

## **PUTATIVE FATHER PROTOCOL**

1. It is critical that information on the father is collected as soon as a child comes into foster care. Efforts should be made to contact the father to let him know the child is in foster care.
2. If a father is a “consent father,” DSS has the same duty to make diligent efforts toward the father as it does toward the mother. The father should be asked what level of involvement he wants in the reunification plan and whether he can be a resource for temporary or permanent placement. He should be told of his duty to maintain contact with the child and plan for the child’s future. He may also be able to name his relatives who may be able to be a resource for the child.
3. If a father is a “notice father,” he should be given notice of all proceedings, particularly a proceeding for approval of a voluntary placement agreement. (Under the statute, a notice father who is given notice of a hearing to approve the voluntary placement and does not appear loses all rights to notice of further proceedings.) Since a “notice father,” could become a “consent father” while the child is in foster care, he should be asked what level of involvement he wants in the reunification plan and evaluated as a resource for temporary or permanent placement.
4. If the father has not established any rights, the caseworker should give him information about how he can file to have his paternity established. DSS is not required to set up visitation with a father who does not have a paternity order. If the man denies paternity, the caseworker after discussion with an attorney may send him a “denial of paternity” form. Referral of fathers to Child Support Enforcement should be routinely done as part of a reunification plan with the mother to help supplement her financial resources to care for the child.
5. If no man is identified as the child’s father, the caseworker should attempt to find out who the child’s father might be by questioning the mother, looking at the birth certificate, contacting Child Support Enforcement, checking other records that might name the father including WMS and the Putative Father Registry, and talking to other individuals who might be able to name the father.
6. If the named father or an unknown father cannot be found, this search should be documented in the case record. This search should be made when the child comes into care when the care is transferred to the foster care unit, and when a termination petition is filed or a surrender accepted. If the father’s whereabouts cannot be determined when the termination petition is to be filed, the caseworker or attorney should draft an affidavit documenting the search and a motion for service by publication to be filed with the petition.
7. When a mother is willing to sign a surrender, information should be collected to determine the status of the father. The mother should fill out a checklist on the father as part of the petition of intent to sign surrender for the family court.
8. When a termination petition is filed, the status of the father should be stated as an allegation in the mother’s termination petition. If the man is a “consent father,” he should be approached about signing a surrender. If not, a termination petition should be filed against him. Notice fathers should be served with the mother’s petition with a notice that complies with the statutory requirements of Social Services Law 384-c and Domestic Relations Law 111-a. If a father does not have the right to consent or notice, DSS should request that the judge make such a factual find in its termination order.

### **ABA CENTER ON CHILDREN AND THE LAW**

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