

Case number : _____

(To be completed by the CURML)

Unité de génétique forensique

DrSc. Vincent Castella
Responsable

Tél : +41 21 314 70 70
www.curml.ch

APPLICATION FORM FOR KINSHIP ANALYSIS

The following persons :

- Undertake to read the document « Requirements for parentage analysis ».
- Certify the truthfulness of the information given below.
- Instruct the CURML to carry out the above-mentioned test.

Person 1 <input type="checkbox"/> Mother <input type="checkbox"/> Child <input type="checkbox"/> Alleged father <input type="checkbox"/> Other :	Name : First name : Date of birth : Tel. n° / mobile : Date and signature* :	Full address :
Person 2 <input type="checkbox"/> Mother <input type="checkbox"/> Child <input type="checkbox"/> Alleged father <input type="checkbox"/> Other :	Name : First name : Date of birth : Tel. n° / mobile : Date and signature* :	Full address :
Person 3 <input type="checkbox"/> Mother <input type="checkbox"/> Child <input type="checkbox"/> Alleged father <input type="checkbox"/> Other :	Name : First name : Date of birth : Tel. n° / mobile : Date and signature* :	Full address :
Person 4 <input type="checkbox"/> Mother <input type="checkbox"/> Child <input type="checkbox"/> Alleged father <input type="checkbox"/> Other :	Name : First name : Date of birth : Tel. n° / mobile : Date and signature* :	Full address :

* Person or legal representative or representative appointed by the guardianship authority

Invoice to be sent to : Name, First name : _____

Do you want to come together for the DNA collection ? yes / no

Desired place of DNA collection : Lausanne (Tuesday morning and Thursday morning)
 Geneva (Thursday morning)

Does the child have a different legal father than the alleged father ? yes / no

If yes, name and the address of the legal father : _____

Signature of legal father for consent : _____

Date : _____

=====

Please return the completed and signed form :

CURML
Unité de génétique forensique
Chemin de la Vulliette 4
1000 Lausanne 25

Or by e-mail to the following address : test.adn@chuv.ch.

=====

USEFUL INFORMATION TO BE SENT TO THE UGF CONCERNING THE KINSHIP TEST

Please indicated below the type of test requested :

Paternity test

Maternity test

Fraternity test (You have the same mother, you want to know if you have the same father?)

Half-fraternity test (You have different mothers, you want to know if you have the same father?)

Other : Please specify :

Unité de génétique forensique

DrSc. Vincent Castella
Responsable

Tél : +41 21 314 70 70
www.curml.ch

DNA analysis in kinship test

A) Federal Act on Human Genetic Testing (HGTA)

Chapter 5 : DNA profiling to determine Filiation or Identity

Art. 47 Principle

1 DNA profiling for the purpose of determining parentage or identity of a person may not result in a DNA analysis within the meaning of Chapters 2 and 3. The determination of sex remains reserved if it is necessary to determine parentage or identity.

2 However, if characteristics within the scope of Chapters 2 and 3 are identified, they may not be recorded in the analysis report or communicated to the person concerned or to third parties. The person taking the sample must inform the person concerned before the DNA profile is drawn up that these characteristics may not be communicated to him or her.

3 The sample must be taken by the laboratory preparing the DNA profile, or by a doctor or other authorised person instructed by the laboratory. The person taking the sample must verify the identity of the person concerned.

Art. 48 DNA profiles of deceased persons

1 If the person with whom a parentage relationship is to be determined is deceased, the analysis may be authorised if

- a. the person requesting the analysis has given valid reasons, and
- b. the next of kin of the deceased person have given their consent.

2 If the next of kin refuse to give their consent, the analysis may only be carried out by order of the competent authority or judge.

3 If the person concerned has no next of kin or if they cannot be contacted, the analysis shall be authorised if the condition in paragraph 1 letter a is fulfilled. 1 letter a is met. The person requesting the analysis must provide information in good faith on the existence of close relatives.

Art. 51 General provisions on DNA profiles outside proceedings (private request)

1 A DNA profile may only be produced outside a procedure with the written consent of the person concerned.

2 A child who is incapable of judgement and whose parentage is to be determined may not be represented by the person with whom the parentage is being examined.

3 In the case of DNA profiles to determine parentage, the laboratory that prepares the DNA profile must, before carrying out the analysis, inform the person concerned of the provisions of the Civil Code relating to the establishment of parentage and of the possible psychological and social consequences of the analysis. The information must be given in writing.

Art. 52 Additional provisions for prenatal DNA profiles to determine paternity

1 A prenatal DNA profile to determine paternity may only be prescribed by a doctor. A thorough interview must be held with the pregnant woman concerning, inter alia

- a. the purpose, type and relevance of the analysis;
- b. the psychological, social and legal issues related to the pregnancy
- c. the possible measures to be taken following the result of the analysis and the possibility of obtaining help;
- d. the prohibition referred to in para. d. the prohibition in paragraph 3 on providing information on the sex of the embryo or foetus.

2 The interview must be recorded.

3 If the sex of the embryo or foetus is determined in the course of a prenatal analysis to determine parentage, the result may not be communicated to the pregnant woman until twelve weeks after the start of her last period.

4 The sex of the embryo or foetus may also not be communicated after the twelve-week period if the doctor considers that there is a risk of the pregnancy being terminated for this reason.

B) On the establishment of filiation (Extract from the Swiss Civil Code, RS 210, Art. 252 ff)

CHAPTER I: GENERAL PROVISIONS

Art. 252

A. Formation of parent-child relationship in general

1 The parent-child relationship is formed between child and mother on the birth of the child.

2 It is formed between child and father by virtue of the latter being married to the mother, by recognition or by court declaration.

3 Moreover, the parent-child relationship is formed by adoption.

CHAPTER II: PATERNITY OF THE HUSBAND

Art. 255

A. Presumption

¹ Where a child is born in wedlock, the husband is deemed to be the father.

² If the husband dies, he is deemed to be the father provided the child is born within 300 days of his death or, if born thereafter, if it is shown that the child was conceived before the husband's death.

³ If the husband has been declared presumed dead, he is deemed to have been the father provided the child is born within 300 days of the life-threatening event or the last sign of life.

Art. 256

B. Challenge / I. Right to challenge

¹ The presumption of paternity may be challenged in court:

1. by the husband;
2. by the child if the spouses cease living together while the child is still a minor.

² The husband's challenge is directed against the child and the mother, that of the child against the husband and the mother.

³ The husband has no right of challenge if he consented to impregnation by a third party. The child's right to challenge paternity is subject to the Reproductive Medicine Act of 18 December 1998

Art. 256a

B. Challenge / II. Grounds for challenge / 1. In the case of conception in wedlock

¹ If a child was conceived in wedlock, the challenging party must show that the husband is not the father.

² The child is presumed to have been conceived in wedlock if it was born no earlier than 180 days after the wedding and no later than 300 days after the marriage was dissolved as a result of death.

Art. 256b

B. Challenge / II. Grounds for challenge / 2. In the case of conception before marriage or while spouses were living apart

¹ If a child was conceived before the marriage was concluded or at a time when the spouses were living apart, no further grounds need be given for the challenge.

² However, in such cases the paternity of the husband is still presumed where the court is satisfied that he had sexual intercourse with the mother around the date of the conception.

Art. 256c

B. Challenge / III. Time limits

¹ The husband must file the challenge within one year of learning of the birth and of the fact that he is not the father or that another man had sexual intercourse with the mother around the date of the conception, but in any event not later than five years after the birth.

² The child's challenge must be filed at the latest within one year of attaining the age of majority.

³ Once these time limits have expired, a challenge of paternity is admissible provided there is good cause for the delay.

Art. 257

C. Conflict of presumptions

¹ Where a child was born within 300 days of the dissolution of the marriage as a result of death and the mother has since remarried, the second husband is deemed to be the father.

² If this presumption is disproved, the first husband is deemed to be the father.

Art. 258

D. Challenge by the parents

¹ If the husband died or lost capacity of judgement before the time limit expired, his father or his mother may challenge his paternity.

² In this case the provisions governing a challenge by the husband apply mutatis mutandis.

³ The one-year time limit for bringing the claim begins at the earliest on the date on which the father or mother learns of the husband's death or loss of capacity of judgement.

Art. 259

E. Marriage of the parents

¹ If the parents marry each other, the provisions governing children born in wedlock apply mutatis mutandis to a child born prior to the marriage, providing the paternity of the husband is established by recognition or court declaration.

² Recognition may be challenged:

1. by the mother;
2. by the child or, after his or her death, by his or her issue if the spouses ceased living together while the child was still a minor or if recognition did not occur until after the child's twelfth birthday;
3. by the husband's commune of origin or residence;
4. by the husband.

³ The provisions governing challenge of recognition apply mutatis mutandis.

CHAPTER III: RECOGNITION AND COURT DECLARATION OF PATERNITY

Art. 260

A. Recognition / I. Admissibility and form

¹ Where the parent-child relationship exists only with the mother, the father may recognise the child.

² Where the recognising person is a minor or subject to a general deputyship or if the adult protection authority has issued a related order, recognition requires the consent of his or her legal representative.

³ Recognition is effected by means of a declaration made before the civil registrar or by testamentary disposition or, if an action to declare paternity is pending, by a declaration made to the court.

Art. 260a

A. Recognition / II. Challenge / 1. Right to challenge

¹ Recognition may be challenged before the courts by any interested party, namely the mother, the child or, after its death, its issue, and by the commune of origin or domicile of the recognising person.

² The recognising person is entitled to file a challenge only if he or she recognised the child under threat of imminent and substantial risk to his or her own life, limb, reputation or property or to those of a person close to him or her, or in the erroneous belief that he was the father.

³ The challenge is directed against the recognising person and the child, insofar as they themselves are not the challenging persons.

Art. 260b

A. Recognition / II. Challenge / 2. Grounds

¹ The challenging person must prove that the recognising person is not the child's father.

² However, mother and child are only required to prove this if the recognising person may satisfy the court that he had sexual intercourse with the mother around the time of the child's conception.

Art. 260c

A. Recognition / II. Challenge / 3. Time limits

¹ The challenge must be filed within one year of the date on which the claimant learned of the recognition and the fact that the recognising person is not the father, or that another man had sexual intercourse with the mother around the time of the conception, or on which he or she learned of his or her error or on which the threat ceased, but in any event within five years of the recognition.

² In all cases, the child may file the challenge at any time prior to the elapse of one year after attaining the age of majority.

³ Once these time limits have expired, a challenge of recognition is admissible provided there is good cause for the delay.

Art. 261

B. Action to determine paternity / I. Right to bring the action

¹ Both mother and child are entitled to bring an action to declare the existence of the parent-child relationship between the child and the father.

² The action is brought against the father or, if he has died, in order of priority against his issue, parents or siblings or, where none exist, against the competent authority of his last domicile.

³ If the father has died, the court must inform his wife that the action has been brought so that she may safeguard her interests.

Art. 262

B. Action to determine paternity / II. Presumption

¹ If the defendant had sexual intercourse with the mother during the period between the 300th day and the 180th day before the child's birth, his paternity is presumed.

² Paternity is also presumed even if the child was conceived prior to the 300th day or after the 180th day prior to birth provided the defendant had sexual intercourse with the mother during the period in which the child was conceived.

³ There is no such presumption if the defendant shows that his paternity is either impossible or less probable than that of another man.

Art. 263

B. Action to determine paternity / III. Time limits

1 The action is admissible both before and after the birth but must be brought:

1. by the mother within one year of the birth;
2. by the child at any time prior to the elapse of one year after attaining the age of majority.

2 If a parent-child relationship already exists with another man, the action may in any event be brought within one year of the date on which said relationship is annulled.

3 Once these time limits have expired, an action for determination of paternity is admissible provided there is good cause for the delay.

CHAPTER IV: ADOPTION

Art. 264 ff