

The Role and Responsibilities of the Court Coordinator in a Child Support Court

Part IV



DNA and Excluding Parents

Here are some of the terms in the determination of parentage process.

Source: Family Code, Chapter 160

<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.160.htm>

Genetic Testing – an analysis of an individual’s genetic markers to exclude or identify a man as the father of a child or a woman as the mother of the child. The term includes an analysis of one or more of the following:

- A. Deoxyribonucleic Acid (DNA), or
- B. Blood group antigens, such as red-cell antigens, serum enzymes/proteins.

Adjudicated Father - a man who has been adjudicated (determined or confirmed) by a court to be the father of a child;

Presumed Father – a man, who by ‘operation of law’ is recognized as the father of the child until that status is rebutted or confirmed in a judicial proceeding;

Acknowledgment of Paternity – The mother of a child and a man, claiming to be the biological father of the child, may sign an acknowledgment of paternity with the intent to establish the man’s paternity.

Denial of Paternity – A presumed father of a child may sign a denial of his paternity;

Rescission of Paternity – To take back either the acknowledgment of paternity or the denial of paternity



Types of Commitments

There are different types of commitments:

A **Deferred Commitment** is when a non-custodial parent is ordered to pay child support, either in a lump sum or a lump sum and monthly payments, **by a certain date**. When the non-custodial parent does not comply with that order, the parent **may be found** in “contempt of court”.

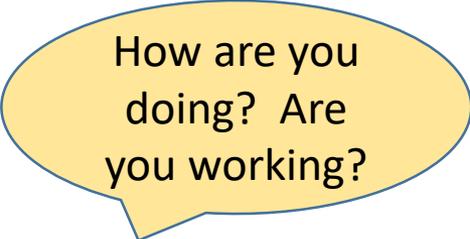
The contempt of court action may result in a term of commitment in jail until: a maximum of 6 months is served; or, payment of the ordered amount of child support, plus a fine up to \$500.

A **Suspended Commitment** occurs when the non-custodial parent pays the child support ordered by the due date either in lump sum or agrees to pay in monthly payments. The court then suspends or sets aside the Commitment Order.



Compliance Hearings

Compliance Hearings are informal check-in or status hearings.



How are you doing? Are you working?



Are you paying?



Why aren't you paying?

- These hearings usually follow an Order to Enforce or Order to Modify child support.
- The non-custodial parent has had difficulty paying; but, when prompted, seems to stay on track.
- Some judges use compliance hearings in lieu of probation.
- Some judges use compliance hearings as teaching tools for new parents with child support cases.

Capiases and Tracking Incarcerated Parties

A Capias is a warrant for:

- Contempt of court; or,
- Failure to appear to court.

A Capias, **until served**, stops the aging of a case.

A **served** Capias results in the person being incarcerated in the county he/she was arrested. The sheriff of the county where the case is filed will transport the person back, if the arrest occurred in a county other than the county issuing the capias.

There may be one or more capiases issued throughout the life of a case.



Domestic Violence Cases

Domestic or family violence can be intimate partner violence or spousal abuse. These behaviors include physical, sexual and financial abuse.

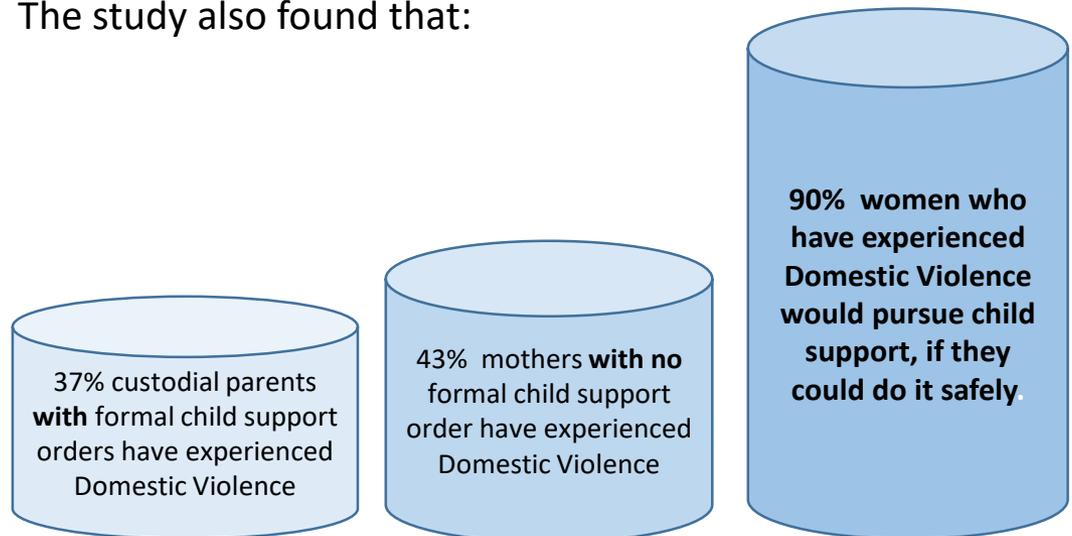
Ironically, these behaviors make a victim more likely to stay with or return to an abuser due to fear of retaliation or need for financial stability.

Federal welfare law requires states to implement safety measures when addressing family violence indicators and child support case files.

In Texas, the number of child support cases in which family violence exists has risen dramatically since the 1990s.

A study by the LBJ School of Public Affairs found that a high number of domestic violence was experienced by unwed mothers, particularly during the pregnancy phase.

The study also found that:



Domestic Violence Cases and the OAG

Family Violence Indicators - “FVI”

- States are required to place the “FVI” on child support cases to identify a party who needs to have their personal information protected due to risk related to domestic violence.

Federal Parent Locator Service – (FPLS)

- FPLS collects, stores and has the ability to share information about parties with child support cases. It matches information daily with multiple agencies in order to locate parents for the purpose of establishing and enforcing child support orders.
- “FVI” will trigger confidentiality safeguards within FPLS, which will restrict the release of all information about the victim of domestic violence.



Domestic Violence Cases and the Court

Victims of domestic violence may not trust the court because:

- Of a previous negative experience;
- Concerns that the court doesn't understand domestic violence; or
- They may fear for their safety.

Try to minimize these fear factors, by reviewing and eliminating:

- Procedural delays or continuances;
- Lack of knowledge of court procedures;
- Vague court orders;
- Misinformation about the court system given by the abuser;
- Requiring the victim to cooperate with the abuser or to have regular contact with the abuser; and,
- Not understanding due to language barriers; provide an interpreter.



Resources for Domestic Violence Cases

The following are good resources if you want to research the topic of domestic violence cases and courts:

The Texas Family Violence Bench Book, September 2011

<http://www.txcourts.gov/media/478288/domesticviolencebenchbook.pdf>

The National Conference of State Legislatures, Child Support and Domestic Violence, November 28, 2017

<http://www.ncsl.org/research/human-services/child-support-and-domestic-violence.aspx#Victim%20Protections>

The LBJ School of Public Affairs, Child and Family Research Partnership,

<https://childandfamilyresearch.utexas.edu/>

Domestic Violence Bench Books, A Guide to Court Intervention,

http://www.courtinnovation.org/sites/default/files/documents/DV_BenchbookFinal.pdf



Orders of Non Disclosure

Upon a ruling by the judge on a child support case in which there was risk of safety to the custodial parent or child, the OAG will often request:

- A Finding of Family Violence; and/or,
- An Order of Non Disclosure on the case.

[Family Code, Section 153.012](#), Right to Privacy; Deletion of Personal Information in Records.

“The court may order the custodian of records to delete all references in the records to the place of residence of either party appointed as conservator of the child before the release of the records to another party.”



UIFSA

Uniform Interstate Family Support Act

“State” – U. S. states; the District of Columbia; Puerto Rico; the U. S. Virgin Islands; and, territory or insular possession under the jurisdiction of the United States. Also includes an Indian nation or tribe.

“Home State” - The U. S. state or foreign country in which the child lived with a parent or person acting as a parent for at least 6 consecutive months prior to the filing of the petition.

“Foreign Country” – Means a country, including a political subdivision thereof, other than the U. S., that authorizes the issuance of support orders and:

- Declared under U. S. law to be a foreign reciprocating country;
- Established a state reciprocal arrangement for child support;
- Enacted law or established procedures for issuance and enforcement of support orders that are substantially similar to the procedures of UIFSA; and,
- In which the 2007 Family Maintenance Convention is in force with respect to the United States.

Source: Texas Family Code, Chapter 159

<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.159.htm>



UIFSA – States or Domestic

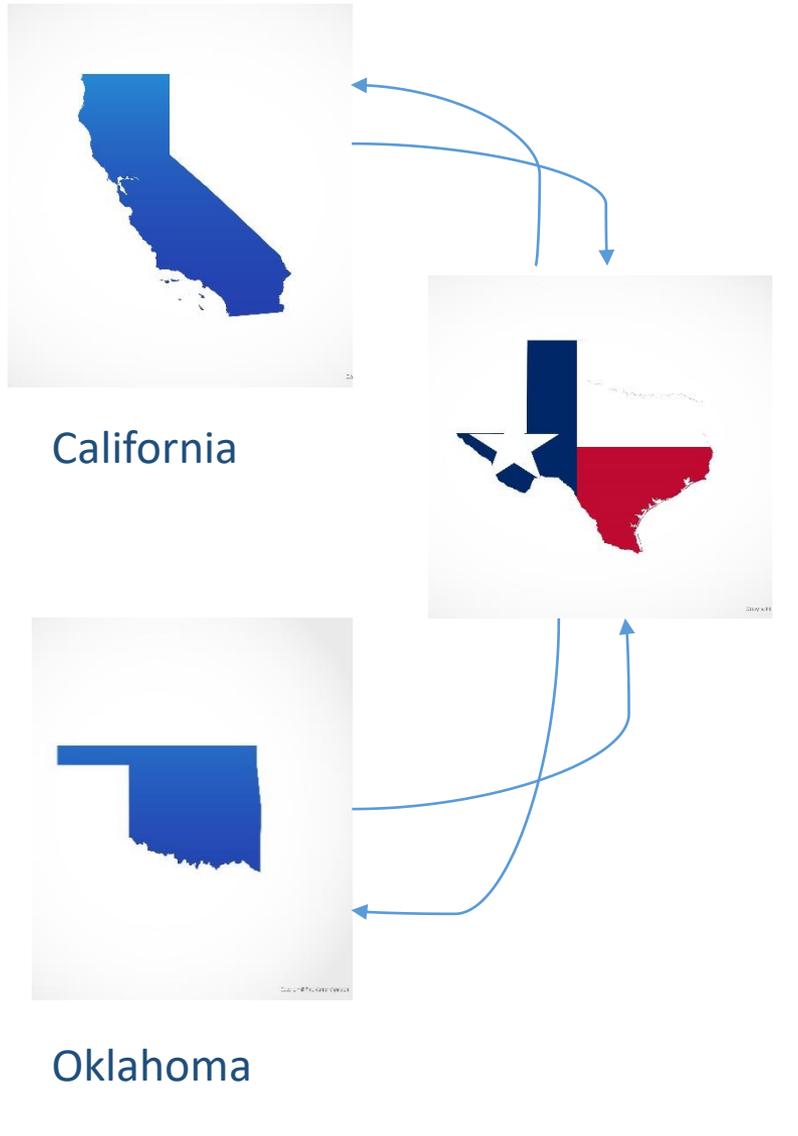
The cooperation of all state child support agencies in the U.S. or its territories to enforce child support across state lines, requires:

1. An **Initiating or Issuing State** - the state which issues a support order or a judgment determining parentage of the child.
2. **Responding, Forum or Rendering State** – the state in which a petition or pleading for support or determination of parentage is filed or forwarded from another state.

In the image at left, Texas could be either the initiating or responding state.

The designation is determined by residence of the parent(s), and/or child, and the state who has a controlling order that governs the current child support and statute of limitations.

Source: [Family Code, Chapter 159](#)

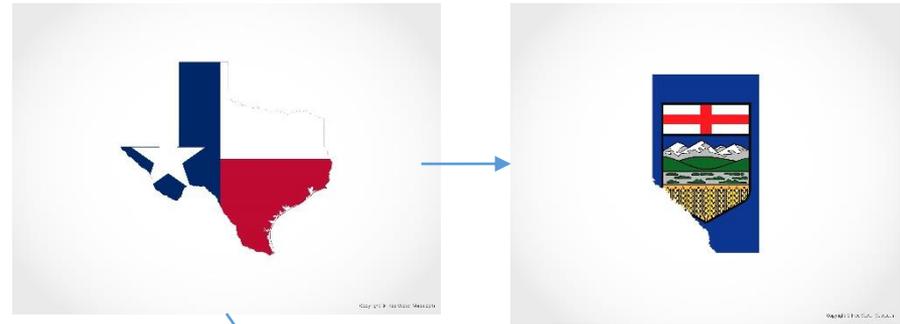


UIFSA – Foreign Country

- **Foreign Country** is a country, including a political subdivision thereof, other than the U. S., that is declared to be a reciprocating country of child support enforcement.
- As of 2016, the U. S. declared 26 reciprocating countries of child support enforcement.
- **Convention** refers to those countries that have ratified the 2007 Family Maintenance Convention, at the Hague Convention of 2007. Application must be made through the U. S. Department of Health & Human Services.
- Countries who have not ratified the 2007 Family Maintenance Convention are considered “**Non-Convention**” countries.

In the image to the right, Texas, a state within the U. S. can apply or register for a child support enforcement with Canada, a declared reciprocating country.

Afghanistan is a non-convention country or an “**outside the U.S. states**” which defines a location in another state or a country other than the U. S., whether or not the country is a foreign country.



Canada

NO



Afghanistan

UIFSA and the Court

Because these cases involve one or more parties, hundreds of miles away, the OAG and UIFSA laws address their lack of appearance in the following manner:

- Depositions or testimony is permitted to be done by phone, fax and other electronic means;
- Certified copies are allowed instead of original documents;
- You may not exclude documentary evidence transmitted by fax or electronic means when an original document is not provided;
- Courts in Texas and another state or foreign country may communicate by fax, phone or other electronic means to obtain information, effect legality of judgments, decree or order and obtain the status of a proceeding.

Source: Family Code, Section 159.316 - Special Rules of Evidence and Procedure <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.159.htm>



Military Parents

To assist parents deployed or actively serving in the U. S. Military, the OAG created **HEROES** (Helping Establishing Responsive Orders and Ensuring Support for Children in Military Families):

- The OAG will work with JAG (Judge Advocate General Corps); Family Readiness Group staff; the Veteran's Integrated Service Network (VISN); Texas Veterans Leadership Program; the Texas Yellow Ribbon and other child support and legal service programs across the United States and internationally.
- The publication on the OAG website, *Military Parents: Paternity, Child Support, Custody and Parenting Time*, offers instructions and FAQs.

https://www.texasattorneygeneral.gov/files/cs/military_parents.pdf

Some parents deployed or in active duty also seek assistance or protection under the (SCRA) **Servicemember's Civil Relief Act of 2007**, formerly known as the SSCRA (Soldiers and Sailors Relief Act OF 1940). Protections under this act are not automatic. The parent must request protection or relief.

<https://www.justice.gov/sites/default/files/crt/legacy/2011/03/23/s-crtext.pdf>



Questions Please!



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