

## **Letting the DNA decide**

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### **Courts are frequently turning to genetic testing services to settle parentage disputes**

DNA, or deoxyribonucleic acid, is the genetic blueprint of a person's body and more Americans each year are testing it to settle disputes, trace their heritage, or streamline court proceedings.

DNA parentage testing analyzes genetic profiles of a mother, child, and an alleged father using DNA extracted from blood samples, cheek cells, or cultured cells.

People seek such testing for a variety of reasons. Most often, tests are performed to earn child support from a man who denies he is the father of a child, according to Lisa McDaniel, communication director for the Ohio-based DNA Diagnostics Center.

Others seek tests to win visitation or custody rights, or in the case of men, to learn whether they are the biological father of a child, she says.

And thanks to advancements in science, those questions no longer have to go unanswered. Organizations such as the DNA Diagnostics Center—which has been in business since 1995—require the DNA of the child and the alleged father to conduct a test, McDaniel says. Testing can occur without the mother, she adds.

At the DNA Diagnostics Center, DNA testing takes place at one of the nearly 4,000 independent laboratories and hospitals across the country, which have contracted with the center to provide testing, McDaniel says.

The process is simple, according to McDaniel, and requires a swipe of a buccal swab—similar to a Q-tip—inside the cheek of the person being tested. The testing itself just takes minutes, she says.

Testing facilities send the results to the DNA Diagnostics Center for analysis, which takes at least five business days to complete. The cost is \$475.

“We try to make it as simple as possible,” McDaniel says. “This is a very difficult situation for people to go through.”

As part of the process, DNA Diagnostics Center requires people seeking DNA tests to be photographed and fingerprinted.

The center is bound by strict rules not to release information or results about people who seek DNA testing to those who have not been approved to receive the results, McDaniel says.

“These tests change people’s lives,” she says. “Confidentiality is extremely important. Most often, no one wants anyone to know they are going through the testing.

“We are nameless and faceless in the other end of the phone,” McDaniel adds. “We’re not here to judge anyone. We’ve heard it all and seen it all.”

Before the age of DNA testing, Somers lawyer Kerry Tarpey, from the law firm of Devlin, Peters & Tarpey, says judges used more unscientific methods to help determine paternity.

When Tarpey’s former law partner Abbot Schwebel worked on paternity cases in the 1960s and 1970s, it was common for judges to ask mothers to provide a photograph of the child to compare it to the alleged father, she says.

That was one of the bases judges used to conclude whether a man was the biological father of a particular child, Tarpey says.

“It’s really come a long way,” she says of DNA testing.

Vernon lawyer James Katz of the law firm Leighton, Katz & Drapeau—who has practiced family law for more than 20 years—says DNA parentage testing “cuts down on the courtroom fighting, the stress, and aggravation” of just not knowing.

“It really is of great benefit,” he says.

The DNA testing is a factor the court system uses to help determine whether a man will be held liable to make child support payments and other expenses, Katz says.

“Sometimes the man truly doesn’t know he is the father,” he says. “Either party may truly not know.”

Women can seek back child support payments three years from when the petition is filed in court, Katz says. While the parties involved have the option to challenge test results, oftentimes they accept the results, he says.

DNA tests, however, are “far from perfect,” Katz says. People who are tested lose some control over the testing process—a flaw in the DNA testing process, he says.

“It’s blind faith in relying on the validity of the test both in equipment and in administration of the test,” Katz says. “It’s like a lie detector test. Everyone presumes it is right. But the legal procedures allow you to contest it if you wish.”

Katz speaks from experience regarding a past case in his nearly 23-year career. A testing company mistakenly switched DNA samples during the process and had to retest Katz's clients to obtain the correct samples.

That's why the DNA Diagnostics Center takes extra steps to ensure human error isn't a factor in the test results, McDaniel says.

The center, which is accredited by the American Association of Blood Banks, seals all DNA samples with tamper-proof tape, McDaniel says. The ultimate fear is that samples are switched or tampered with. But we run everything twice and log it in twice."

According to the American Association of Blood Banks, testing facilities across the country performed 240,000 paternity tests. In 2002, that amount grew to 340,000, the association reports.

DNA testing is the most conclusive and widely accepted method for testing biological relationships, according to McDaniel. Tests reveal results with a probability of 99.9 percent or greater, meaning the person is the father or has a biological connection, she says.

Such testing is "critically important" in child support cases where the paternity of the biological father is in question, Tarpey says.

"If the putative father is determined not to be the biological father, then that man has no obligation to pay support or to pay any other support type of services to the children," she says."