Ohio Administrative Code

Rule 5101:12-40-17 Rescinding an acknowledgment of paternity.
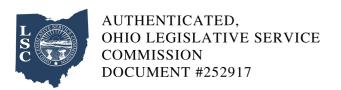
Effective: November 15, 2019

(A) The administrative process to rescind a JFS 07038, "Acknowledgment of Paternity Affidavit" (effective or revised effective date as identified in rule 5101:12-1-99 of the Administrative Code), shall be initiated at the child support enforcement agency (CSEA) in accordance with this rule. An acknowledgment is considered rescinded when an order is issued determining the existence or non-existence of a parent child relationship, in accordance with section 3111.27 of the Revised Code, and this rule.

(B) In accordance with section 3111.38 of the Revised Code, the CSEA in the county in which the child resides or in which the guardian or legal custodian of the child resides shall determine the existence or non-existence of a father and child relationship between an alleged father and the child when a IV-D application as described in paragraph (A) of rule 5101:12-10-01.1 of the Administrative Code or a IV-D referral as described in paragraph (B) of rule 5101:12-10-01.1 of the Administrative Code has been completed and filed with the CSEA.

(C) In accordance with section 3111.27 of the Revised Code and except as provided in section 2151.232 or 3111.821 of the Revised Code, one of the persons who signed a JFS 07038 that has been filed with the central paternity registry (CPR) may initiate an action to rescind the JFS 07038 not later than sixty days after the date of the latest signature on the JFS 07038.

(1) To initiate the process to rescind the JFS 07038, the person requesting the rescission must do both of the following:

(a) Request that the CSEA make an administrative determination of the existence or non-existence of a father and child relationship by completing the administrative determination process as described in rules 5101:12-40-20 to 5101:12-40-20.2 of the Administrative Code, between the man who signed the JFS 07038 and the child who is the subject of it; and

(b) Complete a JFS 07029, "Request for Paternity Determination and Notification to Central Paternity

Registry" (effective or revised effective date as identified in rule 5101:12-40-99 of the Administrative Code).

(2) The CSEA that receives the JFS 07029 shall:

(a) Submit the JFS 07029 to the CPR within three business days of receipt;

(b) Proceed with determining the existence or non-existence of a father and child relationship; and

(c) Issue an order in accordance with rule 5101:12-40-20 of the Administrative Code and its supplemental rules determining the existence or non-existence of a father and child relationship between the man that signed the acknowledgment and the child.

(3) When one of the parties fails to submit to genetic testing resulting in the issuance of an administrative order stating that it is inconclusive whether the alleged father is the natural father of the child, the CSEA shall:

(a) In accordance with section 3111.54 of the Revised Code, request the court with jurisdiction in the county in which the CSEA is located to find the person in contempt pursuant to section 2705.02 of the Revised Code, or

(b) In accordance with section 3111.04 of the Revised Code, request the court make a determination in establishing the existence or non-existence of a father and child relationship.

(D) In accordance with section 3111.821 of the Revised Code, if a person who has made a request pursuant to section 3111.78 of the Revised Code to establish support based on a presumption arising from the completion of a JFS 07038 that has not become final raises the issue of the existence or non-existence of a father and child relationship the CSEA shall follow procedures for a request to rescind as described in paragraph (A) of rule 5101:12-45-05.2 of the Administrative Code. The person raising the issue of the existence or non-existence of a father and child relationship shall follow the administrative process to rescind the JFS 07038 as described in paragraph (C) of this rule.

(E) The following judicial actions to rescind a JFS 07038 may be brought by one of the persons

specified in paragraph (C) of this rule. The CSEA shall not initiate these judicial actions to rescind a JFS 07038.

(1) In accordance with section 3111.28 of the Revised Code, no later than one year after the JFS 07038 becomes final, a man presumed to be the father of the child pursuant to section 3111.03 of the Revised Code who did not sign the JFS 07038, either person who signed the JFS 07038, or a guardian or legal custodian of the child may bring an action to rescind the acknowledgment on the basis of fraud, duress, or material mistake of fact. The action may be brought in a juvenile court or the domestic relations division of the court of common pleas that has jurisdiction in the county in which the child, the guardian or custodian of the child, or either person who signed the acknowledgment resides.

(2) In accordance with section 3119.961 of the Revised Code, a person may file a motion for relief from a JFS 07038 that determines that the person or male minor referred to in division (B) of section 3109.19 of the Revised Code is the father of a child. The person is required to file the motion in the juvenile court or other court with jurisdiction of the county in which the person or the child who is the subject of the JFS 07038 resides.