

MINNESOTA FAMILY SUPPORT & RECOVERY COUNCIL

2019 ANNUAL CONFERENCE




Legislative Update

Lisa Kontz
Child Support Division Head
Dakota County Attorney's Office

9/17/2019 MFSRC Annual Conference 1

MN Legislative Session 2018-2019




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Bills that passed

Federal Annual Fee


- Annual Fee increased from \$25 to \$35 for never public assistance cases
- Applies to cases where collect at least \$550 of support (increased from \$500)
- Minn. Stat. 518A.51/Session Law Chapter 9
- Effective October 1, 2019

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Bills that passed

Potential Income for incarcerated parent

- Parent not considered voluntarily unemployed if incarcerated
- Exception for incarceration because of nonpayment of support removed
- Federal final rule compliance
- Minn. Stat. 518A.32, subd. 3/Session Law Chapter 9
- Effective day following enactment





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Bills that passed

Tribal Vital Records

- Tribal child support programs shall have access to birth records for child support enforcement purposes
- Minn. Stat 144.255, subd. 2
- Session Law Chapter 9
- Effective August 1, 2019





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Bills that passed

Parent Petition for Reestablishment of Relationship


- Parent whose rights were terminated can petition
- Previously only county attorney could petition
- Removed requirement that child be over 15
- Minn. Stat. 260C.329, subd. 3/Session Law Chapter 14
- Effective August 1, 2019



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Bills that did not pass



- Credit Bureau "clean up"
- Lump Sum Consumer Credit Protection Act
- PEA Third Party Fix
- Tribal Transfer
- Potential Income – not voluntarily unemployed or underemployed if eligible to receive general assistance or supplemental social security income
- Minimum Support Order does not apply to TANF recipients



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Bills that did not pass

- Cooperative Private Divorce
- Various surrogacy bills
- Child care: obligee must notify when costs are no longer incurred, public authority must verify with the child care provider
- Paternity Disestablishment






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Bills that did not pass

Parenting Time/Custody Presumptions


- Joint physical custody
- 50% parenting time
- 40% parenting time
- "maximize parenting time as close as possible to 50%"
- Court "shall" allow parent to provide child care while the other parent is working

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Next Session?

- Consumer Credit Reporting Change
- Lump sum Consumer Credit Protection Act
- Motion to Transfer to Tribal Court
- Confidential Address
- Rec License Changes
- Medical Support proposals – federal final rule compliance





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Other

Child Support Task Force

- Work has concluded
- Report will be issued soon

Uniform Parentage Act

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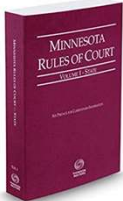

Court Rules Changes

July 1, 2019

- General Rules of Practice

January 1, 2020

- Rules of Civil Procedure
- General Rules of Practice
- Rules of Civil Appellate Procedure

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Court Rules Changes – 7/1/19

Expedited Process


Default orders: **21** days to answer/request a hearing instead of 20 days. For mail service add 3 days for a total of 24 days.

Summons **without** a hearing date: **21** days to respond to the original Summons/Complaint, instead of 20 days.

Motions to Modify/Set **without** a hearing date: **21** days to respond or request a hearing, instead of 14 days.

Minn. R. Gen. Prac 363.02, 363.04, 372.05

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Court Rules Changes – 7/1/19

Expedited Process

Change of Venue: unopposed motions for change of venue may be granted by CSM.
Minn. R. Gen. Prac. 353.01, subd. 2(c)

Court-appointed attorney in paternity cases: Rule changed to match the statute, which limits the appointed attorney to the issue of the father-child relationship unless all issues are completed within the same hearing.
Minn. R. Gen. Prac. 357.03


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Court Rules Changes – 1/1/20

- Amended to shift deadlines to a weekly system of 7, 14, 21 and 28 days
- Minnesota Rules of Civil Procedure and Minnesota General Rules of Practice in line with Federal Rules
- Reflects an actual calendar week (7 day response time is same day one week later)
- Eliminates some calculations based on weekends or holidays
- 3-day extension for mailing remains

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Court Rules Changes – 1/1/20




Minn. R. Civ. Pro. 6: **Time**

- "a day is a day": all days during a period, regardless of length, are included, including weekends and legal holidays
- If the last day is a Saturday, Sunday or legal holiday, the period continues to run until the next day that is not
- "next day": determined by continuing to count forward when the period is measured after an event and backward when measured before an event

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Court Rules Changes – 1/1/20



- Answer to Summons and Complaint must be served within **21** days instead of 20
Minn. R. Civ. Pro. 12
- Motions
 - Served and filed **21** days before hearing instead of 14
 - Motion raising new issues **14** days before hearing instead of 10
 - Response **7** days before hearing instead of 5
Minn. R. Gen. Prac. 303.03

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Court Rules Changes – 1/1/20



- Computation of Time (ExPro Rules): changed to match Civil Procedure Rule 6
Minn. R. Gen. Prac. 354
- Notice of Deficiency: **30** days instead of 45 to schedule a hearing or comply with the Notice
Minn. R. Gen. Prac. 363.04
- Amended Pleadings: **14** days before scheduled hearing instead of 10
Minn. R. Gen. Prac. 370.06
- Filing: **7** days before hearing instead of 5
Minn. R. Gen. Prac. 372.04

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Contact Info

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Comprehensive Legal Vision

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What is CLV?


- Purpose
 - Resolve statewide legal issues
- Groups involved
 - DHS, MCAA, County IV-D programs
- Four large groups and executive committee
 - Court
 - Enforcement
 - Guidelines
 - Medical
- Membership

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DHS - SIR SharePoint Page

- What is it?
 - Share information about CLV
 - Working site for CLV
 - Form for new CLV issues
- Includes
 - Submitted issues
 - Approved issues
 - Communications
 - New issue form
 - Updated issues list with status
 - Contact info
 - Calendar



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DHS-SIR CLV Page

Navigation: DHS-SIR, Approvals, BlueZone Scripts, IDS-SMRT, MAIDS, MEC, MMS/NETS, PRISM, SIR

Welcome to DHS-SIR! The DHS Systems Information Resource (SIR) provides system availability information, announcements, and regional links and content.

System Availability:

- Custom: Green
- App/APP: Green
- EDS (Formerly known as eDPS): Green
- CHM Support Calculator: Green
- Count/Life: Green
- CLV Reports: Green
- EDS/EDS: Green
- Federal Hub: Green

Announcements:

- PRISM: MAIDS updated OIA - Cases with NCP Drivers (action suspended)
- MAIDS: Updated procedure for notifying DHS of PRS MA, members pending in a SLD DMD
- DHS Data: Claim National Tracking in MAIDS
- MAIDS: MAIDS Issue Resolved
- CONNECTION TO CTR

Important Links:

- Webmail
- How to Use SIR Web Mail
- New User Orientation
- Password Change

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DHS-SIR CLV Page

Navigation: DHS-SIR, Approvals, BlueZone Scripts, IDS-SMRT, MAIDS, MEC, MMS/NETS, PRISM, SIR

PRISM - Regional Content

DHS-SIR > PRISM > Regional

- Advisory Board
- Big 4 Group
- Communications Support (MMS-020)
- Documents
- DHS User Group
- First Group 1
- First Group 2
- First Group 3
- First Group 4
- First Group 5
- First Group 6
- First Group 7
- View All Site Content

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DHS-SIR CLV Page

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Court Group

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Establishment in Role Reversal Cases

Issue: Whether the county can establish support against the custodial parent in NPA cases when the child is with NCP or caretaker without consent or court order changing custody

Authority: Minnesota Statute 256.87, subd. 5

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Establishment in Role Reversal Cases


- Approved Recommendation: The county is limited to public assistance reimbursement only in the following scenarios:
 - ROP dad with child and no court ordered custody
 - 3rd party caretaker without court ordered custody
 - Child is residing with parent identified in custody order as NCP
- UserDoc updated and Printer Message 6081 dated 8/16/17
- Working on clarifications that counties can only set and enforce support for the specific PA being expended
- Working on relative caretaker cases and redirection

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Married Separated

Issue: Can support be established in NPA cases where the parties are married but separated and there is no court order for custody and no consent?

- Inconsistencies in whether counties bring these actions
- If county proceeds, the amount of parenting time granted the obligor varies amongst counties



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Married Separated

Recommendation:

- Long term: Legislative change to Minn. Stat. 256.87 to give counties the authority to establish child support in these cases and provide 50/50 PEA
- Short term: Counties continue with current practices until legislation or caselaw resolves

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Married Separated



- Recommendation not approved
 - Do not want to pursue legislative change at this time
 - Cannot continue with "status quo"
- Executive Committee sent back to group for further analysis
- Working on possible solution to resolve "consent issue"
 - Affidavit of either or both parents
 - Best practices

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Obligors with cases in multiple counties




Issue: How should these cases be handled so that the obligor's circumstances and ability to pay, as well as the obligees' and children's circumstances are considered by the court in a fair manner across all of the cases

Issue is divided between two groups:

- Court CLV: How can we get one CSM to hear all cases?
- Guidelines CLV: How should support be calculated?

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Obligors with cases in multiple counties



- Many different scenarios where this can happen (establishment, paternity, modification) and various combinations
- Decided to start by looking at cases where Obligor is bringing motions to modify in multiple counties
- Exploring concept of form to request cases be heard together
- Use of technology
- Initial approval by court to try a test case

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Enforcement Group

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CLV Contempt Group




Origin:

- This workgroup stems from the Federal Final Rule
 - DHS – Child Support Division has requested the Federal Office of Child Support Enforcement find Minnesota in compliance with the final rule.
 - Despite this, the treatment of contempt cases vary throughout the state.
 - The issue of contempt was submitted to CLV and the Executive Committee formed the Contempt workgroup.
 - This workgroup is comprised of DHS staff, attorneys, and child support staff.

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CLV Contempt Group



Requirements of the Final Rule with regard to Contempt:


- Review the obligor's circumstances for actual and present "ability to pay" and provide this information to the court.
- Provide clear notice to the obligor that "ability to pay" is a critical issue to the contempt action.

Goals of the CLV Contempt Group:

- Ensure that counties are in compliance with the requirements of the Federal Final Rule.
- Work toward continuity in how individual counties approach contempt with a comprehensive guide for county staff to refer to when litigating a contempt case.

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CLV Contempt Group



Work done so far:


- Completed a comprehensive screening checklist which includes the legal requirements to bring a contempt, the policy and factual considerations in initiating contempt, and legal citations.
- Completion of several Stage One template pleadings (OTSC, Contempt Motion, Affidavit, and order)

Up Next:

- Develop a memorandum of law to support the initial contempt motion.
- Stage Two of contempt – drafting template pleadings for vacating a stay and the resulting order.
- Develop an all-inclusive guide for working through a contempt case from start to finish – to include case law and statutory authority.

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CLV Contempt Group



Training and updated policy:

- Once the template pleadings are completed, the CLV Contempt Group will request approval from the Executive Committee and that the template pleadings, checklist, and comprehensive guide be made available on DHS-SIR.

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Medical Group

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Medical CLV Members


- Sara Lauthen and Casey White, co-chairs
- Dawn Bachleitner, Roseau County
- Cindi Bratton, Hennepin County
- Dawn Bachleitner, Roseau County
- Jim Donehower, Dakota County
- Melissa Fisher, DHS-CSD
- Melissa Froehle, DHS-CSD
- Erin Hansen, Anoka County
- Kristie Hermanson, Sherburne County
- Tina Morrison, Ramsey County
- Former members: Jill Olson (DHS-CSD), Brad Thiel(Anoka), Jackie Wise (Morrison)



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Final Federal Rule Changes


- Section 303.31 is revised as follows:
 - (a)(2) health care coverage now includes public and private insurance
 - (a)(3) removed requirement that the cost of health insurance be measured based on the cost to add the child(ren)
 - (b) expanded the State's ability to seek out both private and public health care coverage options
- Section 302.56(c)(2) is revised as follows:
 - State plan must address how parents will provide for the child's health care through private or public coverage and/or cash medical support.
- Section 303.8(d) is revised as follows:
 - Adjustments based on health care needs. Removed the provision that Medicaid cannot be considered to meet the child's health care needs.



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Medical Workgroup Final Rule Legislative Proposal

- Definition of health care coverage now includes public coverage
- Public coverage is presumed appropriate
- Define affordability. Private coverage is affordable if the premium to cover both the parent and joint child does not exceed 5% of the parent's monthly PICS
- Do not require contribution to Medical Assistance if the obligor's income is less than 200% of the federal poverty guidelines
- Administrative suspension and reinstatement of medical support contribution when private coverage stops and resumes



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Medical Workgroup Final Rule Legislative Proposal

- Did not move forward in the 2019 legislative process
- Remains on DHS-CSD's list of possible legislative items
- Current DHS-CSD policy was in conflict with the final rule changes.
- Medical CLV tackled this by developing recommendations as it relates to the affordability definition

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Considered by Medical CLV

- Average family health insurance premiums greatly exceed the ability to pay by workers with median earnings levels
- Expanded availability of public coverage and ACA premium subsidies
- Median length of an income withholding order is five months
- OCSE Final Rule Comments:
 - No option to distinguish between private and public health care coverage
 - States have greater flexibility to ensure medical support is provided for all children
 - Recommends states implement broadly defined medical support language in child support orders to maximize health care options


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Medical CLV Proposal Reasonable in Cost Definition

- Reasonable in cost is 5% of the gross income of the parent who is responsible for private health coverage
- 5% will include the total cost of health insurance premium not just the marginal cost to add the child
- Minnesota will consider high deductibles in the analysis
 - Adopt the IRS's definition of high deductible family plan, \$2700
 - *Hansen v. Todnem*, 891 N.W.2d 51 (Minn. Ct. App. 2017) found the district court did not abuse its discretion when considering the deductible as it relates to affordability

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Medical CLV Proposal Reasonable in Cost Definition



- Step One:
 - Determine whether the total cost of health insurance is within 5% of the parent's gross income
 - If the cost is greater than 5% of the parent's gross income then the health insurance is not affordable
- Step Two:
 - If the cost is less than 5% of the parent's gross income then review the deductible amounts.
 - If the deductible is less than \$2700, the deductible is low and the plan is considered affordable.
 - If the deductible is more than \$2700, the deductible is high and the plan is not considered affordable

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Best Practices Summary Guide





- Determining When Health Care Coverage is Appropriate and Affordable will be posted on DHS-SIR, CLV, Best Practices
- Addresses the Following Scenarios:
 - Private Health Care Coverage Currently in Place
 - Private Health Care Coverage Not Available
 - Private Health Care Coverage Available and Not in Place
 - Comprehensiveness
 - Accessibility
 - Special Needs
 - Affordability

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Guidelines Group

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CLV Guidelines Committee

- RSDI Lump Sum Benefits
 - Child
 - Obligor
- Non-joint Children
 - How deduction is considered in relation to income
 - Number of children in home considered
 - Amount of deduction
- Both proposals approved by Executive Committee
- Both on DHS Wish List for Legislative Statutory Priorities

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RSDI Lump Sum Payments

- In Re Dakota 866 N.W. 2d 905 (Minn. 2015) Minnesota Supreme Court decision which addressed a child receiving a derivative benefits on account of an obligor parent's disability when the parent is receiving RSDI.
- Provided guidance on how the monthly derivative payment should be applied when calculating ongoing support
- Did not address how the lump sum payments received by the child or the obligor should be applied to the arrears


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RSDI Lump Sum Payments

- Child's lump sum benefit-Long term plan
 - A legislative fix is needed to allow a child's derivative benefit to be used for an offset against child support arrears.
 - The offset would only apply to the time frame for which the derivative benefit was received and only up to the amount of child support that was previously ordered and remains unpaid.

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RSDI Lump Sum Payments



- Example
 - Obligor has a monthly obligation of \$200/month
 - Applies for disability 1/2018
 - Claims disability started 1/2017
 - Approved for disability 1/2019
 - Disability is approved beginning 1/2017
 - Files motion to modify support 1/2019
 - Child to receive a derivative benefit of \$300/mo beg. 1/2019
 - Child's lump sum payment of \$7,200 (\$300 x 24 months)

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RSDI Lump Sum Payments



- Example continued
 - NCP owes arrears of \$8,000
 - NCP would receive credit towards arrears accumulated for period of 1/2017-1/2019 from the child's lump sum benefit
\$200 x 24 = \$4,800
 - Child receives the excess lump sum benefit (\$7,200 - \$4,800) just as he/she receives the excess monthly benefit
 - NCP receives lump sum payment of \$14,400
 - NCP required to pay \$3,200 from his lump sum to satisfy the arrears
\$8,000 - \$4,800 = \$3,200

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RSDI Lump Sum Payments



- Short range plan
 - Counties can make parties aware of the option to agree upon an alternative start date for a modification that is due to the receipt of a derivative benefit.
 - If the disability claim is not finalized when a motion is heard in court, if the Custodial Parent agrees, the County can suggest *nunc pro tunc* language would allow the court to go back and resolve this issue once the RSDI claim is complete.
 - Continue scheduling review hearings to determine status of disability claim and start date

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Non-joint Children



- Issue
 - When determine a party's gross income, non-joint children in the home are not treated the same as a court ordered obligation for non-joint children
 - Court ordered support is deducted from the party' monthly income to determine gross income
 - Non-joint child deduction is deducted from the party's gross income to determine PICS
 - Self-support reserve is applied to the gross income not PICS

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Non-joint Children



- NCP earns \$1600 per month-calculate support for 1 child
 - Has a court obligation for two children of \$300 per month
 - Monthly income is \$1300
 - PICS is \$1300
 - Income available for support is \$51 after applying self-support reserve
 - $\$1300 - \$1249 = \$51$
 - Support obligation is \$51
 - Has two non-joint children in home (\$251 deduction)
 - Monthly income is \$1600
 - PICS is \$1349
 - Income available for support is \$351 after applying self-support reserve
 - $\$1600 - \$1249 = \$351$
 - Support obligation is \$274

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Non-joint Children



- Need legislation to amend Minn. Stat. 518A.42 to provide that self-support reserve applies to PICS (Parental Income for Determining Child Support) not gross income
- Benefit of the change would be to treat parents and families more equally
 - Families are currently treated differently depending on whether the non-joint child resides with them or the other parent
 - Income available to support the joint child is the same whether the non-joint child is in the party's home or there is a support obligation

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Non-joint Children

- Credit for number of children in home
 - Currently statute only allows credit for 2 children in home
 - Amend statute to allow credit for up to 6 children in home
 - Guidelines provide support calculation for up to 6 children
 - If have to pay for 6 kids should get credit for 6 kids in the home
- Amount of deduction for children in home
 - Currently statute allows for 50% of support obligation
 - Amend statute to allow credit for 75% of support obligation

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Non-joint Children

- No rationale in legislative history as to how/why came up with these two policies
- Child Support Task Force also reviewed this issue and adopted the same policies

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MINNESOTA FAMILY SUPPORT & RECOVERY COUNCIL

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Case Law Update

October 2018 – September 2019

Patrick M. Hest
Assistant Director, Ramsey County Attorney's Office
Human Services Legal Division

Special Thanks!

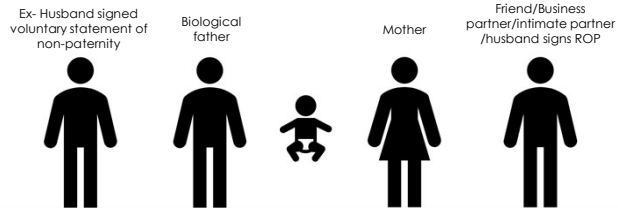


- Sara Lauthen, Assistant Ramsey County Attorney
- Chad Burkitt, Alexa Grapentine, Becca Hanscom, Libby Kantner, Rebecca Scepaniak, Ramsey County law clerks
- Kendra Bengtson, Tristian Wienke, Ramsey County paralegals
- Jennifer Cooklock, Assistant Carver County Attorney
- Trevor Buttermore, Dakota County law clerk
- Rebecca Morrisette, Assistant Hennepin County Attorney
- Samantha Tako, Hennepin County law clerk

Published Court of Appeals



• In re the Welfare of: C.F.N., 923 N.W.2d 325, A18-0635, 12/31/2018




Published Court of Appeals



• In re the Welfare of: C.F.N., 923 N.W.2d 325, A18-0635, 12/31/2018

- **Issue 1** – Does a presumed biological father have standing to maintain a paternity action when a ROP is signed?
- **Holding 1** – Yes. The biological father had standing to declare the existence of his own father-child relationship under 257.62, subd. 5(b) and may have had standing to declare non-existence of the ROP father’s father-child relationship under 257.55, subd. 1(d). The biological father could commence the action without GT’s as case law allows for a paternity commencement to compel GT.


Published Court of Appeals



- In re the Welfare of: C.F.N., 923 N.W.2d 325, A18-0635, 12/31/2018
- **Issue 2** – Did the DC err by adjudicating the biological father and vacating the ROP signed by a man who knew he was not the biological father?
- **Holding 2** – No. DC considered a variety of factors when determining adjudication, including statutory best-interests factors that govern child custody under 518.17, subd 1. DC considered the mother and ROP father's actions of signing the ROP knowing that the ROP father was not the biological father, but did not make a formal finding of "fraud."

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Published Court of Appeals



- In re the Welfare of: C.F.N., 923 N.W.2d 325, A18-0635, 12/31/2018
- **Issue 3** – Did the DC err by awarding mom and bio father joint legal custody without making a separate analysis of the statutory best-interests factors for purposes of custody under 518.17, subd. 1?
- **Holding 3** – No. There is no requirement that the DC conduct two separate analyses of the statutory best-interest factors for custody and paternity.

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Published Court of Appeals



- In re the Welfare of: C.F.N., 923 N.W.2d 325, A18-0635, 12/31/2018
- **Issue 4** – Did the DC err by not joining the child, ROP father, and mother's spouse at the time of birth at an earlier stage of pre-trial proceedings?
- **Holding 4** – No. DC made the child a party on its own initiative. Child was required to be made a party under 257.60(2) because the action is to declare the nonexistence of the father and child relationship. The biological father did not name the ROP father as a party, but the DC granted ROP father's motion to intervene. Mother's ex-spouse was not required to be made a party, because he executed a voluntary statement of non-paternity.

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Unpublished Court of Appeals



- Vacko v. Shults, 2018 WL 6442697, A18-0242, 12/10/2018
- **Issue** – Did the DC abuse its discretion by awarding retroactive child support based on appellant’s fraud on the court?
- **Holding** – No. The DC made a finding of fraud in its order. This case is distinguished from appellant’s case in County of Ramsey v. Vacko, 2017 WL 3974400, A16-1982, 11/14/2017 in that the DC found appellant did not legally receive TANF benefits, but did not make a finding of fraud in its order.

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Unpublished Court of Appeals



- Gerr v. Gerr, 2019 WL 418608, A18-0679, 02/04/2019
- **Issue** – Did the DC properly apply the gross unfairness assessment by placing the burden of establishing fraud on the court on the party moving to retroactively modify a child support order?
- **Holding** – Yes. The moving party bears the burden of proof. The DC failed to find that the obligor committed fraud on the court, but concluded there was a discrepancy in his income. The discrepancy was not so unfair a difference as to require vacating the order.

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Unpublished Court of Appeals



- Helsene v. Helsene, 2019 WL 3070138, A18-1970, 07/15/2019
- **Issue 1** – Does a CSM err by applying the 12% PEA, rather than the new PEA, when there is a parenting time order and a prior child support order used the 12% PEA?
- **Holding 1** – No. If the parenting time order is not specific enough to calculate *all* overnights, the CSM is afforded discretion to continue using the 12% PEA.

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Unpublished Court of Appeals



- Helsene v. Helsene, 2019 WL 3070138, A18-1970, 07/15/2019
- **Issue 2** – Does the CSM abuse discretion by failing to determine the effective date for the removal of a medical-support offset under Minn. Stat. § 518.41, subd. 16(d) [2018]?
- **Holding 2** – Yes. The CSM must determine whether removing the offset is appropriate *and* the effective date for removing the offset.
- See *In re the Custody of B.L.F.*, 2019 WL 3776017, A18-1852, 08/12/2019

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Published Court of Appeals



- Buck Blacktop v. Gary Contracting, 929 N.W.2d 12, A18-1059, 05/06/2019
- **Issue** – Does the four-part test in *Finden v. Klass*, 128 N.W.2d 748 (Minn. 1964) apply to a motion to vacate a judgment under paragraph (f) of Minn. R. Civ. Pro. 60.02, which allows for the court to vacate a judgment for “any other reason justifying relief from the operation of judgment?”
- **Holding** – No. There is no known case law that applies a multipart test to a motion brought under paragraph (f). The *Finden* test is applied when a party seeks relief under 60.02 from judgments that were entered due to an attorney’s neglect.

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Published Court of Appeals



- I.G.G. v. H.E.S., __ N.W.2d __, 2019 WL 2571693, A18-1616, 06/24/2019
- **Issue** – If a child is placed for adoption and a putative father fails to timely register with the Minnesota Father’s Adoption Registry, can he maintain a paternity action under Minn. Stat. § 259.52, subd. 8(1)?
- **Holding** – Maybe. If a father fails to timely register with the MN Father’s Adoption Registry, then he does not qualify for the ROP exception, even if the paternity action was filed before the adoption was filed.

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Unpublished Court of Appeals



- Bischoff v. Vetter, 2019 WL _____, A18-0990, 09/16/2019
- **Issue:** Can the unmarried partner of the biological mother whose children were conceived by artificial insemination be adjudicated under the parentage act?
- **Holding:** No. The holding-out presumption does not apply, because she is not a biological or adoptive parent and therefore cannot establish a legal relationship

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Unpublished Court of Appeals



- Nyhus, Hennepin County v. Ka, 2019 WL 1007776, A18-1089, 3/4/2019
- **Issue** – Did the DC abuse its discretion by awarding past support against a parent that had joint physical custody?
- **Holding** – Yes. Minn. Stat. § 256.87 provides that an award of past-support may only be entered against a non-custodial parent.

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Unpublished Court of Appeals



- Patrow v. Wittmer, 2019 WL 2262783, A18-1647, 05/28/2019
- **Issue** – Does an order set or modify child support when the order encompasses the parties' agreement for the obligor to continue paying the child support obligation from a previous order?
- **Holding** – No. The original child support order sets the baseline to determine whether there has been a substantial change in circumstances.

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Unpublished Court of Appeals



- Arvig v. Kawleski, 2019 WL 2495519, A18-1440, 06/17/2019
- **Issue** – If a prior child support order does not determine a party's income, can a substantial change in circumstances warrant a modification of support when the movant does not provide sufficient credible evidence of past and current income?
- **Holding** – No. It is the burden of the movant to provide evidence of their past and current income for the court to determine whether there has been a substantial change of circumstances to warrant a modification of support.

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Unpublished Court of Appeals



- Grazzini-Rucki v. Rucki, 2019 WL 2495663, A18-1721, 06/17/2019
- **Issue 1** – Did the CSM err by failing to secure a party's consent to a written payment agreement under Minn. Stat. § 518A.65 (e)(2) based on the obligor's motion to reinstate the driver's license?
- **Holding 1** – No. The CSM committed harmless error by not securing the obligor's consent because had the CSM not established the payment agreement, the driver's license reinstatement motion would have been denied.

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Unpublished Court of Appeals



- Grazzini-Rucki v. Rucki, 2019 WL 2495663, A18-1721, 06/17/2019
- **Issue 2** – If a party does not provide evidence of unemployability, can the CSM determine employability based on credibility of the party?
- **Holding 2** – Yes. The CSM may determine witness credibility if the party does not provide evidence of income.

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