

## **§1605. Notice of proceeding to commence an action**

**1. Notice of proceeding.** The department may commence a paternity proceeding by serving a notice on an alleged father. The department may not serve such a notice unless it has a sworn statement or affirmation under the penalty for unsworn falsification from the child's mother claiming that the alleged father engaged in sexual intercourse with her during a possible time of conception of the child or is a man who is presumed under state law to be the child's father. If the mother is a minor, the sworn statement or affirmation may be that of the guardian or next friend of the mother.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**2. Contents of notice.** In addition to conforming with the requirements of Title 5, section 9052, subsection 4, the notice must include:

A. A statement that service of the notice on the alleged father constitutes the commencement of a paternity proceeding for the determination of paternity and any related issues under this chapter; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

B. A statement identifying any of the following as the reason for filing the record of the proceeding in court.

(1) The alleged father fails to deny paternity.

(2) The alleged father refuses to submit to blood or tissue-typing tests.

(3) The alleged father fails to execute and deliver to the department an acknowledgment of paternity; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

C. A statement that, if the department files a record of the proceeding, the department may seek relief under section 1606; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

D. The child's name and place and date of birth; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

E. The name of the child's mother and the name of the person or agency having custody of the child, if other than the mother; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

F. The probable date on or period during which the child was conceived; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

G. An allegation that the alleged father engaged in sexual intercourse with the child's mother during a possible time of conception of the child or is a man who is presumed to be the child's father under state law, and that the alleged father is or may be the genetic father of the child; [PL 2015, c. 296, Pt. C, §10 (AMD); PL 2015, c. 296, Pt. D, §1 (AFF).]

H. If applicable, an allegation that the child may have been conceived as a result of sexual intercourse in this State and that the alleged father is subject to personal jurisdiction under section 1602; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

I. A statement that the alleged father may deny the allegation of paternity by filing a written denial of paternity with the department within 20 days after service of the notice; that if the alleged father fails to file a written denial, the proceeding will be filed in a court as a paternity proceeding; and that the question of paternity and any related issues under this chapter may be resolved against him by the court; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

J. A statement that if the alleged father files a written denial of paternity:

- (1) The department will provide an expert examiner of blood or tissue types to conduct blood or tissue-typing tests on the mother, child and alleged father and the tests will be conducted as follows.
  - (a) The alleged father is required to submit to tests, which may include, but are not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens and serum proteins.
  - (b) The department will pay the initial cost of the tests.
  - (c) An indigent alleged father is not liable for reimbursement of the cost of the tests;
- (2) If the alleged father refuses to submit to tests under subparagraph (1), the proceeding will be filed in a court as a paternity proceeding;
- (3) If the alleged father is not excluded by the test results and he does not, within 15 days of the ordinary mailing to him of a report and copy of the blood or tissue-typing results, execute and deliver to the department an acknowledgment of paternity of the child in accordance with the laws of the state in which the child was born, the proceeding will be filed in a court as a paternity proceeding; and
- (4) If the alleged father is excluded by the test results as the genetic father of the child, the proceeding will be filed in a court for disposition under chapter 61; [PL 2015, c. 296, Pt. C, §11 (AMD); PL 2015, c. 296, Pt. D, §1 (AFF).]

K. A statement that if, prior to the filing in a court, the alleged father executes and delivers to the department and the department accepts an acknowledgment of paternity, the proceeding must terminate and the department may proceed against him under chapter 65, subchapter II, article 3; [PL 2001, c. 554, §3 (AMD).]

L. A statement that the alleged father may, within 25 days after notice has been mailed to him that the record has been filed in a court, assert any defense, in law or fact, if the record is filed because the alleged father:

- (1) Refuses to submit to blood or tissue-typing tests; or
- (2) Fails to execute and deliver to the department an acknowledgment of paternity; and [PL 2001, c. 554, §3 (AMD).]

M. A statement that the department may require the alleged father to submit to blood or tissue-typing tests prior to accepting an acknowledgment of paternity if it appears that there may be more than one alleged father, and may file the action in court if the alleged father refuses to submit to testing. [PL 2001, c. 554, §4 (NEW).]

[PL 2015, c. 296, Pt. C, §§10, 11 (AMD); PL 2015, c. 296, Pt. D, §1 (AFF).]

## SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF). PL 2001, c. 554, §§3,4 (AMD). PL 2015, c. 296, Pt. C, §§10, 11 (AMD). PL 2015, c. 296, Pt. D, §1 (AFF).

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