

2014 CASE LAW AND LEGISLATIVE UPDATE

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OVERVIEW

- Legislative Update
 - Federal
 - State
 - Rules
- Case Law Update

FEDERAL

FEDERAL LEGISLATIVE UPDATE

○ Four Legislative Proposals

- S 1870
- S 1877
- S 508
- H.R. 1896

S 1870-SUPPORTING AT-RISK CHILDREN ACT

- Collected Child Support Directed to Certain Youth in Care
- Require States to Adopt New UIFSA
- Relief from Certain Passport Sanctions*
- Voluntary Parenting Time*
- Child Support Task Force
- Tribes Access to Parent Locator Service

*NCSEA Positions

S.1877-CHILD SUPPORT IMPROVEMENT AND WORK PROMOTION ACT

Many of the same child support provisions as S.1870

S. 508-STRENGTHEN AND VITALIZE ENFORCEMENT OF CHILD SUPPORT ACT

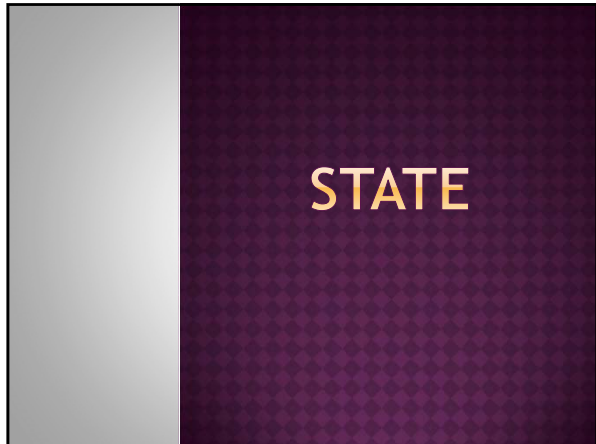
- Many of the provisions of the other bills
- Requires States to establish a:
 - Centralized Registry for Liens
 - Registry on Payment of Property and Casualty Insurance Claims

S. 508-STRENGTHEN AND VITALIZE ENFORCEMENT OF CHILD SUPPORT ACT

Requires all Child and Spousal Support Application Fees to be recovered from the Absent Parent

H.R. 1896-INTERNATIONAL CHILD SUPPORT RECOVERY IMPROVEMENT ACT

Requires Adoption of the New UIFSA



STATE LEGISLATIVE UPDATE

What did not get passed:

- Income Withholding changes to 120% Rule (HF2839/SF2458)
- Artificial Reproductive Technology Amendments to Paternity (HF291/SF2627)

STATE LEGISLATIVE UPDATE

What did get passed:

- UIFSA (*Minn. Laws* Ch. 189)
- Criminal Nonsupport (*Minn. Laws* Ch. 242)

STATE LEGISLATIVE UPDATE

What did get passed:

- ◉ Child Custody and Parenting Time (*Minn. Laws Ch. 197*)
 - No presumption of, for, or against joint physical custody
 - Use all factors

STATE LEGISLATIVE UPDATE

What did get passed:

- ◉ Child Custody and Parenting Time (*Minn. Laws Ch. 197*)
 - Disagreement about custody does not indicate inability to cooperate
 - Detailed findings required

STATE LEGISLATIVE UPDATE

What did get passed:

- ◉ Child Custody and Parenting Time (*Minn. Laws Ch. 197*)
 - Best interests of child includes a child's changing developmental needs

STATE LEGISLATIVE UPDATE

What did get passed:

- ◉ Release of Information to Child Welfare (2014 *Minn. Laws* Ch.291, Art. 11, Sec 1, amending *Minn. Stat.* § 13.46, subd.2 (30)

STATE LEGISLATIVE UPDATE

The amended provision provides:

~~“child support data on the parents and the child, the parents, and relatives of the child~~ may be disclosed to agencies administering programs under titles IV-B and IV-E of the Social Security Act, as ~~provided~~ authorized by federal law.

STATE LEGISLATIVE UPDATE

The amended provision provides:

~~“Data may be disclosed only to the extent necessary for the purpose of establishing parentage or for determining who has or may have parental rights with respect to a child, which could be related to permanency planning.~~

STATE LEGISLATIVE UPDATE

What did get passed:

- ◉ Data Practices Act Access Provisions (2014 Minn. Laws Ch. 284)

DATA PRACTICES ACT ACCESS

2014 Minn. Laws Ch. 284

- ◉ Ensure that only those who need it get it
- ◉ Governmental entities, not just State Agency
- ◉ Notice to individuals of breach
- ◉ Report prepared of breach

BEHIND THE LEGISLATIVE RESPONSE

- ◉ Would have required computer tracking
- ◉ Would have required termination of governmental employees

STATE LEGISLATIVE UPDATE

What did get passed:

- ◉ Data Practices Commission (*Minn. Laws Ch. 193*)

STATE LEGISLATIVE UPDATE

What did get passed:

- ◉ Repeal of *Minn. Stat. § 518A.53, subd. 7* (2014 *Minn. Laws Ch. 262, Art. 1, Sec.12* and 2014 *Minn. Laws Ch. 291, Art. 1, Sec.12*)
 - Subsequent Income Withholding

STATE LEGISLATIVE UPDATE

What did get passed:

- ◉ Imprisonment and Exoneration Remedies Act (*Minn. Laws Ch. 269*)
 - Reimbursement for paid or unpaid child support

RULE 50

Rules of Juvenile Protection Procedure

NEW RULE 50

- Background
 - Permanent Change of Custody
 - 260C.515
 - Paternity
 - 260C.150
 - Issues
 - Coordination with Family Court
 - Child Support
 - Attempted Statutory Fix

NEW RULE 50

- Committee
 - Long Version
 - Public v. Private
 - Jury Trial
 - Complete Case
 - Daddy
 - Custody
 - Name
 - Child Support
 - Right to an Attorney
 - Process-Ramsey County Example

NEW RULE 50

- Short Version
 - Restate the Statute
- Final Version
 - Separate but simultaneous

NEW RULE 50

- Rule
 - File in family court
 - Assignment to same judge or not
 - Judges talk
 - Final Paternity Order awaits Final Child Protection Order

READ THE RULE

(THE COMMENTS ARE HELPFUL AS WELL)

RULE 8.09

- Access to Juvenile Protection Records Family Court Judicial Officer
- Requires notice to the parties

RULE 8.10

- Access to Juvenile Protection record by Parties and Child's Guardian ad Litem in Family Court Matter

RULE 50.01

Scope

- Establishment of parent and child relationship shall occur in Family Court
 - Declaration of the nonexistence of the parent and child relationship shall occur in Family Court

RULE 50.01

Scope

- ◉ Juvenile Court Jurisdiction
 - All 260C matters including
 - Removal of a Child
 - Review of Juvenile Court Orders

RULE 50.01

Scope

- ◉ Family Court Jurisdiction (when child protection matter pending)
 - Parentage
 - The Child's Name
 - Child Support

RULE 50.01

Scope

- ◉ *Stern v. Stern*, 839, N.W.2d 96 (Minn. App. 2013) was discussed and considered

RULE 50.02

- ◉ Judicial Assignment
 - May assign same judicial officer
 - Judicial Officers may talk (subject to the Code of Judicial Conduct-See Also Rule 8.09)

RULE 50.03

- ◉ Statutes and Rules applicable when parentage and child protection matters calendared at the same time
 - *Minn. Stat.* § 257.70 limiting access to hearings and records

RULE 50.03

- ◉ Statutes and Rules applicable when parentage and child protection matters calendared at the same time
 - *Minn. Stat.* § 257.69 regarding appointment of counsel
 - Rules of Civil Procedure and Civil Appellate Procedure

RULE 50.04

- ◉ Responsible Social Services Agency to Provide Copy of Petition and Orders to County Child Support Enforcement Agency

RULE 50.04

- ◉ Responsible Social Services Agency to Provide Copy of the following to County Child Support Enforcement Agency:
 - Petition;
 - Orders regarding the case plan; and
 - 50.06 Orders

RULE 50.05

- ◉ No Extension of Permanency Timeline

RULE 50.06

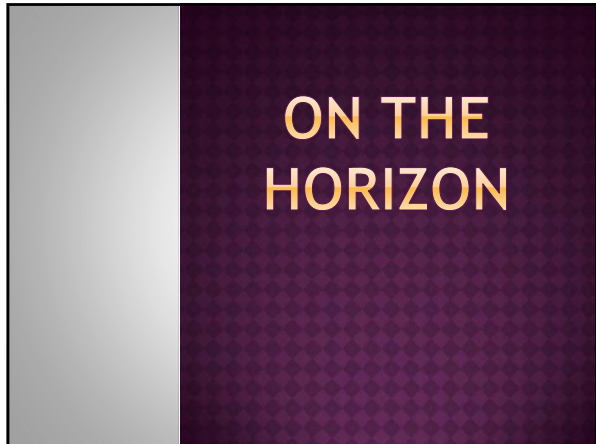
- ◉ Notification to Family Court of Juvenile Protection Orders:
 - Guardianship
 - Permanent and Legal Custody to a relative
 - Permanent or Temporary Custody to the agency

RULE 50.06

- ◉ Notification to Family Court of Juvenile Protection Orders:
 - Order for dismissal
 - Order for termination of juvenile court jurisdiction
- ◉ Facilitates completion of the parentage matter

READ THE RULE

(THE COMMENTS ARE HELPFUL AS WELL)



ON THE HORIZON

- ◉ Repeal the repeal of *Minn. Stat.* § 518A.53, subd. 7
- ◉ Medical Support
- ◉ Eliminate the requirement of an additional 20% income withholding where there is a court-ordered pay back

ON THE HORIZON

- ◉ Imputing Income at 100% Minimum Wage
- ◉ Imputing Income at 30 hours per week as full-time
- ◉ Automated Recreational License Suspension

ON THE HORIZON

- Stop Interest Charging
- Administrative Equality of Medical Support Obligations
- Eliminate the Application Fee
- Child Support Guidelines Commission

CASE LAW

TO BE ADDED

QUESTIONS?

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