

Advanced APA

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Advanced APA



Or, everything you always wanted to know about APA but was afraid to ask.....Robert.

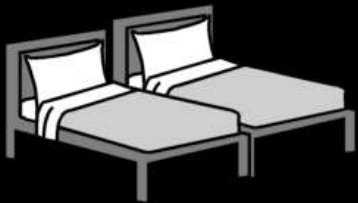
Actual Overnights v. Parenting Time Order



Always use actual overnights when calculating a guidelines worksheet

If the separation and the parenting time (PT) order are both recent, the PT order can be used as “some evidence” of overnights

See the Barry and Emerson cases



Mixed Paternity Cases

One child needs paternity and support established and one child needs support only established

What to do?

Mixed Paternity Cases

This is an ACSES problem and not a legal problem

ACSES tracts cases at the “case” level and not at the “child” level

Initially, there will be two IV-D cases but in the end, only one IV-D case and one court order

See the handout

**Expedited Process
Deadlines for the Court /
APA Temporary Order to
Judicial Permanent
Order**

§26-13.5-105(3)(d), C.R.S.

See handout on Court's and
Attorney's Rolls in APA Cases

*** Court Vacates or Changes the APA Temporary Order**

What do you do?
Can you do anything?



Can I...

Use APA?



Ask the referring
state to have the CP
provide APA
documents?



Start 60 day closure
if documents are not
received?



APA and UIFSA Referrals

APA Default Orders (Establishment)

Court does nothing! What can you do?

Court schedules a hearing to obtain evidence! What can you do?

Court re-calculates the MSO and/or other judgments! What can you do?

Subject Matter Jurisdiction of the Court

See the *Adams County* case!

**UIFSA Requests to
Conduct Genetic Testing
and/or Establish
Paternity that has
already been determined
by another State**



Don't Do it!

Establishing, Reserving, Compromising or Waiving Retroactive Support

Note: The fact that the NCP signs the stipulated order does not effect CP's rights

**Counties have the option to
Establish (in whole or in part) or
Not to Establish a Retroactive
Support Judgment**

**Either way, the claim belongs to the
CP for the period of time in
question**

**For APA, you must always obtain
an Affidavit in Support of
Retroactive Support**



**What about Child
Support Debt?
Can I reserve that?**

See the *Montezuma* case

**Since we are talking about
Debt, how is it calculated
when public assistance has
been paid for children that
have multiple fathers or
mothers?**

Good Question!

Different Ways to Conduct an APA Negotiation Conference



See the handout!

Prior APA Order and Subsequent Court Order

A Court does not Automatically obtain
Subject Matter Jurisdiction if there is a
Prior APA case/order

A Decree of Divorce does not
automatically supersede a prior APA order

Venue in an APA Case

**The Colorado Rules of Civil Procedure
do not Apply.**

Follow §26-13.5-109, C.R.S.

**An APA Notice of Financial
Responsibility (NFR) may be issued in a
county where public assistance was paid
or where the obligor, obligee or child
resides**

APA Add A Child Cases

What can you do in this type of action?

Lots, see the desk aid and IV-D
administrator letter

But you must have a Presumption of
paternity before an action regarding the
subsequent child is initiated

Paternity, our favorite subject

Don't tell anyone but everyone is
confused, including attorneys
and the courts.....

Paternity

Three helpful handouts

1. APA Paternity Establishment / Step-By-Step
2. Contest of Paternity (beginning to end)
3. Paternity 101

Has anyone had a Civil Union,
Same-Sex Marriage or same-sex
partners or Surrogacy case yet?

*** Alleged or Presumed Fathers in Different States or Countries**

What Should You Do?

Follow §19-4-110, C.R.S. and obtain service on those subject to Colorado's jurisdiction and obtain Court Order instructing the form and manner of Notice to be sent to the others

***Alleged or Presumed Fathers in Different States or Countries (cont.)**

Consider initiating a Uniform
Interstate Family Support Act (UIFSA)
referral to another state/county

**Has “Maternity” been
established?**

**Is Assisted Reproduction
Involved?**

**Establishment of maternity for
Wife over Birth-mother**

Questions you should ask both Parents

Filing an APA Order in to a Pending Court Case

**The court case is then
dismissed (usually for “want
of prosecution”)**

What should you do when you
receive the notice / order of
dismissal?

**Non-Custodial Parent
(NCP) / Obligor is Excluded
by Genetic Testing Results**

Notice v. Order of Dismissal

DISMISSED

**What are the Top Three Problems
for You in Conducting APA?**

**If you could change the APA
statute, what would you change
and why?**

Send Robert an e-mail by 7/1/15

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Questions?

***Thanks!**

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