

not the parents were ever married to each other. If the mother decides to keep the child (whether or not the father agrees with her decision), the father is responsible for the financial support of the child. Even if contraceptives were used, or claimed to have been used, the support obligation still exists. Paternity actions usually occur when a child is in the sole care of the mother, and the father is either not providing any support, denying that he is the father, or simply is not aware that he has a child. When this happens, the mother may seek help from the State to establish child support in the form of Temporary Assistance to Needy Families (TANF), Food Stamps or Medicaid. When the State provides this type of assistance, the child's father may be held liable for child support payable directly to the mother, for reimbursement of the money spent by the State, or for both. This means that the father may be sued for both past due child support (typically welfare paid through the Department of Children and Families to the mother) and for the establishment of present and future child support. The Florida Department of Revenue is required to file paternity actions for any parent who requests their help regardless of whether that parent applied for or received government benefits. A suit to establish paternity and child support also can be filed directly by either parent.

## About FloridaLawHelp.org

FloridaLawHelp.org is administered by Florida Legal Services, Inc. and is produced in cooperation with Pro Bono Net and the legal services organizations and government agencies throughout Florida and the United States.

This brochure is for general education only. It is not intended to be used to solve *individual problems*. If you have specific questions, see an attorney.

The Florida Bar Foundation, with Interest on Trust Accounts program funding, provides support for this service.



# FloridaLawHelp.org

To locate your local legal aid or legal services office, please visit us on the web at

[www.floridalawhelp.org](http://www.floridalawhelp.org)

Your local legal aid or legal services office can be located through either the "Find Local Help" or "Directory" links.

If you don't have access to the internet, consult your local Directory Assistance for the number of the legal aid or legal services office nearest to you.

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## STRAIGHT TALK ON PATERNITY



### Understanding your rights and obligations under Florida law.

## If you're sued

If you are served with a Summons and Complaint, you are being sued. You have only 20 calendar days to respond to the suit. Failure to file a written answer within the 20 days will result in a default, which means everything stated in the suit will be taken as being true, and all claims against you will be granted. If you believe that you are not the father, you must deny paternity to protect your legal rights.

Even if you do not deny paternity, it is always advisable to file an answer to preserve your legal rights. If you cannot afford an attorney, you may file your own typed or legibly written answer. The simplest way to do this is to copy the case caption (the heading at the top of the complaint), and answer each paragraph of the complaint separately. If you agree with what is alleged, simply state "I admit the allegation(s) contained in paragraph(s) [insert paragraph number(s)]." If you do not agree with what is alleged, simply state "I deny the allegation(s) contained in paragraph(s) [insert paragraph number(s)]." If you are not sure whether the allegation is true or not, you can simply say "I do not know."

Once you have written your answer, you must file the original with the Clerk of the Court and mail a copy to the attorney listed on the Summons and Complaint. Keep a copy for your own records. Remember that you must answer within 20 calendar days, not including the day on which you were served. If the 20th day lands on a weekend or court observed holiday call the Clerk's Office to find out if a holiday is court observed), you have un-

til the next business day to file your answer. Failure to answer in time can result in a default judgment, and the petitioner will automatically win. The establishment of a child support obligation is a very serious matter. You can be jailed for civil contempt if you fail to pay court ordered child support. That is why you should always protect your legal rights by filing an answer whenever child support is requested.



## If you believe you are not the father

If you do not believe that you are the child's father, then you should specifically deny paternity in your answer. If you are denying paternity, you may request the court to order a blood test.

The place to make this request is in your answer. If the paternity suit is filed by the State of Florida on behalf of the mother, the State will usually pay for this test. However, if the Court finds from the test that you are the child's father, the cost of testing will be shifted to you and added to the amount of the support claim

## Other defenses

In a typical paternity action, the State is suing to establish paternity and child support. The State also may seek a court order requiring you to carry life or health insurance.

for the benefit of the child. The only real defense to a paternity action is that you are not the child's father. Usually the blood test resolves this question with legal certainty. If you have either been financially supporting the child or if you do not have the current ability to pay child support, these facts might also be possible defenses.

If you have anything else that you think might be a defense, state it in your answer. But remember: the fact that you did not know about the child is not usually a defense. In addition, your disagreement with the mother's decision to keep the baby cannot be used as a defense, nor can the belief that contraceptives were used.

## Repayment plans

If the Court rules against you, it is important to be truthful about your finances. If you honestly do not have the money, it is important to say so. If you can demonstrate that you do not have the ability to pay past due or current support obligations, the Court may be able to order a repayment plan. If you are found to be able to pay, make it a priority to do so. Courts are reluctant to listen to excuses about other expenses being more important.

Remember to attend all court hearings to preserve your rights. The advice given and the results of each individual case are dependent upon specific facts and circumstances.

This brochure is designed to discuss general legal issues, and is not to be taken as authoritative legal advice based upon a thorough investigation.

However, you should be aware that the passage of time may prevent you from pursuing your claim or defense; therefore, you should observe all filing deadlines, attend all scheduled hearings and contact an attorney for further assistance. You may also wish to contact The Florida Bar Lawyers Referral Service at 800-342-8011 for additional legal advice and possible representation. The fee is \$25 for a 30 minute consultation.



## Laws govern parenting

Under the laws of the State of Florida, both mother and father are responsible for the financial support of their children. This obligation applies whether or