

CAO PPI INSTRUCTION 4-7

When to use form CAO GCS 4-7 or CAO FL 4-7 Motion for Genetic Testing

In an action to establish paternity (legally confirm the identity of the biological father of a child or children), any party may ask the judge to order the mother, the alleged father and the child to participate in genetic tests to determine paternity. Usually, the report of the expert witness resolves the issue of paternity because unless the report of the expert is challenged within 21 days after filing, the report will automatically be admitted into evidence and it becomes very difficult to rebut that evidence without another expert's testimony.

In almost all cases brought by the Department of Health and Welfare, genetic tests are routinely ordered. However, if you are involved in a paternity case and genetic testing has not been ordered, you may use form CAO GCS 4-7 *Motion for Genetic Testing* to ask the court to order that testing if the Department of Health and Welfare is a party in the case, or form CAO FL 4-7 if the Department is not a party.

WARNING: Oftentimes one parent or the other wants to set aside or challenge a paternity order, judgment, or decree well after it has become final. While there may be some types of motions or court actions which can be filed to make those types of challenges, no Court Assistance forms have been approved for those types of proceedings. Those types of actions can be legally complex and you are strongly urged to seek the assistance of an attorney if that is your purpose. Forms CAO GCS 4-7 and CAO FL 4-7 should not be used to try and challenge or set aside a final paternity order, judgment, or decree. These forms are provided solely to request genetic testing in a **pending** proceeding **before** an order, judgment, or decree of paternity has been issued.

If the Department of Health and Welfare is a party in the case, follow these steps:

Complete form CAO GCS 4-7 *Motion for Genetic Testing*:

First, fill in your full legal name, address and phone number at the top left corner of form CAO GCS 4-3 *Motion for Genetic Testing*.

In the left side of the caption where the names of the parents are listed, insert your full legal name and the full legal name of the other parent.

Insert your full name in the introductory sentence of the first paragraph as the party requesting testing. Then insert the name of the child, mother, and alleged father.

Sign and date the Motion for Genetic Testing.

Note: The statute which authorizes the filing of this motion also provides that the person who requests the tests must pay for them. However, the prevailing party can recover those costs at the conclusion of the case.

Complete form CAO GCS 4-13 *Notice of Hearing on Motion for Genetic Testing*:

Fill in your name, address and phone number and the caption of the Notice of Hearing.

Obtain a hearing date from the judge's clerk and insert that information into the correct places in the Notice of Hearing. Sign and date the Notice of Hearing.

Serve a copy of the Motion for Genetic Testing and the Notice of Hearing on the Deputy Attorney General or attorney who represents the Department of Health and Welfare. Also serve the Motion and Notice on the other parent.

Complete the Certificate of Service on the Motion and on the Notice showing when and how you served those documents.

Fill out form CAO GCS 4-17 *Order for Genetic Tests* in the same way as you filled out the Motion and Notice, leaving the date blank. The judge will date the order when it is signed. Also fill in the names and addresses of all parties on the clerk's Certificate of Service at the end of the Order. The clerk will check the appropriate boxes and will sign and date the Certificate after the Order is signed.

Submit the Order with your Motion. Provide envelopes for the judge's clerk to mail the order to you and to the other parties in the case if a hearing is not required. The envelopes must be addressed (one to you, one to the other parent, and one to the Deputy Attorney General or attorney who represents the Department of Health and Welfare). In addition, the envelopes must have the right amount of postage on them. The clerk will be mailing a copy of the Order that you are providing.

If the Department of Health and Welfare is not a party to the case, follow these steps:

Follow the same steps outlined above except use these forms:

- CAO FL 4-7 *Motion for Genetic Testing*
- CAO FL 4-13 *Notice of Hearing on Motion for Genetic Testing*
- CAO FL 4-17 *Order for Genetic Testing*

Since the Department of Health and Welfare is not a party, you only need to serve the Motion and Notice of Hearing on the other parent and complete the certificates of service showing when and how and when you served those documents. In addition, provide two envelopes for the judge's clerk to mail the order to you and to the other parent. If a hearing is not required the clerk will be mailing a copy of the Order that you are providing. The envelopes must be addressed (one to you, one to the other parent). In addition, the envelopes must have the right amount of postage on them.