

Article - Family Law

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§5–1029.

(a) (1) The Administration may request the mother, child, and alleged father to submit to blood or genetic tests.

(2) If the mother, child, or alleged father fails to comply with the request of the Administration, the Administration may apply to the circuit court for an order that directs the individual to submit to the tests.

(b) On the motion of the Administration, a party to the proceeding, or on its own motion, the court shall order the mother, child, and alleged father to submit to blood or genetic tests to determine whether the alleged father can be excluded as being the father of the child.

(c) The blood or genetic tests shall be made in a laboratory selected by the court from a list of laboratories provided by the Administration.

(d) The laboratory shall report the results of each blood or genetic test in writing and in the form the court requires.

(e) A copy of the laboratory report of the blood or genetic test shall be provided to the parties or their counsel in the manner that the court directs.

(f) (1) Subject to the provisions of paragraph (3) of this subsection, the laboratory report of the blood or genetic test shall be received in evidence if:

(i) definite exclusion is established; or

(ii) the testing is sufficiently extensive to exclude 97.3% of alleged fathers who are not biological fathers, and the statistical probability of the alleged father's paternity is at least 97.3%.

(2) A laboratory report is prima facie evidence of the results of a blood or genetic test.

(3) (i) Subject to the provisions of subparagraph (ii) of this paragraph, the laboratory report of the blood or genetic test is admissible in evidence without the presence of a doctor or technician from the laboratory that prepared the report if the report:

1. is signed by the doctor or technician who prepared or verified the report; and

2. states that the result of the blood or genetic test is as stated in the report.

(ii) When the laboratory report of the blood or genetic test is admitted in evidence, a doctor or technician from the laboratory that prepared the report is subject to cross-examination by any party to the proceeding if the party who desires cross-examination has subpoenaed the doctor or technician at least 10 days before trial.

(4) A laboratory report received into evidence establishing a statistical probability of the alleged father's paternity of at least 99.0% constitutes a rebuttable presumption of his paternity.

(g) If any individual fails to submit to a blood or genetic test ordered by the court, that refusal, properly introduced in evidence:

- (1) shall be disclosed to the court; and
- (2) may be commented on by counsel.

(h) (1) Unless indigent, the party who requests a blood or genetic test or who secures the appearance in court of a doctor or technician from the laboratory that prepared the report of the blood or genetic test is responsible for the cost of the test and the costs associated with the court appearance. However, if the requesting party prevails in the proceeding, the court shall assess the cost of the blood or genetic test or the costs associated with the court appearance against the other parties to the proceeding.

(2) If any party chargeable with the cost of the blood or genetic test or the costs associated with court appearance is indigent, the cost of the blood or genetic test or the costs associated with the court appearance shall be borne by the county where the proceeding is pending, except to the extent that the court orders any other party to the proceeding to pay all or part of the cost.

(3) Subject to the right of any party to subpoena a custodian of records at least 10 days before trial, a written statement from the laboratory that prepared the report of the blood or genetic test concerning the cost of the test and the cost associated with the court appearance shall be admissible in evidence without the presence of a custodian of records and shall constitute prima facie evidence of the costs.

(i) Upon motion of the Administration or any party to the proceeding and due consideration by the court, the court shall pass a temporary order for the support of the child if:

- (1) a laboratory report establishes a statistical probability of paternity of at least 99.0%; and
- (2) the court determines that the putative father has the ability to provide temporary support for the child.

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