

2023 ANNUAL  
CONFERENCE



# Parentage Adjudication Cases in the IV-D World: What Every County Needs to Know



# Overview

- Paternity presumptions
- Recognition of Parentage (ROP)
- Paternity actions:
  - Required parties
  - Rights of parties
  - Issues to be addressed
  - Differences between Ex Pro & District Court
  - Child support
  - Custody and parenting time
  - Finalizing all parentage elements
  - Submissions and evidence required



# Overview

- Certificate of Adjudications to finish the parentage action
- Minor Parent ROP cases
- Concurrent Child Protection cases
- *Coming soon in 2023* – MN General Practice Rule Changes

# Presumptions of Paternity

- [Minn. Stat. § 257.55](#) provides for several different presumptions of paternity.
  - Marriage
  - Attempted Marriage
  - Holding Out as bio father
  - Voluntary Acknowledgement (4 variations of this presumption)
- [Minn. Stat. § 257.62](#) includes the presumption of paternity when GT results are 99% or greater.
  - But see subd. 5(c) – another man could be adjudicated as legal father



## Marriage Presumption [Minn. Stat. § 257.55, subd. 1\(a\)](#)

- **Marriage Presumption** – Alleged father is presumed to be the biological parent if he and the mother are or were married and child born during marriage or within 280 days of termination of marriage. This presumption does not apply if the husband joins in a ROP.
- Marriages (formal or cultural) that occur in another country are recognized as legal marriage where celebrated.
- If the cultural marriage occurred in a place that does not recognize cultural marriage as a legal marriage, the presumption does not apply.



# Attempted Marriage Presumption

## Minn. Stat. § 257.55, subd. 1(b) & (c)

- **Attempted Marriage**

- **Before child's birth** – He and mother tried to get married but the marriage was declared void, voidable, or invalid and child born within 280 days after marriage declared void, voidable, or invalid.
- **After child's birth** – He and mother married or tried to get married, but marriage was declared void, voidable, or invalid and he signed a ROP or was named on birth certificate with his consent or he is ordered to pay support.

# Holding Out Presumption



- [Minn. Stat. § 257.55, subd. 1\(d\)](#)

- **Holding out** – While the child is a minor, he openly holds the child out as his biological child and receives the child into his home.



# Voluntary Acknowledgement Presumption

## [Minn. Stat. § 257.55, subd. 1\(e\)](#)

- **Minnesota Declaration of Parentage** – Authority to enter into a declaration, which remained a presumption, expired in Minnesota on August 1, 1995.
- **Minnesota Recognition of Parentage (ROP)** – A document parties can fill out to acknowledge that they are the biological parents that has the full force and effect of a paternity adjudication.
- **Other States** – Federal Law requires all states to have a document similar to the ROP and requires all states to recognize other states' documents.



# Recognition of Parentage (ROP)

## Minn. Stat. § 257.75



- A mother & father who are not married to each other can sign a Recognition of Parentage.
- Only valid when signed before a notary and filed with the State Registrar of Vital Statistics.
- Paternity proceeding might still be necessary if...

**MDH** Minnesota Department of Health

**Application for a Certified Recognition of Parentage, Husband's Non-Paternity Statement or Revocation Form**

Birth Record Information				
First Name	Middle Name	Last Name		
Date of Birth	<input type="checkbox"/> Male <input type="checkbox"/> Female	City and County of Birth		
Father's First Name	Middle Name	Middle Name		
Father's First Name	Middle Name	Last Name		

**What type of paternity form do you want?**

Recognition of Parentage (2004 to present) or Declaration of Parentage (available to a parent who signed the form)

Husband's Non-Paternity Statement (available to the husband who signed or the mother waived on the form)

Revocation of a Recognition of Parentage or Husband's Non-Paternity Statement (available to the person who signed or a parent waived on the form)

**Requester Information**

Name

Mailing Address - Street	Age/Unit #	City	State	ZIP
Home Phone	Email			

**What is your relationship on the paternity form? You must check one.**

I am the mother and my name appears on the birth record and the Recognition of Parentage, Declaration of Parentage, Husband's Non-Paternity Statement, or Revocation form.

I am the father and my name appears on the Recognition of Parentage, Declaration of Parentage, or Revocation form.

I am the husband and my name appears on the Husband's Non-Paternity Statement or Revocation form.

I am the child and my name appears on the birth record and the Recognition of Parentage or Declaration of Parentage form.

I am a representative of the Minnesota Department of Human Services and have access to the paternity form according to Minnesota Statutes, section 244.225, subdivision 2b, for child protection purposes (you must include a copy of your employee ID).

I am a representative of a public authority in a state other than Minnesota responsible for child support and have access to the paternity form according to Minnesota Statutes, section 256.076, subdivision 1a, for establishing paternity and child support. **[you must include a copy of your employee ID]**

I am a representative authorized by a person listed above (you must submit a notarized statement from a person listed above).

**Signature and Notary Information**

I certify that the information provided on this application is accurate and complete to the best of my knowledge.

Requester Signature

---

Agreed or attested before me on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Notary Public Signature

My Commission Expires: \_\_\_\_\_

Notary Stamp/Seal

**NOTICE:** Any person who willfully and knowingly provides false information for a certified vital record may be sentenced up to 1 year in jail or a fine of up to \$1000 or both (Minnesota Statutes, sections 141.217 and section 62B.02, subdivision 5 and 6).

Page 2 of 2 REV 09/2014

# ROP Exceptions

- Paternity action still required:
  - Only a *presumption of paternity* is established if a ROP is signed when either or both parents are minors ([Minn. Stat. § 257.55, subd. 1\(h\)](#)) and [Ramsey County and X.L.](#), 853 N.W.2d 813 (Minn. Ct. App. 2014).
  - There is a ROP and competing presumptions.
    - Mother married to someone else, *unless* husband joined in the ROP and renounced the presumption **within one year** of the child's birth ([Minn. Stat. § 257.75, subd. 1a](#)) – Spouse's Non-Parentage Statement.
    - Multiple ROPs signed.



# ROP Reminders

- Until an order is issued granting custody to another, the mother has sole physical and sole legal custody of the minor child. [Minn. Stat. § 257.541, subd. 1.](#)
- The father has no parenting rights until an order is issued which states otherwise.
- The ROP gives the father the right to request custody and parenting time. The standard under [Minn. Stat. Chapter 518](#) is a new establishment and not a modification/endangerment standard.
- If there is a valid ROP and no competing presumptions = DO NOT re-adjudicate paternity. [Minn. Stat. § 257.75, subd. 3\(a\).](#)

# Competing Presumptions of Paternity

## Minn. Stat. § 257.55



- Minn. Stat. § 257.55, subd. 2:

- “If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the *weightier considerations of policy and logic* controls.”
- No hard standard. Facts make a difference.

- Trends in Minnesota Caselaw:

- What is in the best interests of the child?
- Who wants to be the legal father?
- If no one wants to be the legal father, likely biological father will be legal father!



# Who needs to be included?

- **Required Parties:**

- Biological Mother
- **ALL** Alleged Father(s)
- **ALL** Presumed Father(s)
- Public Authority (in IV-D cases)

- **Other Possible Parties:**

- Guardian ad Litem (GAL) for minor parents
- The child
- Non-parent GAL for the child
- Personal Representative for deceased parties

# Parentage Pleadings Must Address



- Pursuant to [Minn. Stat. § 257.66](#), the Paternity Order must address:
  - Custody of the child (legal custody and physical custody)
  - Parenting time
  - The child's name
  - Duty of support (ongoing and past support)
  - Pregnancy and confinement expenses
  - Mother's and Father's names, SSN, dates of birth and places of birth
  - Amendment of the birth record.

# Parentage Pleadings Must Address



- See DHS-SIR message #6238, and updated state policy language plus Best Practices Summary Guide – all documents on DHS-SIR website.
- MN General Rules of Practice, [Rule 371.02, subd. 2](#) and [Minn. Stat. §257.66, subd. 3](#).
- State the relief requested, and facts to support it.
- Simple, concise and direct. ([Minn. R. Civ. P. 8.05](#)).

# Parentage Pleadings Must Address



- What if Default and no parents participate? Or only one parent? Do they have proper notice of the possible result in the court order?
  - “Address the issues of custody and parenting time” may not be sufficient notice.
- Applicant for Services/PA recipient sign Complaint, and indicate what they, as “Petitioner”, are requesting?
- Both parents as Respondents?
- Form/Process to ask the parents what they want?



# Paternity Evidence



- [Minn. Stat. §257.63](#) – Paternity Affidavit (either parent) alleging conception, GT results ([Minn. Stat. § 257.62, subd. 6](#)), expert opinion.



# Initiation of Parentage action

- Jurisdiction when parent is not a resident of Minnesota – must have one option in [Minn. Stat. § 518C.201\(a\)](#).
- Venue is proper where the child or the Respondent resides ([Minn. Stat. § 257.59, subd. 3](#))
- Personal service is required unless waived in writing:
  - [Minn. R. Civ. P. 3.01](#)
  - [Minn. R. Gen. P. 371.03](#)

# Representation in Paternity Cases



- The mother and alleged father may request appointment of an attorney under [Minn. Stat. § 257.69, subd. 1.](#)
- Parent must meet financial eligibility requirements.
- Representation is limited to the parentage establishment of the “father-child relationship.”

# District Court vs. Expedited Process for Paternity Cases



## District Court

- District Court Judge or Referee can adjudicate parentage and determine all contested issues.

## Ex Pro

- Magistrates have limited jurisdiction without party agreement.
- Paternity summons requires date, time, and location of initial hearing. [Minn. R. Gen. P. 371.02, subd. 1\(e\)](#)

# Genetic Testing

- The initiating party may require genetic testing of the parties and the child(ren) under [Minn. Stat. § 257.62](#).
- A party may request testing and must:
  - File an affidavit either alleging or denying paternity
    - If ALF is deceased, the court can request genetic testing of a parent or sibling unless that testing presents a danger to that party. The test may be used only to establish the right of the child to public assistance unless the tested person consents to the use.
  - Set forth the facts
  - Support that there was, or was not, sexual contact.
  - Testing can establish paternity but the court may still determine legal parentage via other facts.

# Genetic Testing Results

- If the results are 99% or greater, the man is presumed father and has the burden of proof to show he is not.
  - Must be “clear and convincing” that the alleged father is not the father of the child. [Minn. Stat. § 257.62, subd. 5\(b\)](#).
- Results & right to object to them must be served upon parties.
  - Objection must be made within 30 days after service of the results.
  - If a party objects to the results and pays for in advance, additional testing must be requested.

# GT Orders and Order to Show Cause



- If a parent does not cooperate with GTs, the county can pursue an Order for Genetic Testing and then an Order to Show Cause, if necessary.
- **Ramsey County's process:**
  - Notice of voluntary GT appt (can reschedule once or twice)
  - Motion for GTs in Paternity pleadings (motion for discovery under [Minn. R. Gen. P. 361.03, subd. 1](#))
  - Affidavit of Non-Compliance
  - Order for GTs
  - Motion, Affidavit and proposed Order to Show Cause
  - OSC hearing. Release condition = give GT sample



# Hearings

- A hearing is mandatory unless all parties have signed *and the court has approved* an agreement that contains all of the statutory requirements for parentage adjudication.
- Parties have a right to request a jury trial – [Minn. R. Gen. P. 314 \(c\)](#).
- Paternity hearings from the start through adjudication are closed to the public, even though the pleadings are now public.



# Hearings

- Questions for Paternity Hearing:
  - GT results?
  - Conception
  - Mom married at conception or birth?
  - Right to Jury trial
  - Right to attorney
  - Permanent decision and cannot change their mind
- Example questions provided with presentation

# Limitations of the Expedited Process



Role of the Child Support Magistrate is limited:

- May order genetic testing
- Appoint counsel
- Appoint Guardian Ad Litem
- Set temporary or permanent child support
- Determine whether to accept the agreement of the parties (or request to proceed by default) on the key issues or REFER to District Court

[Minn. R. Gen. P. 353.01, subd. 2\(b\)\(1\):](#)

- If both parties appear and agree on all issues, Magistrate can issue final paternity order
- If one or both parties do not appear, Magistrate can only issue paternity order if all required items have been specifically plead.

# Limitations - continued

- If the parties agree to the parent-child relationship AND temporary or permanent physical custody the Magistrate may issue an order establishing the parent-child relationship and physical custody.
- If there is NOT an agreement as to temporary or permanent physical custody, the Magistrate CANNOT issue an order establishing the parent-child relationship.



# Temporary Child Support

- If the issues of custody and parenting time are not agreed upon, child support can be set on a temporary basis. Child support can be addressed by the district court after resolution of custody and parenting time.
- If the parent-child relationship is not yet established, temporary child support can be set (& paid into escrow) based on inclusionary genetic test results of 92% or higher under [Minn. Stat. § 257.62, subd. 5\(a\)](#).



# Financial submissions required

- MN General Rules of Practice, [Rule 371.02, subd. 3](#):
  - Affidavit shall include detailed facts supporting the request for relief and parentage, AND
  - Provide all information in [Minn. Stat. § 518A.46, subd. 3](#):
    - Names, addresses\*, DOBs,
    - Other support obligations,
    - Employers\*
    - Gross incomes, sources of income,
    - Health insurance
    - Public assistance
    - DEED Wage Match

\*unless confidential



# Ex Pro to District Court Process

- If a final paternity order cannot be issued in the expedited process, the matter must be referred to the District Court to decide the remaining issues. [Minn. R. Gen. P. 353.01, subd. 2\(b\)\(2\)](#).
- The Ex Pro rules require the referral of disputed issues to District Court to include the date, time, and location of the next hearing. [Minn. R. Gen. P. 353.02, subd. 3](#).
- The Magistrate will work with court staff and follow local practice regarding setting for an ICMC or initial hearing in District Court.



# An Answer to the complaint is not required

- If a paternity that started in Ex Pro cannot be finalized, [Minn. R. Gen. P. 353.01, subd. 2\(b\)\(2\)\(B\)](#) provides that “when one or more issues are referred to District Court, service of the summons and complaint in the expedited process is sufficient for the matter to proceed in District Court.”
  - Magistrate referral order will specify disputed issues, what each party is requesting, and that matter may proceed by default according to the pleadings if the parties do not appear.



# Custody and Parenting Time

- Every paternity adjudication must address legal custody, physical custody and parenting time.
- The biological mother has sole custody UNTIL PATERNITY IS ESTABLISHED under [Minn. Stat. § 257.541, subd. 1.](#)
- Mother's temporary custody is not a "retention of custody" based on the statutory authority that exists when ROP is signed.
- Where the parties have reached an agreement on physical custody, legal custody and/or parenting time, the court must decide whether to accept the agreement.



# Custody and Parenting Time (continued)



- Where there is no agreement, District Court uses best interest factors found in [Minn. Stat. § 518.17, subd. 1.](#)
- **Do not** request that the Court reserve the issue of custody.
  - Without a court ordered custodial parent, post-adjudication, child support might be limited to reimbursement of public assistance.
  - Without a custodial parent, child might later have issues obtaining a driver's license, passport, financial aid, etc.
  - Without a custodial parent, *Morey v. Peppin* scenario...

# All Parentage issues must be finalized



- The County must ensure that ALL parentage issues are finalized in a court order. See [Morey v. Peppin](#), 375 N.W.2d 19, 24[fn5] (Minn. 1985).
  - County's paternity action, but custody was not finalized.
  - MN Supreme Court's footnote 5:
    - **“We trust that the county attorney's failure to request a custody order in this case is an isolated occurrence which will not be repeated.”**

# All Parentage issues must be finalized



- This includes custody, parenting time and the child's name.
  - Methods to ensure finalization:
    - Attendance at all hearings – Ex Pro and District Court
    - Waiver of attendance at DC hearings after paternity adjudication and child support is set, but....
      - Be careful! District Court can, and has, dismissed the full paternity court file and all orders if no parties attend the DC hearing(s). County must then start over.
      - Submitting a letter to the District Court (for Ex Pro referrals), asking for a final order(s) and giving the option of county presence if requested.

# Tip

- Have a list of Paternity Questions or paternity checklist easily available.
  - Make sure parties were properly served.
  - Check jurisdiction and venue
  - Waive right to counsel?
  - Waive a jury trial on issue of paternity?
  - Does Dad admit paternity? Does Mom agree?
  - Agree on physical custody? Legal custody? Parenting time?
  - Name of the child?

# Questions?



2023 ANNUAL  
CONFERENCE



# Certificate of Adjudication

*Finalizing the parentage action*

# History of the Certificate of Adjudication



- Updating the birth record was accomplished with a certified copy of the paternity order judgment.
- At the request of the Minnesota Department of Health-Office of Vital Records (MDH-OVR) and the CLV group, a Certificate of Adjudication was developed in late 2015.
- Piloted in 3 counties and then available statewide on a voluntary basis starting in October 2016.
- Adopted by over half of Minnesota counties pre-pandemic.
- Became a mandatory process for Court Admin staff on January 1, 2023, based on an [Administrative Order](#).

# Certificates of Adjudication

- [Minn. Stat. § 257.73](#) – “Upon order of a court of this state...the state registrar of vital statistics shall prepare a replacement certificate of birth consistent with the...findings of the court and shall substitute the replacement certificate for the original record of birth.”
- There is also an [administrative rule \(4601.1300\)](#) that requires a replacement birth record be issued.
- The County is the moving party in IV-D paternity cases and the parentage action is not complete until the birth record is updated.
- Birth records were often not updated after a paternity adjudication order, which caused problems for families trying to obtain a passport or driver’s license for the child.





# Certificates of Adjudication

- In February 2016, DHS-CSD and MCAA sent a letter to all Minnesota County Attorneys & County Child Support Agencies to strongly encourage counties to update the birth records following a paternity adjudication order.
- In June 2023, CLV group has recommended that DHS-CSD and MCAA issue an updated policy that finalizing the parentage action is **REQUIRED** for all counties – either by using the Certificate of Adjudication form or filing a certified copy of the court order with MDH Vital Statistics.
- The fee for updating the birth record is \$40, per [Minn. Stat. § 144.226](#).



CERTIFICATE OF ADJUDICATION
Office of Vital Records

For court use, check one:
Initial Certificate
Amended Certificate

Complete this form to register a replacement birth record for the child of an adjudicated father. The Minnesota Department of Health (MDH) will use the information provided on this form to record the legal father's information on the birth record. Minnesota Statutes, section 144.218, subdivision 5

1. ADJUDICATED FATHER
2. FEES REQUIRED
3. IDENTIFY THE BIRTH RECORD TO BE REPLACED
4. COURT ADMINISTRATOR
5. CHILD SUPPORT



This form is for use by Minnesota Courts and Child Support Offices



# Certificate of Adjudication Process

- 1 – County completes parts 1, 3, and 5 of the [Certificate of Adjudication form](#)
- 2 – Form submitted to the Court by eFiling with MNCIS event code “Certificate of Adjudication – Proposed”
- 3 – Court staff complete part 4 of the form, applies the electronic seal, and saves it in MNCIS with event code “Certificate of Adjudication – Certified”
- 4 – Court returns completed form to the county via eService
- 5 – County mails form to MDH, with payment, EXCEPT in those locations with arrangements for court staff to send the form to MDH & for MDH to invoice the County directly.



# Certificate of Adjudication Tips

- Always use the online link to the Certificate of Adjudication form for every child.
  - Saving a “template” of the form on your computer can remove the “editability” of the form and prevent Court Admin staff from completing their sections.
- See also DHS-SIR message #7049 on electronic Certificate of Adjudication process

2023 ANNUAL  
CONFERENCE



# Minor Parent ROPs



# Minor Parent ROPs

- **State Child Support Office policy** updated in 2016 and clarified in January 2023 = counties **must initiate** a paternity action (and not just an action to establish child support) when one or both parents are minors when they sign a ROP.
- See DHS-SIR message #7047 – portion on next slide



# Minor Parent ROPs

## Why this message is important?

- The changes clarify that counties should always initiate a legal action to adjudicate paternity if the mother and biological father signed a ROP while either one was under eighteen (18) years of age. Previously one section of the Child Support Manual indicated counties should consult their county attorneys when both parties were now over eighteen (18) years and 6 months to determine whether a paternity action was needed.
- The change and requirement to initiate a paternity action in every case is based on case law from 2014 (*Ramsey County v. X.L.*, 853 N.W.2d 813 (Minn. Ct. App. 2014)) and an approved CLV recommendation from 2016.
- A minor parent ROP only creates a presumption of paternity and without a court adjudication, that presumption will never become conclusive. The changes should have been made to the Child Support Manual in 2016 but did not occur due to an accidental oversight.

2023 ANNUAL  
CONFERENCE



# Open Child Protection Case





# Open Child Protection case

- [Minnesota Rules of Juvenile Procedure, Rule 24](#) – Parentage Matter
  - Parent child relationship shall occur in separate family court file
  - Parentage matter can be simultaneous to juvenile protection matter; however, family court only has jurisdiction to determine parentage, the child's name and child support.
  - Family Court and CSMs cannot make any determinations on custody or parenting time.

# Open Child Protection case

But what if:

- Child(ren) are returned to the Removal Parent/custodial home in the juvenile court case and no custody order is issued? OR
- Custody Order issued in juvenile court case, but any of the parentage issues are unresolved (e.g. child's legal name)
  - Option: Ramsey County tracks the pending juvenile court case until finalization, and then serves/files a "Rule 24 Motion" in District Court to finish any outstanding parentage issues.
  - Templates available with this presentation.



# Open Child Protection case

But what if:

- Pending statewide Foster Care reimbursement policy changes and IV-D case may be closed?
  - Ramsey County – since our legal action is still “pending”, our legal staff track these (few) juvenile cases quarterly. If Rule 24 motion needed in the future, we re-open the IV-D case at that time to finalize parentage with the Rule 24 motion/hearing and then close the IV-D case again.

2023 ANNUAL  
CONFERENCE



# Pending 2023 – MN General Rules updates

# MN General Rules of Practice – pending 2023 rule updates



## Rule 371.01 Commencement

A proceeding to establish parentage shall be commenced in the expedited process by service of a summons, ~~and~~ complaint, and motion pursuant to Rule 371.03. A supporting affidavit may also be served. Unless blood or genetic testing has already been completed, a request for blood or genetic testing shall be served with the summons and complaint. In addition to service of the summons and complaint, an order to show cause may be issued pursuant to Minn. Gen. R. Prac. 303.05. Service shall be completed at least 21 days before any scheduled hearing.

\*\*\*

# MN General Rules of Practice – pending 2023 rule updates



## **Rule 371.02 Content of Summons, Complaint, Motion, and Supporting Affidavit**

**Subd. 2. Content of Complaint.** A complaint shall:

- (a) state the specific relief the initiating party wants the child support magistrate to order, including all of the required elements listed in Minn. Stat. § 257.66, subd. 3;
- (b) state the facts and grounds supporting the request for relief;
- (c) set forth the acknowledgement required under Rule 379.04; and
- (d) be signed by the initiating party or that party's attorney.

# MN General Rules of Practice – pending 2023 rule updates



## Rule 371.02 Content of Summons, Complaint, Motion, and Supporting Affidavit

### Subd. 3. Content of Motion. A motion shall:

(a) state the specific relief being requested from the court, including a determination of parentage, the child's legal name, legal and physical custody, parenting time, and child support;

(b) provide information about the right to respond and the timing requirements;  
and

(c) set forth the acknowledgment required under Rule 379.04.

# Questions?





# Thank you!



Jill Prohofsky, Chief Child Support Magistrate,  
[jill.prohofsky@courts.state.mn.us](mailto:jill.prohofsky@courts.state.mn.us)

Autumn L. Nelson, Lead Attorney, Ramsey County  
Attorney's Office, [autumn.nelson@co.ramsey.mn.us](mailto:autumn.nelson@co.ramsey.mn.us)

## Example Questions for a Parentage Hearing

### PATERNITY QUESTIONS - FATHER

1. Mr. \_\_\_\_\_, do you understand that we are here to establish paternity and child support for the child \_\_\_\_\_?
2. When we spoke before the hearing I informed you that you have a right to be represented by an attorney and if you qualify financially, one would be provided for you, correct?
3. Do you want to proceed without an attorney?
4. Did you receive a copy of the Genetic Test results?
5. Do you understand that the genetic test results indicate that there is a \_\_\_\_\_% probability that you are the biological father of \_\_\_\_\_?
6. Do you agree with these GT results?
7. ONLY ASK IF GT'S WERE NOT TIMELY SERVED: You have 30 days to review and object to the GT results. Do you waive that right and agree to proceed today?
8. IF NO GT'S WERE COMPLETED ASK THE FOLLOWING:
  - Do you understand you have the right to request genetic testing?
  - Do you wish to go forward today without genetic testing?
  - Do you understand by giving up your right to genetic testing you cannot come back later and ask for genetic testing?
9. Approximately nine months prior to the birth of the child, did you engage in sexual relationship with Ms. \_\_\_\_\_?
10. Were you married to her at the time you engaged in the sexual relationship?
11. Are you currently married to her?
12. Are you asking the Court today to name you as the legal father of the child \_\_\_\_\_?
13. Do you understand that this is a permanent decision and you cannot come back later and change your mind?
14. Since you agree that you should be named the legal father, are you giving up your right to have a jury trial on whether you should be named as the legal father?
15. Do you understand that if you are named as the legal father of \_\_\_\_\_ you will have certain rights and responsibilities, including the responsibility to provide financial support?
16. If no agreement on custody, parenting time, name of child:
  - a. Review the father's requests on these issues
  - b. Regarding custody, do you understand there are two types of custody legal and physical custody?
  - c. Legal custody is the right to make important decisions regarding your child as it relates to education, health care and religious decisions. The court can order

either sole legal custody to one parent or joint legal custody to both parents.  
What is your request regarding legal custody?

- d. Physical custody is the primary residence and day-to-day care of your child. The court can order either sole legal custody to one parent or joint physical custody to both parents. What is your request regarding physical custody?
  - e. Parenting time is the schedule each parent has with the child. If parenting time is reserved parties can work out the issue of parenting time themselves. Do you have an agreement regarding parenting time? Are you requesting a specific court-ordered schedule or do you wish to reserve the issue of parenting time?
  - f. Regarding the child's name, do you want the child's name to remain the same or are you requesting a change to the child's name?
17. If full or partial agreement (as stated at beginning of hearing):
- a. Did I accurately state the agreements with respect to custody, parenting time, and the child's legal name as you understand them?
  - b. Do you believe the agreements to custody and parenting time are in your child's best interests?

#### **PATERNITY QUESTIONS – MOTHER**

1. Ms. \_\_\_\_\_, do you understand that we are here today to name Mr. \_\_\_\_\_ as the legal father of \_\_\_\_\_ and to establish child support for \_\_\_\_\_.
2. When we spoke before the hearing I informed you that you have a right to be represented by an attorney and if you qualify financially, one would be provided for you, correct?
3. Do you want to proceed without an attorney?
4. Please state and spell the child's full name.
5. What is the child's date of birth?
6. Approximately nine months prior to the birth of the child, did you engage in sexual relationship with Mr. \_\_\_\_\_?
7. Were you married to him when the child was born?
  - a. Are you currently married to him?
  - b. At the time of the child's birth, were you married to anyone else?
8. Did you receive a copy of the Genetic Test results?
9. Do you understand that the genetic test results indicate that there is a \_\_\_\_\_% probability that Mr. \_\_\_\_\_ is the biological father of \_\_\_\_\_?
10. Do you agree with these GT results?
11. ONLY ASK IF GT'S WERE NOT TIMELY SERVED: You have 30 days to review and object to the GT results. Do you waive that right and agree to proceed today?
12. IF NO GT'S WERE COMPLETED ASK THE FOLLOWING:

- i. Do you understand you have the right to request genetic testing?
  - ii. Do you wish to go forward today without genetic testing?
  - iii. Do you understand by giving up your right to genetic testing you cannot come back later and ask for genetic testing?
- 13. Do you agree that the Court should name Mr. \_\_\_\_\_ as the father of \_\_\_\_\_?
- 14. Do you understand that this is a permanent decision and you cannot come back at a later time to have the decision changed?
- 15. Since you agree that Mr. \_\_\_\_\_ should be named the legal father, are you giving up your right to have a jury trial on whether Mr. \_\_\_\_\_ should be named as the legal father?
- 16. If no agreement on custody, parenting time, name of child:
  - a. Review the mother's requests on these issues
  - b. Regarding custody, do you understand there are two types of custody legal and physical custody?
  - c. Legal custody is the right to make important decisions regarding your child as it relates to education, health care and religious decisions. The court can order either sole legal custody to one parent or joint legal custody to both parents. What is your request regarding legal custody?
  - d. Physical custody is the primary residence and day-to-day care of your child. The court can order either sole legal custody to one parent or joint physical custody to both parents. What is your request regarding physical custody?
  - e. Parenting time is the schedule each parent has with the child. If parenting time is reserved, parties can work out the issue among themselves. Do you have an agreement on the issue of parenting time? Are you requesting a specific court-ordered schedule or do you wish to reserve the issue of parenting time
  - f. Regarding the child's name, do you want the child's name to remain the same or are you requesting a change to the child's name?
- 17. If full or partial agreement (as stated at beginning of hearing):
  - a. Did I accurately state the agreements with respect to custody, parenting time, and the child's legal name as you understand them?
  - b. Do you believe the agreements to custody and parenting time are in your child's best interests?

**IF NO PARTIES APPEAR for PATERNITY HEARING:**

The County is requesting that the Court proceed by default on the parentage adjudication, based upon the non-appearance of the parties, the proper service of the pleadings on the parties, the genetic testing results of \_\_\_\_\_% and the Paternity Affidavit submitted with the county's pleadings.