



Ohio Administrative Code Rule 5101:12-40-10 Presumption of paternity.

Effective: May 1, 2014

(A) In accordance with division (A) of section 3111.03 of the Revised Code, a man is presumed to be the natural father of a child when a final and enforceable determination of paternity does not exist and:

- (1) The man and the child's mother are married to each other and the child is born during the marriage;
- (2) The man and the child's mother are married to each other and the child is born after the man and the child's mother file a separation agreement in court;
- (3) The man and the child's mother have been married to each other and the child is born within three hundred days after the marriage is terminated by death, annulment, divorce, or dissolution;
- (4) The man and the child's mother attempted, before the child's birth, to marry each other by a marriage that was solemnized in apparent compliance with the law of the state in which the marriage took place, the marriage is or could be declared invalid, and either of the following applies:
 - (a) The marriage can only be declared invalid by a court and the child is born during the marriage or within three hundred days after the termination of the marriage by death, annulment, divorce, or dissolution; or
 - (b) The attempted marriage is invalid without a court order and the child is born within three hundred days after the termination of cohabitation; or
- (5) A JFS 07038, "Acknowledgment of Paternity Affidavit" (effective or revised effective date as identified in rule 5101:12-1-99 of the Administrative Code), has been filed with the central paternity registry and the JFS 07038 has not become final under former section 3111.211 or 5101.314 or section 2151.232, 3111.25, or 3111.821 of the Revised Code.



(B) In accordance with division (C) of section 3111.03 of the Revised Code, certain presumptions that existed in law prior to March 22, 2001, and were subsequently removed from the statute remain valid on and after that date unless rebutted. These presumptions include:

(1) Between June 24, 1982, and December 31, 1997, a man, with his consent, is named as the child's father on the birth certificate or signs the child's birth certificate as an informant as provided in section 3705.14 of the Revised Code and a final and enforceable determination of paternity has not been issued; and

(2) Between April 11, 1991, and December 31, 1997, genetic testing results indicated a probability of paternity of ninety-five per cent or greater but less than ninety-nine per cent that a man is the biological father of the child and a final and enforceable determination of paternity has not been issued.

(C) A presumption of paternity can only be rebutted by clear and convincing evidence that includes the results of genetic testing. In accordance with division (B) of section 3111.03 of the Revised Code, a presumption that arises when the husband of a married woman consented to artificial insemination or embryo donation is conclusive and cannot be rebutted, pursuant to section 3111.95 or 3111.97 of the Revised Code.

(D) If two or more conflicting presumptions arise and there is not a final and enforceable determination of paternity as described in rule 5101:12-40-05 of the Administrative Code, the child support enforcement agency (CSEA) shall request the court to determine which presumption controls.