

✧THE DISESTABLISHMENT PROCESS✧

The specific legal steps to disestablish paternity/legitimation are—

1. Voluntary rescission - If the father signed a Paternity Acknowledgment Form, he may rescind that acknowledgment within 60 days of signing it, unless an order has already been entered establishing paternity. This action will remove the father from the Putative Father Registry, but a court order is required to remove the father's name from the birth certificate and change the child's last name. Where the Paternity Acknowledgment Form is timely rescinded and includes the Acknowledgment of Legitimation, the legitimation shall also be deemed rescinded. O.C.G.A. §19-7-21.1.
2. Challenging a paternity acknowledgment after 60 days, but prior to the entry of an order – After the 60 day rescission period specified by law, the paternity acknowledgment may be challenged in court but only on the basis of fraud, duress, or material mistake of fact, with the burden of proof on the person challenging the acknowledgment. The legal responsibility of any signatory, including child support obligations, arising from the acknowledgment may not be suspended during the challenge, except for good cause shown. O.C.G.A. §19-7-46.1(c).
3. Motion to set aside – A motion to set aside a determination of paternity may be filed in superior court at any time upon the grounds set forth in O.C.G.A. §19-7-54. The motion must have attached two essential pieces of proof to show that the person ordered to pay support cannot be the biological father: (a) an affidavit showing newly discovered evidence about paternity; and (b) results of a paternity genetic test conducted within 90 days before the motion is filed. *Filing the motion, itself, will not necessarily result in disestablishment.*
4. Extraordinary motion for new trial - This motion can be filed at any time. The person who files it has to prove the following: (a) when the evidence of non-paternity came to his attention, he acted with appropriate speed to investigate it; (b) he was unaware of the non-paternity before the order was issued; and (c) he could not have known about his non-paternity even if he had acted carefully and reasonably. *Filing the motion, itself, will not necessarily result in disestablishment.*