

137-055-3020

Paternity Establishment Procedures

(1) 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.

(2)(a) When initiating legal proceedings to establish paternity for a child, the administrator will use ORS chapters 25, 109, and 110.

(b) Except for proceedings filed under ORS chapter 109, past support will be established as provided by ORS chapter 25 and OAR 137-055-3220.

(3) When the administrator initiates legal proceedings 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.

(4) When initiating a legal proceeding, the administrator will seek to establish paternity against the man named as the most likely alleged father except as provided in sections (5) and (6).

(5) When parentage is established by presumption under ORS 109.070 and the birth mother names one or more persons other than the presumed parent as the biological father of the child, the administrator will provide the presumed parent with notice and an opportunity to object.

(a) If a written objection is received from the presumed parent within 30 days of the date of the notice, an action to determine parentage will be filed in circuit court.

(b) If no written objection is received from the presumed parent within 30 days of the date of the notice, the administrator will facilitate genetic testing for the birth mother, child, and alleged father(s) prior to filing an action to determine parentage in circuit court.

(A) If all known alleged fathers are excluded by testing or testing cannot be completed, the administrator may seek support from the presumed parent.

(B) If an alleged father is included by testing, the administrator will file an action in circuit court to disestablish the parentage of the presumed parent and establish the parentage of the alleged father who was included by testing.

(6) Notwithstanding section (5) of this rule, when parentage is established by presumption under ORS 109.070, the administrator will not pursue an action to determine parentage if:

(a) The mother and presumed parent are still married, cohabiting, and do not both consent to an action to determine parentage; or

(b) The presumed parent has physical custody of the child and does not consent to an action to determine parentage.

(7) When establishing support against a presumed parent, if a party provides proof that he or she filed a petition to challenge parentage under ORS 109.070, the administrator will suspend the support action pending the resolution of the petition.

(8) Except as provided in Section (6) of this rule, when the mother or other declarant states that more than one man could be the biological father of the child and genetic tests have excluded a man as the father of the child, the following provisions apply:

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

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

(9) Except as provided in Section (6) of this rule, when the mother or other declarant states that more than one man could be the biological father of the child and genetic tests have included a man as the father of the child at a cumulative paternity index of at least 99, any other untested alleged father(s) will be considered to be constructively excluded by virtue of the first man's inclusion.

(10) The Oregon Child Support Program will pay the costs of initial genetic tests to determine paternity.

(11) When a party requests additional genetic 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 Oregon Health Authority; and

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

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

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

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

(15) 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.

(16) The birth mother is a necessary party to an action to establish paternity, regardless of whether the mother is an applicant for services or custodian of the child.

(a) When the birth mother is not the applicant for services prompting the action to establish paternity, the administrator must serve notice of the action by personal service upon the birth mother, unless she is deceased. If the birth mother cannot be personally served, the administrator shall request permission from the circuit court to serve the mother by an alternate method as provided in ORCP 7 D(6);

(b) If the birth mother cannot be personally served with notice of the action or if the birth mother is deceased, the enforcing agency will not take an order establishing paternity unless genetic tests to determine paternity have been completed which fail to exclude the alleged father, and have a cumulative paternity index of at least 99%;

(c) In any action to establish paternity in which the administrator cannot personally serve the child's birth mother, or when the birth mother is deceased, the child's legal guardian is a necessary party to the action. If the child does not have a legal guardian, the administrator will request that the court appoint a willing, qualified and suitable person to be a guardian ad litem for the child. If no relative or other person agrees to such appointment, the administrator will request that an attorney be appointed for this purpose.

Stat. Auth.: ORS 180.345

Stats. Implemented: ORS 25.550, 109.070, 109.125

Effective Date: July 1, 2023