



THE LAW OFFICE OF JUDITH DELUS P.A.

Becoming a Dad in the Eyes of the Law: Everything You Need to Know About Establishing Legal Paternity in the State of Georgia

Having a child can be a very joyous occasion for the mother, the father, and all their loved ones. When a child is born to a married couple in Georgia, it is presumed that the husband is the biological and legal father of the child. When the couple is not married, however, things can get much more complicated.

In almost all cases like this, the father will have virtually no rights at all until they go through the process of establishing legal paternity. Both the father and the mother have a vested interest in establishing legal paternity. Due to the fact that it can take some time to work a case through the court system, this is something that should be sought as soon as possible.

Why Fathers Should Seek to Legitimize Their Children

In some cases, fathers and other parties think that establishing legal paternity is a waste of time and money. This is especially common when the mother and father are still together, though not married. Under Georgia law, however, the birth mother is the only person who is entitled to custody of any child who is born out of wedlock, unless the father has legitimized their child.

This means that if the parents should break up, the mother has full custody until the father can first establish legal paternity, and then go through a potentially lengthy custody battle. No matter how strong a relationship is now, it just makes sense to go through this simple process to avoid heartache and legal fees later. Another advantage is that the mother will be able to demand child support in the event of a breakup, which would not be nearly as easy if there were no established paternity.

Filing for Legal Paternity

When seeking to establish paternity of a child, there are several options on how this can be done. The option chosen will depend on who is filing to establish paternity, and whether or not there is any disagreement on the matter.

- Voluntary Acknowledgment – If both the mother and the father seeking paternity agree who the father is, they can each sign a voluntary acknowledgment of paternity. This will suffice to establish paternity. In some cases, however, a parent will want to present additional evidence to help avoid potential challenges in the future.
- Petition the Courts – Another option is for the mother, the father, or any other individual (including the child) or organization with an interest in the case, to start a paternity action. This action will be presented in either the Superior Court or the State Court to hear evidence and decide on the case.
- Department of Human Resources – A third type of case is when the Department of Human Resources files a petition to establish paternity.

Does the Birth Certificate Matter?

In Georgia, the information on the birth certificate can have a big impact on how a paternity case will go. If the father has filled out the birth certificate with his own social security number, but now claims that he is not the father, the burden of proof rests with him to prove it. If the father's information is not on the birth certificate, however, the burden of proof rests with whoever filed the paternity action. When considering filing to establish paternity, it is important to have an official copy of the birth certificate available so your attorney can determine the best approach to your case.

Presenting Evidence

In a contested case, evidence will need to be presented to prove that the man in question either is, or is not the father. In most cases today, this will mean either submitting to a DNA test, or a blood test, to confirm the biological relationship between

the man and the children. These types of tests are quite quick and relatively inexpensive, which is why they are used in such a large number of cases today.

To have these tests done, one party has to make a motion for the court to order it. Any costs associated with the testing must be paid for by the person who brought the motion to the court. The father must submit to the DNA or other related tests once the order has been given by the courts. Modern testing facilities can complete these tests very inexpensively without sacrificing the accuracy of the test, so for most people, cost won't be a dissuading factor.

What Happens Once the Father is Identified

Once the courts have seen all the evidence and identified the man as the father, he will have a duty to financially support the child. This means the father will typically have to begin paying child support. In some cases, they will be made to pay back child support for the time before paternity was established, but that is not always the case. Talk to your attorney about how likely it is that back child support will be issued in your specific case if it is a concern.

The courts can also award the father with visitation privileges, if it is seen to be in the best interests of the child. In many cases, after paternity has been established, the father will file for joint custody or some other type of parenting arrangement that allows him to spend a significant amount of time with the child. Unless there is a reason to deny this request, the courts do attempt to encourage a positive and strong bond between the children and both parents.

Get the Help You Need

Establishing paternity isn't nearly as easy as many people think that it should be. Having an attorney there by your side to fight for your rights, and ensure your case is successful can be invaluable. Contact The Law Office of Judith Delus, P.A. to go over all your options and begin the process of establishing paternity right here in Georgia. We will work hard to get you the results you're looking for whether you are a father seeking to confirm paternity, or a mother who wishes to establish the paternity of your child.