



OFFICE OF THE
ATTORNEY GENERAL OF TEXAS

Acknowledgment of Paternity Certified Entity Training for Attorneys



Authorization for Certified Entity Training

- ▶ The Office of the Attorney General (OAG) offers this training to attorneys seeking certification, or recertification, to assist in the execution of Texas Acknowledgment of Paternity forms (Texas Department of State Health Services Vital Statistics form VS-159.1M) and Texas Rescission of Acknowledgment of Paternity forms (Texas Department of State Health Services Vital Statistics form VS-158).
- ▶ Certification training is required by [Title 1 of the Texas Administrative Code, Rule 55.407](#), as authorized by [Texas Family Code section 160.314](#).
- ▶ This course should take about one hour to complete. Instructions for the certification exam are at the end of this training.



Restrictions

- ▶ This certification training is intended for attorneys.
- ▶ This course has **not** been certified for MCLE credit.
- ▶ If you are not an attorney seeking certification or recertification, go to the OAG [website](#) to obtain additional information.



Navigation

- ▶ This course is intended to be reviewed online.
 - Use Adobe Acrobat, Adobe Acrobat Reader or Acrobat plug-in controls to scroll through the course.
 - The course contains hyperlinks to additional resources, references and forms available on the Internet.
 - Underlined text indicates active hyperlinks.

- ▶ This complete file may be printed for review in paper format.
 - The latest version of this course is available online; please do not rely on previously printed copies without checking that you have the most current version.



Abbreviations

AOP	Acknowledgment of Paternity
CFR	Code of Federal Regulations
CSD	Child Support Division (of the OAG)
DRPC	Disciplinary Rules of Professional Conduct
DSHS	Department of State Health Services
TAC	Texas Administrative Code
TFC	Texas Family Code
USC	United States Code
OAG	Office of the Attorney General
SSN	Social Security Number
VSU	Vital Statistics Unit (of DSHS)



Course Outline (page 1 of 2)

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Course Outline (page 2 of 2)

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 - a. Acknowledgment of Paternity Inquiry Request Form (VS-134.1)..... {Slide 78}
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Introduction to Acknowledgment of Paternity: "Procedure" or "Form"?

In Texas, the voluntary acknowledgment of paternity is a **procedure** (Texas Family Code sections 160.301-.315) that requires the use of the Acknowledgment of Paternity **form** (VS-159.1M).

- ▶ Throughout this course, we will attempt to minimize confusion by capitalizing the term "Acknowledgment of Paternity" or using the abbreviation (AOP) when referring to the **form** called Acknowledgment of Paternity (VS-159.1M).
- ▶ We will write the term "acknowledgment of paternity" in lower case letters when referring to the **procedure** for voluntarily acknowledging paternity.



Introduction to Acknowledgment of Paternity: "Procedure" or "Form"?

- ▶ The distinction is not trivial. Parties, attorneys and courts may confuse the "form" and the overall "procedure." The words "acknowledgment of paternity" in a deposition or legal proceeding records could refer to the form or the procedure.
- ▶ Ambiguity may be avoided by using the words "acknowledgment of paternity **procedure**" and "acknowledgment of paternity **form**" as appropriate.



Introduction

- ▶ In this course you will learn that several original AOP forms (called “partial” AOP forms) may be required to complete the acknowledgment of paternity procedure. This is particularly confusing to people signing the forms.
 - If you ask a person, “Have you acknowledged paternity?” that person may truthfully answer, “Yes,” referring to a partial AOP form. However, if all other parties have not completed their respective partial AOP forms, then the overall procedure for voluntary acknowledgment of paternity has not been completed.
 - Avoid confusion by clearly asking, “Have you executed a complete, or partial, AOP form?” or “Have you completed the AOP process?” Then, be prepared to ask follow-up questions.



Introduction

- ▶ Copies of AOP forms in the possession of signatories, or even the original AOP forms maintained by the certified entity who assisted the parties, are **not** conclusive proof of a complete and successful voluntary acknowledgment of paternity. Many times the procedure is started, but not successfully completed.
- ▶ In this course you will learn that the only way to properly ascertain whether there has been a complete and successful voluntary acknowledgment of paternity is to seek a **certified copy** of the AOP form (or the several partial AOP forms) from VSU.



Introduction

- ▶ The Texas Acknowledgment of Paternity form (VS-159.1M), when properly executed, creates a legally binding parent-child relationship between a child and the child's biological father when no presumptions of paternity (for that man) exist.

- ▶ The Texas Acknowledgment of Paternity form (VS-159.1M) is also the form used by a presumed father (typically, the mother's husband) to deny paternity. However, that denial must be done in conjunction with the voluntary acknowledgment of paternity procedure involving the mother and the biological father.
 - A partial AOP form signed only by the presumed father seeking to deny paternity may have limited evidentiary value, but it does **not** have conclusive legal effect.



Introduction

- ▶ Completing the voluntary acknowledgment of paternity process using the AOP form is an alternative to creating a parent-child relationship by court order (paternity suit).
- ▶ Successful completion of the voluntary acknowledgment of paternity process using the AOP form has significant legal implications.
- ▶ To help parties seeking to sign an AOP form fully understand the legal significance, an AOP form must be executed with the assistance of a certified entity.
- ▶ Consequently, access to the AOP form is restricted. The form must be obtained through persons certified to execute AOP forms and Rescission forms.



Introduction

- ▶ A certified entity must:
 - Ascertain that use of the AOP form is appropriate;
 - Provide written information concerning paternity and child support;
 - Assist signatories in the completion of the AOP form;
 - Review the legal rights and responsibilities with the signatories;
 - Obtain identification from all signatories;
 - Fax completed AOP forms to VSU;
 - Facilitate corrections, if requested by VSU;
 - Upon request, assist signatories with Rescission forms;
 - Maintain the original records for an appropriate document retention period; and
 - Be re-certified annually.



Ethical Considerations

- ▶ Attorneys who become entities certified to execute AOP forms should carefully consider the ethical implications of this role.
 - Attorneys typically have an attorney-client relationship with a party involved in a legal transaction or litigation.
 - A certified entity has obligations to all signatories to the AOP form, and some of those signatories are likely to have interests adverse to the attorney's client(s).



Ethical Considerations

- ▶ Example:
 - Your client is the husband in a divorce.
 - Assume there is no dispute that the husband is not the biological father of a child born during the marriage (long separation, overseas military deployment, medical impossibility or the like).
 - To complete the divorce you need to rebut the presumption that the husband is the father.
 - Of course, your client could deny paternity and pay for a DNA test to prove this undisputed fact.
 - Or, you might use the AOP form, which includes a denial of paternity.
 - Assume the child lives with the mother, and the mother and biological father do not live together.



Ethical Considerations

- ▶ To use the AOP form:
 - You must work with **your client** (the father).
 - Completing the procedure will shift parental responsibility away from your client.
 - However, you must also work with **an opposing party** (the wife).
 - She could be pro-se or she could be represented, and certainly she has legal interests different than your client. Successful execution of the AOP form will create parental rights and impose parental obligations, such as the potential for visitation rights for the biological father.
 - You must work with **a non-client** (the biological father).
 - Successful execution of the AOP form will create parental rights and impose parental obligations, such as the potential for child support payable to the mother.
- ▶ What disclosures and disclaimers will be needed to meet your ethical obligations to each of these individuals?



Ethical Considerations

- ▶ Attorneys who become certified entities should consider following ethics rules, including, but not limited to:
 - I. CLIENT-LAWYER RELATIONSHIP
 - Texas DRPC 1.05 Confidentiality of Information
 - Texas DRPC 1.06 Conflict of Interest: General Rule
 - Texas DRPC 1.07 Conflict of Interest: Intermediary
 - IV. NON-CLIENT RELATIONSHIPS
 - Texas DRPC 4.01 Truthfulness in Statements to Others
 - Texas DRPC 4.02 Communications with One Represented by Counsel
 - Texas DRPC 4.03 Dealing With Unrepresented Persons
 - Texas DRPC 4.04 Respect for Rights of Third Persons

[Source: [Texas Disciplinary Rules of Professional Conduct](#)]



Ethical Considerations

- ▶ A full discussion of legal ethics implications is outside the scope of this brief certification course.
- ▶ This course is not designed to cover all potential ethical considerations.
- ▶ Consequently, attorneys taking this course are urged to seek guidance for case-specific ethics questions from appropriate sources.



Legal Authority

- ▶ Legal authority for the voluntary acknowledgment of paternity procedure and the AOP form is found in:
 - United States Code
 - Title 42, Chapter 7, Subchapter IV, Part D, Section 666
 - 42 USC 666 (a)(5)(C)
 - Code of Federal Regulations
 - Title 45, Subtitle B, Chapter III, Part 302
 - 45 CFR 302.70 (a)(5)(iii)
 - Texas Family Code
 - Chapter 160, Subchapter D
 - Sections 160.301 to 160.315
 - Texas Administrative Code
 - Title 1, Part 3, Chapter 55, Subchapter J
 - Rules 1 TAC 55.401 to 1 TAC 55.409



When to Use the AOP Form

- ▶ Many AOP forms are executed by unmarried parents at a hospital or birthing center when the child is born. This is most commonly done so the biological father can be added to the birth certificate.
- ▶ Some parents forgo this opportunity, or are unable to complete an AOP form at the time of the child's birth (typically, when the father is not present). They may later discover the need for the AOP form when:
 - The parents need to enroll the child in the father's health insurance or seek other benefits.
 - The parents need the father added to the birth certificate for school purposes (residency, pick-up permission, etc.).
 - The mother was married at the time of birth and the mother or her husband need a denial of paternity to complete a divorce.



When Not to Use the AOP Form

- ▶ Using an AOP form is inappropriate in some circumstances (non-exclusive list):
 - Surrogacy
 - Alternative to termination and/or adoption
 - Any time that the man seeking to sign and/or the mother **know** that another man is the biological father
 - If mother, biological father or presumed father is dead
- ▶ An AOP form must only be used by the biological mother and the biological father (and the presumed father if a denial is included).
 - There are **no exceptions**.
 - Any other use could subject the signatories to penalties of perjury and/or other criminal penalties.



Minor Parents? AOP Form Permitted

- ▶ **Minors are specifically permitted** to sign an AOP form.
 - Texas Family Code section 160.304(d)
 - Minors do not need parental consent or a next friend.



Missing Parents? AOP Form NOT Permitted

- ▶ The actual mother, actual biological father or actual presumed father **must** sign the AOP form.
 - An attorney **may not** sign for clients
 - An ad litem **may not** sign
 - A special advocate **may not** sign
 - A person with a power of attorney **may not** sign
 - An agent **may not** sign
 - Parents of the mother, biological father or presumed father **may not** sign
 - A next friend for a minor **may not** sign
 - An administrator or executor **may not** sign
 - A legal guardian **may not** sign
- ▶ A court order establishing parentage, or rebutting a presumption of parentage, is needed if the actual individuals are not able to sign the form.



AOP Form

- ▶ A sample form VS-159.1M is on the next two pages. You may print the sample form for review throughout this course.
- ▶ Note: the actual form (available from VSU to certified entities) is a two-sided form.
 - Take time now to carefully read both sides of the form.
 - **Do not** use the sample form for actual acknowledgments. VSU will not accept a form containing the “Sample” watermark. Instructions for obtaining the official form will be shown later in this course.
- ▶ The following pages will discuss each section of the form and offer tips for completion.



STATE OF TEXAS ACKNOWLEDGMENT OF PATERNITY

This is a legal document. Type or Print in black ink. Parents are to be given a copy of this completed document.

We declare under penalty of perjury that _____
Biological Father's first middle last name

is the biological father of _____
Child's first middle last name

born on / / , in _____
m m d d y y y y city county state

to _____
Mother's first middle last name maiden name if different

 / / - - _____
Father's date of birth social security number address city state zip code

 / / - - _____
Mother's date of birth social security number address city state zip code

We further declare under penalty of perjury that:

- We have been given written and oral notice of: the benefits of having paternity established; the availability of paternity establishment and child support services; and the legal consequences of, the rights and responsibilities of, and the alternative to signing this Acknowledgment.
- No other Acknowledgment of Paternity form naming another man as the biological father of this child has been filed.
- There is no court order naming another man as the biological father of this child.
- A genetic test has not determined that another man is the biological father of this child.

Fill one circle by the correct statement from EACH of the following:

<input type="radio"/> There has not been genetic testing of the man listed above to determine if he is the biological father of this child.	OR	<input type="radio"/> Genetic testing has determined that the man listed above is the biological father of this child.
<input type="radio"/> The mother was not married to someone other than the biological father at the time of the child's birth or within 300 days prior to the child's date of birth, or there is a court order that states that the man the mother was married to is not the father of the child, and during the first two years of the child's life, no man continuously lived with the child and represented the child as his own.	OR	<input type="radio"/> The mother was married to someone other than the biological father at the time of the child's birth or during the 300 days before the child's birth or during the first two years of the child's life, a man continuously lived with the child and represented the child as his own; and that man has completed the Denial of Paternity below or has a Denial of Paternity filed with the Vital Statistics Unit.

Full Signature of Biological Father date Full Signature of Mother date

Denial of Paternity (only required if "mother **was** married to someone other than the biological father or if, during the child's first two years of life, a man continuously lived with the child and represented the child as his own" is checked.)

We declare under penalty of perjury that _____,
Presumed Father's first middle last name

the presumed father of the child, is not the biological father. We understand that filing of this denial with an acknowledgment removes the presumed father's legal duty to support the child and terminates his right of custody or visitation with the child.

Full Signature of Presumed Father date Full Signature of Mother date

 / / - - _____
Presumed Father's date of birth social security number Presumed Father's address city state zip code

Entity Code 8311

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WARNING: This is a governmental document. Texas Penal Code, Section 37.10, specifies penalties for making false entries or providing false information in this document.

This is a legal document. If you are not sure that the man named in this Acknowledgment is the biological father of the child, you should **NOT** sign this document. You may want to get a genetic test. **The biological father who signs this Acknowledgment becomes the legal father of the child when this document is filed with the Department of State Health Services, Texas Vital Statistics**

Signing this legal document gives you certain rights and responsibilities. Signing this document is voluntary. You should consult an attorney if you have any concerns about signing this document. This document requires an Entity Code completed in the lower right corner by an individual certified by the Office of the Attorney General to administer Acknowledgments of Paternity.

Benefits, Right, and Responsibilities of Paternity

Establishing parentage makes it easier for a child to receive benefits such as social security, military and veteran's benefits, health care coverage and life insurance, as well as inheritance.

This Acknowledgment has the same effect as a court order establishing paternity. Both parents have parental right and duties as provided by state law. Either parent has the right to seek primary custody of the child. A parent not living with the child may have the right to visit and maintain a relationship with the child, either as both parents agree or as ordered by a court. By signing this Acknowledgment, you may be ordered to pay child support and medical support.

This document may be completed before the birth of the child, at the time of birth, or at any time after the birth of the child prior to any court hearing in a proceeding involving the child. If this document is signed before the birth of the child, it is binding for any child born no later than 300 days after the signature date on this document. When this Acknowledgment is properly filed with Texas Vital Statistics, it creates a parent-child relationship between the man and child. Establishment of paternity is required for a father's name to be entered on a birth certificate.

Child Support services can be obtained through the Office of the Attorney General, Child Support Division or by hiring an attorney.

Denial of Paternity

If a child's mother is married to a man other than the biological father at the time of birth or within 300 days of the ending of a marriage (by a finalized divorce,) the (ex) husband is presumed to be the legal father. To complete this document for a child that has a presumed father, the presumed father must deny paternity by completing the Denial of Paternity section. The mother must agree that the presumed father is not the biological father by also signing the denial section. The acknowledgment section must also be completed by the biological father and mother, or the denial will not be accepted. Upon the filing of this document, the presumed father is legally determined not to be the father of the child. His legal duty to support the child is removed. Likewise, his legal right of custody or visitation with the child is terminated.

Change of Mind

If any party to this document changes his/her mind about acknowledging or denying paternity, he/she may file a Rescission of Acknowledgment of Paternity (VS-158) to rescind this document. The Rescission of Acknowledgment of Paternity must be filed within sixty (60) days after this legal document is filed with Texas Vital Statistics or before the date a proceeding related to the child is initiated, whichever occurs first. After sixty (60) days, or the date a proceeding for the child was initiated, a lawsuit is required to challenge this document. Fraud, duress, or material mistake of fact in signing this form must be proven during the lawsuit.

If a Party is a Minor

Minors are authorized to complete the Acknowledgment of Paternity without parental consent. Minors are allowed to rescind or challenge this document in the same procedures as persons eighteen (18) or older.

All parties must receive oral notice of the above information before completing this Acknowledgment. You can receive oral notice of the information by calling 1-866-255-2006 and selecting option 1, "Notice of Rights and Responsibilities of a Parent."

If you have questions, you may call the Paternity Opportunity Program at 1-866-255-2006.



AOP Form

- ▶ The AOP form is a restricted form. It is only available through certified entities. The requirement to use a certified entity is to ensure that persons signing an AOP form are guided through the process and given ample opportunity to understand the legal implications of signing an AOP form.
 - **Do not** give blank form to clients to complete and return.
 - **Do not** leave blank forms unattended.
 - **Do not** leave partially completed and unsigned forms unattended.
- ▶ Please use black ink, or type, to complete the form.



Completing the AOP Form

- ▶ The first four lines identify the biological father, the child and the mother.
 - If possible, conform these entries on the AOP form to match the child's birth certificate or any partial AOP forms previously executed by other signatories.
- ▶ If the AOP form is being executed before the child is born:
 - You may use the child's anticipated name (if known) or "Infant" and the surname of one of the signatories.
 - Example: "Infant Smith"
 - Write "PROJECTED DOB" above the date of birth and use the anticipated due date and anticipated place of birth.
 - Note: a pre-birth AOP form will not become effective, and certified copies from VSU cannot be obtained, until the child is born. [TFC § 160.304(c)]



Completing the AOP Form

- ▶ On the AOP form, only the field for the child's date of birth shows a date format: (MM/DD/YYYY).
- ▶ However, for consistency all dates shown on the AOP should be in MM/DD/YYYY format.
 - Date of birth (or projected date of birth) of the child
 - Dates of birth of father, mother and presumed father
 - Signature dates of father, mother and presumed father
- ▶ Mixing date formats can cause ambiguity. This is a particular problem if one signatory writes dates in the military date format (DD/MM/YYYY).
 - 01/Dec/2012 is clearly the 1st day of December.
 - 01/12/2012 could be the 1st day of December or the 12th day of January.
 - Note: when VSU examines the form, if there is any ambiguity among the dates, VSU may reject the form (or require you to make corrections).



Example: Ambiguous Date Format

- ▶ Child born: Nov. 30
- ▶ Parents sign: Dec. 1
- ▶ Father uses military date format

WARNING: This is a governmental document. Texas Penal Code, Section 37.10, specifies penalties for making false entries or providing false information in this document.

 **STATE OF TEXAS**
ACKNOWLEDGMENT OF PATERNITY

This is a legal document. Type or Print in black ink. Parents are to be given a copy of this completed document.

We declare under penalty of perjury that _____
Biological Father's first middle last name

is the biological father of _____
Child's first middle last name

born on 11 / 30 / 2012 in _____
m m d d y y y y city county state

to _____
Mother's first middle last name maiden name if different

_____/_____/_____-_____-_____
Father's date of birth social security number address city state zip code

_____/_____/_____-_____-_____
Mother's date of birth social security number address city state zip code

We further declare under penalty of perjury that:

- We have been given written and oral notice of: the benefits of having paternity established; the availability of paternity establishment and child support services; and the legal consequences of, the rights and responsibilities of, and the alternative to signing this Acknowledgment.
- No other Acknowledgment of Paternity form naming another man as the biological father of this child has been filed.
- There is no court order naming another man as the biological father of this child.
- A genetic test has not determined that another man is the biological father of this child.

Fill one circle by the correct statement from EACH of the following:

<input type="radio"/> There has not been genetic testing of the man listed above to determine if he is the biological father of this child.	OR	<input type="radio"/> Genetic testing has determined that the man listed above is the biological father of this child.
<input type="radio"/> The mother was not married to someone other than the biological father at the time of the child's birth or within 300 days prior to the child's date of birth, or there is a court order that states that the man the mother was married to is not the father of the child, and during the first two years of the child's life, no man continuously lived with the child and represented the child as his own.	OR	<input type="radio"/> The mother was married to someone other than the biological father at the time of the child's birth or during the 300 days before the child's birth or during the first two years of the child's life, a man continuously lived with the child and represented the child as his own; and that man has completed the Denial of Paternity below or has a Denial of Paternity filed with the Vital Statistics Unit.

_____/_____/_____-_____-_____
date **01/12/2012**

_____/_____/_____-_____-_____
date **12/01/2012**

Full Signature of Biological Father _____ **Full Signature of Mother** _____
date date

Denial of Paternity (only required if "mother was married to someone other than the biological father or if, during the child's first two years of life, a man continuously lived with the child and represented the child as his own" is checked.)

We declare under penalty of perjury that _____
Presumed Father's first middle last name

the presumed father of the child, is not the biological father. We understand that filing of this denial with an acknowledgment removes the presumed father's legal duty to support the child and terminates his right of custody or visitation with the child.

_____/_____/_____-_____-_____
Presumed Father's date of birth social security number Presumed Father's address city state zip code

Full Signature of Presumed Father _____ **Full Signature of Mother** _____
date date

Entity Code

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Texas Department of State Health Services
Vital Statistics Unit
VS-159.1M Revised 9/2011



Completing the AOP Form

- ▶ The form requests a date of birth, Social Security number and address for each signatory.
- ▶ If a signatory wishes to withhold an SSN, write “WITHHELD BY REQUEST” over the SSN fields.



Completing the AOP Form

- ▶ If a signatory fears potential domestic or family violence, it is permissible to write “WITHHELD BY REQUEST” above the signatory’s address fields.
 - Note: This may be a practical solution when a denial of paternity is needed **and** the family violence is between the mother and presumed father, or between the child and presumed father.
 - However, if the family violence involves the mother, biological father and child, carefully consider whether the voluntary acknowledgment of paternity procedure is appropriate. Successful use of the AOP form creates legal rights and responsibilities, but provides no protection for the signatories or child. In such instances, a court order establishing paternity may allow opportunities for protective provisions that an AOP form will not provide.



Example: Withheld Information

WARNING: This is a governmental document. Texas Penal Code, Section 37.10, specifies penalties for making false entries or providing false information in this document.



STATE OF TEXAS ACKNOWLEDGMENT OF PATERNITY

This is a legal document. Type or Print in black ink. Parents are to be given a copy of this completed document.

We declare under penalty of perjury that _____
Biological Father's first middle last name

is the biological father of _____
Child's first middle last name

born on ____/____/____, in _____, _____, _____
m m d d y y y y city county state

to _____
Mother's first middle last name maiden name if different

_____/____/____, _____, _____, _____, _____, _____
Father's date of birth social security number address city state zip code

_____/____/____, _____, _____, _____, _____, _____
Mother's date of birth social security number address city state zip code

Withheld By Request

- We further declare under penalty of perjury that:
- We have been given written and oral notice of: the benefits of having paternity established; the availability of paternity establishment and child support services; and the legal consequences of, the rights and responsibilities of, and the alternative to signing this Acknowledgment.
 - No other Acknowledgment of Paternity form naming another man as the biological father of this child has been filed.
 - There is no court order naming another man as the biological father of this child.
 - A genetic test has not determined that another man is the biological father of this child.

Fill one circle by the correct statement from EACH of the following:

There **has not** been genetic testing of the man listed above to determine if he is the biological father of this child. **OR** Genetic testing **has** determined that the man listed above is the biological father of this child.

The mother **was not** married to someone other than the biological father at the time of the child's birth or within 300 days prior to the child's date of birth, or there is a court order that states that the man the mother was married to is not the father of the child, and during the first two years of the child's life, no man continuously lived with the child and represented the child as his own. **OR** The mother **was** married to someone other than the biological father at the time of the child's birth or during the 300 days before the child's birth or during the first two years of the child's life, a man continuously lived with the child and represented the child as his own; and that man has completed the Denial of Paternity below or has a Denial of Paternity filed with the Vital Statistics Unit.

_____/____/____, _____, _____, _____, _____, _____
Full Signature of Biological Father **date** **Full Signature of Mother** **date**

Denial of Paternity (only required if "mother was married to someone other than the biological father or if, during the child's first two years of life, a man continuously lived with the child and represented the child as his own" is checked.)

We declare under penalty of perjury that _____,
Presumed Father's first middle last name

the presumed father of the child, is not the biological father. We understand that filing of this denial with an acknowledgment removes the presumed father's legal duty to support the child and terminates his right of custody or visitation with the child.

_____/____/____, _____, _____, _____, _____, _____
Full Signature of Presumed Father **date** **Full Signature of Mother** **date**

_____/____/____, _____, _____, _____, _____, _____
Presumed Father's date of birth social security number Presumed Father's address city state zip code

Texas Department of State Health Services
Vital Statistics Unit
VS-159.1M Revised 9/2011

Entity Code 8311

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Completing the AOP Form

- ▶ The AOP form requires the completion of each of the two boxes that appear below the statement, “Fill one circle by the correct statement from EACH of the following:”

- ▶ Box 1: Indicate whether or not the mother and the biological father have used genetic testing to determine that the man listed on the AOP form is the biological father.
 - Only consider testing of the mother and the man listed on the AOP form.
 - Testing of other men is not relevant.



Completing the AOP Form

- ▶ Box 2: Carefully read both statements in their entirety. Compare these statements to Texas presumptions of paternity:
 - Selecting **the statement on the left** indicates **no presumed father exists**.
 - Selecting **the statement on the right** indicates **a presumed father does exist**, and will require that the denial section be completed and signed by the mother and the presumed father.

[TFC § 160.204]



Box 2: indicate whether or not there is a presumed father. (If a presumed father exists, you must complete the denial section.)



WARNING: This is a governmental document. Texas Penal Code, Section 37.10, specifies penalties for making false entries or providing false information in this document.

**STATE OF TEXAS
ACKNOWLEDGMENT OF PATERNITY**

This is a legal document. Type or Print in black ink. Parents are to be given a copy of this completed document.

We declare under penalty of perjury that _____
Biological Father's first middle last name

is the biological father of _____
Child's first middle last name

born on ____/____/____ in _____
month day year city county state

to _____
Child's name

Father _____
address

Mother _____
address

We _____
acknowledge the benefits of having paternity established; and the legal consequences of this acknowledgment.

- No other Acknowledgment of Paternity form naming another man as the biological father of this child has been filed.
- There is no court order naming another man as the biological father of this child.
- A genetic test has not determined that another man is the biological father of this child.

Fill one circle by making a correct statement from EACH of the following:

There **has not** been genetic testing of the man listed above to determine if he is the biological father of this child. **OR** Genetic testing **has** determined that the man listed above is the biological father of this child.

The mother **was not** married to someone other than the biological father at the time of the child's birth or within 300 days prior to the child's date of birth, or there is a court order that states that the man the mother was married to is not the father of the child, and during the first two years of the child's life, no man continuously lived with the child and represented the child as his own. **OR** The mother **was** married to someone other than the biological father at the time of the child's birth or during the 300 days before the child's birth or during the first two years of the child's life, a man continuously lived with the child and represented the child as his own; and that man has completed the Denial of Paternity below or has a Denial of Paternity filed with the Vital Statistics Unit.

Full Signature of Biological Father date Full Signature of Mother date

Denial of Paternity (only required if "mother was married to someone other than the biological father or if, during the child's first two years of life, a man continuously lived with the child and represented the child as his own" is checked.)

We declare under penalty of perjury that _____
Presumed Father's first middle last name

the presumed father of the child, is not the biological father. We understand that filing of this denial with an acknowledgment removes the presumed father's legal duty to support the child and terminates his right of custody or visitation with the child.

Full Signature of Presumed Father date Full Signature of Mother date

Presumed Father's date of birth social security number Presumed Father's address city state zip code

Entity Code 8311

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Texas Department of State Health Services
Vital Statistics Unit
VS-159.1M Revised 9/2011



Completing the AOP Form

- ▶ Sometimes, circumstances prevent all signatories from being together to execute a single AOP form. It is not uncommon for signatories to use different certified entities to complete the voluntary acknowledgment of paternity procedure using several forms.
- ▶ If an AOP form will not contain all the signatures, write the word “Partial” above the right end of the genetic testing box.
- ▶ The voluntary acknowledgment of paternity procedure will not be complete until VSU has received all the “partial” AOP forms.
 - Note: Do not request certified copies from VSU until you are certain all signatories have completed their “partial” forms.



Example: "Partial" AOP Form

WARNING: This is a governmental document. Texas Penal Code, Section 37.10, specifies penalties for making false entries or providing false information in this document.



STATE OF TEXAS ACKNOWLEDGMENT OF PATERNITY

This is a legal document. Type or Print in black ink. Parents are to be given a copy of this completed document.

We declare under penalty of perjury that _____
Biological Father's first middle last name

is the biological father of _____
Child's first middle last name

born on ____/____/____, in _____, _____, _____
m m d d y y y y city county state

to _____
Mother's first middle last name maiden name if different

_____/____/____ - ____ - ____
Father's date of birth social security number address city state zip code

_____/____/____ - ____ - ____
Mother's date of birth social security number address city state zip code

We further declare under penalty of perjury that:

- We have been given written and oral notice of: the benefits of having paternity established; the availability of paternity establishment and child support services; and the legal consequences of, the rights and responsibilities of, and the alternative to signing this Acknowledgment.
- No other Acknowledgment of Paternity form naming another man as the biological father of this child has been filed.
- There is no court order naming another man as the biological father of this child.
- A genetic test has not determined that another man is the biological father of this child.

PARTIAL

Fill one circle by the correct statement from EACH of the following:

There **has not** been genetic testing of the man listed above to determine if he is the biological father of this child. **OR** Genetic testing **has** determined that the man listed above is the biological father of this child.

The mother **was not** married to someone other than the biological father at the time of the child's birth or within 300 days prior to the child's date of birth, or there is a court order that states that the man the mother was married to is not the father of the child, and during the first two years of the child's life, no man continuously lived with the child and represented the child as his own. **OR** The mother **was** married to someone other than the biological father at the time of the child's birth or during the 300 days before the child's birth or during the first two years of the child's life, a man continuously lived with the child and represented the child as his own; and that man has completed the Denial of Paternity below or has a Denial of Paternity filed with the Vital Statistics Unit.

_____/____/____ date Full Signature of Biological Father
 _____ date Full Signature of Mother

Denial of Paternity (only required if "mother was married to someone other than the biological father or if, during the child's first two years of life, a man continuously lived with the child and represented the child as his own" is checked.)

We declare under penalty of perjury that _____
Presumed Father's first middle last name

the presumed father of the child, is not the biological father. We understand that filing of this denial with an acknowledgment removes the presumed father's legal duty to support the child and terminates his right of custody or visitation with the child.

_____/____/____ date Full Signature of Presumed Father
 _____ date Full Signature of Mother

_____/____/____ - ____ - ____
Presumed Father's date of birth social security number Presumed Father's address city state zip code

Texas Department of State Health Services
Vital Statistics Unit
VS-159.1M Revised 9/2011

Entity Code 8311



Completing the AOP Form

- ▶ There is no Denial of Paternity form. To deny paternity, a presumed father must sign an AOP form. The mother and biological father must also concurrently acknowledge paternity through the AOP process.
- ▶ A partial AOP form with the presumed father's signature alone has no legal effect. The denial of paternity becomes legally effective after all have signed.
- ▶ Note: Be sure the mother signs twice.
 - The **first** signature is to acknowledge the biological father's paternity.
 - The **second** signature is to deny the presumed father's paternity.



Completing the AOP Form

- ▶ To avoid common mistakes, it is a best practice for the certified entity to complete all fields on the AOP form and have the parties sign the completed AOP form.
- ▶ **Do not** use correction fluid or correction tape to make corrections.
 - If mistakes are made and if all signatories are present, consider completing a fresh form with no corrections.



Completing the AOP Form

- ▶ If compelling reasons exist to make a correction, then corrections to an entry **must** be made by the person who originally entered the information on the form. You should draw a single line through the erroneous entry, add the correct information and initial your change.
- ▶ Since you are not a signatory, when **you** must make a correction to the AOP form, rotate the page so the “WARNING” found in the left margin is now at the top of the page as you hold it. Add the words “Certified Entity - ” and your name above the “WARNING: ...”



Executing the AOP Form

- Step 1:** Be sure the signatories have been provided written information concerning paternity and child support.
- Brochures are available from the Attorney General's website.
- Step 2:** Obtain proof of identification (preferably a driver's license or other form of photo identification) from all signatories; make copies for your records.
- You have some discretion to determine what is acceptable identification.
- Step 3:** Explain the legal significance of the AOP to the signatories using written and oral information concerning their rights and responsibilities.
- **Written:** Provide a copy of the back of the AOP form. A Spanish version is available on the Attorney General's website.
 - **Oral:** Read the back of the form to the signatories, or allow the signatories to call (866) 255-2006 (then follow the prompts) to listen to a recording of rights and responsibilities (available in English and Spanish).



Executing the AOP Form

Step 4: Answer any questions

- Earlier, you were asked to consider attorneys' ethical requirements. Carefully consider how you will balance the requirement of a certified entity to answer questions with your ethical obligations to clients and non-clients (and to represented or unrepresented individuals) through disclosures and disclaimers, as appropriate.



Executing the AOP Form

Step 5: Obtain signatures

- Do not allow the signatories to sign the AOP form if there is any indication of fraud, coercion, duress, undue influence, lack of mental capacity, or the like.
- Before anyone signs, point out the strong language on the AOP form:
 - “This is a legal document.”
 - “We declare under penalty of perjury that...”
 - “We further declare under penalty of perjury that...”
 - “WARNING: This is a governmental document.”
 - “Texas Penal Code section 37.10 specifies penalties...”
 - “This Acknowledgment has the same effect as a court order...”



Executing the AOP Form

STATE OF TEXAS
ACKNOWLEDGMENT OF PATERNITY

This is a legal document. Type or Print in black ink. Parents are to be given a copy of this completed document.

We declare under penalty of perjury that _____
is the biological father of _____
born on ____/____/____ in _____ city _____ county _____ state
TO _____
Father's date of birth _____ social security number _____ address _____ city _____ state _____ zip code

We further declare under penalty of perjury that:

- We have been given written and oral notice of the benefits of having paternity established; the availability of paternity establishment and child support services; and the legal consequences of, the rights and responsibilities of, and the alternative to signing this Acknowledgment.
- No other Acknowledgment of Paternity form naming another man as the biological father of this child has been filed.
- There is no court order naming another man as the biological father of this child.
- A genetic test has not determined that another man is the biological father of this child.

Fill one circle by the correct statement from EACH of the following:

There **has not** been genetic testing of the man listed above to determine if he is the biological father of this child. **OR** Genetic testing **has** determined that the man listed above is the biological father of this child.

The mother **was not** married to someone other than the biological father at the time of the child's birth or within 300 days prior to the child's date of birth, or there is a court order that states that the man the mother was married to is not the father of the child, and during the first two years of the child's life, no man continuously lived with the child and represented the child as his own. **OR** The mother **was** married to someone other than the biological father at the time of the child's birth or during the first two years of the child's life, a man continuously lived with the child and represented the child as his own; and that man has completed the Denial of Paternity below or has a Denial of Paternity filed with the Vital Statistics Unit.

Full Signature of Biological Father date Full Signature of Mother date

Denial of Paternity (only required if "mother was married to someone other than the biological father or if, during the child's first two years of life, a man continuously lived with the child and represented the child as his own" is checked.)

We declare under penalty of perjury that _____
the presumed father of the child, is not the biological father. We understand that filing of this denial with an acknowledgment removes the presumed father's legal duty to support the child and terminates his right of custody or visitation with the child.

Full Signature of Presumed Father date Full Signature of Mother date

Presumed Father's date of birth _____ social security number _____ Presumed Father's address _____ city _____ state _____ zip code

Texas Department of State Health Services
Vital Statistics Unit
VS-159.1M Revised 9/2011

Entity Code 8311

WARNING: This is a governmental document. Texas Penal Code, Section 37.10, specifies penalties for making false entries or providing false information in this document.

This is a legal document. If you are not sure that the man named in this Acknowledgment is the biological father, you should not sign this document. You may want to get a genetic test. The biological father who signs this Acknowledgment becomes the legal father of the child when this document is filed with the Department of State Health Services, Texas Vital Statistics

Signing this legal document gives you certain rights and responsibilities. Signing this document is voluntary. You should consult an attorney if you have any concerns about signing this document. This document requires an Entity Code completed in the lower right corner by an individual certified by the Office of the Attorney General to administer Acknowledgments of Paternity.

Benefits, Right, and Responsibilities of Paternity

Establishing paternity makes it easier for a child to receive benefits such as social security, military and veteran's benefits, health care coverage and life insurance, as well as inheritance.

This Acknowledgment has the same effect as a court order establishing paternity. Both parents have parental rights and duties as provided by state law. Either parent has the right to seek primary custody of the child. A parent not living with the child may have the right to visit and maintain a relationship with the child, either as both parents agree or as ordered by a court. By signing this Acknowledgment, you may be ordered to pay child support and medical support.

This document may be completed before the birth of the child, at the time of birth, or at any time after the birth of the child prior to any court hearing in a proceeding involving the child. If this document is signed before the birth of the child, it is binding for any child born no later than 300 days after the signature date on this document. When this Acknowledgment is properly filed with Texas Vital Statistics, it creates a parent-child relationship between the man and child. Establishment of paternity is required for a father's name to be entered on a birth certificate.

Child Support services can be obtained through the Office of the Attorney General, Child Support Division or by hiring an attorney.

Denial of Paternity

If a child's mother is married to a man other than the biological father at the time of birth or within 300 days of the ending of a marriage (by a finalized divorce,) the (ex) husband is presumed to be the legal father. To complete this document for a child that has a presumed father, the presumed father must deny paternity by completing the Denial of Paternity section. The mother must agree that the presumed father is not the biological father by also signing the denial section. The acknowledgment section must also be completed by the biological father and mother, or the denial will not be accepted. Upon the filing of this document, the presumed father is legally determined not to be the father of the child. His legal duty to support the child is removed. Likewise, his legal right of custody or visitation with the child is terminated.

Change of Mind

If any party to this document changes his/her mind about acknowledging or denying paternity, he/she may file a Rescission of Acknowledgment of Paternity (VS-158) to rescind this document. The Rescission of Acknowledgment of Paternity must be filed within sixty (60) days after this legal document is filed with Texas Vital Statistics or before the date a proceeding related to the child is initiated, whichever occurs first. After sixty (60) days, or the date a proceeding for the child was initiated, a lawsuit is required to challenge this document. Fraud, duress, or material mistake of fact in signing this form must be proven during the lawsuit.

If a Party is a Minor

Minors are authorized to complete the Acknowledgment of Paternity without parental consent. Minors are allowed to rescind or challenge this document in the same procedures as persons eighteen (18) or older.

All parties must receive oral notice of the above information before completing this Acknowledgment. You can receive oral notice of the information by calling 1-866-255-2006 and selecting option 1, "Notice of Rights and Responsibilities of a Parent."

If you have questions, you may call the Paternity Opportunity Program at 1-866-255-2006.



Executing the AOP Form

Step 5: Obtain signatures, continued.

- **Do not** have the signatures notarized.
 - VSU will reject AOP forms with notary information added.
- **Do not** make any marks in the white space on the bottom of the AOP form.
 - VSU uses this space. Comments or extra text in this space may result in VSU rejecting the AOP form.



STATE OF TEXAS ACKNOWLEDGMENT OF PATERNITY

This is a legal document. Type or Print in black ink. Parents are to be given a copy of this completed document.

We declare under penalty of perjury that _____
Biological Father's first middle last name

is the biological father of _____
Child's first middle last name

born on ____/____/____, in _____, _____, _____
m m d d y y y y city county state

to _____
Mother's first middle last name maiden name if different

____/____/____ - ____ - ____
Father's date of birth social security number address city state zip code

____/____/____ - ____ - ____
Mother's date of birth social security number address city state zip code

We further declare under penalty of perjury that:

- We have been given written and oral notice of: the benefits of having paternity established; the availability of paternity establishment and child support services; and the legal consequences of, the rights and responsibilities of, and the alternative to signing this Acknowledgment.
- No other Acknowledgment of Paternity form naming another man as the biological father of this child has been filed.
- There is no court order naming another man as the biological father of this child.
- A genetic test has not determined that another man is the biological father of this child.

Fill one circle by the correct statement from EACH of the following:

<input type="radio"/> There has not been genetic testing of the man listed above to determine if he is the biological father of this child.	OR	<input type="radio"/> Genetic testing has determined that the man listed above is the biological father of this child.
<input type="radio"/> The mother was not married to someone other than the biological father at the time of the child's birth or within 300 days prior to the child's date of birth, or there is a court order that states that the man the mother was married to is not the father of the child, and during the first two years of the child's life, no man continuously lived with the child and represented the child as his own.	OR	<input type="radio"/> The mother was married to someone other than the biological father at the time of the child's birth or during the 300 days before the child's birth or during the first two years of the child's life, a man continuously lived with the child and represented the child as his own; and that man has completed the Denial of Paternity below or has a Denial of Paternity filed with the Vital Statistics Unit.

____/____/____ date Full Signature of Biological Father
____/____/____ date Full Signature of Mother

Denial of Paternity (only required if "mother was married to someone other than the biological father or if, during the child's first two years of life, a man continuously lived with the child and represented the child as his own" is checked.)

We declare under penalty of perjury that _____
Presumed Father's first middle last name
the presumed father of the child, is not the biological father. We understand that filing of this denial with an acknowledgment removes the presumed father's legal duty to support the child and terminates his right of custody or visitation with the child.

____/____/____ date Full Signature of Presumed Father
____/____/____ date Full Signature of Mother

____/____/____ - ____ - ____ Presumed Father's date of birth social security number
____/____/____ - ____ - ____ Presumed Father's address city state zip code

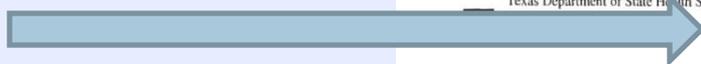
Texas Department of State Health Services

Entity Code
[] [] [] []

8311
[] [] [] [] [] [] [] [] [] []

WARNING: This is a governmental document. Texas Penal Code, Section 37.10, specifies penalties for making false entries or providing false information in this document.

Keep clear!





Executing the AOP Form

Step 6: Add your entity code

- Note: Upon successful completion of this training and the certification exam, you will be provided with an entity code.



Using the Parent Survey

Step 7: Offer the Parent Survey form

- See [Title 1 of the Texas Administrative Code, Rule 55.408](#) .
- OAG [Parent Survey on the Acknowledgment of Paternity form \(1798\)](#) is available on the Attorney General's website (English and Spanish).
- The survey is a useful tool to document that you have given the signatories all required information and explained the legal consequences of signing the AOP form.
 - Keep this form with your records.
- Signatories may refuse to complete the survey.
 - Note in your records if the survey is refused.



Example: Parent Survey Form



PARENT SURVEY ON THE ACKNOWLEDGMENT OF PATERNITY (AOP)

Mandated by Law

This Survey should be completed after the AOP has been signed or a person has declined to sign the AOP.

Hospital/Entity Name & Location: _____ Entity Code: _____
 Child's Name: _____ Date of Birth: _____

Please read and INITIAL the following:

STATEMENTS	MOTHER	FATHER
1. I was given the opportunity to sign an Acknowledgment of Paternity.	_____	_____
2. I choose NOT to complete an Acknowledgment of Paternity.	_____	_____

If you initial #2, please skip questions 3 through 8.

3. I was made aware that I could have a DNA test done before I signed the AOP.	_____	_____
4. I was given written and oral information regarding the benefits, rights and responsibilities of an AOP, an explanation of those rights and responsibilities, and information about child support.	_____	_____
5. The biological father who signed this AOP will have all legal rights and duties of a parent. This may include the legal responsibility for financial and medical support of the child named in this AOP.	_____	_____
6. If I change my mind, a Rescission of Acknowledgment (VS-158) must be filed within the earlier of 60 days of signing the Acknowledgment of Paternity or the date a proceeding involving the child is initiated before a court.	_____	_____
7. After 60 days, I may challenge the AOP in court and must prove fraud, duress, or material mistake of fact.	_____	_____
8. I was given a completed copy of the AOP with the benefits, rights, and responsibilities on the back.	_____	_____

Mother's Printed Name: _____ ID Type: _____

Mother's Signature: _____ Phone Number: _____

Father's Printed Name: _____ ID Type: _____

Father's Signature: _____ Phone Number: _____

Certified Staff Signature: _____ Date: _____

Presumed Father: After you read the Denial of Paternity and Change of Mind sections of the rights and responsibilities, please read the statement below and initial.

After I have signed the Denial of Paternity and it has been filed with the Vital Statistics Unit, my legal rights and responsibilities to this child will be terminated. If I change my mind, a Rescission of Acknowledgment of Paternity (VS-158) can be filed within the earlier of 60 days of signing the Acknowledgment of Paternity or the date a proceeding involving the child is initiated before a court. After 60 days, I may challenge the AOP in court and must prove fraud, duress, or material mistake of fact. **Initial here** _____

Presumed Father's Printed Name: _____ ID Type: _____

Presumed Father's Signature: _____ Phone Number: _____

Certified Staff Signature: _____ Date: _____



Executing the AOP Form

Step 8: Provide copies of both sides of the AOP form to the signatories.

- Mark any copies of signed AOP forms as “COPY” to make clear that it is not the original and **not a certified copy** from VSU.
- If you are executing a partial AOP form (all signatories are not on the same form), you should mark “COPY” over any blank signature lines.



Faxing the Completed AOP Form to VSU

- ▶ Completed AOP forms must immediately be sent to VSU at a dedicated fax number.
 - **This number will be supplied to you upon successful completion of the certification exam.**
- ▶ Your fax machine must be configured to show a time and date stamp in the header of the outgoing fax. VSU needs this information.
- ▶ **Do not** use a cover sheet.
- ▶ **Do not** share this number. This number is strictly for certified entities.
- ▶ **Do not** use this fax number for any other VSU-related matters. This number is strictly for AOP forms!



Faxing the Completed AOP Form to VSU

- ▶ It is recommended that you print and keep a “fax confirmation” page showing date and time of successful transmission.
 - You will not receive any confirmation from VSU.
 - You may give the signatories a copy of the fax confirmation so they have the date (needed for the Application for a New Birth Certificate Based on Parentage form (VS-166) .



Correcting the AOP Form After Faxing

- ▶ VSU may request that you make a correction. This could happen days after the form is executed.
- ▶ Contact the parties concerning any changes.
- ▶ Corrections to an entry **must** be made by the person who adds the entry to the form. You should draw a single line through the erroneous entry, add the correct information and initial your change.
- ▶ Since you were not a signatory, when **you** must make a correction to the AOP form, rotate the page so the “WARNING” found in the left margin is now at the top of the page as you hold it. Add the words “Certified Entity” and your name above the “WARNING: ...”



Example: VSU asks you to correct an ambiguous date format.

Child born:
November 30
Parents signed:
December 1

Ambiguous date format corrected.

Certified Entity: William Sprivens

WARNING: This is a governmental document. Texas Penal Code, Section 37.10, specifies penalties for making false entries or providing false information in this document.



STATE OF TEXAS
ACKNOWLEDGMENT OF PATERNITY

This is a legal document. Type or Print in black ink. Parents are to be given a copy of this completed document.

We declare under penalty of perjury that _____
Biological Father's first middle last name
 is the biological father of _____
Child's first middle last name
 born on 11 / 30 / 2012 in _____
m m d d y y y y city county state
 to _____
Mother's first middle last name maiden name if different

Father's date of birth social security number address city state zip code

Mother's date of birth social security number address city state zip code

- We further declare under penalty of perjury that:
- We have been given written and oral notice of the benefits of having paternity established; the availability of paternity establishment and child support services; and the legal consequences of, the rights and responsibilities of, and the alternative to signing this Acknowledgment.
 - No other Acknowledgment of Paternity form naming another man as the biological father of this child has been filed.
 - There is no court order naming another man as the biological father of this child.
 - A genetic test has not determined that another man is the biological father of this child.

Fill one circle by the correct statement from EACH of the following:

There **has not** been genetic testing of the man listed above to determine if he is the biological father of this child. **OR** Genetic testing **has** determined that the man listed above is the biological father of this child.

The mother **was not** married to someone other than the biological father at the time of the child's birth or within 300 days prior to the child's date of birth, or there is a court order that states that the man the mother was married to is not the father of the child, and during the first two years of the child's life, no man continuously lived with the child and represented the child as his own. **OR** The mother **was** married to someone other than the biological father at the time of the child's birth or during the 300 days before the child's birth or during the first two years of the child's life, a man continuously lived with the child and represented the child as his own; and that man has completed the Denial of Paternity before, or has a Denial of Paternity filed with the Vital Statistics Unit.

12/01/2012 WS
01/12/2012 12/01/2012

Full Signature of Biological Father _____ date _____ Full Signature of Mother _____ date _____

Denial of Paternity (only required if "mother was married to someone other than the biological father or if, during the child's first two years of life, a man continuously lived with the child and represented the child as his own" is checked.)
 We declare under penalty of perjury that _____
Presumed Father's first middle last name
 the presumed father of the child, is not the biological father. We understand that filing of this denial with an acknowledgment removes the presumed father's legal duty to support the child and terminates his right of custody or visitation with the child.

Full Signature of Presumed Father _____ date _____ Full Signature of Mother _____ date _____
 Presumed Father's date of birth _____ social security number _____ Presumed Father's address _____ city _____ state _____ zip code _____

Texas Department of State Health Services
 Vital Statistics Unit
 VS-159.1M Revised 9/2011

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Rescission of AOP Form

- ▶ Prior to September 1, 2011, an AOP form could be rescinded within 60 days of execution, or challenged within four years of execution; however, both required a court proceeding and a court order.
- ▶ Current law: September 1, 2011
 - An AOP form may be rescinded by executing and filing a Rescission of Acknowledgment of Paternity form (VS-158) **within the earlier of:**
 - 60 days after the effective date of the acknowledgment (the date the AOP form or all partial forms have been accepted by VSU) or
 - the date a proceeding involving the child is initiated before a court.
 - After this, a court proceeding and a court order are required to challenge an AOP form. (Challenges will be covered later in the course.)



Rescission of AOP Form

- ▶ An entity certified to assist parties in the execution of AOP forms must also assist in the execution of Rescission of Acknowledgment of Paternity forms.
- ▶ Note: filing the rescission form is the obligation of the party seeking to rescind. As a certified entity you have no obligation to file the form with VSU. You may do so for clients, but you are not required to do so for non-clients.
- ▶ There are no filing fees, however, there are statutorily mandated mailing procedures that require payment of Postal Service costs. Mailing costs are the obligation of the rescinding party. You may pay for mailing for clients, but you are not required to do so for non-clients.



Rescission of AOP Form

- ▶ Assisting with rescissions may have ethical implications.
- ▶ Recall the example used earlier where you represent the husband in a divorce and choose to work with your client, the opposing party wife and a non-party father to execute an AOP that includes a denial.
- ▶ What if one of the three wants to rescind the AOP form?
Can you ethically assist that person?
 - If the AOP form involves a child named in the divorce **proceeding**, rescission is no longer possible.
 - However, if the legal proceeding has not yet been initiated, and the 60 days has not run, consider carefully what you must do to ethically assist the rescinding party.



Rescission of AOP Form

- ▶ A sample form VS-158 is on the next two pages. You may print the sample form for review throughout this course.
- ▶ Note: the actual form (available from VSU to certified entities) is a two-sided form.
 - Take time now to carefully read both sides of the form.
 - **Do not** use the sample form for actual rescissions of AOP forms. VSU will not accept a form containing the “Sample” watermark. Instructions for obtaining the official form will be shown later in this course.
- ▶ The following pages will discuss each section of the form and offer tips for completion.



STATE OF TEXAS

RESCISSION OF ACKNOWLEDGMENT OF PATERNITY

This is a legal document. Type or Print in black ink. This document is used to withdraw the legal father and child relationship created by the Acknowledgment of Paternity (AOP) that was filed with the Texas Department of State Health Services, Vital Statistics Unit. This form must be submitted to the Vital Statistics Unit by the date a proceeding related to the child is initiated or the 60th day after the effective date of the acknowledgment, whichever comes earlier.

Section I. Child's information as it appears on the Acknowledgment of Paternity

Child's first name	Middle	Last	
Date of birth (mm/dd/yyyy)	City of birth	County	State

Section II. Parent's information as it appears on the Acknowledgment of Paternity

Mother's first name	Middle	Last	Maiden Name
Present street address	City	State	Zip
Father's first name	Middle	Last	Suffix
Present street address	City	State	Zip

Section III. Presumed father's information as it appears on the Denial of Paternity Section (if applicable)

First Name	Middle	Last	
Present street address	City	State	Zip

Section IV. Rescinding party's information

First name	Middle	Last	Suffix
Social Security number	Date of birth (mm/dd/yyyy)		Phone Number () -
ID Type	ID number		

I declare under penalty of perjury that:

- I acknowledge that as of the date the rescission is filed, a proceeding has not been held affecting the child identified on the Acknowledgment of Paternity or Denial of Paternity, including a proceeding to establish child support;
- I will immediately send a completed rescission by certified or registered mail, return receipt requested, to any signatory of the AOP as required by Tex. Fam. Code §160.307 and as explained in the "Duty to Inform" section on page 2.

Signature of Person Withdrawing Acknowledgment or Denial of Paternity

Date of Signature

NOTICE: This form is NOT COMPLETE until mailed to signatories of the Acknowledgment of Paternity as required by statute and is NOT VALID without a Certified Entity Code. A completed and valid form MUST BE FILED with Vital Statistics to be effective. Instructions are on the back of this form.

Entity code

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This is a legal document. This form is used to withdraw the legal father and child relationship created by the previously signed Acknowledgment of Paternity. Any person who signed the Acknowledgment of Paternity may use this form to rescind their Acknowledgment of Paternity. This form is NOT COMPLETE until mailed to signatories of the Acknowledgment of Paternity as required by statute and is NOT VALID without a certified entity code. A completed and valid form MUST BE FILED with Texas Department of State Health Services, Vital Statistics Unit, to be effective. This must be accomplished within the earlier of 60 days of signing the Acknowledgment of Paternity or the date a proceeding involving the child is initiated before a court.

Duty to Inform

A copy of the rescission form, in order to be completed and become valid, shall be sent by certified or registered mail, return receipt requested:

- If the rescission is of an acknowledgment of paternity, to the other signatory of the acknowledgment of paternity and the signatory of any related denial of paternity; or
- If the rescission is of a denial of paternity, to the signatories of the related acknowledgment of paternity; and
- If a signatory to the acknowledgment of paternity or denial of paternity is receiving services from the Office of the Attorney General Child Support Division, a copy of the completed rescission must be sent by certified or registered mail to the Office of the Attorney General, PO Box 12017 MC 044 Austin TX 78711.

Checklist:

The Certified Entity will review with you these instructions for filing your Rescission and can answer your questions about the process. The Certified Entity has no obligation to make copies for you. You must follow these instructions to be sure your Rescission will be filed and accepted.

Steps you must follow to rescind the Acknowledgment of Paternity	I understand what I must do:
All four (4) of the steps below must be completed within the earlier of 60 days of the effective date of the Acknowledgment of Paternity or the date a proceeding involving the child is initiated before a court.	Initials: _____
1) Complete this form with Certified Entity and have the Certified Entity add their unique code.	Initials: _____
2) Make copies of this form for yourself and make enough copies to mail to all people who signed the original AOP and the Attorney General's Office, if required. You must mail those copies by certified or registered mail, return receipt requested; and obtain proof of mailing from the US Postal Service. You must pay for any USPS fees.	Initials: _____
3) Send the proof of mailing receipts along with this original rescission document to VSU (USPS forms 3800 or 3806). You must pay any USPS fees. Keep the return receipt cards received from USPS to be able to prove you mailed copies of this form to the other parties.	Initials: _____
<p>4) Mail this completed form and copies of the proof of mailing to: Vital Statistics Unit PO Box 149347, MC 1966 Austin, Texas 78714</p> <p>There is no fee to file this document. The envelope must be postmarked within 60 days of the effective date of the Acknowledgment of Paternity or before a proceeding involving the child is initiated whichever occurs first.</p>	Initials: _____
<p>To obtain a certified copy of this form, use form VS-134.1 from VSU and pay any required fees. To change the birth certificate, use form VS-166 from VSU and pay any required fees. (http://www.dshs.state.tx.us/vs/reqproc/forms.shtm)</p>	Initials: _____



Completing the Rescission of AOP Form (VS-158)

- ▶ Review the date of completion of the AOP form(s) to be rescinded. Inquire concerning pending or recently completed legal actions that may involve the AOP form. Determine whether the rescission can be completed within statutory time limits.
 - An AOP form may be rescinded **within the earlier of:**
 - 60 days after the effective date of the acknowledgment (the date the AOP form or all partial forms have been accepted by VSU) or
 - The date a proceeding involving the child is initiated before a court.

[TFC § 160.307]



Completing the Rescission of AOP Form (VS-158)

- ▶ If use of the form is appropriate, complete the form using the requesting party's copy of the AOP form (if available). Conform the fields on the Rescission form to match the information on the AOP form.
 - As with the AOP form, the SSN, phone number or address of the party seeking to rescind may be withheld and marked as "Withheld by Request."
 - Inform the party seeking to withhold information that if VSU has a problem with the form as submitted and cannot reach him or her for a timely correction, the form may be rejected (necessitating a judicial action to challenge the AOP form).



Executing the Rescission of AOP Form

- Step 1:** Review with the rescinding party the information on the back of the form. Have the person initial the checklist to ensure the rescinding party fully understands the steps that must be taken, the costs that must be paid and the strict timelines involved.
- Step 2:** Obtain photo identification from the signatory; make a copy for your records. (You have some discretion to determine what is acceptable identification.)
- Step 3:** Allow the person to sign and date the form.
- Step 4:** Add your entity code.
- Step 5:** Make a copy for your records. Give the original to the rescinding party. You are not required to make all the copies the rescinding party may need to complete the filing.



Steps to Be Taken After Execution

- ▶ Note: as stated earlier, your obligation is to assist in the execution of the form.
 - You may, but are not required to, make the needed number of copies.
 - You may, but are not required to, mail the copies or obtain proof of mailing.
 - You may, but are not required to, file the proof of mailing and file the original form with VSU.
 - You may, but are not required to, pay Postal Service costs for mailing.
- ▶ Copying, mailing (including costs for mailing) and actually filing the original with VSU are the obligation of the rescinding party.



Challenging an AOP Form

TFC § 160.308

- ▶ If rescission is no longer an option, a party may challenge the AOP on the basis of:
 - fraud,
 - duress, or
 - material mistake of fact.
- ▶ A challenge **must** be brought before any order affecting the child has been issued.
- ▶ For AOP forms executed before Sept. 1, 2011, there is a four-year statute of limitations for challenges, and minors had an extended time to challenge. For AOP forms executed after Aug. 31, 2011, there is no longer a four-year statute of limitations for challenges and minors no longer have an extended time to challenge.



Challenging an AOP Form

- ▶ Entities certified to assist in the execution of AOP forms and Rescission of AOP forms have **no** obligation to assist with challenges.
- ▶ Interesting ethical implications could exist if one of the signatories you assisted in the execution of an AOP form asks you to represent him or her in a challenge.
- ▶ As the certified entity who guided the signatories in the execution of the form, it is possible you could be needed as a fact witness in the challenge proceeding.
 - While you may have no personal knowledge of facts that bear on a material mistake of fact, you should have observations that could negate a claim of fraud or duress in the execution.



Recordkeeping and Document Retention

For AOP forms (VS-159.1M) and Rescission of AOP forms (VS-158):

- ▶ It is recommended that your records created as a certified entity be maintained for a period of 20 years (majority plus two years).
- ▶ It is possible your testimony and records could be needed if ever there is a suit to challenge an AOP form.



Ordering Forms from VSU (VS-100)

- ▶ Original forms should be ordered from VSU using form VS-100.
 - [Requisition for Texas Vital Statistics Forms \(VS-100\)](#)



Other VSU Forms Your Clients May Need

- ▶ Your clients may need two acknowledgment of paternity-related forms:
 - Acknowledgment of Paternity Inquiry Request (VS-134.1)
 - Application for a New Birth Certificate Based on Parentage (VS-166)

- ▶ While the following two forms are not acknowledgment of paternity process-related, they are sometimes confused with the process.
 - Notice of Intent to Claim Paternity (VS-130)
 - Paternity Registry Inquiry Request (VS-134)



Acknowledgment Of Paternity Inquiry Request Form (VS-134.1)

Acknowledgment Of Paternity (AOP) Inquiry Request Form (VS-134.1)

- ▶ Copies of AOP forms and copies of Rescission of AOP forms are not official records of a successfully completed acknowledgment of paternity process. The original AOP form in the certified entity's records is not the official record of a successfully completed acknowledgment of paternity process.
- ▶ VSU-supplied certified copies of AOP forms that were faxed to VSU and accepted by VSU (and certified copies of Rescission of AOP forms that were mailed to VSU and accepted by VSU) are the official records of completed acknowledgments or rescissions.
- ▶ Use form VS-134.1 and pay the necessary fees to obtain certified copies.
 - If a pre-birth AOP form is involved, you must wait until the child is born.
 - If "partial" AOP forms are involved, you must wait until all are filed.



Application for a New Birth Certificate Based on Parentage (VS-166)

Application for a New Birth Certificate Based on Parentage (VS-166)

- ▶ The completed and filed AOP form or Rescission of AOP form will not automatically change the original birth certificate.
- ▶ The mother and father must use VSU form VS-166 and pay the necessary fees to have the birth certificate amended.
- ▶ Note: if a man who signed an AOP form as the father successfully rescinds or challenges that AOP, he will no longer be a parent.
 - The instructions to form VS-166 suggest he may only have his name removed if he has a court order, e.g., a challenge, but if he rescinds he will not have an order and might not be able to unilaterally amend the birth certificate.



Notice of Intent to Claim Paternity (VS-130)

Notice of Intent to Claim Paternity (VS-130)

- ▶ Do not confuse the Notice of Intent to Claim Paternity (VS-130) with the AOP form (VS-159.1M).
- ▶ The Notice of Intent to Claim Paternity is authorized under TFC sections 160.401-423.
 - Notice of Intent to Claim Paternity - Paternity Registry is available from VSU.
- ▶ This form does not establish paternity, but provides a mechanism for a man to be given notice of adoption or termination proceedings.



Paternity Registry Inquiry Request (VS-134)

Paternity Registry Inquiry Request (VS-134)

- ▶ Do not confuse the Paternity Registry Inquiry Request (VS-134) with the Request for a Certified Copy of an AOP form (VS-134.1).



OAG Contact Information

OAG Website

www.texasattorneygeneral.gov

(866) 255-2006, then follow the prompts



Difficult Acknowledgment Circumstances

- ▶ To prevent fraud, it is highly recommended that you only certify an AOP form or Rescission form for people who can personally appear before you. If one or more of the signatories cannot come to your location, you will probably be completing “partial” AOP forms. OAG Child Support Division offices across Texas have certified entities who will assist the other individuals in the completion of their partial AOP forms. Many counties have local registrars who will assist individuals as well.
- ▶ The OAG has specialized staff and unique resources in its central office in Austin to assist persons who are out of state, out of country or incarcerated. Contact them at (866) 255-2006.
- ▶ Please contact the OAG to discuss whether an AOP form should be attempted and/or any options for assistance.



Receiving your Certified Entity Code; Annual Recertification

- ▶ Upon successful completion of the certification examination, you will be sent a certified entity code and the dedicated fax number for submission of AOP forms.
- ▶ Each year after certification you should seek recertification.
- ▶ The OAG will attempt to reach you annually; however, it is your responsibility to monitor your certification status and to contact the OAG to begin recertification even if not contacted.



Certification Test Instructions

- ▶ You may take time now to review any or all of this course.
- ▶ Request the certification exam by email.
 - Compose an email to aop@texasattorneygeneral.gov.
 - Provide your full name, mailing address, preferred telephone and your State Bar card number.
- ▶ The exam will be sent to you by email and you will return the answers by email.
- ▶ The exam will be reviewed and you will be contacted within one business day with the results. A representative of the OAG may contact you to discuss any areas where the examination shows you had difficulty.



Suggestions

- ▶ If you have suggestions concerning this course, please contact the OAG at aop@texasattorneygeneral.gov.