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VOLUNTARY PATERNITY ACKNOWLEDGMENT: AN UPDATE OF STATE LAW

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In 1980, about 19 percent of all births involved unmarried parents. By 2005, 36 percent of babies were born outside marriage.¹ During this 25-year period, there have been dramatic changes in the norms surrounding family formation. Yet one thing remains true: Unless paternity is legally established, a child will be unable to obtain a number of rights and benefits available to marital children through their fathers. Among these are the rights to:

- Obtain cash and medical child support in the event the parents do not live together and the mother is the custodial parent
- Inherit through the father and other paternal relatives
- Qualify for health care coverage that might be available through the father's job or membership in a fraternal organization or union
- Access Social Security survivors or dependents benefits available if the father dies or becomes disabled
- Obtain military allotments, commissary privileges, and health care coverage if the father joins one of the military services
- Have an ongoing relationship with the father, including regular contact through a visitation order or joint legal custody
- Relate to the cluster of family members on the father's side—including grandparents, aunts, uncles, and cousins—whose kinship is also established through paternity establishment

One way to establish paternity is to file suit.² In such cases, genetic tests are ordered, and paternity is adjudicated based on the test results.³ Because this is a costly process, many

¹ Hamilton BE, Ventura SJ, Martin JA and Sutton PD. Preliminary births for 2004. Health E-Stats. Hyattsville, MD: National Center for Health Statistics. Released October 28, 2005. Available at www.cdc.gov/nchs/products/pubs/pubd/hestats/prelim_births/prelim_birthso4.htm.

² In order to obtain federal funding for their child support programs, states must enact a series of specific statutes. 42 USC§ 654(20)(2006). Among the specified laws are ones that allow both parents to file a paternity suit at least until the time of their child's eighteenth birthday. Id. §§ 6669(a)(5)(A) & (L). Because significant federal money is at stake, all states have chosen to adopt these laws.

³ Id. § 666(a)(5)(B)(i)(I). State law must require genetic testing in contested paternity cases whenever a party requests it and supports that request with a sworn statement establishing a reasonable possibility of the requisite sexual contact between the parties. In cases handled by the state's child support agency, the state must pay for the tests. It may recoup these costs from the father if paternity is established. Id. §666(a)(5)(B)(ii).

poor couples cannot use it. In addition, many who would willingly establish paternity are not comfortable with courts and the formal legal process. Fortunately, there is now an alternative way to establish paternity, available at little or no cost to most couples: the voluntary acknowledgment of paternity process.

Federal law sets out the parameters for this program.⁴ Basically, if the parents are in agreement, they can sign an acknowledgment form. Before they sign the form, the parents must be told the legal consequences of doing so.⁵ Once the document is signed, either parent may rescind it within 60 days,⁶ after which the signed acknowledgment can be challenged only in court and then only on the basis of fraud, duress, or material mistake of fact.⁷ Thus, no judicial order of paternity is issued: The acknowledgment itself is the legal finding of paternity and is entitled to full faith and credit in other states.⁸ Genetic tests might be offered to the parties before they sign the acknowledgment, but there is no federal requirement that this be done.⁹

The voluntary establishment process is now offered in all hospitals and birthing facilities around the country. It is also available at birth records agencies. At state option, other entities can offer the program: These include Head Start programs, WIC sites, health clinics, pediatrician's offices, and other places where children and their parents might be receiving care or services.¹⁰

By and large, the program has been hugely successful. Moreover, there have been very few challenges to paternities obtained through the voluntary acknowledgment process.¹¹ In addition, there is evidence that, in the event the parents do not remain together and child support is ordered, the father is much more likely to pay—and pay a higher amount—if paternity was established through the voluntary process.¹²

Nonetheless, there are some lingering issues. Among them are 1) the use of the acknowledgment process by minors; 2) the availability of a coherent process for rescission when one or both parents has a change of heart; 3) attacks on the acknowledgment—based on fraud, duress, or material mistake of fact—long after paternity has been acknowledged.

⁴ See note 4, *supra*.

⁵ Id. §666(a)(5)(C)(i).

⁶ Id. §666(a)(5)(D)(ii). The period is shortened if an administrative or legal proceeding relating to the child (including a support proceeding) is brought by one of the parents before the expiration of 60 days. In this case, the denying parent must raise the issue in that proceeding. Id. §666(a)(5)(D)(ii)(II).

⁷ Id. §666(a)(5)(D)(iii).

⁸ Id. §666(a)(5)(C)(iv).

⁹ Federal law does require that the acknowledgment form meet certain requirements. Id. §666(a)(5)(C)(iv). Action Transmittal 98-02 (January 23, 1998) sets forth those requirements. They include current name, Social Security number, and date of birth of the mother and the father; current full name, date of birth, and birthplace of the child; a brief explanation of the legal significance of the document; a statement that either parent can rescind within 60 days; a clear statement that the parents understand that signing is voluntary and what the rights, responsibilities, and consequences of signing are; and signature lines for the parents and witnesses/notaries.

¹⁰ Id. § 666(a)(5)(C)(3)(iii)(II).

¹¹ States are not required to keep statistics on the number of rescissions or revocations of acknowledgments. However, those who run the state programs report no more than a handful of cases each year. Some estimate that there are significant numbers of cases of “paternity fraud,” in which the wrong man is named the father, but the complaint mainly seems to arise in cases where paternity has been established in litigation in which there is a default judgment. See Ronald K. Henry, “The Innocent Third Party: Victims of Paternity Fraud,” 40 *Family Law Quarterly*, p. 59-71 (2006). The author has found no more than a dozen reported cases in the past decade in which the issue has come up. See Appendix A. There may, of course, be more unreported cases; but as a rough proxy the data suggests that there have been few real problems.

¹² See Patricia Brown, Steven Cook, Lynn Wimer, *Voluntary Paternity Acknowledgement*, Institute for Research on Poverty, University of Wisconsin-Madison, (2004).

The attached charts provide an overview of state laws in these three areas. There may also be state case law or administrative regulation relevant to these issues, so this compilation is by no means exhaustive. However, it will give the reader a starting place for analysis and should be particularly helpful to those dealing with paternity issues in interstate cases.

In brief, what the attached charts show is that:

- Thirty-one states do not have clearly articulated policies on whether minor parents can use the voluntary acknowledgment process. Of the 20 states that have addressed the issue, only two (Kentucky and Wisconsin) prohibit the use of the voluntary acknowledgment process in cases involving minors. The other 18 states allow minors to sign. However, four of these (New Hampshire, Tennessee, Utah, and Wyoming) require a parent or guardian to cosign (see Table 1 for details).
- Twenty states do not yet have a specific statutory process for rescinding paternity acknowledgments within the period allowed by statute.¹³ This is a serious problem, as it may mean that parents wishing to rescind in those states have no practical way of doing so. Of the states that have adopted a specific rescission process, 18 take an administrative approach, while 13 require the party wishing to rescind to go to court (see Table 2 for details).
- Several states that allow minors to sign acknowledgments have special provision for rescission. Typically, they allow the 60-day rescission period to run from the day the minor reaches the age of majority or becomes emancipated (see Table 1 for details).
- Each state has a process for challenging an acknowledgment based on fraud, duress, or material mistake of fact. Some states restrict the time period in which such challenges can be brought, while others allow challenges at any time. States also vary in their treatment of genetic test results: Some find that results which show that the acknowledged father is not the biological father are sufficient to show mistake of fact, while most take the more conventional approach to mistake of fact arguments (i.e., if genetic tests were offered and refused, then the mistake was discoverable at the time of signing; and the parties' failure to seek tests precludes them from raising the mistake at a later time (see Table 3 for details).

In short, while governed by federal law, the paternity acknowledgment process shows substantial state variation.

¹³Signatories to a voluntary acknowledgment of paternity must be given an opportunity to withdraw their consent during the 60-day period after the acknowledgment is signed or filed, unless an administrative or judicial proceeding involving the parent and child (e.g., a support or custody proceeding) is brought at an earlier time. In that case, the rescission must be sought during or in conjunction with that earlier proceeding.

TABLE 1

States with Laws Addressing the Ability of Minor Parents to Establish Their Child’s Paternity Through the Voluntary Acknowledgment Process

STATE	CITATION	DESCRIPTION
<i>California</i>	Cal. Family Code §7577	<p>Minor parents are allowed to sign a voluntary acknowledgment. However, a minor signatory can rescind the acknowledgment at any time up to 60 days after that parent reaches the age of 18 or becomes emancipated, whichever comes first.</p> <p>For that reason, the acknowledgment does not establish paternity until 60 days after both parents have reached age 18 or become emancipated, whichever occurs first. Before that, it creates a rebuttable presumption of paternity and is admissible as evidence in a civil paternity action. It is not, however, admissible in a criminal action for statutory rape.</p>
<i>Connecticut</i>	Conn. Gen. Stat. §46b-172	Minors may sign voluntary acknowledgments.
<i>Delaware</i>	Del. Code Ann. § 8-304(d)	Minors may sign voluntary acknowledgments.
<i>Florida</i>	Fla. Stat. §742.107	<p>Minors may sign voluntary acknowledgments.</p> <p>These acknowledgments may be used as evidence in a criminal investigation of statutory rape involving a girl who was younger than 16 when she was impregnated and a father who is 21 or older.</p>
<i>Illinois</i>	Ill. Comp. Stat. §§ 45/3.1 & 45/5(b)	<p>Minor parents may sign voluntary acknowledgments. However, a minor signatory can rescind the acknowledgment at any time up to six months after that parent reaches the age of majority or is emancipated.</p> <p>Parents are responsible for the support and maintenance of their children even if they are minors.</p>
<i>Kansas</i>	Kan. Stat. Ann. §38-1138(b)(1)	<p>Minor parents may sign voluntary acknowledgments. However, a minor signatory has up to one year after his/her 18th birthday to file a request with a court to vacate the acknowledgment. If the baby whose paternity was established by the acknowledgment is under one year of age, vacation is automatic. If the baby is over age one, the court must first consider that child’s best interest.</p>
<i>Kentucky</i>	Ky. Rev. Stat. Ann. § 213.046(3)	<p>Minor, unmarried parents may not be approached in the hospital about paternity establishment. Rather, paternity establishment must proceed under the state’s contested case statute.</p>

STATE	CITATION	DESCRIPTION
<i>Massachusetts</i>	Mass. Gen. Laws ch. 209, § 11(a)	Minor parents may sign voluntary acknowledgments.
<i>Minnesota</i>	Minn. Stat. § 257.75 (9)	Minor parents may sign voluntary acknowledgments. The acknowledgment creates a presumption of paternity.
<i>Montana</i>	Mont. Code Ann. §40-6-105 (2)	Minor parents may sign voluntary acknowledgments.
<i>New Hampshire</i>	N.H. Rev. Stat. Ann. §5-C:24(VII)	Minor parents may sign voluntary acknowledgments, but a parent or legal guardian must also sign the form for it to be valid.
<i>North Dakota</i>	N.D. Cent. Code §14-20-14(4)	Minor parents may sign voluntary acknowledgments.
<i>Ohio</i>	Ohio Rev. Code Ann. §3119.962	Minor parents may sign voluntary acknowledgments. Male minor parents may challenge the acknowledgment based on genetic test results on the same basis as Ohio law allows other male parents to raise such a challenge.
<i>Tennessee</i>	Tenn. Code Ann. § 68-3-305(b)(2)(B)(2002)	Minor parents may sign voluntary acknowledgments, but a parent or legal guardian must also sign the form for it to be valid.
<i>Texas</i>	Texas Family Code § §160.308(a) & 160.308(b)	Minor parents may sign voluntary acknowledgments. If a signatory is a minor, he/she can bring a direct challenge based on fraud, duress, or material mistake of fact as well as a collateral challenge to the acknowledgment, so long as he/she does so earlier than four years of his/her 18 th birthday or the date of his/her emancipation.
<i>Virginia</i>	Va. Code Ann. § 20-49-6	A male between the ages of 14 and 18 may admit paternity under oath before the court. The court may then order him to pay child support, and the order is enforceable as if he were an adult.
<i>Utah</i>	Utah code Ann. § 78-45g-302(2)	Minor parents may sign voluntary acknowledgments, but a parent or legal guardian must also sign the form for it to be valid.
<i>Washington</i>	Wash. Rev. Code §26.26.315	Minor parents may sign voluntary acknowledgments.
<i>Wisconsin</i>	Wis. Stat. § 767.805(1m)	Minor parents may not sign acknowledgments of paternity.
<i>Wyoming</i>	Wy. Stat. Ann. §14-2-604(d)	Minor parents are allowed to sign a voluntary acknowledgment if a legal guardian cosigns the acknowledgment.

TABLE 2
State Statutory Provisions Re Rescission of Voluntary Paternity Acknowledgments

<p style="text-align: center;">Alabama ALA.CODE §26-17-22</p>	<p>No process specified.</p>
<p style="text-align: center;">Alaska ALASKA STAT.§§18.50.165 &25.20.050</p>	<p>No process specified.</p>
<p style="text-align: center;">Arizona ARIZ. REV. STAT. ANN. §§ 25-812(H) AND (I) & §36-322(G)</p>	<p>The statute contemplates a rescission form, which must meet federal requirements and be filed with the Department of Economic Security. That Department will then mail a copy to the other parent and the Department of Health Services.</p>
<p style="text-align: center;">Arkansas ARK.CODE ANN.§9-10-115</p>	<p>The Division of Vital Records (DVR) of the Department of Health is to develop a rescission form. Any signatory may rescind the acknowledgment by filing that form with the DVR.</p>
<p style="text-align: center;">California CAL. FAMILY CODE §§ 7575-7577</p>	<p><u>Acknowledgments signed on or after January 1, 1997:</u> <i>Within 60 days</i>— rescission forms are to be developed by the Department of Child Support Services (DCSS) and made available at all child support and birth registry offices. Either parent may file a rescission form with DCSS within 60 days of the last signature being put on the form. The form must include a declaration that the other party was sent a copy of the rescission return receipt requested, and the return receipt must be attached.</p> <p><u>Acknowledgments signed on or before December 31, 1996</u> The acknowledgement creates a rebuttable presumption of paternity and may only be challenged based on genetic tests. The person wishing to challenge the acknowledgment must file a motion, supported by a sworn statement, stating the factual basis for requesting tests. The motion must be filed within three years of the date the last party signed the declaration.</p>
<p style="text-align: center;">Colorado COL. REV. STAT. ANN. §§ 19-4-105 to 19-4-107 & 25-2-112</p>	<p>No process specified.</p>
<p style="text-align: center;">Connecticut CONN. GEN. STAT. ANN. §46b-172</p>	<p>Rescission forms are to be developed by the Department of Public Health (DPH). Both acknowledgments and rescissions are filed in the DPH paternity registry. Either parent may rescind and must be told of the right to do so/where to file in the paternity acknowledgment document.</p>
<p style="text-align: center;">Delaware DEL. CODE ANN. Tit.13 §§ 8-307 & 309</p>	<p>A signatory may rescind an acknowledgment by commencing suit. Every signatory to the acknowledgment must be made a party. The suit is to be handled like any proceeding to adjudicate parentage. If paternity is disestablished, the court must order the Office of Vital Records to amend the child’s birth certificate accordingly.</p>

<p><i>District of Columbia</i> D.C.CODE ANN. §§ 16-909.01-16-909.03 &16-2342.01</p>	No process specified.
<p><i>Florida</i> FLA. STAT. ANN. §742.10</p>	No process specified.
<p><i>Georgia</i> GA.CODE ANN. §19-7-46.1</p>	No process specified.
<p><i>Hawaii</i> HAW. REV. STAT. ANN. §584-3.5 (a)</p>	No process specified.
<p><i>Idaho</i> IDAHO CODE §7-1106</p>	The Dept. of Human Services will develop rescission forms, and the Board of Health will develop rules and procedures. Either party may file a notarized statement of rescission with the Vital Statistics unit. The rescission is effective on filing. The Vital Statistics unit will notify the other party or parties by certified mail.
<p><i>Illinois</i> ILL.COMP.STAT §§45-5&6 and 535-12</p>	The Illinois Department of Public Aid (DPA) will develop rescission forms. They will be made available to institutions, county clerks, and state and local registrars' offices. Either parent may sign a witnessed rescission form and file it with the DPA. The rescission voids the acknowledgment and nullifies the presumption of paternity.
<p><i>Indiana</i> IND. CODE ANN. § 16-37-2-2.1</p>	Either parent can file an action in court to request genetic testing. The court shall set aside the paternity acknowledgment upon a showing from the tests that the man is not the biological father.
<p><i>Iowa</i> IOWA CODE ANN. §252A.3A(12)</p>	The Iowa Department of Public Health is to develop a standardized rescission form and an administrative process for rescission. The form must include the signature of a notary public attesting to the identity of the rescinding party. Either parent may rescind the acknowledgment by filing this form with the state registrar. Unless paternity has otherwise been established, upon receipt of the form the registrar is to remove the father's information from the birth certificate and send notice of the rescission to the non-rescinding parent at his/her last known address. If an acknowledgment has been rescinded, the registrar may not accept any subsequent acknowledgment of paternity signed by the same parties.
<p><i>Kansas</i> KAN. STAT.ANN. §38-1138</p>	Person wishing to rescind must file a request with the court. Unless the signatory was a minor, the request to rescind must be filed before the child is one year old. If the signatory is a minor, he/she has until one year from reaching the age of majority to file a request. If, at that point, the child is over age one, then the court must use a "best interests" test in deciding whether to grant the rescission.
<p><i>Kentucky</i> KY. REV. STAT. ANN. §213.046</p>	No process specified.
<p><i>Louisiana</i> LA. CIVIL CODE ARTICLES 203 and 206</p>	No process specified

<p>Maine ME. REV. STAT. ANN.tit..19A §1616</p>	No process specified.
<p>Maryland MD. CODE ANN. FAMILY LAW § 5-1028</p>	No process specified.
<p>Massachusetts MASS. GEN. LAWS ANN. Ch. 209C, §11</p>	A person seeking to rescind must file an action in the probate and family court of the county in which the child and one of the parents resides. If the child does not reside with a parent, then the action is filed where the child resides. Notice must be given to the other parent and, if the child receives public assistance or uses IVD services, then the court must notify the IVD agency. The court must order genetic tests and proceed to adjudicate paternity as in a contested case. If the court disestablishes paternity, it must instruct the registrar of vital records to amend the birth record of the child.
<p>Michigan MICH. COMP. LAWS ANN. §§722.1011</p>	No process specified.
<p>Minnesota MINN.STAT. ANN. §257.75(4)</p>	Either parent may revoke by filing a signed, notarized writing with the registrar of vital statistics. If a husband has joined the acknowledgment (to deny his paternity and allow the biological father to assert his paternity), he may also revoke in the same way. The state registrar will then forward a copy to the non-revoking parent and (if applicable) the joined husband.
<p>Mississippi MISS.CODE ANN. §93- 9-28</p>	No process specified.
<p>Missouri MO.REV. STAT. §193.215</p>	Either party may rescind the acknowledgment by filing a written request with the Bureau of Vital Records. The Bureau will file the rescission and mail a copy to the Division of Child Support Enforcement. However, the birth record cannot be changed unless the Bureau receives a court or administrative order requiring the change.
<p>Montana MONT. CODE ANN. §40-6-105(e)</p>	Any party may rescind by filing a notice with the Department of Public Health and Human Services. The notice of withdrawal must include an affidavit attesting that a copy of the notice was provided to any parent who signed the acknowledgment form.
<p>Nebraska NEB. REV. STAT.§43- 1409</p>	No process specified.
<p>Nevada NEV. STAT. ANN. §§ 126.053 & 440.287</p>	No process specified. However, if a rescission is filed, the state registrar cannot amend the birth certificate without a court order.

<p><i>New Hampshire</i> N.H. REV. STAT. ANN. §§5-C:28 &5-C:27</p>	<p>A signatory can rescind by filing a written notice with the town clerk of the city or town where the birth occurred. On receipt of the form, the town clerk will remove the father’s name from the child’s birth record and insert “not stated.” The clerk must also give a copy of the rescission to the other signatories, the child’s legal guardian, the Department of Health and Human Services, and the hospital (if the acknowledgment was signed in a hospital).</p> <p>The rescission form must be notarized and contain information about the child, including name, date of birth, place of birth, and Social Security number (if known). It must also contain similar information about the mother, her husband (if applicable), and the man who signed the acknowledgment. It must be signed and dated. Upon receipt, the town clerk must also sign and date the form.</p>
<p><i>New Jersey</i> N.J. STS. ANN. § 26:8-30</p>	<p>A signatory must bring a court action and allege fraud, duress, or material mistake of fact.</p>
<p><i>New Mexico</i> N.M. STAT. ANN. § 40-11-5(A)(5)</p>	<p>No process specified.</p>
<p><i>New York</i> N.Y.FAMILY COURT ACT §516-a. See also N.Y. SOCIAL SERVICES LAW §111-k(2)(a)</p>	<p>Either signatory can file a court action to vacate the acknowledgment. Upon receiving the challenge, the court must order genetic tests and determine paternity, as in any contested case. (It appears that the Social Services Law allows the court to decline to order testing if it makes a written finding that it is not in the child’s best interest based on res judicata or equitable estoppel.) If the court determines that the man is not the father, it must vacate the acknowledgment of paternity and provide a copy of its order to the birth records agency and the state’s putative father registry. If the mother is receiving services from the IVD agency, that agency must also receive a copy of the order.</p>
<p><i>North Carolina</i> N.C. GEN. STAT. §110-132</p>	<p>The challenger must ask the district court to order rescission. The court must include in the order specific findings that the challenge was timely and that all parties (including the IVD agency where appropriate) have been served. If rescission is ordered and the man is found not to be the biological father, then the clerk of the court must send a copy of the order to the Registrar of Vital Statistics. The Registrar must then remove the man’s name from the child’s birth certificate. If the man seeks rescission and then defaults or fails to present the issue, the trial court must find the man to be the biological father as a matter of law.</p>
<p><i>North Dakota</i> N.D. CENT. CODE § 14-19-10</p>	<p>A signatory may rescind an acknowledgment by commencing suit. Every signatory to the acknowledgment must be made a party. The suit is to be handled like any proceeding to adjudicate parentage. If paternity is disestablished, the court must order the Office of Vital Records to amend the child’s birth certificate accordingly.</p>

<p>Ohio OHIO REV.CODE ANN. §2151.232</p> <p>OHIO REV. CODE ANN. §311.27 & 311.38</p>	<p>Once an acknowledgment is filed, either parent may bring a support action in a court of competent jurisdiction. If such an action is brought within the rescission period, any party can raise non-paternity. If a party does so, the court must treat the action as a contested paternity case. The court must notify the child support agency. Once the child support agency receives this notice, the acknowledgment is considered rescinded.</p> <p>If support is not sought, then a signatory may, within 60 days of the latest signature on the acknowledgment, request an administrative hearing. The request must state that it is filed within the 60 day period and provide the name of the child support enforcement agency conducting genetic tests to determine whether there is a parent-child relationship. Timely filing must be verified. The hearing officer must determine whether a parent-child relationship exists. If it concludes that it does not, then it must notify the child support agency. On receipt of the order, the child support agency must rescind the acknowledgment.</p>
<p>Oklahoma OK. STAT. ANN. TITLE 10§ 70(B)</p>	<p>The Department of Human Services (DHS) is charged with developing a rescission form and making it available wherever paternity acknowledgment forms are available. The mother or acknowledging father may file the form with the State Registrar of Vital Statistics.</p>
<p>Oregon OR. STAT. ANN. §109.070(2)</p>	<p>No process specified.</p>
<p>*Pennsylvania Title 23 §5103(g)</p>	<p>No process specified.</p>
<p>Rhode Island R.I. Gen. Laws §15-8-3</p>	<p>No process specified.</p>
<p>South Carolina S.C. CODE ANN. §20-7-958</p>	<p>No process specified.</p>
<p>South Dakota S.D. CODIFIED LAWS § 25-8-59</p>	<p>Either party may bring an action in circuit court.</p>
<p>Tennessee TENN. CODE ANN.§§24-7-113(c)-(h)</p>	<p>The Registrar of Vital Statistics is to develop a rescission form containing a sworn statement refuting the paternity of the named father. Any signatory may complete and submit the form to the Office of Vital Records of the Department of Health. The Registrar may charge a filing fee but the fee can be waived if the parent files an affidavit of indigence. The Registrar will then send a copy of the rescission form to the other signatory.</p> <p>In any judicial or administrative hearing to which the signatory and the child are parties, the party seeking rescission may also file the form described above or ask for a declaration of rescission. In addition, if, at the hearing, there appears to be reasonable cause to believe that a signatory is or was unable to understand the effects of signing the acknowledgment, the presiding official must explain the effects, the right to rescind, and the right to request genetic tests. If a signatory requests rescission, the tribunal may order it and send a certified copy of its order to the Registrar of Vital Statistics.</p> <p>The rescission—whether by form or by order of the tribunal—does not preclude the initiation of a paternity action by either signatory. Upon receipt of the rescission (whether on the form or by order of a tribunal), the Registrar will make the appropriate amendments to the birth certificate. The statute also provides for amending the birth certificate when a paternity acknowledgment is rescinded.</p>

<p>Texas TEX. FAM. CODE §§160.307 to 160.309</p>	<p>A signatory wishing to rescind may commence a legal proceeding within 60 days of the effective date of the acknowledgment. Each signatory to the acknowledgment and any related denial must be made a party. The proceeding will be conducted in the same manner as a contested paternity case. At the end of the proceeding, the court must (if appropriate) order the Bureau of Vital Statistics to amend the child's birth certificate.</p>
<p>Utah UTAH CODE ANN. § § 78-45g-302 & 78-45g- 306</p>	<p>A declaration of paternity is effective on the date it is filed and entered into a database established by the Office of Vital Records. A signatory may rescind the declaration by timely filing a voluntary rescission document with the Vital Records Office, on a form prescribed by that office. The Office of Vital records will then inform the other signatories, at their last known addresses, by regular mail.</p>
<p>Vermont 15 VT. STAT. ANN. §307(f)</p>	<p>Either parent may rescind in a writing filed with the Department of Health.</p>
<p>Virginia VA. CODE ANN. §20- 49.1(B)(2)</p>	<p>No process specified.</p>
<p>Washington WASH. REV. CODE. ANN. §§26.26.330</p>	<p>A signatory may commence a court proceeding. All signatories must be joined as parties. The proceeding must be conducted like any contested paternity case. If paternity is disestablished, the court must order the registrar of Vital Statistics to amend the child's birth record.</p>
<p>West Virginia W. VA. CODE. ANN. § 16-5-10(5)</p>	<p>A parent wishing to rescind must file a verified complaint with the clerk of the circuit court in the county in which the child resides. The complaint must state the name of the child, the name of the other parent, the date of birth of the child, the date of the signing of the acknowledgment, and a statement that the parent wishes to rescind. The complaint must be served on the other parent and a hearing must be held within 60 days of service of process. If the complaint was timely filed, the court must order rescission. The circuit court clerk will send a copy of the order to the state Registrar of Vital Statistics by certified mail, so that the birth record may be corrected.</p>
<p>Wisconsin WIS. STAT. ANN. §69.15(3)(m)(a) & (b) and WIS. STAT. ANN. §767.805(2)</p>	<p><u>For acknowledgments signed and filed on or after April 1, 1998</u> The state Registrar of Vital Statistics will develop a rescission form. Either parent may file the form (along with a \$20 fee) with the Registrar. If the rescission is timely filed and the fee paid, the Registrar must prepare a new birth certificate omitting the father's name.</p>
<p>Wyoming WY. STAT. ANN. §14-2- 607</p>	<p>A signatory may rescind an acknowledgment by commencing suit. Every signatory to the acknowledgment must be made a party. The suit is to be handled like any proceeding to adjudicate parentage. If paternity is disestablished, the court must order the Office of Vital Records to amend the child's birth certificate accordingly.</p>

<p>Colorado COL. REV. STAT. ANN. § 19-4-105 to 19-4-107 and 25-2-112</p>	<p>Any interested party can bring an action within five years of the date of the child's birth for the purpose of determining the non-existence of the father-child relationship presumed under a voluntary acknowledgment.</p>
<p>Connecticut CONN. GEN. STAT. ANN. §46b-172</p>	<p>Challenge may be brought for fraud, duress, or material mistake of fact. However, paternity acknowledgments filed with the court between March 1, 1981 and July 1, 1997 are res judicata unless the person seeking review asked for a hearing within three years of the judgment. Acknowledgments signed prior to March 1, 1981 can be challenged only in the initial proceeding for support.</p>
<p>Delaware DEL. CODE ANN. TIT. 8-307</p>	<p>A signatory may commence a proceeding to challenge an acknowledgment within two years of the date the acknowledgment is filed with the Office of Vital Statistics. All signatories must be made parties to the proceeding. The proceeding will be conducted as if it were a proceeding to adjudicate parentage. If paternity is disestablished, the court must order the Office of Vital Statistics to amend the child's birth certificate.</p>
<p>District of Columbia D.C.CODE ANN. §§ 16- 909.01-16-909.03 & 16- 2342.01</p>	<p>No process specified.</p>
<p>Florida FLA. STAT. ANN. §742.10</p>	<p>Challenge must be filed in court. No other details provided.</p>
<p>Georgia GA.CODE ANN. §19-7- 46.1</p>	<p>No process specified.</p>
<p>Hawaii HAW. REV. STAT. ANN. §584-3.5 (a)</p>	<p>No process specified.</p>
<p>Idaho IDAHO CODE §7-1106</p>	<p>Challenge must be filed in court. No other details provided.</p>
<p>Illinois ILL.COMP.STAT 45-5&6 and 535-12(6)</p>	<p>Challenge must be filed in court, and the Rules of Civil Procedure apply. If an action is not filed, a signatory may nonetheless raise non-paternity as a defense in a paternity or support action.</p>
<p>Indiana IND. CODE ANN. § 16- 37-2-2.1</p>	<p>There must be a court action challenging the acknowledgment. If genetic tests are ordered, and they show non-paternity, the court must set aside the acknowledgment.</p>
<p>Iowa IOWA CODE ANN. § 600B.41A</p>	<p>The parents, the child, or their legal representative can file an action to disestablish paternity at any time before the child reaches the age of majority. The petition must make a plain statement of why the petitioner believes that the established father is not the biological father. The petition must be served on the other parent and on the IVD agency if they are providing enforcement services to the parent. A guardian must be appointed for the child. Genetic tests must be conducted. The petitioner must show fraud, duress or material mistake of fact. The court may dismiss the petition if it finds that 1) the established father wants to preserve his paternity and continue the parent-child relationship, 2) it is in the best interests of the child, and 3) the biological father is a party to the action and does not object to the</p>

	<p>termination of his rights. In this case, the court must enter an order establishing a parent-child relationship between the non-biological father and the child.</p> <p>There is also a provision for an established father who—on or before May 21, 1997—sought a finding of non-paternity but whose motion was denied, despite the fact that genetic tests showed he was not the biological father, to petition the court to terminate his parental rights and relieve him of any and all future support obligations. Upon notice to the other parent, the court must grant the petition.</p>
<p>Kansas KAN. STAT. ANN. §38-1138</p>	<p>A person wishing to revoke an acknowledgment must file with the court before the child is one year old.</p>
<p>Kentucky KY. REV. STAT. ANN. § 406.025</p>	<p>No process specified.</p>
<p>Louisiana LA. REV. STAT. §40:46</p>	<p>At any time a signatory can petition the court to void the acknowledgment based on fraud, duress, material mistake of fact or that the person is not the biological parent of the child.</p>
<p>Maine ME. REV. STAT. ANN. TIT.19-A-§1616</p>	<p>No process specified.</p>
<p>Maryland MD. CODE ANN. FAMILY LAW §5-1028</p>	<p>No process specified.</p>
<p>Massachusetts MASS. GEN. LAWS ANN. Ch. 209C, §11</p>	<p>Either parent may bring an action within one year to challenge the acknowledgment based on fraud, duress, or material mistake of fact.</p>
<p>Michigan MICH. COMP. LAWS ANN. §§722.1011</p>	<p>At any time, either in an existing action or in a new action, a signatory, the child, or the prosecuting attorney may file a claim for revocation of an acknowledgment of parentage. The claim must be supported by an affidavit signed by the claimant setting forth fact establishing mistake of fact, newly discovered evidence that could not have been found through due diligence, fraud, misrepresentation or misconduct, or duress. If the court finds the affidavit is sufficient, it may order genetic tests or take other appropriate action. The claimant has the burden of showing by clear and convincing evidence that the man is not the father and that, considering the equities of the situation, revocation is proper. If an order is issued, it must be sent to the state birth records registrar, who must vacate the acknowledgment and amend the birth certificate.</p>
<p>Minnesota MINN. STAT. ANN. §257.75</p>	<p>A signatory, the child or the state may bring an action to vacate the recognition. If a parent seeks revocation, he/she must file within one year of signing or within six months of obtaining genetic test results that indicate that the man who acknowledged paternity is not the biological father. A child must bring the action within the later of six months from obtaining genetic test results indicating that the man who signed is not the biological father or one year from reaching the age of majority. Fraud, duress, or material mistake of fact must be alleged. If the court finds that a prima facie case has been made, it must order genetic tests. The party seeking revocation must pay for such tests, and if that party fails to do so, the court must dismiss the action with prejudice. If the results establish that the man who signed is not the child's biological father, the court must vacate the acknowledgment.</p>

<p>Mississippi MISS.CODE ANN. §93-9-28</p>	No process specified.
<p>Missouri MO.REV. STAT. § 454.485.1</p>	No specific process. However, an administrative hearing officer cannot enter a finding of non-paternity where paternity has been acknowledged unless a court has voided the acknowledgment.
<p>Montana MONT. CODE ANN. §40-6-105(e)</p>	No process specified.
<p>Nebraska NEB. REV. STAT. §43-1409</p>	No process specified.
<p>Nevada NEV. STAT. ANN. §§ 126.053 & 440.287</p>	No process specified.
<p>New Hampshire N.H. REV. STAT. ANN. §§5-C:28</p>	A motion must be filed in a court of competent jurisdiction.
<p>New Jersey N.J. STAT. ANN. § 26:8-30</p>	No process specified. No statutory provision.
<p>New Mexico N.M. STAT. ANN. § § 24-14-13 & 40-11-5(A)(5)</p>	No process specified.
<p>New York N.Y.FAMILY COURT ACT §516-a. See also N.Y. SOCIAL SERVICES LAW §111-k(2)(a)</p>	A signatory can challenge the acknowledgment in court action based on fraud, duress, or material mistake of fact. Upon receiving the challenge, the court must order genetic tests and determine paternity as in any contested case. (It appears that the Social Services Law allows the court to decline to order testing if it makes a written finding that it is not in the child's best interest based on res judicata or equitable estoppel.) If the court determines that the man is not the father, it must vacate the acknowledgment of paternity and provide a copy of its order to the birth records agency and the state's putative father registry. If the mother is receiving services from the IVD agency, that agency must also receive a copy of the order.
<p>North Carolina N.C. GEN. STAT. §110-132</p>	The acknowledgment can be challenged in court based on fraud, duress, mistake, or excusable neglect.
<p>North Dakota N.D. CENT. CODE § 14-20-10</p>	A signatory can petition the district court to vacate the acknowledgment--based on fraud, duress, or material mistake of fact--up to one year after the acknowledgment is filed with the Department of Health. All signatories must be made parties to the proceeding. The proceeding will be conducted as if it were a proceeding to adjudicate parentage. If paternity is disestablished, the court must order the Department of Health to amend the child's birth certificate.

<p>Ohio OHIO REV. CODE ANN.§ 311.28</p>	<p>A man presumed to be the father but who did not sign the acknowledgment, a signatory or a guardian of the child may bring a legal action to rescind no later than one year after the acknowledgment becomes final.</p>
<p>Oklahoma OK. STAT. ANN. TITLE 10§ 70(B) &(C)</p>	<p>A signatory may go to court and seek to overturn the acknowledgment based on fraud, duress, or material mistake of fact. Upon notice from DHS, Vital Records will remove the father’s name from the birth certificate.</p>
<p>Oregon OR. STAT. ANN. §109.070(2)</p>	<p>Within one year of filing the acknowledgment, either party may challenge it. Thereafter, a challenge may be available only on the basis of fraud, duress, or material mistake of fact. If the challenge is filed within one year, either parent or the IVD agency (if they are involved in the case) may move for genetic tests. If the tests exclude the man, then either party or the IVD agency may apply for an order of non-paternity. If the order is granted, the applicant must send a certified copy of the order to the State Registrar of the Center for Health Statistics and to the Department of Justice as the state disbursement unit. Upon receipt of a judgment of non-paternity, the state registrar must correct any records maintained by the state registrar that indicate that the male party is the parent of the child.</p>
<p>Pennsylvania Title 23 §5103(g)</p>	<p>No process specified.</p>
<p>Rhode Island R.I. Gen. Laws §15-8-3</p>	<p>No process specified.</p>
<p>South Carolina S.C. CODE ANN. §20-7-958</p>	<p>No process specified.</p>
<p>South Dakota S.D. CODIFIED LAWS § 25-8-59</p>	<p>Either party may bring an action in circuit court based on fraud, duress, or material mistake of fact. The action must be commenced within three years of creation of the presumption (date of signing).</p>
<p>Tennessee TENN. CODE ANN.§§24-7-113(c)-(h) TENN.CODE ANN. §68-3-203(H)</p>	<p>The acknowledgment may be challenged in court within five years of the date of execution of the acknowledgment for intrinsic or extrinsic fraud, duress, or material mistake of fact. (The five-year limitation may be waived if there was fraud in the procurement of the acknowledgment by the mother or if the relief will not affect the interests of the child, the state, or the child support agency.) The court must first find that there has been such fraud/duress/mistake; only then may genetic tests be ordered. If the test results refute paternity, the court must rescind the acknowledgment and dismiss any support action. Thereafter, no further action may be initiated against the excluded person. The clerk of the court will send a certified copy of the rescission order to the Registrar of Vital records, who will make the appropriate changes in the birth record.</p> <p>If the test results show a probability of paternity of 95% or higher, a trial will be held. If they show a probability of paternity of 99% or higher, paternity is conclusively presumed and a paternity order will be entered. If paternity is disestablished, then the court will order an amendment to the birth records.</p>

<p>Texas TEX. FAM. CODE §§160.308 & 160.309</p>	<p>After the rescission period but before the fourth anniversary of the date of filing with the Bureau of Vital Statistics, any signatory may commence an action to challenge the acknowledgment based on fraud, duress, or material mistake of fact. After four years, any collateral attack on the acknowledgment is also precluded. A “material mistake of fact” is defined to include genetic evidence that does not rebuttably identify the man named as the biological father of the child.</p> <p>In either proceeding, each signatory to the acknowledgment and any related denial must be made a party. The proceeding will be conducted in the same manner as a contested paternity case. At the end of the proceeding, the court must (if appropriate) order the Bureau of Vital Statistics to amend the child’s birth certificate.</p>
<p>Utah UTAH CODE ANN.§§ 78-45g-307 &308</p>	<p>After the period for rescission has passed, a signatory may at any time bring an action challenging the acknowledgment on the basis of fraud or duress. A signatory may also bring an action based on material mistake of fact, but this action must be brought within four years after the acknowledgment was filed with the Office of Vital Records. (If the declaration was filed prior to May 1, 2005, a challenge based on material mistake of fact may be filed by April 30, 2009.) Material mistake of fact is defined to include genetic test results showing that the declaring father is not the biological father and results that identify another man as the biological father.</p> <p>All signatories must be made parties to the proceeding. The proceeding will be conducted as if it were a proceeding to adjudicate parentage. If paternity is disestablished, the court must order the Office of Vital Records to amend the child’s birth certificate.</p>
<p>Vermont 15 VT. STAT. ANN. §307(f)</p>	<p>A challenge may be filed under Rule 60 of the Vermont Rules of Civil Procedure.</p>
<p>Virginia VA. CODE ANN.§20- 49.10</p>	<p>An individual may move to set aside a legal judgment of paternity (presumably including an acknowledgment that has the legal effect of a judgment under Va. Code Ann. §20-49.1) if genetic test establish that the individual named as the father is not the biological father. In such a suit, the court must appoint a guardian ad litem to represent the interests of the child. If paternity is disestablished, the court must order the completion of a new birth record for the child.</p>
<p>Washington WASH. REV. CODE. ANN. §§26.26.335</p>	<p>A signatory may commence a court proceeding within two years of the filing of the acknowledgment with the state Registrar of Vital Statistics on the basis of fraud, duress or material mistake of fact. All signatories must be joined as parties. The proceeding must be conducted like any contested paternity case. If paternity is disestablished, the court must order the registrar of Vital Statistics to amend the child’s birth record.</p>
<p>West Virginia W. VA. CODE. ANN.§ 16-5-10(5)</p>	<p>A parent wishing to rescind must file a verified complaint with the clerk of the circuit court in the county in which the child resides. The complaint must state the name of the child, the name of the other parent, the date of birth of the child, the date of the signing of the acknowledgment, and a statement that the parent wishes to rescind. This complaint must also contain specific allegations of fraud, duress, or material mistake of fact. In order to grant rescission, the court must find by clear and convincing evidence that the acknowledgment was entered into under circumstances of fraud, duress, or material mistake of fact. If the acknowledgment is rescinded, the clerk of the court will send a certified copy of the order to the Registrar of Vital Statistics so the birth record can be amended.</p>

<p>Wisconsin WIS.STAT.ANN. § 767.805(5)</p>	<p><u>For acknowledgments Signed and Filed on or after April 1, 1998</u> Either parent may seek to revoke the acknowledgment by motion or petition stating facts that show fraud, duress, or material mistake of fact. If the court determines that the father is not the biological father, the court or the child support agency (in an IVD case) must notify the Registrar to remove the man’s name from the birth certificate. No paternity action may thereafter be brought against the man with respect to the child.</p>
<p>Wyoming WY. STAT. ANN. §14-2- 608 & 14-2-609</p>	<p>Either party can petition the district court to vacate the acknowledgment based on fraud, duress, or material mistake of fact within two years of the time the acknowledgment is filed with the Office of Vital Records. All signatories must be made parties to the proceeding. The proceeding will be conducted as if it were a proceeding to adjudicate parentage. If paternity is disestablished, the court must order the Office of Vital Records to amend the child’s birth certificate.</p>