

## **Report of Children's Issues Subcommittee on Establishment of Paternity in Non-742 actions.**

Introduction: The Children's Issues committee created a sub-committee at the September 2009 meeting to investigate, research and provide feedback on issues relating to the establishment of paternity in cases other than Petitions to Determine Paternity (742 actions).

The sub-committee held a tele-meeting on January 15, 2010. The sub-committee includes, hearing officers, magistrates, appellate lawyers, trial lawyers and domestic violence victim advocates.

The meeting's goal was to identify issues created by establishments of paternity in cases such as domestic violence injunction hearings, dependency cases, and Title IV-D cases (when it is a minor putative father). We also wanted to establish short-term and long-term goals for the committee.

The sub-committee was divided into two groups:

- 1) Establishment of Paternity in DV case; and
- 2) Establishment of Paternity in Dependency Cases  
(to also include minors consenting to paternity).

Due to the workload of the committee members, it was decided that work on the two groups would not commence until AFTER the February 2010 meetings but that the groups would convene and begin identifying, more specifically, the problems associated with establishment of paternity and would identify solutions to problems such as legislative proposals, agency policy changes, rule changes, and/or memorandums/briefs outlining suggested systemic changes.

Issues of Specific Concern:

Establishing Paternity in Domestic Violence Cases:

Due Process if paternity is allowed to be established

Victimization—does it hurt the victim more or less when paternity is established?

If paternity can be established, how will it be done?

What is the “standard” or mechanism by which paternity is established—

Acknowledgment on Birth Certificate/Affidavit/Court Order

If paternity cannot be established during DV case, does the Victim still have

standing to bring the DV injunction (if not living together and not married, must have child in common, if no paternity, do you still have a child in common)

Consistency of how paternity is/is not establishment throughout the state—is that our intention and our goal? If so, how do we achieve that?

Establishing Paternity in Dependency Cases/Minor's consent to paternity

Dependency

Due process issues

Standing Issues

Case Plan issues—wanting the putative father to get a case plan or get visitation/custody rights

Establishment of support through dependency rather than IV-D

Unified Court issues—should the court just wait for father to file a paternity action or ask DOR to file intervenor in Dependency?

If you don't establish paternity, how can you do a placement with a putative father who doesn't have standing as the "legal" father

Process needs to be consistent with TPR and Adoption proceedings

Minor Establishment of Paternity

Due Process

Capacity

Balance of best interests of minor father vs. best interests of minor father's child

Procedure—how is it done, how should it be done?

Revocation—should "disestablishment of paternity statute" suffice, or should there be a special procedure for minors?

Process needs to be consistent with TPR and Adoption Proceedings.

The sub-committee will meet again in mid-February to discuss further, those issues defined above and will identify possible changes in statute, rule or agency policy to effectuate the desired goal.

The meeting was adjourned.