



NYS Kinship Navigator

PROVING BLOOD RELATIONSHIP TO A CHILD

Sometimes, grandparents and other relatives, particularly on the father's side of the family, face situations where they must prove that they are related to children. Proof of blood relationship is absolutely necessary for grandparents seeking visitation and it is certainly a factor in deciding custody, guardianship and adoption. To prove blood relationship, New York has a special procedure, Family Court Act Section 522 (FCA 522).

GRANDPARENTS AND RELATIVES HAVE STATUTORY RIGHT TO DETERMINATION OF GRANDCHILD'S PATERNITY

Where grandparents' standing to pursue visitation rights under Domestic Relations Law Section 72 (DRL 72) is challenged on the question of their blood relationship to the child. They may need to prove that their son is the father of the child. Under FCA 522, they have right to commence and maintain a paternity suit, even despite opposition from adoptive parents.

In fact, if there is real need to establish blood relations, any blood relative has this right to use FCA 522 to prove it.

GRANDPARENTS OR RELATIVES HAVE RIGHT TO CONTINUE PATERNITY SUIT EVEN WHEN FATHER BECOMES UNAVAILABLE

This right may be exercised even when the alleged (putative) father has died, or become incapacitated, or has left the state before paternity has been determined. A paternity suit may not be stopped (abated) by the unavailability of the putative father, and may be commenced and maintained by a child's relatives including grandparents. For instance, a sister in *James J. v. Valerie M.*, 98 Misc.2d 785, 414 N.Y.S.2d 657, a maternal grandmother in *Sondra S v. Jay O*, 126 Misc.2d 322, 482 N.Y.S.2d 660.

CHILDREN HAVE AN ENFORCEABLE RIGHT TO HAVE PATERNITY DETERMINED

Children too have the right to find out who is their father, even when they've been adopted. "It is now agreed that '(t)he law does not and should not look with favor upon suspending the question of parentage of a child in limbo.'" *ABC v. XYZ*, 50 Misc.2d 792, 796-797, 271 N.Y.S.2d 781, 785 (Fam.Ct.1966). The reasoning is that the child has his own immutable rights that survive the adoption process as a consequence of bloodlines, even if adoptive parents object. In *Sondra S v. Jay O*, 126 Misc.2d 322, 482 N.Y.S.2d 660, (Fam.Ct., 1984), the court held that the child has a right to establish his paternity for a range of reason in addition to inheritance. Such reasons could also include: right to

recover benefits under Workers' Compensation Law, Veteran's Benefits Act, and Social Security Act, right to recover serviceman's life insurance policies and military allowance, right to notice in adoption proceedings and right to support by parents, custody or visitation and order of protection.

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