

MODIFYING CHILD SUPPORT FROM A DEPENDENCY CASE THAT HAS CLOSED

Background & Analysis

For a dependency case to close, either the parents have successfully completed a case plan and the child is reunified with the family, the child was reunified with only one parent, the parents' rights to the child were terminated, or a placement with a fit and willing relative or guardianship placement was made. If the child is reunified with the parents, then child support would only continue to be relevant at the close of the case if the parties are separated or there is a parent with the majority of time-sharing for some other reason. In that situation, the dependency matter is truly closed and there seems to be little justification to retain jurisdiction to address future child support issues. The proper forum to address continuing matters of child support would be domestic relations. The only reason dependency should be reopened is if abuse, neglect, or abandonment led to a new dependency. As stated above, however, a fully implemented UFC would have overarching jurisdiction to decide all of these matters without the concerns of forum. The Supreme Court indicated that UFC jurisdiction should include dealing with matters of child support that are unconnected to a dissolution of marriage case. In re Report of the Family Court Steering Committee, 794 So. 2d 518, 525 (Fla. 2001).

Similarly, where the child is only reunified with one parent (such as when a parent's whereabouts are unknown or a single parent TPR) there may be no child support obligation, or, if there is still an obligation of support, then the matter again would best be addressed in a domestic relations forum.

Where the dependency is closed because parental rights are terminated, and the child has been adopted, there would be no continuing obligation of support.

When a child is placed with a fit and willing relative or a guardianship, there will certainly be continuing child support obligations and indeed the possibility of continuing issues of which the dependency court may want to be aware. This scenario may be one in which the dependency court chooses to terminate supervision but retain jurisdiction.

Lastly, one of the methods already being employed to deal with this issue is the creation of a procedure whereby the clerk automatically creates a new domestic relations case number, at the close of the dependency case, and files therein a copy of the child support order from the dependency case. This creates a civil case number that the Department of Revenue can use to deal with any enforcement issues that may arise, and it also gives the parties a means to come back before the court to modify child support pursuant to Chapter 61.