

ADMINISTRATIVE ORDER
NO. 2010-27

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE & OSCEOLA
COUNTIES, FLORIDA

**ORDER IMPLEMENTING A STANDING TEMPORARY ORDER FOR
PATERNITY ACTIONS, ORANGE & OSCEOLA COUNTIES**

WHEREAS, to promote the stability of parties and their children through a paternity action; and

WHEREAS, to provide guidance to parties in paternity actions to help parties pattern their behavior in ways that will reduce conflict and improve the lives of the children; and

WHEREAS, to reduce the negative impact that paternity actions have on children and the parties involved; and

WHEREAS, to reduce the number of “emergency” hearings during the beginning stages of paternity actions thereby promoting stability and preserving resources of the parties and the Court; and

WHEREAS, it is in the best interests of the parties and children, or child as the case may be, that parents in a paternity case learn about the problems, duties, and responsibilities of litigation and co-parenting, and that the parties comply with Court rules; and

WHEREAS, the Judges assigned to the Domestic Relations Division have developed, with the assistance of the Family Law Bar, a standing temporary order to be utilized in paternity cases in an effort to achieve the above stated goals;

NOW THEREFORE, I, Belvin Perry, Jr., in order to facilitate the efficient administration of justice, and pursuant to the authority vested in me as Chief Judge of the Ninth Judicial Circuit of Florida under Florida Rule of Judicial Administration 2.215, hereby order the following, **effective immediately**, and to continue until further order:

1. SERVICE, APPLICATION, AND TERM OF THIS ORDER.

a. This Standing Temporary Order for Paternity Actions shall be utilized and complied with immediately upon the filing of contested paternity actions in Orange and Osceola Counties, except in cases initiated by the Department of Revenue or where there is a written agreement by the parties to the contrary before or after this order takes effect. In cases filed by the Department of Revenue, any petition requesting a determination of parental responsibility and time-sharing must be filed under a new and separate case number in which the Department of Revenue is not a party.

b. Except in cases initiated by the Department of Revenue, the Clerk of Court shall docket and provide a copy of this Standing Temporary Order to the Petitioner or to the Petitioner's counsel at the time the Petitioner files the Petition for Paternity or a Petition requesting the Court to establish parental responsibility and time-sharing if paternity has previously been established by a Court.

c. In addition, the Petitioner shall deliver a copy of this Standing Temporary Order to the process server to be served on the Respondent with the Petition for Paternity or other petition requesting the Court to establish parental responsibility and time-sharing.

d. This Order is binding on the Petitioner upon the filing of this action and on the Respondent upon service of this Order.

e. This Order shall not supercede or modify any existing domestic violence injunction or other order by a court having jurisdiction over the parties or minor children concerning these matters.

f. This Order shall remain in full force and effect until further order of the Court such as the entry of a final judgment, a dismissal of this cause, or until the entry of a subsequent temporary order, whichever shall occur first. This Order does not preclude a Judge from modifying or amending this Order in individual cases where the Judge deems necessary. Any part of this order not changed by a subsequent order shall remain in effect.

2. CONTACT WITH BOTH PARENTS: SHARED PARENTING.

a. Pursuant to section 742.031(2), Florida Statutes, if a judgment of paternity contains only a child support award and no parenting plan or time-sharing schedule, the parent receiving the child support has sole parental responsibility and time-sharing until further order of the Court. If a paternity judgment does not establish child support, the mother is presumed to have sole parental responsibility and time-sharing until further order of the Court.

b. If the petition or counter-petition asks the Court to establish contact between the children and other parent, the Court must consider the request after it has determined the paternity of the child. It is the law that, unless the Court makes a specific ruling that it would be detrimental to the children, the Court shall order shared parental responsibility, contact with both parents is in the children's best interests, and children are entitled to frequent and continuing contact with both parents when the parents live separately. In establishing the parenting plan and time-sharing schedule, the Court will analyze the factors set forth in section 61.13(3), Florida Statutes.

c. Further, the parent who wants to have the majority of the time-sharing with the children has an affirmative obligation to encourage and nurture a relationship between the children and the other parent. A parent who unreasonably restricts access of the children to the other parent and does not encourage a relationship between the children and the other parent,

for no valid reason, perhaps should have less time-sharing with the children. Such a parent is not acting in the children's best interests and is not following the law.

d. Once paternity has been established, the Court orders "shared parenting" of the children by the parents. This means that wherever the children are living from time to time, the parents must confer with each other and agree upon all MAJOR parenting decisions. Therefore, both parents must participate in all parenting decisions and immediately work out their own time sharing schedules. If the parents cannot agree on any issue, then the Court will decide.

e. While not specifically ordered by the Court at this time, the attached Shared Parenting Guidelines and the parents respect for them shall be considered by the Court in future child related matters, such as the determination of the parenting plan and time-sharing schedule with the children.

f. Once the Court enters a parenting plan and time-sharing schedule, the parties must abide the Court's Order regardless of whether child support is paid. If a party fails to abide by a Court Order, the other party may seek enforcement of the Order by filing a motion with the Clerk of the Court.

3. PARENTING CLASS REQUIRED.

Pursuant to section 61.21, Florida Statutes, and Amended Administrative Order No. 07-98-37-01, all parties to a paternity action that involves issues of parental responsibility must attend and complete The Parent Education and Family Stabilization Course prior to entry by the Court of a final judgment. Completion of the course is mandatory in all cases, contested or uncontested. Therefore, even if the parties have settled, they must both attend the course.

All parties required to complete a parenting course under this section shall begin the course as expeditiously as possible. Unless excused by the court for good cause, the Petitioner must complete the course within 45 days after filing the petition, and any other party must complete the course within 45 days after an acknowledgment of paternity by that party, an adjudication of paternity of that party, or an order granting visitation to or support from that party. Each party to a paternity action shall file a certificate of completion of the course with the court prior to the entry of the final judgment. Failure to comply with this Order may result in the Court's dismissal of the action, striking of pleadings, and/or other appropriate sanctions.

4. NO RELOCATION OF CHILDREN.

Neither party shall change the residence of the children from the school zone in which the children's home is currently located without the written agreement of both parties or an order of this Court. Neither party may change a child's assigned school zone nor change the day care arrangement without the written agreement of both parties or an order of this Court.

5. CHILD SUPPORT.

In general, the law requires child support to be paid from the date the parties separated, which is nearly always a date before the petition was filed. Therefore, to avoid building up an arrearage in child support, the parent with whom the children are not residing a majority of the time must make voluntary payments of child support to the other parent with whom the children spent a majority of the time prior to the entry of an order requiring payment of support. Waiting for an order can be very expensive because child support can be ordered from the date that the parties stopped living together in the same household with the children but no more than two (2) years before the paternity action was filed. If child support is paid in excess of that required by the statute, the paying parent may ask for a refund. Child support will be determined by the child support guidelines, pursuant section 61.30, Florida Statutes. Therefore, it is in both parties' best interests to determine the correct amount of child support quickly and begin paying promptly. Once child support is ordered, the Order must be followed regardless of whether the paying parent has visitation with the children and regardless of whether the other parent is denying time-sharing. If a party fails to abide by a Court Order, the other party may seek enforcement of the Order by filing a motion with the Clerk of the Court.

6. CONDUCT OF THE PARTIES DURING THE CASE; SANCTIONS.

Any unwanted physical contact between the parents is a crime and is vigorously prosecuted. Failure to obey this Order may result in restraining orders and contempt proceedings. Contempt of Court is punishable by a sentence in the county jail.

7. PERSONAL AND BUSINESS RECORDS/INSURANCE.

Neither party may, directly or indirectly conceal from the other or destroy any family records, business records, or any records of income, debt, or other obligations. Any insurance policies covering the minor children in effect at the time the petition for paternity was filed may not be terminated, allowed to lapse, concealed, modified, borrowed against, pledged or otherwise encumbered by either of the parties or at the direction of either party. All insurance policies covering the minor children may not be changed, except by written agreement signed by the parties or order of the Court. The parties shall continue to pay all premiums on a timely basis unless there is a written consent by both parties or an order of the Court.

8. SANCTIONS FOR FAILURE TO COMPLY WITH COURT RULES.

If a party fails to comply with the rules requiring the production of financial records and other documents, or fails to answer interrogatories or attend a deposition, or otherwise fails to comply with the rules requiring disclosure or discovery, that party will be sanctioned by an order of the Court, which may include a monetary payment to the other party.

9. MEDIATION.

Mediation is encouraged early in the proceedings and **prior** to noticing the case for trial and on temporary matters, prior to scheduling a temporary hearing. Several mediation conferences should be held in all cases when required and in order to accomplish a result that both parties fully understand and with which they are both comfortable.

10. COMMUNICATION.

The attorneys and parties shall communicate with each other in a civil and courteous manner. Attorneys shall make a good faith effort to communicate **personally** with each other by telephone or in person if a problem exists before filing a motion. The attorneys, appointed experts and the parties shall be courteous and respectful of everyone in the process. Both parties and attorneys shall share documentary information in such a manner as to avoid duplication of work. When setting hearings, conferences, and depositions, an attorney may not schedule any matter without first making a good faith effort to coordinate the date and time with opposing counsel's office and certifying on the notice of hearing that a good faith effort has been made with opposing counsel to resolve the issues of the motion.

11. FORMS.

Individuals who are not represented by counsel may obtain forms that have been approved by the Florida Supreme Court by accessing the Court's website at www.ninthcircuit.org. Once at the website, click the "self help" tab on the right of the page, then look for "court forms". A link to the Florida Supreme Court family court forms website is also provided under this tab. The forms are available without charge.

DONE AND ORDERED on this 3rd day of November, 2010.

_____/s/_____
Belvin Perry, Jr.
Chief Judge

Copies to:

Clerk of Courts, Orange County
Clerk of Courts, Osceola County
General E-Mail Distribution List
<http://www.ninthcircuit.org>

SHARED PARENTING GUIDELINES

The safety, financial security and well-being of the children involved in this case are the Court's primary concern. Parents should follow these guidelines:

It is the law, except in certain rare circumstances, that both parents will share parental responsibility for all minor children involved in this case. The law requires parents to share the children's time and to participate together in making all important decisions concerning the children. The law expects parents to put aside their feelings and cooperate on all decisions involving the children. Therefore, parents must recognize the following:

Children have a right to a loving, open and continuing relationship with *both parents*. They have the right to express love, affection and respect for one parent in the presence of the other parent.

Neither parent may alienate a child's affection for the other parent.

Parents must separate any bad feelings for one another from their duties as parents. Their duty is to share the children's time and share in making parenting decisions. Children must be free to draw their own conclusions about each parent, without the prejudicial influences of the other parent.

Children have the right to never hear a parent, or a relative or friend of a parent, run down or degrade the other parent.

Children have the right to be free from guilt because the parents have decided to separate. They are entitled to honest answers to questions about changes taking place in family makeup.

Parents should never be so preoccupied with their own problems that they fail to meet the children's needs. Separation of the parents usually has a worse impact on the children than on the parents, a fact both parents should never forget.

Each parent should openly, honestly, respectfully and regularly communicate with the other parent to avoid misunderstandings. They should never argue about the children in front of them.

Parents should discuss all differences regarding their separation and financial issues between them and parenting decisions out of the presence of the child. Both parents should always try to present a united front in handling any problems with the children.

Generally, children have the right to regular and continuing contact with both parents. Parents should arrange all time-sharing and exchanges together and not through the child. The child should never be the messenger between the parents.

Time-sharing plans should be kept and *never cancelled* unless absolutely necessary. If plans change, children should be given an explanation, preferably in advance and by the parent causing the cancellation.

Common courtesies (politeness, promptness, readiness, calling to notify if one is going to be late) should always be observed when picking up and dropping off children. These times can be very stressful on children, so it is imperative that parents always behave as responsible adults.

Between visits, children should be encouraged to contact the absent parent by letter and phone, frequently and continuously.

Parent/child access and child support, while they may be emotionally connected, are *separate and distinct* under the law. Accordingly, a child's right of access to his or her parent is not contingent upon the payment of child support.

A child should *never* be the delivery person for support payments.

Both parents are entitled to participate in and attend all special activities in which their children are engaged, such as religious activities, school programs, sports events and other extra-curricular activities and programs.