

39-7,145. Genetic tests. (a) This section shall not apply if an action to establish the father's duty of support on behalf of the child is pending before any tribunal. As used in this section, "mother" means the natural mother of the child whose parentage is in issue.

(b) Except as otherwise provided in subsection (d), genetic tests may be ordered by the secretary if the alleged father consents and the necessary persons are available for testing. Except as otherwise provided in subsection (e), the secretary shall pay the costs of genetic tests, subject to recoupment from the father if paternity is established. For purposes of this section, a person receiving title IV-D services is not available for testing if a claim for good cause not to cooperate under title IV-D is pending or has been determined in the person's favor or if the person ceases to receive title IV-D services for any reason.

(c) A copy of the order for genetic tests shall be served upon persons required to comply with the order only by personal service or registered mail, return receipt requested. The order shall specify the time and place the person is required to appear for testing, which shall be at least ten days after the date the order is entered.

(d) If a presumption of paternity arises pursuant to subsection (a) of K.S.A. 2014 Supp. 23-2208, and amendments thereto, because the mother married or attempted to marry any man, the secretary shall not order genetic testing unless a court of this state or an appropriate tribunal in another state has found that determining the child's biological father is in the child's best interests. If a tribunal subsequently determines that the prohibition of this subsection applied at the time genetic tests were ordered by the secretary, any support order based in whole or in part upon the genetic tests may be set aside only as provided in K.S.A. 60-260, and amendments thereto.

(e) Upon receiving the results of genetic testing, the secretary shall promptly send a copy of the results to the parties, together with notice of the time limits for requesting any additional genetic tests or for challenging the results pursuant to K.S.A. 2014 Supp. 23-2212, and amendments thereto, how to make such request or challenge, and any associated costs. The notice shall state the consequences pursuant to K.S.A. 2014 Supp. 23-2212, and amendments thereto, of failing to act within the time allowed by the statute. Any additional genetic tests shall be at the expense of the person making the request for additional genetic tests. Failure of the person requesting additional tests to make advance payment as required by the secretary shall be deemed withdrawal of the request.

(f) Any person required to comply with an order issued pursuant to this section may request: (1) An administrative hearing pursuant to K.S.A. 75-3306, and amendments thereto, by complying with procedures established by the secretary within ten days after entry of the order; or (2) a de novo court review pursuant to K.S.A. 39-7,139, and amendments thereto. If the order is served on the person by mail, the time for requesting review shall be extended by three days. An order issued pursuant to this section shall be subject to defenses that would apply if the order had been issued by a court of this state. If the request for review is made within the time allowed, the effect of the order shall be stayed with respect to the person requesting review pending resolution of the review.

(g) An order issued pursuant to this section whose effect has not been stayed may be enforced pursuant to the civil enforcement provisions of the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto, after the time for compliance with the order has expired.

History: L. 1997, ch. 182, § 14; L. 2010, ch. 17, § 55; L. 2012, ch. 162, § 73; May 31.