

## NOTE

This card mainly pertains to paternity in domestic relations cases and is not intended to cover all aspects of parentage as may be encountered in cases involving unmarried parents.

### **PRESUMPTION OF PATERNITY** [R.C. 3111.03]

A man is presumed to be the natural father when:

- Parents are or have been married (or believed they had a valid marriage) and the child is born during the marriage;
- The child is born within 300 days after the marriage is terminated; OR
- An acknowledgment of paternity was filed pursuant to [R.C. 3111.23](#) and did not become final under [R.C. 2151.232](#), [R.C. 3111.25](#) or [R.C. 3111.821](#).
  - Acknowledgement becomes final 60 days after the last signature on the acknowledgment. [[R.C. 3111.27](#)]

The above presumptions are **REBUTTABLE** by clear and convincing evidence which includes genetic testing. However, in artificial insemination cases, the presumptions are conclusive and cannot be rebutted. [[See R.C. 3111.95](#) and [R.C. 3111.97](#)]

- Acknowledgements that become final are not presumptions, but rather a final enforceable determination unless rescinded.
- If an acknowledgement or other paternity determination becomes final, then a Motion for Relief from Judgment may be filed with the appropriate court. [[R.C. 3119.961](#)]
- [Civ.R. 60\(B\)](#) time limit does not apply to a Motion for Relief from Judgment as it pertains to disestablishment of paternity.

### **GESTATIONAL SURROGATE CONTRACTS**

- An exception to the presumption of paternity. These contracts are not a violation of public policy. [*J.F. v. D.B.*, 116 Ohio St.3d 363, 2007-Ohio 6750, 879 N.E.3d 363.]

### **AGREEMENTS TO EXCLUDE THE HUSBAND AS THE FATHER IN DIVORCE OR DISSOLUTION PROCEEDINGS**

- Decrees or separation agreements may specify that the husband is not the father of a particular child. The decree need not specify who the father is in it.



A third party (non-husband) cannot be decreed to be the father in a dissolution proceeding due to that person not being a party to the dissolution. A separate parentage action would need to be filed in juvenile court to establish paternity.



If the husband was excluded as the father in the divorce or dissolution decree, then he is not a required party in a subsequent parentage case to determine paternity.

Other presumptions may exist prior to March 22, 2001. [[R.C. 3111.03\(c\)](#)]