

# **PATERNITY**

## **INTRODUCTION**

### **GENERAL INFORMATION**

This chapter contains information on the following topics:

1. [An overview of the paternity establishment process;](#)
2. [Voluntary methods of establishing paternity;](#)
3. [Judicial methods of establishing paternity;](#)
4. [Paternity testing;](#)
5. [Paternity disestablishment.](#)

## **PATERNITY ESTABLISHMENT OVERVIEW**

### **GENERAL INFORMATION**

This topic contains information on the following subjects:

1. [The paternity establishment process;](#)
2. [Interviewing the alleged father/noncustodial parent \(NCP\);](#)
3. [Paternity establishment for minor parents;](#)
4. [Service of process for Paternity documents;](#)
5. [Paternity Establishment time frames.](#)

## **PATERNITY ESTABLISHMENT PROCESS**

### ***PATERNITY ESTABLISHMENT POLICY***

When the location of a noncustodial parent (NCP) is known and confirmed and paternity is at issue, the local CSS agency is responsible for proceeding with attempts to establish paternity.

If the mother of a child born out of wedlock is being pursued and the father is not, paternity establishment is not a required case activity. For purposes of establishing and enforcing a support obligation for the mother, issues of whether a child was born of a marriage and the identification of the child's father are not relevant.

The preferred manner in which paternity can be established is through a voluntary process. This is done by an admission of paternity based upon the signing of an Affidavit of Parentage (DSS-4697) by both parents. The Affidavit of Parentage is a universal form that is used throughout the CSS program as well as by hospitals and others to establish paternity.

Other legal processes available are:

1. [Legitimation;](#)
2. [Civil Paternity Action](#) (including UIFSA, long-arm actions, and straight civil paternity suits);
3. [Criminal Proceedings.](#)

Per federal regulations at 45 CFR 303.4, within ninety (90) calendar days of locating an alleged father, CSS must either establish an order for support voluntarily (including paternity establishment if paternity of the child is at issue); complete service of process to establish paternity either civilly or criminally; or document in the CSS case record unsuccessful attempts to serve process.

If the client names more than one possible father, the CSS agency must meet the time standards for each alleged father pursued. In order to expedite the process, it might be appropriate to request paternity testing on all parties prior to filing the action, or name two (2) or more defendants in the paternity petition.

#### ***PATERNITY ESTABLISHMENT PROCEDURES***

When paternity is at issue for a child, the case that includes the child and the alleged father is assigned to the "Paternity" processing status, unless the alleged father does not have an address where he can be served. When this occurs, the case is assigned to the "Locate" processing status until the alleged father is located. When the alleged father is located, ACTS assigns the case to the Paternity processing status and notifies the responsible caseworker(s) that they can proceed with the Paternity establishment process. For additional information, see the [Locate](#) Chapter.

*NOTE: Open cases with a child whose paternity is at issue that has the mother as the NCP are not assigned the Paternity processing status, regardless of the status of other cases containing the child that have an alleged father as the NCP. The case with the mother as NCP moves from the Initiation processing status to Locate, Establishment, or Enforcement, as appropriate.*

The responsible caseworker indicates in ACTS that paternity is at issue for a child participant who is added to a new or an existing case.

#### ***EXCEPTIONS TO PATERNITY AT ISSUE***

For open cases with a child who is born out of wedlock in which the NCP/alleged father is named or listed as "Unknown", caseworkers must indicate in ACTS that paternity is at issue. If the only open case with a child who is born out of wedlock contains the mother as the NCP, caseworkers must document in ACTS that paternity is not at issue.

The following rules are used when a client with an existing case has a new child whose paternity is at issue:

1. If the alleged father IS NOT the father (or alleged father) of any other child(ren) in the client's existing case(s), a new case is created with that client, the new child, and the alleged father.
2. If the alleged father is already under a support order for any other child(ren) with the client, a new case is created with that client, the new child, and the alleged father. The paternity action is filed under a separate docket number. If the alleged father is later found to be the father of the new child, the cases are consolidated after the order is obtained. The new case is closed and the new child added to the original case as an active participant.

3. If the alleged father is the father (or alleged father) of another child with the client AND that child IS NOT yet covered under a support order, the new child is added to the existing case. The case is assigned to the Paternity processing status if the alleged father's whereabouts are known. Paternity and/or support can be pursued for BOTH children in the same case.

Legal procedures to establish paternity can begin as soon as the mother signs the Mother's Certification portion of the Affidavit Of Parentage (DSS-4697). The mother and the natural father have an opportunity to sign the Affidavit at the birthing hospital.

If the parents sign the Affidavit at the hospital, the responsible caseworker documents both parent's names and MPI numbers in ACTS. Caseworkers also enter a paternity disposition for the child(ren), even if paternity is NOT at issue.

If the parents DO NOT sign the Affidavit Of Parentage at the hospital, paternity can be established voluntarily at a later date. This situation might require caseworkers to generate an Affidavit Of Parentage. When caseworkers obtain the mother's (but NOT the father's) signature on the Affidavit Of Parentage, caseworkers should contact the alleged father and schedule an interview (or have him call the office.) Caseworkers can also generate a Demand Letter To Alleged Father (DSS-4539) or Appointment/Demand Letter Letter To Alleged Father (DSS-4460).

When the alleged father is willing to admit paternity, caseworkers should arrange for him to sign the Affidavit of Parentage. Once the alleged father has signed the Affidavit and it has been filed with N.C. Vital Records, caseworkers must enter a finding of paternity in ACTS.

After signing the Affidavit of Parentage, the NCP/alleged father has sixty (60) days in which to file an appeal. If the NCP files an appeal and the judge determines that the Affidavit of Parentage is invalid AND the paternity disposition for the child has already been entered, caseworkers must follow the steps for a [rescission of paternity](#).

When the alleged father is NOT willing to admit paternity, caseworkers might need to arrange for [paternity testing](#) for the appropriate participants and to enter the results of those tests in ACTS.

If paternity testing confirms that the alleged father is indeed the father of the child(ren) in question, he can still [voluntarily admit paternity](#) by signing the Affidavit Of Paternity.

When the father DOES NOT voluntarily admit paternity, caseworkers can proceed with civil or criminal court action to establish paternity. Once court action is necessary, caseworkers must schedule a court hearing. After the court hearing has occurred, caseworkers enter the results of the hearing in ACTS.

## **INTERVIEWING THE ALLEGED FATHER/NCP**

### ***SCHEDULING A PATERNITY INTERVIEW***

Once the alleged father/NCP has been located, the first step in establishing a paternity order is to contact him/her. Caseworkers can either schedule an interview with the NCP immediately, or they can first request that the NCP parent call the office.

#### ***CONDUCTING THE ALLEGED FATHER INTERVIEW***

Prior to any discussion with a minor father, CSS must advise him of the right to have an adult present. The letter that is sent to request a minor alleged father's appearance at the interview also informs him of this right.

It is strongly recommended that any discussion with a minor be conducted in the presence of a parent, legal guardian, or other adult who is responsible for or has an interest in the welfare of the minor. If the minor elects not to have an adult present, CSS must have the minor parent sign the Minor Parent/Adult Representative Statement (DSS-4540) BEFORE continuing with the interview. If an adult is present, have that person sign the DSS-4540 document. Retain the completed form in the case file.

When conducting the interview with the alleged father, caseworkers must:

1. Explain the allegation, along with the consequences of being found to be the legal parent of the child. Advise the alleged father that the agency is required, under Section 466(a)(13) of the Social Security Act, to include the Social Security number of any person subject to a paternity determination or acknowledgement or support order in the records relating to the matter, and that disclosure of this Social Security number is mandatory for provision of CSS services. Inform the alleged father of his right to counsel, paternity tests, and a hearing. Inform the alleged father of his right to counsel, paternity tests, and a hearing.
2. Obtain additional information about the alleged father and enter it in ACTS, as he provides it.
3. Offer the alleged father an opportunity to admit paternity. If the alleged father admits paternity, have him sign the Father's Certification portion of the Affidavit Of Parentage (DSS-4697). If the alleged father admits paternity and signs the Affidavit, responsible caseworkers must send the original Affidavit Of Parentage to N.C. Vital Records within five (5) days of completion. Photocopies are provided to each parent and the CSS case file.
4. If the alleged father admits paternity, obtain as much additional information about his income, assets, and expenses as possible. Caseworkers can enter this information online as the alleged father is providing it.
5. When caseworkers file a support action with the court, they obtain a docket number from the Clerk of Court. Caseworkers should store the assigned docket number in ACTS as soon as they obtain it. Early entry of the docket number facilitates the generation of legal documents, as well as the early receipting of payments.

### **ENTERING A DISPOSITION (RESULT) FOR A PATERNITY INTERVIEW**

Caseworkers must enter a disposition for an interview appointment so that their activities are recorded as events in the case record.

### **PATERNITY ESTABLISHMENT FOR MINOR PARENTS**

When establishing paternity for a child in a case in which the alleged father is an unemancipated minor (under the legal age of 18), CSS must ensure that the minor's rights are protected. Prior to discussions between the agency and the minor alleged father, CSS must advise him of the right to have an adult present and document his decision.

Otherwise, the interview process for a minor alleged father is the same as that for an adult alleged/putative father.

G.S. 110-132 states that the written admission of paternity is binding on an individual, whether adult or minor. However, if an adult representative is present at the signing of the Affidavit Of Parentage (DSS-4697) by a minor parent, the adult should also sign the affidavit.

For a contested civil paternity case in which the defendant is a minor, the court must appoint a guardian *ad litem* for the minor.

If the mother is also a minor, any subsequent legal actions should be captioned in either the name of the agency, in the name of the custodial parent, or through her guardian *ad litem*.

### **SERVICE OF PROCESS FOR PATERNITY DOCUMENTS**

When CSS caseworkers generate service of process documents for paternity activities, ACTS automatically selects the mailing address that is listed for the alleged father/NCP to appear on those documents. However, the actual physical address where the NCP should be served could be different (for example, the NCP's mailing address could be a Post Office Box.)

Service of process can be accomplished by certified mail or personal service by the Sheriff's Department, depending on the local office's preference. When caseworkers learn whether or not the service of process was successful, they document this information in ACTS.

If an attempt to serve the NCP at a home address has failed and his/her employer is recorded in ACTS, the documents are immediately issued for service at the employer's address. Similarly, if an attempt to serve the documents at the employer's address has failed and a current mailing or residential address is recorded for the NCP, new documents are immediately issued for service at the mailing/residential address.

If service was unsuccessful because the NCP's address is wrong or no longer valid, caseworkers change the address type that was used for service to the "old" address.

If an attempt to serve the NCP at the employer's address reveals that the NCP is no longer employed there, caseworkers enter the appropriate date in ACTS as the final work date.

If the service is unsuccessful due to evasion or because the NCP is "unavailable," new documents are generated as appropriate and reissued. If the return of service indicates a date when the NCP will become "available," caseworkers create a reminder in ACTS for that date so that they can issue the necessary service of process documents at that time. Otherwise, the new documents are issued immediately.

#### **SERVICE OF PROCESS TIME FRAME FOR PATERNITY**

A civil summons expires if it has not been successfully served within sixty (60) days of it being issued. If the summons has not been successfully served within twenty-six (26) days, ACTS notifies the responsible caseworker(s) that the summons must be renewed within four (4) days.

Once an NCP's home address or employer has been recorded, federal regulations require that a summons be served (or an order entered) within ninety (90) calendar days. If the case remains in the Paternity or Establishment Processing Status for seventy-six (76) days after the address/employer was entered, ACTS notifies the responsible caseworker(s) of this time frame UNLESS the service date for the summons or the reason for unsuccessful service is entered in ACTS, or caseworkers enter a court order for the case.

#### **PATERNITY ESTABLISHMENT TIME FRAMES**

The federally-required expedited processing time standards require that within ninety (90) days of location of an alleged father/NCP, CSS must establish an order for support including establishment of paternity if paternity of the child is at issue; complete Service of Process; or document unsuccessful service.

The federal incentive funding system to states includes a measure of rates of paternity establishment. Within a fiscal year, paternity must be established for ninety percent (90%) of children born out of wedlock.

Paternity Establishment Formula:

$$\frac{\text{Total \# of children born out of wedlock in the state, for whom paternity was established during the fiscal year}}{\text{Total \# of children born out of wedlock during the preceding fiscal year}}$$

*NOTE: If the paternity establishment rate for a state is below ninety percent (90%), the rate must be increased incrementally on a yearly basis until the rate reaches ninety percent (90%).*

### **VOLUNTARY METHODS OF ESTABLISHING PATERNITY**

#### **GENERAL INFORMATION**

This topic contains information on the following subjects:

1. [Hospital-based paternity establishment;](#)

2. [Voluntary paternity establishment;](#)
3. [Requesting birth certificates;](#)
4. [Entering a finding of paternity that did not result from a court hearing;](#)
5. [The voluntary paternity rescission process.](#)

#### **HOSPITAL-BASED PATERNITY ESTABLISHMENT**

The opportunity to voluntarily declare paternity for a child is made available to parents in North Carolina birthing hospitals. In accordance with the provisions of G.S. 110-132(a), designated hospital staff provide parents with an explanation of the administrative paternity establishment process, the effect of acknowledging paternity, other available options, and parental rights and responsibilities. The mother and the natural father then have an opportunity to sign an Affidavit Of Parentage For Child Born Out Of Wedlock (DHHS-1660). This form, which is identical to the Affidavit Of Parentage (DSS-4697) used by N.C. CSS, contains the following:

1. A sworn statement by the mother consenting to the assertion of paternity by the father and declaring that the named man is the child's natural father;
2. A sworn statement by the named name, declaring that he believes he is the natural father of the child;
3. Information explaining the effect of signing the Affidavit and an acknowledgment of receipt of this information; and
4. The Social Security numbers of the mother, the father, and child and other demographic data for these individuals.

Resources such as the video "It Takes Two" and the Paternity Establishment Process Brochure (DSS-7021) are used by birthing hospitals to provide information to parents. Hospitals receive brochures by requesting them from the local CSS agency.

After the Affidavit Of Parentage is signed by both parents, the name of the child's father is entered on the birth certificate. Unless this admission of paternity is rescinded by either parent, in accordance with G.S. 110-132, it has the same effect as a judgment of paternity for the purpose of establishing a child support obligation.

Because N.C. law at G.S. 130A-101 requires that the mother's husband be listed as the father on a child's birth certificate, if the mother is married to someone other than the natural father of the child, the parents sometimes elect not to sign an Affidavit at the hospital. If an Affidavit is signed in this circumstance, it does not establish the man who signed as the child's father. Judicial action is required to remove the legal father and adjudicate paternity. The signed Affidavit can be used as evidence in this action.

The statute also provides that if the father's name is entered on the child's birth certificate, the parents can agree upon the surname of the child. If no agreement exists between the parents or the father's name is not present on the birth certificate, the child's surname is the same as the mother's.

Hospitals are required to file the certificate of birth with the local registrar in the county where a birth occurs within five (5) days

after the birth. Local registrars receive, organize, and review these records for accuracy before forwarding hard copies of the birth certificate and any signed affidavits to N.C. Vital Records. The State Registrar then verifies and files these records. The practice of most birthing facilities is to electronically transmit birth record information to N.C. Vital Records at the time they send it to the local registrar.

Affidavits Of Parentage are distributed by the birthing facility as follows:

- Original - To N.C. Vital Records
- CSS copy - Either directly to the CSS Central Office or to N.C. Vital Records with the original. CSS copies that are delivered to N.C. Vital Records are forwarded to the CSS Central Office weekly.
- Parents' copies - To each parent after completion of the document by both parents

To determine whether an Affidavit Of Parentage has been signed at the hospital, CSS workers can:

- Search the CSS Affidavit Of Parentage database to determine if CSS already has a copy of the Affidavit;
- Instruct the client to bring copies of the child's birth certificate and the Affidavit Of Parentage (when appropriate) to the initial interview; and
- Question the client and NCP thoroughly about any actions related to paternity or support that might have been taken.

#### **VOLUNTARY PATERNITY ESTABLISHMENT (G.S. 110-132a)**

If paternity is not established at birth, parents can voluntarily establish paternity for their child by signing the Affidavit Of Parentage (DSS-4697).

Before signing, a parent must be advised of the following:

- The rights and responsibilities of parents;
- The legal consequences of signing the Affidavit;
- The alternatives to signing the Affidavit; and
- The right to rescind an admission of paternity.

This information must be presented in both oral and written forms. The oral presentation can be either live or in videotaped format.

CSS must review the document and complete any missing information by typing or writing it on the form. N.C. Vital Records requires that all data be present on the Affidavit.

CSS must have the parent sign the Affidavit before an Assistant Clerk of Court or Notary Public.

Within five (5) days of completion, CSS sends the original signed Affidavit Of Parentage to N.C. Vital Records for inclusion in the birth record. The signed Affidavit has the same legal effect as a judgment of paternity for the purpose of establishing a child support obligation. A Certificate Of Paternity (AOC- CV-611) is not needed

when paternity is established by affidavit. It is not necessary to file the Affidavit with the court at this time.

CSS must provide a copy of the completed Affidavit to each parent, retain a copy in the CSS case file, and enter a finding of paternity in the case record.

When any subsequent action for support is filed with the court, CSS attaches a copy of the Affidavit Of Parentage as evidence that paternity is not at issue.

If the entry of a paternity or support order occurs prior to the 60-day allowance for rescission of a paternity admission, the option to rescind is blocked. For more information, see "[Voluntary Paternity Rescission](#)".

### **REQUESTING BIRTH CERTIFICATES**

Multiple potential sources exist where CSS caseworkers can obtain copies of birth certificates. To expedite case processing, it is important for CSS to consider time, cost, and purpose when selecting a source.

If the client can provide a copy, this is often the preferred method. A copy from county DSS could also be available. If these sources are not productive, other sources such as the county Register of Deeds or state Vital Records agencies might be appropriate.

#### ***MANUAL BIRTH CERTIFICATE REQUESTS***

Caseworkers can manually request a birth certificate for a child who was born in North Carolina, another state/U.S. territory, or another country. Written requests are made by sending a Manual Birth Certificate Request (DSS-4526) to the appropriate agency.

#### ***Child(ren) Born in North Carolina -***

CSS workers can submit manual requests for the birth certificate of a child who was born in N.C. to the Register of Deeds in the county of the child's birth. The Register of Deeds can provide a birth certificate earlier than the 60-day period after the birth of a child that is required by N.C. Vital Records, usually within two (2) days of the request and at a minimal cost. However, the Register of Deeds cannot provide an Affidavit of Parentage.

Copies of birth certificates and Affidavits of Parentage for children born in North Carolina are initially available from N.C. Vital Records within sixty to ninety (60-90) days following the child's birth. Requests for copies that are received by N.C. Vital Records earlier than this are honored as soon as the forms are available.

CSS workers can make an electronic request for birth record documents through ACTS to N.C. Vital Records at any time after the child is sixty (60) days old. Either a birth certificate, an Affidavit of Parentage, or both documents can be requested. Electronic requests are processed within four to five (4-5) business days.

Prior to the 60-day waiting period, a request by CSS to N.C. Vital Records for birth record documents must be made manually. After that

period, either manual or electronic requests can be submitted. Manual requests are processed within ten (10) days. If a manually-generated request includes an Affidavit Of Parentage, CSS must write the additional request on the letter.

A nonrefundable \$24.00 fee is charged for each birth record search, whether the request is for certified copies, photocopies, or one or both birth record documents. The fee is charged even if no record is found

*NOTE: Although certified copies of birth record documents are not required to pursue paternity, documents received from N.C. Vital Records might or might not be certified.*

***Child(ren) Born In Another State Or U.S. Territory -***

CSS sends out-of-state birth certificate requests to Vital Records in the child(ren)'s birth state/territory. Fees and requirements vary from state to state. Several states currently require a photocopy of the requestor's driver license. Per G.S. 20-30(6), a black and white photocopy of a driver license, learner's permit, or special identification card can be reproduced. However, it is unlawful to make color photocopies.

***Child(ren) Born In Another Country -***

When a birth certificate is needed for a child who was born in another country, CSS sends the request to the other country's vital statistics agency.

***ELECTRONIC (IN-STATE) BIRTH CERTIFICATE REQUESTS***

CSS workers can make an electronic birth certificate request to N.C. Vital Records for North Carolina-born children after the child is sixty (60) days old. Caseworkers can request a birth certificate, an Affidavit Of Parentage, or both

**ENTERING A FINDING OF PATERNITY (NO HEARING)**

A court hearing is not always necessary to establish a finding of paternity. For example, the client and NCP could have signed an Affidavit of Parentage. It is still necessary to record the paternity finding.

*NOTE: If the paternity finding results in a paternity and support order, caseworkers must update the case with the court order. If the paternity finding results in a Paternity-Only order, caseworkers must also enter the order on the CSS case, although there are NO financial provisions.*

After entering the order information, caseworkers change the paternity status for the child(ren) whose paternity was at issue for the case (whether or not a support obligation was established.)

**VOLUNTARY PATERNITY RECISSION PROCESS**

An admission of paternity made by signing an Affidavit of Parentage is considered final unless it is rescinded by either parent. Rescission is permissible up to sixty (60) days from the date of signing, unless an order establishing paternity or support is issued earlier than sixty (60) days.

To rescind an admission of paternity, the challenging party must complete and file with the court a Motion And Notice Of Hearing To Rescind Affidavit Of Parentage (AOC-CV-916M), accompanied by a copy of the signed Affidavit Of Parentage, within sixty (60) days of the date of signing.

*NOTE: The AOC-CV-916M can be obtained by the challenging party from the Clerk of Court. This form is not available in ACTS and is not to be completed by the caseworker.*

It is the responsibility of the challenger to serve notice on all parties in a case, including the child support agency, in accordance with Rule 4 of the North Carolina Rules of Civil Procedure. If the court orders rescission of the paternity admission, the Clerk of Court must send a copy of that order to the State Registrar of Vital Records. The father's name is then removed from the birth certificate. If the requesting party fails to appear or present the issue, the court must find the putative father to be the legal father of the child.

Filing usually occurs in the rescinding party's county of residence; however, N.C. law does not require that rescission requests be made in any specific county. It might be appropriate to inquire of the parties or ask the Clerk of Court to search the AOC Civil Case Processing System (VCAP), if reason exists to believe that a rescission request has been made. A report of any rescission is included in all future birth records requested from N.C. Vital Records.

After more than sixty (60) days have passed since the signing of the Affidavit of Parentage, paternity can only be challenged in court on the basis of fraud, duress, mistake, or excusable neglect. The burden of proof is on the challenging party. If a support obligation exists, it is not suspended during the challenge, except for good cause.

After a request to rescind an admission of paternity is granted by the court, if the mother again names the same putative father, paternity establishment activities would proceed as though no action had previously occurred. It is probable that paternity testing and/or a civil paternity action would be appropriate in this situation.

#### ***RESCINDING AN ADMISSION/FINDING OF PATERNITY***

An admission of paternity that resulted from an alleged father/NCP signing the Affidavit of Parentage can be rescinded within sixty (60) days of the signature.

When notified that the NCP has filed a Motion And Notice Of Hearing To Rescind Affidavit Of Parentage with the Clerk of Court, caseworkers must document the hearing date in ACTS.

When the court orders a rescission of paternity, caseworkers change the paternity status of each child who is affected by the rescission in ACTS.

## JUDICIAL METHODS OF ESTABLISHING PATERNITY

### GENERAL INFORMATION

This topic contains information on the following subjects:

1. [Legitimation;](#)
2. [Civil paternity action;](#)
3. [Criminal paternity action for bastardy and nonsupport;](#)
4. [Scheduling a court hearing to establish paternity;](#)
5. [Entering a finding of paternity that resulted from a court hearing.](#)

### LEGITIMATION (G.S. 49-10 THROUGH 16)

Legitimation is the process of legalizing the status of a child born out of wedlock. This procedure places a child in a more favorable position in the eyes of the law than mere establishment of paternity or establishment of a duty to support the child by a putative father. A legitimized child, as in the case of paternity establishment, becomes the legal offspring of a putative father and the natural mother for all purposes, including inheritance.

A child can be legitimated in one of the following ways:

1. **Petition or Request of the Father** - The father, with the consent and cooperation of the mother, can file a written petition with the Clerk of Superior Court, stating that he is the father of the child and asking that the child be declared legitimate (G.S. 49-10, 49-11, and 49-13). If the Clerk of Court concludes that this man is the father of the child, an order to that effect can be issued. The Clerk of Court forwards a copy of the order to the State Registrar of Vital Records, along with a completed copy of the Certificate Of Paternity (AOC-CV-611). The Registrar then issues a new birth certificate bearing the full name of the father.
2. **Subsequent Marriage (G.S. 49-12)** - The child is automatically given legitimate status when the mother and a reputed father marry at some time after the birth of the child. ("Reputed father" means the man who is regarded or considered to be the father by the parents.) The parents can then request that the child's birth certificate be amended to include the name of the father. This request can be made to the Register of Deeds in the child's birth county or to N.C. Vital Records.

Per G.S. 50-11.1, children born of a voidable marriage (annulled, bigamous) are still considered legitimate; it would not be necessary to subsequently establish paternity or legitimate children born of these marriages.

### CIVIL PATERNITY ACTION (G.S. 49)

1. G.S. 49-14 permits the establishment of paternity in a civil case until a child's eighteenth (18th) birthday. The law

requires that a paternity test must be used when a contested paternity action is brought more than three (3) years after the child's birth or is brought after the death of the putative father. Proof of paternity shall be by clear, cogent, and convincing evidence. Either party to the action to establish paternity can request that the case be tried at the first session of the court after the case is docketed, but the judge can first try any pending case before doing so. A judgment by default shall be entered if the defendant fails to appear after receiving notice of the hearing.

In a trial of any civil action to establish paternity, the court can order the mother, the child, and the alleged father to submit to paternity tests. Verified documentary evidence of the chain of custody of the specimens obtained shall be competent evidence to establish the chain of custody. Any party contesting the procedures or result of paternity testing must file written objections with the court and serve copies on all other parties not less than ten (10) days prior to a hearing on the results of the testing. If no such objections are filed, the test results are admissible as evidence of paternity without the need for testimony or other proof of authenticity or accuracy.

The results of the paternity test have the following effect:

- A. If the probability of paternity of the alleged parent is less than eighty-five percent (85%), the alleged parent is presumed not to be the parent and the results are admitted as evidence. This presumption can be rebutted only by clear, cogent, and convincing evidence;
- B. If the tests show that the alleged parent is not excluded and that the probability of paternity is between eighty-five percent (85%) and ninety-seven percent (97%), the results are admitted as evidence by the court and are weighed with other competent evidence;
- C. If the alleged parent is not excluded and the probability of paternity is ninety-seven percent (97%) or higher, the alleged parent is presumed to be the father and the results are admitted as evidence by the court. This presumption can only be rebutted by clear, cogent, and convincing evidence.
- D. If more than one testing expert is involved and there is a disagreement as to the results of the tests, then the court weighs all the evidence in making a determination.

For a case with a pending paternity determination, the CSS agency can motion the court for a temporary order of support. Upon such a motion and a showing of clear, cogent, and convincing evidence of paternity, the court must enter a temporary support order. Paternity test results showing a ninety-seven percent (97%) or higher probability of paternity are clear, cogent and convincing evidence. If the putative father is found not to be the biological parent, the full amount of temporary support paid must be reimbursed to the putative father.

Prior to proceeding under G.S. 49-14(c) to establish paternity involving a deceased putative father, local CSS should review the case to determine if action to establish paternity has begun prior to the death of the individual and review records at the Clerk of Court's office to determine whether or not any action related to the estate has been filed. At this point, the attorney representing the agency is consulted to determine the next course of action based on the case circumstances.

Local CSS must not initiate actions under G.S. 49-14 to establish paternity or to enter any judgments related to paternity after the death of the putative father, except in those situations in which action is commenced either:

- Prior to the death of the putative father;
- Within one (1) year after the date of death of the putative father, if a proceeding for administration of the estate of the putative father has not been commenced within one year of his death; or
- Within the period specified in G.S. 28A-19-3(a) for presentation of claims against an estate, if a proceeding for administration of the estate of the putative father has been commenced within one (1) year of his death.

2. Civil Action to Establish Paternity under G.S. 49.16 can be brought by:

- A. The mother, father, child, or personal representative of any of them; or
- B. The Director of Social Services or any person who by law can perform such duties (for example, CSS caseworkers):
  - 1) In the county where the mother resides or is found;
  - 2) In the county where the putative father resides or is found; or
  - 3) In the county where the child resides or is found, when the child or mother are likely to become a public charge.

3. Effects of this method of establishing paternity under G.S. 49-15 are:

- A. It does not have the effect of legitimization;
- B. Duty of support is the same as if the child is legitimate;
- C. The father becomes responsible for medical expenses incidental to pregnancy and the birth of the child;
- D. The surname of the child remains the same as that of the mother;
- E. The child is eligible for the Social Security and Veterans Benefits of the putative father; and
- F. Full civil proceedings (including a hearing and service of process) are required.

4. In those situations involving a "legal" (spouse) and a "biological" father, it is necessary to determine the correct

approach on a case by case basis. In general, it is not always necessary to require the presence of the legal father or to make the legal father a necessary party to a subsequent action against the biological father, per *Lombroia V. Peek*, 107 N.C. App. 745 {1992}.

Under *Lombroia*, the court found that a judgment already existed in Florida, finding that the husband was not the father of the child in question, making the issue *res judicata* as to his interest in the subsequent proceeding against the biological father. In addition, if a paternity test performed on the biological father indicates a ninety-seven percent (97%) or above probability of paternity, then the biological father must rebut the presumption with clear, cogent, and convincing evidence. Therefore, paternity testing should be encouraged even if the biological father is agreeable to voluntarily establish paternity and support.

If a biological father has such a paternity test result, and the mother can testify to sexual relations with the biological father, and non-access to the legal father, then suing both the biological and legal fathers is not only unnecessary but also can assist the biological father in rebutting the presumption of paternity, per *Wright V. Wright* 27 N.C. app. 45 cert. denied, 288 N.C. 513 (1975).

However, if the husband had already been adjudicated by the court as the legal father (such as a divorce proceeding), then the issue is *res judicata*, and the presumed biological father should not be pursued. The CSS attorney advising the agency should be consulted before proceeding with any paternity case involving both a legal and a biological father.

#### **CRIMINAL ACTION FOR BASTARDY AND NONSUPPORT (G.S. CHAPTER 49)**

Another method of establishing paternity is through criminal proceedings, which are initiated by obtaining a nonsupport warrant or summons against the putative father. The aim of this type of proceeding is "to ascertain the paternity of the child and impose upon the father the burden of support, such as he would incur if the child were his lawful, instead of his illegitimate, offspring."

The securing of a nonsupport warrant or summons is often misconstrued to be an action taken only after paternity is established; however, the question of paternity is incidental to the prosecution for nonsupport.

The state must prove in trial: first, the defendant's paternity of the child, and second, his willful neglect or refusal to adequately support the child. Thus, with the filing of charges for nonsupport for cases in which paternity has not been established, the issue of paternity should and can be established during the same court hearing. In using this process, caseworkers should take care to ensure that demand for support of the child is made upon the defendant (father) before the criminal process is drawn.

The defendant should be given adequate time for response to such a demand before CSS applies for a warrant or summons for nonsupport of an illegitimate child. Court officials at the local level can best

determine the time to be allowed between the demand and the drawing of a warrant.

Some effects of establishing paternity through criminal proceedings are:

1. It does not have the effect of [legitimation](#);
2. The duty of support is present until the child reaches eighteen (18) years of age or is emancipated, unless the order expires or the defendant defaults and the suspended sentence is imposed. In this case, the action must be reinstated. Therefore, civil action is deemed more appropriate.
3. The child's surname remains the same as that of the mother; and
4. The child becomes eligible for all Social Security and Veteran's Benefits, as if he/she were the legitimate offspring of the father.

When paternity is established through criminal proceedings, the District Attorney/solicitor acts on behalf of the state and the person bringing the action. In the methods of establishing paternity listed previously, other legal counsel is needed.

#### **SCHEDULING A COURT HEARING TO ESTABLISH PATERNITY**

After caseworkers have submitted the necessary documents to the Clerk of Court, the Clerk informs them when the hearing is to take place. Once a hearing is set, caseworkers schedule a court hearing to establish support.

#### **ENTERING A FINDING OF PATERNITY (DUE TO A COURT HEARING)**

If the paternity hearing results in a paternity and support order, caseworkers enter support order data for the case in ACTS. If the paternity hearing results in a Paternity-Only order, caseworkers also enter order data in ACTS, even though NO financial provisions exist.

Caseworkers are required to enter the disposition (result) of a scheduled paternity hearing in order to record the paternity finding, whether or not a support obligation is established.

### **PATERNITY TESTING**

#### **GENERAL INFORMATION**

This topic contains information on the following subjects:

5. [An overview of the paternity testing process](#);
6. [Paternity testing laboratory contracts](#);
7. [Evidentiary stipulations for paternity tests](#);
8. [Payment for paternity tests](#);
9. [Billing for paternity tests](#);
10. [Paternity test appointments](#);
11. [Paternity test record maintenance](#);
12. [Exclusion of the alleged father](#).

## **PATERNITY TESTING OVERVIEW**

Paternity testing provides scientific evidence that can be used in determining a child's parentage or in eliminating the wrong person from consideration.

If a child was born to unmarried parents and there has been no paternity determination, conducting paternity tests could be appropriate in a CSS case. Testing could also be appropriate if the parents were married but there is only a "marital presumption" of paternity. This presumption exists if the parents were married at the time of conception or birth of the child, but no court order, voluntary admission of paternity, or legitimation has addressed the issue of paternity.

DNA analysis is the preferred type of paternity testing. It can be performed through analysis of blood or buccal cells (collected from the inner cheek area using a cotton swab) at any time after the child's birth, which expedites the paternity establishment process.

If paternity testing is appropriate but an alleged father fails to request it in a disputed paternity case, the local CSS agency should initiate the testing, even if it involves payment by the agency. Other advantages such as admission of paternity by the putative father and settlement of cases out of court can far outweigh any initial expense borne by the agency.

Using a test sample previously collected from an alleged father to determine the paternity of a different child is prohibited unless the alleged father has given written consent for that sample to be used to determine the parentage of this child.

Paternity tests can be conducted by agreement of parties, by the use of an administrative subpoena, or by court order.

1. Although testing done by agreement of parties does not require a court order, any agreement or stipulation between the parties must be in writing.
2. Testing by use of an administrative subpoena (G.S. 110-132.2) gives the local child support office the authority, without obtaining a court order, to subpoena a minor child, the minor child's mother, and the putative father of the minor child (including the mother's husband, if different from the putative father) to appear for the purpose of undergoing paternity testing to establish paternity.

An administrative subpoena requiring individuals to appear for paternity testing can only be issued by CSS when such a proceeding for either establishment of paternity and/or support is pending with the court. The same court file number of the pending proceeding is included on the subpoena. Service of the subpoena can be made by the delivery of a copy to the person named in the subpoena by a sheriff's deputy or by registered or certified mail (return receipt requested).

A person who is subpoenaed to submit to testing can contest the subpoena. To contest the subpoena, a person must request a hearing in the county of the local CSS office that issued the

subpoena within fifteen (15) days of receipt of the subpoena. The hearing is scheduled by the Clerk of Court and held in district court. Notice of the hearing must be served by the petitioner on all parties involved in the proceeding. Service of notice of the hearing shall be in accordance with the service process described above.

The hearing has to be held and a determination made within thirty (30) days of the petitioner's request for a hearing as to whether the petitioner must comply with the subpoena to undergo testing. If the trial court determines that the petitioner must comply with the subpoena, then this decision will not prejudice his determination in future paternity litigation from this same individual.

3. Testing by a court order requires that the case be heard in district court. A judge then issues an order for the mother, the child, and the alleged father to submit to paternity testing.

G.S. 49-14 requires paternity testing in any contested civil case if the child is more than three (3) years old or if the putative father is deceased.

When local CSS receives test results from the laboratory, copies of the report must be provided to all parties in the case. A party can contest the results of the paternity test. If the results are contested, the agency shall obtain additional testing upon request and advance payment by the contestant.

#### **PATERNITY TESTING LABORATORY CONTRACTS**

CSS agencies are required by federal regulation at 45 CFR 303.5 to secure testing services from laboratories that perform legally and medically acceptable paternity tests at a reasonable cost and to obtain services through a competitive procurement process. Any selected laboratory must be accredited by the American Association of Blood Banks. CSS agencies must make available a list of such laboratories to the appropriate courts and law enforcement officials and to the general public upon request.

The following factors should be taken into consideration when selecting a laboratory:

1. The laboratory's ability to handle the required volume;
2. Established quality control procedures;
3. The quality of reports which indicate the likelihood of paternity when the NCP is not excluded; and
4. The availability of an expert witness.

#### **NC CSS PATERNITY TESTING CONTRACTS -**

NC DHHS enters into contracts with laboratories for paternity testing in child support cases. Paternity testing services under a State contract are available to all county CSS agencies. Federal reimbursement of test costs is available at the rate of sixty-six percent (66%) of the costs. The remaining share is borne by the

county unless the noncustodial parent agrees or is ordered by the court to pay some or all of the cost.

Under the State contract, test costs do not vary due to the collection method (either venipuncture or buccal swab) or the specific tests that are conducted. With ten (10) days notice, expert witness testimony and evidence can be provided at court hearings at no additional cost. The contracted lab also provides consultation by phone or in writing at no cost.

The state CSS-contracted laboratory is:

Laboratory Corporation of America (LabCorp)  
P.O. Box 2200  
1440 York Court Extension  
Burlington, NC 27216-2200

PH: 1-800-742-3944 option 3  
FAX: 1-800-821-9102

Cost: \$30.00/person

#### **COUNTY PATERNITY TESTING CONTRACTS -**

County CSS agencies can elect to enter into an individual contract with a laboratory. Selection of a laboratory must comply with 45 CFR 303.5 requirements. Federal funds cannot be used to pay for testing that is done under a county contract.

#### **EVIDENTIARY STIPULATIONS FOR PATERNITY TESTS**

Paternity testing can be accomplished by agreement of the parties, without the need for a court order. Advantages of voluntary testing include resolution of the issue of paternity sooner than waiting for a court order, a less adversarial environment, elimination of need for legal action if the alleged parent is excluded by the tests.

When paternity testing is conducted voluntarily, it is imperative that all parties sign a stipulation agreement.

Stipulations should include:

1. An introduction of test results without the need for expert testimony;
2. Verified documentary evidence showing that the chain of custody of the samples obtained is competent evidence to establish the chain of custody;
3. Time frames for the testing;
4. Responsibility for payment of testing; and
5. The date when payment is due.

Any agreement by the alleged father that a previously collected sample can be used to determine the paternity of a different child must be included in the written stipulation agreement.

However, in some cases, it can be necessary to have expert testimony presented, especially in a jury trial. Expert testimony and evidence can include test reports, affidavits, oral dispositions, written interrogatories, and an actual court appearance by the expert witness.

#### **PAYMENT FOR PATERNITY TESTING**

The responsibility for payment of paternity tests and associated costs depends on a number of factors:

1. The putative father's ability to pay test costs;
2. County responsibility for payment of paternity test costs;
3. The terms of any stipulation agreement reached by the parties;
4. Whether the action for court-ordered tests is civil or criminal; and
5. Whether the case is intrastate or interstate.

#### ***PUTATIVE FATHER'S ABILITY TO PAY TEST COSTS -***

When testing is at the putative father's request rather than by order of the court, caseworkers should discuss the cost of testing with him and determine his ability to pay the cost of testing. If the putative father has the ability to pay, caseworkers should attempt to secure an agreement for him to pay for all or some portion of the cost.

If the putative father is unwilling or unable to pay the initial cost of testing in a relatively short period of time, the CSS agency should assume the initial cost rather than delay testing. The benefits of determining paternity establishing a support order at an earlier date are greater than any costs that might be saved by delaying the testing. The CSS agency can also consider asking the court to order that the NCP reimburse the agency for some or all of the cost.

#### ***COUNTY RESPONSIBILITY FOR PAYMENT OF TESTING COSTS -***

When a county pays the initial cost of paternity testing, two options exist for the final responsibility for the cost. The CSS agency can choose to:

- Use any allowed federal reimbursement (66%) of the cost and pay the remaining share (34%) from county funds; or
- Through written agreement or by order of the court, receive reimbursement from the NCP for all or some of the total cost.

#### ***PAYMENT FOR TESTING BY AGREEMENT***

When voluntary testing is conducted, all terms of the agreement (including the responsibility for payment of test costs) should be stated in a written stipulation agreement signed by all parties, the putative father, the client, and the representative of the CSS agency.

The agreement between the parties should address initial payment as well as the terms for any repayment plan. Payment due dates should be specified

If the NCP agrees to initially pay the test cost, county CSS receipts the payment as revenue according to county financial procedures. No federal funds or reimbursement are involved.

If it is agreed or ordered that the NCP will reimburse the county for any portion of the cost, the responsibility for payment must be included in the support order. Payments must be made to NCCSCC.

#### ***PAYMENT FOR CIVIL COURT-ORDERED TESTINGS***

In civil cases, G.S. 8-50.1 requires that the party who requests testing be initially responsible for the paternity testing costs. The expense for testing, expert witness, or other fees can be assigned or apportioned at the discretion of the court.

In civil cases, both parties can consider joint movement for paternity testing and stipulate the conditions of payment of costs when it is in the best interest of all concerned. If the agency is the moving party or has agreed to be responsible for the cost, county funds are used for payments.

If county reimbursement is included in a support order, payments must be made to NCCSCC.

#### ***PAYMENT FOR CRIMINAL COURT-ORDERED TESTING***

In criminal cases, if the alleged father/defendant is not deemed indigent as defined at G.S. 7A-450 and moves for the test, he is initially responsible for the expenses. Should the alleged father/defendant prevail and be adjudicated not to be the father of the child, AOC can reimburse him. If the alleged father/defendant does not prevail, he remains responsible for the costs.

When the District Attorney's Office moves to have paternity tests performed in criminal cases, AOC is responsible for initial expenses. If the alleged father/defendant prevails, the bill or any portion that remains unpaid is submitted to AOC for payment. If the alleged father/defendant does not prevail, he is responsible for the expenses, if so ordered by the court. If the alleged father/defendant is found to be indigent, AOC pays for any costs not otherwise paid, regardless of who prevails.

AOC contracts on a yearly basis for paternity testing services with selected firms. Only tests performed by the contracted firms are considered for payment by AOC in criminal cases.

#### ***PAYMENT FOR TESTING IN INTERSTATE CASES***

If paternity tests are necessary in an interstate case, the responding state is responsible for paying the test costs, as well as for scheduling and other arrangements for testing.

#### **BILLING FOR PATERNITY TESTS**

Billing procedures vary depending on whether the case is civil or criminal, what funds are being used for payment, and the terms of the laboratory contract under which the testing is conducted. The testing laboratory submits bills to the appropriate entity. The receiving entity should review the bill for accuracy and contact the laboratory immediately if discrepancies are found.

***BILLING IN VOLUNTARY TESTING AND CIVIL COURT ACTIONS***

**Billing Tests Conducted Under The State Contract-**

Voluntary and civil court-ordered paternity testing can be conducted under the State contract. Local CSS must submit an Authorization For Payment Of Paternity Test Costs (DSS-4511) to the laboratory along with test samples.

In the event that samples are collected by someone else (EX: a courtesy draw by another county or state or a collection by a lab representative at a prison or lab facility), local CSS must send the DSS-4511 document to the laboratory and include the location and date of the collection.

The DSS-4511 document must be generated through ACTS, and it must be the version that is current at the time when each test is performed. Photocopies or other versions of this document are not acceptable.

County CSS must complete two (2) copies of the DSS-4511 document; both copies require the original signature of the authorizing supervisor. One copy must be presented to the laboratory with the test samples; the other copy is kept in the CSS case file. If the laboratory requests another copy, county CSS should make a photocopy of the case file document and mark it as a "duplicate copy". The supervisor should re-sign and date the photocopy in blue ink and provide it to the laboratory. The original should remain in the case file.

Billing for testing through the State contract requires that the laboratory present a DSS-4511 for all testing submitted for payment. This includes testing for which the NCP has paid all or part of the cost to the county in advance and testing for which the county is initially responsible for the cost.

The laboratory must attach the DSS-4511 document to the invoice for payment and forward them to:

NC DHHS  
Child Support Services  
ATTN: Connie Bridges  
PO Box 20800  
Raleigh, NC 27619

NC CSS reconciles and submits the lab invoice and DSS-4511 documents to the DHHS Controller for payment. The Controller pays the laboratory, receives the federal reimbursement (66%) to the State and debits the county share (34 %) through EFT processing.

NC CSS issues monthly bills to counties that include a statement of the total cost for all testing authorized by the county, the total county share of that cost and itemization of each test charged to the county.

**Billing For Tests Conducted Under A County Contract -**

Billing of testing conducted through a county contract is managed according to county procedures. The laboratory bills the county

directly. The DSS-4511 is not used to authorize payment under county contracts. NC CSS has no involvement in the billing process.

If the alleged father/defendant is responsible for payment, the CSS agency can either require the costs be paid in advance or collect them from the defendant. If an agency chooses to collect paternity testing costs from the defendant, the money should be deposited according to agency fiscal policy. Upon receipt of an invoice, payment should be made to the testing laboratory.

#### ***BILLING IN CRIMINAL CASES***

CSS agencies are not involved in the billing and payment process for paternity tests in criminal court cases. AOC is responsible for managing payments to testing laboratories. The Clerk of Court manages any recoupment from the defendant in a criminal court case. Payments are not routed to NCCSCC.

### **PATERNITY TEST APPOINTMENTS**

#### ***SCHEDULING A PATERNITY TEST APPOINTMENT***

CSS caseworkers use their office's standard procedures for scheduling a paternity test appointment with the laboratory. Once that appointment is set, they schedule an appointment for the mother, the child(ren), and the alleged father.

#### ***ENTERING A DISPOSITION (RESULT) FOR A PATERNITY TEST APPOINTMENT***

Caseworkers enter a disposition for a paternity test appointment to document their activities in the CSS case record.

### **PATERNITY TEST RECORD MAINTENANCE**

After scheduling a paternity test appointment, the responsible caseworker creates a paternity test record in ACTS. Caseworkers enter as much test information as is available when creating the record, but they can also update an existing paternity test record at a later time.

### **EXCLUSION OF ALLEGED FATHER**

If paternity testing excludes the alleged father, the responsible caseworker must perform one of the following actions:

1. If the client has named MORE THAN ONE alleged father and a case exists for EACH alleged father, the responsible caseworker should ask the supervisor to close the case containing the excluded individual as the NCP.
2. If the client has named ONLY ONE alleged father and he has now been excluded, the responsible caseworker should:
  - A. Ask the supervisor to close the case that contains the excluded individual as the NCP.
  - B. Create a new case for the client and child with a new NCP. If no other alleged father has been named or if the NCP is

unknown, the alleged father is entered in ACTS as "UNKNOWN".

## **PATERNITY DISESTABLISHMENT**

### **GENERAL INFORMATION**

This topic contains information on the following subjects:

1. [An overview of the paternity disestablishment statutes;](#)

### **PATERNITY DISESTABLISHMENT OVERVIEW**

Effective January 1, 2012, North Carolina law provides processes to set aside a paternity determination and grant relief from a child support obligation to a man who is determined not to be the responsible father of a child. This process is in addition to the provisions of G.S 1A-1, Rule 60.

#### ***ACTIONS TO SET ASIDE PATERNITY (G.S. 49-14 or G.S. 110-132) -***

A determination of paternity made under G.S. 49-14 (civil order) or G.S. 110-132 ( Affidavit of Parentage) can be set aside if:

- The paternity order or Affidavit of Parentage was entered due to fraud, duress, mutual mistake, or excusable neglect; and
- Genetic tests establish that the man who was determined by these actions to be the father of a child is not the biological father of that child.

The burden of proof in an action to set aside a paternity determination belongs to the moving party. If the court finds that a proper motion has been presented, paternity testing is ordered. In accordance with G.S. 8-50.1, the moving party is responsible for the cost of the testing. CSS should not schedule, arrange or participate in any paternity testing until it has been ordered by the court. Based upon the criteria stated above, the setting aside of a paternity determination is at the discretion of the court.

#### ***ACTIONS TO SET ASIDE SUPPORT (G.S. 50-13.13) -***

Under G.S. 50-13.13, only a father who has been ordered to pay child support can file an action to seek relief from the support obligation. This action can be either a motion in the existing order or a separate action. It must be filed with the court within one (1) year from the date that the movant knew or reasonably should have known that he was not the child's father.

*NOTE: A "grace period" authorized in the law extends the initial opportunity to file actions under G.S. 50-13.13 to January 1, 2013, regardless of when the father came to believe he might not be the child's biological father. After that date, the one-year restriction applies.*

The requirements for this action are:

- The moving party must verify the motion or claim;
- The motion or claim must state the basis for the belief that the movant is not the father;
- The movant either has not acknowledged paternity or has acknowledged paternity not knowing that he was not the father ("acknowledging paternity" is defined as publicly acknowledging the child as his while married to the child's mother, supporting the child, signing an Affidavit Of Parentage, VSA, or other legal agreement, or admitting paternity in court);
- The movant has not adopted or legitimated the child or fathered the child through artificial insemination; and
- The movant has not prevented the biological father from asserting his parental rights regarding the child.

The court can appoint a guardian ad litem for the child, but it is not required to do so. The CSS agency can elect to request this appointment if it would best serve the interest of the child. Responsibility for the cost for the guardian ad litem is determined by the court.

If the court finds that good cause exists to believe that the movant is not the child's father, paternity testing must be ordered. The moving party must pay the cost of testing. The court can hold any person who fails to comply with the order for paternity testing in contempt, impose sanctions, or both. CSS should not schedule, arrange, or participate in any paternity testing until it has been ordered by the court.

For CSS cases, support payments must be suspended while the motion is pending. CSS must ensure that all receipts are handled in accordance with the order of the court.

The court can grant relief from (terminate) a child support obligation if:

- Paternity has been set aside under G.S. 49-14 or G.S 110-132, or
- In this action, the court finds that (1.) paternity testing excludes the movant as the child's biological father; and (2.) the movant either did not acknowledge paternity or did so not knowing that he was not the child's father.

If the movant does not satisfy all requirements, the court must deny the motion and all paternity, support, and custody orders remain in effect.

If the court finds that the movant did not act in good faith, attorney fees are awarded to the prevailing party.

If the court determines that all requirements have been met, an order is entered to terminate the support obligation:

- All unpaid support due prior to the filing of the motion remains owed.
- The CSS case becomes an "Arrears-Only" case and all appropriate enforcement actions are taken to collect the remaining arrearage.