

## Child Custody, Visitation, and Child Support Issues



A suit concerning child custody, possession (*i.e.*, visitation), and/or child support is known as a suit affecting the parent-child relationship (SAPCR). A SAPCR can be an original suit—the first time there is a lawsuit regarding the child—or a modification of a previous court order. Another type of SAPCR is an enforcement suit, which is addressed separately on this website.

Original SAPCRs usually arise when the parents are not married to one another. An original SAPCR can include a determination by the court that a man is or is not the biological father of a child, often done after genetic testing.

Modifications typically arise when the circumstances of the child, a conservator (*i.e.*, a person who has the legal right to make decisions or receive information about the child), or other party affected by the previous order have materially and substantially changed since the date of rendition of that previous order or since the date of a mediated settlement agreement or collaborative law settlement agreement that was the basis of that previous order.

Our representation in a SAPCR starts with an initial consultation between the attorney and the prospective client. In that initial consultation, we identify the prospective client's goals, the issues the case presents, and a strategy for achieving those goals and addressing those issues. At the end of the consultation, the client and the attorney decide whether to sign a contract for the attorney to represent the client in the SAPCR. If so, the attorney will identify the documents and other information needed from the client, including the information that will be needed if there is a temporary hearing.

Frequently, a party will want temporary orders at the beginning of the SAPCR. Those temporary orders will determine some or all of the following issues, usually for the duration of the suit:

- Rights to make decisions for a child, including where the child primarily resides
- Geographic restriction on the primary residence of a child
- Possession (*i.e.*, visitation), including supervised possession
- Child support
- Providing and paying for health insurance for a child
- Sharing the health care expenses of a child not paid by insurance
- Interim attorney's fees
- Temporary injunctions

In a modification, the designation of the person with the right to designate the primary of a child may not be changed at a temporary hearing except under specific circumstances.

After the temporary issues are resolved by agreement or court order, the focus of the case turns to information gathering. That information can include financial records, communications between the parties and others, photographs and video recordings, health and mental health records, education records, and criminal records. The information can also include how each child is doing under the temporary orders and how the parties are behaving. Besides obtaining information from the client, we also formally and informally obtain information, including sworn statements, from the other spouse and other persons.

To resolve the case, we try to settle all or some of the issues. The vast majority of SAPCRs settled. We strongly believe that parties, not judges or juries, usually are in the best position to decide what is best for their children. We work with opposing counsel and, if informal attempts do not work, we frequently go to mediation. If all settlement efforts fail, we try the case to a judge or to a judge and jury. We have extensive trial experience and are prepared to go to court when the best offer from the other side is unacceptable to our client.

After the SAPCR is settled or tried, the critical work of drafting the final order begins. The wording of a final order can make a critical difference as to whether the orders regarding the children are enforceable. Knowing the consequences of a poorly drafted order gives us the insight how to draft a decree that does what it is supposed to do.

## Related Attorneys

- Christopher Wrampelmeier