

DNA tests to prove parentage

Anyone can talk to a lawyer for free at Tasmania Legal Aid.

To get free legal information call 1300 366 611, drop into our Hobart or Launceston office (no appointment necessary) or use the Legal Talk chat function on our website. We are open Monday to Friday, 9am to 5pm.

A lawyer can listen to your story and help identify the next steps you can take.

Child Support Agency will need to know who the law determines the father of a child is if a claim of child support is going to be made. Sometime a court will confirm this from the results of a DNA test.

When does the law say a person is a child's father?

The law says a person is the biological father of a particular child if:

- He's named as the father on the child's birth certificate or adoption certificate
- He has signed a statutory declaration (a legal document) saying he is the father
- He was married to the child's mother when the child was born
- He was living with the child's mother 20-44 weeks before the child was born, or
- A court has declared he is the child's father and/or that he is liable to pay child support for a child.

The law may also accept the results of a DNA test as proof that a person is a child's father, even if none of the above are true.

What is a DNA test?

DNA testing is generally accepted as the best way to prove who a child's father is. The test involves collecting a sample from each parent and child. This sample is usually a mouth swab.

Testing for legal purposes must follow the regulations outlined in the *Family Law Act 1975*. There are a number of organisations who can provide this service.

How do I prove parentage for Child Support?

The Child Support Agency can't accept a DNA test result as proof that someone is or is not the child's father. It will only accept a declaration from the court. The DNA test result can be presented in court and the court can make a declaration stating a person is or is not a child's father.

If the court orders DNA testing and a person refuses to take part, the court may still make a declaration stating that a person is a child's father and/or that a person should pay child support for a child based on other evidence presented.

It's important you get legal advice if there are disagreements about who is a child's father. If you delay in making an application, this could have serious consequences for your case.

How do I prove I'm not the father?

If you think you're not the biological father of a child the Child Support Agency is assessing you pay child support for, you can apply to get a

court to declare that you are not the father. To do this you will need to prove to the court you are not the biological father with DNA testing that follows the regulations outlined in the *Family Law Act 1975*.

Who pays for the DNA test?

Where the court orders DNA testing it will usually make an order setting out who must bear the cost of the DNA testing. This may be the person requesting the testing, the person with greater financial means or the costs may be split, depending on the circumstances.

This is written for people who live in or who are affected by the laws of Tasmania, Australia. The law changes all the time – this information is not legal advice. If you have a legal problem, you should talk to a lawyer before making a decision about what to do.