternity affidavit
- [IC 31-14-2-1](#): Exclusive methods of establishing paternity
- [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 31-25-4-13.1](#): Agreements with local government officials; contacting; attorney-client relationship; informing applicant; service level stipulation
- [Ind. Administrative Rule 1](#): Preparation and filing of statistical reports
- [Ind. Trial Rule 4 et seq.](#): Process
- [Ind. Trial Rule 81](#): Local court rules
- [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. § 303.5](#): Establishment of paternity
- [45 C.F.R. § 303.11](#): Case closure criteria

PROCEDURE

1. Securing Background Information

a. Information Sources for Establishing Paternity

The Title IV-D Prosecutor will receive certain basic information about a prospective paternity case via the IV-A/IV-D interface, the IV-E/IV-D interface, an Application for Title IV-D Child Support Services, or a Uniform Interstate Family Support Act (UIFSA) transmittal.

b. Interviewing Petitioner

The Title IV-D Prosecutor may wish to conduct an in-person interview with the applicant to obtain additional information about the other participant, other than what is available through the above sources. An interview sheet may assist the Title IV-D Prosecutor in conducting the interview.⁸

2. Determining Whether to Initiate Paternity Action

⁸ See Chapter 3: Application and Case Initiation;

- a. The Title IV-D Prosecutor is strongly encouraged to check Panoptic to determine whether a paternity affidavit has been executed for the child named in the application or if paternity has already been established by the court. If so, the Title IV-D Prosecutor shall not file a petition to establish paternity but shall file a petition to establish support against the legal father.⁹
- b. If the Title IV-D Prosecutor determines that the mother and another man have previously executed a paternity affidavit for this child, the Title IV-D Prosecutor shall not file a paternity action against the man named in the Application for Title IV-D Child Support Services.¹⁰
- c. If the Title IV-D Prosecutor determines it is not in the child's best interest to establish paternity where there is incest or rape, or when legal proceedings for adoption have begun, the Title IV-D Prosecutor may close the case using ISETS case closure code CGCA.¹¹ The Title IV-D Prosecutor is strongly encouraged to consider whether establishing paternity would put the child or caretaker at a significant risk of harm when determining if establishing paternity is in the child's best interest.
- d. The Division of Family Resources (DFR) may determine that a Temporary Assistance to Needy Families (TANF) applicant has good cause to not cooperate with the Title IV-D Prosecutor in establishing paternity or a child support order because the physical health or safety of the mother or child would be jeopardized.¹² The Title IV-D Prosecutor shall not proceed on a case in which there has been a finding of good cause unless there has been a determination that support enforcement may proceed without the participation of the applicant.¹³

3. Preparing the Petition

Each petition must be verified and captioned "In the Matter of the Paternity of _____".¹⁴ The caption shall not indicate that the Title IV-D Prosecutor represents a particular party other than the state of Indiana.¹⁵

4. Filing the Paternity Action

In all Title IV-D cases, the Title IV-D Prosecutor shall file the paternity action pursuant to local court rules.¹⁶ One petition must be filed for each child of the case.¹⁷ Once paternity is established for all children with the same custodial party and non-custodial

⁹ IC 16-37-2-2.1(p); 16-37-2-2.1 (j)(2)(A); See Chapter 10: Child Support Order Establishment

¹⁰ IC 31-14-4-1(7)(B)

¹¹ 45 C.F.R. § 303.11(b)(6)(iii); See Chapter 17 Section 21: Not in Best Interest of Child to Establish Paternity in Case of Incest, Forcible Rape, or Pending Adoption Proceedings

¹² IC 12-14-2-24(b); 470 IAC 10.3-8-1(c); See Chapter 4 Section 3: Cooperation with the Title IV-D Prosecutor; Good Cause; Sanctions for Non-Cooperation

¹³ 45 C.F.R. § 302.31(c)

¹⁴ IC 31-14-5-1

¹⁵ IC 31-25-4-13.1(e)

¹⁶ Ind. Trial Rule 81

¹⁷ Ind. Administrative Rule 1(B)(4)(c)

parent in common, the Title IV-D Prosecutor may seek to consolidate the causes so that only one case and one support order will be ongoing for the family unit.

5. Serving the Summons

The summons and a copy of the petition shall be served upon both parties by personal service, registered or certified mail, or other means acceptable under Trial Rule 4 and its subparts. If using registered or certified mail, a return receipt should be requested and returned showing receipt of the summons and petition.¹⁸

FORMS AND TOOLS

1. [BOW/Paternity Code Desktop Guide](#)
2. Chapter 3: Application and Case Initiation
3. Chapter 4: Temporary Assistance with Needy Families (TANF) Cases
4. Chapter 5: DCS Child Welfare Cases
5. Chapter 10: Child Support Establishment
6. Chapter 17: Case Closure
7. [CSB-AT-287](#): Auto Populate BOW Indicator
8. [Establishing Paternity Brochure](#)
9. [Panoptic Paternity Affidavit Access Logon](#)
10. [Panoptic Paternity Affidavit Access](#)

FREQUENTLY ASKED QUESTIONS

1. Q. Can the Title IV-D Prosecutor file a petition to establish paternity if the alleged father filled out the Application for Title IV-D Child Support Services?
A. Yes. Anyone may apply for services. If paternity has not been legally established, the Title IV-D Prosecutor shall file a petition to establish paternity on behalf of the alleged father.¹⁹
2. Q. Can the Title IV-D Prosecutor file a petition to establish paternity for a non-custodial parent who executed a valid paternity affidavit and says he is not the child's father after more than 60 days have passed?
A. No. Paternity is already established and this is not a service the Title IV-D Prosecutor provides.
3. Q. Can the Title IV-D Prosecutor 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 only a presumption that the husband is the child's father.²⁰ However, upon an application for Title IV-D services, the Title IV-D Prosecutor shall file an action at the request of the child, mother or expectant mother, or a man alleging to be the father or expectant father.²¹

¹⁸ Ind. Trial Rule 4 *et seq.*

¹⁹ IC 31-14-4-1; IC 31-25-4-13.1

²⁰ IC 31-14-7-1(1)

²¹ IC 31-14-4-2(a)

RELATED INFORMATION

N/A