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Subject:	Establishing Parentage through Genetic Testing	Page 1 of 6
Approved:	Cynthia K. Walcott, Deputy Commissioner	Effective: 4/28/2014
Supersedes:	Establishing Paternity and Locating Relatives of Children in Custody	Dated: 3/31/2004

Purpose

As required by statute, 33 V.S.A. § 5111 if a child is placed in the legal custody of the department and the identity of a parent has not been legally established at the time the petition is filed, the court may order the mother, the child, and the alleged father submit to genetic testing. The FSD social worker must make immediate efforts to identify the child’s parents and establish parentage. This is done through close partnership with the Child Benefits Unit (CBU). **Note:** *Genetic Testing can be conducted without the mother’s DNA and FSD customarily conducts “Motherless Testing”.*


Policy

To have clear documentation in regards to establishing parentage in each case where a youth is taken into DCF custody or a conditional custody order is granted by the court to another party. See Policy 89, *Locating and Evaluating Suitability of Noncustodial Parents, Relatives and Others* for additional information specific to assessment.

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Definitions

Adjudication: There has been a court order defining parentage with an individual such as, "the matter may have to go to court for adjudication". Synonyms: judgment, decision, pronouncement, ruling, settlement, resolution, a formal judgment on a disputed matter.

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Voluntary Acknowledgement of Paternity (VAP): Alleged father acknowledges paternity of child.

Born of Marriage (BOM): Child is born during the marriage and there is a presumption of paternity.

Presumption of paternity: A Voluntary Acknowledgement of Paternity (VAP) or Born of Marriage (BOM)

Parentage Order: The order that legally states paternity.


Importance of Establishing Parentage

There are several important reasons why it is important to establish parentage early on in a case:

- Potential resources and family connections should be identified for the child/youth.
- Children/youth and parents have rights that deserve to be addressed.
- To ensure statutory requirements that each parent’s rights be dealt with affirmatively so as to not delay an adoption.
- To facilitate timely adoptions, avoid delays in the adoption process and the anxiety of potential adoptive parents and children/youth when parents who were not notified assert an interest late in the case.
- To ensure we have important information, including health history, about both parents.

In cases where there is a question about paternity, the social worker may request the Child Benefits Unit (CBU) to research legal paternity status and advise on any necessary actions. If CBU determines paternity has not been established CBU may facilitate genetic testing. See Appendix A in this policy for the Genetic Testing Procedure.

The court may, but is not required, to use genetic testing to establish parentage unless requested by a party.

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If a presumption of paternity exists and the court wants to proceed with genetic testing an order rebutting the presumption of paternity is required. CBU is available to assist should this situation arise.

Documentation Required

Efforts to determine paternity must be documented by disposition or the initial case plan- whichever comes first.

If the noncustodial parent cannot be located, the department must provide, at the temporary care hearing, a summary of the efforts made to locate the parent on the form Information for Temporary Care Hearing (FS-605).

When a Court Order of Parentage Already Exists

If a court has already established parentage, that court order is conclusive. This means if a man has been identified as the father of a child and an order exists social workers may not pursue paternity testing of any other possible father. As well, the department will oppose the filing of any other requests for paternity testing when an order of parentage already exists.

When a Court Order of Parentage Does Not Exist

When parentage has not been adjudicated, more than one person may be presumed to be the child's father. This includes:

- An alleged father who, without good cause, refuses to submit to genetic testing as ordered by the court;
- A father has who has formally and voluntarily acknowledged parentage under the laws of Vermont or some other state;
- A person who has undergone genetic testing and there is a greater than 98% probability that the individual is the biological father of the child; or
- A person was legally married to the mother of the child at the time of the child's birth.

A legal presumption of paternity does not conclusively establish parentage. However, persons with a legal presumption must be considered when trying to ascertain parentage of a child. When genetic testing results are positive the social workers MUST obtain an order

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of parentage from the court. When genetic testing results of a presumptive father are negative the social workers **MUST** obtain an order of non-parentage from the court.

Once identified, alleged fathers should be asked to acknowledge (or deny) paternity or submit to genetic testing.

In every case, the social worker must:

- Obtain the child's birth certificate.
- Determine whether and to whom the mother was married at the time she gave birth to the child.
- Attempt to determine whether any court has ever entered a parentage, support order or a divorce or adoption decree affecting the child. CBU can assist with this.


It is important to answer the following questions and follow up as needed:

- Has any man filed an acknowledgment of paternity with the appropriate agency in the locality of the child's birth?
- Has any man ever openly held himself out as the child's father?
- Has any man ever openly held himself out as the child's father?
- Has any man made payments to support the child?
- Was the mother married to a man other than the suspected father at the time of the child's birth?

If the child was born while the mother was married, the man she was married to shall be considered the presumptive father by the court. The court may need to write an order indicating this man is the established parent.

Putative Father Registry

For children born in Vermont, the Putative Father Registry is maintained by the Chittenden County Probate Court. To obtain a search of the registry submit a request in writing to: Register, Chittenden County Probate Court, P.O. Box 511, Burlington, Vermont 05402. Provide the putative father's name, his date of birth, if available, the child's name, and the child's date of birth. They will perform the search and send you the findings within about a week. For children born in other states, you will need to do some research to find out how to search the appropriate registries. If you run into difficulty, feel free to ask your Assistant

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Attorney General for assistance.

Regarding Conditional Custody Orders

When paternity is at issue and a CCO transfers guardianship to someone other than DCF please contact the CBU.

Child Benefits Unit Tasks

- Respond to requests from social workers to research paternity status and pursue genetic testing to establish parentage.
- Draft an order for rebutting presumption satisfying Federal Requirements.
- When requested, check child support and other databases for the identity and whereabouts of absent parents.
- Send proposed parentage order to social worker when the positive results of the genetic testing are received.

Social Worker Tasks

- Determine the status of parentage at disposition or case plan-whichever comes first.
- In court, request a parentage order to be adjudicated.

**Appendix A:
Child Benefits Unit Procedure for Genetic Testing**

1. Social worker asks CBU to research paternity status. Social worker FIRST asks CBU to research paternity status. If GT is necessary CBU will draft an appropriate GT Order which the SW can present for the Court’s signature.
2. Social worker requests order for genetic testing from the family court judge.
3. Social worker scans and e-mails a copy of the order to the CBU.

4. Social worker works with parties and the CBU to arrange for DNA collection and to obtain information necessary for the testing:
 - a. Name and address of alleged father, date of birth and social security number; or
 - b. When any of this information is not available, gather identifying information that may facilitate locating the alleged father. This step is necessary BEFORE obtaining a genetic testing order. The order must name the alleged father and provide enough information to be able to notify parties of genetic testing appointments and serve with court orders.
5. CBU calls Genetic Testing Lab to set up dates for DNA collection at the nearest site for each of the parties. CBU contacts the social worker with the dates and locations of the collection and sends confirmation letters to the parties involved.
6. CBU sends results to all parties. Sends original to the social worker or the Court and if the results are positive includes a proposed parentage order.

Also, remember, while genetic testing can be extremely accurate, a positive paternity result does not in itself conclusively establish parentage. While genetic testing establishes a probability of paternity, only a Court Order establishes legal paternity.