

# Fact Sheet for Married / Divorced Fathers

Based on Tennessee Code Annotated § 36-2-304 – Presumption of Parentage

## ATTENTION: MARRIED FATHERS!

*(Female/Male couples)* If you are married:

- when your child is born; or
- when your spouse conceived a child; or
- any time during the 300 days before your spouse gives birth to a baby . . .

Tennessee law states that you are the legal parent of the child and your name must go on the child's birth certificate.

The length of time you have been separated or living apart from your spouse **does not** change the requirement that your name and information **must** go on the child's birth certificate.

If you are married to someone else and have a child with another woman (and that woman is not married), you may complete the Voluntary Acknowledgment of Paternity (VAoP) form so that your name will be on the child's birth certificate.

## ATTENTION: DIVORCED FATHERS!

If you finalized your divorce during the 300 days before your former spouse gives birth to a child, you are presumed to be the legal parent.

Your name **must** go on the child's birth certificate unless a court order has been signed by a judge *specifically stating that you are not the biological parent of the child in question based upon a genetic test that shows you are not the father. The genetic test results must be attached to the court order and a certified copy of this order must be provided to the hospital birth clerk.*

## WHAT IF MY SPOUSE/EX-SPOUSE REFUSES TO GIVE THE BIRTH CLERK MY NAME?

Female/Male Couples: If the mother refuses to put her spouse or former spouse's name on the child's birth certificate, the hospital is required to enter '*Mother Refused Information*' in the father's name section of the birth certificate. As a result of this, the father's name cannot be added to the child's birth certificate until:

1. **If you ARE the biological father of the child and your spouse/ex-spouse did not list you on the child's birth certificate**, a notarized Affidavits of Natural Parents (PH-1859) must be filed with the State of Tennessee Office of Vital Records; OR
2. **If you ARE NOT the biological father of the child**, *genetic test results must be attached to a court order and a certified copy of this order must be provided to the hospital birth clerk or the Tennessee Office of Vital Records to have your name or "Mother Refused" removed from the child's birth certificate.*

## WHAT IF MY CHILD WAS BORN VIA SURROGATE?

(Same Sex Couples): The surrogate mother's name will be listed on the child's birth certificate as the mother. If either male spouse's genetic material was used to conceive the child and the mother is not married, he may sign the father's section of the VAoP. Same sex couples should contact a private attorney to pursue the matter through court.