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WHEN CAN THE COURT ORDER GENETIC  
TESTING TO PROVE THE PARENTAGE OF A  
CHILD WHEN THERE IS A PRESUMED FATHER?

The New Jersey Supreme Court handed down a significant decision affecting when a Court can order genetic testing to prove the parentage of a child when there is a presumed father. The standard has always been the best interests of the child. The focus was not on the rights of the father. The law required that a Court would have to determine by clear and convincing evidence that it was within the best interests of the child to order genetic testing.

In the case of *D.W. vs. R.W.* decided on October 10, 2012, a divided New Jersey Supreme Court ruled that there must be a balance between the child's best interests and the interests of the party seeking genetic testing. The Court determined that the burden to obtain the testing was too great and that it was too burdensome to force the presumptive father to prove by clear and convincing evidence that genetic testing was in the best interests of the child.

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The New Jersey Supreme Court determined that the applicable paternity-testing statute would require a showing of 'good cause' for denying genetic testing. If there was a "reasonable possibility" that another individual was the father of the child, the testing would be ordered unless there was 'good cause' to deny the testing.

Despite the fact that the child in *D.W. vs. R.W.*, who was 22 years old at the time of the hearing before the Court, did not want the testing to go forward, the Court concluded that the child's issues were one of numerous factors to be considered by the Court. The significant weight given to the child's interests has been modified making it far easier to obtain genetic testing.

Previous Courts in New Jersey focused on the child's interests to a large extent. This new decision acknowledges that more is "at stake" and that the party seeking testing also has an interest in the determination of paternity.