

# CHECKLIST

## Advocating for the Constitutional Rights of Nonresident Fathers

### **Determine if your client has a constitutionally protected interest in his child.**

- Find out if your client has or has attempted to establish a relationship with his child that gives him a right to notice and an opportunity to be heard in court proceedings.
- Assess whether he has perfected this interest by determining if he has complied with the state's procedures to establish paternity, such as:
  - filing with a putative father registry;
  - placing his name on the birth certificate;
  - being married to the mother at the time of conception or birth;
  - maintaining regular contact and a relationship with the child; and/or
  - paying child support.

### **File necessary pleadings to safeguard your client's constitutional rights.**

- Has your nonoffending, nonresident father client been denied custody and forced to comply with services, absent proof of unfitness? If so, the state may be encroaching upon his constitutionally protected interests.
- If the father's constitutional interests are not being protected, consider:
  - filing a motion challenging the imposition of services;
  - arguing that the court can't interfere with his constitutionally protected custodial rights;
  - requesting immediate placement of the child with the father.

## Understand the interplay between state law and constitutional rights.

- Generally, between state and federally based rights, legal fathers should be able to:
  - be notified of proceedings;
  - visit their children;
  - request custody;
  - receive court-appointed counsel, if indigent; and
  - have a hearing before their parental rights are terminated.

Download this and other checklists at [www.fatherhoodqic.org/checklists](http://www.fatherhoodqic.org/checklists)

