

THE LEGAL ASSISTANCE OFFICES OF  
III CORPS, 1<sup>ST</sup> CAVALRY DIVISION, 4<sup>TH</sup> INFANTRY DIVISION  
(MECHANIZED)  
FORT HOOD, TEXAS 76544

**PATERNITY**

Purpose: Information on paternity suits, admitting to paternity, establishing paternity, and how paternity affects a soldier's ability to collect BAQ and provide DEERS benefits. Paternity means the state of being a father. There can be several scenarios addressing a paternity issue.

**I. ATTORNEY GENERAL-INITIATED PATERNITY SUIT**

A. The mother of a child can contact the Child Support Unit of the State Attorney General's Office to initiate a Paternity Suit. The steps involved for a **female** when filing a suit with the Attorney General's Office include:

1. **Application Process**-call or visit the Attorney General's Office for an application. The female must provide the father's name, social security number, and home address. Upon receipt of the application, the Attorney General's Office will author the petition to establish a parent-child relationship and file it with the Court on behalf of the mother.
2. **Father's Responses**-the alleged father has three choices:
  - a. He can **ADMIT** paternity. To do so, the alleged father signs a statement of paternity. If the alleged father **ADMITS** to paternity, the statement is filed with the court. The petition to establish a parent-child relationship will be granted and support obligations will be established.
  - b. The alleged father can **DENY** paternity. When paternity is denied, the Attorney General's Office will get a court order to set up a Deoxyribonucleic acid (DNA) test. The Attorney General will mail a DNA test notice to the alleged father stating an appointment date, time, and place.
    1. DNA test results are available in approximately 30 days.
    2. **Positive test results**-the father is assessed the charges for the DNA test (approximately \$210.00) and the court costs for the paternity suit.
    3. **Negative test results**-neither the mother nor the father is assessed any DNA test charges or court costs.
    4. If the test results are negative, the mother is permitted to start the process over again. She just has to fill out the application with a different alleged father.
  - c. If the alleged father has proper service of the Petition, that means if the sheriff or private agency personally gives the alleged father the papers, or it is mailed by certified mail and the father signs for the papers, then the alleged father has proper notice of the suit. If he does not admit or deny the paternity, the court will grant a **DEFAULT** judgment. The court will grant the petitioner's requests in the petition, which usually includes establishing a parent-child relationship and establishing support obligations.

- B. The Attorney General's participation continues past the mere establishment of paternity. Once paternity is established or the alleged father ADMITS paternity, they will get an order for:
1. standard visitation
  2. child support
  3. retroactive back child support
  4. garnishment of wages to obtain back child support
  5. medical concerns
- C. **Father** initiated suits are handled differently. The father follows the application process. However, if the female refuses to cooperate with the suit, the Attorney General has no power to pursue the suit. At this point, the male client is advised to hire a private attorney to continue with the suit.

## II. PRIVATE PATERNITY SUITS (NON-ATTORNEY GENERAL INVOLVEMENT)

### A. STATEMENT OF PATERNITY

1. A Statement of Paternity, under Texas Family Code 160.202, is used to establish paternity.
2. The effect of signing a Statement of Paternity is serious. Pursuant to Texas Family Code 160.203, a properly executed statement of paternity is *prima facie* evidence, by itself, to support a judgment that the person executing the statement is the father of the child and has an obligation to pay child support.

### B. GENERAL DENIAL

1. When an alleged father is named in a paternity suit, he must answer the complaint. Otherwise, if there is proper service, the court can grant a DEFAULT judgment. If the alleged father does not believe he is the child's father, he can file a general denial.
2. When the alleged father files a general denial, there is a request that blood be drawn and a DNA test be used to determine paternity.
3. The answer requests that if the test results are negative, the cost of the test should be paid by the mother who initiated the paternity suit.

### C. FATHER'S INITIATION FOR DECLARATION OF PATERNITY

A father can bring an action to establish paternity. This is brought to court by the father who is not the subject of a paternity suit. Rather, the father wants a court order establishing him as the father of the child. The legal assistance office can assist you in a *pro se* action to establish paternity. This document can be used to obligate the father to pay child support. If the father wants to establish custody or visitation rights, he must seek a civilian attorney.

### D. PRIVATE DNA TESTING

1. If you are unable to have a DNA test initiated by the Attorney General's Office, you can purchase a DNA test from a private organization.
2. The City Health Department in Killeen does not conduct DNA testing. However, they do have a list of private companies you can contact. The private organizations charge

between \$475-\$600 for a complete DNA analysis of the mother, child, and alleged father. The company schedules an appointment at a draw cite and mails the kit prior to your arrival. Lab fees cost an additional \$15-\$45 dollars.

3. Darnall Community Army Hospital is a designated draw cite upon request. Using Darnall as the draw cite can save the laboratory fees. Darnall is not available for any service other than drawing the blood for the test kits that are mailed to them in advance.
4. Metroplex Hospital is also available as a draw cite. They do not provide DNA test kits but they also have a list of private DNA testing companies that you can contact.

### **III. EFFECTS OF PATERNITY ON ARMY BENEFITS**

**This is GENERAL information. Each case is different and it is best for you to speak with a legal assistance attorney to discuss your particular facts.**

#### **A. Eligibility requirements for DEERS benefits**

1. A male sponsor must present a court order that establishes his paternity.
2. There are other ways for a male sponsor to meet the requirements, but they are extremely difficult to meet and are often disapproved.
3. **DEERS benefits include:**
  - a. Identification Cards
  - b. Medical
  - c. PX/Commissary
  - d. Champus
  - e. Theater

#### **B. Eligibility requirements for BAQ benefits for a male soldier with an illegitimate child**

1. If a male soldier has a court order establishing paternity, he is entitled to BAQ -With dependents rate. If he is lives in the barracks, he receives BAQ - Differential.
2. If a male soldier is listed as the father on the child's birth certificate, he is only entitled to BAQ-Without dependents rate. If he lives in the barracks, he receives BAQ - Differential.

#### **C. Support Obligations under Army Regulation 608-99**

1. When a soldier and his/her family separate, he/she is required to support the family.
2. In the absence of a court order or written agreement, the Army imposes a support obligation to family members under AR 608-99.
3. A male soldier is required to provide for an illegitimate child if:
  - a. there is a court order establishing paternity, **and**
  - b. there is a court order directing financial support.

FOR ADDITIONAL INFORMATION CONTACT THE LEGAL ASSISTANCE OFFICES ON FORT HOOD: III Corps, Building 1001, Room C224, 287-7901/3199; 1<sup>st</sup> Cavalry Division, Building 28000, Room 1155, 287-6060; 4<sup>th</sup> Infantry Division (Mech), Building 410, Room 175, 287-1850.