

137-055-3020

Paternity Establishment Procedures

For purposes of this rule, the following definition applies:

(1) "Marital Presumption" means the presumption in ORS 109.070 that a man married to a mother of a child at the time of conception or at the time of birth of a child is the biological father of the child.

(2) When a case involves a child who is not yet born, the administrator will take no action to establish paternity or to provide locate services until such time as the child is born.

(3) (a) In all cases in which a child was conceived in Oregon, the administrator will initiate legal proceedings to establish paternity under ORS chapter 109 or ORS chapter 416.

(b) Except for proceedings filed under ORS chapter 109, past support will be established as provided by ORS chapter 416 and OAR 137-055-3220.

(4) When the administrator initiates legal action to establish paternity, if the child was born in this state, the administrator will file the Notification of Filing of Petition in Filiation Proceedings with the Center for Health Statistics.

(5) In applying the marital presumption of paternity, the administrator will follow the law in effect at the time the child was born.

(6) The administrator will handle disputes to the presumption of paternity under ORS 109.070 in the following manner:

(a) For children born before January 1, 2006, where paternity was established by conclusive presumption, the administrator will provide notice to the parties that:

(A) The parties have the right to challenge paternity under ORS 109.070 by filing a petition in the circuit court;

(B) The administrator will delay any initiated support action for 30 days;

(C) If a party provides proof within 30 days that he/she filed a petition, the administrator will suspend the support action pending the outcome of the court's decision.

(D) If no proof is received within 30 days that a party has filed a petition, the administrator will proceed with the legal action to establish support.

(b) For children born at any time where paternity was established by disputable presumption, the administrator will seek to establish paternity against the man named

by the mother to be the most likely alleged father except as provided in sections (7) and (8).

(7) If the husband and mother are still married and the husband is on the child's birth record:

(a) If only one party disputes paternity, the administrator will give notice to the parties as provided in subsection (6)(a) and proceed with the legal action to establish support if no petition is filed within 30 days.

(b) If both the husband and mother dispute the child's paternity, the administrator will order the husband, mother and child to appear for parentage testing.

(8) If the husband and mother are still married, no father is listed on the birth record, and the mother names another man as the father of the child, the administrator will provide notice and an opportunity to object to the husband.

(a) If an objection is received from the husband within 30 days of the date of the notice, an action to establish paternity will be initiated against the husband.

(b) If no objection is received from the husband within 30 days of the date of the notice, an action to establish paternity will be initiated against the most likely alleged father named in the mother's paternity affidavit.

(9) In all cases in which the mother states that more than one man could be the biological father of the child and parentage tests have excluded a man as the father of the child, the following provisions apply:

(a) If there is only one remaining untested possible biological father, that man is constructively included as the father by virtue of the other man's exclusion as the father.

(b) If there are more than one remaining untested possible biological fathers, the administrator will initiate action against each man, either simultaneously or one at a time, to attempt to obtain parentage tests which either exclude or include the man.

(10) In all cases in which the mother states that more than one man could be the biological father of the child and parentage tests have included a man as the father of the child at a cumulative paternity index of at least 99, any other untested possible father(s) will be considered to be constructively excluded by virtue of the first man's inclusion.

(11)(a) The Child Support Program may initially pay the costs of parentage tests, and will seek reimbursement of those costs, but may agree to waive the costs.

(b) If an alleged father fails to appear as ordered for parentage tests, but the mother and

child have appeared, reimbursement will be sought from the alleged father for the costs incurred.

(c) The maximum amount allowed to be entered as a parentage test judgment against a party is the amount the Child Support Program agrees to pay a parentage testing laboratory used to perform the tests.

(d) A judgment for parentage test costs reimbursement will not be sought:

(A) Against a person who has been excluded as a possible father of a subject child;

(B) If the mother stated that more than one man could be the father of the child, and has been unable to name a most likely alleged father, and the man tested has not objected to the entry of an order establishing paternity; or

(C) If the alleged father has applied for services under ORS 25.080 and requested paternity establishment in accordance with OAR 137-055-3080.

(12) A judgment for parentage test costs reimbursement will not be sought against any person found to be the legal father for costs attributable to testing other alleged fathers in any case in which the mother stated that more than one man could be the father of the child.

(13) When a party requests additional parentage testing as provided in ORS 109.252(2), the following provisions apply:

(a) The laboratory selected for additional testing must be a laboratory approved by accreditation bodies designated by the Department of Human Services; and

(b) The party making the request must advance the costs of the additional tests to the accredited laboratory.

(14) Upon receipt of a party's request for additional parentage testing and proof that payment has been advanced to an accredited laboratory, the administrator or the court will order additional testing.

(15) If a non-requesting party fails to appear for the additional parentage testing, the administrator will take appropriate steps to compel obedience to the order for additional testing.

(16) If a requesting party fails to appear for the additional parentage testing, the administrator may enter an order in accordance with OAR 137-055-3100.

(17) The administrator may dismiss or terminate a proceeding to establish paternity after sending written notice to the parties that the case is being considered for dismissal or termination and that any comments or objections must be made within 10 days.

Stat. Auth.: ORS 180.345
Stats. Implemented: ORS 416.430
Effective Date: July 3, 2006