

PATERNITY

Establishing paternity means legally identifying the father of a child. Paternity creates a legal relationship between the father and child, one in which the father becomes legally responsible for supporting his child.

When a married woman gives birth to a child, her husband is presumed to be the father of the child. The husband's name will automatically be added to the child's birth certificate.

However, when a child is born out of wedlock, an unmarried father has no legal rights to a child until he completes the paternity acknowledgment process. For children born to unmarried parents, establishing paternity is essential to obtain a child support order and to collect legally ordered child support.

Establishing paternity also provides access to social security, pension, and retirement benefits; health insurance and information; and interaction with members of both parents' families.

Many fathers voluntarily acknowledge paternity. However, the alleged father must be aware that by voluntarily accepting paternity, he will be financially liable for the child until it turns 18 or older (depending on state law).

There are two ways states can establish paternity legally: (1) voluntary acknowledgment by the parent, or (2) state-established legal processes, which often include genetic testing.

If the father accepts that he is a child's father, he may prepare a legal affidavit certifying his paternity.

If a purported father denies paternity, a judge may order a blood or genetic test and make a ruling on the basis of testimony and test results. Laboratory tests can be presented as evidence to establish the relationship between a father and the child. The results can also be used to exclude a man wrongfully believed to be the father.

HELPFUL INFO & RESOURCES

DAFI 36-3003 2.8.1: Leave for Enforcement of Child Support Obligation

Unit commanders approve leave requested to attend hearings to determine paternity or to determine an obligation to provide child support. (T-3). Unit commanders may disapprove such leave requests if the member is serving in or with a unit deployed in a contingency operation or exigencies of the military service require a denial of such request. See AFI36-2906, Personal Financial Responsibility for further guidance

Defense Finance and Accounting Service

www.dfas.mil/garnishment/childsupportalimony/startpayment.html

Department of Health and Human Services

www.hhs.gov/children/supportmilitaryfamilies.html

National Responsible Fatherhood Clearinghouse

www.fatherhood.gov



35th Fighter Wing
Office of the Staff Judge Advocate
Building 656
Misawa Air Base, Japan

DSN Phone: 315-226-4022
DSN Fax: 315-226-2185
Commercial Phone:
011-81-176-77-4022



35TH FIGHTER WING
OFFICE OF THE STAFF JUDGE ADVOCATE
BUILDING 656
MISAWA AIR BASE, JAPAN

PATERNITY & SUPPORT

THIS BROCHURE INCLUDES:

- HOW TO ESTABLISH PATERNITY
- HOW TO GET A PATERNITY TEST
- CHILD SUPPORT ENFORCEMENT PROGRAM
- AIR FORCE POLICY ON PATERNITY
- GARNISHMENT/ALLOTMENTS



The information in this brochure is of a general nature and is not intended as a substitute for legal counsel.

HOW TO ESTABLISH PATERNITY

If an unmarried woman has a child born in Japan and wants the father's name to be included on the birth certificate, the 35th Medical Group In-Patient and Registration office will direct her to the Legal Office to complete an affidavit of paternity for birth registration purposes. For unmarried mothers with children born in the United States, the father can make a written sworn statement of paternity affirming that he is the father. The Legal Office will provide the necessary notary services.

HOW TO GET A PATERNITY TEST IN MISAWA, JAPAN

A paternity test can only happen after a child is born. The Department of Defense does not pay for or conduct paternity tests. If you need to have a paternity test, you must contact a lab that will provide such services. Many states have child support enforcement agencies and will tell you which lab must be used.

As a courtesy, the hospital at the 35th Medical Group can perform specimen collection to assist with paternity testing. For hospital assistance, a servicemember must have a court order to test for paternity. The court should provide the servicemember with a "cheek swab" kit. The servicemember may then make an appointment with his primary care provider to collect the specimen. The servicemember's primary care provider will make a referral for the servicemember to have the specimen collected.

In most cases the appointment will occur the same day, however it could take up to two days. On the day of the appointment, bring the kit and give it to the provider or medical technician who will perform cheek swab. After completing the procedure, the provider or medical technician will secure the specimen and send it through the mail to the address on the pre-addressed box. Under no circumstances will the kit be returned to the individual. The servicemember will be provided with any applicable documents and/or receipts.

CHILD SUPPORT ENFORCEMENT

Failure to pay child support is a crime. The Child Support Enforcement (CSE) Program is a federal, state, and local effort to establish paternity and to collect child support from parents who are legally obligated to pay. State enforcement programs locate absent parents, establish paternity, establish and collect child support.

CSE programs are usually administered through state and county social services departments. In situations where the mother and child reside in a state other than the state where the father resides, the mother can still go to the CSE in her state for assistance.

If a state does not have jurisdiction over the alleged father, the mother may not be able to obtain a court order for child support. However, if a court determines paternity, and it requires the back-payment of child-support, the military member/father may have to pay for back-support without the benefit of with-dependent-rate BAH.

Therefore, it is advisable for a father to consent to the jurisdiction of a court early in the paternity process so that the member can claim the child, as a dependent and use the with-dependent-rate BAH to pay child support.

AIR FORCE DEPENDENT SUPPORT POLICY

Pursuant to DAFI 36-2906, Air Force members are expected to provide adequate financial support to family members. With paternity, support is required where:

- Valid proof of paternity has been established through a court order; OR
- Servicemember voluntarily acknowledges paternity.

Without a court order identifying the member as the child's father and directing financial support, he has no legal obligation to provide financial support to a child born out of wedlock. A member may voluntarily admit paternity and agree to provide financial support. However, the member should meet with an attorney before making a voluntary admission of paternity.

If the member is receiving BAH at the with-dependent rate based solely on the voluntary admission of paternity and fails to provide such financial support, the appropriate finance and accounting office will be informed, resulting in termination of the member's BAH entitlement at the with-dependent rate. Additionally, the Air Force will recoup the with-dependent rate BAH received by the member during periods of non-support.

In the absence of a court order or voluntary admission, the Air Force will not require the servicemember to support a child born out of wedlock. Requests for assistance should then be referred to the child support enforcement agency in the state where the child resides or to a civilian attorney.

GARNISHMENT AND ALLOTMENTS

There are two methods for collecting military pay involuntarily from a servicemember for child support based on a court order:

1. Garnishment of Military Pay: Federal law authorizes the garnishment of pay of members to enforce child support orders in accordance with state law. Many states will automatically require payment by garnishment in the child support order.

Unless state law specifies a lesser amount, federal law provides a limit of 50 percent of the member's aggregate disposable earnings for any workweek if the member is currently supporting a second family (spouse or child) and 60 percent if the member is not supporting a second family.

2. Statutory Allotments for Child Support: Federal law authorizes allotments from military pay to satisfy child support obligations. Statutory allotments may be initiated when child support payments are at least 2 months outstanding.

For child support, you must send the Defense Finance and Accounting Service (DFAS) an order from a court or child support enforcement agency (CSEA) that directs the government to pay monies. For child support, contact an attorney or your local child support enforcement agency to obtain an Income Deduction Order or Income Withholding Order. Please send the income withholding order or similar document to DFAS at the address or fax number below.

Defense Finance and Accounting Service
Cleveland DFAS-HGA/CL
P.O. Box 998002
Cleveland, Ohio 44199-8002
Fax: 877-622-5930 (toll-free)

After DFAS receives the request, DFAS notifies the member's commander. The commander will then notify the member. The member will have 30 days to cure the outstanding child support payments or the DFAS will implement the allotment.

For more specific details on any of the issues discussed in this pamphlet, please make an appointment with the legal office to discuss your specific situation with an attorney.