

## Differences Between a Paternity Action and a Recognition of Parentage (ROP)\*

|   | <b>Paternity Action<br/>Minnesota Statutes 257.51 to 257.74</b>  | <b>Recognition of Parentage (ROP)<br/>Minnesota Statute 257.75</b>   |
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| <b>How is paternity established?</b>                                    | By a court order that establishes (adjudicates) paternity. If IV-D (child support/paternity) services are being provided, the County can assist in beginning a paternity action (law suit) to obtain a paternity order.  | By both parents signing a Recognition of Parentage (ROP) that is filed with the Minnesota Department of Health. If IV-D (child support/paternity) services are being provided, the County can assist in the filing of a ROP.   |
| <b>What if a parent is a minor?</b>                                     | A family member or another responsible adult will be appointed by the court to represent the minor parent's interests as a guardian ad litem.  | Minors can sign a ROP, but when one or both parents are a minor at the time of signature, some counties pursue a paternity adjudication in court in any case in which it is involved, and consider the ROP to be a presumption of paternity, even after both parents are no longer minors. Other counties proceed directly with an establishment of support action 6 months after the youngest parent is no longer a minor.  |
| <b>Are both parents' custody and parenting time rights established?</b> | <p><b>Yes.</b> If the child lives in Minnesota, the paternity order will address both parents' custody and parenting time rights.</p> <p>A separate court action (law suit) <u>is not required</u>.</p> <p>Either parent can ask the court for custody and/or parenting time in the paternity court action. The court will make its decision based on the child's best interests.</p>  | <p><b>No.</b> In Minnesota, the mother starts out with sole legal and sole physical custody of the child when parents are unmarried at the time of the child's birth. Signing a ROP does not change that.</p> <p>A separate court action (law suit) <u>is required</u> to request a court order establishing the father's custody, parenting time or access rights. The ROP gives the father a <b>basis</b> for bringing this separate court action. It does <b>not</b> establish any of these rights.</p> <p>A child support action brought by the county based on a ROP cannot include custody and parenting time as an issue.</p>   |
| <b>Is child support established?</b>                                    | <p><b>Yes.</b> The paternity order will address ongoing and past child support. Child support includes basic (cash) support, medical support (insurance or a dollar amount towards the cost of insurance or public assistance), and child care support.</p> <p>A court action separate from the paternity court action <u>is not required</u>.</p> <p>A parenting time adjustment to the amount of support may be ordered, depending on the amount of parenting time ordered. There is also another calculation for parents who have court ordered equal parenting time.</p> | <p><b>No.</b> Ongoing and past child support is not established until the county or a party begins a court action.</p> <p>A court action <u>is required</u> to obtain a court order establishing ongoing and past child support. The ROP provides a <b>basis</b> for the mother or the county to bring a support action. <b>If the County provides child support services, the County will take action to establish a support obligation.</b></p> <p>A parenting time adjustment to the amount of support or an equal parenting time calculation is not applicable, unless there is already an order establishing custody and parenting time.</p> <p>A child support action brought by the county based on a ROP cannot include custody or parenting time as issues. If the mother or father wants custody and parenting time addressed, the mother or father will need to file a separate court action.</p> |

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\*This document was originally drafted by the Anoka County Attorney's Office, and adopted and modified by the Dakota County Attorney's Office.

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| <p><b>Can I have a court appointed attorney to address establishment of paternity, support, or custody/parenting time?</b></p> | <p><b>Yes.</b> The mother and the alleged or presumed father have the right to a court appointed attorney if income eligible. Court appointed attorneys may be provided to low-income parties to address establishment of paternity, support, custody and/or parenting time issues.</p> <p>If the mother and/or father do not qualify for a court appointed attorney, they may hire a private attorney, contact a legal services agency/volunteer lawyer service, or waive their right to be represented by an attorney.</p> <p>The county attorney represents only the county's interests in the case, and does not represent either parent or the child.</p> | <p><b>No.</b> After a ROP is signed there is no right to a court appointed attorney to address the establishment of paternity, support, custody and/or parenting time issues. A party may hire a private attorney or contact a legal services agency.</p> <p>The county attorney represents only the county's interests in the case, and does not represent either parent or the child.</p>   |
| <p><b>How long is the process?</b></p>   | <p><b>It depends.</b><br/>The time it takes depends on the facts of each case. In a paternity action, all issues could be resolved very quickly by agreement. If genetic testing is needed and/or some of the issues are contested, it may take longer. The final order must address all issues.</p>   | <p><b>It depends.</b><br/>A ROP can be signed before a notary public at a hospital or county office. The ROP can quickly resolve the issue of paternity. However, the ROP is <u>not</u> effective until it is filed with the Minnesota Department of Health. Also, separate court actions are required to establish custody/ parenting time rights or to establish support, which can take time depending on the facts of the case, or the issue may never be determined if no action is brought.</p>   |
| <p><b>Can genetic tests be done?</b></p>   | <p><b>Yes.</b> The mother, the alleged or presumed father or the County can ask for genetic tests in paternity adjudications. If there is an open IV-D case, the County will initially pay for the tests. The county may ask for contribution to the cost of the testing. However, the cost for testing through the county is typically less than privately arranged tests, as the negotiated rate is less due to the county's high volume of cases.</p>   | <p><b><u>Yes. Parents agree to do testing before the ROP is signed.</u></b> Contact the child support office to ask about getting genetic tests done. If there is an open IV-D case, the county may pay for all or part of the testing costs.</p> <p><b><u>Once the ROP is signed and filed,</u></b> a parent seeking to vacate the ROP must bring a court action, seek a court order for testing, and pay for the tests. The court will decide whether or not it is in the child's best interests to order genetic testing.</p>  |
| <p><b>Can I change my mind after I sign the ROP?</b></p>   | <p>Not applicable.</p>   | <p>There is a 60 day period to seek to revoke the ROP. The revocation must be in writing and must be signed before a notary public by the party requesting the ROP to be revoked, and the party must file the revocation with the Minnesota Department of Health.</p> <p>After the 60 days have passed, if a party wants to vacate the ROP, the party must file a separate court action within 6 months of receiving genetic testing results that show that the man whose name is on the ROP is not the biological father, or if no genetic testing has been done, within 1 year of signing and filing the ROP.</p> |

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