

# Kansas Legal Services

A non-profit law firm and community education organization helping low and moderate income people in Kansas



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## FAQ 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.

**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**

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