

# Parentage guide

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**Last Review Date**

July 18, 2025

If you're not married to (or in a registered domestic partnership with) your child's other parent, you may not have a legal relationship to the child (called legal parentage). Learn how and why to establish who is and isn't a legal parent. There are ways to do this with or without going to court.

## 1. Why establish parentage

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If you and your child's other parent aren't married and you haven't otherwise taken steps to establish parentage of the child, and everything is fine between you, you might wonder why you'd need to "make it legal." There are many reasons to establish parentage. This isn't a complete list:

- You want a parenting plan or custody order: a court order stating whom the child will live with, how much time they'll spend with another parent, and who will make important decisions about the child. You must establish parentage for both parents to have equal rights to ask for time with and decision-making for the child.

- You want to get child support or make sure the child has the right to inherit from both parents.
- You want it to be clear that your child **doesn't** have a legal relationship with someone. **Example:** You've been separated from your spouse or domestic partner for several years without divorcing. In the meantime, you've had a child with someone else. Your spouse or domestic partner isn't the child's biological parent, but they're legally a parent unless you establish parentage with someone else.
- You're worried that the birth parent might take the child and deny you contact. You currently don't have any legal rights to the child that would allow you to insist on contact.
- You want to travel outside the U.S. with the child.
- You want to change the child's last name.

This guide discusses the different ways to establish parentage. If you've established parentage for a child in the distant past, you should know that the state Uniform Parentage Act (UPA)

(<https://app.leg.wa.gov/RCW/default.aspx?cite=26.26A&full=true#26.26A>) has changed over time (<https://app.leg.wa.gov/RCW/default.aspx?cite=26.26B>).

The legal rules you thought you knew might be different now.

## 2. Childbirth

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If you gave birth to the child, normally that automatically makes you the child's legal parent. You don't have to do anything further.

We don't discuss assisted reproduction or surrogacy here. To learn more about those topics, talk to a lawyer who specializes in these areas of family law.

### 3. Marriage

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State law presumes parentage where the parents are married to each other (or in a state registered domestic partnership) when the child is born, or within 300 days of when the child is born.

**Example:** You were pregnant when you and your spouse divorced on January 1. You gave birth on October 1. Your spouse **is** automatically the child's legal parent, unless you do something to change that.

But, if the child was born on November 1 (more than 300 days after the divorce), your spouse would **not** automatically be a legal parent.

**If you or your spouse isn't the biological parent**, you can change parentage through the acknowledgment or court process.

**If you're not married to anyone** when the child is born, you **can't** establish parentage just by putting the other parent's name on the birth certificate. But, if you put the other parent's name on the birth certificate **and** get married to

the other parent within 300 days after the child's birth, that **is** enough for the law to presume parentage.

## 4. Holding out

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State law presumes you're a legal parent if you live with and openly hold the child out as your own for the first **4 years** of the child's life. After 4 years, you or the other parent can file a court action to confirm this presumption with a court order deciding parentage.

**Examples** that show you held out a child as your own:

- You introduce yourself to others as the child's parent
- The child calls you mom or dad
- You list yourself as a parent on emergency contact or school enrollment forms

This isn't a complete list.

## 5. Acknowledgment of Parentage

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This form has also been called a Paternity Affidavit, Paternity Acknowledgment, or Acknowledgment of Paternity.

Washington State will recognize an acknowledgment filed in another state if that state does.

Hospital staff will often give an Acknowledgment of Parentage form to an unmarried parent who is recovering in the hospital after giving birth. You can also get the form online from the State Department of Health (<https://doh.wa.gov/licenses-permits-and-certificates/vital-records/parentage/acknowledgment-parentage>).

The birth parent and the other biological parent must both sign the acknowledgment form in front of a notary or witness. Parents under age 18 can sign it the same as adult parents can. Then someone must file it with the Department of Health with the appropriate fee. The hospital will file it for you for free if you return it to them within **5 days** of birth.

If no one takes back (rescinds) their signature by the deadline, the Acknowledgment has the same effect as a court order establishing the person named the child's legal parent. It's faster and cheaper than going to court.

When you sign and file an Acknowledgment of Parentage, this gives you all a parent's legal rights and responsibilities. These include the right to get a parenting plan and the responsibility to pay child support.

Filing the form on its own doesn't automatically grant custody or visitation. It does give you the right to file a court case asking for custody or visitation (for a parenting plan), among other legal rights.

Signing and filing an Acknowledgment does make the named parent automatically responsible to pay child support for your child. But you must

still go through the state Division of Child Support or court to get an order establishing support.

You should keep a copy of your Acknowledgment of Parentage in a safe place as official proof of your child's parentage. If you forgot to keep a copy, you can still get one. It may take a few months to arrive. To order a copy:

1. Fill out the Parentage Verification form, #DOH 422-163 (<https://doh.wa.gov/sites/default/files/legacy/Documents/Pubs/422-163-ParentageVerificationOrderForm.pdf>).
2. Attach a check or money order for \$15 for each copy you want. Make it payable to the Department of Health.
3. Mail (<https://doh.wa.gov/licenses-permits-and-certificates/vital-records/parentage>) the form and check.

## **6. Parentage by court order**

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You or the State can file a petition in Superior Court asking a judge to decide who the child's parent is. The state will also ask the judge for a child support order if the parents aren't living together. The prosecuting attorney's office in your county handles parentage and child support cases on behalf of the State.

The State doesn't represent any parent. They will file the case and help keep it moving through the court system to get a final parentage and child support

order. The state won't propose a Parenting Plan or say who should get custody. You must take part in the case to ask for that. Any settlement you and other parents agree to will need the State's approval.

- To ask the State to start a parentage case, contact your local prosecutor's office (<https://waprosecutors.org/prosecutordirectory/>) or Division of Child Support (DCS) office, or check the DCS website (<https://www.dshs.wa.gov/esa/division-child-support>).
- If you don't want the State to file, or the State declines to do it, you can get a lawyer or file on your own.

Answer a few questions on **Get Family and Safety Forms** to get the right forms for your situation.

In a parentage court case, if there's no acknowledgment of parentage, the judge decides parentage based on the evidence presented. If you and the other possible parents don't agree or aren't sure, the judge can order genetic testing. The judge may consider what's in the child's best interest if the case involves a challenge to the current legal parents or competing claims to parentage between 2 or more people.

As part of your parentage court case, you can ask for a parenting plan and for the judge to order child support. Or you can just get a court order deciding parentage.

## 7. Genetic testing

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As part of your parentage court case, you can ask the judge to order the parent, child, and person believed to be the other parent to take a genetic test.

Answer a few questions on **Get Family and Safety Forms** to get the right forms for your situation.

Even if you don't ask, the judge can decide on their own to order genetic testing. If you refuse court-ordered testing, the judge can hold you in contempt of court.

The judge can order genetic tests of other close relatives of a parent who is unavailable for testing.

**The court won't pay for genetic testing.** If you're asking for testing, you can put in your proposed Order who you want to pay for the test.

After genetic testing, the judge usually rules that the person who is more than 99% likely to be the child's biological parent is also the legal parent. The judge can also decide that someone who isn't a biological parent will be the legal parent anyway.

In some situations, the judge might decide **not** to do genetic testing. For example:

- **Example 1:** When Cal was born, Kris signed an acknowledgment of parentage swearing that they are Cal's parent. Years after Cal's birth, the



birth parent revealed to Kris that Kris isn't Cal's biological parent. Kris' deadline to take back (to rescind) the acknowledgment has passed. The judge will probably refuse to order genetic testing and Kris is probably permanently established as the child's parent, even if someone besides Kris is the biological parent.

- **Example 2:** Kasey acted as a child's parent for the first 4 years of the child's life. Kasey later decided to challenge their own parentage of the child. The judge could decide it's not in the child's best interest to allow the challenge. In that case, Kasey will be the child's legal parent permanently.

## 8. Parenting plan

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Once parentage is established, you can get a Parenting Plan from a state court with legal authority (jurisdiction) over the child. Jurisdiction for deciding child custody can be different from jurisdiction for deciding parentage. If Washington doesn't have jurisdiction, don't ask for a parenting plan here. You may need to file in another state.

Jurisdiction is complicated. If you have questions about jurisdiction over your child, talk with a lawyer as soon as possible.

To get a Parenting Plan, you'll need different forms depending on when and how parentage was established.

Answer a few questions on **Get Family and Safety Forms** to get the right forms for your situation.

If you have an acknowledgment of parentage, you can start a court case for a Parenting Plan and/or child support.

You can get a Parenting Plan as part of a parentage court case by asking for it in your petition or response. If your parentage case was finalized without a Parenting Plan, sometimes you can file a motion to get a Parenting Plan instead of having to file a new case. You can file a motion if all these are true:

- It's been less than **2 years** since the judge issued the Final Parentage Order.
- A judge **hasn't** issued a Parenting Plan or Residential Schedule.
- You **don't** want to change who the child lives with most of the time.
- You only want a Parenting Plan (not child support).

()Even if you can't file a motion in the parentage case, you can start a new court case for a Parenting Plan and/or child support. If you want to change who the child lives with most of the time, you must start a case to change a Parenting Plan or custody order.

## 9. Child support

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Parents have a duty to support their children.

If you've filed an acknowledgment of parentage and you just want child support (not a parenting plan), you could ask the Division of Child Support (DCS) to help set support (<http://www.dshs.wa.gov/esa/division-child-support>). This can be quicker and easier than going to court.

DCS uses the same rules as a judge in court to set a child support amount.

If you want a child support court order in addition to a parentage order or parenting plan, you can ask for it in a parentage court case or start a new court case for a parenting plan and/or child support. Washington must have personal jurisdiction over the other parent to order child support.

Answer a few questions on **Get Family and Safety Forms** to get the right forms for your situation.

## 10. De facto parentage

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**Even if you're not a biological parent or otherwise presumed to be a legal parent**, you might still be able to file a court case and persuade a judge to give you parental rights. A "'de facto' parent" means someone who is acting as a parent, or a parent in fact. This person isn't a biological or presumed parent, but might as well be, because they perform the role.

If you file this case, you're trying to prove that you also should be a parent. You don't have to prove that something is wrong with the other parent or parents. A child can have more than 2 legal parents.

A judge will agree that someone is a de facto parent if all these things are true of the person who started the case:

- The person lived with the child as a regular member of the child's household for a long time.
- The person consistently took care of the child.
- The person took on full responsibilities of a parent without expecting payment for doing so.
- The person held out the child as their own child.
- The person had a bonded relationship with the child.
- The child's actual parent encouraged the other person's bonded relationship with the child.
- It's in the best child's interest to continue this relationship.

A judge can dismiss a de facto parentage case without a court hearing if the judge doesn't think you can prove your case. The judge could also require you to schedule a hearing to decide if the case should go forward.

If the judge allows the case to go forward, it can be finalized by default, agreement, or trial.

You can find forms for de facto parentage on the state courts' website (<https://www.courts.wa.gov/forms/?fa=forms.static&staticID=14#FamLawForms>)

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**If you're a legal parent, there's no upside to you giving someone de facto parentage.** If you know you'll need someone to take care of your children, you have other alternatives you can consider.

**For example**, if your child's grandparents ask for de facto parentage, you should only agree if you want them to have all the same rights and responsibilities as you and the other parent. This means, among other things, the grandparents could take custody away from you. And they would have control over the child. You don't need a court order to let the grandparents have a relationship with the child.

## 11. Jurisdiction

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Before you file anything, you should figure out if a Washington court has authority (jurisdiction) to hear your case, and if so which county you should file in.

If the child lives in Washington, you can file in the county where the child lives. If the child doesn't currently live in Washington, you can file in the county where the other parent lives. Even if that person lives out of state, you might still be able to file here. Washington may have authority to make a decision about that person (called **personal jurisdiction**) if, for example, the person:

- Signed an acknowledgment or denial of parentage here.
- Lived here and supported the child financially before the child was born.
- Lived in Washington with the child.
- Brought or had someone bring the child to Washington to live.

- Had sexual intercourse in Washington that may have resulted in the child's conception.
- Agrees to personal jurisdiction in Washington.
- Responds to the parentage case and doesn't challenge personal jurisdiction.
- Is personally served with the summons and petition for parentage in Washington.

**If your petition will name more than one possible parent** (for example, if there are 2 possible other parents), you can file here if Washington has personal jurisdiction over at least one of them. But the court can only decide parentage of the parent with connections to Washington.

If genetic tests show the possible parent in Washington isn't a biological parent, you may have to file a second parentage case in the state with personal jurisdiction over the other parent. Ask DCS (<http://www.dshs.wa.gov/esa/division-child-support>) to refer you to government agencies in other states.

If the alleged parent is a Native American living on reservation land, you may have to file for parentage in tribal court. Talk to an Indian law attorney.

## 12. Other state decided

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If you signed and filed an acknowledgment of parentage in another state, or if another state's court decided parentage, you don't need to file for parentage in Washington. Washington will recognize parentage acknowledgments and

court orders that are valid in other states.

Even if parentage was decided elsewhere, a Washington state court may be able to order a parenting plan or child support if Washington has jurisdiction. You'll likely need certified copies of your papers from the other state to show the Washington court that parentage has been decided.

## 13. Deny, cancel, or challenge

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### Denial of Parentage

If everyone agrees that one spouse or domestic partner (a presumed parent) should **not** be a legal parent of a child, you can use Acknowledgement (<https://doh.wa.gov/licenses-permits-and-certificates/vital-records/parentage/acknowledgment-parentage>) and Denial of Parentage (<https://doh.wa.gov/licenses-permits-and-certificates/vital-records/parentage/denial-parentage>) forms to change who is and isn't a legal parent. For a denial to be effective, someone else must agree to be named as a legal parent to replace the presumed parent. Everyone involved must sign the appropriate forms in front of a notary or witness.

**Example:** Hector and Whitney have been separated for years. They're still legally married because neither has filed for divorce. Whitney has just had a baby with Patrick. Even though Patrick is the baby's biological parent, the law presumes that Hector is the other

legal parent because Whitney and Hector are still married.

To change this, Hector must sign the denial form stating that they're not the child's other parent. Whitney and Patrick must sign the acknowledgment stating that Patrick is (and Hector isn't) the other parent. **Whitney and Patrick must sign the Acknowledgement (<https://doh.wa.gov/licenses-permits-and-certificates/vital-records/parentage/acknowledgment-parentage>) form, and Hector must sign the Denial (<https://doh.wa.gov/licenses-permits-and-certificates/vital-records/parentage/denial-parentage>) form, for either form to be legally effective.** The signed forms must also be filed with the Department of Health with the appropriate fees.

If someone won't sign, you must file a Petition to Decide Parentage in court to stop Hector from being the child's legal parent.

## **()Cancel (rescind) parentage forms**

If you signed an acknowledgment (or a denial) of parentage and you've changed your mind, you must act fast. You can cancel by signing a Rescission of Parentage form (<https://doh.wa.gov/licenses-permits-and-certificates/vital-records/parentage/rescission-parentage>) in front of a notary or witness and sending the completed form to the Department of Health (DOH) with the appropriate fees. But your deadline for this is very short.

Once the acknowledgement or denial is filed with DOH, you have **60 days** to cancel by filing the Rescission form. Count from the date of filing, not from the date you signed.



- Hospitals usually file acknowledgments with DOH within 10 days.
- If you don't know when your acknowledgment or denial was filed, file your Recission as soon as possible. DOH won't give you any information about the filing date over the phone. DOH will send you a letter if you file too late.

If you filed your recission on time, DOH will send a letter to everyone who signed the acknowledgement and denial forms to tell them that a rescission was filed.

## **()Challenge parentage forms**

If the deadline to cancel (rescind) the acknowledgment has passed, your last option is to **file a Petition to Decide Parentage** in court. You must do this **within 4 years** of when the acknowledgment was filed with DOH. You can challenge the acknowledgment only if you can prove that there was fraud, duress (threat), or a major mistake of fact in the signing of the acknowledgment.

**Example:** If genetic tests show the parent named in the acknowledgment isn't the other biological parent, this could be a major mistake of fact. One of you could file a Petition to Decide Parentage to ask a judge to order that person is no longer a legal parent.

**If someone else signed the acknowledgement, but you think you're the biological parent,** you can file a Petition to Decide Parentage in court. You must file **within 4 years** of when the acknowledgment was filed with DOH.

You must also ask a judge for permission to let your case go forward. The court will only let your case go forward if you can prove it's in the child's best interest

**If you're the child, and the acknowledgment is wrong about who your parents are**, you can file a Petition to Decide Parentage in court to fix it. You'll likely need genetic testing to prove your case. There's no deadline for you to do this.

Answer a few questions on **Get Family and Safety Forms** to get the right forms for your situation.

## 14. Parentage Order wrong

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**If you were a party to the court case that decided parentage**, and you believe it got parentage wrong, you must file a motion to vacate the final order. There are only a few legal reasons you can file this motion. You must file it within a reasonable time after the judge signed the final order. This motion can be complicated. Try to talk to a lawyer for advice.

**If you weren't involved in the court case that wrongly decided parentage, and it's been less than 4 years** since the judge signed the order deciding parentage, you can file a Petition to Decide Parentage in court. You must also ask a judge for permission to let your case go forward. The court will only let your case go forward if you can prove it's in the child's best interest.

**If you're the child whose parentage was wrongly decided, you can try to fix this at any time by** filing a Petition to Decide Parentage in court. One of these must be true for the judge to rule in your favor:

- The judge didn't appoint a guardian ad litem (GAL) to represent you in the court case that established parentage.
- Genetic testing doesn't support the acknowledgment or order.

Answer a few questions on **Get Family and Safety Forms** to get the right forms for your situation.

## 15. Sexual assault

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If you had a child because of rape, you can try to limit the rapist's parental rights and contact with you and the child. To do this, your child must have been born within 320 days after the rape and one of these is true:

- The person who raped you was convicted of or pled guilty to a sexual assault offense.
- You can prove with "clear, cogent, and convincing evidence" at a hearing that the person raped you.

You can start a court case about this yourself or respond with this information if someone else starts a parentage case.

**To file a court case**, start with these forms:

- Summons: Notice about Petition to Stop Parentage Based on Sexual Assault (FL Parentage 380)  
(<https://www.courts.wa.gov/forms/documents/FL%20Parentage%20380%20Summons-Notice%20about%20Petition%20to%20Stop%20Parentage%20Based%20on%20Sexual%20Assault>)
- Petition to Stop Parentage Based on Sexual Assault (FL Parentage 381)  
(<https://www.courts.wa.gov/forms/documents/FL%20Parentage%20381%20Petition%20to%20Stop%20Parentage%20Based%20on%20Sexual%20Assault>)

**To raise this issue in response to a parentage petition**, file a Sexual Assault Allegation (FL Parentage 383)

(<https://www.courts.wa.gov/forms/documents/FL%20Parentage%20383%20Sexual%20Assault>)

with your Response to Petition to Decide Parentage (FL Parentage 302)

(<https://www.courts.wa.gov/forms/documents/FL%20Parentage%20302%20Response%20to%20Petition%20to%20Decide%20Parentage>)

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In either case, the judge will hold a hearing. If the judge finds that the sexual assault happened and the rapist is the child's biological parent, the judge can order that the rapist is **not the child's legal parent**, if that's what you want. The judge can order the rapist to pay child support if you want that, even if the rapist will no longer be a legal parent. The judge will only allow the rapist to have contact with the child if you clearly agree to that in writing.

If the judge finds the person who raped you is the biological parent, you can tell the judge if:

- You don't want the person to have any rights to the child.
- You don't want any child support.

The judge must honor your wishes.

If this applies to you, talk to a lawyer and/or sexual assault victim's advocate (<https://www.nsvrc.org/states-territories/washington>).

**WashingtonLawHelp.org** gives general information. It is not legal advice. Find organizations that provide free legal help on our Get legal help page.