

## Legal Beat: Disproving a Paternity Claim

By Mathew B. TullyQ. An ex-girlfriend of mine is alleging that I am the father of her child. We haven't dated for almost a year and haven't talked since the breakup. I doubt that the child is mine. What can I do to ensure I don't get stuck paying for a kid that's not mine?

A. From the sound of it, your ex-girlfriend is seeking support and maintenance for her child either directly from you or in the form of assistance from the state. When there is no legal father already established (either on the birth certificate or being married at the time of the child's birth), she is required to identify the probable father. Once she has identified a probable father, the Division of Child Support will initiate child support proceedings against that father. These proceedings include establishing paternity and then establishing support. When it comes to paternity, you can either acknowledge it voluntarily or ask for a DNA test, which you will pay for if it's proven that you're the father. If you have any doubt as to whether you're the father, you absolutely need to have the DNA test performed; otherwise you will be ordered to pay support. If the DNA test comes back that you're not the father, there is nothing else to be done on your part. If it shows that you're the father, support will be established based on your income and other factors. Also, if paternity is established, make sure that you participate in the process establishing support to ensure that any support amount ordered is appropriate. If there is anything more complex than just looking at pay stubs, you will want to consult an attorney because there are a lot of financial considerations and factors that can go into determining support.Q. My husband and I have been talking about getting a divorce for the last month or two, but recently he has been very assertive and has handed me some long document called a "Marital Separation Agreement" to sign. Can you tell me what this is, and what I should do with it?

A. The document your husband presented you is what's known in Virginia law as a written separation agreement. These are agreements reached between a husband and wife who have — or are about to become — separated. It allows them to formally resolve the issues between them that would otherwise be decided by the court, namely property issues, spousal support, child support, and custody/visitation. Virginia law favors divorcing parties reaching these types of agreements. If you don't have any children, you can get a divorce only after six months separation with one of these agreements. Without one, you'll have to wait a full year to divorce. With that being said, you will want to be very careful before entering into one of these agreements. They are binding contracts from the moment they are signed and courts are extremely hesitant to overturn provisions in them unless they clearly violate public policy or are unconscionable. You will want to have an attorney review the document very carefully to ensure that your rights are being protected and that you receive your equitable share. With that caveat in place, these agreements can also be extremely advantageous as well. They allow you and your husband — and not the court — to make the decision on your children and property and will allow you to avoid potentially expensive divorce litigation. For couples that can resolve their issues amicably, a written separation agreement is the way to go in resolving your divorce.