

MINNESOTA FAMILY SUPPORT & RECOVERY COUNCIL

2019 ANNUAL CONFERENCE




## Intersections Between Child Support and Child Protection

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## Ways to Work Together



- Paternity
  - Sharing Information
    - Between Social Workers and Child Support Officers
    - Access PRISM database for Recognition of Parentage detail
    - Access Court Records and ECF for adjudication orders
    - County Attorney Files

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## Genetic Testing



- Juvenile Court
  - Make testing Part of Alleged Father's and Mother's Case Plan
  - Provide Deadline and Clear Instructions
  - CP Worker follow up with Child Support Officer to arrange testing appointment
  - CPW and CSO ensure that juvenile court gets results as soon as available
- Once Genetic Testing Results Are Available
  - Serve Them
  - Assist with Completion and Filing of Recognition of Parentage or
  - Adjudicate Paternity
  - Ensure that Custody and Parenting time terms defer to child protection

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## Best Practices



**ROP Only After GT Inclusion**

- Recognition of Parentage is for Biological Parents
  - Birth Record Accurate
  - Support only paid by responsible party
  - Avoids actions to vacate ROP and/or dis-establish paternity

**Benefits to Child**

- Allows relative search to proceed
- Removes doubt
- Father more likely to want to do services to become a resource for child
- Identifies child's eligibility for tribal membership

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## Other Considerations



- Marital Status of Mother should be determined
  - ROP with Husband Joinder only within 1 year of Birth (257.75, Subd. 1a)
  - Otherwise, paternity action required
- Concerns raised when juvenile court orders genetic testing when valid ROP
- Age of persons signing ROP
  - Minor parent signature creates only a presumption of paternity (257.75, Subd. 9 and 257.55, Subd. 1(h))
  - To establish paternity, court action is needed and Guardian must be appointed in juvenile court

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## Child Protection Concerns



- Maltreatment Reporting
 

Minnesota Statute Section 626.556, Subd. 1(a)  
 "the public policy of this state is to protect children whose health and welfare may be jeopardized through physical abuse, neglect, or sexual abuse...the health and safety of the children must be of paramount concern."  
 Subd. 1(b) requires reporting of neglect or abuse in home, school, and community settings and provides for voluntary reporting.

626.556, Subd. 2 contains definitions of (g) neglect, (k) physical abuse, (n) sexual abuse, (o)[1-12] substantial child endangerment  
 260C.007, subd. 14 defines egregious harm  
 260C.503, subd. 2 defines parental behavior, status or condition which mandates that the county attorney file a termination of parental rights petition  
 626.556, subd. 2 (n) defines threatened injury. This includes, but is not limited to, exposing a child to a person responsible for the child's care, who has subjected a child to egregious harm, been found to be palpably unfit, had a prior involuntary termination of parental rights or committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative.

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**Threatened Injury Report**

- 626.556, Subd. 2 (p) and (q)
  - A child is the subject of a report of threatened injury when the responsible social services agency receives birth match data from DHS contained in a birth record or recognition of parentage
  - This may result in a child protection petition under 260C.007, subd. 6, clause (16) or a 260C.503, subd. 2 petition.

Be aware of criminal and child protection backgrounds to ensure child protection and child support professionals have information.

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**Roadblocks to Paternity**

- Domestic Violence and Good Cause
  - Advise Custodial Parent of Good Cause Exception 45 C.F.R. § 303.11 (b)(14)
  - Allow time for Good Cause process
  - Stop all efforts to establish paternity if GC pending or approved

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**Roadblocks to Paternity**

- Termination of Parental Rights and Adoption Imminent
  - Does your county terminate the parental rights of an alleged father or any man?
    - Avoid adjudicating paternity close in time to termination of rights as adjudication is not indicated if legal proceedings for adoption are pending - 45 C.F.R. § 303.11 (b)(6)(iii)
    - Consult with social worker and Assistant County Attorney about status of juvenile case to get input regarding whether to proceed with adjudication
    - Assess whether to facilitate a ROP or adjudicate if it will result in child protection immediately filing a termination petition

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**Roadblocks**

- Child Conceived as Result of Rape
  - Federal case closure criteria 45 C.F.R. § 303.11 (b) (6) (iii)
  - Consult with child protection and criminal professionals
  - In general, close rather than proceed
  - In special circumstances, adjudication may proceed

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**Child Support Implications of Role Reversals**

- What if Juvenile Court places child in care of Obligor?
  - County or Obligor File Motion to Suspend Support?
  - Suspend Interest Accrual?
  - Suspend payback on arrears?
  - Deem support satisfied per §518A.38, Subd. 3?

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**Suspending Obligation After Termination of Parental Rights**

- Effective the first month after a Termination of Parental Rights, charging for ongoing support must be terminated
- Payments continue to be collected at 120% of last charging amount to pay off arrears

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**Contact Information**

- Rebecca Morrisette
- Assistant Hennepin County Attorney
- [Rebecca.Morrisette@Hennepin.us](mailto:Rebecca.Morrisette@Hennepin.us)/612-348-2861

- Jennifer Ryan
- Assistant Itasca County Attorney
- [Jennifer.Ryan@CO.ITASCA.mn.us](mailto:Jennifer.Ryan@CO.ITASCA.mn.us)/218-327-2867



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STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF ITASCA

NINTH JUDICIAL DISTRICT

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County of Itasca,

Petitioner,

**ORDER FOR PATERNITY  
GENETIC TESTING**

vs.

Court File No.:  
IV-D No.:

MOM

and

ALF,

Respondents.

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**ORDER FOR PATERNITY GENETIC TESTING**

The above-entitled matter came before the undersigned Judge of District Court pursuant to Itasca County's paternity complaint and application for genetic testing.

Based upon the motion and the authority of Minn. Stat. Section 257.62, Subdivision 1, the Court makes the following:

**ORDER**

1. Petitioner, MOM, Respondent, ALF, and the child named in the Complaint are hereby ordered to submit to paternity testing within fifteen (15) days of this Order.
2. Paternity samples will be taken upon appropriate arrangements made by the Itasca County Health & Human Services IV-D Unit, and to make the completion of the sampling work out well, you, and the other person(s) in this action, shall immediately contact the Itasca County Child Support Unit at the following address and/or telephone number to make arrangements for complying with this Order:

Itasca County Child Support Unit  
Itasca County Resource Center  
1209 SE Second Avenue  
Grand Rapids, MN 55744-3983  
Telephone: 218-327-  
CONTACT PERSON: CSO

3. Itasca County Health and Human Services shall advance the cost of the drawing of samples and the genetic analyses, subject to the power of the Court at the conclusion of the above-entitled matter to make an award to either of the parties for its costs and disbursements.

### NOTICES

**Failure to comply** with this Order can result in sanctions being imposed upon the party failing to comply, which may include a citation for contempt of Court, or sanctions imposed by the Court pursuant to Rule 37.02 of the Minnesota Rules of Civil Procedure, which could include an order striking out pleadings or parts thereof, or staying further proceedings until the Order is obeyed, or dismissing the action or proceeding or any part thereof, or **RENDERING A JUDGMENT BY DEFAULT AGAINST THE DISOBEDIENT PARTY.**

**You are advised** that parties to an action under the Minnesota Parentage Act have a right to request additional independent tests to be performed by other qualified experts of their own choosing. *See Minn. Stat. 257.62 Subd. 2.*

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_, at Grand Rapids, Minnesota.

BY THE COURT:

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Honorable  
District Court Judge

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF ITASCA

NINTH JUDICIAL DISTRICT

County of Itasca,

**SUMMONS**

Petitioner,

Court File No.:

vs.

IV-D No.:

MOM

and

ALF,

Respondents.

**COUNTY OF ITASCA, ITASCA COUNTY HEALTH & HUMAN SERVICES (THE COUNTY) TO THE ABOVE-NAMED RESPONDENTS:**

YOU ARE HEREBY SUMMONED TO APPEAR ON \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ m., in Courtroom #353, Itasca County Courthouse, 123 NE Fourth Street, Grand Rapids, Minnesota.

YOU MUST APPEAR AT THE HEARING. If you do not appear, the Court may issue a warrant for your arrest or grant the relief requested in the Complaint or take any further action the Court finds appropriate without further notice or hearing. This is the only notice you will receive informing you of this hearing.

The purpose of this action is to adjudicate a legal father for the minor child(ren) named in the complaint, who is/are the subject of the action, and establishment of support for the minor child(ren).

YOU, MOM and ALF, have twenty (20) days after service of this Summons to respond to the Complaint. The day on which you receive this Summons is not included in the twenty (20) days. To respond you must serve and file a written Answer or Counter Complaint. Your written Answer or Counter Complaint must be served separately on all the parties including the County. You are also required to file your written Answer or Counter Complaint with the Court Administrator. Service on the County by U.S. Mail must be made upon the county attorney listed at the end of this document.

YOU, MOM and ALF, have the right to a lawyer. To apply for a court appointed lawyer, an application of court appointed counsel is attached to these documents. If you apply, and the court determines that you qualify for a court appointed lawyer, the court might order you to pay a fee for the court appointed lawyer. If you apply and the court determines you do not qualify for



court appointed counsel, you must seek and retain an attorney at your own expense if you wish to be represented by a lawyer in these proceedings.

Itasca County acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. 549.211 and Minnesota Rules of General Practice, Rule 379.04 to the party against whom the allegations of this pleading are asserted.

The Itasca County Attorney's Office does not represent either parent, or other custodian of the child(ren) involved in this action, or the child(ren) involved of this action.

MATTI ADAM #0393512  
ITASCA COUNTY ATTORNEY

By: \_\_\_\_\_  
ACA # \_\_\_\_\_  
Assistant Itasca County Attorney  
Attorney for Itasca County Human Services  
Itasca Resource Center  
1209 SE Second Avenue  
Grand Rapids, MN 55744-3983  
(218) 327-  
CONTACT PERSON: CSO

County of Itasca,

**COMPLAINT**

Petitioner,

Court File No.:

vs.

IV-D No.:

MOM

and

ALF,

Respondents.

Petitioner, for its cause of action against the above-named Respondents, state and allege as follows:

1. This is an action to establish parentage, physical and legal custody, parenting time, the child’s name, basic support, medical support, and child care support under Minnesota Statutes sections 257.51 to 257.74, and Minnesota Statutes chapters 256 and 518A.
2. Itasca County is a political subdivision of the State of Minnesota and Itasca County Health & Human Services is the public agency responsible for enforcement of support. Pursuant to the provisions of Minn. Stat. 257.60, Itasca County is a proper party to this action.
3. That MOM is the mother of a child, whose paternity has not been determined. MOM, born in the city of , County, , and resides at , County, .
4. Itasca County is not authorized to represent MOM in this proceeding. MOM is an indispensable party to this action.
5. That Respondent, ALF, is an individual, was born in the city of , County, , and resides at , County, .
6. MOM is the mother of the following child(ren) involved in this action whose paternity is sought to be established in this action:  
  
CHLD, a child, was born on in the City of , County of , State of Minnesota.
7. The child(ren) involved in this action reside(s) in County, Minnesota.

8. The child is currently residing in foster care pursuant to court order.
9. At the time of conception of the child(ren) involved in this action, MOM and ALF had a sexual relationship.
10. The act(s) of sexual intercourse, which may have resulted in conception, occurred within the State of Minnesota. At the time the act(s) occurred, MOM was a resident of the State of Minnesota.
11. There are no other alleged or presumed fathers which have not been previously excluded.
12. ALF is the natural father of CHLD involved in this action.
13. The County and/or MOM have expended a sum of money for the reasonable expenses of MOM's pregnancy and confinement, and for the support of the child(ren) involved in this action. The adjudicated father is liable for past support and medical and confinement expenses not covered by insurance.
14. The County anticipates incurring costs, expenses, and fees in bringing this action.
15. MOM and ALF have a duty to support CHLD, pursuant to Minn. Stat. 518A.34 (Basic Support).
16. MOM and ALF have a duty to provide childcare support pursuant to Minn. Stat. 518A.40.
17. MOM and ALF have a duty to provide medical and dental support, including the costs and expenses not covered by insurance and/or public health coverage, pursuant to Minn. Stat. 518A.41.
18. The child(ren) is/are currently the subject of a CHIPS action in Itasca County (court file # ). The Juvenile Court has exclusive jurisdiction over issues of custody and parenting time.

**WHEREFORE, ITASCA COUNTY HEALTH & HUMAN SERVICES  
REQUESTS THE FOLLOWING RELIEF:**

1. An Order adjudicating the Respondent ALF to be the father of the child(ren) of this action: CHLD, born ;
2. An Order determining legal custody and physical custody of the minor child(ren) upon completion of or subject to the CHIPS matter identified above;
3. An Order awarding parenting time in an amount to be determined upon completion of or subject to the CHIPS matter identified above;

4. An Order determining the child's name upon hearing;
5. If the judgment or Order is at variance with the child's birth certificate, an Order to amend and issue a new birth certificate pursuant to Minn. Stat. 257.73;
6. Granting judgment against ALF as reimbursement for expenses incurred in connection with the birth of the minor child(ren) herein, and past support expended on behalf of the minor child(ren) up to two years immediately preceding commencement of this action;
7. Ordering MOM and/or ALF to make continuing monthly payments for the basic support of the minor child(ren) in an amount based upon Minnesota Child Support Guidelines and ordering an allocation of child care costs, pursuant to Minnesota Statute 518A.40, and/or Medical Support including the division of uninsured and/or unreimbursed medical and dental expenses pursuant to Minnesota Statutes 518A.41.
8. Ordering judgment against MOM and/or ALF for any costs, disbursement, and fees of this action, in favor of Itasca County Health and Human Services according to Minnesota Statutes 257.69.
9. APPENDIX A (08/15): For an Order incorporating as a part of its Order requiring child support, the provisions of the attached Appendix A (08/15).

MATTI ADAM #0393512  
 ITASCA COUNTY ATTORNEY

Dated: \_\_\_\_\_

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

ACA# \_\_\_\_\_  
 Assistant Itasca County Attorney  
 Attorney for Itasca County Human Services  
 Itasca Resource Center  
 1209 SE Second Avenue  
 Grand Rapids, MN 55744-3983  
 218-327-\_\_\_\_\_  
 Contact person: CSO

**ACKNOWLEDGEMENT**

The County, on whose behalf the attached documents are served, acknowledges through its undersigned counsel that sanctions may be imposed pursuant to Minnesota Statutes, Section 549.211, and Minnesota Rules of General Practice, Rule 379.04.

Dated: \_\_\_\_\_

\_\_\_\_\_

ACA  
Assistant County Attorney

**APPLICATION FOR GENETIC TESTING**

THE STATE OF MINNESOTA, COUNTY OF ITASCA, TO THE ABOVE-NAMED INDIVIDUAL PARTIES: Itasca County Health & Human Services makes application to the Court for an Order requiring MOM and ALF, the above-named Respondents, and the minor child named in the Complaint to be ordered to submit to genetic testing, pursuant to Minnesota Statutes section 257.62 subdivision 1(a).

The undersigned certifies on oath pursuant to Rule 10 of the District Court General Rules that there has been no previous application for the foregoing genetic testing Order.

MATTI ADAM #0393512  
ITASCA COUNTY ATTORNEY

Dated: \_\_\_\_\_

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

ACA# \_\_\_\_\_  
Assistant Itasca County Attorney  
Attorney for Itasca County Human Services  
Itasca Resource Center  
1209 SE Second Avenue  
Grand Rapids, MN 55744-3983  
(218) 327-  
CONTACT PERSON: CSO

**NOTICE**

**YOU, MOM AND ALF, THE ABOVE-NAMED RESPONDENTS, ARE ADVISED OF THE FOLLOWING RIGHTS:**

1. You are entitled to an attorney.
2. If you cannot afford an attorney, one will be appointed for you for the limited issue of paternity only. You must contact the Court Administrator's Office and complete the Application attached hereto so that the Court can determine whether or not you are financially able to afford an attorney.
3. You may request, and the Court may order, that you submit to paternity testing or genetic testing, or both. Further, that these tests then will be performed on the mother, father and the child.
4. If you deny paternity, you have a right to:

- a. Trial by jury, or trial to the Court;
- b. Right to confront witnesses against you;
- c. Subpoena witnesses for you.

The foregoing explanation of your rights is not intended to be a complete statement of all your rights and defenses in a paternity action; and, accordingly, you are advised to contact an attorney of your own choosing or to contact the Court relative to whether you are financially able to afford an attorney or, if one should be appointed for you at public expense.

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF ITASCA

NINTH JUDICIAL DISTRICT

Case Type: Paternity

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County of Itasca,

Petitioner,

vs.

###,

and

###,

Respondents.

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**FINDINGS OF FACT,  
CONCLUSIONS OF LAW.  
ORDER FOR JUDGMENT AND  
JUDGMENT AND DECREE**

Court File No. 31-FA-##-###

IVD No. ###

This matter came before the Court, ###, Judge of District Court presiding on ####. Appearances were as follows: Respondent Mother, ###, appeared pro se. Respondent Father, ###, appeared pro se. Itasca County Health and Human Services appeared represented by Assistant Itasca County Attorney ###.

The Court, upon the agreement of the parties and upon its files, records and minutes, made the following:

**FINDINGS**

1. The child of this action is subject to the jurisdiction of the juvenile court pursuant to an ongoing child protection matter (31-JV-##-###).

2. IDENTIFICATION OF PETITIONER & RESPONDENT:

The Petitioner (hereinafter Mother) is ###; her date of birth is ###; her place of birth is ###, ##### County, Minnesota.

The Respondent (hereinafter Father) is ####; his date of birth is ###; his place of birth is ###, ### County, Minnesota.

3. JURISDICTION: The court has jurisdiction over this matter and jurisdiction over the parties. Mother was personally served with the summons and complaint on ###. Father was personally served with the summons and complaint on ###.

4. CIVIL RELIEF ACT: Mother and Father are not members of the Armed Services of the United States.
5. RIGHTS OF THE PARTIES: Mother and Father have been advised of their rights and waive the following:
  - a. Right to an attorney
  - b. Trial by jury or trial to the Court;
  - c. Right to confront witnesses against him/her;
  - d. Right to subpoena witnesses;
  - e. Right to independent genetic testing.
6. Mother gave birth to ####, born #### in the city of #####, County of ###, State of Minnesota.
7. At the time of the child's birth, Mother was not married, nor has she previously been married.
8. Mother, Father and minor child submitted to genetic testing, which resulted in a 99.99% probability of paternity with a combined paternity index of ##### to 1. Mother and Father agree Father is the biological parent of the minor child. Neither party objects to the genetic test results.
9. There are no other presumed or alleged fathers.
10. #### admits he is the father of ####.
11. Mother and Father agree the child's name should remain the same.
12. LEGAL CUSTODY, PHYSICAL CUSTODY and PARENTING TIME: The juvenile court currently has exclusive jurisdiction over the issues of custody and parenting time. Accordingly, custody and parenting time shall remain as set in the ongoing child protection matter (31-JV-##-#####).
13. The court finds that it is in the best interests of the child to follow the parties' agreement relative to adjudication of parentage and the child's name.
14. CHILD SUPPORT: All past child support and ongoing child support is reserved and left for future determination. The reservation of support does not impact the County's ability to pursue reimbursement for foster care benefits.
15. COSTS AND DISBURSEMENTS: Itasca County waives its claim for reimbursement of its costs and disbursements.



Based on the forgoing Findings of Fact and Conclusions of Law, the Court hereby makes the following:

**ORDER**

1. ### is adjudicated to be the natural father of ###, born ### in the city of ##, County of ###, State of Minnesota to ###.
2. CHILD’S NAME: The child’s name shall remain the same.
3. BIRTH RECORDS: Pursuant to Minn. Stat. 257.73, subdivision 1, the Registrar of Vital Statistics shall prepare a new birth certificate consistent with the findings and Order of the Court and shall substitute the new birth certificate for the original birth certificate.
4. LEGAL CUSTODY, PHYSICAL CUSTODY, AND PARENTING TIME: The issues of legal custody, physical custody, and parenting time shall be left for further determination by the juvenile court which has exclusive jurisdiction over said issues pursuant to the pending child protection matter (31-JV-##-#####).
5. COSTS AND DISBURSEMENTS: Any claims for costs and disbursements are waived.
6. CHILD SUPPORT: All past child support and ongoing child support is reserved. The reservation of support does not impact the County’s ability to pursue reimbursement for foster care benefits.
7. This written order confirms the verbal order given from the bench on ###.

**IT IS SO ORDERED.**

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

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Korey Wahwassuck  
Judge of District Court

**JUDGMENT**

THE ABOVE FINDINGS, CONCLUSIONS, ORDER AND ORDER FOR JUDGMENT  
CONSTITUTE A JUDGMENT IN THE FOREGOING ACTION.

Dated: \_\_\_\_\_

SEAN JONES  
Court Administrator

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