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Relief From Legal Paternity (Daddy No More)

In years past, once a court said that you were the father of a child that was usually the end of the discussion even if with the advent of DNA testing it was determined that you were not. Finally, in 2001, legislation was enacted to grant relief from determinations of paternity. VA Code Section 20-49

1

What May Be Set Aside

Any final judgment, court order, administrative order, obligation to pay child support or any legal determination of paternity.

2

How Is It Done

It is done by the filing of a petition for relief. A request is made for genetic testing. The petitioner pays the costs of the test. The court appoints a guardian ad litem for the child.

3

What Can The Court Do

If a "scientifically reliable genetic test" establishes the exclusion of the petitioner as a father, the court will set aside the determination of paternity. The court will order a new birth record and also can set aside an obligation to pay child support.

4

What The Court Can't Do

The court cannot retroactively modify a child support order, but can modify it for any period that there was a pending petition for relief from determination of paternity, but only from the date that notice was served on the nonfiling party. The court cannot grant relief if the individual named as the father (i) acknowledged paternity knowing that he was not the father, (ii) adopted the child, or (iii) knew that the child was conceived through artificial insemination.

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