

# **Improving the Court-Ordered Paternity Process**

## **Final Report and Evaluation**

**A Federal- and State-Funded Research Demonstration**

---

**Division of Child Support Enforcement  
Virginia Department of Social Services**

**October 2003**

# **Improving the Court-Ordered Paternity Process**

## **Final Report and Evaluation**

Prepared by:

Donald W. Myers, D.B.A., Evaluator  
Virginia Commonwealth University, Richmond

Project Coordinator:

Sandra W. Brown  
Virginia Division of Child Support Enforcement

October 2003

## Acknowledgments

The author wishes to express his appreciation to Sandra Brown, Coordinator of the Court-Ordered Paternity project, for her active support and resourcefulness in assisting with the compilation of material necessary to conduct this evaluation. He would also like to acknowledge Wynne Beale, Administrator of the In-Hospital Paternity Establishment Program, for her advice separately and in joint discussions with Ms. Brown and the author on issues pertinent to this report. Finally, he wishes to acknowledge Sandy Horton, Coordinator of the Court-Ordered Paternity project until January 2002, without whose well-documented implementation of the work plan this project could not have met with the success with which it has met.

-- Donald W. Myers

The Division of Child Support Enforcement and its Research and Contract Administration office, under which this project was implemented, wish to express appreciation to all their colleagues in the partner agencies – the Circuit Courts, Juvenile & Domestic Relations Courts, Office of Vital Records & Health Statistics, Office of the Attorney General, and Child Support Enforcement central and district offices. Without their assistance, knowledge, and active cooperation, we could not have carried out the work evaluated in this report. We would be remiss, also, if we failed to acknowledge the critical funding and professional support of the federal Office of Child Support Enforcement, without which this project and the institutional problems identified in it would not have been addressed by now.

-- Todd W. Areson

## Table of Contents

Acknowledgments .....	iii
EXECUTIVE SUMMARY .....	vi
BACKGROUND .....	1
A Child's Birth .....	1
Establishing Paternity .....	2
Statement of the Problem .....	2
Consequences of Identified Problems .....	3
IMPROVING THE COURT-ORDERED PATERNITY PROCESS .....	4
Plan of Work .....	4
Planned Accomplishments .....	4
EVALUATION OF THE PROJECT .....	5
Results .....	5
Paternity Model: Circuit Court .....	14
Paternity Model: Juvenile and Domestic Relations (J&DR) Court .....	18
Paternity Model: Division of Child Support Enforcement .....	22
FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS .....	25
Findings .....	25
Conclusions .....	26
Recommendations .....	26
GLOSSARY .....	28

### Table and Exhibits

Table 1: <i>Errors in J&amp;DR and Circuit Court Paternity Submissions, 1999 and 2002</i> .....	12
Exhibit 1: <i>Establishing Paternity in Circuit Court</i> .....	15
Exhibit 2: <i>Establishing Paternity in Juvenile and Domestic Relations (J&amp;DR) Court</i> ...	19
Exhibit 3: <i>Establishing Paternity in DCSE</i> .....	23

**Table of Contents (cont.)**

APPENDICES ..... 30

    Appendix A: Proposed Change to State Board of Health Regulation re Mother/Legal  
                    Custodian Requesting New Birth Certificate

    Appendix B: Regional CLE Training for Court Clerks: Outline

    Appendix C: Common Errors and Omissions by the Courts and DCSE

## Executive Summary

### Statement of the Problem

As part of a broader review of the paternity establishment process, several Division of Child Support Enforcement (DCSE) employees were asked to focus on paternity establishment in the Juvenile & Domestic Relations (J&DR) and Circuit Courts. They identified a fundamental problem that prevents the Office of Vital Records & Health Statistics (hereafter referred to as “Vital Records” or VR) from correcting birth certificates using the paternity information supplied by judges’ orders: *Virginia Board of health regulations state that paternity information on a birth certificate cannot be corrected unless the child’s mother or legal custodian requests that a new birth certificate be prepared.*

The employees found other problems as well, mostly errors or omissions by court staff that prevent VR from correcting birth certificates, including:

- Some documents submitted by court personnel were not certified by the court as authentic, which is required by the Code of Virginia.
- Some documents had errors or omissions in required fields, such as the father’s place of birth or a missing signature.
- Court procedures for submitting paternity documents to VR were not consistent. Some courts even developed their own forms that omitted several required data fields.

Compounding the above problems, however, was the fact that VR was not notifying the courts when paternity documents had errors or omissions. With this lack of communication, court staff were repeatedly sending documents with errors in them to VR. The errors prevented VR from amending paternity information on the birth certificate. The uncorrected errors also prevented DCSE from being able to count these paternitys toward the annual federal Paternity Establishment goal and, further, caused DCSE, the courts, and VR to use resources to reestablish paternitys that had already been established judicially.

### DCSE Proposal

As a result of these problems, in July 2000, DCSE proposed to the Office of Child Support Enforcement to use Section 1115 funds to improve the court-ordered paternity process,

in coordination with VR and the Virginia courts. The proposal included identifying the barriers facing the courts, DCSE, and VR and had two (2) goals:

- (1) to improve the court-ordered paternity process by increasing the number of paternities established with accurate and complete information on paternity documents; and
- (2) to improve communication and coordination among the J&DR and Circuit Courts, VR, and DCSE as partners in establishing court-based paternity.

### **Results of the Project**

Through extensive communication with the courts and VR, the Project Coordinator (“the Coordinator”) has accomplished a number of beneficial changes affecting court-ordered paternity establishment. Following are the more significant accomplishments:

- In regional meetings, the Coordinator has educated court clerks that forms establishing paternity must be certified as authentic by the clerk/deputy clerk of the court. Clerks have also been alerted that VR has not been informing them of errors or omissions in documents they were submitting. Instead of being entered into the Certifiable Database, then, these documents were being entered into the Judicial Database (with errors intact) and filed at VR.

As a result of training, court clerks realize the importance of certifying Form DC 644 and ensuring that this and related documents submitted to VR have complete and correct information. VR is now receiving more complete and accurate information that meets the requirements to amend birth certificates.

- The Coordinator researched the legal requirements for Circuit Courts to report paternity actions to Vital Records. Clerk of the Chesterfield Circuit Court Judy Worthington and the Coordinator prepared a revision to clarify the law requiring attorneys to complete the *Order Determining Parentage*/affidavit sent to VR, which was discussed with DCSE Regional Counsel Alice Burlinson, who will submit the revision to the legislature for incorporation into the Code of Virginia. Ms. Burlinson’s determination that Virginia law requires attorneys to complete the *Order Determining Parentage*, Form DC 644, or an affidavit and submit the completed document to VR was communicated to the Circuit Court clerks. As a result, the Circuit Courts have begun submitting the attorneys’ ODPs and/or affidavits to VR.

Consequently, when paternity is established through a Circuit Court for divorce proceedings where paternity is an issue, the father's name and other required information are now forwarded to VR so that Vital Records will have complete and accurate information that meets the requirements to amend birth certificates. This will result in more birth certificates with accurate information.

- The Coordinator is continuing to conduct regional training with staff in both Circuit and J&DR Courts on the requirements and procedures to be followed in reporting paternity changes to VR. The training sessions have been favorably received.
- The Coordinator researched the regulation for not changing paternity information on a birth certificate unless the mother/legal guardian requests it. If the mother has a disagreement with the father or, for some other reason, never requested that a new birth certificate be prepared, then the father's name would not be on the birth certificate. This requirement could pose a temporary or permanent obstacle to having the father's name on his child's birth certificate.

The state Board of Health has proposed a change to Regulation 12 VAC 5-550-310, court determination of paternity, which change is expected to be approved in Fall 2003 (see Appendix A for proposed change). In the proposed change, the requirement for the permission of the mother/legal custodian to amend the child's birth certificate is eliminated. This change will eliminate an obstacle to listing/changing the father's name on the child's certificate and, also, result in birth certificates containing correct information. The mother/legal custodian of the child will no longer be able to prevent, intentionally or unintentionally, correction of the father's information on his child's birth certificate. Further, when a person inquires of VR about his/her father, the information on the birth certificate will be accurate.

- The Coordinator arranged to have four (4) court forms changed to include required information: Form DC 644, *Order Determining Parentage*; Form DC 610, *Petition for Support*; Form DC 641, *Parentage Supplement to Petition*; and Form DC 511, *Juvenile Petition*.
- Once the above forms had been modified, the Coordinator conducted video conferencing interviews with clerks in several different J&DR Courts to discuss

issues such as the use of the revised forms, the court-ordered paternity establishment process, and requirements for updating birth certificates. In these sessions, the Coordinator advised clerks that the practice of entering “unknown” in a required field did not meet the requirements to amend birth certificates. The Coordinator will be conducting more training in 2003-04. Appendix B contains an outline of the training.

- As a result of the Coordinator’s efforts, the percentage of changes to birth certificates submitted to VR with correct information increased from 25.2 percent in 1999 to 33.4 percent in 2002. This improvement meant that correct information for an additional 597 birth certificates was submitted to Vital Records.
- Simultaneously, the Coordinator’s efforts resulted in a statistically significant decrease in the number of documents with missing information submitted to VR.

\*\*\*

# Improving the Court-Ordered Paternity Process

## Background

Establishing paternity is fundamental for human dignity and one's perception of self-worth. No child deserves the fate of wondering about her or his paternity. Maslow and other cognitive psychologists categorize self-esteem as among the highest of human needs.<sup>1</sup> The establishment of paternity is requisite for self-esteem.

Paternity establishment is also important for financial and medical reasons. Fathers are responsible for providing for their children. Errant fathers, those who avoid this responsibility, may be held financially accountable through the establishment of paternity. Once paternity is established, a financial obligation can be determined and the progress of payments monitored and enforced through the judicial system, if necessary.

Knowledge of one's paternity is also important for medical reasons. Medical science has been immeasurably aided through genome research, to the extent that some disease diagnosis, treatment, and prognosis have been aided by genetic matching. To take advantage of this science, however, requires a person either to know her/his father or, in the event the father is deceased/absent from the family scene, to know the father's name and other relevant personal information.

## A Child's Birth

When a child is born in Virginia in a hospital or a non-hospital setting, information is collected and transmitted to the Office of Vital Records & Health Statistics ("VR" for short), Virginia Department of Health. This information is entered into the VR birth certificate database (referred to as the *Certifiable Database*), from which a copy of the child's birth certificate can be created.<sup>2</sup> Information in the *Certifiable Database* regarding the father fits one of three scenarios:

Scenario 1: The father's name is missing because, while the mother knows the father's name, she does not want the father recognized, per se.

---

<sup>1</sup> Maslow, A. H., *Motivation and Personality* (New York: Harper, 1954), pp. 35-58.

<sup>2</sup> The *Certifiable Database* is a database maintained by VR containing the birth information of all persons born in the Commonwealth of Virginia. Once birth information is entered in the database, any changes, such as adding/changing a father's name, must meet Code of Virginia and state Board of Health regulations.

Scenario 2: The person named as the father is, in fact, not the father. This could occur for several reasons, such as when the child was delivered, the mother was in error in naming the father. Or, a male person (e.g., the mother's boyfriend, fiancé, or current husband) who may be present when the child is delivered, agrees to be named as the father even though he may not be the father.

Scenario 3: The person named as the father is, indeed, the father.

### **Establishing Paternity**

Correcting a child's birth certificate by adding the father's name where one does not exist or replacing the name of a person who is not the father with the name of the person who is, can be accomplished by three institutions, depending upon the situation:

- Juvenile & Domestic Relations (J&DR) Court
- Circuit Court, and
- Division of Child Support Enforcement (DCSE).

The procedures followed in submitting paternity information to VR from these three institutions are described in this report.

### **Statement of the Problem**

As part of a broader study of the paternity establishment process in Virginia, several DCSE employees were assigned a project focusing on paternity establishment in the J&DR and Circuit Courts. These employees identified a key problem that prevents VR from amending birth certificates with the corrected paternity information supplied by judges' orders. This problem occurs because of a provision in Virginia regulation that states paternity information on a birth certificate cannot be corrected unless the child's mother or legal custodian requests that a new certificate be prepared (see discussion on page 9, #4).

The DCSE employees also found other problems, mostly errors by court personnel that prevented VR from entering correct information or changing incorrect information on birth certificates. These were the types of problems identified:

- Some documents submitted by court personnel were not certified as authentic, which is a requirement of Virginia law.
- Some documents had errors or omissions in required fields, such as the father's place of birth.

- Some documents had omissions, such as a signature.
- The procedures followed in submitting documents to VR were not consistent across the courts. In addition, some courts were using their own forms, which lacked data fields for information required by VR to make changes on birth certificates.

Compounding these problems, however, was the fact that VR was not notifying the courts when documents had errors or omissions. The courts were sending documents with errors and omissions in them to VR; these errors prevented VR from amending the paternity information on the birth certificates. In the absence of feedback from VR, court staff continued making the errors. As a result, incorrect information on the birth certificates could not be corrected. These uncorrected errors prevented DCSE from counting some paternities toward the annual federal Paternity Establishment goal and, in addition, caused DCSE, the courts, and VR to use scarce resources to reestablish paternities already in the paternity-establishment pipeline.

### **Consequences of Identified Problems**

There were several adverse consequences resulting from the problems described above:

- The paternity information on birth certificates and, thus, in the *Certifiable Database* is incorrect for an unknown but presumably significant number of children in Virginia.<sup>3</sup> When information in this database is in error and the principal parties necessary to establish paternity (i.e., the mother or birth father) predecease a child, the child may never know the identity of his/her birth father.
- There is a delay in establishing a child support obligation when paternity information is not readily available because of errors or omissions on the child's birth certificate.
- Unnecessary court, DCSE, and VR resources are spent researching documents that were submitted to establish paternity and could not be entered into the *Certifiable Database* because they contained errors or omissions in required information.
- Duplicate orders containing corrected paternity information have been submitted to VR because past orders with errors or omissions prevented VR from updating the database. These additional submissions are a waste of time for DCSE, court, and VR staff.

---

<sup>3</sup> In 2002, approximately 7,000 submissions (including some DNA test results from J&DR courts and DCSE) were submitted to VR for changes in paternity information. Prior to the demonstration project, about 75 percent of the submissions had errors that prevented VR from correcting the birth certificate. Using this error rate, we project that about 5,400 submissions in 2002 will contain errors, preventing VR from correcting the birth certificates.

## **Improving the Court-Ordered Paternity Process**

In July 2000, DCSE submitted a proposal to the Office of Child Support Enforcement to use Section 1115 funds to improve the court-ordered paternity process, in coordination with VR and the Virginia courts. The proposal included identifying the barriers for courts, DCSE, and VR that preclude timely amendment of a child's birth certificate after a court establishes paternity.

The project had two goals: (1) to improve the court-ordered paternity process, which would result in an increase in paternity establishments and provide accurate information on birth certificates; and, (2) to improve communication and coordination among DCSE, VR, and the J&DR and Circuit Courts.

### **Plan of Work**

To meet the project's goals, it was planned to identify the most recent submissions from the courts and offer parents the opportunity to place the father's name on the child's birth certificate.<sup>4</sup> In addition, barriers to the timely submission of court orders to VR were to be investigated and procedures developed to facilitate birth certificate amendment. Finally, a model for court submissions for paternity establishment, transferable to other states, was to be developed.

To accomplish the project's work, a Project Coordinator ("the Coordinator") was hired. The broad categories of tasks assigned to the Coordinator were these: (1) analyze the procedures used in DCSE, J&DR and Circuit Courts, and VR (hereafter referred to as "partner agencies") in establishing paternity and amending birth certificates; (2) identify problems in the procedures and the methods of communication among the partner agencies; and (3) recommend changes in procedures so the project's goals can be accomplished.<sup>5</sup>

### **Planned Accomplishments**

The results expected from the project that could be evaluated include:

---

<sup>4</sup> This phase of the project was omitted for several reasons. When the first project coordinator left, there was insufficient time to complete the mailings and assist VR with ensuing requests for new birth certificates. The ultimate solution to the problem was seen as amending the regulation to eliminate the necessity for the permission of the mother/legal custodian to *request* the amendment of the child's birth certificate once changes in paternity had been authorized by the court. A copy of the proposed change is included as Appendix A.

<sup>5</sup> For evaluation purposes, these were the logical categories of tasks.

- Increased understanding of the paternity establishment processes and requirements of the partner agencies.
- Improved working relationships among the partner agencies that will lead to future cooperation and efficiencies.
- More efficient establishment of court-ordered paternity.
- Improved processes among DCSE district offices, the courts, and VR.
- More accurate information in the VR Electronic Birth Query System (EBQS)<sup>6</sup> for children for whom paternity has been established.
- Accurate reporting of paternities established in the state.
- Increases in the number of children who have their fathers named on their birth certificate.
- Increased financial and medical support of children.
- Avoidance of federal penalties and the loss of incentive funds when DCSE meets the federal Paternity Establishment goal.
- Development of a model for court-ordered paternities that can be replicated throughout the state and, also, shared with other states.

## **Evaluation of the Project**

### **Results**

The evaluation of project results is presented in the same order as the “Planned Accomplishments.”

- **Increased understanding of the paternity establishment processes and requirements of the partner agencies**

This result was achieved through a number of strategies implemented by the Coordinator,

---

<sup>6</sup> EBQS is a system of birth certificate information derived from the *Certifiable Database* and maintained by VR. If a mother applies to DCSE for assistance but is not certain if paternity has already been established, the district office “work lists” the Central Office, requesting a query of EBQS to determine if paternity has been established. Certain DCSE Central Office staff are authorized to access the system to determine if paternity has been established (i.e., appears in the Certifiable Database). Even if the Circuit or J&DR Courts previously sent paternity information to VR, VR will not enter the information in the Certifiable Database if the mother did not request that a new birth certificate be prepared or if there were errors/omissions in the submission. Central Office staff who query EBQS will report back to a district office that paternity has not been established when birth information does not appear in the Certifiable Database.

including these actions:

1. Interviewing court and VR staff to identify any problems in establishing paternity and amending birth certificates.
  2. Documenting procedures, including forms, the courts used in submitting documents establishing paternity.
  3. Reviewing forms to ensure information provided to VR was sufficient to amend birth certificates. This included reviewing the adequacy of data fields on court forms submitted for the establishment of paternity.
  4. Researching Code of Virginia and state Board of Health requirements regarding the necessity for the mother or legal custodian to request amendment of the child's birth certificate by adding the name of the child's father, after the court has determined paternity.
- **Improved working relationships among the partner agencies that will lead to future cooperation and efficiencies**

This result was achieved through these actions:

1. The Coordinator learned from interviews with court personnel that they were not aware of a state requirement<sup>7</sup> that certified paternity orders must be submitted to VR within 30 days. Consequently, a number of courts were not meeting the 30-day requirement for submissions.
2. In examining court forms, the Coordinator determined that several forms did not have data fields for information required by VR to change the birth certificate:
  - a. Form DC 644, *Order Determining Parentage*, did not include the father's race or color, and state or foreign country where the father was born.
  - b. Form DC 610, *Petition for Support*, did not include data fields for the father's race or color, date of birth, and state or foreign country birthplace.
  - c. Form DC 641, *Parentage Supplement to Petition*, had missing data fields for the father's race or color, date of birth, and state or foreign country birthplace. In addition, some courts were using their own forms in lieu of DC 644, which forms likewise did not contain all required data fields.

---

<sup>7</sup> Code of Virginia, Section 20-49.8

- d. Form DC 511, *Juvenile Petition*, did not have data fields for the father's or mother's dates of birth or the relationship of the guardian/legal custodian to the child.

- **More efficient establishment of court-ordered paternity**

This result was achieved through these actions implemented by the Coordinator:

1. Personnel in at least three courts were placing "unknown" in some fields on documents submitted to VR, when the information was not available. The practice ceased when the Coordinator informed the personnel that VR would not change the birth certificate if information for all required data fields was not furnished.
2. Personnel in a number of courts were submitting Form DC 644, *Order Determining Parentage*, to VR without certifying it as an authentic copy. Certification is required for VR to change information on the child's birth certificate and enter it into the Certifiable Database. This practice changed when the Coordinator informed the clerks of the problem.
3. Court staff were unaware of errors in documents they were submitting to VR because VR was not informing them of the errors/omissions. Their lack of knowledge prevented court staff from correcting the errors. Once the Coordinator informed the clerks of the situation, they became more diligent in providing required information (see Appendix C for a list of common errors and omissions).
4. In Circuit Court cases, attorneys wrote the orders and affidavits, which the clerk then filed with the court. No documents were being sent to VR, however, to correct the child's birth certificate and report the paternity, as required by law. This procedure was corrected once the Coordinator informed the clerks of the oversight.

- **Improved processes among DCSE district offices, the courts and VR**

Through extensive communication with the courts and VR, the Coordinator accomplished a number of beneficial changes affecting court-ordered paternity establishment. One example is the model flow charts of the processes to follow when establishing paternity through the Circuit Courts, J&DR Courts, and DCSE (see Exhibits 1-3). In addition to depicting the processes, these flow charts include some of the major changes affected by the coordinator's work. Following are some of these accomplishments:

1. The Coordinator alerted court clerks to the requirement that forms establishing paternity must be certified as authentic by the clerk/deputy clerk of the court. The clerks were also told that VR was not informing them of errors/omissions in documents they were submitting. Instead of entering the information received into the Certifiable Database, then, VR was entering it into the *Judicial Database* “as is,” filing it and making corrections to the birth certificate at the time the mother/legal guardian requested a copy of the birth certificate.<sup>8</sup>

Result of this change: After being informed by the Coordinator, court clerks understood the importance of certifying Form DC 644 and ensuring that it and other documents submitted to VR had correct information. The result was that VR has more complete and accurate information that meets the requirements to amend birth certificates.

2. The Coordinator researched the legal requirements for Circuit Courts to report paternity actions to Vital Records. Clerk of the Chesterfield Circuit Court Judy Worthington and the Coordinator prepared a revision to clarify the law requiring attorneys to complete the *Order Determining Parentage*/affidavit sent to VR. The Coordinator then discussed the revision with DCSE Regional Counsel Alice Burlinson, who will submit it to the legislature for incorporation into the Code of Virginia. Ms. Burlinson’s determination that Virginia law requires attorneys to complete the *Order Determining Parentage*, Form DC 644, or an affidavit and submit the completed document to VR, in order that paternity information on the birth certificate can be changed, was communicated to the Circuit Court clerks. As a result, the Circuit Courts have begun submitting the attorneys’ ODPs and/or affidavits to VR.

Result of this change: When paternity is established through a Circuit Court for divorce proceedings where paternity is an issue, the father’s name and other required information are now forwarded to VR so that Vital Records will have complete and accurate information that meets the requirements of the Code of Virginia and state

---

<sup>8</sup> The *Judicial Database* is a database maintained by VR, containing paternity information provided by either a Circuit or J&DR Court, including documents that do not meet the requirements for amending a birth certificate. For example, the Judicial Database may contain documents missing required information and documents without a signed request by the mother/legal guardian to amend the child’s birth certificate. VR maintains this database so that DCSE can count these paternities and meet funding incentives toward the federal goal for Paternity Establishment.

Board of Health to amend birth certificates. This will result in more birth certificates with accurate information. In the future, a child whose paternity has been affected by this procedure will no longer need to wonder who his/her father is.

3. The Coordinator is continuing to conduct training with personnel in both Circuit and J&DR Courts on the requirements and procedures to be followed in reporting paternity changes to VR. This is a brief evaluation of some of the training activities for Circuit Court clerks:
  - a. At a Fairfax Circuit Court Regional meeting on October 30, 2002, the Coordinator was told by a member of the Supreme Court (of Virginia) Education Committee that she has a contact with the Virginia Bar Association and would communicate requirements for establishing paternity to the contact. The meeting ended on a positive note, with participants indicating cooperation in getting required documents to VR.
  - b. Forty-seven (47) clerks attended the Richmond Region Circuit Court meeting on October 18, 2002. This meeting also produced positive feedback and assurances of cooperation.
  - c. Forty-four (44) clerks attended the Chesapeake Region Circuit Court Clerks meeting on October 23, 2002. The participants were also very receptive and pledged cooperation in reporting the required information to VR.
4. The Coordinator researched the VR practice of not changing paternity information on a birth certificate unless requested by the mother/legal guardian. Code of Virginia Sections 32.1-257 and 20-49.8 and state Board of Health Regulation 12 VAC 5-550-310 govern court determination of paternity, where the latter states:

A new certificate of birth may be prepared by the State Registrar for a child born in this Commonwealth upon receipt of a certified copy of a court determination of paternity, *together with a request from the natural mother or person having legal custody of said child that such new certificate be prepared* (italics applied for emphasis).

The italicized portion requires the mother/person having legal custody of the child to sign a request for a new birth certificate--adding/changing the father's information--after the court has legally acknowledged the individual as the father. So, for example, if the mother had a disagreement with the father or, for some other reason, never

requested that a new birth certificate be prepared, the father's name would not appear on the birth certificate. This requirement could create a temporary or permanent obstacle to listing the father's name on his child's birth certificate.

Corrections made by this research project: The state Board of Health has proposed a change to Regulation 12 VAC 5-550-310, court determination of paternity, which change is expected to be approved in Fall 2003 (see Appendix A for proposed change).

Result of this change: With the change, an obstacle to listing or changing the father's name on the child's certificate will be eliminated. This will result in more birth certificates with accurate information. When a person inquires of VR about his/her father, he/she can be assured that the information on the certificate is accurate. The mother/person having legal custody of the child will no longer be able to prevent, intentionally or otherwise, the placement or correction of a father's name on his child's birth certificate.

5. The Coordinator arranged to have revisions made in the following forms:
  - a. Form DC 644, *Order Determining Parentage*. This form was amended in December 2001 to provide data fields for the father's race or color and the state or foreign country where the father was born. This information is required by VR when paternity is established through court action for amendment to the child's birth certificate. (It was also discovered that some courts had been using their own form in lieu of DC 644, as an attachment to DC 610, *Petition for Support*, and the locally developed forms omitted this required information.)
  - b. Form DC 610, *Petition for Support*. DCSE staff and mothers/legal guardians who petition the court to establish paternity use this form. Several changes were made. Data fields were added on page 2 for the father's race or color, date of birth, and the state or foreign country of the father's place of birth. This information is required by VR when paternity is established through court action for amendment to the child's birth certificate.
  - c. Form DC 641, *Parentage Supplement to Petition*. This form was changed to include all information required by VR for establishing paternity through court action, to amend a child's birth certificate. (Form DC 641 is also used to

identify the father's place of birth, information that is not requested on the automated DC 610, *Petition for Support*.)

- d. The Coordinator also learned that some court clerks were using their own forms in lieu of DC 644; the form(s) did not contain all requisite information. The Coordinator arranged to have this practice changed.
  - e. Form DC 511, *Juvenile Petition*, was revised to add the father's and the mother's dates of birth and the relationship of the guardian/legal custodian to the child.
6. After the forms had been modified, the Coordinator conducted video-conferencing interviews with clerks in several J&DR Courts, to discuss issues such as the use of revised forms, the court-ordered paternity establishment process, and requirements for updating birth certificates. During these sessions, the Coordinator advised the clerks that entering "unknown" in a required field would not meet the requirements of Vital Records to amend birth certificates. The Coordinator will be conducting more training in 2003-04 (see Appendix B for an outline of this training).
- **More accurate information in the VR Electronic Birth Query System (EBQS) for children for whom paternity has been established**

The data in EBQS are based on information contained in the Certifiable Database and are, therefore, complete and accurate. So, while the project could not have an impact on accuracy, it did increase the rate of court-submitted changes acceptable to Vital Records' requirements. This, in turn, increased the probability that paternity information would be found when DCSE Central Office staff query EBQS for paternity status.
  - **Accurate reporting of paternities established in the state**

To measure how effective the project has been in increasing the accuracy of reporting paternities, an analysis was conducted of the errors made in submissions for paternity changes by J&DR and Circuit Courts for the last three months of 1999 (beginning October 1), the date this information was first available. Errors were also analyzed for 2002, the first full year after the project started (i.e., May 2001). Table 1 provides the results.

**TABLE 1**  
**Errors<sup>1</sup> in J&DR and Circuit Court Paternity Submissions,**  
**1999 (October - December) and 2002 (Calendar Year)**

Year	Total Paternities in Judicial Database <sup>2</sup>			Missing Information for Child's Birth Certificate:												Misspelled Information for Child's Birth Certificate:			
	No.	Correct data		Child's birth date <sup>3</sup>		Child's birthplace <sup>4</sup>		Father's name		Father's birthplace		Father's birth date		Judge's signature		Child's name		Father's name	
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
1999	1,944	490	25.2% <sup>7</sup>	78	*	1,373	70.6% <sup>7</sup>	6 <sup>5</sup>	*	1,454	74.8% <sup>7</sup>	220	11.3% <sup>7</sup>	2	*	4	*	6 <sup>5</sup>	*
2002	7,286	2,436	33.4% <sup>7</sup>	105	*	4,896	67.2% <sup>7</sup>	5 <sup>5</sup>	*	4,333	59.5% <sup>7</sup>	591	8.1% <sup>7</sup>	1	*	11 <sup>6</sup>	*	5 <sup>5</sup>	*

<sup>1</sup> Several records had two or more errors.

<sup>2</sup> Includes Acknowledgments of Paternity, Orders Determining Parentage (submitted by J&DR and Circuit Courts), and some paternities established through genetic testing, submitted by J&DR Courts and district DCSE offices

<sup>3</sup> Missing information for the child's birth date neither causes the entire order to be in error nor prevents VR from updating the birth certificate.

<sup>4</sup> VR already has correct birthplace information in the Certifiable Database, so an error submitted later will not adversely affect the Certifiable Database.

<sup>5</sup> The same frequencies are shown in both Missing and Misspelled columns since some files contained just the first initial and last name, while others had the entire name missing.

<sup>6</sup> Either did not have the full name or the name was missing.

<sup>7</sup> Percentages for years 1999 and 2002 are significantly different.

- Less than one percent

As shown in Table 1, the percentage of paternities with correct information increased from 25.2 percent in 1999 to 33.4 percent in 2002. This 32.5 percent increase in the rate of paternities submitted with correct information meant that an additional 597 paternities had all the information necessary for VR to correct the birth certificates. Also, the percentage of documents with missing information was lower in all major categories. The differences were statistically significant. As the Coordinator continues to train J&DR and Circuit Court clerks in avoiding the most common errors, the percentage of paternity submissions with correct information will undoubtedly increase.

- **Increases in the number of children who have their fathers named on their birth certificate**

The impact of the project on this measure cannot be determined yet. As noted above, however, in 2002 the Coordinator's efforts resulted in an additional 597 court paternity submissions to VR that met all requirements for changing the child's birth certificate. As the Coordinator continues to train court clerks, the numbers of children whose fathers are properly identified on their birth certificate should continue to increase.

- **Increased financial and medical support of children**

The first step in providing for financial and medical support for children is establishing paternity. Once that is accomplished, financial and medical support obligations can be determined. Delays in establishing paternity mean delays in establishing the subsequent child support obligation. Eventually, paternity would probably have been established. However, the process would have been considerably slower, depriving children of the financial and medical support they were entitled to receive in the meantime.

- **Avoidance of federal penalties and the loss of incentive funds when DCSE meets the federal Paternity Establishment goal**

DCSE receives the majority of its funding from the federal government, which requires DCSE to reach an annual Paternity Establishment goal of 90 percent to continue receiving these funds. States with percentages lower than 90 percent must improve their paternity establishment by 2 percent each year. If DCSE fails to meet its Paternity Establishment goal, it could face a federal penalty of \$1.5 million and lose up to \$5 million in federal incentives.

There are no *project* data with which to evaluate this accomplishment. Nevertheless, DCSE has met the federal Paternity Establishment goal each year since it was adopted. As errors in documents submitted to VR decrease, however, the probability of penalties and loss of federal incentive funds will decrease as well. The Coordinator has established a foundation for continued progress in reducing the rate of errors: As clerks become more knowledgeable about common errors to avoid, the number of errors will inevitably decline. The process of educating court clerks needs to continue. For years, this problem was neglected; it will not be reversed without continued effort. The Commonwealth of Virginia is already experiencing short-run benefits from the project. It is important to maintain momentum if these benefits are to increase over the long run, as well.

- **Development of a model for court-ordered paternities that can be replicated throughout the state and shared with other states**

Three models have been proposed and prepared, one each for the paternity process in Circuit Court, J&DR Court, and DCSE. Each model is preceded by a brief explanation that covers how it differs from current practice.

## **Paternity Model: Circuit Court**

In Circuit Court, paternity is an issue when appealing a decision from the J&DR Court and in a divorce case when paternity is an issue.

### Appeal of J&DR Court Decision

As shown in Exhibit 1, the appeal will be received in the clerk's office and set for trial. The court administrator assigns a judge to the case and, when the parties are present, the judge sets a court date, and the parties are officially notified by the clerk. After trial, the judge makes a decision and an attorney writes the order. If an attorney is not involved in the case, the law clerk prepares and certifies the order, then remands the case to J&DR Court.

### Divorce Cases Involving Paternity

If an attorney is involved, the attorney will interview the mother/putative father and prepare a motion/pleading. If an attorney is not involved, the parties prepare the motion/pleading if they know the pertinent provisions of the Code of Virginia. The motion/pleading is submitted to the clerk's office and, after processing, is given to a judge's secretary, who sets a date for a hearing and notifies the parties. If the putative father admits paternity at the hearing, the judge makes a decision while the attorney is present (if there is one), and the attorney prepares the order. If an attorney is not involved, the law clerk prepares the order. In both situations, the judge signs the order. Then, the attorney or law clerk will prepare and certify the affidavit/ODP (*Order Determining Parentage*), which is given to the clerk to process. The clerk will process the documents and send them to VR. Upon receipt, VR will process the documents unless there is an error, in which case the documents will be returned to the clerk for correction. Upon receipt of corrected documents, VR adds/changes the father's name on the birth certificate. If the father's name is already on the birth certificate, no further action is required.

### Changes from Current Practice in Virginia

Currently, VR maintains a Judicial Database to record paternity information furnished by the J&DR and Circuit Courts, including documents that are incomplete or contain errors. This model proposes to have the documents with errors returned to the courts for correction, then be resubmitted to VR to post the corrected information in the Certifiable Database. The other change eliminates the necessity for the permission of the mother/legal custodian to amend the child's birth certificate after court determination of paternity.

# Exhibit 1- Establishing Paternity in Circuit Court

**Legend:**

- Atty rep. = attorney representing
- BC = birth certificate
- Clk Office = Office of Clerk of Court
- Ct. Admin. = Court Administrator
- J&DR = Juvenile and Domestic Relations Court
- J&DR appeal = appeal of J&DR decision
- LG/Mthr = Legal guardian/ Mother
- M/PF = Mother/putative father
- ODP = Order Determining Parentage (DC-644)
- Pat. = Paternity
- VDH = Virginia Department of Health
- VR = Office of Vital Records & Health Statistics, VDH

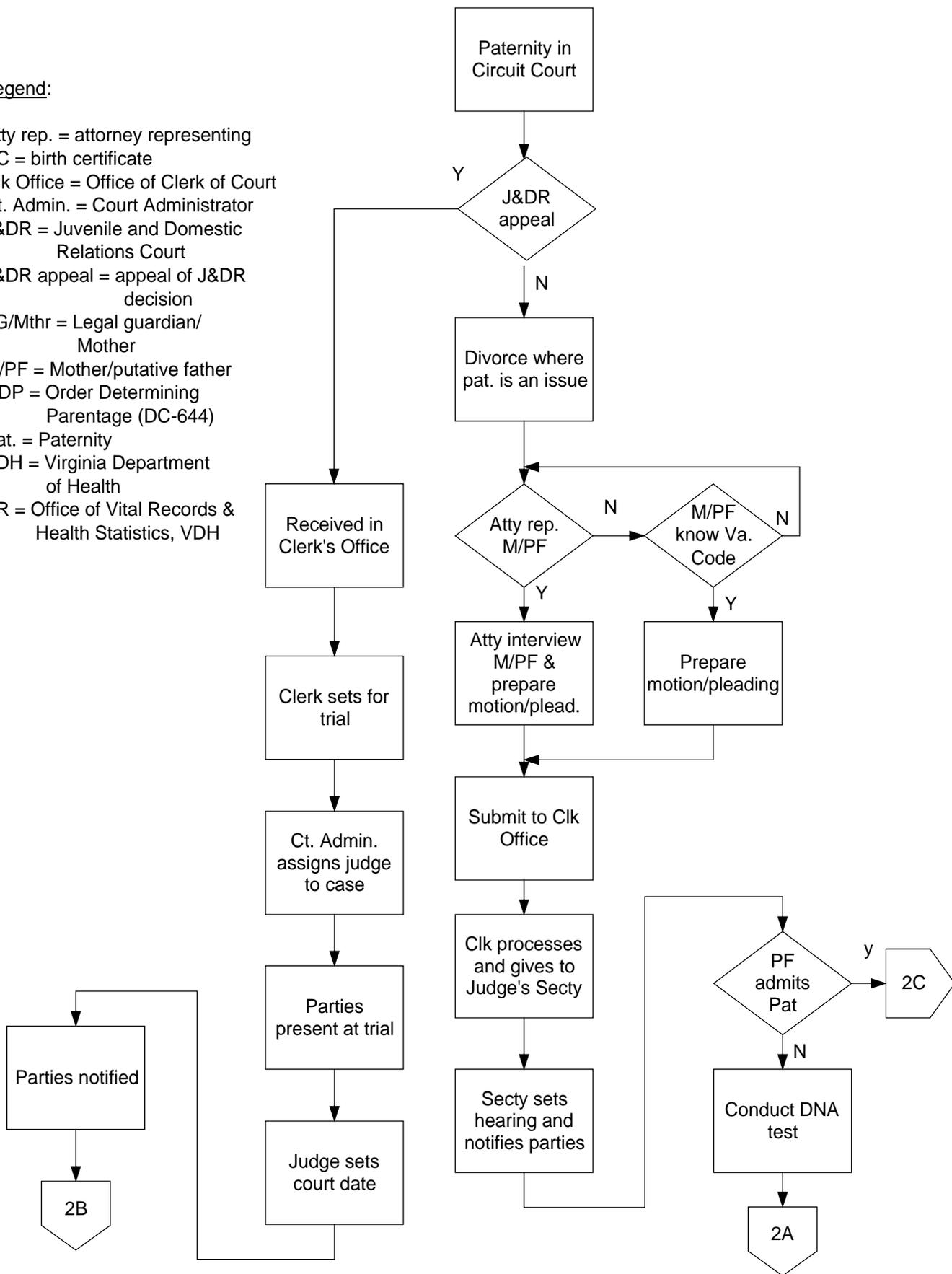


Exhibit 1 (continued)

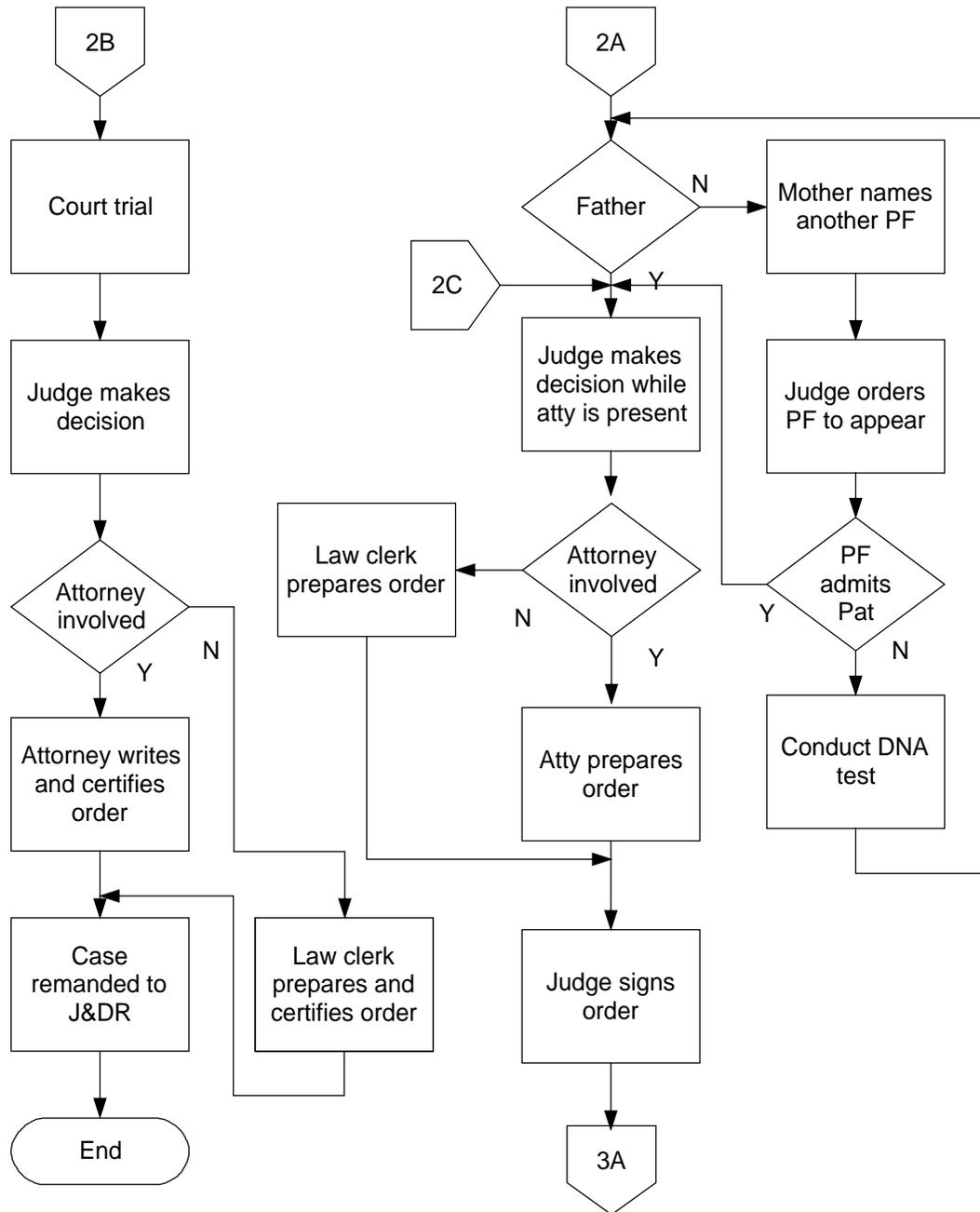
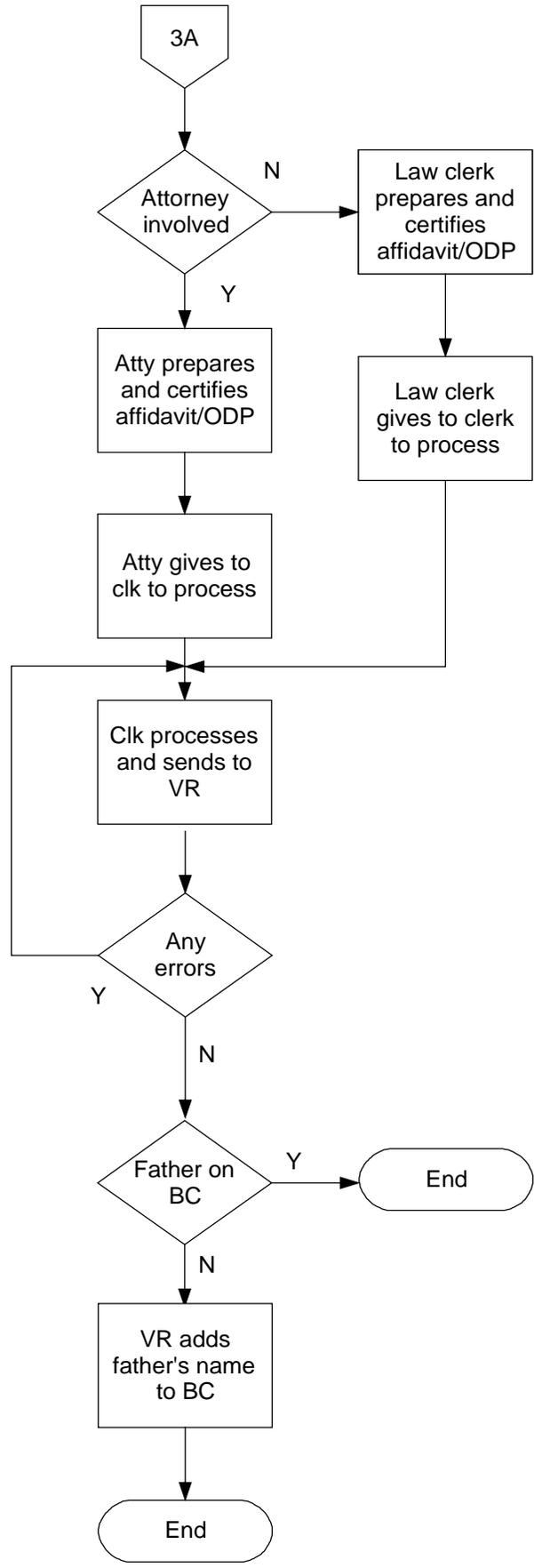


Exhibit 1 (continued)



### **Paternity Model: Juvenile and Domestic Relations (J&DR) Court**

As shown in Exhibit 2, *Establishing Paternity in Juvenile & Domestic Relations (J&DR) Court*, the mother, putative father or legal guardian can establish paternity through a J&DR Court. In the model, if an attorney is representing the party, the attorney completes the required documents and submits them to the clerk of the court. If there is no attorney, the clerk of the court may assist the petitioner in preparing the documents. Separate procedures, shown in the model, prevail if child support is sought. (These procedures are not discussed here since they do not involve paternity establishment.)

After the documents are submitted to the clerk of the court, the putative father is asked if he admits paternity. If he declines because he is unsure whether he is the father or because he does not wish to acknowledge paternity, a DNA test is ordered by the court. If the test shows that he is the biological father, the judge signs the Form DC 644, *Order Determining Parentage*, and the clerk certifies the form as authentic and sends it to VR. VR uses Form DC 644 to place the father's name on the birth certificate and enter the paternity into the Certifiable Database.

If the DNA test does not establish fatherhood and the person's name is on the birth certificate, a DC 644 showing this information is sent to VR, so that information in the Certifiable Database and on the birth certificate can be changed.

#### Changes from Current Practice in Virginia

Currently, as noted in the discussion of Circuit Court procedures, VR maintains a Judicial Database to record paternity information, including documents that contain errors/omissions, furnished by the J&DR and Circuit Courts. This model proposes to have documents with errors returned to the court for correction, then be resubmitted to VR. The corrected information would be posted directly in the Certifiable Database. The other change eliminates the necessity for the permission of the mother/legal custodian to amend the child's birth certificate after court determination of paternity.

Exhibit 2 - Establishing Paternity in Juvenile & Domestic Relations (J&DR) Court

**LEGEND**

- Assgd = assigned
- Atty = attorney
- BC = birth certificate
- Certifiable Database = (see Glossary)
- Ct. Int. Wkr = court intake worker
- Fin. State = financial statement
- Med. = mediator
- M/PF/LG = mother/putative father/ legal guardian
- ODP = Order Determining Parentage (Form DC-644)
- Pet'er = petitioner
- Resp. = respondent
- VR = Office of Vital Records & Health Statistics

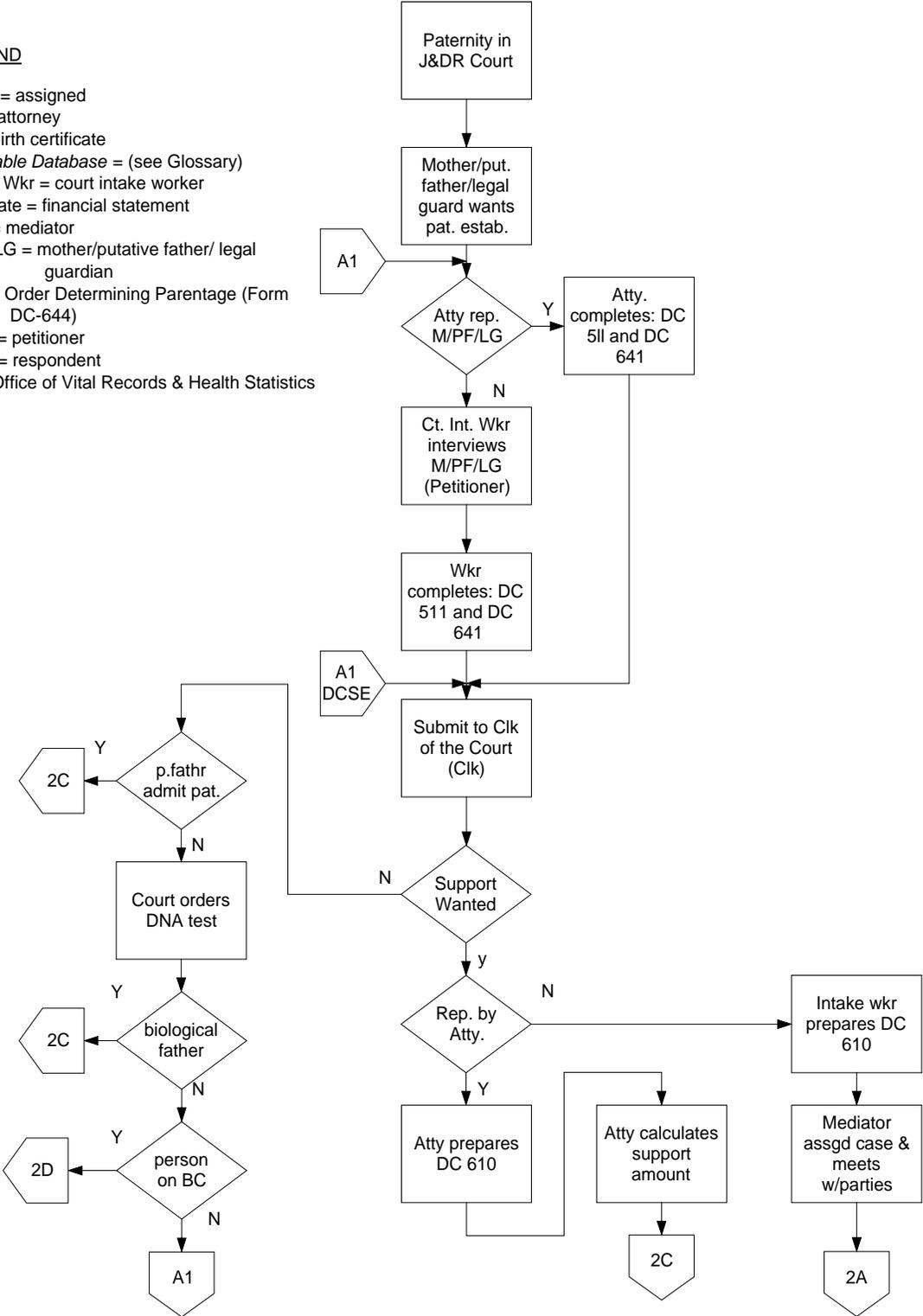


Exhibit 2 (continued)

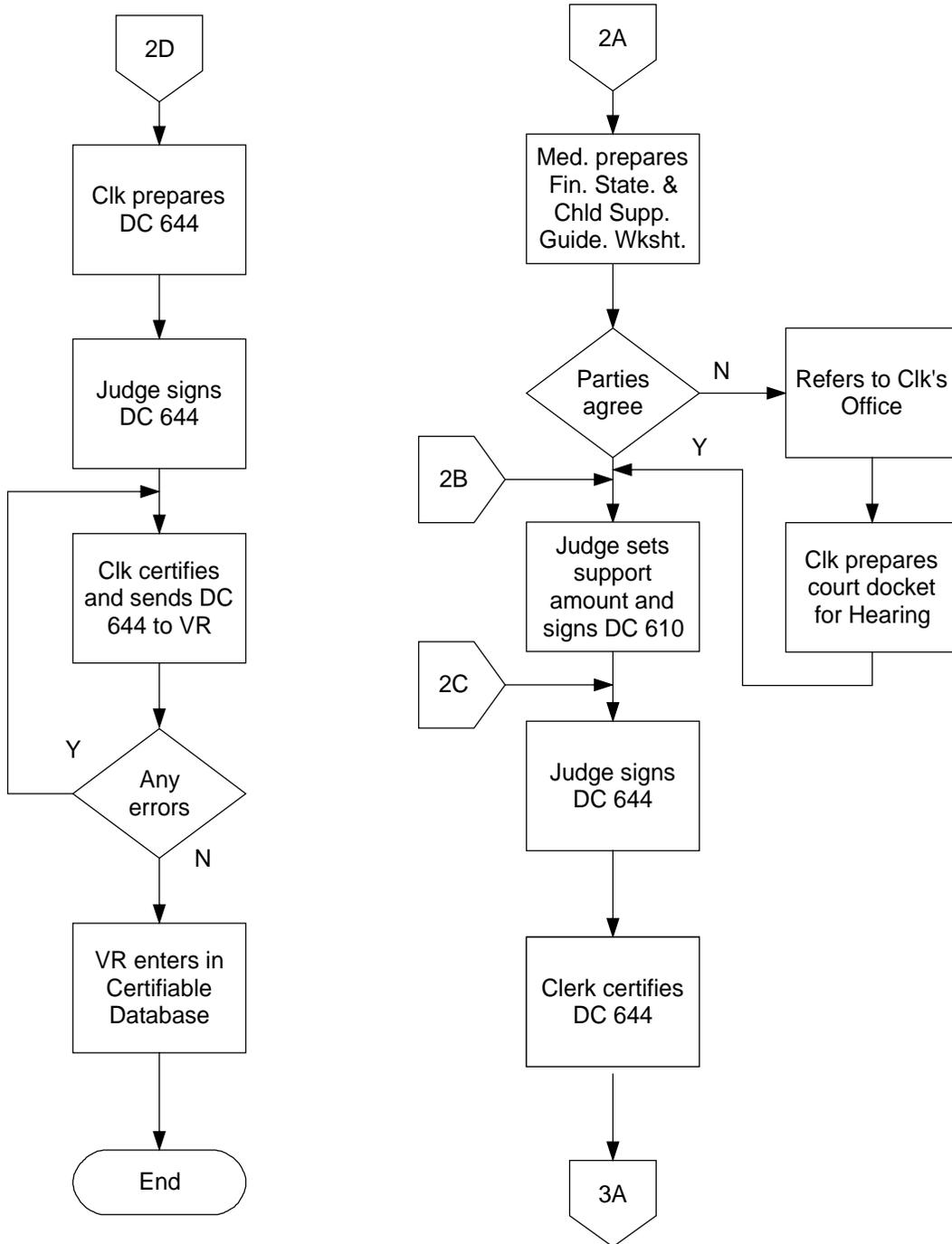
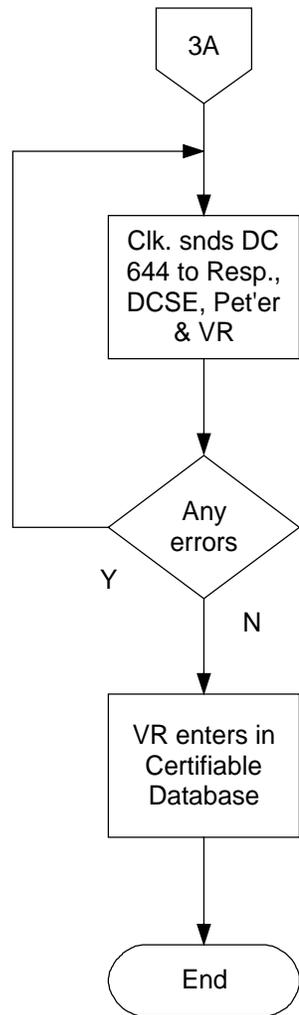


Exhibit 2 (continued)



### **Paternity Model: Division of Child Support Enforcement**

As shown in Exhibit 3, *Establishing Paternity in DCSE*, the custodial parent or legal guardian applies at a district office for assistance in establishing paternity for a child.

Alternately, when a child is granted TANF benefits, the applicable district office receives Form 501 from the local Social Services office to open a child support case. Regardless of source, an Intake worker opens the case by verifying information, building the case, and assigning a case number. If paternity is not an issue because the mother has proof of paternity, DCSE summons the father to obligate him for child support, and the case is referred to Enforcement. If paternity is an issue because the mother does not have proof of paternity, the district office work lists Central Office to check the father's name in EBQS. If the father is named on the birth certificate, the case is referred to an Establishment worker, who determines the support obligation. From there, the case goes to Enforcement.

If EBQS does not indicate the man's name on the child's birth record, and therefore paternity is an issue, the putative father is given the opportunity to admit paternity or consent to a genetic test. If he refuses both options, the case is referred to J&DR Court for court-ordered paternity action.

#### Changes from Current Practice in Virginia:

The major change is eliminating the permission of the mother/legal custodian to amend the child's birth certificate following court-ordered paternity action. This change results in abolishing the requirement for DCSE to secure the mother's signature on an AOP or the legal guardian's signature on an affidavit to request that Vital Records add the father's name to the birth certificate.

### Exhibit 3 - Establishing Paternity in DCSE

**LEGEND**

APECS = abbreviation for Automated Program to Enforce Child Support, DCSE's data system  
 Bld. = build case  
 Certifiable Database = (see Glossary)  
 C.O. = central office of DCSE  
 CP/LG = custodial parent/legal guardian  
 DCSE = Division of Child Support Enforcement  
 D.O. = DCSE District Office  
 EBQS = Electronic Birth Query System (see Glossary)  
 J&DR = juvenile and domestic relations court  
 ONWI = Order/Notice to Withhold Income for Child Support  
 PF = putative father  
 Special Counsel = Commonwealth of Va. attorneys who represent DCSE  
 VR = Office of Vital Records & Health Statistics  
 Wklist = Worklist, which is a query system in APECS

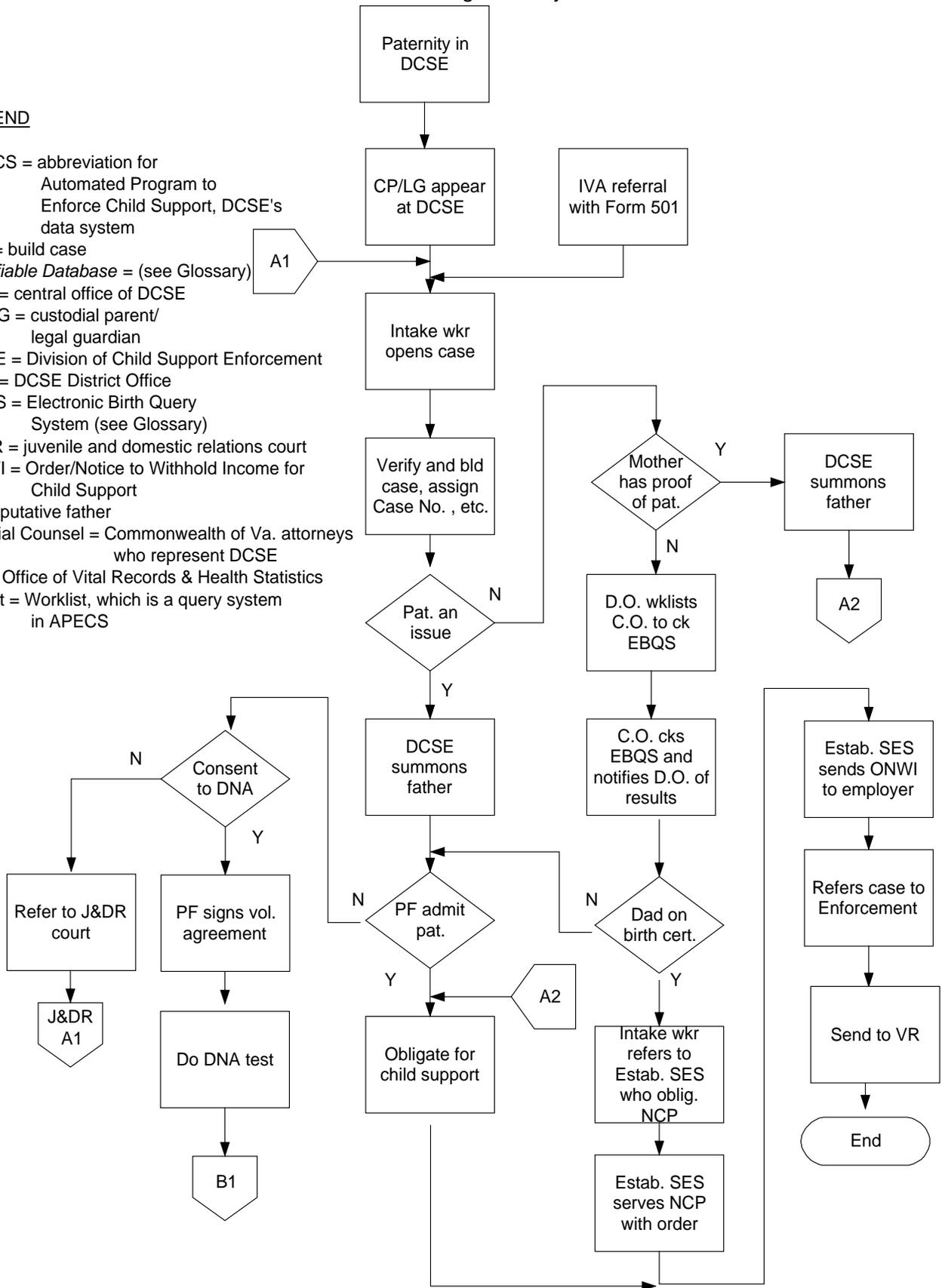
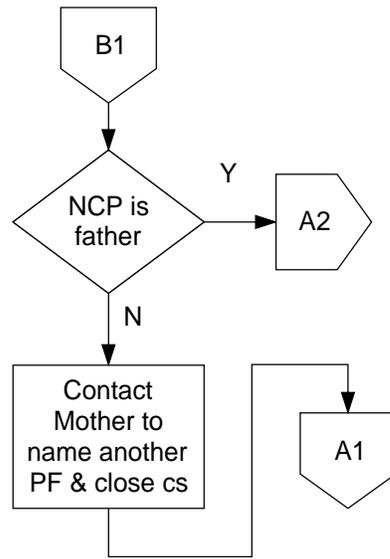


Exhibit 3 (continued)



## Findings, Conclusions, and Recommendations

### Findings

The process of court-ordered paternity involves important interaction among J&DR and Circuit Courts, VR, and DCSE. To accomplish changes in information on birth certificates requires high levels of communication and coordination among the parties. This project identified communication deficiencies from VR to the courts that hindered the correction of paternity information on birth certificates.

Court personnel were submitting documents to VR that contained either incorrect or incomplete information. The documents with errors did not meet the requirements to amend birth certificates. Since VR was not informing court personnel that the information being submitted was in error, court personnel continued making errors on submissions. This process continued until the Coordinator identified the problem and began informing court personnel what was occurring.

The Coordinator conducted regular training sessions with court personnel to reinforce the importance of submitting both correct and complete information for changes on birth certificates. As a result, documents being submitted are now certified as authentic, as required by the Code of Virginia. In addition, correct information is increasingly being provided.

The Coordinator also identified several forms being used by court personnel that did not contain all the information required for VR to change birth certificates. Again, VR had not informed court personnel that the forms were deficient, so the forms had not been amended. The Coordinator revised the forms, directly informed court personnel about the corrected forms, and conducted training sessions accordingly.

A legal requirement in the Code of Virginia and state Board of Health regulation stipulates that paternity information on a birth certificate cannot be corrected unless the child's mother or legal custodian requests that the child's birth certificate be amended. This provision often prevents VR from adding/correcting the father's name on a birth certificate, even in cases where the court has determined paternity and submitted correct and complete information to VR. Amending the Board of Health regulation became a priority and resulted in a proposal to the state Board of Health to eliminate the necessity of the permission of the mother/legal custodian to amend the child's birth certificate after court determination of paternity.

## **Conclusions**

The Coordinator's efforts have resulted in a number of beneficial changes that significantly increase the prospect that children in the Commonwealth have their birth certificates amended to show their father's name correctly. These are among the more important actions taken by the Coordinator:

- Arranged to have four forms used by court personnel changed to include information required for VR to add/change the father's name on a birth certificate.
- Conducted both video conferencing and other forms of training for court personnel to educate them in the use of the amended forms and to identify which information must be correct and complete to meet Vital Records' requirements..
- Trained Intake workers in the J&DR Court Services unit in the use of the amended forms and on VR requirements for non-DCSE cases.
- Coordinated efforts between the DCSE Regional Counsel and others to propose a regulatory change in the requirement for a mother or legal custodian to request amendment of the child's birth certificate.

As a result of these and other actions, the error rate declined 12 percent for required information on documents submitted by court personnel to VR. This improvement meant that, for Calendar Year 2002, an additional 597 birth certificates contained correct paternity information. In addition, for Calendar Year 2002, there was a statistically significant decline in the number of documents with missing information submitted to VR.

In conclusion, communication among personnel in the courts, VR, and DCSE has significantly improved as a direct result of this project. This positive interaction has resulted in both tangible and intangible benefits that will undoubtedly continue into the future as the players in the partner agencies increasingly recognize how their actions impact a fundamental right of people born in the Commonwealth – to have the father's name appear on their birth certificates.

## **Recommendations**

- The Coordinator has scheduled future training sessions for court personnel. This training should proceed not only for existing but also for newly hired court personnel. The courts must supply complete and accurate information that meets VR requirements if birth certificates are to be amended in a timely manner. Timely birth-certificate amendment is

dependent upon knowledgeable court personnel who recognize the importance of their roles in submitting correct birth-related information and understand clearly what they must do to ensure a positive outcome.

- The Coordinator should follow up with VR to ensure that the change in the Board of Health regulation, to eliminate the procedure in which the mother or legal custodian of a child is required to *request* that the birth certificate be amended, has been introduced and approved. The current regulation has become a significant obstacle to amending birth certificates.

- To ensure that future problems are avoided or addressed in a timely manner, we recommend that the partner agencies -- the Circuit and J&DR Courts, VR, and DCSE -- form a standing committee for issues affecting court-ordered paternity establishment. The committee can meet as necessary (i.e., ad hoc) and will be valuable both in preventing some problems from occurring and in addressing those problems that do arise.

\*\*\*

## Glossary

*Acknowledgment of Paternity (AOP) Form:* A Vital Records form [032-11-VS22 (1/95)] for the biological father and mother of a child to swear they are the biological parents of the child named on the form. This form can be used for the biological parents to swear paternity acknowledgment if they married after the birth of the child (which requires enclosing a certified copy of the marriage record). It contains the rights and responsibilities of both the mother and father, includes the right of each party to rescind their acknowledgment within 60 days of signing, and has a place for the signatures of the mother and father to be notarized.

*Certifiable Database:* Maintained by Vital Records (VR), this database contains birth information for all persons born in the Commonwealth of Virginia. Once birth information is entered into the database, changes (e.g., adding/changing a father's name) must meet legal requirements established in the Code of Virginia and in regulatory procedures established by the state Board of Health.

*Electronic Birth Query System (EBQS):* Maintained by VR, this system enables select DCSE Central Office staff to access birth information. For example, if a mother applies to DCSE for assistance and is not certain if paternity has already been established for her child, the district office will "work list" the Central Office and request a check of EBQS be made to determine the status of the paternity.

*Evidence Date:* Either the date that paternity was established administratively or the date that a judge signs Form DC 644, *Order Determining Parentage*.

*Judicial Database:* Maintained by Vital Records (VR), this database contains paternity information provided by the Circuit and J&DR Courts and includes documents that do not meet the Vital Records requirements to amend birth certificates. If the mother/legal custodian did not request a change in the birth certificate as required by regulations or if there are errors/omissions in the documents that the court submitted to VR, the birth information will be entered into the Judicial Database. VR maintains this database in order that DCSE may count these paternitys, plus those in the Certifiable Database, to meet the annual federal Paternity Establishment goal.

*Office of Vital Records and Health Statistics (referred to as VR):* The office in the Virginia Department of Health that maintains birth and death certificates, as well as other vital statistics,

for the citizens of the Commonwealth. VR maintains two databases containing paternity information, the *Certifiable Database* and the *Judicial Database*.

*Order Determining Parentage* (ODP; also, Form DC 644): A form signed by either a Circuit Court or Juvenile & Domestic Relations Court judge designating the name, sex, birthplace, and Social Security number (if available) of a child who is/is not the child of a father named in a court paternity action. The document informs the parents/legal guardian to contact VR on how to obtain a copy of the child's birth certificate. In order for VR to accept the form, the clerk/deputy clerk of the court must certify the copy as authentic.

*Order/Notice to Withhold Income for Child Support* (ONWI): A standardized form used by all states to request income withholding for child support obligations. Under the Uniform Interstate Family Support Act (UIFSA), this form may be sent directly from the Initiating State to the non-custodial parent's (NCP's) employer in another state.

\*\*\*

## **APPENDICES**

**APPENDIX A:**

**Proposed Change to State Board of Health Regulation re Mother/Legal Custodian  
Requesting New Birth Certificate**

**Proposed Regulations**

*Volume 19, Issue 6 Monday, December 2, 2002, p. 899*

**12 VAC 5-550-310. Court determination of paternity.**

*A. If no appeal has been taken from the final order and the time allowed to perfect an appeal has expired, a new certificate of birth may be prepared by the State Registrar for a child born in this Commonwealth upon receipt of a certified copy of a court determination of paternity[, together with a request from the natural mother or person having legal custody of said child that such new certificate be prepared. If the surname of the child is not decreed by the court, the request for the new certificate shall specify the surname to be placed upon the certificate]. -- text in brackets to be stricken*

## **APPENDIX B:**

### **Regional CLE (Continuing Legal Education) Training for Court Clerks: Outline**

- I. Background information on Division of Child Support Enforcement (DCSE) and its relationship to the Juvenile and Domestic Relations (J&DR) Court
  - A. Annual federal Paternity Establishment goal, incentive measure, and associated penalty
  - B. Critical role that documents the court sends to Office of Vital Records & Health Statistics (VR) play for child and family, VR, DCSE, and OCSE
- II. Benefits of DCSE reaching annual Paternity Establishment goal
  - A. More completed paternities recorded and counted at VR
  - B. Decrease in J&DR Court caseload
  - C. Courts comply with the Code of Virginia and Board of Health regulations
  - D. DCSE avoids federal penalties, including loss of TANF funding
- III. Current issues DCSE, the courts, and VR face re court paternity documents
  - A. Some courts not sending certified orders within 30-day time frame
  - B. Some paternity orders missing information required to update child's birth certificate
  - C. Little communication between VR and courts regarding rejected paternity orders
  - D. Other issues directly affecting DCSE
- IV. Flow charts and discussion of typical non-DCSE paternity case
- V. Presentation and discussion of recent errors on paternity orders from J&DR Court
- VI. Proposed solutions to issues
  - A. Increase knowledge of Intake staff about VR- and DCSE-required information
  - B. Review most recent court paternity documents and their requirements
  - C. Provide periodic training for DCSE and court personnel
- VII. Discussion of cases involving "legal" fathers and "putative" fathers

## APPENDIX C:

### Common Errors and Omissions by the Courts and DCSE

- Omitting the child's place of birth (city and state) completely or providing only the state for "place of birth." Vital Records needs both the city and state in which the child was born (as shown on the birth certificate).
- Listing an incorrect date of birth for the child.
- Spelling the child's name incorrectly.
- Omitting the father's race.
- Submitting a *Petition for Support* (Form DC 610), in lieu of the *Order Determining Parentage* (Form DC 644), to Vital Records. Language in the Support Petition states that the father is ordered to pay the genetic testing fee. It does not establish paternity for the child.
- Failing to certify as authentic the *Order Determining Parentage* documents [court clerk/deputy clerk].