



# Pregnancy, Birth and IPV

LEGAL CONSIDERATIONS

# What we know

## REPRODUCTIVE

**320,000 pregnant women are abused in this country per year.**

## COERCION

**Nearly half of DV survivors report that their abusers limit their childbearing decisions.**

## STATISTICS

**Homicide is the second leading cause of traumatic death for pregnant women in the US.**



# Liability is your Responsibility

01

Know and understand the laws and how they impact survivors

- Protective/Restraining Orders
- Mandatory Reporting
- Child Custody
- Divorce/Separation
- Etc.

02

Discuss limits of confidentiality

- Indiana state laws
- Mandatory reporting when a child or vulnerable adult is involved
- Risks of reporting and measures to protect their safety
  - Retaliatory behaviors by the abuser

03

Understand your role

- Support the safety and autonomy of patients
- Safety screenings
- Medical forensic examination
  - Referral to a trained provider
- Safety planning
- Resources/referrals to community partners

▶ There is NO mandatory reporting requirement for health care providers OR the general public in when it comes to domestic violence?

▶ Why or why not?



Do You Know?

**Disclosures and reports of victimization can and will come when you least expect them. Be ready and know what to do.**

- In Indiana reporting domestic or intimate partner violence is not mandatory for individuals 18 years and older EXCEPT:
  - Vulnerable adults
  - Specific injuries or wounds such as gunshot wounds, stabbing/penetrative wound
  - Voluntarily report to law enforcement
- Minors 17 years and younger directly and/or indirectly exposed to DV/IPV is a mandatory report to DCS.  
**Reasonable suspicion by a provider, parent, or other adult is also a mandatory report.**
  - This is not a punitive measure for the non-offending parent, this is an opportunity to provide them with essential resources.
- Referrals and resources should be available for the community in which the patient lives (i.e. protective orders, transportation, emergency housing, advocacy, legal assistance, financial assistance, etc.).



# Best Practices: Safety Screenings

- **DO NOT SCREEN ANY PATIENT FOR MALTREATMENT, ABUSE, OR ASSAULT IN THE PRESENCE OF ANOTHER PERSON.** This includes spouse, partner, parent, guardian, friend, child, or other support person(s).
  - Take them out for vitals, weight, restroom, testing, etc.
  - Dismiss the accompanying person back to the waiting room
  - If it is a minor child that cannot be left alone, request assistance from another staff member.
- Routine screenings are often done without regard to who is in the room and this is when “misses” happen. Respect the patient’s right to privacy and understand the risk {to them} of asking.



Consider Unintended Consequences



# IC 31-14-13-1

## Sole legal custody in biological mother

**A biological mother of a child born out of wedlock has sole legal custody of the child**, except as provided in IC 16-37-2-2.1, and unless a statute or court order provides otherwise under the following:

- (1) IC 12-26 (involuntary commitment of a child).
- (2) IC 29-3 (guardianship and protective proceedings under the probate code).
- (3) IC 31-14 (custody of a child born outside of a marriage).
- (4) IC 31-34 (child in need of services).
- (5) IC 31-37 (delinquent child).
- (6) IC 35-46 (offenses against the family).
- (7) IC 35-50 (criminal sentences).
- (8) An order by a court that has jurisdiction over the child.



# Paternity Affidavits in Indiana

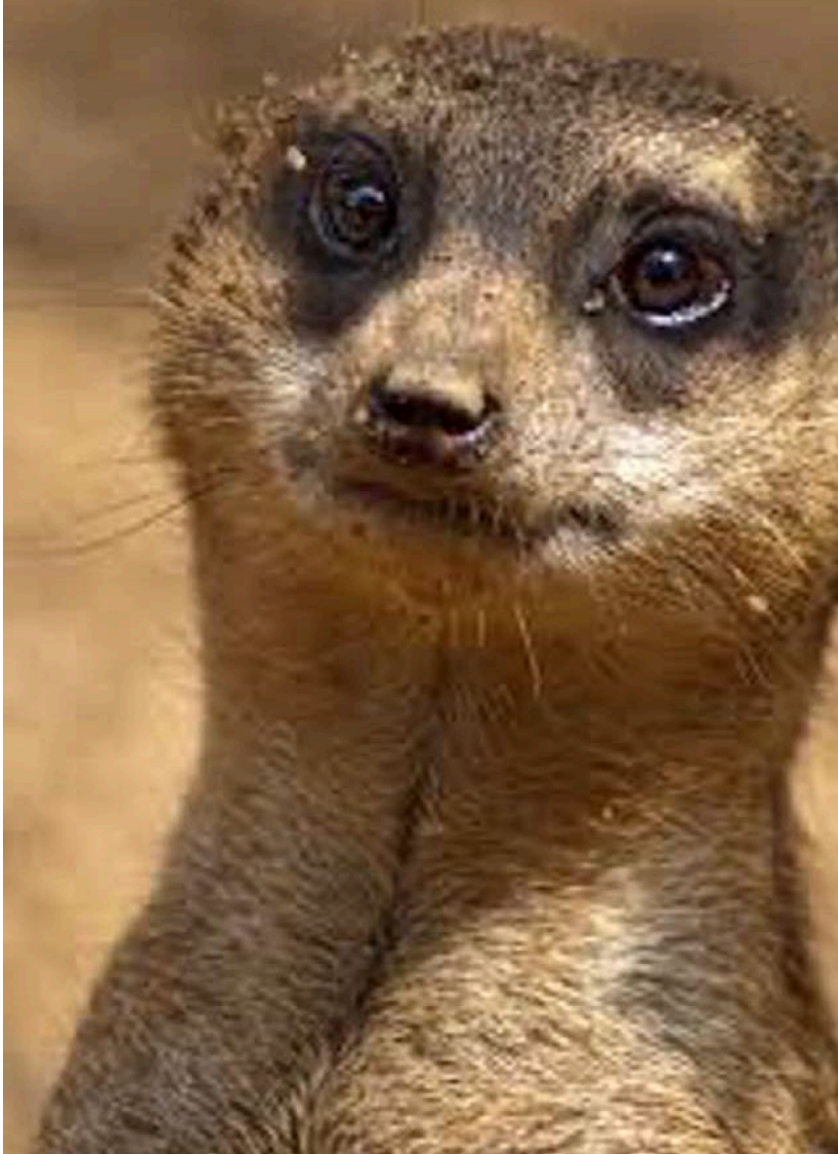
16-37-2-2



# 16-37-2-2.1 Paternity Affidavits

- ▶ Hospital
- ▶ Health Department
  
- ▶ Hospital personnel **MUST** provide the opportunity to
  - ▶ The child's mother
  - ▶ "A man who reasonably appears to be the child's biological father"
  
- ▶ And..they must "verbally explain to the individuals listed in subdivision (1) the legal effects of an executed paternity affidavit as described in subsection (i)."





# Uh. Really?

▶ Isn't that kind of like giving legal advice and information?

# 16-37-2-2.1(c) Affidavit



## PATERNITY AFFIDAVIT – HOSPITAL USE

State Form 44780 (R7 / 11-17)  
INDIANA STATE DEPARTMENT OF HEALTH

Statutory Authority IC 16-37-2  
Confidential: IC 16-37-1-10

Local Health Department Number	File Date (mm/dd/yyyy)	State File Number	PA Number
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Before I signed any section of this affidavit I was allowed to review it alone and without the presence of the person listed in Section B.  
Also, I was given the opportunity to consult with an adult of my choosing.

Signature of Mother

Before I signed any section of this affidavit I was allowed to review it alone and without the presence of the person listed in Section C.  
Also, I was given the opportunity to consult with an adult of my choosing.

Signature of Father

### SECTION A – ACKNOWLEDGEMENT OF PATERNITY

We, \_\_\_\_\_ and \_\_\_\_\_ have read and understand the  
*Father's full legal name* *Mother's full legal name*  
consequences, alternatives, rights and responsibilities regarding this affidavit and being duly sworn upon oath depose and say:

I, \_\_\_\_\_ am the biological father of \_\_\_\_\_, the Child referred to in  
*Father's full legal name* *Child's full name at birth – last name same as Mother*



## SECTION E – NOTICE OF CONSEQUENCES, ALTERNATIVES, RIGHTS AND RESPONSIBILITIES

By signing this affidavit, I acknowledge that I have read and understand all of the following:

1. **A man should NOT sign this form if he is not sure he is the biological father.** I may seek a genetic test before signing this form. Signing a Paternity Affidavit is voluntary. I may not be able to reverse paternity and the legal responsibilities of support associated with it, once I sign a Paternity Affidavit.
2. I may sign a Paternity Affidavit at the local Health Department at any time before the child's emancipation, as long as there is no father listed on the birth certificate.
3. A woman who knowingly or intentionally falsely names a man as the child's biological father commits a Class A misdemeanor.
4. I received both written and verbal information about the legal effects of signing a Paternity Affidavit.
5. Since this form has legal consequences, I may want to consult an attorney before signing.
6. This affidavit is void if signed more than seventy-two (72) hours after the birth of the child or if signed after the mother has executed a consent to adoption and a petition to adopt has been filed.
7. If I am the presumed father and do not establish paternity now, but want the right to notice and a hearing regarding any adoption of the child, I must register with the Indiana Putative Father Registry through the Indiana State Department of Health.
8. If the mother is receiving or plans to receive public assistance (TANF or Medicaid), she may be required to cooperate in establishing paternity and obtaining a support order or face losing those benefits.
9. If I do not sign a Paternity Affidavit and am unsure about the paternity of the child, I may contact the Prosecuting Attorney's office in my county for help establishing paternity. They will help arrange tests to establish paternity.
10. The custodial party may contact the Prosecuting Attorney's Office in their county for the child support services below through the IV-D program.
  - Establishing paternity
  - Finding the absent parent
  - Getting a court order for the payment of child support and medical support
  - Enforcing child support and medical support orders
11. The completion of this legal document establishes paternity with no further court action required and gives the mother or the IV-D agency the right to obtain a child support order requiring the father to pay support.
12. The father will have parenting time as outlined by the Indiana Parenting Time Guidelines, unless a court rules differently. See [www.in.gov/judiciary/rules/parenting](http://www.in.gov/judiciary/rules/parenting).
13. A man has the right to withdraw/rescind his acknowledgment of paternity only within sixty (60) days of the date the Paternity Affidavit is completed. To do so he must file an action in a court with jurisdiction over paternity and may need to submit to and pay for genetic testing per IC 16-37-2-2.1(k-l). After sixty (60) days the father may not be able to reverse paternity, even if genetic tests prove he is not the biological father.

# Presumptions

- ▶ Q: What if the parties marry after the baby is born? Is he presumed to be the legal father as if the child was born of the marriage?
- ▶ A: **Presumptions; child's biological father**  
**Sec. 1. A man is presumed to be a child's biological father if:**
  - (1) the:
    - (A) man and the child's biological mother are or have been married to each other; and
    - (B) child is born during the marriage or not later than **three hundred (300) days** after the marriage is terminated by death, annulment, or dissolution;

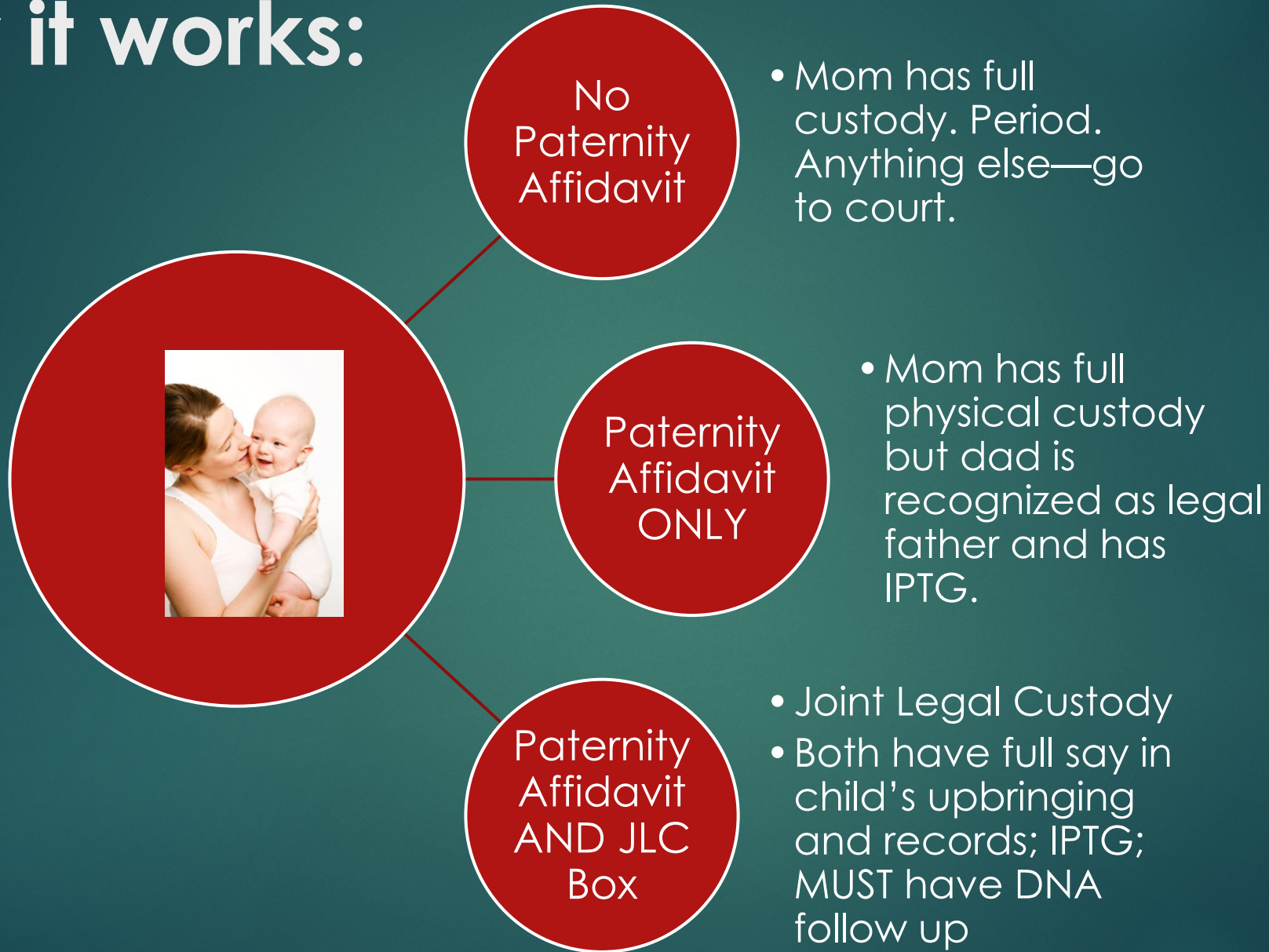


# Trauma Informed

## Paternity Cases:

- ▶ Remember your patient's best interest when working with pregnant survivors.
- ▶ Advocate for these mandates: chances are you may be the only one who knows them.

# How it works:





So...

What now?

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- ▶ Spread the word
- ▶ Share the information
- ▶ Consult with your legal folk
- ▶ Reach out to us---we are happy to help/train/etc.
- ▶ [www.icadvinc.org](http://www.icadvinc.org)