

## CONTESTING PATERNITY

### COMPLAINT 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. **Complaint 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, address, phone number, and birth date for both parties. Leave the line after CASE NO., JUDGE, and MAGISTRATE blank.

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In paragraph 5, state specifically the reason you want the acknowledgment rescinded.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 COMPLAINT**

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 Complaint, 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 Complaint 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)

CASE NUMBER \_\_\_\_\_

\_\_\_\_\_  
(Address)

JUDGE \_\_\_\_\_

\_\_\_\_\_  
(City, State, Zip)

MAGISTRATE \_\_\_\_\_

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(Birth Date)

Plaintiff

**VS**

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State, Zip)

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(Birth Date)

Defendant

**COMPLAINT FOR RELIEF FROM ACKNOWLEDGMENT OR PATERNITY  
DETERMINATION**

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: \_\_\_\_\_

Respectfully submitted,

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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 #

**INSTRUCTIONS FOR POVERTY AFFIDAVIT**

**- PRINT OR TYPE -**

1. Fill in whether this is a *GENERAL* division Common Pleas Court case (after a divorce or dissolution or visitation only action) or a *JUVENILE* Division case (the original order is out of a juvenile court)
2. Fill in the name of the county where the Court is.
3. Fill in the name of the Minor Child(ren) involved in this action OR the Plaintiff and Defendant as it appears on your papers.
4. Fill in the Case Number and the Judge of the action if you know it, leave it blank if you don't.
5. Fill in your name.
6. Sign your name **ONLY IN FRONT OF A NOTARY** if the affidavit is correct.

**MAKE 2 COPIES AND TAKE WITH THE MOTION TO THE COURT**

**PLEASE NOTE: FILING WITH A POVERTY AFFIDAVIT DOES NOT MEAN YOU DO NOT HAVE TO PAY COURT COSTS. IT ONLY MEANS THAT YOU DO NOT HAVE TO PAY IT IN ADVANCE. THE COURT WILL DETERMINE WHO IS TO PAY COURT COSTS AT THE TIME OF THE HEARING.**

**\*\*SAMPLE\*\***

IN THE COURT OF COMMON PLEAS

**1) GENERAL OR JUVENILE** DIVISION

**2) NAME OF COUNTY**, OHIO

In The Matter of:

**3) NAME OF CHILDREN**

\_\_\_\_\_

**3) NAME OF PLAINTIFF**

Plaintiff,

vs.

**3) NAME OF DEFENDANT**

Defendant.

Case No. **4) CASE NUMBER**

Judge \_\_\_\_\_

AFFIDAVIT OF INABILITY  
TO PREPAY COURT COSTS.

I, **5) FILL IN YOUR NAME**, being first duly cautioned and sworn, depose

and state:

1. That I am a party in interest in the above-captioned action; that I have a meritorious cause of action but am unable to give security or a cash deposit to secure costs.
2. That I am unable to afford the hiring of an attorney to represent me in this matter.
3. That I own no liquid assets or property of any substantial value to prepay costs.

**6) SIGN YOUR NAME IN FRONT  
OF NOTARY ONLY**

Sworn to and subscribed in my presence this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

IN THE COURT OF COMMON PLEAS  
DIVISION

COUNTY, OHIO

In The Matter of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plaintiff,

vs.

\_\_\_\_\_

Defendant.

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

AFFIDAVIT OF INABILITY TO  
PREPAY COURT COSTS

I, \_\_\_\_\_, being first duly cautioned and sworn,

depose and state:

1. That I am a party in interest in the above-captioned action; that I have a meritorious cause of action but am unable to give security or a cash deposit to secure costs.
2. That I am unable to afford the hiring of an attorney to represent me in this matter.
3. That I own no liquid assets or property of any substantial value to prepay costs.

\_\_\_\_\_

Sworn to and subscribed in my presence this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

## FINANCIAL DISCLOSURE FORM

(\$25.00 application fee may be assessed—see notice on reverse side)

### I. PERSONAL INFORMATION

Applicant's Name		D.O.B.	Name of Person Being Represented <i>(if juvenile)</i>		D.O.B.
Mailing Address			City	State	Zip Code
Case No.			Phone ( )	Cell Phone ( )	
SSN Last 4	Gender	Race			
		<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Pacific Islander <input type="checkbox"/> Spanish or Latino <input type="checkbox"/> White <input type="checkbox"/> Other			

### II. OTHER PERSONS LIVING IN HOUSEHOLD

Name	D.O.B.	Relationship	Name	D.O.B.	Relationship
1)			3)		
2)			4)		

### III. PRESUMPTIVE ELIGIBILITY

The appointment of counsel is presumed if the person represented meets any of the qualifications below. Please place an 'X'

Ohio Works First / TANF: \_\_\_\_ SSI: \_\_\_\_ SSD: \_\_\_\_ Medicaid: \_\_\_\_ Poverty Related Veterans' Benefits: \_\_\_\_ Food Stamps: \_\_\_\_

Refugee Settlement Benefits: \_\_\_\_ Incarcerated in state penitentiary: \_\_\_\_ Committed to a Public Mental Health Facility: \_\_\_\_

Other (please describe): \_\_\_\_\_ Juvenile: \_\_\_\_ *(if juvenile, please continue at Section VIII)*

### IV. INCOME AND EMPLOYER

	Applicant	Spouse <small>(Do not include spouse's income if spouse is alleged victim)</small>	Total Income
Gross Monthly Employment Income			
Unemployment, Worker's Compensation, Child Support, Other Types of Income			
<b>TOTAL INCOME</b>			\$
Employer's Name: _____ Phone Number: _____			
Employer's Address: _____			

### V. LIQUID ASSETS

Type of Asset	Estimated Value
Checking, Savings, Money Market Accounts	\$
Stocks, Bonds, CDs	\$
Other Liquid Assets or Cash on Hand	\$
<b>Total Liquid Assets</b>	<b>\$</b>

### VI. MONTHLY EXPENSES

Type of Expense	Amount	Type of Expense	Amount
Child Support Paid Out		Telephone	
Child Care (if working only)		Transportation / Fuel	
Insurance (medical, dental, auto, etc.)		Taxes Withheld or Owed	
Medical / Dental Expenses or Associated Costs of Caring for Infirm Family Member		Credit Card, Other Loans	
Rent / Mortgage		Utilities (Gas, Electric, Water / Sewer, Trash)	
Food		Other (Specify)	
<b>EXPENSES</b>	<b>\$</b>	<b>EXPENSES</b>	<b>\$</b>

### VII. DETERMINATION OF INDIGENCY

If applicant's Total Income in Section IV is at or below 187.5% of the Federal Poverty Guidelines, counsel must be appointed.

For applicants whose Total Income in Section IV is above 125% of the Federal Poverty Guidelines, see recoupment notice in Section XI.

If applicant's Liquid Assets in Section V exceed figures provided in OAC 120-1-03, appointment of counsel may be denied if applicant can employ counsel using those liquid assets.

If applicant's Total Income falls above 187.5% of Federal Poverty Guidelines, but applicant is financially unable to employ counsel after paying monthly expenses in Section VI, counsel must be appointed.

**VIII. \$25.00 APPLICATION FEE NOTICE**

By submitting this Financial Disclosure Form, you will be assessed a non-refundable \$25.00 application fee unless waived or reduced by the court. If assessed, the fee is to be paid to the clerk of courts within 7 days of submitting this form to the entity that will make a determination regarding your indigency. No applicant may be denied counsel based upon failure or inability to pay this fee.

**IX. APPLICANT CERTIFICATION**

I, \_\_\_\_\_ (applicant or alleged delinquent child) state:

1. I am financially unable to retain private counsel without substantial hardship to me or my family.
2. I understand that I must inform the public defender or appointed attorney if my financial situation should change before the disposition of the case(s) for which representation is being provided.
3. I understand that if it is determined by the county or the court that legal representation should not have been provided, I may be required to reimburse the county for the costs of representation provided. Any action filed by the county to collect legal fees hereunder must be brought within two years from the last date legal representation was provided.
4. I understand that I am subject to criminal charges for providing false financial information in connection with this application for legal representation, pursuant to Ohio Revised Code sections 120.05 and 2921.13.
5. I hereby certify that the information I have provided on this financial disclosure form is true to the best of my knowledge.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**X. JUDGE CERTIFICATION**

I hereby certify that the above-noted applicant is unable to fill out and/or sign this financial disclosure for the following reason: \_\_\_\_\_, I have determined that the party represented meets the criteria for receiving court-appointed counsel.

\_\_\_\_\_  
Judge's Signature

\_\_\_\_\_  
Date

**XI. NOTICE OF RECOUPMENT**

ORC §120.03 allows for county recoupment programs. Any such program may not jeopardize the quality of defense provided or act to deny representation to qualified applicants. No payments, compensation, or in-kind services shall be required from an applicant or client whose income falls below 125% of the federal poverty guidelines. See OAC 120-1-05.

Through recoupment, an applicant or client may be required to pay for part of the cost of services rendered, if he or she can reasonably be expected to pay. See ORC §2941.51(D)

**XII. JUVENILE'S PARENTS' INCOME\* – FOR RECOUPMENT PURPOSES ONLY – NOT FOR APPOINTMENT OF COUNSEL**

	Custodial Parents' Income (Do not include parents' income if parent or relative is alleged victim)	Total
Employment Income (Gross)		
Unemployment, Workers Compensation, Child Support, Other Types of Income		
	<b>TOTAL INCOME</b>	<b>\$</b>

\*Please complete Section VI on page 1 of this form if you would like the court to consider your monthly expenses when determining the amount of recoupment which you can reasonably be expected to pay.

