

FAQs on Raising Children without Marriage and Paternity



Wrong Father's Name on the Birth Certificate

Question: I signed the birth certificate of a child thinking she was mine. I have since learned that the child is not mine. The mother has filed for child support and I had papers served on me. Is there anything I can do to get my name taken off the birth certificate? What should I do now?

A review of Kansas law related to paternity is [here](#).

If the man on the birth certificate has been served with child support papers, this is his only chance to seek a DNA test to determine if the child is his or not. At this point, there is a legal presumption that it is his child, because he has voluntarily placed his name on the birth certificate. In a legal sense, he has “adopted” this child by placing his name on the birth certificate, whether it is his child or not.

He needs to respond to the Petition he received. Getting an attorney is the easiest and best way to do that. If he is unable to hire an attorney and needs to represent

himself, here are some tips:

- If there is an option for showing up in court, he should do that and verbally deny the part of the petition saying he is the father.
- He should ask for a trial and for a DNA paternity test.
- It is safest to do a written denial answer to the Petition. A sample answer is [here](#). It will just give the format for the answer. He will need to type the answer out.
- There are deadlines for filing this answer that are set out in the Summons. Usually, it is 20 days after the date of service of the summons. This is an important deadline and must be followed.

In addition, it will matter what type of relationship/contact the man on the birth certificate has had with the child. This will be determined at a "Ross Hearing."

The thought behind this part of the process is not to take away, due to biology, someone that the child has thought of as their father over a period of time.

An attorney may be appointed for the child, to speak to the child's interest in all this. The younger the child, the easier to get past this hurdle for a man who is listed on the birth certificate only.

If these things are met, the mother, child and man on the birth certificate are ordered for a DNA test.

If DCF is bringing the paternity case, they usually pay for the test. If the man on the birth certificate is the father, he is ordered to repay DCF the cost of the test.

These tests cost about \$150 per person, so \$450 total. Some courts make the man on the birth certificate pay for at least their test up front, so he should be prepared for that possibility.

The DNA test comes back in percentages. Sometimes, the test totally excludes someone as the father. The test can show a percent likelihood that the man is the father.

If the percent is a low chance that he is the father, the court will make a legal finding that a man is not the father. The man named on the birth certificate has the burden of proof to show he is not the father.

The man will be found to be the father, based on substantial evidence, if the DNA test shows a strong percentage chance he is the father. It doesn't have to be 100%.

While the court is making a finding that he is not the father, the man should ask the Judge to order the Department of Vital Statistics to remove his name from the birth certificate.

[Here is other important information about paternity](#) and free forms to file a paternity action, reply to a paternity action, and final orders in a paternity action.

To learn about serving the opposing party in a legal action, go to [Notice to Other Party -- Trying Again to Serve](#)

Question: My partner and I have a child together. Can we agree about a parenting time schedule if we don't live together?

You can agree on a parenting time schedule for now or the future. You can write it down and follow it as your agreement. It isn't a Court order now, but if, in the future, one of you doesn't follow it, it can be filed in a case (usually a paternity case) and one party can ask the Judge to make it an order of the Court. The Judge does make the proposal of the parent the highest priority. If things have changed substantially, then a parent can present evidence about that. But, it is likely that what you felt was best for your children when you made the agreement would be followed by the Judge. In the meantime, it gives you and your child a basis for predicting when they will be with which parent.

The [parenting plan](#) can help you think about long term options. Remember, this plan should cover now and in the future when the children are much older. You can agree now how you want to change the plan when the children reach certain ages. You should figure out where exchanges of the child will take place and whether you will share a car seat or have your own. You should think about how to divide holidays, school breaks and whether summer will be different from the rest of the year. You should decide if each parent should have a stretch of time (one or two weeks) each year to travel with the child.

Don't worry about this form having the Court information at the top and a Judge's signature. The important thing is that it is your agreement. Some people need the Court information and Judge's signature, so it is on the form.



What if a child support action was filed, but nothing was done about a parenting time schedule?

You can make an agreement about your own schedule. It can be filed as an agreement in the child support case. It will be signed by the Judge, if you both sign it as an agreement.

The [parenting plan](#) can help you think about long term options. Remember, this plan should cover now and in the future. You should figure out where exchanges of the child will take place and whether you will share a car seat or have your own. You should think about how to divide holidays, school breaks and whether summer will be different from the rest of the year. You should decide if each parent should have a stretch of time (one or two weeks) each year to travel with the child.

- If you can't reach an agreement by talking about it yourselves, you can consider talking to someone you both trust to help you reach an agreement, you can also consider paying for a mediator to help you think through the options.
- One of you can file a motion to establish parenting time. You would file that in the same case that was filed about Child Support, as long as it covers the same children as the child support case covered. You can find the [form here](#).

Last updated on September 15, 2022.

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