

CONTESTING PATERNITY

MOTION FOR RELIEF FROM ACKNOWLEDGMENT OR PRIOR PATERNITY DETERMINATION

INSTRUCTIONS WARNING

ONLY USE THESE FORMS IF ALL APPLY:

1. An acknowledgment of paternity was signed and was final more than one (1) year ago or paternity was determined by administrative or court order.
2. You did not know you were not the father when you signed the acknowledgement or when paternity was determined. **IF YOU KNEW YOU WERE NOT THE CHILD'S FATHER WHEN YOU SIGNED AN AFFIDAVIT OF ACKNOWLEDGMENT YOU CANNOT USE THIS FORM.**

BE SURE YOU WANT TO FILE: IF YOU FILE AND LOSE, YOU PAY COSTS AND ATTORNEY FEES OF THE ADVERSE PARTY(IES).

A. FILLING OUT THE FORMS - TYPEWRITTEN OR IN INK

1. All of the enclosed forms should be filled out before you go to the Court to file them. The Clerk of Courts' staff will not help you in completing the forms.

2. **Motion for Relief from Acknowledgment or Paternity Determination** - Fill in the name of the county and court division (i.e., Juvenile, Domestic Relations). You are the Plaintiff, the other parent is the Defendant. Fill in the name for both parties. Fill in the CASE NO., JUDGE, and/or MAGISTRATE.

In paragraph 1, state the mother's name, the child's name and the child's date of birth.

In paragraph 3, check the box next to the statement that applies.

In paragraph 4, check the box next to the statement(s) that apply.

In paragraph 5, state specifically the reason you want the acknowledgment rescinded. **If you checked fraud, you must specifically explain your reasons for believing that there is fraud.** Sign your name and address.

In paragraph 6, indicate if you have been ordered to pay child support for this child.

In paragraph 7, indicate if you have been awarded parenting time with the child by a court.

In paragraph 8, check all that apply.

Under **Instructions for Service**, sign and fill in your telephone number.

3. **Entry** - Fill in the county, court division, and name of the Plaintiff and Defendant.

4. **Financial Disclosure/Affidavit of Indigency.**

5. Remove the instructions sheets and make three copies of each page of each form.

B. FILING THE Motion

1. After the forms are filled out and copied, YOU MUST TAKE THEM to the Clerk of Court's office to be filed.

2. When you file your Motion, the Clerk's office staff will take the original and three copies of your papers. You should ask the Clerk to time-stamp your copy of the Motion and accompanying forms. This will be your proof that you filed the originals. The Judgment Entry will not be file-stamped at this time.

This is a regular civil case. The Defendant will be given 28 days from the date he receives the papers to respond. You will then be notified by the Court after service is made.

C. PREPARATION FOR THE HEARING

1. You should present a neat appearance to the Court. The Court will not permit anyone to appear in court if s/he is wearing any of the following items of clothing: a hat, shorts, sandals, sleeveless shirts, tops, or blouses, clothing displaying indecent language or pictures, or clothing with large rips or holes. Make sure that your witnesses know this and comply with these requirements.

2. You must be prepared for the hearing. You should have with you any witnesses that you wish to use to support your request. You should also bring any papers or other physical evidence that you want the Magistrate to see. **It is your burden to prove that the acknowledgment should be rescinded (cancelled).**

3. You will probably testify first. You should be prepared to tell the Magistrate why you want the acknowledgment rescinded. This is the only opportunity that you will have to present the facts, **so make sure that you include everything.**

4. **VERY IMPORTANT: This is not the time to tell the Magistrate everything that the other person has done that you disagree with or that has hurt or angered you. The Magistrate will only want to hear the evidence that you have that shows that the acknowledgment should be rescinded. Be prepared to limit your testimony to those points raised in your written complaint.**

5. At the hearing you may be asked questions by the Magistrate or by the other party or by an attorney. Directly respond to the questions. Listen to the question; make sure that you understand the question; and answer the question. If you do not understand the question, ask to have the question explained to you before answering it. Never answer a question you do not understand.

**IN THE COURT OF COMMON PLEAS _____ COUNTY, OHIO
JUVENILE DIVISION**

(Name)

Plaintiff

VS

(Name)

Defendant

CASE NUMBER _____

JUDGE _____

MAGISTRATE _____

**MOTION FOR RELIEF FROM ACKNOWLEDGMENT OR PATERNITY
DETERMINATION AND AFFIDAVIT IN SUPPORT**

Now comes _____, the movant, and requests the court relieve him from his prior acknowledgment or paternity determination and the responsibilities that resulted therein.

1. The Defendant _____ (name) is the biological mother of _____ (name) ____ / ____ / ____ (date of birth).

2. The child was not conceived as a result of artificial insemination in compliance with sections 3111.88 to 3111.96 of the Revised Code.
3. I am the plaintiff and I have been determined to be the father of the child (check only one):
- By a court order issued on ___/___/___ by the following court: _____ (name of court) in Case No. _____. (Attach a copy of the court order.)
 - By an administrative order issued by the _____ County child support enforcement agency in Case No. _____. (Attach a copy of the administrative order.)
 - By affidavit of acknowledgment that has become final. (Attach a copy of the affidavit or a copy of the child's birth record.)
 - By signing the child's birth certificate as an informant (for children born prior to 1998 only). (Attach a copy of the child's birth certificate.)
4. I am not the biological father of the child. Genetic testing has been completed: _____yes, _____no. (If yes, attach a copy of the test results.)
5. At the time I was determined to be the child's father, I did not know that I was not the child's biological father.
6. I am ordered to pay child support for the child: _____ yes, _____ no. (If yes, attach a copy of the child support order and a copy of the CSEA record showing the amount of any arrearages owed.)
7. A court has awarded me parenting time rights with the child: _____ yes, _____no. (If yes, attach a copy of the court order.)
8. I request that the Court (check all that apply):
- Order genetic testing to determine that I am not the child's biological father.

- Grant relief from the prior determination that I am the child's father and order the child's birth record be corrected to reflect that I am not the child's father.
- Grant relief from any order requiring me to pay current child support for the child.
- Cancel my obligation to pay child support arrearages that accrued under an order requiring me to pay child support for the child.
- Terminate my court-ordered parenting time rights with the child.
- Other: _____

OATH OR AFFIRMATION (do not sign until Notary Public is present)

I, (print name) _____, swear or affirm that I have read this Affidavit and, to the best of my knowledge and belief, the facts and information stated in this Affidavit are true, accurate, and complete. I understand that if I do not tell the truth, I may be subject to penalties for perjury.

Your Signature

STATE OF _____)
COUNTY OF _____) ss

Sworn to or affirmed before me by _____ this _____ day of _____, _____.

Signature of Notary Public

Printed Name of Notary Public

Commission Expiration Date: _____

(Affix seal here)

INSTRUCTIONS FOR SERVICE

TO THE CLERK:

Please issue a Summons and serve a copy of the Complaint to Rescind Acknowledgment and all ancillary papers on the Defendant at the address in the caption by CERTIFIED MAIL SERVICE, return receipt requested with a return thereof as required by law. Please also serve a copy of the Complaint to the _____ County Department of Job and Family Services, Child Support Division, by ordinary U.S. Mail.

PLAINTIFF

TELEPHONE #

FORM 20. CIVIL FEE WAIVER AFFIDAVIT AND ORDER

IN _____

| | | |
|------------|---|---|
| |) | CASE NO. |
| |) | |
| Plaintiff, |) | JUDGE |
| |) | |
| vs. |) | |
| |) | <u>FINANCIAL DISCLOSURE / FEE-</u> |
| |) | <u>WAIVER AFFIDAVIT</u> |
| Defendant. |) | <u>AND ORDER</u> |

Pursuant to R.C. 2323.311, the below-named Applicant requests that the Court determine that the Applicant is an indigent litigant and be granted a waiver of the prepayment of costs or fees in the above captioned matter. The Applicant submits the following information in support of said request.

| Personal Information | | | |
|--|----------------------------------|--|--------------------------------|
| Applicant's First Name | Applicant's Last Name | | |
| Applicant's Date of Birth | Last 4 Digits of Applicant's SSN | | |
| Applicant's Address | | | |
| Other Persons Living in Your Household | | | |
| First Name | Last Name | Is this person a child under 18? | Relationship (Spouse or Child) |
| | | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| | | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| | | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Public Benefits | | | |
| I receive the following public benefits and my gross income, including the cash benefits marked below, does not exceed 187.5% of the federal poverty guidelines. | | | |
| Place an "X" next to any benefits you receive. | | | |
| Ohio Works First ¹ : ___ SSI ² : ___ Medicaid ³ : ___ Veterans Pension Benefit ⁴ : ___ SNAP / Food Stamps ⁵ : ___ | | | |
| Monthly Income | | | |
| I am NOT able to access my spouse's income <input type="checkbox"/> | | | |
| | Applicant | Spouse (If Living in Household) | Total Monthly Income |

| | | | |
|--|------------------------|--|---------------|
| Gross Monthly Employment Income, including Self-Employment Income (Before Taxes) | \$ | \$ | \$ |
| Unemployment, Worker's Compensation, Spousal Support (If Receiving) | \$ | \$ | \$ |
| TOTAL MONTHLY INCOME | | | \$ |
| Liquid Assets | | | |
| Type of Asset | Estimated Value | | |
| Cash on Hand | \$ | | |
| Available Cash in Checking, Savings, Money Market Accounts | \$ | | |
| Stocks, Bonds, CDs | \$ | | |
| Other Liquid Assets | \$ | | |
| Total Liquid Assets | | | \$ |
| Monthly Expenses | | | |
| Column A | | Column B | |
| Type of Expense | Amount | Type of Expense | Amount |
| Rent / Mortgage / Property Tax / Insurance | \$ | Insurance (Medical, Dental, Auto, etc.) | \$ |
| Food / Paper Products/Cleaning Products/Toiletries | \$ | Child or Spousal Support that You Pay | \$ |
| Utilities (Heat, Gas, Electric, Water / Sewer, Trash) | \$ | Medical / Dental Expenses or Associated Costs of Caring for a Sick or Disabled Family Member | \$ |
| Transportation / Gas | \$ | Credit Card, Other Loans | \$ |
| Phone | \$ | Taxes Withheld or Owed | \$ |
| Child Care | \$ | Other (e.g. garnishments) | \$ |
| Total Column A Expenses | \$ | Total Column B Expenses | \$ |
| TOTAL MONTHLY EXPENSES (Column A + Column B) | | | |

I, _____, hereby certify that the information I have provided on
(Print Name)
this financial disclosure form is true to the best of my knowledge and that I am unable to prepay the costs or fees in this case.

Signature

NOTARY PUBLIC:

Sworn to before me and signed in my presence this _____ day of _____, 20_____,
in _____ County, Ohio.

Notary Public (Signature)

Notary Public (Printed)
My Commission expires: _____

If available, an individual duly authorized to administer this oath at the Clerk of Court's Office will do so at no cost to the Applicant.

ORDER

- Upon the request of the Applicant and the Court's review, the Court finds that the Applicant **IS** an indigent litigant and **GRANTS** a waiver of the prepayment of costs or fees in this matter. Pursuant to R.C. 2323.311(B)(3), upon the filing of a civil action or proceeding and the affidavit of indigency under division (B)(1) of this section, the clerk of the court shall accept the action, motion, or proceeding for filing.

- Upon the request of the Applicant and the Court's review, the Court finds that the Applicant is **NOT** an indigent litigant and **DENIES** a waiver of the prepayment of costs or fees in this matter. Applicant is granted thirty (30) days from the issuance of this Order to make the required advance deposit or security. Failure to do so within the time allotted may result in dismissal of the applicant's filing.

IT IS SO ORDERED

Judge / Magistrate

Date

[Effective: April 15, 2020.]

APPENDIX

2020 FEDERAL POVERTY LIMIT (FPL)

| Persons in family/household | 100% Poverty | 100% Poverty Monthly Gross Income | 187.5% Poverty | 187.5% Poverty Monthly Gross Income |
|-----------------------------|--------------|-----------------------------------|----------------|-------------------------------------|
| 1 | \$12,760 | \$1,063.33 | \$23,925 | \$1,993.74 |
| 2 | \$17,240 | \$1,436.67 | \$32,325 | \$2,693.75 |
| 3 | \$21,720 | \$1,810 | \$40,725 | \$3,393.75 |
| 4 | \$26,200 | \$2,183.33 | \$49,125 | \$4,093.75 |
| 5 | \$30,680 | \$2,556.67 | \$57,525 | \$4,793.75 |
| 6 | \$35,160 | \$2,930 | \$65,925 | \$5,493.75 |
| 7 | \$39,640 | \$3,303.33 | \$74,325 | \$6,193.75 |
| 8 | \$44,120 | \$3,676.67 | \$82,725 | \$6,893.75 |

R.C. 2323.311(B)

(4) A judge or magistrate of the court shall review the affidavit of indigency as filed pursuant to division (B)(2) of this section and shall approve or deny the applicant's application to qualify as an indigent litigant. The judge or magistrate shall approve the application if the applicant's gross income does not exceed one hundred eighty-seven and five-tenths per cent of the federal poverty guidelines as determined by the United States department of health and human services for the state of Ohio and the applicant's monthly expenses are equal to or in excess of the applicant's liquid assets as specified in division (C)(2) of section 120-1-03 of the Administrative Code, as amended, or a substantially similar provision. If the application is approved, the clerk shall waive the advance deposit or security and the court shall proceed with the civil action or proceeding. If the application is denied, the clerk shall retain the filing of the action or proceeding, and the court shall issue an order granting the applicant whose application is denied thirty days to make the required advance deposit or security, prior to any dismissal or other action on the filing of the civil action or proceeding.

(6) Nothing in this section shall prevent a court from approving or affirming an application to qualify as an indigent litigant for an applicant whose gross income exceeds one hundred eighty-seven and five-tenths per cent of the federal poverty guidelines as determined by the United States department of health and human services for the state of Ohio, or whose liquid assets equal or exceed the applicant's monthly expenses as specified in division (C)(2) of section 120-1-03 of the Administrative Code, as amended, or a substantially similar provision.

¹Ohio Works First Income Limit: 50% FPL (R.C. 5107.10(D)(1)(a))

²SSI Income Limit: cannot have countable income that exceeds the Federal Benefit Rate (FBR). 2019 FBR: \$771 monthly for single disabled individual; \$1157 monthly for disabled couple (20 CFR 416.1100)

³Medicaid Income Limit:

Modified Adjusted Gross Income (MAGI):138% FPL (OAC 5160:1-4-01; 42 USC 1396a(a)(10)(A)(i)(VIII))

Aged, Blind or Disabled: \$791 for single person; \$1177 for disabled couple

⁴Veterans Pension Benefit Income Limit: \$13,535 annually / \$1,127 monthly for a single person; \$17,724 annually / \$1,477 monthly for a veteran with one dependent

⁵Supplemental Nutrition Assistance Program (SNAP) Income Limit: 130% FPL for assistance groups with nondisabled/nonelderly member; 165% FPL for elderly and disabled assistance groups (OAC 5101:4-4-11; Food Assistance Change Transmittal No. 61)

ELIGIBILITY FOR TANF (Guardian Ad Litem) SERVICES

Applicant Name: _____ Date: _____

Social Security Number: _____

To be eligible for TANF services the assistance group must include a minor child under age 18, full-time student, or pregnant individual. Services are also available to non-custodial parents of a minor eligible child who resides in the county but does not live in the same household as the minor child. An eligible family may consist of a pregnant individual or minor child who resides with parent, caretaker relative, legal guardian, or legal custodian. An eligible child may be "temporarily absent" from the home, up to six months, with a case plan for reunification. In order to receive services, a member of the assistance group must be a citizen of the United States or a qualified alien.

In addition, to qualify for the TANF services, the family must meet at least one of the following criteria. Check all that apply:

- Items 1 & 2 are with regard to income and need to be verified:**
- 1. Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.
 - a. The family is receiving OWF/Food Stamps/Medicaid Yes – attach Print-out No
 - b. Family meets 200% of the federal poverty guideline Yes – Income Attached No
 - 2. End dependence of needy parents on government benefits by promoting job preparation, work and marriage.
 - a. The family is receiving OWF/Food Stamps/Medicaid Yes No
 - b. Family meets 200% of the federal poverty guideline Yes – Income Attached No

| 200% Federal Poverty Guideline (effective 1/31/17) | | | | | | | | |
|---|--------|--------|--------|--------|--------|--------|--------|--------|
| Family Size | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| Monthly Income Limit | \$2010 | \$2707 | \$3403 | \$4100 | \$4797 | \$5493 | \$6190 | \$6887 |

Items Below are response boxes only for JFS Determination ONLY:

- YES, party signing is TANF eligible, documentation attached
- NO, party signing does not receive above services, other factors may determine eligibility.

 JFS Agency Signature

 Date

 Signature of Applicant