Legal Aid
OF NEBRASKA

ESTABLISHING PATERNITY



This Handbook was developed by Legal Aid of Nebraska, a private, non-profit law firm that provides legal services to low-income Nebraskans. If you would like more information about Legal Aid of Nebraska, or if you would like to make a donation, please visit our website at legalaidofnebraska.org.

If you would like to apply for services please call:

- **AccessLine® at 1-877-250-2016**
  For Spanish - Press #2

  Monday& Wednesday 8:30 – 11:30 a.m. CST

  Tuesday & Thursday 1:00 – 4:00 p.m. CST

- **Elder AccessLine®** for people over age 60
  1-800-527-7249

  Monday – Thursday 9 a.m. to 12 p.m. CST

  Monday – Thursday 1 p.m. – 3 p.m. CST

- **Native American Accessline® at 1-800-729-9908**
  Monday – Friday 9 a.m. – 12 p.m. CST

- **Farm Ranch Hotline 1-800-464-0258**
  Monday – Friday 8 a.m. – 5 p.m. CST

- **Disaster Relief Response Hotline 1-844-268-5627**
  Monday – Thursday 9 a.m. – 12 p.m. CST

  Monday – Thursday 1p.m. – 3 p.m. CST

Important Disclaimer

Use of this informational Handbook is not intended to and does not create an attorney-client relationship between you and Legal Aid of Nebraska's attorneys. The information provided to you through this Handbook is intended for educational purposes only. Nothing in this Handbook should be considered legal advice or as a substitute for legal advice.

Please understand that the information contained in this Handbook is based upon generally applicable Nebraska law. Some laws and procedures may vary depending on which county in Nebraska you live and the specifics of your case. If you want legal advice about your specific issue you must consult an attorney in your area.



A man who is potentially a child's father is called an "alleged" or "putative" father. To "establish" paternity means to get a legal finding of paternity. In Nebraska paternity can be established in one of four ways:

- A child is born during a marriage;
- A father and mother sign a form called an Acknowledgment of Paternity;
- The State files a complaint to establish paternity; or
- One parent files a case in court to establish paternity.

When a child is born during a marriage the law *assumes* or *presumes* the husband is the child's legal father.[1] A husband and wife do not have to take any action to establish the husband as a child's father. It happens automatically. This assumption can be challenged.

Unmarried parents have to take some action to establish a man is a child's father.

Paternity by Acknowledgment

The State of Nebraska created an Acknowledgment of Paternity (AOP) form.[2] This form should be presented to parents when or soon after a child is born.[3] The Acknowledgment of Paternity form is supposed to include the following:

- Written information about a parent's rights and responsibilities;
- Each parent's Social Security number;
- A statement by the mother consenting to the AOP;
- A statement by the mother that the alleged father is the biological father of the child; and
- A statement by the alleged father that he is the biological father of the child.[4]

[1] Neb.Rev.Stat. §42-377.
[2] Neb.Rev.Stat. §43-1408.01(2).
[3] Neb.Rev.Stat. §43-1408.01(1).
[4] Neb.Rev.Stat. §43-1408.01(2).

All of these statements are made under oath. The document is signed in the presence of a notary public. We have attached a copy of this document to this handbook as Appendix A.

An AOP must be signed by both parents. If one parent does not want to sign, the other parent must file a lawsuit to establish paternity.

An AOP creates a "rebuttable" presumption of paternity. Once the AOP is signed, the presumption of paternity can be rebutted only if the father or mother "rescinds," or takes back, the statements made in the AOP. This must be done in writing within 60 days of signing the AOP and before a court has entered an order for child support.[5] The rescission also is supposed to be done on a form created by the State of Nebraska. We have attached a copy of that form as Appendix B.

After the 60 days have passed, an AOP is considered a "legal finding" of paternity. At that point, the AOP can only be challenged for the following reasons:

- Fraud (someone lied);
- Duress (someone was forced to sign); or
- There was a material mistake of fact. [6]

Here is a dilemma: only the woman giving birth may know there is a possibility more than one man may be a child's father. An unmarried man should be very careful about signing an AOP. In general, it makes sense to get genetic testing done before you sign an AOP. Parenthood is a *lifelong* responsibility and privilege.

There are times when a man knows he is not a child's father but signs an AOP. This is a serious matter. An AOP is signed under oath. An untruthful statement of paternity on an AOP is fraud against the State. Also, a false AOP may prevent the true biological father from learning he has a child. A false AOP might deny a child the chance to know his or her real father.

Parents who are not truthful about a child's paternity on an AOP may be held responsible for that false statement forever.[7] That means the parents will be financially responsible for the child throughout his or her childhood. It also means both parents will be involved in the child's life throughout his or her childhood.



[5] Neb.Rev.Stat. §43-1409.
[6] Id.
[7] *See Cesar C. v. Alicia L.,* 281 Neb. 979, 800 N.W.2d 249 (2011).

Paternity by Lawsuit

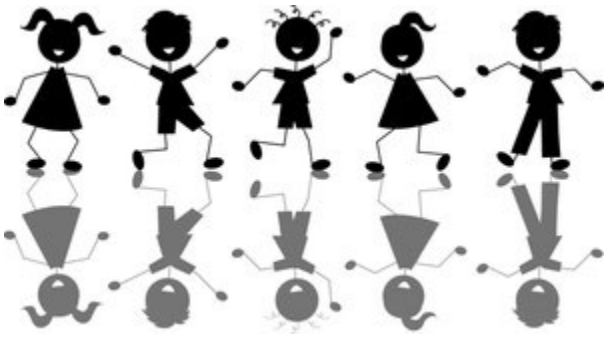
The State, a mother or a father may file a court case to establish paternity.[8] A father must file the court case within 4 years of the child's birth if he wants to establish paternity. This deadline, or "statute of limitations," is very strictly enforced.

The State can file a paternity case at any time until a child's 18th birthday. A mother or guardian, acting as a child's "next friend," can file a paternity proceeding at any time until a child's 18th birthday.[9]

In a paternity lawsuit the court can order both parents and the child to cooperate with paternity testing.[10] Once a court case is filed either parent can ask for paternity testing. The person who asks for the testing must pay initially for the testing.[11] If the test is negative the other party may have to pay the bill for the test.[12]

Many counties have reduced fee arrangements with paternity testing companies. If you are thinking about asking for genetic testing, make sure to ask the court to order the county to "arrange" for the service. You will still have to pay for the testing but you might pay less.

For more information about child support see our handbook on child support. You can find the handbook at www.legalaidofnebraska.org.



[8] Neb.Rev.Stat. §43-1411
[9] Id.
[10] Neb.Rev.Stat. §43-1414.
[11] Neb.Rev.Stat. §43-1418.
[12] Id.

WHERE TO GO IF YOU CANNOT AFFORD AN ATTORNEY

You may not be able to afford to pay a lawyer to represent you in a divorce case. If so, you may be able to get free help or you may be able to file your own divorce. Some resources are:

LOW-INCOME LEGAL SERVICES

LEGAL AID OF NEBRASKA
legalaidofnebraska.org

If you cannot afford an attorney you can call Legal Aid of Nebraska's AccessLine ® to see if you qualify for assistance. You cannot apply online. To complete an application, call:

- 402-348-1060 AccessLine ® if you live in the Douglas Co. area
- 1-877-250-2016 AccessLine® if you live outside the Douglas Co. area
- 1-800-527-7249 Elder AccessLine ® if you are 60 and over
- 1-800-729-9908 Native American AccessLine ® if you are Native American
- 1-855-916-4540 Breast Cancer Legal Hotline if you are breast cancer patient or survivor
- 1-800-464-0258 Farm Ranch Hotline for farmers and ranchers
- 1-855-307-6730 Nebraska Immigration Legal Assistance Hotline (NILAH)
- 1-844-268-5627 Disaster Relief Response Hotline for victims of recent disaster, such as tornado, flood or train derailment

LAW SCHOOL LEGAL CLINICS

UNIVERSITY OF NEBRASKA COLLEGE OF LAW CIVIL CLINICAL LAW PROGRAM
https://*law*.unl.edu/*civil-clinic*

A limited number of cases are accepted by the UNL Civil Clinical Law Program. Clients are represented by students under the supervision of College of Law faculty. The telephone number is 402-472-3271.

CREIGHTON UNIVERSITY SCHOOL OF LAW LEGAL CLINIC
https://www.creighton.edu/law/clinics/abrahams-legal-clinic/civil-law-clinic-services.

For Douglas County residents only. A limited number of cases are accepted by the Creighton Legal Clinic. Clients are represented by lawyers assisted by third year law students. To complete an application for assistance call the Clinic at 402-280-3068 between 9:00 a.m. and 4:00 p.m. Monday through Friday.

SELF-HELP RESOURCES

NEBRASKA SUPREME COURT SELF-HELP FORMS
http://court.nol.org/self-help/

The Nebraska Pro Se (Self Help) Committee has developed a form to help with terminating a child support order.

Self-Help Centers

- **Norfolk (Madison County)**
  - Open the third Friday of the month from 10:00 a.m. to 2:00 p.m.
  - The Self-Help Desk is located on the north side of the Courthouse, 1313 North Main Street in Madison. Individuals needing assistance should check-in with the Clerk of the District Court's Office (first office at the courthouse entrance). No appointments are needed and individuals are offered assistance on a first-come, first-served basis.
- **Tri City Center (Hastings, Grand Island, Kearney)**
  - **Buffalo County Self-Help Desk:** Open the first Friday of the month from 10:00 a.m. to 2:00 p.m. The Self-Help Desk is located in the Buffalo County Courthouse, 1512 Central Avenue in Kearney. Individuals needing assistance should check-in with the Clerk of the District Court's Office, window #4. No appointments are needed and individuals are offered assistance on a first-come, first-served basis.

LEGAL AID OF NEBRASKA'S ACCESS TO JUSTICE (A2J) CENTERS

Legal Aid of Nebraska's A2J Centers are self-help centers where low-income people can access legal resources including computers, forms, and self-help clinics.

Omaha
Located at 209 S. 19th Street on the second floor**.** The A2J Center is open:
Monday – Wednesday 1:00pm to 4:00pm.
Call 402-348-1069, or toll-free at 1-888-991-9921, or visit our website at legalaidofnebraska.org to find out more information. *The hours the A2J Center is open may vary.*

Lincoln
Located at 941 "O' Street, Suite 800, Lincoln, NE. The A2J Center is open:
Monday - Wednesday 1:00pm to 4:00pm
Call 402-435-2161, or toll-free at 1-800-742-7555, or visit our website at legalaidofnebraska.org to find out more information. *The hours the A2J Center is open may vary.*

LIBRARIES

STATE LIBRARY
https://supremecourt.*nebraska*.gov/*state-library*.

You can go to the State Law Library if you need access to legal resources including using the internet to do legal research. The State Library is located in room 325 at the State Capitol Building in Lincoln. The telephone number is 402-471-3189.

PUBLIC LIBRARIES

Your local public library may have some resources and public access to computers and the internet. To find your local library you can visit http://www.publiclibraries.com/nebraska.htm.

UNIVERSITY OF NEBRASKA COLLEGE OF LAW LIBRARY
http://law.unl.edu/library/
The UNL College of Law Library is located on the east campus of UNL. The Law Library has one public access computer for members of the public to conduct legal research. The general telephone number to the law school is 402-472-2161.

CREIGHTON UNIVERSITY LAW SCHOOL LIBRARY
https://*www.creighton.edu/law*/academics/*law-library*/.
The Creighton Law School Library has public access computers available for legal research. Reference assistance is also available. The general library telephone number is 402-280-2875. The Law Library is open to the general public with legal research needs from 7:00 a.m. to 7:00 p.m. Monday through Friday while school is in session. Hours may vary during breaks and over the summer. It is located in Omaha on the corner of 21st and Cass Streets on the second floor of the Ahmanson Law Center.

REFERRAL SERVICES

Referrals to private attorneys are available. Private attorneys may charge for their services.

OMAHA BAR ASSOCIATION LAWYER REFERRAL SERVICE

The service refers callers to private practicing attorneys in Douglas and Sarpy counties. For more information call 402-280-3603 or visit their website at:

https://www.*omahabarassociation*.com.



We Make Justice Happen

"We Make Equal Justice Happen"
Legal Aid of Nebraska
www.legalaidofnebraska.org