

Establishing Paternity for Michigan's DAPA Applicants

President Obama's new administrative relief program, Deferred Action for Parental Accountability (DAPA) will require proving paternity of a U.S. Citizen child (or permanent resident). This may be problematic for some fathers if they were not legally married to the mother of their children at the time their child was conceived and born (in Michigan).

Under Michigan's paternity law, **a mother's husband at the time of conception *or* birth is the legal father of the child.** Where a mother is unmarried at the time of conception or birth or her child, or is married to someone who isn't the father of the child, the father of the child cannot be automatically added to the birth certificate.

Establishing paternity will vary in each of the following scenarios:

- **Father & mother were married at child's conception through birth:**

Under Michigan law, the father is automatically listed on the child's birth certificate.

- **Mother wasn't married to anyone from the child's conception through birth:**

Under Michigan law, the child is "born out of wedlock." The father can be added to the child's birth certificate by both parents voluntarily signing and notarizing an Affidavit of Parentage (*available at http://www.michigan.gov/documents/Parentage_10872_7.pdf*). The man is then considered to be the child's legal father.

- **Mother was married to someone other than child's father at child's conception and/or birth:**

Under Michigan law the mother's husband at the time of conception or birth is considered the legal father of the child, and is listed on the child's birth certificate as the father. An action to revoke paternity is required to remove the husband ("presumed father") from the birth certificate and have the biological father ("alleged father") added.

An action to revoke paternity must meet the requirements laid out in the [Revocation of Paternity Act](#) (MCL 722.1441-1445). These include:

- May be brought by the presumed father if
 - filed before the child turns 3 years old, *or*
 - raised in an action for divorce or separate maintenance.
- May be brought by the mother or alleged father if
 - filed before the child turns 3 years old, *or*
 - the presumed father has failed to support the child for 2 years

A finding that the husband is not the father of the child included as part of a divorce judgment must name the child and indicate that he/she is not the child of the (ex)husband. Outside of divorce proceedings, the person bringing the action should seek both a determination that the child is born out of wedlock, and a determination of paternity. The court may order blood or DNA testing.

For more information or to find contact information for family law attorneys in your area go to Michigan Legal Help <http://michiganlegalhelp.org/>. The Michigan Immigrant Rights Center may also be able to provide a referral.

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