

**INFORMATION SHEET FOR COMPLETING
NOTICE OF MOTION TO SET ASIDE JUDGMENT OF PATERNITY (FORMS FL-272 AND FL-273)**

**NOTICE
YOU MUST CONTINUE PAYING SUPPORT WHILE THIS ACTION IS PENDING.**

Use forms FL-272, *Notice of Motion to Set Aside Judgment of Paternity*, and FL-273, *Declaration in Support of Motion to Set Aside Judgment of Paternity*, to set aside (vacate) an existing paternity judgment. If there is also a corresponding voluntary declaration of paternity, this motion may also be used to set aside the voluntary declaration of paternity. The voluntary declaration of paternity and/or judgment of paternity may be set aside only if the previously established father is determined by genetic testing not to be the biological father of the child. (Even if the motion can be brought as described below, there may be other grounds to set aside the paternity judgment or other related relief may be available. You may wish to consult with an attorney or the family law facilitator.) In addition to this motion, you may file a separate motion to modify child support and set arrears. For information on changing the support order, see the *Information Sheet on Changing a Child Support Order* on pages 3-5 of form FL-192.

The following persons may bring this motion:

- A previously established mother;
- A previously established father;
- A child;
- A legal representative of any of the above persons; or
- A Local Child Support Agency (LCSA).

This motion must be brought within the following time frames:

- (1) Within a two-year period commencing with the date:
 - (a) on which the previously established father knew or should have known of a judgment that established him as the father of the child (for example, the date a wage garnishment was served), or
 - (b) on which the previously established father knew or should have known of the existence of an action to adjudicate the issue of paternity (for example, the date of service of a summons),

whichever is first, except as provided in paragraph (2) or (3) below.

- (2) Within a two-year period commencing with the date of the child's birth if paternity was established by a voluntary declaration of paternity.
- (3) In the case of any previously established father who is the legal father as a result of a default judgment as of January 1, 2005, within a two-year period after the enactment of Assembly Bill 252.

This motion *may not* be brought if any of the following conditions apply:

The paternity judgment resulted from a marital dissolution, legal separation, or nullity action.

The marital presumption contained in Family Code section 7540 applies.

There is a voluntary declaration of paternity, and there is no basis to set aside the voluntary declaration of paternity.

There is another California judgment of paternity in a different case for the same previously established father and child, unless both paternity judgments qualify for this motion and you filed a motion in each case.

The paternity judgment was not issued in California.

The paternity judgment is based on genetic tests that were conducted before the judgment and that indicated the previously established father is the biological father of the child.

The judgment is based on an adoption.

The child was conceived by artificial insemination, and the judgment is based on Family Code section 7613.

The child was conceived under a surrogacy agreement.

The completed motion and a blank *Response to Notice of Motion to Set Aside Judgment of Paternity* (form FL-276) must be served on the following, if applicable:

- A previously established mother;
- A previously established father;
- The child's guardian ad litem, if any; and
- The Local Child Support Agency (LCSA) if it is providing services.

GENETIC TESTING

In most cases, genetic tests will be required. If the LCSA is providing services, the LCSA will pay for and coordinate the genetic testing.

If you receive an administrative order for genetic testing from the LCSA, you may file a motion with the court seeking relief from the LCSA genetic testing order. However, the court may order participation in genetic testing.

If any person refuses to submit to genetic testing after receipt of the LCSA order for genetic testing, or fails to seek relief from the court before the scheduled test date or within 10 days after the scheduled test date, the court may resolve the question of paternity against that person or enforce the LCSA order if the rights of others or the interest of justice so require.

The moving party is not required to present evidence of a paternity test indicating that the previously established father is not the biological father of the child in order to bring this motion.

ADDITIONAL INFORMATION

An adult child may be included when completing forms FL-272 and FL-273.

A guardian ad litem may be appointed by the court to represent the best interest of the child.

If the previously established father is found not to be the biological father of the child, then the court may still deny this motion if it determines it is in the best interest of the child to do so.

If the court grants this motion to set aside the paternity judgment, the previously established father has no right of reimbursement of any support paid before the granting of the motion.

To obtain information about or a copy of a declaration of paternity in your case, contact:

California Department of Child Support Services—POP Unit, at:

P.O. Box 419064

Rancho Cordova, CA 95741-9064

Telephone (toll-free): 866-249-0773

Your Local Child Support Agency (LCSA)

A family law facilitator

If you need additional assistance with these forms, contact an attorney or the court's family law facilitator.