**ORANGE COUNTY SOCIAL SERVICES AGENCY**

# CFS OPERATIONS MANUAL

**Effective Date: December 21, 2001** **Number: G-0602**
**Revised: May 4, 2007**
**Revised: May 13, 2009**
**Revised: May 17, 2010**

**Parentage**

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**Purpose**

To provide legal definitions of parentage, guidelines regarding establishing paternity, and to delineate Children and Family Services (CFS) responsibilities according to parentage findings.

**Approved**

This policy was approved by Mike Ryan, Director of CFS, on May 17, 2010. *Signature on file*.

**Background**

This revision to CFS Policy and Procedure (P&P) Parentage (G-0602) incorporates and renders obsolete, information contained in:

• Paternity Testing (G-0601)

In dependency proceedings, parentage findings determine a parent's legal right to standing, legal counsel, and services/visitation. The Juvenile Court attempts to reconcile dependency law (regarding definitions and parentage findings) with many non-traditional family structures. Consequently, men and women who are not the child's biological parents can be found to be presumed, legal parents.

It is the responsibility of CFS staff to make efforts to identify all potential parents of children who are, or may be, the subject of dependency proceedings.

CFS staff will gather information regarding potential parentage throughout dependency proceedings (as necessary), and evaluate parental standing in accordance with the Uniform Parentage Act.

This involves provision of Judicial Council form *Statement Regarding Parentage (JV-505)* to parents and, when necessary, facilitation of paternity testing.

**Legal Mandates**

Uniform Parentage Act (2002) provides a framework for establishing parentage of children born to both married and unmarried couples, and delineates standards and rules for genetic (paternity) testing.

California Rule of Court 5.635 gives the Juvenile Court the duty of inquiry and determination of parentage for each child who is the subject of a petition filed under WIC § 300. *JV-505* forms shall be made available in the courtroom for alleged fathers.

Family Code Section 297 defines domestic partnership as well as rights and obligations with respect to a child of either partner.

Family Code Section 7540 defines a presumed father by marriage.

Family Code Section 7611 provides additional ways a father may be presumed.

Family Code Section 7611.5 gives an exception of making a father presumed (child conceived as result of rape and father convicted of rape or statutory rape).

Family Code Section 7612(b) directs the court finding when two or more presumed parents are in conflict with one another.

Family Code Section 7613 defines the husband of the couple as the natural father in cases of artificial insemination.

Family Code Sections 7610(a) and 7611(b) establishes parentage of a mother by proof of having given birth or by receiving the child into her home and holding the child out as her own.

Welfare and Institutions Code Sections 290.1(a)(2), 290.2(a)(2), 291(a)(2) and 294(a)(2) includes alleged fathers as having a right to notice of dependency proceedings. WIC § 294(b)(2) gives an exception of notice to alleged fathers, for the WIC § 366.26 hearing, who have denied paternity and waived right to notice of hearing.

Welfare and Institutions Code Section 361.5(a) directs child welfare services to be given to presumed parents and leaves discretion to the Court to order services for biological fathers.

Welfare and Institutions Code Section 316.2(b) directs notice to each alleged father to his “last and usual place of abode by certified mail return receipt requested.” The notice will state that the child is the subject of proceedings under Section 300 and that the proceedings could result in the termination of parental rights and adoption of the child. A *JV-505* will be included with the notice.

Welfare and Institutions Code Section 316.2(d) gives alleged fathers the right to initiate action to establish their paternal relationship with the child.

Welfare and Institutions Code Section 361.3(c)(2) allows placement consideration with relatives of a person found to be the child’s biological parent.

California case law decisions, as follows:

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- *In re Paul H.* (2003) 111Cal.App.4th 753
- *Elisa B. v. Superior Court* (2005) 37 Cal.4th 108
- *In re Salvador M.* (2003) 111 Cal.App.4th 1353, 1358-1359
- *In re Nicholas H.* (2003) 28 Cal.4th 56
- *In re Zacharia D.* (1993) 6 Cal.4th 435, 448, 451
- *In re Spencer W.* (1996) 48 Cal.App.4th 1647, 1652-1653
- *Steven W. v. Matthew W.* (1995) 33 Cal.App.4th 1108, 1117
- *Adoption of Michael H.* (1995) 10 Cal.4th 1043, 1051
- *In re Sarah C.* (1992) 8 Cal.App.4th 964, 974-975
- *Adoption of Kelsey S.* (1992) 1 Cal.4th 816
- *In re Lisa R.* (1975) 13 Cal.3d 636, 644

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**Definitions**

**Presumed:** A person the law "presumes" to be the parent of a child for any of several reasons.

A. For fathers, this may be a man who:

1. Is married to the mother and the child is born during the marriage or within 300 days after termination of the marriage.

2. Has signed a voluntary declaration of paternity at the hospital that has been filed with the California Department of Social Services (CDSS).

3. Has received the child into his home and openly holds the child out as his own natural child.

4. Is named, with his consent, as the child's father on the birth certificate or is obligated to pay child support under a written voluntary promise or court order after he and the child's mother have attempted to marry.

5. Is the child's adoptive father.

B. For mothers, this may be a woman who:

1. Has proof of giving birth to the child.

2. Has received the child into her home and openly holds the child out as her own natural child.

3. Is the child's adoptive mother.

**Biological:** A person who is proven to be the biological parent through testing or testimony, but does not qualify as presumed.

**Alleged:** A person someone has alleged, or claimed, to be the parent of the child.

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## POLICY

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**Initial CFS Responsibilities**

Parentage will be considered in each child's case. Efforts will be made at the earliest possible time when a child is placed into protective custody, to identify all potential parents of the child involved in dependency proceedings. Additionally, potential parents will be advised of those steps required to establish paternity.

Regarding dependency cases, questions about parentage will be asked during initial investigatory interviews, and all responses to paternity inquiries (including the date statements were made) will be documented for inclusion in court reports. Information will also be requested regarding:

• Dates of marriage(s) and divorce(s)
• Any past applicable rulings regarding paternity of the child
• Parent(s) identified on the child's birth certificate
• Available identifying information regarding any potential parent (e.g., name, address, date of birth, social security number)

**Note:** Refer to CFS P&P Indian Child Welfare Act (ICWA) (G-0309) for inquires regarding American Indian ancestry of a potential parent.

*Statement Regarding Parentage (JV-505)* will be made available to all potential parents. This form allows a person to indicate his/her position regarding parentage of the child. The form will be included in the notice of hearing to parents provided by the assigned Senior Social Worker (SSW) and/or the Search Unit for the WIC § 358 Jurisdictional/Dispositional hearing. The assigned SSW will also offer it, when needed, during parentage discussions.

Any completed *Statement Regarding Parentage (JV-505)* returned to social work staff by potential parents will be forwarded with court files or to CFS Court Officer Supervisors for Juvenile Court consideration at the pending hearing.

All named parents will be informed of upcoming dependency hearings and encouraged to appear in Court to make statements regarding parentage of the child. The parent will also be asked if they wish Court to appoint Counsel for them.

**Note:** Following the Detention hearing, the Absent Parent Search Unit will initiate a search of any parent not present at the hearing, if his/her address is unknown, to notice that parent of the (PreTrial) Jurisdictional/Dispositional hearing. See CFS P&P Absent Parent Search (G-0801) for further information.

*Fathers and the Juvenile Court (F063-25-288)* will be given to fathers appearing at the child's Detention hearing by the assigned Court Officer.

All information obtained regarding parentage, including responses of any potential parent to allegations of paternity, will be reported to Court in the Detention Hearing Report, Search Declaration (if applicable), and Jurisdictional/Dispositional Hearing Report (JD Report). The JD Report will also include a statement regarding whether the parent has or has not been given a *Statement Regarding Parentage (JV-505).* For further information refer to:

• CFS P&P Dependency Intake (A-0502)
• CFS P&P Jurisdictional/Dispositional Hearing Report P&P (G-0310)

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**Juvenile Court Role**

Juvenile Court is mandated to make a:

A. Formal inquiry of parentage at the time of the Detention hearing, or as soon after as possible.

B. Legal finding of parentage with the determination based on paternity testing, testimony, parentage declaration, or statements of the alleged parents.

**Note:** Once parentage findings have been established, Juvenile Court will notify the local child support agency (Department of Child Support Services).

**Paternity Testing**

Prior to determining parentage, a paternity test may be requested by a relevant party (e.g., Court, parent's attorney, etc.) to identify the biological parent of a child. A paternity test involves collection and evaluation of DNA samples from the child, potential father(s), and mother, as available.

A. **Court Authorization for Paternity Testing:**
Paternity testing will be coordinated by CFS only upon receipt of a Court order (Minute Order) which includes each of the following:

• An order for paternity testing which specifies the potential parent's full name
• Authorization for funding of paternity testing or a specific order directing a parent to pay for the paternity testing. (**Note:** Juvenile Court has discretion to authorize County funds for paternity testing)

**If a paternity test involves an incarcerated parent**, two original Certified Minute Orders must be obtained by the assigned SSW, which include the following, in addition to the information specified above:

1. The inmate's date of birth and booking/California Department of Corrections (CDC) number.

2. Identification of the correctional facility.

3. Instruction that the inmate be made available to the designated collection agency (specify collection agency's name), for the purposes of paternity testing.

4. Identification of the method of specimen collection ordered (i.e., swab or blood draw).

**Note:** Correctional facilities demonstrate varying degrees of compliance with paternity testing. Prior to obtaining Minute Order, verify with the correctional facility that the desired method of specimen collection is permitted.

If necessary, an Ex Parte may be submitted to request a Minute Order which includes the above information. Consult County Counsel prior to any CFS request for paternity testing.

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B. **Coordinating Paternity Test:**
Paternity tests will be coordinated by the Resource Support Paternity Testing Coordinator in Resource Development and Management (RDM) following submission of a completed *Paternity Testing Referral (F063-25-698)* and Minute Order. The Paternity Testing Coordinator will:

1. Contact the CFS-contracted collection agency to schedule paternity testing appointments.

   **Note:** To obtain a DNA sample from an individual who resides out-of-county/state/country, contact the Paternity Testing Coordinator regarding availability of collection agency sites.

2. Notify the assigned SSW of scheduled appointments.

3. Forward results of paternity testing to the assigned SSW when the results are made available.

4. Maintain and update all relevant paternity testing referral information, pursuant to program protocol.

C. **Paternity Test Results:**
Generally, paternity testing results are not available for a minimum of **20 business days** following submission of required (DNA) samples, by all donors, for paternity testing. This timeframe may vary.

Paternity testing will produce one of two results:

• A person may be excluded as the biological parent

**–OR–**

• A person cannot be excluded as the biological parent (statistical calculations regarding the probability of paternity will be provided)

D. **Reporting Paternity Test Results to Court:**
Upon receipt of paternity test results, the assigned SSW will include in the court report prepared for the next scheduled hearing:

• Paternity test results and other relevant information regarding parentage of the child
• A recommendation that the Court establish findings regarding the biological parent of the child

**Note:** A person proven to be a biological parent does not necessarily qualify as a presumed parent.

If necessary, an Ex Parte request may be submitted to request a hearing to establish/resolve any outstanding paternity issues.

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**CFS Responsibilities Following Court Findings**

CFS staff will provide services to parents based on the Court's orders and findings. Parentage information will continue to be gathered during the life of a case, as needed, and be included in reports to the Court.

A. The following general guidelines may be used to delineate the differences in CFS responsibilities according to parentage findings:

1. Presumed parents are entitled to all rights afforded parents in dependency proceedings:

   • Legal standing with opportunity to be heard
   • Appointment of legal counsel
   • Notice of hearings (or due diligence attempt)
   • Custody, absent a showing of detriment
   • Family Reunification (FR) services and visitation
   • Consideration of placement with their relatives

2. Biological parents have a right to:

   • Notice of hearings (or due diligence attempt)
   • Consideration of placement with their relatives

   Court has discretion to appoint counsel and/or grant services if they will benefit the child (including visitation so the parent can establish presumed father status).

3. Alleged parents have a right to:

   • Notice of hearings (or due diligence attempt)
   • Provision of, and response to, *Statement Regarding Parentage (JV-505)*, when an alleged parent comes forward following parentage findings
   • Bring an action to establish the existence or non-existence of the paternal relationship with the child (**Note:** *Fathers and the Juvenile Court [F063-25-288]* details requirements to establish paternity, and may be provided to any potential parent who comes forward subsequent to Court parentage findings)

   Juvenile Court will sometimes appoint legal counsel for the limited purpose of establishing paternity.

B. Court may, at any time during the dependency case, excuse named parents from any further involvement, including notice, who have:

1. Relinquished the child.

2. Denied paternity and executed a waiver of the right to be noticed of further proceedings.

3. Been excluded as biological parent due to genetic testing.

C. Status Review and 366.26 Court Reports for the child will contain parentage information in the Paternity/Legal Relationships section:

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1. Previous parentage findings made by Court, with date of finding, for each referenced parent.

2. Any other named parent of record who remains alleged or who the Court has not yet made a determination of status.

3. Any new information or statements of parentage that have been reported, and date information received.

**Note:** Prior to any Selection and Implementation hearing held pursuant to WIC § 366.26, a search will be initiated for any alleged, presumed, or biological parent whose whereabouts remain unknown, within the timeframes established in CFS P&P Absent Parent Search (G-0801).

D. Entries will be made in the child's CWS/CMS case file consistent with Court parentage findings. Staff will follow CWS/CMS Data Entry Standards—Parentage Findings – Relationship to Child, CWS/CMS Data Entry Standards—Paternity Findings, and CWS/CMS Data Entry Standards—Parental Rights Termination (PRT) for the required entries.

## REFERENCES

**Attachments and CWS/CMS Data Entry Standards**

Hyperlinks are provided below to access attachments to this P&P and any CWS/CMS Data Entry Standards that are referenced.

- CWS/CMS Data Entry Standards—Parentage Findings – Relationship to Child
- CWS/CMS Data Entry Standards—Paternity Findings
- CWS/CMS Data Entry Standards—Parental Rights Termination (PRT)

**Hyperlinks**

Staff accessing this document by computer may create a direct connection to the following references by clicking on them.

- CFS P&P Absent Parent Search (G-0801)
- CFS P&P Dependency Intake (A-0502)
- CFS P&P Jurisdictional/Dispositional Hearing Report P&P (G-0310)
- CFS P&P Indian Child Welfare Act (ICWA) (G-0309)

**Other Sources**

Other printed references include the following:

None.

## REQUIRED FORMS

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**Online Forms**

Required forms listed below may be printed out and completed, or completed online, and may be accessed by clicking on the link provided.

| Form Name | Form Number |
|---|---|
| Statement Regarding Parentage | JV-505 |
| Statement Regarding Parentage (Spanish) | JV-505 S |
| Request to Change Court Order | JV-180 |
| Paternity Testing Referral | F063-25-698 |

**Hard Copy Forms**

Forms listed below must be completed in hard copy (including multi-copy NCR forms). ***For reference purposes only,*** links are provided to view these hard copy forms, where available.

| Form Name | Form Number |
|---|---|
| Notice of Hearing Letter | F063-28-143 |
| Notice of Hearing Letter (Spanish) | F063-28-143Sp |

**CWS/CMS Forms**

The following required forms may **only** be obtained in CWS/CMS. ***For reference purposes only,*** links are provided to view these CWS/CMS forms, where available.

| Form Name | Form Number |
|---|---|
| None. | |

**Brochures**

Brochures that should be distributed in conjunction with this procedure include:

| Brochure Name | Brochure Number |
|---|---|
| Fathers and the Juvenile Court | F0912-25-288 |
| Fathers and the Juvenile Court (Spanish) | F063-25-288Sp |

## PROCEDURE

| **Required Actions—Initial Responsibilities** | The following actions must be completed for all parents during the initial phase of dependency action. | |
|---|---|---|
| **Staff Responsible** | **Step** | **Required Action** |
| **Assigned ER SSW and/or ER/Intake SSW** | **1.** | Identify all potential parents of children who have been detained and for whom a petition is being filed. |
| | **2.** | Include parentage questions when interviewing parents and children (if age appropriate), per policy above. |

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| | **3.** | Include all known parentage information in Detention Hearing Report, per policy above, and indicate whether the potential parent wants an attorney appointed to represent them. Refer to CFS P&P Dependency Intake (A-0502) for further information. |
| **CFS Court Officer** | **4.** | Provide *Fathers and the Juvenile Court (F063-28-288)* brochure to all fathers when conducting the initial interview with fathers appearing at Court for Detention hearing. |
| **Assigned Search Unit SW** | **5.** | Include a *JV-505* form with notice sent to absent parents during search activities. |
| | **6.** | Document in the Declaration that a *JV-505* was mailed to the parent with the Notice of Hearing. |
| | **7.** | Include any parentage statements made by parent during absent parent search interviews in the Declaration submitted to Court. |
| **Assigned Investigations SSW** | **8.** | Include parentage inquiry during interviews when parentage issues are unresolved. Give parents not found presumed at Detention hearing a *JV-505* during the investigations interview and advise those persons interested, in the steps required to establish paternity. |
| | **9.** | Send a *JV-505* with all Notices of Hearings to alleged parents for Jurisdictional/Dispositional hearings. |
| | **10.** | Document in the Jurisdictional/Dispositional Hearing Report and in CWS/CMS contact notes that the *JV-505* was provided parent. |
| | **11.** | Include all parentage information obtained from the investigation in Jurisdictional/Dispositional Hearing Report, Paternity/Legal Relationships section. Include previous findings made regarding child's parents or if parentage findings are pending. Refer to CFS P&P Jurisdictional/Dispositional Hearing Report P&P (G-0310) for further information. |
| **Assigned Continuing SSW** | **12.** | For all parents not found presumed but who appear later in the child's case, inquire about parentage and provide a *JV-505.* |
| **Search Unit/ Assigned SSW** | **13.** | Forward any completed and returned *JV-505* with court files or to CFS Court Officer Supervisors for consideration by Court at the pending hearing. |

| **Required Actions—Subsequent to Court Parentage Finding** | The following actions must be completed for all parents after the Court has made parentage findings for the parent. | |
|---|---|---|
| **Staff Responsible** | **Step** | **Required Action** |

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|---|---|---|
| **Assigned SSW** | **1.** | a. Review court orders and findings for each parent.<br><br>b. Create, revise, or delete the parent's case plan, as needed, to comply with parentage findings.<br><br>**Note:** Consult Senior Social Services Supervisor (SSSS) and County Counsel (as necessary) regarding the need to file a *Request to Change Court Order (JV-180)* to modify an existing Court-approved Case Plan.<br><br>c. Consider placement and custody, provide notice, services and visitation as directed by court orders and findings of parentage. |
| | **2.** | Gather and document parentage information provided by case-related parties or documents throughout the dependency case. |
| | **3.** | Report all known parentage information in child's Status Review or 366.26 Court Report, Paternity/Legal Relationships Section, per policy above. Make recommendations about any outstanding parentage findings. |
| | **4.** | Forward any completed, returned *JV-505* to CFS Court Officers for consideration by Court at the pending hearing.<br><br>**Note:** All alleged parents who come forward after initial parentage findings will be provided a JV-505 to inquire about parentage. |
| **Assigned Clerical** | **5.** | Enter parentage findings into child's CWS/CMS case file per CWS/CMS Data Entry Standards—Parentage Findings – Relationship to Child, CFS Data Entry Standards—Paternity Findings, and CWS/CMS Data Entry Standards—Parental Rights Termination (PRT). |

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| **Required Actions—Paternity Testing** | The following actions must be completed by CFS staff when Juvenile Court requests a paternity test on behalf of a child involved in juvenile dependency proceedings. | |
|---|---|---|
| **Staff Responsible** | **Step** | **Required Action** |

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|---|---|---|
| **Assigned SSW** | **1.** | Obtain and complete *Paternity Testing Referral (F063-25-698)*. |
| | **2.** | As necessary, submit Ex Parte to obtain a Minute Order granting authorization and county funds for paternity test. Refer to the Policy section "Court Authorization for Paternity Testing."<br><br>**Note:** Unless Court has requested paternity test, consult County Counsel prior to any Ex Parte request to authorize paternity test. |
| | **3.** | Submit completed *Paternity Testing Referral (F063-25-698)* and Minute Order to Resource Support Paternity Testing Coordinator.<br><br>**Note:** If paternity test involves incarcerated parent, include an original Certified Minute Order. |
| **Paternity Testing Coordinator** | **4.** | Verify name(s) of potential parent(s) to be tested, as identified on the *Paternity Testing Referral (F063-25-698),* match the name(s) and authorization for funding (as applicable) specified on the Minute Order. |
| | **5.** | Forward *Paternity Testing Referral (F063-25-698)* and copy of the Minute Order to collection agency, per program specific protocol.<br><br>**Note:** For incarcerated parent(s), mail an original Certified Minute Order to collection agency. |
| | **6.** | Once collection agency schedules paternity testing appointments, email appointment notification and additional related information to the assigned SSW. |
| **Assigned SSW** | **7.** | Notify client(s) to be tested of scheduled appointment date/time/location, and proof of identification that will be required.<br><br>**Note:** If paternity test involves incarcerated parent, forward an original Certified Minute Order to the correctional facility. |
| **Paternity Testing Coordinator** | **8.** | If appointment for paternity test was not completed, immediately notify the assigned SSW. As necessary, request that the collection agency reschedule the appointment. |
| | **9.** | Upon receipt of paternity test results from collection agency, immediately forward to the assigned SSW. |

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