



PATERNITY ISSUES

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For most of us, our paternity is not in question. But, sometimes things are less clear-cut and intervention is needed to establish paternity (or non-paternity), with potentially significant consequences. How will the new Family Proceedings (Paternity Orders and Parentage Tests) Amendment Bill change the current law?

When does the issue of paternity arise?

Where:

- a mother wishes to have a particular person named as the father of her child; or
- a man seeks to be declared as the father of a child; or
- a child wishes a particular person to be declared their father.

The potential effects of a paternity order include:

- the child may be entitled to claim an interest under a will, trust or succession or under the Family Protection Act.
- the person declared as the father may be liable to pay – child support to the mother of the child; maintenance for the mother; pregnancy, birth and immediate post-natal expenses; funeral expenses where a child has died

Establishing Paternity

There are five ways a person can show paternity:

- a certified copy of the child's birth certificate showing the name of the father
- a Declaration as to Paternity
- a Paternity Order made in New Zealand
- Acknowledgement of Paternity – an affidavit signed by the father confirming paternity.
- An order made by an approved Court or public authority in certain overseas countries declaring a person to be the father of a child

The New Act

Should the Family Proceedings Amendment bill be passed, there will be some significant changes in this area, including:

DNA Testing The easiest way for the Court to establish paternity is through DNA testing. Currently the court can only recommend that DNA tests be carried out. If the bill is enacted, the Court will be able to make an order requiring DNA tests to be carried out where there is reasonable probability that (a) a person recognised as the parent is not the natural parent or (b) the person not recognised as a parent is the natural parent. The court will also have powers to issue warrants for police or social workers (using reasonable force where necessary) to deliver the child for DNA tests to be carried out by authorised medical professionals.

Fathers will be able to apply for Paternity (and Non Paternity) Orders. An anomaly with the current legislation prevents fathers from applying. This will provide a more cost effective way of obtaining an order stating whether they are (or are not) the father of the child.

Criminal Sanctions will be increased against those attempting to mislead the Court (eg by providing false DNA samples etc)

For more information, please contact one of our offices.

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