

Parentage (DNA) Testing and child support

This factsheet explains DNA testing to determine parentage in child support matters. Read this factsheet to learn:

- What to do if parentage of a child is disputed.
- Why some people may request DNA testing in child support matters.
- Where to get free and confidential child support help.

Why would a DNA test be sought in Child Support matters?

A parent or carer of a child may apply to The Department of Human Services (“the Department”) for a Child Support Assessment to receive child support. This is where the Department will assess the other payer parent’s income to determine what amount of child support should be paid to the payee parent.

If there is a dispute as to who is the parent of a child then a DNA test can determine the parentage of a child. Where a person has been found to be the parent of a child, that parent can usually be assessed to pay child support to the payee parent

Information for Applicants: DNA testing and child support applications – seeking a Child Support Assessment

If you are a parent or carer of a child and you wish to have the other party assessed for child support, the Child Support Agency may presume the other party is the parent if any one or more situations that are listed [here](#) applies. These are called ‘Presumptions of Parentage.’

If you are unable to rely on any of the presumptions of parentage then your application for a Child Support Assessment will be rejected. If your application for a Child Support Assessment is rejected then you have 56

days from the date of the rejection to apply to the Federal Circuit and Family Court of Australia for a declaration per section 106A of the Child Support Assessment Act 1989, to establish whether a person is a parent and should be assessed for child support.

To do this, you must apply to the Federal Circuit and Family Court of Australia for orders that require the parties and child to submit to DNA testing for the purpose of establishing parentage of the child. If the DNA results indicate the other party is a parent of the child, then the court will declare that party as the parent. This declaration is then provided to the Department for a Child Support Assessment.

To apply, file the following documents with the Federal Circuit and Family Court of Australia:

1. An Initiating Application. This document tells the court what orders you are seeking on an interim (temporary) basis and a final basis. You need seek interim orders that require a DNA test to be carried out to determine parentage

Legal Aid ACT Family Law Duty Service

Phone: **1300 654 314**

Location: Federal Circuit and Family Court, Nigel Bowen Commonwealth Law Courts, Cnr University Ave & Childers St, Canberra Australian Capital Territory 2601.

of the child and final orders for a declaration that the other party is a parent and should be assessed for child support.

2. An Affidavit. This document outlines the circumstances around your application. In this document you will provide an overview of the relationship history, why the other party is the parent of the child and why a DNA test is required.

Parentage (DNA) tests and Child Support

These documents will then need to be served on the other party and the Department. They will have an opportunity to attend Court and respond to your application.

You should always get legal advice before applying to the Court for Orders. Legal Aid's Family Law Duty Service may be able to provide you with legal help in relation to your Child Support Assessment matter.

Information for respondents: DNA test – disputing a Child Support Assessment because you are not the child's parent

If a parent or carer of the child applies for you to be assessed to pay Child Support, and they are successful, the Child Support Agency will send you a letter of assessment.

If you do not agree that you are the parent of the child, you may want to seek a court order for a DNA test to be carried out to determine the child's parentage and then a declaration. To do this, you will require an order from the Court to have the child subjected to DNA testing.

Legal Aid ACT Family Law Duty Service

Phone: **1300 654 314**

Location: Federal Circuit and Family Court, Nigel Bowen Commonwealth Law Courts, Cnr University Ave & Childers St, Canberra Australian Capital Territory 2601.

Please note that the Legal Aid Family Law Duty Service 'in-person' service at the Family Court is temporarily suspended due to the current Covid-19 crisis and is operating remotely by phone.

<http://www.legalaidact.org.au/events>

You have **56 days from the date the Child Support Assessment is made** to make an application to the Federal Circuit and Family Court of Australia to dispute

the assessment. You will be required to pay child support per your assessment, until the application has been determined. If you want to cease paying child support while the matter goes through court, you will need to include this in your application.

To apply, file the following documents with the Federal Circuit and Family Court of Australia:

1. **An Initiating Application.** This document tells the court what orders you are seeking on an interim (temporary) basis and a final basis. Usually you would seek final orders under section 107 of the Child Support Assessment Act 1989 that you not be assessed for Child Support on the basis that you are not the child's parent. You would also seek interim orders that require a DNA test to be carried out to determine parentage of the child. If you do not wish to pay child support until final orders are made, you should also seek an interim order for a 'stay' of child support payments, until final orders are made.
2. **An Affidavit.** This document outlines the circumstances around your application. In this document you will set out why you do not believe you are the parent of the child in question. This should include an overview of the relationship history.

Before you apply to the Court, you should speak to a solicitor. Legal Aid's Family Law Duty Service can provide free information and advice about whether applying to the Court is the best way to deal with the situation.

After the application has been filed with the Court, you will be given a date for when you must return to court to have the application heard. You must serve the documents on the other parent and the Department

Parentage (DNA) tests and Child Support

What will happen at the first court hearing?

At the first court hearing, the Court will decide your interim application for DNA testing to be carried out. If ordered, the parties will be given a set amount of time to undertake testing. The parents will also be ordered to submit the child to DNA testing. The Court will also order that the testing take place through an approved testing facility

After the DNA results are provided to the Court, the Court will make a declaration whether a party is a parent or not, based on the results of the testing.

Get Help

Legal Aid ACT Family Law Duty Service

Phone: **1300 654 314**

Location: Federal Circuit and Family Court, Nigel Bowen Commonwealth Law Courts, Cnr University Ave & Childers St, Canberra Australian Capital Territory 2601.

Please note that the Legal Aid Family Law Duty Service 'in-person' service at the Family Court is temporarily suspended due to the current Covid-19 crisis and is operating remotely by phone.

<http://www.legalaidact.org.au/events>

This factsheet provides basic information only on family law. This factsheet should not be substituted for legal advice. You should seek legal advice about what to do in relation to your matter.