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## Preventative Law Series

## Paternity

### INTRODUCTION

Generally, the father of any illegitimate child may be required to provide child support through paternity proceedings. Where the father has not acknowledged the child, paternity must be established in court or administratively. The degree and the kind of required proof depends on the purpose for which it is used, and the State law involved.

Aside from the moral issue of fatherhood, child support obligations and some government benefits depend on whether the military member is the biological father.

Paternity establishment is essentially a state law matter for resolution—either judicially or in some states in an administrative proceeding. According to the Office of Child Support Enforcement (OCSE), many men voluntarily acknowledge paternity.

Many States have established procedures whereby a formal acknowledgement of paternity has the same effect as a judicial determination of paternity.

OCSE administers a combined Child Support Enforcement (CSE) Program to locate parents, their employers, and/or their assets; establish paternity if necessary; and establish and enforce child support orders. State and local CSE offices provide day to day operation of the program. State CSE agencies are listed at the OCSE web site,

<http://www.acf.dhhs.gov/programs/cse/extinf.html>. Establishing paternity is often the first step to collecting child support for a child born out of wedlock. The paternity proceeding determines whether the named member fathered the child. Either parent can request a blood test in contested paternity cases. Recent developments in DNA testing may make the determination of fatherhood more certain.

The mother of an illegitimate child may allege paternity in a letter to the sailor/soldier or his commander, may seek to force the father to provide support through State child support enforcement agencies. Other actions may be brought in connection with divorce, dissolution of marriage, annulment, or spousal support lawsuits, or by a welfare agency.

### **Common Questions & Answers on Paternity of Military Members:**

#### **Q. Is the father obligated to support the child?**

**A.** Yes. There is no distinction in support, custody, or visitation rights between parents who are married when the child is born and parents who are not married when the child is born. However, unless the father agrees voluntarily, none of those rights can be enforced without a court order or administrative decision establishing his paternity.

#### **Q. How does one get such a court order?**

**A.** Often the best place to start is the local Child Support Enforcement Office (CSEO) in the petitioner's home state. CSEO offices are usually listed at <http://www.acf.hhs.gov/programs/cse/extinf.html> or under "Human Services Agencies" in the local government section of the telephone directory. If there is no separate listing, a petitioner

may call the local District Attorney's Office ask for the number. The CSEO will either provide everything needed to obtain support, usually for a very small fee; or, depending on the circumstances, they may refer the petitioner to a private attorney.

**Q. What happens in court?**

**A.** The CSEO attorney or a privately retained attorney will petition the court to determine that the defendant is the child's father, and to determine an appropriate amount of child support. After filing paperwork at the courthouse, the petitioner's lawyer will serve a copy of the summons and complaint on the defendant, the alleged father. If the defendant consents or does not file an answer within a few weeks, the judge may grant the petition and award child support without any further discussion. If the defendant files an answer contesting paternity, then the judge will set a trial date. Before trial, it is almost inevitable that the alleged father will take a blood test. If the tests show that the defendant is the father, then the court will award child support based on the defendant's ability to pay. If the tests show that the defendant is not the father, then the court will dismiss the case.

**Q. Who pays for the blood tests?**

**A.** The party requesting blood tests, usually the CSEO or the mother usually pays; but the defendant can be ordered to pay later, if he is found to be the father.

**Q. What happens after the court determines paternity?**

**A.** The court will also determine how much child support should be paid; whether and how much of the prenatal care, labor, and delivery expenses have to be paid; and child custody and visitation rights. A copy of the court order can also be used to establish the child's entitlement to social security and military benefits, including medical care, Exchange, and Commissary privileges. These rights and privileges last for as long as one of the child's parents is on active duty or until the child reaches the age of 18, or 23 if a full-time student.

**Q. Can the child get military medical care without a court order?**

**A.** Yes. There are three basic requirements:

- The servicemember must acknowledge paternity, either by sworn affidavit or court order. If possible, he should be listed as the father on the birth certificate.
- The servicemember has to apply for dependency status and issuance of an ID card for the child. The military personnel office will review the application for completeness. Once all requirements have been met, the child is issued a military dependent ID card.
- The child must then be registered with DEERS, the Defense Eligibility Enrollment Reporting System, a computerized system that keeps track of all authorized health care recipients.

The child will then be eligible either for treatment in a military facility or to receive treatment under TRICARE from a civilian hospital.