



# Fathers in Family Court

## *Paternity & More*

Hotline: (212) 343-1122 • [www.LIFTonline.org](http://www.LIFTonline.org)

### What is paternity?

**Paternity** (pa-TERN-i-tee) is the legal status of being a father. **Establishing paternity** means proving someone is the legal father of a child.



### How do I establish paternity?

Paternity can be established in three ways:

1. If you are married to the mother at the time your child is born, you are automatically considered the legal father. You do not have to establish paternity in court.
2. If you sign an **acknowledgement of paternity** after your child is born, you have established paternity. The acknowledgement of paternity is a form that you sign, usually at the hospital, stating that you are the father.
3. If you file a **petition** (pe-TI-shun) for paternity in Family Court and get an **order of filiation** (fil-ee-AY-shun) from a judge, you have established paternity. A petition is a written request. An order of filiation is an official document stating that a man is the father of a child.



### Why do I need to establish paternity?

When paternity is established, a father has the same rights as a mother – including the right to file petitions for **custody** and **visitation**. For more information on custody and visitation cases, please see the LIFT guide, “Custody and Visitation.”

If paternity has not been established, a father does not have the same rights as a mother. Depending on the situation, some fathers who have not established paternity have some rights. These fathers are sometimes called **putative**, **unwed**, **non-marital**, or **notice fathers**.

In this guide, these fathers will be called **notice fathers**.

### How do I become a notice father?

You become a notice father if:

- Your name is on the birth certificate. (This is NOT enough to establish paternity.)
- You are openly living with your child and the mother of your child and are telling people that you are the father of the child
- You were married to the mother of your child and got divorced no more than six months before your child was born.
- You registered with the **Putative Father Registry**. (For information about the Registry, see below.)

## What does it mean to be a notice father?

Being a notice father means that you have the right to **receive notice** when there are certain types of Family Court cases involving your children including **foster care, termination of parental rights, and adoption.**

Receiving notice means being told about the case in writing, typically by getting a copy of a petition that has been filed in court. You should get it at least 20 days before the court date. It should give information about the time, date, and purpose of the case you are being informed about. If the Administration for Children's Services (ACS) or an adoption agency is unable to give you the copy of the petition in person, the petition can be sent by certified mail to the last address that they have for you.



- The court may not have known who you were because your name was not on the birth certificate.
- The court may not have known who you were because the mother did not identify you.
- The court may not have known who you were because you did not register with the **Putative Father Registry**. (For information about the Registry, see below.)
- You were notified when the child first entered foster care, but did not go to court at that time.

## What can I do if I receive notice that the mother's rights are being terminated?

The purpose of notifying you is so that you can give the court information about what may be in the **best interests** of the child. When you are notified that ACS has filed a petition to terminate the parental rights of the mother, you can give information to the judge during the second part of the hearing, called the **dispositional** (dis-puh-ZISH-un-al ) **phase**. The dispositional phase is the part of the case where the judge decides what will happen to your child. During this part of the case, you may ask the court for custody of your child. In order to do this, you would first have to file a petition for paternity and get an order of filiation from the court. If you have an order of filiation, this means that you have now established paternity.

## I think I'm a notice father, but I did not receive notice. What can I do?

Even if you can prove that the agency filing the petition knew who you were and did not notify you, there may not be much that you can do. Whether or not you can change decisions that have been made about your child will partly depend on what decisions have already been made. It will also depend on how long ago those decisions were made.

## I think I'm a notice father, but I did not receive notice when the mother's rights were being terminated. Why not?

There are a few reasons why you may not have been notified. Here are some of those reasons:

- The court did not know where you were.

## What are my rights as a notice father when it comes to the adoption of my child?

You have the right to be notified if the child is being placed for adoption. If you are notified that your child is being placed for adoption, you can offer information about what is in the best interests of the child. The judge will look at many things when figuring this out.

## What if I am a notice father who has always been there for my child, and I have received notice that my child is being placed for adoption?

If your child is over the age of six months, you may be able to veto, or stop, the adoption if you can prove to the court that:

- You have been financially supporting your child.
- You have visited your child **at least once a month**, or, if you have been unable to visit or were prevented from visiting, you have **regularly** communicated with your child or the person or agency with legal custody of your child.

You may also have the right to veto an adoption if you lived openly with your child and the mother of your child for at least six months during the one-year period before your child was placed for adoption.

If your child is under the age of six months, you may be able to veto the adoption if you can prove to the court that:

- You lived openly with your child or the mother of your child for an uninterrupted period of at least six months right before your child was placed for adoption and held yourself out to be the father.
- You paid a reasonable sum toward the medical, hospital, or nursing expenses for the mother's pregnancy and the birth of your child.



## What is the Putative Father Registry?

The Putative Father Registry is a service a notice father can use to record the fact that he thinks he may have fathered a child and is not married to the mother. Putting your name on the Registry does not mean that you are actually saying that you are definitely the father of a child. Putting your name on the Registry is a way to make sure that you are able to receive notice about the kinds of cases that are discussed above.

## How do I register with the Putative Father Registry?

To register you can get a form by contacting **New York State Adoption Services** at:

52 Washington Street  
 Room 323 North  
 Rensselaer, NY 12144  
 (518) 474-9406 or (800) 345-5437



You may file with the registry either before or after the child is born.

## What information will I need to give to the Registry?

In order to file, you will first need to give your name and address. You will also need to provide the child's name, place of birth, date of birth, and the mother's name. In order to receive notice, you will need to let the New York State Adoption Services know of any address changes.

## How much does it cost to register?

It is free to register.



## If I register, can I take it back?

Yes. You can remove your name from the registry at any time. If you remove your name it will be as if your name was never on the registry in the first place. This means that you give up all of the rights you got by registering.

You might consider taking your name off if you no longer believe that you are the father of the child and/or you do not want to be notified of the kinds of cases that are discussed above.

## Why should I file?

The purpose of the Putative Father Registry is to help protect the rights of fathers who have not established paternity.

## Will I have to pay child support if I register?

No. Only **legal fathers** have to pay child support. Putting your name on the Registry does not make you a legal father. A legal father is someone who has established paternity

## What if the mother lives in another state?

Filing with the Registry in New York State will only make sure that you receive notice if the case involving the mother and child is in a court in New York State.

Other states have their own Putative Father Registries. You might be able to register with the one in the state where the mother lives.




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*This document should not take the place of a consultation with a lawyer. LIFT encourages all individuals involved with the Criminal and Family Court systems to consult with a lawyer.*