

# Multiple Children Across Multiple Counties: Child Support Tips and Best Practices

## Presenters

Laura Jaunich, Assistant Carver County Attorney  
and

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September, 2012



# Special Thanks

Kathleen Gora

Assistant Ramsey County Attorney  
and

Jennifer Stanfield

Assistant Carver County Attorney

# Remember!



This presentation is meant to highlight important things to consider when faced with a case involving multiple families and/or multiple counties and give you options within the current law. But remember, it is not an answer book.

Always consult your County Attorney or Assistant County Attorney to get advice and direction on how to proceed in these cases.



How do you establish support when an Obligor has more than one family?



# CONSIDERATIONS IN SETTING SUPPORT

- The child support guidelines are presumed to be fair, and presume that the obligor has the ability to pay.
- Child support obligors should have payment obligations that **can be met and are collectible**. Child support should be consistent with ability to pay.
- Parents have an obligation to support their children from the time the child is born—regardless of whether there is a court order.

# CONSIDERATIONS IN SETTING SUPPORT

- Obligor should receive credit for other child support obligations when calculating income.
- It is more expensive to support a family and the parents' needs across separate households than to support them in a single household.
- All the obligor's children are dependent on the parent for support, regardless of order of birth or court orders. See Mark v. Mark, 80 N.W.2d 621, 625 (Minn. 1957).



# CONSIDERATIONS IN SETTING SUPPORT

- Sometimes the obligor simply does not have enough money to go around. See Minn. Stat. §518A.43, subd. 1 (resources of parents, financial needs of child, etc. as well as looking at an extreme hardship deviation).
- Child Support is to meet the needs of the children.
- Parents should be more than just financially responsible for their children.
- We want to do what is best for families.

# OTHER CONSIDERATIONS

- When enforcing child support obligations we must consider the fine line between coercing payments and impoverishing or hurting a family.
- Examples would be:
  - Drivers License: Not only can they not drive to work, but they cannot drive or pick up their child(ren).
  - How payments split across families when CCPA applies.
  - Contempt where liberty is at stake, the severity of the remedy may bring to light the need to align several obligations within a realistic ability to pay.
  - Arrears Management: Do we need the money to go to pay PA arrears when there are non-emancipated younger children?



# DIFFERENT WAYS TO SEE MULTIPLE FAMILIES

- Adjudicating paternity
- Establishing child support
- Modifying child support
- Dissolution and custody actions
- We need to balance the obligor's responsibility to all of his/her child(ren) with the obligor's ability to meet basic needs.

# A. Establishment of Support for Child(ren) When Obligor has Non-joint Children and There is a Support Order

- In cases where the obligor has a **court order** to support non-joint child(ren), the Minnesota child support guidelines provide a deduction from the obligor's gross income of the amount of support ordered for other child(ren). See Minn. Stat. §518A.29(g). It is irrelevant whether the non-joint child(ren) is/are younger or older than the child involved in the current action.
- In cases where the obligor has an ongoing obligation and has to pay an additional 20% of that amount because he owes arrears, the additional 20% should be deducted from the obligor's gross income before determining support. See Branch v. Branch, 632 N.W.2d 261, 264 (Minn. Ct. App. 2001.)



## B. Establishment of Support for Child(ren) When Obligor has Non-joint Children and There is NO Support Order

- If the obligor claims that he is the parent of an older child, but there is no information/evidence supporting this claim (e.g. no signed Recognition of Parentage or non-paternity adjudication), consideration for the other child does not need to be given.
- If the obligor has proof of a non-joint child, ask the obligor if there is a pending hearing on support. If there is a pending hearing, you may want to give some consideration for the non-joint child(ren) when determining the appropriate amount of support for the joint child(ren) of the current action.
- If the obligor claims that while there is no support order, and he is making voluntary payments, consider requesting that the record be left open for verification of payments and calculate what support would be after giving him a reasonable amount of credit for these payments.



## C. Establishment of Support for Child(ren) When Obligor has Non-joint Child(ren) and the Child(ren) Reside with the Obligor

- Pursuant to Minn. Stat. §518A.33, subd. (b), the court shall use the guidelines under section 518A.35 to determine the basic support obligation for the non-joint child or children by using the gross income of the parent for whom the deduction is being calculated and the number of non-joint children primarily residing in the parent's household. If the number of non-joint children to be used for the deduction is greater than two, the determination must be made using the number two instead of the greater number. Minn. Stat. §518A.33, subd. (c), specifies that the deduction for non-joint children is 50% of the guideline amount determined under paragraph (b).
- Mancuso v. Mancuso, 417 N.W.2d 668 (Minn. Ct. App. 1988) states that some credit must be given for older children residing in the obligor's home.

## D. Establishment of Support for Child(ren) but Obligor is Paying Arrearages for an Emancipated Child

- Current case law provides that the amount of court ordered arrearage payment(s) is a deduction from the obligor's income See Branch v. Branch, 632 N.W.2d 261 (Minn. Ct. App. 2001).
- If an arrearage payment for emancipated child(ren) results in a significant adverse effect upon the amount of income available for the younger minor child(ren), then you may want to modify the payback amount. You may also ask that the full deduction not be given and the court deviate upwards (the argument being that it would be unfair for this child to be adversely effected because of the obligor's past failure to pay support).



# POSSIBLE METHODS

- **Case 1:** Obligor has a gross monthly income of \$1695.  
Obligee has a gross monthly income of \$846.  
There are three joint children.
- **Case 2:** Obligor has a gross monthly income of \$1695.  
Obligee has a gross monthly income of \$0.  
There is one joint child.



# POSSIBLE METHODS

## METHOD A1: PERCENTAGE OF SUPPORT

- Calculate the basic support for each case not giving any consideration to the other case. This gives us a basic support amount for the two cases.
- Add the basic support amounts together.
- Calculate what percentage each support amount is of the combined total.  
(Example: Case 1 basic support = \$697. Case 2 basic support = \$337. Total is \$1034)
  - Case 1 is  $\$697/\$1034$  or 67% of the total.
  - Case 2 is  $\$337/\$1034$  or 33% of the total.

# POSSIBLE METHODS

**CONTINUED:.....**

## **METHOD A1: PERCENTAGE OF SUPPORT**

- Calculate how much income the obligor has available for support.  
(Example:  $\$1695 - \$1117$  ( 120% of federal poverty guidelines) =  $\$578$ ).
- Multiply the percentage total you previously figured out (67% and 33%)  
by the amount to calculate each family's support ( $\$578$ ).
  - Case 1 would be  $\$387$  (67% of  $\$578$ ).
  - Case 2 would be  $\$191$  (33% of  $\$578$ ).



# POSSIBLE METHODS

## METHOD A2: PERCENTAGE OF SUPPORT USING NET MONTHLY INCOME

- Calculate the basic support for each case not giving any consideration to the other case. This gives us a basic support amount for the two cases.
- Add the basic support amounts together.
- Calculate what percentage each support amount is of the combined total.  
(Example: Case 1 basic support = \$697. Case 2 basic support = \$337. Total is \$1034).
  - Case 1 is  $\$697/\$1034$  or 67 of the total.
  - Case 2 is  $\$337/\$1034$  or 33% of the total.
- Calculate obligor's net income and subtract Federal Poverty Guidelines (FPG).



# POSSIBLE METHODS

**CONTINUED:....**

## **METHOD A2: PERCENTAGE OF SUPPORT USING NET MONTHLY INCOME**

- Using the paycheck city calculator figure out what the obligor's net income is (Example: Gross = \$1695 and Net = \$1333). Subtract FPG of \$931 from net, to determine the amount of support over and above a minimum living income. (Example:  $\$1333 - \$931 = \$402$ )
- Multiply the percentage total you previously figured out (64% and 36%) by the amount to calculate each family's support (\$402).
  - Case 1 would be \$269 (67% of \$402).
  - Case 2 would be \$133 (33% of \$402).

# POSSIBLE METHODS

## METHOD B1: “EQUAL TREATMENT” APPROACH

- Calculate support for children on first case pursuant to child support guidelines using the obligor's income without any consideration of obligee's income.
- Calculate support on next case using obligor's gross monthly income without any consideration for obligee's income and after giving a deduction for the case with other non-joint child(ren).



# POSSIBLE METHODS

CONTINUED:.....

## METHOD B1: “EQUAL TREATMENT” APPROACH

- Add total amounts the obligor should pay for child support of all of his children and then divide the number of children who need support. If the self-support reserve applies as it does in our scenario, then figure out how much income the obligor has available for support and divide by the number of children and set support based on his amount.
- Example:  $\$578 / 4 \text{ children} = \$144.50$ 
  - Case 1 would be \$434 ( $\$144.50 * 3$ )
  - Case 2 would be \$145 ( $\$144.50 * 1$ )



# POSSIBLE METHODS

## **METHOD B2: “EQUAL TREATMENT” APPROACH USING NET MONTHLY INCOME**

- Instead of determining obligor's income available for monthly support by subtracting 120% of federal poverty guidelines from his monthly gross income, determine how much income the obligor has available for support by determining obligor's net income and subtracting FPG's from his net monthly income.
- Divide the total available for support by the number of children who need to be supported. Each child then receives the same amount of support.

# POSSIBLE METHODS

**CONTINUED:....**

## **METHOD B2: “EQUAL TREATMENT” APPROACH USING NET MONTHLY INCOME**

- Example:  $\$402 / 4 = \$100.50$  per child.
  - Case 1 would be  $\$301.50$  ( $\$100.50 * 3$ )
  - Case 2 would be  $\$100.50$  ( $\$100.50 * 1$ )



# POSSIBLE METHODS

## METHOD C1: HYBRID APPROACH

- Calculate the basic support amount using Percentage of Support Approach, Method A1.
- Calculate the basic support amount using the “Equal Treatment” Approach, Method B1.
- Add both child support amounts specific to the case under each method.
  - Case 1: Method A1 (\$387) + Method B1 (\$434) = Total Amount (\$821)
  - Case 2: Method A1 (\$191) + Method B1 (\$145) = Total Amount (\$336)

# POSSIBLE METHODS

**CONTINUED:.....**

## **METHOD C1: HYBRID APPROACH**

- Then divide the total amount by 2. This method gives you the average amount of child support based on the other two methods.
  - Case 1 would be  $\$821 / 2 = \$410.50$
  - Case 2 would be  $\$336 / 2 = \$168$



# POSSIBLE METHODS

## METHOD C2: HYBRID APPROACH USING NET MONTHLY INCOME

- Calculate the basic support amount using Percentage of Support Approach for net monthly income, Method A2.
- Calculate the basic support amount using the “Equal Treatment” Approach using net monthly income, Method B2.
- Add both child support amounts specific to the case under each method.
  - Case 1: Method A2 (\$269) + Method B2 (\$301.50) = Total Amount (\$570.50)
  - Case 2: Method A2 (\$133) + Method B2 (\$100.50) = Total Amount (\$233.50)

# POSSIBLE METHODS

**CONTINUED:....**

## **METHOD C2: HYBRID APPROACH USING NET MONTHLY INCOME**

- Then divide the total amount by 2. This method gives you the average amount of child support based on the other two methods.
  - Case 1 would be  $\$570.50 / 2 = \$285.25$
  - Case 2 would be  $\$233.50 / 2 = \$116.75$



# POSSIBLE METHODS

## **METHOD D: FAIR AMOUNT**

- While the above approaches are possible methods of determining a fair amount of support, you may use any method you believe gives a fair result. You also do not need to use a particular method but can figure out an amount that seems to make sense and explain to the court why you believe the obligor should be ordered to pay that amount. This can be the best way to approach each scenario because each case will have different facts and circumstances. See Minn. Stat. §518A.42 and §518A.43.

# POSSIBLE METHODS

## METHOD E: NO CREDIT

- Do guideline support on each case without regard to the other case. Recommendation is to use older child first with no credit and then younger child with the credit.
- Support for the above approaches, can be found in In Re Paternity of J.M.V., 656 N.W.2d 558 (Minn. App. 2003). This case states that child support obligors should have payment obligations that can be met and are collectible.



# VENUE AND MAINTAINING COUNTY CONCERNS

- More than likely you will run into a scenario where an obligor has multiple cases in multiple counties.
- In that situation, if possible, try to coordinate with the other counties so that the obligor's obligation is reasonable and affordable.
- This may involve changing venue and maintaining county to the county where the obligor lives. This may not be feasible if the obligee(s) live extremely far away but is an option to consider.
- It can also involve coordinating all the obligor's cases/motions to be heard in one county at one time. This can be complicated but can be done. You would need to discuss with all the parties, county attorney offices, support offices and court administration offices.

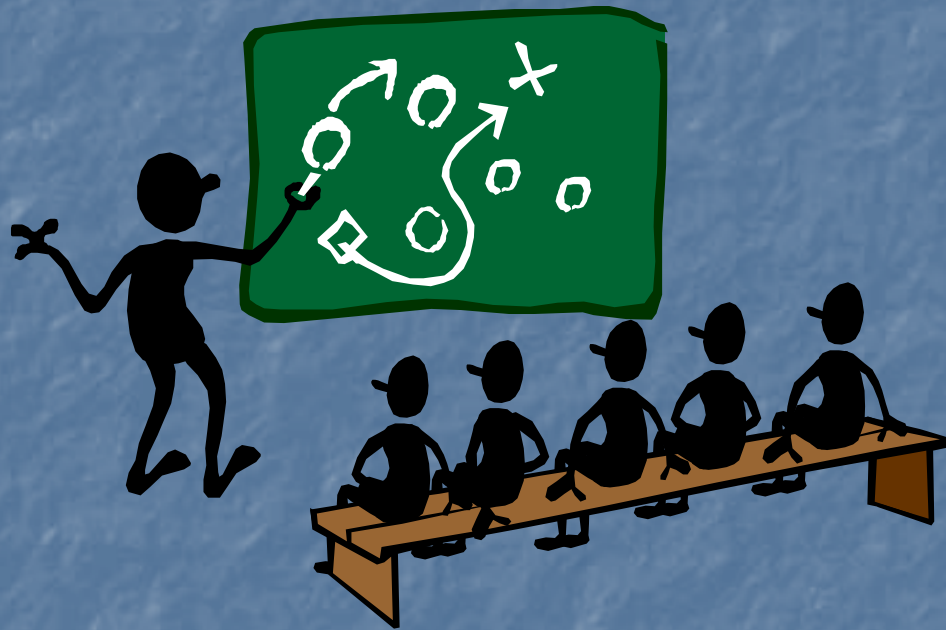
# In Re the Paternity of J.M.V.

656 N.W.2d 558 (Minn. App. 2003).

- This case is currently the most important case to rely on when you are approaching a multiple family case.
- This case states that child support obligors should have payment obligations that can be met and that are collectible. It does not mean that an obligor is excused from full responsibility from supporting his/her child(ren); it only means that one judicial officer in one proceeding should not create unreasonably high payment obligations for multiple families.
- Arrearages should be enforceable and enforced, not compounded and uncollectible.
- Finally, this case also found that counties should coordinate together to have one county hear all the motions from a multiple family/county obligor to achieve this result.



But how do we coordinate?  
What is the process?



# Motions pending in different counties with same obligor

Scenario #1: We find out about it ahead of time!

- First step should be a phone call and/or email to other Assistant County Attorney



Communication is fun!



# Things to discuss with ACA & Other Considerations

- Hear cases together in one county?
- One or both ACA's at the hearing?
- Process for appointing special ACA if handling for other county? (like in conflict cases)
- Same judicial district? Does it make a difference?
- Parties in agreement?
- Court Administration in agreement?
- Magistrate in agreement?
- Formal motion likely required

# Scenario #1: Real Case Example

- Father had a support order in County A and a support order in County B
- Both counties in same judicial district
- Both counties had the same magistrate
- Assistant County Attorneys worked together and requested that the motions be heard simultaneously in County B



# Motions pending in different counties with same obligor

- Scenario #2: We find out about it when it is too late to coordinate simultaneous hearings
  - Communication between Magistrates
  - Leaving the record open



# Scenario #2: Real Case Example

- Father had 5 children with 5 support orders in at least 3 counties, including one in County A.
- By the time the motion to modify in County A was heard, the other 4 files had recently been heard on similar motions to modify or they were under advisement
- CSM in County A held record open until other orders were all back and County A child support officer submitted copies of those orders to the court
- Good solution or are there problems with this?



# OTHER CONSIDERATIONS

- Communications between counties is also key in enforcement & collections when an obligor has multiple orders in multiple counties
  - Consistent DL payment plans
  - Communication regarding lump sums, workers comp, etc.
  - Contempt conditions

# CONTACT INFORMATION:

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# END



STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT  
FAMILY COURT DIVISION

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State of Minnesota, County of Carver, and  
[Plaintiff's Name],

Plaintiff(s),

**Court File No:**

**IV-D File No.:**

vs.

**EX PARTE MOTION**

[Defendant's Name],

Defendant.

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**PLEASE TAKE NOTICE** the above entitled matter will be heard before a District Court Judge, without a hearing at the Government Center, Justice Center, 604 East Fourth Street, Chaska, MN, Carver County having asked the court to make an order as follows:

1. To Order that the Defendant's Carver County motion to modify currently scheduled for [Date] at [Time] a.m. be continued to [Continuance Date] at [Continuance time] a.m. to be heard in Scott County along with the Defendant's other file [File number].
2. For such other and further relief as the Court may grant pursuant to Rule 3 of Minnesota Rules of General Practice.

This motion is based upon all of the files and proceedings herein, including the Affidavit served with this motion.

**YOU ARE HEREBY NOTIFIED** that all responsive pleadings shall be served and mailed to or filed with the Court Administrator no later than five (5) days after service via mail is made. The Judge may, in his/her discretion, disregard any responsive pleadings served or filed with the Court Administrator at anytime thereafter.

Dated this \_\_\_\_ Day of \_\_\_\_\_, 2012.

MARK METZ

CARVER COUNTY ATTORNEY

By: \_\_\_\_\_

[Attorney Name], Reg. No.: \_\_\_\_\_

Assistant County Attorney

Government Center, Justice Center

600 East Fourth Street

Chaska, Minnesota 55318-2188

(952) 361-1400



## NOTICE

**INDIVIDUAL EMPLOYEES OF THE CARVER COUNTY CHILD SUPPORT OFFICE AND THE CARVER COUNTY ATTORNEY'S OFFICE REPRESENT THE INTERESTS OF THE CHILD SUPPORT AGENCY ONLY AND NOT THE INTERESTS OF EITHER THE OBLIGOR OR THE OBLIGEE IN A CHILD SUPPORT OR PATERNITY MATTER.**

## ACKNOWLEDGEMENT

The party on whose behalf the attached document is served acknowledges through its undersigned counsel that sanctions may be imposed pursuant to Minn. Stat. § 549.211.

Dated this \_\_\_\_ Day of \_\_\_\_\_, 2012

\_\_\_\_\_  
[Attorney Name]  
Assistant Carver County Attorney

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT  
FAMILY COURT DIVISION

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State of Minnesota, County of Carver, and  
[Plaintiff's Name],

Plaintiff(s),

**Court File No:**

**IV-D File No.:**

vs.

**AFFIDAVIT**

[Defendant's Name],

Defendant.

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STATE OF MINNESOTA }

} SS

COUNTY OF CARVER }

[Attorney's Name], being sworn upon oath, hereby deposes and states that;

1. I am an Assistant Carver County Attorney, Statutory Attorney for the Enforcement of Support, and in that capacity have access to child support enforcement records.
2. The Defendant currently has two support cases. The first in Carver County for a minor child[ren], for which he is ordered to pay \$[basic support amount] in basic support, \$[medical support amount] in medical and 20% of the total towards the arrears balance. The second case in Scott County is for two children where he is ordered to pay \$[basic support amount] in basic support, \$[medical support amount] in medical and 20% of the total towards the arrears balance.
3. The Defendant filed a motion to modify his support case in both counties which are scheduled close together. The Carver County case is scheduled to be heard on [Date] at [Time] a.m. and the Scott County on [Date] at [Time] a.m.
4. Regardless of what case is heard first, both Magistrates will not know what the other one has decided with regards to the Defendant's income and support obligation. As a result, this has the strong potential to have two different outcomes which is detrimental to the support obligation on both files. The statute currently requires that the Defendant receive full credit for his other support obligation prior to the guidelines numbers are to be run. As a result, one child(ren) may get a drastically reduced support obligation.
5. When a Defendant files a modification on multiple family cases at the same time in two different counties, case law supports Carver County's request to have both his motions



heard in one location by one judicial officer, *See In re the Paternity of: J.M.V.*, 656 N.W.2d 558 (Minn. App. 2003). This is to ensure that support is set appropriately for all the children.

6. After speaking with the Plaintiff via telephone on [Date], she agreed to have her case continued out per Carver County's request. The Defendant acknowledged to the court on the record, at a hearing held on [Date] that he would like both of his cases heard together at some point.
7. Carver County has also spoken with the Scott County Court Administrator's Office as well as the Scott County Attorney's office and neither is opposed to this motion.

Further your Affiant Saeth Not.

Dated this \_\_\_\_ Day of\_\_\_\_, 2012

\_\_\_\_\_  
[Attorney Name]

Assistant Carver County Attorney

Subscribed and sworn before me  
this \_\_\_\_, \_\_\_\_\_, 2012

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT  
FAMILY COURT DIVISION

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State of Minnesota, County of Carver, and  
[Plaintiff's Name],

Plaintiff(s),

**Court File No:**

**IV-D File No.:**

vs.

**EX PARTE CONTINUANCE ORDER**

[Defendant's Name],

Defendant.

---

The above-entitled matter came on before the undersigned Judge of District Court, without a hearing via an Ex Parte Motion filed by Carver County. The Plaintiff was properly served via mail with the Motion and failed to respond within five (5) business days. The Defendant was properly served with the Motion and failed to respond within five (5) business days.

Based upon its review of the file, record and all of the proceedings herein, the Court hereby makes the following:

**ORDER**

1. The expedited process hearing currently scheduled for [Date], 2012 at [Time] a.m. on this file shall **hereby be continued to be heard in Scott County on [Continuance Date], 2010 at [Continuance Time] a.m.** along with Scott County file [File Number]. The purpose of which is to have both of the Defendant's support cases heard by one judicial officer which is consistent with In re the Paternity of: J.M.V., 656 N.W.2d 558 (Minn. App. 2003).
2. This order does not constitute a change of venue. It is only continuing the matter to be heard in another County in the same judicial district.

**IT IS HEREBY ORDERED BY THE COURT**

Dated this \_\_\_\_ day of \_\_\_\_\_, 2012.

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Judge of District Court