

## THE WHY AND HOW OF A PATERNITY TEST

6 March 2017

Who is the child's father is not always something that is agreed upon.

DNA and evidence of parentage is important when a mother wants to register an application with the Child Support Agency (Department of Human Services (Child Support)) ("the CSA"). The CSA will refuse an application if a parent is not listed on the birth certificate (i.e. father) and therefore, parentage needs to be established.



A person is the child's biological father if:

- they are named as the father on the birth certificate or adoption certificate
- they sign a statutory declaration (a legal document) saying they are the father
- the child was born during the marriage
- the child was born within 20 to 44 weeks of when the mother and father lived together
- the court makes a declaration (finding) that a person is a child's father and/or that a person is liable to pay child support for a child.

DNA testing is generally accepted as the most accurate method of proving or disproving parentage (i.e. if a man is the father of a child).

Paternity testing involves a DNA sample being taken from the alleged father, mother and child to prove evidence that they are

parties reaching agreement for testing to occur or secondly, an application to a Court. However, it is important to note that the CSA cannot accept a DNA paternity testing report as proof that someone is or is not the child's father. It will only accept a 'declaration' from the court. The DNA testing result can be presented in court and the court can make a 'declaration' stating a person is or is not a child's father.

To satisfy the court that an Order for DNA testing should occur, the applicant needs to establish to the court under the prescribed criteria that there is a 'presumption of parentage'. If this can be satisfied, then the Judge will order that a DNA test will be conducted.

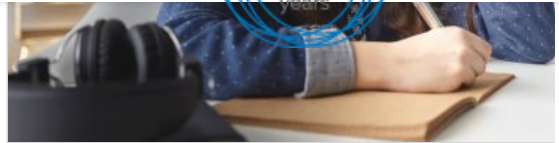
Should the man refuse or fail to undertake the DNA testing ordered, then refusal to participate may still lead to the court making a 'declaration' stating that he is a child's father and/or that he should pay child support for a child. Refusing to participate in a court ordered DNA test is held to be a deemed failure of the test that results in a finding that the man is the father.

It is important that you seek legal advice about DNA testing whether you are requesting a man to undertake it or whether you have been asked to provide the sample. It is important that you understand your rights and what is involved in paternity testing. If you delay in making an application or responding to a request, this could have serious consequences for you.



## **What is 'parental responsibility'?**

26 October 2018



## **Is the court interested in NAPLA**

5 October 2018

### **Disclaimer**

The information contained on this site is for general guidance only. No person should act or refrain from acting on the basis of such information. Appropriate professional advice should be sought based upon your particular circumstances because the application of laws and regulations undergo frequent changes. For further information, please do not hesitate to contact Michael Lynch Family Lawyers on [law@mlynch.com.au](mailto:law@mlynch.com.au).