PART I - PROCEDURE AND GENERAL PRINCIPLES I.A. - APPELLATE PROCEDURE	
II.A.1. - Standard and Scope of Review	
Minn. R. Civ. App. P. 103.04 - Scope of Review. Interpreters-Minn. Stat. § 546.42, 546.43.	
Truesdale v. Friedman, 127 NW 2d 277, 279 (1964): The party seeking review has the duty to present the appellate court with a record that is sufficient to show the alleged errors in all matters necessary for consideration of the questions presented.	Appellant Must Demonstrate Errors in Record
Truesdale v. Friedman, 127 NW 2d 277, 299 (1964): On appeal, the record must be sufficient to show the alleged errors and all matters necessary for consideration of the questions presented.	Appellant Provides Record
Duluth Herald & News Tribune v. Plymouth Optical Co., 176 NW 2d 552, 555 (1970): When a trial transcript is not provided, appellate court's review is limited to consideration of whether the trial court's conclusions of the law are supported by the findings.	No Transcript
Melina v. Chaplin, 327 NW 2d 19, 20 (Minn. 1982): If party does not argue an issue in a brief, the issue is waived.	Issue not Argued in Brief
Rutten v. Rutten, 347 NW 2d 47 (Minn. 1984): Trial court is given broad discretion in matters of support, division of property and custody; there must be a clearly erroneous conclusion that is against logic and facts on record before Supreme Court will find abuse of discretion.	Standard for Review
Novick v. Novick, 366 NW 2d 330 (Minn. App. 1985): Standard of review for child support is very narrow; if trial court determination has reasonable and acceptable basis in fact and principle, reviewing court will be affirmed.	Standard for Review
Wende v. Wende, 386 NW 2d 271 (Minn. App. 1986): Trial court has broad discretion in child support determination; exercise thereof must be affirmed if a reasonable and acceptable basis in fact exists.	Standard for Review
Moylan v. Moylan, 384 NW 2d 859 (Minn. 1986): The appeals court will disturb a child support modification ruling only if the trial court abused its discretion.	Modification
Bennyhoff v. Bennyhoff, 406 NW 2d 92 (Minn. App. 1987): Trial Court's application of law to facts not necessarily binding on court of appeals.	Standard for Review
Stauch v. Stauch, 401 NW 2d 444, 448 (Minn. App. 1987): A finding of net income for support purposes is affirmed if it has a "reasonable basis in fact."	Reasonable Basis in Fact
Anderson v. Anderson, 421 NW 2d 410 (Minn. App. 1988): Determination of child support lies within discretion of trial court, and that decision will not be reversed absent clear showing of abuse of discretion.	Standard for Review
Erickson v. Erickson, 434 NW 2d 284 (Minn. App. 1989): On appeal from a judgment where there has been no motion for new trial, the only questions for review are whether the evidence sustains the findings of fact and whether such findings sustain the conclusion of law.	No New Trial Motion
Lee v. Lee, 459 NW 2d 365 (Minn. App. 1990) review denied 10-18-90: Standard for review of an ALJ's decision is the same as standard for review of a district court decision.	Standard for Review
Shetka v. Kueppers, Von Fldt & Salemn, 454 NW 2d 916, 921 (Minn. 1990): District Court has wide discretion on discovery issues, and decision will not be altered on appeal absent an abuse of discretion.	Wide Discretion on Discovery
Mesenbourg v. Mesenbourg, 538 NW 2d 489, 495 (Minn. App. 1995): If appellant fails to provide a transcript, appellate court's review is limited to whether the trial court's conclusions of law are supported by the findings.	No Transcript-Limited Scope
Mesenbourg v. Mesenbourg, 538 NW 2d 489, 495 (Minn. App. 1995): Appellant bears the burden of providing an adequate record.	Appellant Provides Record
Mower County Human Services o/b/o Swancutt v. Swancutt, 551 NW 2d 219, 222 (Minn. App. 1995): Appellate court reviews trial court decision in a contempt case under an abuse-of-discretion standard.	Contempt
In the Matter of Bosell, (Unpub.), C8-96-1816, F & C, filed 3-11-97 (Minn. App. 1997): In a special proceeding, a motion for a new trial is not necessary to preserve issues for appellate review. See Steeves v. Campbell, 508 NW 2d 817, 818 (Minn. App. 1993)	Motion for New Trial Unnecessary in Special Proceeding

Hasskamp and Ramsey County v. Lundquist, (Unpub.), C8-97-1373, F & C, filed 2-10-98 (Minn. App. 1998): The Court of Appeals will not consider a challenge to issues decided adversely to a respondent when the respondent has not filed a notice of review (citing Kolby v. Northwest Produce Co., Inc., 505 NW 2d 648, 653 (Minn. App. 1993)).	Issues not Raised in Notice of Review not Considered
Schubel v. Schubel, 584 NW 2d 434 (Minn. App. 1998): On review of a contempt order, factual findings will only be reversed if clearly erroneous; the Appellate Court independently reviews the trial courts legal conclusions.	Contempt Order
Arendt v. Lanand, n/k/a Anand, (Unpub.), C1-98-785, F & C, filed 1-5-99 (Minn. App. 1999): Documents filed in support of a post-hearing motion are not part of the record on appeal unless the post-hearing was appealed. See Safeco, 531 NW 2d 867, 874 (Minn. App. 1995) and Donaldson, 526 NW 2d 215, 217 (Minn. App. 1995).	Docs Filed in Support of Post-Hearing Motion not Part of Record on Appeal
Ramsey County and Sizer v. Bultman, (Unpub.), C3-00-336, F & C, filed 10-31-00 (Minn. App. 2000): Where party does not seek review of CSM ruling before appealing under Rule 372.01, review is limited to issues actually addressed by the CSM and must be conducted on the record created before the CSM.	Scope of Appellate Review if no Review by CSM
Davis v. Davis n/k/a Haux, 631 NW 2d 822 (Minn. App. 2001): When appellant does not seek review of a CSMs decision, appellate review is limited to determining whether the evidence supports the findings and whether the findings support the conclusions and judgment.	When no Review in ExPro
Davis v. Davis, 631 NW 2d 822 (Minn. App. 2001): Failure to submit a transcript to the district court for review of the CSM=s decision precludes consideration of the transcript on appeal because the transcript is not part of the record on appeal.	Transcript in ExPro Case
Kalif v. Kalif, (Unpub.), C8-00-1269, F & C, filed 3-6-2001 (Minn. App. 2001): Pro se appellants must provide an adequate record and preserve it in a way that will permit review. Thorp Loan & Thrift v. Morse, 451 NW 2d 361, 363 (Minn. App. 1990). Where appellant did not order a transcript for the appeal, it was not possible for the appellate court to determine if the CSM denied appellant the oppor-tunity to present evidence. The appellate court cannot base its decision on matters outside the record.	Absence of Transcripts Pro Se Appellants
Schreader v. Schreader, (Unpub.), C1-01-703, F & C, filed 11-20-01 (Minn. App. 2001): Whether a child is integrated into a parents home with the consent of the other parent is a question of fact and appellate court review is the clearly erroneous standard.	Integration into Home Question of Fact
Schreader v. Schreader, (Unpub.), C1-01-703, F & C, filed 11-20-01 (Minn. App. 2001): Because the issue of the child living in obligors home was raised in district court, the court of appeals can address Minn. Stat. ' 518.57, Subd. 3, even though that authority was not cited in district court.	Failure to Argue Applic-able Legal Authority in District Court did not Prevent Consideration on Appeal
Norling, f/k/a Weldon v. Weldon, (Unpub.), C5-01-798, F & C, filed 12-4-01 (Minn. App. 2001): Pro se appellant failed to provide a transcript of the hearing and the Court of Appeals found the magistrates order and the submissions of the parties to be adequate for review.	No Transcript
Dally n/k/a McDaniel v. Dally, (Unpub.), C0-01-1065, F & C, filed 3-19-02 (Minn. App. 2002): Appellate court may take judicial notice of court records and files from prior adjudicative proceedings, even if records were not offered in the case below. Cites In Re: Welfare of D.J.N., 568 NW 2d 170, 174 (Minn. App. 1997).	Judicial Notice of Court Files
Morell v. Milota, (Unpub.), C7-01-1547, F & C, filed 4-16-02 (Minn. App. 2002): On appeal, documents outside the record may be considered when: (1) they are documentary; (2) they are conclusive; and (3) they will be used to affirm the district court.	Documents Outside the Record
Johnson v. Murray, 648 NW 2d 644 (Minn. 2002): Subject matter jurisdiction is reviewed *de novo* by appellate courts.	Subject Matter Jurisdiction
In Re Marriage of Kalbakdalen vs. Kalbakdalen, (Unpub.), C5-02-455, F & C, filed 10-8-02 (Minn. App. 2002): Obtaining review of a CSM's decision under Minn. R, Gen. P. 376 is not a prerequisite to appeal, but failure to obtain the review limits the scope of review by the court of appeals to the scope of review where party did not seek a new trial after judgment being entered in district court: e.g., whether the evidence supports the findings and whether the findings support the conclusions.	Scope of Review of CSM Order if no Review Under Rule 376

In re Custody of D.T.R., 796 N.W.2d 509 (Minn. 2011): In this appeal, Father brought action seeking joint custody and parenting time of the minor child. Mother and then-husband were named parties. Genetic testing established father as biological father of the child. Husband was listed as the father on the birth child's birth certificate held himself out as the father since the child's birth. G.T.s later established that Father was the the biological father, not husband. The District Court determined the Husband had a parent-child relationship with the child since birth and that the child knew Husband as his father. Mother appealed, and the Court of appeals dismissed mother's appeal on the grounds that she lacked standing to appeal. Supreme Court held that the mother did have standing to appeal, since she had a direct financial interest in determination of paternity in the form of child support obligations.	Appeals, Paternity; Genetic Testing
Thies v. Kramp, No. A11-1536, 2012 WL 1070114 (Minn. Ct. App. Apr. 2, 2012): Appellant signed a ROP for the minor child of this action in 2006. The Court issued an order for custody and parenting time that included a finding that the parties had acknowledged paternity and that "an adjudication of paternity shall be entered herein" but an adjudication was not ordered. In 2010 the Appellant obtained Genetic Test results that demonstrated he was not the minor child's biological father and he brought a motion to vacate the ROP. A Guardian Ad Litem (GAL) moved to dismiss under Rule 12 because the Appellant's motion was moot and barred by res judicata. The Court of Appeals determined that there was misapplication of the law because Minn. Stat. § 257.75, subd.4 controls the vacation of a ROP and contains no exceptions, timeliness, or doctrines of res judicata or mootness that would deny the Appellants requested relief. This decision not to vacate the 2009 order or determine that he is entitled to a declaration that he is not the legal father because it was beyond the scope of appeal.	Minn. Stat. § 257.75 controls vacation of ROP.
Storm v. Siwek, (Unpub.), C4-03-280, filed 7-8-03 (Minn. App. 2003): A motion for reconsideration does not supplement or expand the record on appeal. Sullivan v. Spot Weld, Inc., 560 NW 2d 712, 716 (Minn. App. 1997), *rev.den.* (Minn. 1997).	Motion to Reconsider
County of St. Louis and Jackelyn M. Zasadni v. Laugen, (Unpub.), C9-03-2, filed 8-26-03 (Minn. App. 2003): Clerical errors may be corrected on appeal. Minn.R.Civ. App.P. 110.05.	Clerical Error
Yang v. Yang, (Unpub.), A03-1378, filed 6-29-04 (Minn. App. 2004): the court of appeals, citing Doan v. Medtronic, Inc., 560 NW 2d 100, 107 (Minn. App. 1997) *rev. den.* (Minn. May 14, 1997), held in a family court case that a party's failure to raise the need for an interpreter before the district court prevented the appellate court from addressing the issue on appeal.	Must Request Interpreter in District Court to Raise Issue on Appeal
County of Anoka ex rel Hassan v. Roba, 690 NW 2d 322, (Minn. App. 2004) A04-168, filed 11-30-04: The court of appeals will reverse a CSM decision if the CSM improperly allied the law to the facts.	Reversal of CSM
Hendricks v. Hendricks, (Unpub,), A04-656, F & C, filed 11-30-04 (Minn. App. 2004): When a party alleges that a number of the court's findings are not sup-ported by the record, the appeals court does not individually address each chal-lenged finding, but considers all the evidence, and whether it reasonably supports the findings as a whole. Citing Wilson v. Molene. 47 NW 2d 865,870 (1951)	Findings not Individually Addressed
Block v. Holmberg, (Unpub.), A04-942, F & C, filed 1-18-05 (Minn. App. 2005): An appellate court will determine jurisdictional facts on its own motion even though neither party has raised the issue. Citing Carlson v. Chermack, 639 NW 2d 886,889 (Minn. App. 2002).	Appeals Court can review jurisdiction *sua sponte*
Block v. Holmberg, (Unpub.), A04-942, F & C, filed 1-18-05 (Minn. App. 2005): Questions of subject matter jurisdiction are reviewed *de novo*. Citing Johnson v. Murray, 648 NW 2d 664, 670 (Minn. 2002).	*De Novo* Review
Block v. Holmberg, (Unpub.), A04-942, F & C, filed 1-18-05 (Minn. App. 2005): Because the matter of subject matter jurisdiction goes to a court's authority to preside over a matter, an appellant may raise the lack of subject matter jurisdiction for the first time on appeal. Citing Cochrane v. Tudor Oaks Condo, 529 NW 2d 429, 432 (Minn. App. 1995), *rev. den.* (Minn. May 31, 1995).	Subject matter jurisdiction may be raised

Pence v. Pence, (Unpub.) A04-2154, F&C, filed 3-07-06 (Minn. App. 2006): Trial court awarded Respondent/Obligee the homestead subject to a $26,000 lien in favor of Appellant/Obligor but because Appellant was behind on his spousal maintenance and child support obligations the court sequestered Appellant's lien interest to ensure payment of support and further ordered that any unpaid support would be deducted from the lien interest as the support came due. Because Appellant (who was *pro se)* failed to cite any factual or legal authority to support his argument that sequestration was inappropriate, the Court of Appeals declined to address the issue, (Citing Ganguli v. Univ. of Minn., 512 NW 2d 918, 919 n.1 (Minn. App. 1994), for the maxim that the appellate court need not address issues which are unsupported by legal analysis or citation.	Appellate court need not address issues unsupported by legal analysis or citation
Booflat v. Blooflat, A-05-1080, A05-1414 (Hennepin County): Where appellant fails to provide a transcript, review is limited to whether the court's conclusion are supported by findings. The magistrate's determination that obligor failed to show a substantial change in circumstances making the prior order unreasonable and unfair supports the conclusion that the motion to modify is unwarranted. In addition, it is not err to fail to consider a subsequent child as Minn. Stat. § 518.551, subd. 5f clearly states that the needs of subsequent children shall not be factored into a support guidelines calculation and is not grounds for a decrease of support. Court of Appeals affirmed, but remanded for magistrate's order staying the cost of living adjustment as the conclusion of increased income is not supported by the record.	Failure to provide transcript limits appellate review to whether findings support the conclusion of law.
Jones v. Simmons, (unpub.) A05-1325, filed May 16, 2006 (Minn. App. 2006). As in Davis, 631 NW2d at 826, when neither party submits transcript of CSM hearing to district court for review of CSM decision, transcript cannot be considered upon appeal from district court's decision.	Transcript of CSM hearing.
In re the Marriage of Holly Lynn Benda ReMine v. Gary Craig ReMine and Co. of Olmsted, intervenor, (Unpub.), A06-594, Olmstead County, filed January 9, 2007 (Minn. App. 2007): Scope of review in order modifying child support base on increase with downward deviation is limited to whether the evidence supports the findings of fact and whether those findings support the conclusions of law and judgment. (Citing Davis v. Davis, 631 N.W.2d 822, 825 (Minn. App. 2001).	Limited scope of review.
Melany Marie Gold, individually and OBO her children, petitioner, Respondent v. Justin Everett Larsen, Appellant., (Unpub.), A06-665, Freeborn County, filed 3/13/07 (Minn. App. 2007): Under *Minn. Stat. § 518B.01, subd. 6a (2006*), an OFP may be extended if the petitioner can show the petitioner is reasonably in fear of physical harm from respondent or if the respondent has engaged in acts of harassment or stalking. The district court commits reversible error by granting the OFP without making either oral or written findings. Here, made written findings.	The court must make written or oral findings, both are not required.
Melany Marie Gold, individually and OBO her children, petitioner, Respondent v. Justin Everett Larsen, Appellant., (Unpub.), A06-665, Freeborn County, filed March 13, 2007 (Minn. App. 2007): Appellant argues the title "petitioner" only refers to Gold. In issuing the OFP the court relied on petitioner's testimony and the court found only Gold to have a reasonable fear from appellant, not the children. Therefore no motion was made to extend OFP on behalf of the children. Could holds the title includes the children.	Title "petitioner" by extension includes the children.

Dean Preston Kennedy v. State of Minn., (Unpub.), K5-99-000440, Isanti County, filed March 20, 2007 (Minn. App. 2007): Appellant pleaded guilt to the charged crime of felony nonsupport of a child and waived his right to a pre-sentence investigation despite the court's concern with correctly determining the proper restitution amount. Subsequently, an Isanti Magistrate issued an order suspending appellant's child support obligations and staying the interest on the arrears for the time periods during which appellant was incarcerated. The result decreased the arrearage by $12,763.60. Appellant filed motion for post conviction relief seeking to have the court vacate the order for restitution. Court denied. Appellant contends the district court erred when it declined to conduct an evidentiary hearing and instead determined appellant's motion to rescind the judgment was barred by the doctrine of collateral attack. Court of Appeals reversed and remanded under an abuse of discretion standard of review. A "collateral attack" is "an attack on a judgment entered in a different proceeding". (Citing Black's Law Dictionary, 255 (7th ed. 1999). Minnesota does not permit the collateral attach on a judgment valid on its face. (Citing Nussbaumer v. Fetrow, 556 N.W.2d 595, 599 (Minn. App. 1996). Conversely, it is permissible to attack a judgment under an attempt to annul, amend, reverse or vacate or to declare it void in a proceeding instituted initially and primarily for that purpose; such as by appeal or proper motion. (Citing Strumer v. Hibbing Gen. Hosp., 242 Minn. 371, 375, 65 N.W.2d 609, 612 (1954). Court of appeals does not vacate the judgment, but holds the district court erred when it denied appellant's petition. The petition was a proper attack on the judgment and the restitution ordered in the criminal case should conform to appellant's arrearage as determined by the CSM.	Appellant's restitution ordered for felony nonsupport of a child should match the arrearage amount determine by the child support magistrate. Post conviction motion for review where arrears do not match restitution amount is not barred by the doctrine of collateral attack.
State of Minnesota, Respondent v. Timothy Dale Corbin, Appellant., (Unpub.), A05-2514, Benton County, filed 3/20/07 (Minn. App. 2007): Court issued OFP barring appellant from having any contact with his ex-wife and their children. Appellant charged with one count of violating the OFP under Minn. Stat. § 518B.01, subd. 14(a)(d)(1) (2004). Tried and convicted as felony as appellant had already been convicted four times of violating OFP. Appellant argues there was insufficient evidence to support jury's verdict. Court holds that after examining the evidence in the light most favorable to the jury's verdict, find there was sufficient evidence that appellant violated the no-contact provision of the OFP. Appellant also argues due process violation. Court finds appellant did not raise this argument at district court, cites no relevant authority or factual basis to support his arguments, and the record shows appellant was given the opportunity to be heard at each stage of the OFP proceedings. Affirmed conviction.	After examining the evidence in light most favorable to the jury's verdict, finds there was sufficient evidence to support conviction. No due process violations.
In Re the Marriage of Perry v. Perry, (Unpub.), A06-1133, Filed 4/24/07 (Minn. App. 2007): The court affirmed the district court's calculation of child support. The dissolution of the parties granted the parties joint physical custody of the four children. Later, the father had "de facto" physical custody of 2 children , sharing physical custody of the other 2 children. The court's custody order was never formally modified to reflect this custody arrangement. The district court ordered guidelines child support for the 2 children in father's de facto custody and applied Hortis/Valento for the 2 children with shared custody. The mother challenged the calculation as unfair to all the children. The Court of Appeals found that the district court erred by treating the father as a de facto custodian when the court's order awarded joint physical custody of all four children. However, the Court of Appeals held this harmless error as the child support obligation using the correct method was the same as that calculated by the district court.	HARMLESS ERROR: An incorrect calculation of a child support amt. will be considered harmless error if the correct calculation would yield the same result.

In the Matter of: Angela C. Daniels, individually and o/b/o Shyanne Welch, petitioner, Respondent, vs. Kenneth Wayne Welch, III, Appellant., (Unpub.), A06-1335, Washington County, filed June 12, 2007 (Minn. App. 2007): Appellant argues district court abused its discretion by admitting evidence and issuing findings of domestic abuse based on allegations not set forth in respondent's ex parte petition for OFP. Court finds where the record contains sufficient permissible evidence to support the court's conclusion without regard to impermissible evidence, the admission of the impermissible evidence is harmless error.	Where the record contains sufficient permissible evidence to support the court's conclusion without regard to impermissible evidence, the admission of the impermissible evidence is harmless error.
In re the Marriage of: Kim Teresa Pattinson, petitioner, Respondent, vs. Daniel Keller Pattinson, Appellant., (Unpub.), A06-1300, Anoka County, filed July 31, 2007 (Minn. App. 2007): Fourth appeal related to spousal maintenance provisions of J&D. Court of Appeals remanded to district court with instructions. Subsequent district court order appealed here. Court of Appeals reverses and remands with instructions to follow prior remand instructions. District court adopted respondent's findings verbatim. These findings lacked income information and were unsupported by the record; Court of Appeals determined that they were clearly erroneous.	Re-remanded for district court to comply with prior order and instructions of court of appeals. Findings – Standard of Review.
In re the Marriage of: Essam El-Dean Hassan Ahmed, petitioner, Appellant, vs. Eman Bakry Haroun, Respondent., (Unpub.), A06-1773, Dakota County, filed July 31, 2007 (Minn. App. 2007): Appellant in dissolution proceeding entered into oral stipulation after court denied his request for fourth continuance. Appellant argues stipulation should be vacated because he acted under duress. *Shirk* standard, holding that after judgment is entered the only available relief is through section 518.145, should be the standard used where a motion to vacate the stipulation is made *before* the judgment is entered. If a dissolution stipulation has been properly formed and accepted, it will be enforced unless a contract defense would apply. Appellant has failed to establish the stipulation was the product of fraud, duress, or mutual mistake.	*Shirk* standard should be used where a motion to vacate the stipulation is made before the judgment is entered. If a dissolution stipulation has been properly formed and accepted, it will be enforced unless a contract defense would apply.
Arneson v. Meggitt, (Unpub.), A06-1437, filed 10/30/07 (Minn. App. 2007): On review of CSM decision, NCP failed to ask district court to review CSM's denial of his motion to reduce support. NCP is therefore barred from appealing from the sufficiency of the district court's findings to support its decision upholding the CSM's decision on that issue.	No Appeal of Issue Not Raised in District Court on Review of CSM Decision
Arneson v. Meggitt, (Unpub.), A06-1437, filed 10/30/07 (Minn. App. 2007): On review of CSM decision, CP failed to ask district court to review CSM's bifurcation of NCP's support payments into part payments and part arrears. Likewise, on appeal from decision of district court, CP failed to give notice of request to review the issue. CP was required to do both to raise the issue on appeal.	No Appeal of Issue Not Raised in District Court on Review of CSM Decision, nor of Issue Not Included in Notice of Appeal
County of Nicollet o/b/o Stevenson vs. Machau, (Unpub.), A06-2345, F & C, filed March 4, 2008 (Minn. App. 2008): Evidence submitted by appellant on appeal not previously submitted to the CSM is striken.	Evidence not submitted to CSM striken from record on appeal
Martin vs. Martin, (Unpub.), A07-1295, filed June 17, 2008 (Minn. App. 2008): Appellant argues that the district court erred in refusing to modify his health care obligation. The lower court refused to consider the matter on review after concluding the issue had not been raised before the CMS. Although appellant checked a box on the notice of motion form marked "establishing medical support", there is no other evidence on the record that he raised the issue before the CSM. Simply checking a box on a standardized form does not conclusively establish that the issue was raised below.	Review denied where issue not properly before lower court.

Ellingsworth v. Wazwaz, No. A15-1588, 2016 WL3223148 (Minn. Ct. App. June 13, 2016): An assignment of error cannot be based on mere assertiions; the issues raised must be supported by legal arguments or citations to legal authority. Absent any legal supporting argument or authority, the issues raised are therefore waived and will not be considered on appeal.	Issues raised on appeal must be supported by legal argument.
Lisa Jensen vs. Robert Otto, No. A16-1042 (Minn. Ct. App. Apr 10, 2017): The district court judge "shall make an independent (de novo) review of any findings or other provisions of the underlying decision and order for which specific changes are requested in the motion."	Motions for Review
Gomes v. Meyer, (Unpub.) No. A17-2027, WL 5116991 (Minn. Ct. App. Oct. 22, 2018): On remand, a district court must follow the appellate court's mandate strictly according to its terms and has no authority to alter, amend, or modify the mandate.	Scope of Review on Remand
In re the Marriage of: Camilla Renae Lee vs. Lyndon Carson Lee, A18-0770 (Minn. Ct. App. Apr. 8, 2019): If transcripts of the District Court proceedings are not provided, then the Court of Appeals review is limited to whether the District Court findings support its decision. The District Court did not abuse its discretion by assigning a higher income to a self-employed party than what the party indicated.	Self-employment income
In re the Marriage of: Schrock v. Kuhn, A23-1307, 2024 WL 4112954 (Minn. Ct. App. Sept. 9, 2024): The district court's determination that there was a substantial change in circumstances due to a finding that Respondent had an increase in reasonable monthly expenses was not contrary to logic or the facts on the record. A spousal maintenance obligation can be modified by showing a substantial change in circumstances. A substantial change in circumstances can be based on substantially increased or decreased need of an obligor or obligee. Affirmed. *Madden v. Madden*, 923 N.W.2d 688, 696 (Minn. App. 2019).	Maintenance; Spousal Maintenance/Alimony; Spousal Maintenance, generally; Spousal Maintenance – Support Order; Terms of Order are Unreasonable and Unfair Factors; Dissolution of Marriage

I.A.2. - Appealability of Orders / Judgments	
Minn. R. Civ. App. P. 103.03 - Appealable Judgments and Orders;103.03(h) (2001): Appeal allowed from an order that grants or denies modification of child support provisions in an existing order or decree.	
Becker v. Becker, 217 NW 2d 849 (Minn. 1974): Conditional contempt order, which directs consequences only if contemnor fails to purge is not a final order and not appealable.	Conditional Contempt
Martensen v. Johnson 350 NW 2d 467 (Minn. App. 1984): Order denying motion for amended findings is not an appealable order, where party failed to appeal from judgment.	Denying Amended Findings
Kirby v. Kirby, 348 NW 2d 392 (Minn. App. 1984): Order to amend dissolution judgment is not appealable order; appeal must be made from amended judgment.	Amending Dissolution
Kirby v. Kirby, 348 NW 2d 392 (Minn. App. 1984): Court's failure to order entry of amended judgment and decree does not bring order within Rule 103.02(e) or (g).	Amending Dissolution
Moberg v. Moberg, 347 NW 2d 791 (Minn. 1984): Order vacating appealable judgment is appealable itself.	Vacating Judgment
Swicker v. Ryan, 346 NW 2d 367 (Minn. App. 1984): An order for judgment and an order for amending findings are not appealable.	Order for Judgment
Shepard v. Shepard, 352 NW 2d 42 (Minn. App. 1984): A contempt order is a non-appealable order as it is not final order.	Contempt Order
Mulroy v. Mulroy, 354 NW 2d 66 (Minn. App. 1984): No appeal as of right from post-decree order directing father to pay child support, but court of appeals grants discretionary review in interest of expediency.	Post-Decree Order Setting Child Support
Swartwoudt v. Swartwoudt, 349 NW 2d 600 (Minn. App. 1984): Where original judgment is not appealed and an issue is left undisturbed in amended judgment, that issue is not reviewable on appeal from the amended judgment.	Old Provision in Amended Judgment
Tell v. Tell, 359 NW 2d 298 (Minn. App. 1984): When supersedeas bond presented for purposes of appealing contempt order and bond approved by court, order is final and appealable.	Contempt - Supersedes Bond
Angelos v. Angelos, 367 NW 2d 518 (Minn. 1985): Modification proceedings brought under Minn. Stat. ' 518.18 to Minn. Stat. ' 518.64 are "special proceedings" and orders granting or denying modification are appealable under Minn. R. Civ. P. 103.03.	Modification
Johnson v. Johnson (Natalie v. Carl), 363 NW 2d 355 (Minn. App. 1985): An award of temporary child support is interlocutory in nature and cannot be appealed until final judgment.	Temporary Support Order
Coady v. Jurek, 366 NW 2d 715 (Minn. App. 1985): May appeal from order confirming referee's order under Rule 103.03.	Confirming Referee
Landa v. Landa, 369 NW 2d 330 (Minn. App. 1985): An order awarding child support is appealable even though an amended judgment had not been entered.	Support Order
State of Minnesota, ex rel. Pula v. Beehler, 364 NW 2d 860 (Minn. App. 1985): An order denying a JNOV is non-appealable.	Denying JNOV
Stangel v. Stangel, 366 NW 2d 747 (Minn. App. 1985): Contempt order is non-appealable.	Contempt
Mathias v. Mathias, 365 NW 2d 293 (Minn. App. 1985): Denial of post decree motions are appealable as of right under Rule 103.03(e) when they determine the action.	Post-Decree Motions
Kelly v. Kelly, 371 NW 2d 193 (Minn. 1985): On remand 374 NW 2d 580; Notice of appeal from amended judgment within time to appeal from original judgment was sufficient in this case to raise issues in original judgment.	Issues in Original Judgment
Miller v. Miller (Gloria v. Anthony), 371 NW 2d 248 (Minn. App. 1985): Appellate review not remedy for clerical mistakes in judgment, but Minn. R. Civ. P. 60.02 is.	Clerical Mistakes
Rigwald v. Rigwald, 423 NW 2d 701, 705 (Minn. App. 1985): Temporary orders for relief are not appealable.	Temporary Orders
Spicer v. Carefree Vacations, 379 NW 2d 728 (Minn. 1986): Order refusing to vacate default judgment constitutes appealable order.	Denying Vacation of D.J.
Voss v. Duerscherl, 384 NW 2d 499 (Minn. App. 1986): Order affirming denial of motion to vacate prior order denying request for court ordered blood testing is final and appealable.	Offer Affirming Denial to Vacate
Tell v. Tell, 383 NW 2d 678 (Minn. 1986): Appeal may be had from a judgment that includes a finding of contempt of court.	Contempt

Katz v. Katz, 380 NW 2d 527 (Minn. App. 1986): Review granted. Order of trial court indicating that it would apply guidelines and ordering evidentiary hearing was not an appealable order, because it was not a final order.	Indication of Court
Maher v. Maher, 393 NW 2d 190 (Minn. App. 1986): Order directing immediate incarceration was immediately appealable.	Send to Jail
Barrett v. Barrett, 394 NW 2d 274 (Minn. App. 1986): Appeal of judgment to court of appeals is permissible but should be made only after the trial court has had an opportunity to hear grievances and make adjustments.	Exhaust Remedies
Solberg v. Solberg, 382 NW 2d 859 (Minn. App. 1986): No relief on appeal for error in calculation of arrears; proper remedy is motion for relief under Rule 60.02.	Calculation Error
Itasca County Social Services and Allord v. Milatovich, 427 NW 2d 727 (Minn. App. 1988): A judgment of paternity which fails to adjudicate all claims in the action is not appealable until after entry of a final judgment adjudicating all remaining claims unless the trial court has made the express determination specified in Minn. R. Civ. P. 104.01 and Minn. R. Civ. P. 54.02.	All Claims Must be Adjudicated 3/4 any can be Appealed
Hennepin County and Soland v. Griffin, 429 NW 2d 283 (Minn. App. 1988): Order granting/denying temporary relief in paternity and dissolution actions are not appealable.	Temporary Relief Orders not Appealable
Curtis v. Curtis, 442 NW 2d 173 (Minn. App. 1989): Where multiple motions to modify had been heard and denied over a three year period, but no notice of filing was ever served, the appeal of the orders up to three years later were timely.	Time for Appeal - No NOF
Johnson v. Johnson, 439 NW 2d 430 (Minn. App. 1989): A contempt order for which no sanction was imposed is not appealable because it is premature.	Contempt
Hofseth v. Hofseth, 456 NW 2d 99 (Minn. App. 1990): Appeal from a post-dissolution order (modification proceeding) is a "special proceeding" and appeal is within 30 days after adverse party serves notice of filing.	Special Proceeding
Huso v. Huso, 465 NW 2d 719 (Minn. App. 1991): An order denying a motion for new trial (or for amended findings) is a non-appealable order. In a special proceeding, the appeal is from the final order and a motion for a new trial is unnecessary.	Denying Motion for New Trial
Amdahl v. Stonewall Ins. Co., 484 NW 2d 811, 814 (Minn. App. 1992): Denial of a motion to dismiss for ineffective service of process is appealable as a matter of right. The determination of whether a summons and complaint is served is a jurisdictional question of law.	Service of Process
Ross v. Ross, (Unpub.), C4-94-139, F & C, filed 11-8-94 (Minn. App. 1994): Where court refuses to stay confinement at second hearing and imposes a jail sentence, contempt order from initial hearing is final and therefore appealable.	Appealability of Initial Con-tempt Order
Cin v. Cin, 372 NW 2d 10 (Minn. App. 1995): Time for appeal of judgment not extended by filing of new trial motion.	Time for Appeal
In Re the Marriage of Johnson and Johnson, 533 NW 2d 859 (Minn. App. 1995): Where court ordered retroactive increase of child support and reduced retroactive arrears to judgment, obligor was required to appeal from the judgment. The time to appeal from a judgment in a special proceeding is 30 days after adverse party serves notice of filing of judgment.	Appeal from Judgment in a Special Proceeding
Lofgren v. Lofgren, (Unpub.), C5-94-2062, F & C, filed 8-22-95 (Minn. App. 1995): Where the allegation is that court has committed judicial error (in this case, not giving obligor credit for union dues and health insurance in determining child support) remedy is either a motion for amended findings made within 15 days after service of notice of filing of the order or appeal. The aggrieved party may not utilize Rule 60.02 or Minn. Stat. ' 518.145 as an alternative method of appealing the judgment.	Judicial Error
Kehoe v. Kehoe, (Unpub.), C6-95-1772, F & C, filed 4-9-96 (Minn. App. 1996): A contempt finding is not final and therefore not appealable where the sentence was stayed indefinitely and can be purged. (See Tell 383 NW 2d 678, 685.)	Contempt Order
Reynolds v. Reynolds, (Unpub.), C0-96-1826, F & C, filed 2-25-97 (Minn. App. 1997): An order setting child support under Minn. Stat. ' 518.156 is a special proceeding and is a final order from which appeal can be taken.	Order Establishing Support

Meyer v. Hein, (Unpub.), C6-97-979, F & C, filed 1-13-98 (Minn. App. 1998): An order denying a motion to vacate under Minn. R. Civ. P. 60.02 is appealable when the defendant did not participate in the original action. (See Spicer v. Carefree Vacations, 555 NW 2d 745, 747 (Minn. 1996). Here, even though defendant participated in the administrative conference, he did not attend hearing before ALJ. Because the matter went by default, the court allowed his appeal from the subsequent order denying a motion to vacate.	Order Denying a Motion to Vacate Appealable in Default Case
Weigel f/k/a Miller v. Miller, 574 NW 2d 759 (Minn. App. 1998): A party prevailing in the district court may not appeal findings even if the party believes those findings could negatively impact future litigation.	Cannot Appeal Findings Alone
Nylen v. Nylen, (Unpub.), C5-98-31, F & C, filed 5-19-98 (Minn. App. 1998): A temporary order is not appealable, but it is reviewable to the extent it affects the order from which the appeal is taken under Minn. R. Civ. App. P. 103.04.	Review of Temporary Order
Marzitelli v. City of Little Canada, 582 NW 2d 904 (Minn. 1998): The Supreme Court ruled that language in an order directing entry of judgment (Let Judgment be Entered Accordingly), did not affect the appealability of the order in a special proceeding under Minn. R. Civ. App. P. 103.03(g).	Order is Special Proceeding Appealably even if it Orders Entry of Judgment
Marzitelli v. City of Little Canada, 582 NW 2d 904 (Minn. 1998): In a special proceeding, if the time for appeal from an order expires without appeal having been taken, the order becomes final and the district court=s jurisdiction to decide a motion for amended finding or a new trial is terminated, even if the hearing is held within the time frame allowed under Minn. R. Civ. P. 52.02 and 59.03.	Time to Appeal in Special Proceeding
Marzitelli v. City of Little Canada, 582 NW 2d 904 (Minn. 1998): A party who makes a motion for a new trial or amended findings may ask the Court of Appeals for a stay of the time limitation for appeal, thereby allowing the trial court to retain jurisdiction to rule on the motion.	Effect of Motion for New Trial/ Amended Findings on Time to Appeal
In Re the Marriage of: Rupp v. Rupp, (Unpub.), CX-98-154, F & C, filed 2-12-99 (Minn. App. 1999): Where case was petitioned for review solely to preserve constitutional issues under Holmberg, appeal is dismissed since Holmberg is prospective in application except as to the parties before the court in those consolidated appeals.	Appeal of Constitutionality of pre-7-1-99 ALJ Order Dismissed
Limonselli v. GAN National Insurance Co., (Unpub.), C8-98-2324, F & C, filed 3-23-99 (Minn. App. 1999): Special Term Opinion: A district court lacks authority to vacate a final judgment and then re-enter the judgment for the purpose of extending the time to appeal, even if the court vacated the judgment before expiration of the appeal period.	District Court Cannot Extend Time to Appeal
Madson v. 3M Corp., 612 NW 2d 168 (Minn. 2000): A timely motion under Minn. R. Civ. P. 60.02(a) and (f), which is explicitly enumerated in Minn. R. Civ. App. P. 104.01, subd. 2(e), and is filed in compliance with the procedural rules, is a proper motion and therefore, tolls the time for appeal for all parties until any party files a service of notice of filing of the order disposing of the outstanding motion. The district court does not have to agree with the substance of the motion, or grant the motion in order to toll the time for appeal.	Procedurally Proper Motion Tolls Time to Appeal
Doering v. Doering, 629 NW 2d 124 (Minn. App. 2001): When motion to reopen dissolution judgment for fraud is joined with motion to modify child support, the time to appeal does not begin to run until both motions are finally determined.	Appealability of Orders/ Judgments
Sammons v. Sartwell, 642 NW 2d 450 (Minn. App. 2002): If the district court enters a judgment that has an adverse effect on a person who is not a party to the proceeding, an order denying that person=s motion to vacate the adverse portions of the judgment is an appealable order.	Order Denying Non-party=s Motion to Vacate is Appealable
Sammons v. Sartwell, 642 NW 2d 450 (Minn. App. 2002): If the district court enters a judgment against a person who is not a party to the proceeding, that person may acquire standing to appeal from the judgment by bringing a motion to vacate all or parts of the judgment and appealing from an order denying the motion to vacate.	Standing of Non-party to Appeal Judgment Entered Against Him

Flint v. Flint, (Unpub.), C9-02-1656, filed 5-20-03, (Minn. App. 2003): An order denying permission to move for reconsideration under Minn. R. Gen. Pract. 115.11 is not an appealable order. See Baker v. Amtrak, 588 NW 2d 749, 755 (Minn. App. 1999).	Motion to Reconsider
Mingen v. Mingen, 679 NW 2d 723 (Minn. 2004): Minn. R. Civ. App. P. 104.01, subd. 2 provides that the filing of a post-decision motion under MRCP 50, 52, 59 or 60 tolls the time to appeal the order or judgment until 60 days after notice of filing of the order disposing of the post trial motion. However, the post decision motion must be brought within 60 days after entry of judgment, and cannot be delayed based upon the fact that the notice of entry of the original order was not given until after entry of judgment.	Tolling of Time to Appeal Based on Post-Decision Motion
Rettke and Estate of Rettke v. Rettke, f/k/a Krueger, 696 NW 2d 846 (Minn. App. 2005): Generally, the denial of a motion to vacate a final judgment is not appealable, and instead, only the original judgment is appealable. (Angelos, 367 NW 2d 518, 519 (Minn. 1985)). But when appeal is properly taken from the underlying judgment, the appellate court has discretion to review a subsequent, nonappealable order denying a motion to vacate. Bush Terrace Homeowners Ass'n v. Ridgeway, 437 NW 3d 765, 770 (Minn. App. 1989).	When Judgment has been Appealed, Appellate Court has Discretion to Review a Subsequent Order Denying a Motion to Vacate
In Re the Matter of Ramsey County, Plaintiff, Marcia Hagen, Appellant vs. Jose Galeno, Respondent, A05-2133, Ramsey County, filed July 5, 2006: Appellant Marcia Hagen was awarded sole physical custody of the parties' children and both parties were awarded joint legal custody of the children. Despite the award to Marcia Hagen of sole physical custody of the children, Respondent moved to have support set under the Hortus Valento formula; or in the alternative to set his child support obligation at below the guidelines amount. Pursuant to an August 2003 order, a magistrate set child support obligations according to the Hortus Valento formula. The order lacked findings explaining why the court set the obligation according to the Hortus Valento formula. No one appealed the order. In March 2005, Ramsey County then moved to increase the Respondent's support obligation, arguing that the 2003 order should not have set support under the Hortus Valento formula. In June 2005, the magistrate ruled that the use of the Hortus Valento formula in 2003 was improper because the Appellant had sole physical custody of the children. Respondent appealed, arguing that Ramsey County and the Appellant were precluded from arguing that the application of the Hortus Valento formula was improper because they did not properly appeal the 2003 order. The district court ruled that the failure of Ramsey County to appeal the underlying order precluded an attack on the order in the current proceeding. The Court of Appeals held that because the basis of Ramsey County's motion to increase the Respondent's support obligation was that the Hortus Valento formula should not have been used in the 2003 order, the district court was correct in ruling that Ramsey County's current motion is an improper collateral attack on the 2003 order. But, the Court of Appeals noted that this decision does not preclude a modification of support that is based on a satisfaction of Minn. Stat. § 518.64, subd. 2.	Appealability at modification hearing of prior order incorrectly calculating support.
In re the Marriage of Craig James Beuning v. Alessandra Lizabeth Beuning, (Unpub.), A06-242, Anoka County, filed January 23, 2007 (Minn. App. 2007): Minn. R. Civ. App. P. 140.01 precludes the court of appeals from rehearing matters previously decided by the court of appeals; therefore the issue of whether respondent's previously alleged writ of habeas corpus was wrongfully denied will not be considered.	The court of appeals is precluded from rehearing matters previously before the court of appeals.

Dean Preston Kennedy v. State of Minn., (Unpub.), K5-99-000440, Isanti County, filed March 20, 2007 (Minn. App. 2007): Appellant pleaded guilt to the charged crime of felony nonsupport of a child and waived his right to a pre-sentence investigation despite the court's concern with correctly determining the proper restitution amount. Subsequently, an Isanti Magistrate issued an order suspending appellant's child support obligations and staying the interest on the arrears for the time periods during which appellant was incarcerated. The result decreased the arrearage by $12,763.60. Appellant filed motion for post conviction relief seeking to have the court vacate the order for restitution. Court denied. Appellant contends the district court erred when it declined to conduct an evidentiary hearing and instead determined appellant's motion to rescind the judgment was barred by the doctrine of collateral attack. Court of Appeals reversed and remanded under an abuse of discretion standard of review. A "collateral attack" is "an attack on a judgment entered in a different proceeding". (Citing Black's Law Dictionary, 255 (7th ed. 1999). Minnesota does not permit the collateral attach on a judgment valid on its face. (Citing Nussbaumer v. Fetrow, 556 N.W.2d 595, 599 (Minn. App. 1996). Conversely, it is permissible to attack a judgment under an attempt to annul, amend, reverse or vacate or to declare it void in a proceeding instituted initially and primarily for that purpose; such as by appeal or proper motion. (Citing Strumer v. Hibbing Gen. Hosp., 242 Minn. 371, 375, 65 N.W.2d 609, 612 (1954). Court of appeals does not vacate the judgment, but holds the district court erred when it denied appellant's petition. The petition was a proper attack on the judgment and the restitution ordered in the criminal case should conform to appellant's arrearage as determined by the CSM.	Appellant's restitution ordered for felony nonsupport of a child should match the arrearage amount determine by the child support magistrate. Post conviction motion for review where arrears do not match restitution amount is not barred by the doctrine of collateral attack.
In re the Marriage of: Thomas Caroll Rubey v. Valerie Ann Vannett, A05-310, COA, filed May 4, 2006 (Minn. Sup. Ct. 2007): Minn. R. Civ. P. 59.03. Appellant requested new trial/amended findings within 30 days of custody order, but failed to obtain hearing or extension for good cause within 60 days as required by Minn. R. Civ. App. P. 59.03. District Court properly denied motion for new trial. However, timely filing of motion for new trial tolled limitation on appeal, regardless whether hearing was untimely. Minn. R. Civ. App. P., Rule 104.01, subd. 2. Remanded to Court of Appeals to consider appeal from custody order.	Minn. R. Civ. P. 59.03. requires hearing of motion for new trial/amended findings within 60 days, or written confirmation of extension of hearing time for good cause. Per Minn. R. Civ. App. P. 104.01 limitation is tolled by timely motion for new trial, regardless whether timely hearing is scheduled.
Askar vs. Sharif, (Unpub.), A07-897, filed June 3, 2008 (Minn. App. 2008): The County challenges the district court's affirmance of a CSM's decision to reinstate respondent's driver's license. Because the county acquiesced in the CSM's decision to reinstate the obligor's drivers license, the county has waived its arguments on appeal that the CSM had no authority to do so.	Where a party agrees at the hearing, cannot later raise an appeal as to agreed upon issues.
Suleski v. Rupe, 855 N.W.2d 330 (Minn. Ct. App. 2014): After the parties divorced, mother and father both sought to modify parenting time. The District Court ruled from the bench and asked father's attorney to prepare a proposed order. Upon its submission, the draft order was adopted almost verbatim.The District Court, Rice County, denied mother's motion and granted father's motion. Mother appealed, arguing amongst other things, that adopting a proposed order verbatim was improper because the court was not exercising independent judgment. The Court of Appeals held that because the ruling was made from the bench, independent judgment was exercised before the order was drafted.	Where a ruling is made from the bench, independent judgment is exercised before the order is drafted.

Jones v. Jones, No. A13-0482, 2014 WL 801714 (Minn. Ct. App. Mar. 3, 2014): Mother and father had a marital termination agreement that was incorporated into their 2009 dissolution judgment and decreeThe father moved the District Court to lower his obligations. The Child Support Referee informed the parties of an error in the calculation of support. Both parties agreed support should have been set at the lowered amount.The District Court corrected the error retroactive to the date of entry of the judgment and decree. The mother appealed claiming the 2009 judgment and decree correctly stated the father's support obligation, and that it was not a clerical error. The Court of Appeals ruled that the mother had waived her right to appeal the retroactive correction because she had failed to raise the issue before the District Court, therefore, she had waived her right to appeal.	Waiver of right to appeal after conceding to clerical error and agreeing to retroactive modification.
In re Custody of M.M.L., No. A15-1807, 2016 WL 7438705 (Minn. Ct. App. Dec. 27, 2016): The subsequent modifications made to the preexisting contempt order are appealable because the court substantively modified the child support obligation, and did not merely modify the purge conditions of an existing conditional contempt order. The district court modified the child support obligation without adequate findings in regards to the method in which the father's income was imputed, and should therefore be remanded for additional findings.	Contempt; Imputing income; Potential income.
In re the Marriage of Bressenbacher v. Bressenbacher, No. A17-0339 (Minn. Ct. App. Aug 21, 2017): Before the district court may modify a maintenance or support obligation the moving party must provide clear proof that since the obligation was established there has been a substantial change in circumstances. The oldest child living with the father does not show a substantial change in circumstances because the child resided with him when the support order was established. A motion to reopen a judgment and decree under Minn. Stat. 518.145, subd. 2 (2016) [basis of mistake and fraud] is not the proper method to appeal alleged judicial errors.	Modification
Grazzini-Rucki v. Rucki, No. A16-1970 (Minn. Ct. App. Aug 21, 2017): A child support order that sets a review hearing to further modify the obligations was temporary and therefore was not immediately appealable. CSM's may, but are not required to set effective dates retroactively to the time of filing a motion. Nunc pro tunc language may be used for correcting an omission of the district court or fixing a clerical error. The use of this language is discretionary. It is within the CSM's discretion to order suspension of support while the obligor is incarcerated and have a review hearing scheduled upon release.	Appealability of Orders; Modification Other
Wright v. Bedner, No. A19-1535 (Minn. Ct. App. Jun 15, 2020): An order denying a new-trial motion in post-decree custody-modification proceedings is not appealable because the original motion to modify custody arises under Minn. Stat. § 518.18 (2018), which is a special proceeding. In special proceedings, the proper appeal is from the original order or judgment.	Custody
Cass v. Cen, No. A19-1903, 2021 WL 317725 (Minn. Ct. App. Feb. 1, 2021): Before judgment is entered on an oral stipulation, a party may challenge a proposed judgment in two separate ways. However, after judgment is entered based on a stipulation, relief can only be given if one of the conditions in Minn. Stat. 518.145, subd. 2 is met. Due process was denied when a party did not have an opportunity to address what was in their motion and their avenues for relief were limited after entry of judgment. By entering the J&D before a transcript was filed, the 14-day objection period outlined in Minn. R. Gen. Prac. 307(b) was eliminated. The signature of a party's GAL did not relieve the other party's duty to file the transcript because the GAL was not a legal representative.	Judgments
Wivinus v. Anderson, A21-0430, 2021 WL 6110118 (Minn. App. 2021): A party's constitutional right to parent their children is protected when the court carefully considers the statutory factors and modifies custody only after concluding that the children are endangered under the existing legal-custody arrangement. The in forma pauperis statue does authorize the payment of certain expenses for qualifying low-income individuals, however the statue does not extend to the payment of custody evaluation fees. An order is not appealable when it is conditional and imposed punishment only after failure to purge oneself of contempt.	Contempt; Custody – Best Interest of Child
Connolly v. Connolly, A21-1304, 2022 WL 1613260, (Minn. App. 2022): The district courts failure to adopt a paragraph recommended by the referee is at best a technical error and does not require relief on appeal when it has not been demonstrated that the error prejudices a party.	Technical Error

I.A.3. - (Deleted)	

I.A.4. - Appeals Generally	
Minn. R. Civ. App. P. 104.04 - time to appeal from a family law order or judgment. Motions to Reconsider: See Rule of General Practice 115.11, unlike motions for a new trial or amended findings, motions for reconsideration do not toll any time periods or deadlines, including the time to appeal. See Magnuson & Herr, Minnesota Practice: Appellate Rules Annotated 103.17.	
Schoonmaker v. St. Paul Title & Trust Co., 188 NW 223, 224 (1922): Even where an appeal has been taken, the matters determined by the judgment remain res judicata until the judgment is reversed.	Effect of Appeal on Underlying Judgment
O'Brien v. Wendt, 295 NW 2d 367, 370 (Minn. 1980): Definition of adverse party focuses on positions taken at trial.	Adverse Party
Kelzenberg v. Kelzenberg, 352 NW 2d 845 (Minn. App. 1984): Party's failure to object or raise issue in trial court generally precludes review on appeal.	Waiver
Kelly v. Kelly, 371 NW 2d 193 (Minn. 1985), on remand 374 NW 2d 580: Once time to appeal a judgment expires, it is not ordinarily extended.	Time to Appeal
Kelly v. Kelly, 371 NW 2d 193 (Minn. 1985), on remand 374 NW 2d 580: Notice of appeal sufficient if it shows an intent to appeal and the order appealed from apprises the parties of the issues to be litigated on appeal. Notice of appeal liberally construed.	Notice of Appeal
Brzinski v. Fredrickson, 365 NW 2d 291 (Minn. App. 1985): Order entered after appeal taken is of no effect because jurisdiction shifts from district court to court of appeals once appeal perfected.	Shift of Jurisdiction
Thiele v. Stich, 425 NW 2d 580, 582-3 (Minn. 1988): An appellate court may not base its decision on matters outside the record on appeal and may not consider matters not produced and received in evidence by the trial court.	Scope of Review
Hall v. Hall, (Unpub.), C9-90-967, F & C, filed 10-16-90 (Minn. App. 1990), review denied 12-20-90: On April 27, 1990, obligor was allowed to appeal child support orders dated July 24, 1986, January 29, 1987, and July 29, 1988, because no notice of filing of any of the orders was ever served by the custodial parent.	No Notice of Filing
Ganguli v. Univ. of Minn., 512 NW 2d 918, 919 (Minn. App. 1994): The appellate court will decline to address allegations unsupported by legal analysis or citation.	Allegations Must be Supported by Legal Analysis or Citation
Battee v. Battee, (Unpub.), C8-96-584, F & C, filed 6-17-96 (Minn. App. 1996): A notice of filing is not required to include a copy of the judgment. It is not misleading by merely stating general rule that an appeal from a judgment may be taken "90 days after entry, unless another time is prescribed by law," even in the case where the appeal is a special proceeding and requires appeal within 30 days of service of NOF by adverse party. (See Hofseth.)	Contents of NOF
Battee v. Battee, (Unpub.), C8-96-584, F & C, filed 6-17-96 (Minn. App. 1996): It was proper for the public authority to file the Notice of Filing to commence the appeal period. Because the motion was for determination of Battee's arrears, the county was adverse to Battee in the action, and the proper entity to serve the NOF. Cites O'Brien v. Wendt (Minn. 1980).	Public Authority, as Adverse Party, can File NOF
Hughes v. Hughley, 569 NW 2d 534 (Minn. App. 1997): A motion for amended findings or other motion brought under Minn. R. Civ. App. P. 104.04, subd. 2, suspends the time to appeal from an appealable order until service by the adverse party of notice of filing of order granting or denying the motion.	Motion for Amended Findings Suspends Time to Appeal
Frenzel and Carver County v. Frenzel, (Unpub.), C3-97-664, F & C, filed 11-10-97 (Minn. App. 1997): Where the assistant county attorney represented only the county, and the obligee appeared pro se, the county attorney could not accept service on the obligee's behalf. When obligor served the county a notice of appeal, but failed to serve the obligee, the appellate court lacked jurisdiction to consider the matter and therefore dismissed the appeal.	Service of Appeal Required on Both County and Obligee
Lewis v. Lewis, 572 NW 2d 313 (Minn. App. 1997): The time to appeal is not suspended under Minn. R. Civ. App. P. 104.04, subd. 2 by a motion designated as a motion for amended findings, when the motion does not meet legal requirements for a motion for amended findings. Motions for reconsideration do not suspend time to appeal.	Requirements for Motion for Amended Findings
State Dept. of Labor and Indus v. Wintz Parcel Drivers, Inc., 558 NW 2d 480 (Minn. 1997): The appellate court will decline to reach an issue in the absence of adequate briefing.	Must Brief Each Issue

Meyer v. Hein, (Unpub.), C6-97-979, F & C, filed 1-13-98 (Minn. App. 1998): Minn. R. Civ. P. 104.04, subd. 2 only applies to marital dissolution actions, and did not apply in a modification proceeding arising out of a paternity action.	104.04 N/A in Paternity Case
Hasskamp and Ramsey County v. Lundquist, (Unpub.), C8-97-1373, F & C, filed 2-10-98 (Minn. App. 1998): The county is entitled to file its own responsive brief in a child support/paternity case, since no attorney-client relationship exists between the attorney representing the public authority and the child support recipient under Minn. Stat. ' 518.255 (1996).	County Attorney Entitled to File its own Brief o/b/o the Public Authority
Sorrels v. Hoffman, 578 NW 2d 22 (Minn. App. 1998): Minn. R. Civ. App. P. 103.01 require appellant to file notice of appeal on the trial court administrator within the same time frames as filing with appellate court and service on adverse parties. Failure to timely file with district court is a jurisdictional defect and will result in dismissal of the appeal.	File with District Court and Appeals Court
Rivera v. Ramsey County, 615 NW 2d 854 (Minn. App. 2000): County has standing to appeal a district court child support order even though the county has not expended public assistance, the custodial parent did not appeal, and the county is seeking to establish support on behalf of another state's child support office.	County has Standing to Appeal NPA Support Order
Anastasoff v. USA, 235 F.3d 1054, C.A.8 (Mo.), 2000: Court finds unconstitutional that portion of 8th Circuit Rule 28A(i) which states that unpublished decisions are not precedent. Courts may decide whether or not to publish decisions but the decisions ought to have precedential effect, whether published or not.	Precedential Value of Unpublished Decision
Kalif v. Kalif, (Unpub.), C8-00-1269, F & C, filed 3-6-2001 (Minn. App. 2001): If appellant does not order a transcript for appeal, and respondent believes a transcript is necessary, respondent=s proper remedy is to order the transcript, or file a motion in the district court for an order requiring appellant to do so.	Transcript
Anastasoff v. US, 99-3917 (8th Circ. 2001): 8th Circuit Rule 28A(i) that declares that unpublished opinions are not precedent is unconstitutional under Article III, because it purports to confer on the federal courts a power that goes beyond the "judicial." Courts are bound to follow all prior decisions, unpublished or not.	Unpub-lished Opinions are Precedential
Huntsman v. Huntsman, 633 NW 852 (Minn. 2001): The service of a proper and timely post-decision motion tolls the time to file a notice of appeal pursuant to Minn. R. Civ. App. P. 104.01, subd. 2, until service of notice of filing the order disposing of the last such motion outstanding, notwithstanding the prior entry of the judgment amended by such order.	Service of Post-Decision Motion Tolls Time to Appeal
Paternity of J.M.V. and Valento v. Swenson; Ramsey County and Christensen v. Swenson, 656 NW 2d 558 (Minn. App. 2003): Where obligor had child support orders involving different children in two different counties, both of which were appealed, court of appeals had the power to consolidate the cases, changing venue of one of them and sending them together to one county on remand, so that a single judicial officer could oversee the child support determination on both cases.	Consolidation of Cases
Kloncz, n.k.a. Black v. Kloncz, 670 NW 2d 618 (Minn. App. 2003): When service is effected both by mail and facsimile on the same day, the three additional days under Minn.R.Civ.P. 6.05 for mailing does not apply to the time allotted for response. The response time is calculated from the day of the facsimile. (This case applied specifically to service of a Notice of Filing.)	3 Days N/A to Service of NOF by Facsimile
County of Blue Earth v. Francis E. Wingen, 684 NW 2d 919 (Minn. App. 2004): When a district court judgment is stayed by supersedeas bond under Minn. R. Civ. App. P. 108.01, Subd. 2, and that judgment is affirmed on appeal, the district court may award "damages in consequence of the appeal" in excess of the amount of the supersedeas bond.	Supersedeas Bond
Cepek v. Cepek, (Unpub.), A04-197, F & C, filed 8-3-04 (Minn. App. Spec. Term): Under the Rules of Civil Appellate Procedure, service of the notice of appeal on a party within the appeal period is only required if the party is an adverse party. Failure to timely serve the notice of appeal on any of the adverse parties is a jurisdictional defect, requiring dismissal of the appeal.	Requirement to Timely Serve all Adverse Parties is Jurisdictional

In Re the Marriage of Bender v. Berhnard, (Unpub.), A05-1545, filed June 20, 2006 (Minn. App. 2006): Upheld a district court decision that ordered guidelines child support for a child with documented special needs. The Court was unwilling to reverse McNulty v. McNulty, 495 N.W.2d 471 (Minn. App. 1993), *review denied* (Minn. Apr. 12, 1993), noting that that case was a unique situation where the Ct. of Appeals affirmed a presumptively incorrect above guidelines obligation, whereas this case would require the Court to reverse a presumptively correct guidelines obligation.	No reversal of guidelines support amount on the basis that the child has special needs.
Kozel n/k/a Kurzontkowski v. Kozel, A06-30 (Minn. Ct. App. October 10, 2006): The court did not abuse its discretion by declining to reopen the record to hear new evidence when the case was remanded. The district court's remand order did not specify whether the district court was to reopen the record and receive new evidence on remand and the case was not remanded for the purpose of hearing additional evidence. The testimony, exhibits of record, together with the submitted arguments of counsel were a sufficient basis for determination of the obligor's earning ability.	District Courts have broad discretion regarding how to proceed on remand absent specific instructions.
In re the Marriage of: Kim Teresa Pattinson, petitioner, Respondent, vs. Daniel Keller Pattinson, Appellant., (Unpub.), A06-1300, Anoka County, filed July 31, 2007 (Minn. App. 2007): Fourth appeal related to spousal maintenance provisions of J&D. Court of Appeals remanded to district court with instructions. Subsequent district court order appealed here. Court of Appeals reverses and remands with instructions to follow prior remand instructions. District court adopted respondent's findings verbatim. These findings lacked income information and were unsupported by the record; Court of Appeals determined that they were clearly erroneous.	Re-remanded for district court to comply with prior order and instructions of court of appeals. Findings – Standard of Review.
Schirmer vs. Guidarelli, f/k/a Schirmer, (Unpub.), A07-1021, filed May 27, 2008 (Minn. App. 2008): The time limit for a party to directly appeal to this court from a CSM's order is 60 days after service of notice of filing of the order. Appellant does not contest that he neither appealed the CSM's 2005 order to this court nor filed a motion for district court review. Therefore, appeallant's appeal for review of the 2005 order is untimely.	Untimely appeal
Martin vs. Martin, (Unpub.), A07-1295, filed June 17, 2008 (Minn. App. 2008): Appellant argues the court abused its discretion by denying his motion to modify his child support obligation. Appellant argues the order is not supported by the record. Even assuming the record lacks clear support for the findings of the district court, appellant has the burden to show that a modification is justified, and has failed to meet that burden. Additionally, lacking any credible support to contradict the findings of the district court, appellant fails to meet his burden to demonstrate the district court abused its discretion.	Petitioning party has burden
In re Paternity of G.M.E., No. A13-0590, 2013 WL 6725778, at *1 (Minn. Ct. App. Dec. 23, 2013): The mother and father executed a ROP for the minor child. The appellant was listed as the child's biological father on the child's birth certificate. Since the time of the child's conception, the parties acknowledged to family and friends that the appellant was the father of the child. Mother later filed paternity action seeking custody and support. tThe mother was awarded custody and support, and the father then filed a motion for amended findings or a new trial. In post-trial submissions, father's attorney raised issues of the Paternity Act's constitutionality for the first time. The District Court dismissed father's motion as the constitutional claim was improperly before the court. The Court of Appeals affirmed concluding the constitutional challenge was never raised before or during the trial, thus waived. Moreover, the court observed the father sought relief under the statue he was challenging without complaint. Finally, the court found, on the merits, father's request for amended findings did not demonstrate any error by the district court.	Constitutional Challenges not raised is waived.
Taylor v. Taylor, No. A16-0577, 2016 WL 6077203 (Minn. Ct. App. Oct. 17, 2016): A party waives the defense of lack of personal jurisdiction if the party has invoked the jurisdiction of the court to rule on an issue. A party must raise an issue in order for it to be addressed on appeal.	Defense of personal jurisdiction. Issue must be raised to appeal.

Wexler v. Gerr, No. A18-0679, 2019 WL 418608 (Minn. Ct. App. Feb. 4, 2019): The requirement of Minn. Stat. §518A.28 that parties provide income information in child support proceedings does not shift the burden of proof away from the moving party alleging fraud on the court.	Burden of proof not shifted
Sokkhan Ka v. Mai Yia Vang, No. A19-0156, 2019 WL 4594674 (Minn. Ct. App. Sept. 23, 2019): District court's implicit denial of father's motion to amend its findings on his child-support obligaton was not clearly erroneous because it was based on facts not contemplated by the parties' on-the-record agreement.	Motion to Amend; On the record agreement
In re the Marriage of: Patterson v. Patterson, A24-1029, 2024 WL 5242092 (Minn. Ct. App. Dec. 30, 2024): The district court did not abuse its discretion in imputing income for appellant-wife as she has demonstrated a capacity to earn a higher income. Wife's arguments against the court's determination of husband's income are unavailing as she did not provide a transcript or cite any legal authority showing error.	Imputing potential income; Potential income: Stay at home parent; Methods, Generally; Income calculation/determination of gross income

I.B. - DISTRICT COURT PROCEDURE	
I.B.1. - Procedure Generally (including family court procedure)	
Child Support proceedings are governed by the Minnesota Rules of Civil Procedure (Minn. R. Civ. P.) and the Rules of Family Court Procedure (Minn. R. Family Court P.), except where otherwise specified by statute. References to applicable provisions are included in this outline. The Rules of Family Court Procedure are located at Rule 301-314 in the General Rules of Practice for District Courts. Rule 301 provides that the family court rules apply to support enforcement proceedings, contempts, parentage proceedings, and Minn. Stat. ' 256.87 actions. Practitioners in Hennepin and Ramsey Counties can refer to provisions regarding referees - Minn. R. Family Court P. 312 and Minn. R. Civ. P. 53.	
Bouman v. Reiter, 210 NW 2d 215 (Minn. 1973): Pursuant to Minn. R. Civ. P. 52.01, written findings are not required if the Findings of Fact and Conclusions of Law are stated orally and recorded in open court. In such a case, the transcript controls, and the order is enforceable. Written findings are the better practice, however.	Written Findings not Required
Peterson v. Peterson, 242 NW 2d 88 (Minn. 1976): All recommended findings and order of family court referee are advisory and possess no more than prima facies validity.	Referee's Finding
Weldon v. Schouviller, 369 NW 2d 308 (Minn. App. 1985): The court is at liberty to consider alternative forms of relief not explicitly before the court.	Alternatives
Peterson v. Peterson (Roger v. Diane), 365 NW 2d 315 (Minn. App. 1985): Motion for increased child support may be determined on affidavits and within discretion of court whether to require evidentiary hearing.	Affidavits / Hearing
Rieman v. Joubert, 295 NW 2d 681, 683-4, n.1 (Minn. 1985): A notice of filing need only (1) call the recipient's attention to what was filed and when, (2) constitute a separate document, (3) display an appropriate caption, and (4) describe the decision filed.	NOF Contents
State of Minnesota, County of St. Louis v. Marchand, 401 NW 2d 449 (Minn. App. 1987): By rule, a second voluntary dismissal is with prejudice, but where a party has previously initiated only one of two dismissal proceedings, the party may proceed in a further action.	Second Dismissal
Hogsven v. Hogsven. (Unpub.), 1988 WL 27619 (Minn. App. 1988): A recipient of public assistance is considered to have assigned to the agency responsible for child support enforcement all rights to child support. Minn. Stat. § 256.74, subd. 5 (1986). Rice County, as the public agency, is joined as a party in each case in which rights are assigned. Rice County had standing, as appellant's assignee, to seek judgment against respondent for unpaid child support in this action.	County has Standing to Seek Judgment for Support Arrears in PA Case
Engelby v. Engelby, 479 NW 2d 424 (Minn. App. 1992): Obligor not compelled to testify where he invokes his 5th Amendment privilege against self-incrimination; however, appropriate sanctions should be imposed to prevent unfair prejudice to obligee.	Testimony: 5th Amendment Privilege
Wabasha County, State, on Behalf of Zimmerman v. Rud, (Unpub.),1995 WL 550931 (Minn. App 1995): The court of appeals rejected obligor's argument that Wabasha County lacked standing because (1) his former spouse receives no public assistance, and (2) Minn. Stat. § 518.551, subd. 9 (1994) provides for the joinder of the public agency responsible for child support only when rights are assigned pursuant to an application for public assistance. The court held that Minn. Stat. § 518.551, subd. 1(b) (1994) grants the public authority broad powers to pursue child support enforcement matters on behalf of a custodial parent who has applied for child support collection services. Because the record establishes that Wabasha County provides child support collection services to Rud's former spouse, the county has standing.	County has Standing in NPA IV-D Case
State of Minnesota v. TMB, (Unpub.), C0-98-1703, F & C, filed 3-23-99 (Minn. App. 1999): The Judiciary may not, by virtue of its inherent authority, order the expungent of criminal records maintained by executive branch agencies, absent evidence of injustice resulting from an abuse of discretion in the performance of an executive function.	Expunge-ment of Records
Chen and Ying v. Kauffner, (Unpub.) C8-98-2316, F & C, filed 6-22-99 (Minn. App. 1999): Where appellant filed notice of review of referee=s order with the district court, it was improper for the district court to dismiss the review because respondent, who prevailed before the referee, failed to make submissions pursuant to Minn. R. Gen. Prac. 312.01.	Failure of Non-Moving Party to Make Submissions Cannot Result in Dismissal of Moving Party's Motion

Sokolowski v. Sokolowski, (Unpub.), CX-99-1881, F & C, filed 4-18-00 (Minn App. 2000): A district court may (but is not required to) consolidate actions if they involve common questions of law or fact. See Minnesota Personal Injury Asbestos cases v. Keene Corp., 481 NW 2d 24, 26 (Minn. 1992).	Consolida-tion of Actions
Flint v. Flint, (Unpub.), C9-02-1656, filed 5-20-03, (Minn. App. 2003): The district court has discretion to ignore late-filed documents. Axford v. Axford, 402 NW 2d 143, 145 (Minn. App. 1987), Minn. R. Gen. Pract. 303.03. However, the district court abused its discretion when it considered one party=s untimely filed memorandum, but did not consider the other partys untimely affidavit filed in response to that memorandum.	Late-Filed Documents
Wick v. Wick and Ridge, 670 NW 2d 599 (Minn. App. 2003): When requesting joinder of a party to a civil contempt action, who is not a payor of funds, the party sought to be joined must be served with a summons and complaint with notice of the specific cause of action that the county tends to assert against the party.	Joinder Requires Personal Service of S&C
Jansen-Pers. v. Pers., No. A03-433, 2004 WL 292042 (Minn. Ct. App. Feb. 17, 2004): Where pro se party to marriage dissolution came to court late, did not prepare for trial, did not address issues court directed him to address or provide documents court requested, court properly refused to hear more testimony. The district court is authorized and directed to exercise control over trials in order to, among other things, avoid needless consumption of time. Minn. R. Evid. 611(a), Minn. R. Civ. P. 1.	Cutting Testimony Short
In Re Jesua V., 10 Cal Rptr 3d 205 (Cal. 2004): Prisoners have a due process right of access to the courts, and must be given a meaningful opportunity to be heard. How that right is achieved is to be determined by the discretion of the trial court. In this case, the Supreme Court of California held that the father received meaningful access to the courts through his appointed counsel, and his personal appearance was not constitutionally required.	Incarcerated Party's Presence at Hearings Discretionary
Yang v. Yang, (Unpub.), A03-1378, filed 6-29-04 (Minn. App. 2004): Appointment of interpreters in civil proceedings are governed by Minn. Stat. § 546.43, subd. 1 (2002). Under that provision, a person is handicapped in communication if "because of difficulty in speaking or comprehending the English language, [the person] is unable to fully understand the proceedings in which the person is required to participate, or when named as a party to a legal proceeding, is unable by reason of the deficiency to obtain due process of law."	§ 546.43, subd. 1 Governs Appointment of Interpreters in Civil Cases
Holt and County of Becker v. Holt, (Unpub.), A03-1795, filed 7-20-04 (Minn. App. 2004): CSO statements made in affidavit and in testimony regarding the amount of public assistance expended in the case based on information obtained from the state child support computer system was admissible under the public records exception to the hearsay rule. Minn. R. Evid. 803(8).	CSO Affidavit re: Amount of PA is Admissible as a Public Record
In re the Marriage of Eric Thomas Amundson v. Rachel Louise Amundson, (Unpub.), A06-514, Chisago County, filed January 23, 2007 (Minn. App. 2007): Appellant also contends the district court abused its discretion in denying his motion to modify without an evidentiary hearing. A party seeking custody modification must submit an affidavit in support of the motion. (Citing Minn. Stat, §518.185 (2004). The district court must accept the facts as true, but need not grant an evidentiary hearing if the affidavit fails to provide sufficient grounds for modification. (Citing Nice-Pedersen v. Nice-Pedersen, 310 N.W.2d 471, 472 (Minn. 1981). The district court did not abused its discretion in denying appellant an evidentiary hearing on his motion to modify physical custody.	Evidentiary hearing not required where the moving party's affidavit fails to provide sufficient grounds for modification.

In re the Marriage of: Thomas Caroll Rubey v. Valerie Ann Vannett, A05-310, COA, filed May 4, 2006 (Minn. Sup. Ct. 2007): Minn. R. Civ. P. 59.03. Appellant requested new trial/amended findings within 30 days of custody order, but failed to obtain hearing or extension for good cause within 60 days as required by Minn. R. Civ. App. P. 59.03. District Court properly denied motion for new trial. However, timely filing of motion for new trial tolled limitation on appeal, regardless whether hearing was untimely. Minn. R. Civ. App. P., Rule 104.01, subd. 2. Remanded to Court of Appeals to consider appeal from custody order.	Minn. R. Civ. P. 59.03. requires hearing of motion for new trial/amended findings within 60 days, or written confirmation of extension of hearing time for good cause. Per Minn. R. Civ. App. P. 104.01 limitation is tolled by timely motion for new trial, regardless whether timely hearing is scheduled.
In re the Marriage of: Thomas Caroll Rubey v. Valerie Ann Vannett, (Unpub.), A05-310, filed May 15, 2007 (Minn. App. 2007): Parties were denied due process when district court, at conclusion of trial regarding physical custody, rejected their stipulation to joint legal custody *sua sponte*, without opportunity to be heard.	District court cannot change the terms of a stipulation without giving timely notice and opportunity to the parties to present evidence and argument.
Thomas John Szarzynski v. Therese Elizabeth Szarzynski, A06-882, Hennepin County, filed May 22, 2007 (Minn. App. 2007): A motion requesting a party be deemed a "nuisance litigant" and requiring them to obtain the court's permission before filing future motions must comply with Rule 9.01. The motion must be separate from other requests for relief and must not be filed unless, within 21 days after the motion is served, the allegedly offending claim, motion or request is not withdrawn or properly corrected. (Citing Minn. R. Civ. P. 11.03(a)(1)). The court must state on the record its reasons supporting the determination, must reference rule 9.01-07, address the definition of "frivolous litigant" under Minn. R. Gen. Pract. 9.06(b), and must determine that "no less severe sanction will sufficiently protect the rights of other litigants, the public, or the courts. (Citing Minn. R. Gen. Pract. 9.07 cmt).	Motion to deem party a nuisance litigant must comply with Rule 9.01. Order deeming party a nuisance litigant must comply with Rule 9.01-07.
In re the Marriage of Jennifer Marie Gran, f/k/a Jennifer Marie-Gran Barkley, petitioner, Respondent, vs. Craig William Barkley, Appellant, (Unpub.), A06-1887, Scott County, filed July 31, 2007 (Minn. App. 2007): Appellant self-employed in his own business. Did not prepare tax returns for 1999-2004 until 2005 and had not paid taxes for those years. Appeals the calculation of his income for child-support. District court has broad discretion to consider other evidence, such as cash flow and the lifestyle of a sole business owner, in determining appellant's net monthly income. Appellant argues district court should have based its calculation on his 2005 tax return. Appellant did not make this evidence available to the court at the time of the trial, and the court was not required to have the record reopened for submission.	District court has broad discretion to consider other evidence, such as cash flow and the lifestyle of a sole business owner, in determining appellant's net monthly income, and is not required to reopen the record for submission of additional income evidence.
In re the Marriage of: Essam El-Dean Hassan Ahmed, petitioner, Appellant, vs. Eman Bakry Haroun, Respondent., (Unpub.), A06-1773, Dakota County, filed July 31, 2007 (Minn. App. 2007): Two weeks before dissolution trial Appellant's attorney withdrew. District court denied Appellant's request for what would be the fourth continuance for him to obtain counsel. Appellant entered into oral stipulation. Appellant argues stipulation should be vacated because he was not represented. A party is not entitled to a continuance merely because their lawyer withdrew from the case two weeks before trial. Here, the circumstances in the case justified the court's decision to deny a fourth continuance (as the three prior continuances were due to appellant's actions).	A party is not entitled to a continuance merely because their lawyer withdrew from the case two weeks before trial.

In re the Marriage of: Essam El-Dean Hassan Ahmed, petitioner, Appellant, vs. Eman Bakry Haroun, Respondent., (Unpub.), A06-1773, Dakota County, filed July 31, 2007 (Minn. App. 2007): Oral stipulation in dissolution proceeding. Written order included a reservation of maintenance that was not included in the oral stipulation. Where the parties in a dissolution have reached a stipulation, the could cannot impose conditions to which the parties did not stipulate and thereby deprive the parties of their day in court. A decree that is silent as to spousal maintenance cannot thereafter modify the decree to award spousal maintenance. A decree that reserves spousal maintenance can be modified.	Where parties in dissolution have reached a stipulation, the court cannot impose additional conditions without giving the parties a chance to litigate.
In re the Marriage of: Loren Helen Faibisch, petitioner, Appellant, vs. Manuel Esguerra, Respondent., (Unpub.), A06-1751, Ramsey County, filed August 21, 2007 (Minn. App. 2007): Appellant argues the district court should have held an evidentiary hearing on her motion to modify. Noncontempt family motions are decided without an evidentiary hearing unless otherwise ordered by the court for good cause *(citing Minn. R. Gen. Pract. 303.03(d))*. No evidentiary hearing was requested by either party.	Noncontempt family motions are decided without an evidentiary hearing unless otherwise ordered by the court for good cause.
Krznarich vs Freeman, (Unpub.), A07-993, filed December 18, 2007 (Minn. App. 2007): The fact that the judge did not read the motions filed by the parties until after the hearing did not deprive the parties of a fair hearing, and does not merit a new trial.	Due process not violated where judge did not read motions before the hearing.
Greco v. Albrecht-Greco, No. A13-1840, 2014 WL 3558094 (Minn. Ct. App. July 21, 2014): Obligor challenged the District Court's decision to sua sponte order him to pay 50% of private-school tuition and modifying his support without making the requisite findings. Parties divorce order delineated the terms of the divorce including custody and child support for child, D.G. The divorce order did not address the issue of private tuition. The District Court did not make any findings relating to the parties' income or their ability to pay tuition. The Court of Appels reversed concluding that neither party had moved the court to modify support or take into account the child's tuition. The Court of Appeals determined that the District Court does not have the authority to modify a child support order without a motion requesting modification.	Sua Sponte modification of child support not permitted.
Sperling vs. Sperling, (Unpub.), A07-980, F&C, filed April 29, 2008 (Minn. App. 2008): The district court cannot abdicate its statutory role as the final arbiter of support determinations to a third party for annual review and adjustment.	Alternative Dispute Resolution of Child Support
Hare v. Hare, No. A15-1978, (Minn. Ct. App. July 18, 2016): Whether to hold an evidentiary hearing on a motion to modify maintenance or support is discretionary. When the district court is able to calculate child support based on the record before it, it is not an abuse of discretion to decline to hold an evidentiary hearing.	Evidentiary Hearing for Modification of Support
In re the Marriage of Coleal v. Coleal, A16-1502, 2017 WL 2062126 (Minn. Ct. App. May 15, 2017): When determining whether to allow an evidentiary hearing in family law matters, the court shall consider whether there is good cause. While the "good cause" standard is not specifically defined, the summary judgment standard should not be applied to determine whether there is good cause to conduct an evidentiary hearing in this context.	Maintenance; evidentiary hearings
Jama v. Olson, No. A16-1490 (Minn. Ct. App. Sep 5, 2017): If an issue has not previously been litigated the doctrines of res judicata and collateral estoppel do not apply. A person must establish how his/her disability limits his/her participation in court proceedings in order to grant reasonable accommodations. On its own motion a district court can impose restrictions on a frivolous litigant's ability to file claims, motions or requests.	Res judicata; reasonable accommoda-tions; frivolous litigant

Olsen v. Koop, A17-1151, 2018 WL 1701901 (Minn. Ct. App. Apr. 9, 2018): Court-initiated modification of legal custody is not directly authorized or prohibited by statute. Issues that are not raised by the parties but are tried by the implied consent of the parties shall be treated as if they had been raised. Court initiated modification of legal custody modification may be proposed if both parties were notified that legal custody would be addressed and neither objected, thereby implicitly consenting to try the custody issue; the court gave notice that it could not grant appropriate relief in the best interests of the chid without hearing the custody issue; and a party did not argue any prejudice resulted from the decision to set an evidentiary hearing on custody.	Custody
Bersaw v. Bersaw, A18-0708, 2019 WL 1591765 (Minn. Ct. App. Apr. 15, 2019): An incarcerated party is not denied due process when the prison only allows him to testify for one hour via telephone and when the court accepts additional affidavits and ensured counsel has time for redirect during the testimony.	Marriage Dissolution
Bessenbacher v. Bessenbacher, A20-0371, 2020 WL 7688652 (Minn. Ct. App. Dec. 28, 2020): Minn. R. Gen. P. 9.02 outlines seven (7) factors to determine if a party is a frivolous litigant. A district court finding a party is a frivolous litigant may only be overturned on appeal if the district court abused its discretion.	Overturning a frivolous litigant ruling
Bender v. Bernhard, A20-1234, 971 N.W.2d 257 (Minn. 2022): Post decision evidence can be "newly discovered" if it meets the 3 factor test set out by caselaw: (1) the newly discovered evidence must not have been discoverable before the proceeding by the exercise of reasonable diligence; (2) the evidence must be relevant and admissible; and (3) it must not be cumulative, contradictory, or impeaching but must be likely to affect the outcome of the case.	Post Decision Evidence
Hinrichs v. Hinrichs, A22-0492, 2023 WL 2761993 (Minn. Ct. App. 2023): A district court correctly denies a motion to modify or restrict parenting time when the moving party fails to properly allege all four factors for a prima facie showing of endangerment, and it is not an error to not consider all four factors when any one has failed due to their conjunctive nature.	Custody-Best Interest of Child; Custody-Joint Legal Custody; Custody-Joint Physical Custody
Schultz v. Perkins, A23-0845, 2024 WL 3024670 (Minn. Ct. App. 2024): The district court abused its discretion when it implicitly denied mother's child support modification motion as R. Gen. Prac. 353.02, subd. 2 requires the district court to judge all matters before it. All other challenges are affirmed.	Best Interest of Child-Custody; Custody-Best Interest of Child; Modification; Visitation-Parenting Time

I.B.2. - Service	
Minn. R. Civ. P. 4, 5, 6; Minn. R. Family Court P. 302.01, 302.03; 308.01; 355 (Expedited Process); Minn. Stat. ' 543.20 - service at place of employment or educational institution; Minn. Stat. ' 518.47 - order for public authority to serve legal documents in a party-initiated support proceeding.	
Thomas v. Fey, 405 NW 2d 450 (Minn. App. 1987): Evidence of mailing of referee's; recommended order was insufficient without proof of custom or habit of mailing.	Proof of Mailing
Smigla v. Schnell, 547 NW 2d 102 (Minn. App. 1996): The term "day" in Minn. R. Gen. Prac. 114.09 comprises the 24 hour period ending at midnight. Therefore, a filing made after business hours by facsimile on the court's fax machine was timely. (But see change in rules requiring a fax to be made during business hours.)	Service by FAX
Abu-Dalbouh v. Abu-Dalbouh, 547 NW 2d 700 (Minn. App. 1996): Minn. R. Civ. P. 4.04 permits service by publication of marriage dissolution action where other party lives outside of state or county, summons has been mailed to last known address, and returned, forwarding address unknown, and petitioner tried diligently to locate husband's new address.	Service by Publication
Gorz v. Gorz, 552 NW 2d 566 (Minn. App. 1996): Although contempt actions must be initiated by personal service of an order to show cause, obligor waived any objection to jurisdiction based upon obligee's failure to personally serve order to show cause and contempt motion because he had already invoked the court's jurisdiction over him and the child support issue by moving for modification and by participating in the proceedings and personally appearing at the hearing.	Failure to Personally Serve Order to Show Cause
Imperial Premium Finance Co. v. GK Cab Co., 603 NW 2d 853 (Minn. App. 2000): A party challenging an affidavit of service must overcome it by clear and convincing evidence. Where person alleged to have received service alleges that he does not remember being served, and that he did not follow procedures he normally follows when accepting service, the affidavit of service was not overcome.	Challenge to Service
Turek v. A.S.P., Inc., 618 NW 2d 609 (Minn. App. 2000): Pursuant to Minn. R. Civ. P. 4.05, service acknowledged by mail is ineffective if the sender does not receive the acknowledgment form within the time required by the rules. (In this case, an acknowledgment of service returned after 20 days was ineffective.)	Strict Time Frames for Service by Acknow-ledgment
Turek v. A.S.P., Inc., 618 NW 2d 609 (Minn. App. 2000): Actual notice is irrelevant where service is made by acknowledgment under Minn. R. Civ. P. 4.05, as the actual notice exception only applies to cases involving substitute service at the usual place of abode.	Actual Notice
Pipestone County Sheriff v. Pipestone County Board of Commissioners, 633 NW 2d 875 (Minn. App. 2001), CX-01-618, F & C, filed 9-25-01: Under Minn. Stat. ' 270A.03, Subd. 2 (2000), service of process by a sheriff who is a party to the action is not effective service of process under Minn. R. Civ. P. 4.02.	Not Okay by Sheriff Who is a Party
Kloncz, n.k.a. Black v. Kloncz, 670 NW 2d 618 (Minn. App. 2003): When service is effected both by mail and facsimile on the same day, the three additional days under Minn.R.Civ.P. 6.05 for mailing does not apply to the time allotted for response. The response time is calculated from the day of the facsimile. (This case applied specifically to service of a Notice of Filing.)	3 Days N/A to Service of NOF by Facsimile
Ritter v. Ritter (unpub) A03-1472, filed 5-25-04 (Minn. App. 2004): The notice requirement for service of motions and responsive motions in child support modification cases is governed by Minn. R. Gen. Prac. 303.03(a), and not by Minn. R. Civ. P. 6.04. Under 303.03(a), the imposition of sanctions for late-filing is permissive and not mandatory.	Minn.R.Gen.Practice. 303(a) Applies in MTM Cases
Maki v. Hansen, 694 NW 2d 78 (Minn. App. 2005): Although respondent served documents on the other party and not the other party's attorney, and although respondent mailed the documents herself, rather than having a third party mail the documents, as required by Minn. R. Gen. Pract. 355.01 and 355.02, where other party had actual notice of the motion, and the opportunity to respond and be heard, he was not prejudiced, and the motion should not be dismissed due to improper service.	Actual notice and opportunity to respond overcomes failure to follow rules of service

State v. Pierce, 100 NW 2d 137 (Minn. 1959): Where personal service is required, but service is made by mail and the party to be served actually receives the documents, service is effective.	Service effective if papers actually received even if not personally served
County of Freeborn v. Walker, (Unpub.), A07-375, filed April 8, 2008 (Minn. App. 2008): The county served a person identified by a social security number and name located in California with a paternity action. That person failed to appear or answer and a paternity order was entered by default. Subsequently, the county intercepted tax refunds and began income withholding against appellant, a person with the same or similar name and social security number. Appellant objected, argued he wasn't served with any paternity action, indicated he was a victim of identity theft, and was later excluded as the biological father of the child through genetic testing. The district court order required the county to reimburse appellant for child support collected from him and distributed to obligee. The county appealed. The Court of Appeals held that the undisputed lack of proper service renders the resulting judgments void. Restitution is equitable in nature and there is no abuse of discretion to order the county to reimburse the monies. Finally, the court rejected the argument that the funds should be recouped from mother citing (1) that the funds are disbursed does not absolve the county from having to reimburse Appellant if the facts warrant repayment. (2) A series of mistakes by the county resulted in the void judgments. (3) an innocent child support payor should not sue an innocent mother on public assistance to attempt to recover funds incorrectly procured from the payor as a result of void judgments. This is not in the best interest of the child for whom the child support system was created.	County ordered to reimburse defendant past child support collected based on default adjudication, where service on defendant was defective.
Ayala vs. Ayala, (594 N.W.2d 257), A07-0657, filed May 27, 2008 (Minn. App. 2008): Service of an OFP by publication is not effective unless there has first been an attempt at personal service by law-enforcement personnel that has failed because the respondent concealed himself, and either a copy of the petition and notice of hearing have been mailed to the respondent's residence or the petitioner does not know the address. Where both requirements are not followed, service is lacking, and the court does not have personal jurisdiction over the respondent.	Service by publication
In re Rodewald v. Taylor, 797 N.W.2d 729 (Minn. Ct. App. 2011): Mother and father signed a ROP for joint child. Mother moved out of father's residence and initiated a child-custody and child-support action against father. Mother attempted to serve father personally multiple time. Mother, assisted by counsel, then served the father with the motion by mail. Father did not appear at hearing, and the district court proceeded by default. Father moved to vacate the default judgement, arguing that the district court lacked personal jurisdiction over him due to ineffective service process. District court denied father's motion and Father appealed. Court of appeals affirmed holding that the child custody, parenting time, and child-support proceedings were properly initiated by motion, because the language of Minn. Stat. 518.156, subd. 1(2) allows those proceedings to be initiated by either motion or petition when there is a valid ROP. "The plain language of Minn. Stat. § 518.156, subd. 1(20 allows a parent to initiate child-custody proceedings by motion when a valid ROP exists."	Service of Process; Recognition of Parentage; Paternity; Recognition.
Livingston Financial, LLC, as successor in interest to US Bank v. Daniel O. Ward, II, No. A16-2004, 2017 WL 2625780 (Minn. Ct. App. Jun 19, 2017): "Usual place of abode" means the place where the defendant is actually living at the time when service is made. When service is questioned the burden shifts to plaintiff.	Service of Process
Jaeger v. Palladium Holdings, 88 N.W.2d 601 (Minn. 2016): Under Minn. R. Civ. P. 4.03(a), "then residing therein" in relation to abode service, requires the person accepting service live in the abode for an extended period of time when service is attempted.	Service of Process

Midland Funding LLC, as successor in interest to FIA Card Services, N.A. v. David Coyne, No. A17-0607, 2017 WL 5560065 (Minn. Ct. App. Nov 20, 2017): When the district court determines, based on evidence presented, that a party has complied with the requirements for service by publication under Minn. R. Civ. P. 4.04, the party being served now has the burden to show that the service was improper.	Service of Process
Cox v. Mid-Minnesota Mutual Ins. Co. and North Star Musual Ins. Co., 909 N.W.2d 540 (Minn. 2018): The word "delivery" has special meaning within the context of Rule 3.01(c) that requires personal delivery (physical transfer or hand-off) to the sheriff. Facsimile transmission is not considered personal delivery under Rule 3.01(c). However an action not properly commenced unde Rule 3.01(c) can be commenced by service under 3.01(a) or (b).	Process serving, Service of Process
Cass v. Cen, No. A19-1903, 2021 WL 317725 (Minn. Ct. App. Feb. 1, 2021): Before judgment is entered on an oral stipulation, a party may challenge a proposed judgment in two separate ways. However, after judgment is entered based on a stipulation, relief can only be given if one of the conditions in Minn. Stat. 518.145, subd. 2 is met. Due process was denied when a party did not have an opportunity to address what was in their motion and their avenues for relief were limited after entry of judgment. By entering the J&D before a transcript was filed, the 14-day objection period outlined in Minn. R. Gen. Prac. 307(b) was eliminated. The signature of a party's GAL did not relieve the other party's duty to file the transcript because the GAL was not a legal representative.	Judgments
Blakey v. Jones, A22-0098, 997 N.W.2d 67, 2023 WL 7173545 (Minn. 2023): The Supreme Court held that a discharge of a Guardian Ad Litem means that the GAL is no longer a party and does not need to be timely served a notice of appeal per Minn. R. Civ. App. Pro. 103.01.	Guardian ad Litem-Parentage; Process Serving/Service of Process

I.B.3. - Stipulations (including law on stips regarding guidelines support)	
Minn. R. Family Court P. 307(b) - stipulations in open court (Ed.Note: This provision would only apply to stipulations as to the contents of the final decree adjudicating paternity or dissolving a marriage, and not to temporary orders, or post decree orders enforcing or modifying the terms of the decree.)	
Tammen v. Tammen, 182 NW 2d 840 (Minn. 1970): The basic right of children to receive support cannot be affected by agreement between the parents or third persons. Agreements adopted by the parties are purely advisory to the court and do not limit its discretionary power to determine whether a future change in circumstances warrants revision. Courts will not be bound by agreement between parents affecting rights of minor children with respect to support but will be controlled by the welfare of the child as the paramount consideration.	Extra-Judicial Modification
Tell v. Tell, 359 NW 2d 298 (Minn. App. 1984): Extra-judicial modification of Judgment and Decree without judicial approval not valid.	Extra-Judicial Modification
Swanson v. Swanson (Patricia v. Roy), 372 NW 2d 420 (Minn. App. 1985): Child support by oral agreement or agreement evidenced by unsigned stipulation between parties does not limit discretionary power of court in setting child support.	Stipulations
Swanson v. Swanson (Patricia v. Roy), 372 NW 2d 420 (Minn. App. 1985): Child support relates to non-bargainable interests of children and is less subject to restraint by stipulation.	Stipulation
Egge v. Egge, 361 NW 2d 485 (Minn. App. 1985): An error in a stipulation is an attorney error which is not a clerical error under Minn. R. Civ. P. 60.01.	Error
Greeler v. Greeler, 368 NW 2d 2 (Minn. App. 1985): District court has jurisdiction to amend dissolution stipulation concerning maintenance and support.	Stipulation
Johnson v. Van Zee, 370 NW 2d 471 (Minn. App. 1985): Stipulations are merely advisory and do not limit the discretion of the court.	Stipulation
Johnson v. Van Zee, 370 NW 2d 471 (Minn. App. 1985): Fact that financial rights and obligations fixed in decree as result of stipulation is an important consideration restraining, though not controlling, court's authority to modify.	Original Decree Stipulation
Kehr v. Kehr, 375 NW 2d 88 (Minn. App. 1985): Child entitled to benefit of increased income of both parents though original award stipulated.	Original Award Stipulated
Taflin v. Taflin, 366 NW 2d 315 (Minn. App. 1985): Modifications in dissolution decrees not valid unless judicially approved.	Court Action Required
Pekarek v. Wilking, 380 NW 2d 161 (Minn. App. 1986): Factors which determine whether stipulation was properly accepted by the court: (1) whether the party was represented by competent counsel; (2) whether extensive and detailed negotiations occurred; (3) whether the party agreed to the stipulation in open court; and (4) whether when questioned by the judge the party acknowledged understanding the terms and considering them fair and equitable.	Support Stipulation
O'Connor v. O'Connor, 386 NW 2d 395 (Minn. App. 1986): Failure to amend stipulation and set support pursuant to reservation was not error where little more than one year had elapsed since stipulation.	Reservation
Moylan v. Moylan, 384 NW 2d 859 (Minn. 1986): Although the trial court in reviewing an original order or decree based on a stipulation should view it as an important element because it represents the parties voluntary acquiescence in an equitable settlement, when the stipulation includes child support, it is afforded less weight.	Less Weight
Thuftin v. Bush, 396 NW 2d 83 (Minn. App. 1986): Noncustodial parent who stipulates to pay support above guidelines cannot later claim inability to pay and obtain a modification unless an objective change of circumstances is shown.	Agreed to Pay Above Guidelines
State, ex rel. Mart v. Mart, 380 NW 2d 604 (Minn. App. 1986): Oral agreement between husband and wife re: support does not bar reimbursement and establishing support.	Verbal Agreements
LeTendre v. LeTendre, 388 NW 2d 412, 416 (Minn. App. 1986): Parents= out-of-court stipulation to modify child support is invalid because child support is a "non-bargainable" interest of the child.	Extra-Judicial Modification
Heldt v. Heldt, 394 NW 2d 535 (Minn. App. 1986): Extrajudicial modifications of dissolution decree are not valid unless judicially approved.	Extrajudicial Modifications not Valid

Martin v. Martin, 401 NW 2d 107 (Minn. App. 1987): Child support relates to non-bargainable interest of children and is less subject to restraint by stipulation than are other dissolution matters; thus mother could not avoid support by arguing that the reservation of her support obligation was bargained for in exchange for her agreement to allow the father and children to remain in the family home.	Not Bargain-able
Murray v. Murray, 405 NW 2d 922 (Minn. App. 1987): Stipulations subsequent dissolution decree are advisory and not binding on court with respect to modification (stipulation concerned reducing age of termination of support).	Advisory
Compart v. Compart, 417 NW 2d 658 (Minn. App. 1988): In divorce case involving minor children, court's acceptance of child support stipulation setting support at less than one-half the amount called for in child support guidelines was of questionable consistency with court's obligation to protect interests of minor children.	Original Award Stipulation
Diedrich v. Diedrich, 424 NW 2d 580 (Minn. App. 1988): Because best interests of child are more important than wishes of parties, unconfirmed post-dissolution agreements to modify custody or support are not followed by the courts. (See also Heldt v. Heldt above.)	Private Post Dissolution Agreements not Honored by Courts
McNattin v. McNattin, 450 NW 2d 169 (Minn. App. 1990): By stipulation the respondent agreed to change in custody and petitioner (an attorney) agreed to forego seeking child support. Nine months later, petitioner moved to establish child support. The court of appeals found the petitioner had fraudulently represented facts to respondent which induced him to sign the stipulation. The court went on to say this was an unusual situation in that generally child support may not be bargained away by child's parents.	Stipulation
Strandberg and Ramsey County v. Haessly, (Unpub.), C6-95-2680, F & C, filed 6-11-96 (Minn. App. 1996): A stipulation may not be set aside except for fraud, duress or mistake. (See Tomscak, 352 NW 2d 464 (Minn. App. 1984).) Court must consider in deciding a motion to vacate a stipulation (here, a stipulation for custody in a paternity proceeding) (1) whether the party was represented by competent counsel, (2) whether extensive and detailed negotiations occurred, (3) whether the party agreed to the stipulation in open court, and (4) whether when questioned by the judge the party acknowledged understanding the terms and considering them fair and equitable. (See Glorvisen 438 NW 2d 692 (Minn. App. 1989).)	Vacation of Stipulation
Loscheider v. Loscheider, 563 NW 2d 331 (Minn. App. 1997), review granted (July 10, 1997): Because a stipulation in a divorce between the parties to waive the right to support was against public policy and unenforceable, their agreement did not provide a basis for ordering CP to indemnify AP for the amount she paid for reimbursement in a subsequent Minn. Stat. ' 256.87 action.	Waiver of Support Against Public Policy
Hestekin v. Hestekin, 587 NW 2d 308 (Minn. App. 1998): Before a court accepts a divorce stipulation, good practice calls for the court to inquire as to the unrepresented party=s agreement on all critical ingredients of the stipulation.	Unrepresented Party - Inquiry by Court
Hestekin v. Hestekin, 587 NW 2d 308 (Minn. App. 1998): Deficient practices in the court=s approval of a divorce stipulation does not serve to establish a basis for vacating a judgment absent a showing of mistake, fraud, duress, or other grounds stated in Minn. Stat. ' 518.145, subd. 2.	Vacation of Stipulation only Grounds under ' 518.145
Hawkinson v. Hawkinson, (Unpub.), C5-99-296, F & C, filed 8-3-99 (Minn. App. 1999): District court erred in refusing to enforce the court order that the parent contribute to the children=s medical expenses. The parent was bound by the court order, even though the other parent told her she need not pay her share of the medical expenses. Medical support is child support and a private agreement between the parents to modify a court order for support is invalid because support is the child=s right, not the parents.	Private Agreement Between Parents to Waive Medical Support Invalid

In Re the Marriage of Frauenshuh v. Giese, 599 NW 2d 153 (Minn. 1999), C8-98-444, F & C: The supreme court ruled that parties cannot stipulate to a different standard of modification of physical custody in a MTA than the standard provided by Minn. Stat. ' 518.17. *Superseded in part on other grounds by* Act of Apr. 27, 2000, ch. 444, art. 1, § 5, 2000 Minn. Laws 980, 984–85 (codified at Minn.Stat. 518.18(d)(i)), *as recognized in In re Comm'r of Pub. Safety,* 735 N.W.2d 706, 711 (Minn.2007); *Szarzynski v. Szarzynski,* 732 N.W.2d 285, 291–92 (Minn.App.2007). Goldman v. Greenwood, 748 N.W.2d 279, 284 (Minn. 2008).	Cannot Stip to Different Custody Mod Std.
Ramsey County and Sizer v. Bultman, (Unpub.), C3-00-336, F & C, filed 10-31-00 (Minn. App. 2000): Where the parties submitted a stipulation to the CSM in a default proceeding reserving child support, and the record was inadequate to allow the CSM to make the findings necessary to support a deviation from the guidelines (a reservation is a deviation - see O=Donnell, 412 NW 2d 394), the CSM should have refused to accept the stipulation. It was not proper for the CSM to set support, when the parties were not present to litigate support; but neither would it have been proper for CSM to accept the stipulation without an adequate record to support a guidelines deviation. (See Toughill, 609 NW 2d 634.)	Procedure in Expedited Process Default Where Record Inadequate to Support Party's Stipulation
Karon v. Karon, 435 NW 2d 501, 503 (Minn. 1989): A district court may refuse to accept a proposed stipulation in part or in toto.	Rejection in Part
Toughill v. Toughill, 609 NW 2d 634, 638-39 n.l. (Minn. App. 2000): While a district court may reject all or part of a stipulation, generally, it cannot, by judicial fiat, impose conditions on the parties to which they did not stipulate and thereby deprive the parties of their Aday in court@ . . . to the extent the court does not accept the stipulation the parties should not be precluded from litigating their claims.	Court Rejecting Stipulation Cannot Impose New Require-ments Without Hearing
In re J.A.C., No. A13-2011, 2014 WL 1521232 (Minn. Ct. App. Apr. 21, 2014): Appellant mother challenged the suspension of the parenting time plan in a permanency order that incorporated an agreed-upon graduated parenting time plan (GPTP). Mother argued the district court violated the settlement agreement of the parties when it suspended mother's parenting time, citing ***Toughill v. Toughill*** to support her claim that marital stipulations are "binding contracts" that party cannot repudiate except with consent of the the other party or by leave of the court. The Court of Appeals found that the GPTP, was not a marital dissolution stipulation, but rather was an agreement adopted by the court that resulted in the transfer of legal custody of the child to the father after the child was adjudicated CHIPS.	Agreement to Graduated Parenting Time Plan in CHIPS adjudication not a "binding contract".
Clark v. Clark, 642 NW 2d 459 (Minn. App. 2002): It was error for the court to adopt a party=s proposed judgment where the proposed decree neither contained the written approval of the lawyer for both parties nor was a transcript of the oral stipulation filed by the lawyer directed to prepare the decree. Minn. R. Gen. Pract. 307(b).	Approval of Proposed Judgment Based on Oral Stipulation
Clark v. Clark, 642 NW 2d 459 (Minn. App. 2002): Dissolution stipulations are binding contracts and a party to a dissolution stipulation cannot withdraw from the stipulation without either obtaining the other partys consent or by leave of the court for good cause. A party must file a motion to be relieved of a stipulation; a letter to the court is not sufficient. (See Toughill, 609 NW 2nd 634, 638 (Minn. App. 2000)).	Must File a Motion to be Relieved of Stipulation
Clark v. Clark, 642 NW 2d 459 (Minn. App. 2002): The sole basis upon which a stipulated dissolution judgment can be vacated is set out in Minn. Stat. ' 518.145, Subd. 2. (See Toughill, 609 NW 2d 634, 640 (Minn. App. 2000)).	Basis to Vacate a Stipulated Dissolution Judgment
In re: Freeman v. Kobany, (Unpub.), C1-01-1317, F & C, filed 4-23-02 (Minn. App. 2002): Alleged father stipulated on the record to paternity. Father then refused to adopt the stipulation in the form of a proposed judgment, claiming he never agreed to the stipulation. District court was correct in refusing to allow AF to withdraw the stipulation. AF had stated on the record four times that he understood and agreed to abide by the terms of the agreement as they were read into the record. He was allowed to ask questions, and allowed time off record to negotiate the fine points of the agreement. The court found there was no evidence he was represented by incompetent counsel citing Toughill and Tomscak for factors to consider regarding whether to allow a party to withdraw stipulation.	Withdrawal of Stipulation.

Kellogg v. Kellogg, (Unpub.), C5-02-161, F & C, filed 8-19-02 (Minn. App. 2002): In the J&D, CP stipulated to a waiver of her right to child support, except in the extraordinary event of an adverse substantial change in CPs financial circumstances. CPs income declined from $181,236 to $146, 270 net, but her income was still more than twice the upper income limit for a guidelines award. In light of CPs high income and the consideration given in the J&D for CPs waiver of support, it was proper for the court to deny CPs request for support from the NCP.	Waiver of Support by High Income CP
Turner and Ramsey County v. Suggs, 653 NW 2d 458 (Minn. App. 2002): Appellant Suggs filed a motion to vacate the paternity adjudication on the grounds that he stipulated to parternity based on the sworn statements of the mother, which were later called into question because gentic testing results excluded Appellant Suggs as the biological father of the minor child. (Minn. R. Civ. Pro. Rule 60). The Minnestoa Court of Appeals held that Appellant Suggs' motion to vacate the partenity adjudication should be remanded back to District Court to hold and evidentiary hearing on the evidence produced at the hearing. The appellate court also indicated that the district court did not err in not appointing a guardian ad litme because the motion to vacate was procedurally different than an action to declare the non-existence of the father-child relationship under Minn. Stat. § 257.57. Where the custodial parent signed an affidavit stating that the defendant was the only possible father of her child, and testified to the same fact at the paternity hearing, and later genetic tests proved non-paternity, the fact that defendant stipulated to paternity and waived genetic testing at the time paternity was adjudicated does not prevent him from later bringing a motion to vacate the paternity adjudication under Minn. R. Civ. P. 60.02 (c) based on fraud, or under Minn. R. Civ. P. 60.02 (b) based on newly discovered evidence that "due diligence" would not have discovered in time to seek a new trial.	Vacation Following Stipulation Based on Fraud
Lemtouni v. Lemtouni, (Unpub.), C6-02-2232, filed 6-10-03, (Minn. App. 2003): A stipulation in a J&D that support will be in an amount below guidelines does not require that subsequent modifications be set below guidelines. CSM was not required to state the reasons for not deviating from guidelines in the modification hearing.	Modification of Below Guidelines Order
Jansen-Person v. Person, (Unpub.), A03-433, filed 2-17-04 (Minn. App. 2004): Dissolution-related stipulations must be contractually sound, and be otherwise fair and reasonable. The supreme court has signaled that this court's earlier requirement that a stipulation be judicially approved to be valid may subvert the policy of resolving dissolution matters by stipulation. See Tell v, Tell, 383 NW 2d 678, 682, n.2 (Minn. 1996); Shirk v. Shirk, 561 NW 2d 521-22 (Minn. 1997).	Extra-judicial Agreements may be Valid
Jansen-Person v. Person, (Unpub.), A03-433, filed 2-17-04 (Minn. App. 2004): In deciding whether to enforce an extra judicial agreement (in this case to modify a maintenance obligation), the court must consider whether the agreement unfair and unreasonable... 1. ...to children because it will have an adverse impact on them. Extrajudicial agreements are given considerably less force when they have an impact on children; 2. ... to a party because of overreaching, lack of full disclosure, lack of opportunity to consult with counsel, etc.; 3. ... to the state because it will unnecessarily require either or both parties or their children to seek public assistance; 4. ... to the court because the agreement will unnecessarily complicate future court proceedings because the parties= income and expenses are not adequately addressed, their rights and duties are not clear, etc.	Enforceability of Extra-judicial Agreements
In re the Marriage of: Neisen, f/k/a Thompson, f/k/a LaRowe and Thompson, (Unpub.), A03-1616, filed 6-15-04 (Minn. App. 2004): Obligor claimed that he had satisfied his support obligation because pursuant to an extra-judicial agreement between the parties, he had physical custody of the children for a longer period of time than the joint-physical-custody arrangement contemplated. Where the parties' agreement was not approved by the court, the obligor's claim can prevail only if the court makes findings that the agreement was (1) contractually sound and (2) otherwise fair and reasonable. Kielley v. Kielley, 674 NW 2d 770, 776-77 (Minn. App. 2004).	§ 518.57, subd. 3 may apply where Parties Agreed out of Court to Change from Sole to Joint Physical Custody

Gatfield v. Gatfield, 682 NW 2d 632 (Minn. App. 2004): Although the U.S. Supreme Court in Mansell v. Mansell, 490 U.S. 581 (1989) ruled that the Uniformed Services Former Spouse's Protection Act, 10 USC 1408 does not subject VA disability benefits to a property claim by a spouse, this ruling does not deprive state courts of jurisdiction to enforce provisions of a dissolution judgment that were stipulated to by the husband, making a share of those benefits available to the spouse.	Stipulation Awarding Veteran's Disability Benefits in Property Settlement Enforceable
Clark v, Clark, (Unpub.), A04-38, F & C, filed 8-17-04 (Minn. App. 2004): Where one year after a stipulation was entered reserving child support the parent moved the court to establish support, the court should not have denied the motion to establish support without making findings under Minn. Stat. § 518.551. The stipulation is an important consideration in determining child support, but the court is not prevented from establishing support following a stipulated reservation.	Motion for Support Establishment Following Stipulation Reserving Support
Feist v. Feist, (Unpub.), A04-669, F&C, filed 12-14-04 (Minn. App. 2004): In 1993, parties stipulated in MTA that child support would continue until younger child was 22, graduated from college, married or was otherwise emancipated. When younger child turned 18, NCP brought MTM and asked for support to end according to statute at age 18. District court denied motion and appeals court agreed. Even though statutory age of majority was age 18 or secondary school graduation, both at the time of the J&D and now, the MTA was enforceable. Parties can agree to bind themselves to obligations that exceed obligations the court could otherwise impose on them, and absent a change of circumstances, court will not relieve a party of the stipulated obligation. Citing Claybaugh 312 NW 2d 447, 449 (Minn. 1981) and Gatfield, 682 NW 2d 632,637 (Minn. App. 2004), *rev. den* (Minn. Sept. 29, 2004).	Stipulation to Obligation in Excess of what Court could Otherwise Order will be Enforced and not Modified w/o Substantial Change
Gillet v.Gillet, (Unpub.), A04-1363, F & C, filed 5-31-05 (Minn. App. 2005): Any ambiguities in a stipulated judgment are construed against the party whose attorney drafted the judgment. Citing Turner v. Alpah Phi Sorority House, 276 NW 2d 63, 66 (Minn. 1979) (ambiguities in a contract held against the drafter.)	Ambiguities Construed Against the Drafter
In re: Horak v. Horak, (Unpub.), A04-2260, filed 10-11-2005 (Minn. App. 2005): Generally, retroactive modification of a child support order is permissible as of the date that the motion to modify was served on the opposing party. However, enforcing retroactive modification of support to the date of the change in physical custody (from sole physical custody to split custody) is not an abuse of discretion when the parties stipulated to such retroactivity.	Retroactive modification allowed by stipulation when change of custody
Phia Vue vs. Maixee Vue f/k/a Maixee Xiong, (Unpub.), A-05-728, F&C, filed 2-7-06 (Minn. App. 2006): Wife challenges district court's denial of her motion to vacate order confirming arbitration award and determining issues in marriage dissolution according to Hmong culture and tradition. Parties commenced dissolution in 2002. The parties executed a partial MTA and agreed to arbitrate equitable allocation of marital property, custody, and child support. They further agreed to resolve the issues according to Hmong culture and traditions. The parties signed an agreement to arbitrate and the court approved the agreement. Ultimately the arbitration award was incorporated into a J&D and approved by the court. The wife argued that the award should be vacated because it violated public policy, her procedural rights were violated, her substantive rights were violated, and one of the arbitrators expressed "evident partiality". The appellate court determined that there was no evidence that the agreement violated public policy. It further found that because arbitration by its very nature entails that parties forfeit certain rights and her specific right to a complete hearing was expressly limited by the agreement, absent a showing of prejudice these were not reasons to vacate the award. In addition the court found that use of a 5 member arbitration panel as opposed to a 7 member panel may have been a technical violation of the arbitration agreement but was not prejudicial to the wife. Finally, the court held that the arbitrator's attempt to expedite the conclusion of the proceeding by sending correspondence to counsel factually detailing what the wife did or did not do did not constitute evident partiality.	Arbitration to resolve issues within dissolution. Hmong culture and tradition.

In re the Marriage of Bydzovsky v. Bydzovsky; Minn. Ct. App. Unpub. (A05-1702): Appellant-husband appealed the denial of his motions for amended findings or a new trial. Court affirmed the district court's refusal to enforce a proposed but unsigned MTA. The proposed agreement lacked two of the four elements required for district court approval: the parties agreement was recited in open court and acknowledgement of understanding and approval of its terms.	MTA
In re the Marriage of: Chaharsooghi v. Eftekhari; Minn. Ct. App. Unpub. (A05-2259): Joint physical custody case. Appellant-husband appealed denial of his modification motion. Dissolution required appellant to pay child support, pay all premiums for the children's medical insurance, all uninsured or unreimbursed medical and dental expenses for R.E. and ½ of O.E.'s expenses, all expenses for tutoring both children through Sylvan Learning Center, and apportion the costs for extracurricular, recreational or other activities the children participate in if the parties agree to the participation. The child R. E. ultimately was sent out of state to a boarding school. Appellant had agreed to fully bear the costs and respondent reluctantly agreed to send the child to the school. Appellant moved to reduce his support obligation and modify the decree such that the parties would be responsible of ½ of the extraordinary expenses of both minor children. The child support magistrate denied the motion finding appellant failed to proof a substantial change in circumstances, and the district court affirmed. The appellate court held that while the parties were not aware of the child's "recently diagnosed" nonverbal learning disability at the time of the dissolution, they were generally aware that the child is a special needs child and were cognizant of the financial issues concerning the child's disabilities. Special concurrence held that expenses were known to both parents at time of dissolution, and current expenses, though significant, did not constitute a change in circumstances that makes the child support obligation unreasonable or unfair.	Modification of stipulated J&D
In re the Marriage of Joseph M. Kemp v. Sara N. Kemp, n/k/a Sara N. Lipetzky, (unpub.), A05-2039, (Redwood County), filed 8/22/06 (Minn. App. 2006): Dissolution stipulation stated that in lieu of child support, the parties agreed that each would provide the basic needs of the children while the children were in his/her care. Other expenses were divided with father paying 60% and mother 40%. Two years later, father motioned to modify based on the mother's increased income and the father's inability to meet his and the children's monthly expenses. District court granted motion and ordered guideline support. Mother asserts court did not give proper weight to the stipulation. Court held the basic right of minor children to support may not be affected by any agreement between the parents or third persons.	Stipulations.
Grodnick v. Velick, No. A12-0382, 2012 WL 4856202 (Minn. Ct. App. Oct. 15, 2012): The parties divorced in 2008 and the dissolution judgment and decree included a stipulation that the parties would utilize a parenting consultant before issues involving the children were to be decided by the court. Appellant appealed a district court order suspending his parenting time and modifying his child-support obligation. Appellant argues that, per stipulations of the parties, the parenting-time issue should have been submitted to a parenting consultant before being considered by the district court. In November 2011, the Respondent filed a motion to modify parenting time and child support. The district court suspended Appellant's parenting time and modified support accordingly. The court also ordered that if the child where to be enrolled in private school that the parenting consultant would decide Appellant's contribution to the tuition. The Court of Appeals stated that stipulation are favored by the courts, and although the term parenting consultant is not used in Minnesota statutes, parties are free to bind themselves to obligations that a court could not impose. Therefore, the court erred in making a decision regarding parenting time before the issue had been submitted to the parenting consultant.	Stipulation requiring parenting time consultant prior to modification.
Olson v. Jax, (Unpub.), A06-27, Filed December 19, 2006 (Minn. App. 2006): The court reversed the district court's order requiring obligor to contribute to an education IRA in addition to paying the capped child support amount since the obligor's prior willingness to enter into an agreement to pay for such an IRA was conditioned on a lesser child support amount.	Order requiring education IRA reversed where agreement based on lower child support figure

In re the Marriage of: Thomas Caroll Rubey v. Valerie Ann Vannett, (Unpub.), A05-310, filed May 15, 2007 (Minn. App. 2007): Parties were denied due process when district court, at conclusion of trial regarding physical custody, rejected their stipulation to joint legal custody *sua sponte*, without opportunity to be heard.	District court cannot change the terms of a stipulation without giving timely notice and opportunity to the parties to present evidence and argument.
In re the Marriage of: Essam El-Dean Hassan Ahmed, petitioner, Appellant, vs. Eman Bakry Haroun, Respondent., (Unpub.), A06-1773, Dakota County, filed July 31, 2007 (Minn. App. 2007): Appellant in dissolution proceeding entered into oral stipulation after court denied his request for fourth continuance. Appellant argues stipulation should be vacated because he acted under duress. *Shirk* standard, holding that after judgment is entered the only available relief is through section 518.145, should be the standard used where a motion to vacate the stipulation is made *before* the judgment is entered. If a dissolution stipulation has been properly formed and accepted, it will be enforced unless a contract defense would apply. Appellant has failed to establish the stipulation was the product of fraud, duress, or mutual mistake.	*Shirk* standard should be used where a motion to vacate the stipulation is made before the judgment is entered. If a dissolution stipulation has been properly formed and accepted, it will be enforced unless a contract defense would apply.
In re the Marriage of: Essam El-Dean Hassan Ahmed, petitioner, Appellant, vs. Eman Bakry Haroun, Respondent., (Unpub.), A06-1773, Dakota County, filed July 31, 2007 (Minn. App. 2007): Oral stipulation in dissolution proceeding. Written order included a reservation of maintenance that was not included in the oral stipulation. Where the parties in a dissolution have reached a stipulation, the could cannot impose conditions to which the parties did not stipulate and thereby deprive the parties of their day in court. A decree that is silent as to spousal maintenance cannot thereafter modify the decree to award spousal maintenance. A decree that reserves spousal maintenance can be modified.	Where parties in dissolution have reached a stipulation, the court cannot impose additional conditions without giving the parties a chance to litigate.
In re the Marriage of: Essam El-Dean Hassan Ahmed, petitioner, Appellant, vs. Eman Bakry Haroun, Respondent., (Unpub.), A06-1773, Dakota County, filed July 31, 2007 (Minn. App. 2007): Appellant in dissolution proceeding entered into oral stipulation. Appellant argues stipulation should be vacated because the parties failed to reach an agreement about material terms. Proper remedy to this is to modify the written order. Default rules can supply material terms.	Default rules can supply material terms to a stipulation where the parties failed to reach an agreement on all issues.
Stevermer vs. Stevermeyer , (Unpub.), A07-594, F & C, filed September 4, 2007 (Minn. App. 2007): Dissolution of parties reserved child support from Wife to allow her to obtain additional education and establish employment. The timeframe for reservation (May 2004 to September 2008) exceeded the estimated length of time (1 year) Wife would need to complete her education and allowed time for her to establish employment. Husband argues Wife is now working, and based on the change in circumstances, child support should be established. Court of Appeals affirmed ruling that the district court properly denied Husband's motion to establish support and properly construed the agreement of the parties.	Where J&D reserved support obligation for specific unexpired period upon agreement of the parties, court did not abuse discretion in denying Husband's motion to establish support.

In re the Marriage of Weeks v. Weeks, (Unpub.), A06-2147, filed October 2, 2007 (Minn. App. 2007) Wright County: Appellant sought to modify child support after having stipulated to a child support amount lower than guidelines in the original dissolution. The court ruled the obligation was not unreasonable or unfair because, while the obligor formerly paid child support at a reduced rate due to a contribution to child care costs, the obligor currently paid TEFRA medical contribution instead of child care costs and the combined obligation was only slightly less than the guidelines support amount.	Where parties stipulate to a deviation in child support in J&D, the order must be shown to be unreasonable and unfair to modify.
In re the Marriage of: Debra Christine Brunette, n/k/a Debra Christine Klein vs. Scott David Brunette, (Unpub.), A07-0685, filed February 5, 2008 (Minn. App. 2008): Husband appeals district court's decision to decline approval of parties' stipulation. Appellant urges a stipulation should be vacated only for fraud, duress, or mistake. Appellate court held that district court is a "third party" in dissolutions and has a duty to protect interest of both parties to ensure fair and reasonable stipulation. District court may apply equitable principles to ensure fairness. Affirmed.	Stipulations. Fairness / equity.
Leifur v. Leifur, 820 N.W.2d 40 (Minn.App.2012): In November 2007 NCP was laid off. Husband received severance pay until May 2008 and continued to pay spousal-maintenance and child-support until January 2009. In January 2009 NCP requested the parties begin mediation to modify the maintenance and support obligations. Parties were both represented by counsel at a May 28, 2009 mediation session when they signed a one-page document agreeing that any modification of child support and spousal support would be retroactive to June 1, 2009. On October 18, 2010 husband served a motion requesting that his obligation be suspended or modified retroactive to June 1, 2009 according to the parties mediated agreement. District court reduced the maintenance obligation but made it retroactive to the date of the hearing (also the date the motion was filed) finding that Minn. Stat. § 518A.39, subd. 2(e), does not authorize the court to establish an earlier retroactive date. Court of appeals found that the district court did not have the authority to make the maintenance modification retroactive to June 1, 2009, regardless the parties agreement, because the parties cannot confer on the court authority to do something that the legislature has explicitly prohibited and under § 518A.30, subd. 2(e).	Modifications; Spousal Maintenance; Stipulations
Myhre v. Myhre, No. A14-1937, 2015 WL 4171758 (Minn. Ct. App. July 13, 2015): In a marriage dissolution the district court entered a partial judgment and decree, based on the parties' stipulation. The parties stipulated to the father's income and the mother's potential income, and granted the parties joint legal and joint physical custody of the children. During the trial, the district court never indicate it was questioning the stipulation. In its ruling, the district court rejected the parties' earlier income stipulation. Obligor challenged the District Court's rejection of the parties' stipulation regarding their respective incomes, and consequently its calculations of child support and maintenance. The Court of Appeals reversed determining the parties needed to be on notice of the Court's rejection of the stipulation and needed to be given the opportunity to at least litigate the issues rejected and the court needs to make specific findings, consistent with statutory laws, when rejecting a stipulation.	Parties need to be on notice of courts rejection of a stipulation.
In re the Marriage of: Johnson v. Foster, No. A15-1558, 2016 WL 3884490 (Minn. Ct. App. July 18, 2016): No reason to distinguish situations involving an order or judgment that is the result of a mediated settlement agreement reached by the parties at the appellate level from an order or judgment that is a result of an agreement reached at the district court level. When the post settlement agreement did not amend the original spousal maintenance award termination provision, the language of the original judgment and decree controls.	Spousal Maintenance
Hood v. Downing, No. A15-1515, (Minn. Ct. App. 2016): When a stipulation includes child support it is afforded less weight because child support is a non-bargainable interest of the child and is less subject to restraint by stipulation. The court was not required to use mother's income from the stipulation but rather could use her current income.	Stipulated Income

Swenson v. Pedri, No. A15-1900 (Minn. Ct. App. September 6, 2016): The court properly denied discovery requests of party's new husband's financial information. Gross income does not include the income of the obligor's or obligee's spouse. The district court must use one of the three methods to impute income to an obligor when there is not an accurate amount of actual income.	Calculation of Gross income, Discovery re: income, imputed income
In Re the Marriage of: Swart v. Swart, No. A16-1405 (Minn. Ct. App. Mar 20, 2017): An agreement regarding child support may not be binding on the court when parties agree not to modify child support. Such an agreement does not prevent subsequent motions to modify but may be a factor considered when reviewing a motion to modify a stipulated agreement and evaluating a substantial change in circumstances.	Modification
In re the Marriage of: Burke v. Burke, No. A15-2064 (Minn. Ct. App. Mar 6, 2017): Mediated settlement agreements are binding when a child support order is issued and the parties agree to resolve the remaining issues in the case and sign a mediated settlement agreement (MSA), child support is not "reserved" because the terms of the existing temporary order were not restated in the MSA. Need based fees are appropriate whn the request is made in good faith and will not cause unnecessary delay of the proceeding, the party from whom they are sought has the means to pay them, and the party seeking them does not have the ability to pay them. Minn. Stat. § 518.14, subd. 1. Appellant must establish that the respondent has the means to pay his attorney fees.	Stipulations; Attorney's Fees
Pudlick v. Pudlick, No. A18-1652, 2019 WL 5690676 (Minn. Ct. App. Nov. 4, 2019): A parties' previous stipulation, which provided for an expense sharing model in lieu of guidelines support, provides a baseline from which to identify whether there has been a substantial change in circumstances in the future.	Stipulations; Deviation from Guidelines
Cass v. Cen, No. A19-1903, 2021 WL 317725 (Minn. Ct. App. Feb. 1, 2021): Before judgment is entered on an oral stipulation, a party may challenge a proposed judgment in two separate ways. However, after judgment is entered based on a stipulation, relief can only be given if one of the conditions in Minn. Stat. 518.145, subd. 2 is met. Due process was denied when a party did not have an opportunity to address what was in their motion and their avenues for relief were limited after entry of judgment. By entering the J&D before a transcript was filed, the 14-day objection period outlined in Minn. R. Gen. Prac. 307(b) was eliminated. The signature of a party's GAL did not relieve the other party's duty to file the transcript because the GAL was not a legal representative.	Judgments
Hinrichs v. Hinrichs, A22-0492, 2023 WL 2761993 (Minn. Ct. App. 2023): A district court correctly denies a motion to modify or restrict parenting time when the moving party fails to properly allege all four factors for a prima facie showing of endangerment, and it is not an error to not consider all four factors when any one has failed due to their conjunctive nature.	Custody-Best Interest of Child; Custody-Joint Legal Custody; Custody-Joint Physical Custody

Rzeczkowski v. Borrero, A22-0954, 2023 WL 2762442 (Minn. Ct. App. 2023): The district court correctly recognized the parties' Columbian Dissolution and Liquidation of Marital Partnership is valid under the principal of comity, but a remand for findings regarding conscionability is required. Remand is also appropriate regarding Husband's claim for needs-based attorney fees. The district court's order denying spousal maintenance and its finding of Wife's gross monthly income are affirmed.	50/50 Custody-Support Calculation; Bonuses, Commissions, etc. as Gross Income; Child Support and Maintenance in Orders-Requirement; Dissolution of Marriage; Foreign Judgment Definition; Maintenance, Spousal
Floyd v. Floyd, A22-1148, 2023 WL 3443466 (Minn. Ct. App. 2023): The district court's determination that spousal maintenance was terminated pursuant to § 518A.39, subd. 3 was correct as there was no express waiver of statutory operation made by the parties. The districts upward deviation from the child support guidelines was not an abuse of discretion as the court determined the children's standard of living would be adversely affected absent a deviation and award of attorney fees to appellant-wife are affirmed.	Child Support and Maintenance Order; COLA (Cost-of-Living-Adjustment); Deviation from Guidelines-Evidence; Income Disparity Between Parties; Maintenance; Spousal Maintenance/Alimony
In re the Marriage of: Schrock v. Kuhn, A23-1307, 2024 WL 4112954 (Minn. Ct. App. Sept. 9, 2024): The district court's determination that there was a substantial change in circumstances due to a finding that Respondent had an increase in reasonable monthly expenses was not contrary to logic or the facts on the record. A spousal maintenance obligation can be modified by showing a substantial change in circumstances. A substantial change in circumstances can be based on substantially increased or decreased need of an obligor or obligee. Affirmed. *Madden v. Madden*, 923 N.W.2d 688, 696 (Minn. App. 2019).	Maintenance; Spousal Maintenance/Alimony; Spousal Maintenance, generally; Spousal Maintenance – Support Order; Terms of Order are Unreasonable and Unfair Factors; Dissolution of Marriage
In re the Marriage of: Kevin Eric Alstrin vs. Allison Lynn Alstrin, A24-0803, 2025 WL 249560 (Minn. Ct. App. Jan. 22, 2025): Appellant-father's challenge to the district court's order that he is responsible to reimburse respondent-mother for the parties' children's extracurricular activity fees and expenses is unavailing and the court of appeals affirms.	Basic-Support-Definition

I.B.4. - Default (including Provisions on Soldiers and Sailors Act)	
Minn. R. Family Court P. 306; Minn. R. Civ. P. 55; Minn. Stat. ' 518.13; 50 U.S.C. App. 501 - Servicemembers Civil Relief Act, 117 Stat. 2835 (2003), Pub. L. No. 108-189; 50 U.S.C. App ' 501 *et. seq* Minn. R. Civ. P. 56.	
Boone v. Lightner, 319 U.S. 561, 63 S.Ct. 1223 (1943): Whether the court grants a soldier in active military status a stay depends on whether the soldier is prejudiced by the military status and his ability to litigate.	Active Status
Jackson v. Jackson, 403 NW 2d 248, (Minn. App. 1987): In action to increase child support obligation of father who was member of United States Army and who was stationed in Korea, trial court properly denied motion for indefinite stay of proceedings during father's military service. Under Soldiers' and Sailors' Civil Relief Act, father's presence was unnecessary because motion to modify child support was submitted only on affidavits and arguments of counsel under special rules of family court. Soldiers' and Sailors' Civil Relief Act of 1940, ' 201, 50 U.S.C.A.App. ' 521.	Soldiers' and Sailors' Relief Act did not Stay Modification Proceedings
Hayes v. Hayes, (Unpub.), C5-92-1635, F & C, filed 3-23-93 (Minn. App. 1993): Pursuant to Minn. Rules of Fam. Ct. Proc. 5.01, moving party must notify defaulting party in writing at least ten (10) days before final hearing of intent to proceed to judgment if defendant has "appeared" - defendant's oral communications with plaintiff or plaintiff's attorney do not constitute an "appearance."	Notice of Default Hrg & Oral Communi-cations are not "Appearance"
Dudley v. Dudley, (Unpub.), C2-00-2143, F & C. filed, 8-21-01 (Minn. App. 2001): Where dissolution petition requested child support in accordance with guidelines, it was proper for court, on default, to also order medical support since Chapter 518 requires the court to address medical support.	Medical Support Not Specifically Pled
Dudley v. Dudley, (Unpub.), C2-00-2143, F & C. filed, 8-21-01 (Minn. App. 2001): A general request in a petition for child support in accordance with guidelines is sufficient for an award of child support based on 150% of minimum wage pursuant to Minn. Stat. ' 518.551, Subd. 5b(c), where respondent defaults and does not provide income information to the court.	Request for 150% of min-imum wage not Specifically Pled
Coopman and Otto v. Rimmer, 700 NW 2d 521, (Minn. App. 2005): In a personal injury/wrongful death case, the defendant appeared for his deposition and appeared at hearings, but never filed an Answer or any other written pleading. Default was appropriate. His "cooperation" does not satisfy the "otherwise defend" language of Minn. R. Civ. P. To successfully defend against a default judgment, a party who has failed to plead and contends that he or she has "otherwise defend[ed]" within the meaning of Minn. R. Civ. P. 55.01, must, at a minimum, have made a rule 12 or other defensive motion.	Default upheld: Pro se defendant who appeared in court but did not file answer did not meet "otherwise defend" language of Minn.R. Civ.P. 55.011
IRMO: Smoot, (Unpub.), A04-2074, filed 10-4-2005 (Minn. App. 2005): *(Non child support case, but relevant on issue of defaults)* Appellate court affirmed the district court's decision not to enter default judgment after a default hearing was conducted where the husband failed to participate in the dissolution case, did not appear in court when ordered, and only requested (in a hand-delivered letter to the court after the default hearing) that the case be continued for trial. The appellate court found that the district court's award of attorney fees for husband's lack of cooperation was an appropriate sanction. *(This case confirms the wide discretion of the trial courts in curing situations of default and in promoting justice by affording trials of causes on the merits.)*	Curing default. Attorney fees awarded where obligor failed to cooperate.
In re the Marriage of: Essam El-Dean Hassan Ahmed, petitioner, Appellant, vs. Eman Bakry Haroun, Respondent., (Unpub.), A06-1773, Dakota County, filed July 31, 2007 (Minn. App. 2007): Appellant in dissolution proceeding entered into oral stipulation. Appellant argues stipulation should be vacated because the parties failed to reach an agreement about material terms. Proper remedy to this is to modify the written order. Default rules can supply material terms.	Default rules can supply material terms to a stipulation where the parties failed to reach an agreement on all issues.

I.B.5. - Summary Judgment	
In re the Marriage of: Bauman v. Bauman; Minn. Ct. App. Unpub. (A05-2396): Appellant husband challenged the district court's denial of his motion to reopen the dissolution judgment based upon fraud. He alleged the district court erred by applying the wrong standard for fraud on the court. The appellate court held that the district court applied the correct standard, requiring intent, since the motion was brought over a year after entry of the judgment.	Standard for reopening judgment and decree based on fraud upon the court; 518.145, subd. 2

I.B.6. - New Trials / Amended Findings and Orders / Motion for Reconsideration	
Minn. R. Civ. P. 59; Minn. R. Civ. P. 52 (Amended Findings); Minn. R. Civ. P. 59 (New Trial). Note: Motions for Reconsideration do not serve as basis for relief under either Minn. R. Civ. P. or statute, and a party that relies on those forms provided by the county or OAH does so at his own risk. Minn. R. Gen. Pract. 115.11-Motions to reconsider.	
Swanson v. Swanson, 352 NW 2d 508 (Minn. App. 1984): Notice of filing required by Rule 59.03 must be in writing to start the time running to file motion for amended findings or for new trial.	59.03 Notice
Hill v. Hill, 356 NW 2d 49 (Minn. App. 1984): Award of retroactive temporary child support with finding that its omission in an antenuptial agreement in the first instance was oversight was not clearly erroneous.	Omission by Oversight
Boom v. Boom, 367 NW 2d 536 (Minn. App. 1985): A court may amend its judgment anytime before the appeal time on the judgment expires.	Amend Judgment
Ferraro v. Ferraro, 364 NW 2d 821 (Minn. App. 1985): When time period to move to amend or make additional findings has expired, the trial court has no jurisdiction to hear and rule upon the motion.	Time to Move for Amended Findings
State of Minnesota, ex rel. Pula v. Beehler, 364 NW 2d 860 (Minn. App. 1985): New trial may be granted on basis of material evidence, newly discovered which with reasonable diligence could not have been found and produced at trial, and which will likely affect outcome of case.	New Evidence
Barrett v. Barrett, 394 NW 2d 274 (Minn. App. 1986): Appeal of judgment to court of appeals is permissible but should be made only after the trial court has had an opportunity to hear grievances and make adjustments.	Exhaust Remedies
State of Minnesota, obo County of Washington and Lauralai Lee Solsvig v. Reese, (Unpub.), C9-87-2156, F & C, filed 6-17-88 (Minn. App. 1988): Court of appeals affirmed a paternity adjudication and affirmed the trial court's denial of dad's request for a new trial on the grounds of surprise. Mom had stated under oath that she thought the date of conception was October 28 and at trial became uncertain whether intercourse took place October 28 or 29. The trial court noted that mom had been equivocal about the date of conception on earlier documents and dad had not objected to the introduction of medical records in which mom had given the date of conception of October 29. Furthermore, the court of appeals pointed out that dad's counsel failed to request a continuance when the issue came up at trial and in fact, used the discrepancy to his advantage during cross-examination.	Surprise as Grounds for New Trial
Hennepin County and Hayek v. Lindeman, (Unpub.), C9-92-2013, F & C, filed 6-15-93 (Minn. App. 1993) review denied 8-6-93: No new trial granted where moving party failed to object to misconduct during trial.	Misconduct - No Objection
Cin v. Cin, 372 NW 2d 10 (Minn. App. 1995): Stay of entry of judgment does not extend time for new trial motion.	Time for Motion
Lofgren v. Lofgren, (Unpub.), C5-94-2062, F & C, filed 8-22-95 (Minn. App. 1995): Where the allegation is that court has committed judicial error (in this case, not giving obligor credit for union dues and health insurance in determining child support) remedy is either a motion for amended findings made within 15 days after service of notice of filing of the order or appeal. The aggrieved party may not utilize Rule 60.02 or Minn. Stat. ' 518.145 as an alternative method of appealing the judgment.	Judicial Error
Sankstone and County of Olmsted v. Berge, (Unpub.), C4-96-131, F & C, filed 7-23-96 (Minn. App. 1996): Because OAH's motion for reconsideration form informs applicants that the matter will be conducted by telephone conference unless the parties waive a conference, father who did not waive conference and whose obligation was set higher than it should have been was equitably entitled to district court review and correction of the administrative order following notice of denial of his reconsideration motion.	Judicial Review Following Denial of Reconsidera-tion Motion
State of Minnesota, by its agent, County of Anoka o/b/o Dahl v. Gjerde, (Unpub.), C0-96-840, F & C, filed 11-19-96 (Minn. App. 1996): ALJ's refusal to amend findings or schedule new hearing proper where obligor sought to produce evidence that could have been found and produced at trial.	Evidence Could have been Produced at Trial

In the Matter of Bosell, (Unpub.), C8-96-1816, F & C, filed 3-11-97 (Minn. App. 1997): In a special proceeding, a motion for a new trial is not necessary to preserve issues for appellate review. See Steeves v. Campbell, 508 NW 2d 817, 818 (Minn. App. 1993)	Motion for New Trial Unneces-sary in Special Proceeding
Johnson v. Johnson, 563 NW 2d 77 (Minn. App. 1997): A motion for amended findings must be heard by the judge who made the findings. The first judge being busy with trials is not a disability under Minn. R. Civ. P. 63.01 and does not permit a second judge to hear the motion.	Motion for Amended Findings Must be Heard by Original Judge
Johnson v. Johnson, 563 NW 2d 77 (Minn. App. 1997): A motion for reconsideration is not authorized by the rules of civil procedure and can be construed as a motion for amended findings under Minn. R. Civ. P. 52.02. Ed.Note: But see Rule 115.11 of the Rules Governing Civil Actions permitting motions to reconsider with express permission of the court.	Motion for Reconsidera-tion Construed as Motion for New Findings
Lewis v. Lewis, 572 NW 2d 313 (Minn. App. 1997): A motion for amended findings should specify the objections to the findings and explain why they are defective, and why the record does not support the findings. A motion for amended findings that makes no new legal or factual arguments, but merely reargues a prior motion, is not a motion for amended findings under rule 52.02; rather it is a motion to reconsider. Madson v. Minn. Mining & Mfg. Co., 612 N.W.2d 168 (Minn.2000), overruled ***Lewis*** in part, but ***Lewis*** remains good law as far as determining "whether a motion for amended findings has the necessary components and, if it does, ... whether to grant the motion." *State by Fort* Snelling State Park Ass'n v. Minneapolis Park & Recreation Bd., 673 N.W.2d 169, 178 n. 1 (Minn.App.2003), *review denied* (Minn. Mar. 16, 2004). Sasse v. Penkert, No. A14-0440, 2015 WL 506429 (Minn. Ct. App. Feb. 9, 2015).	Time to Appeal not Suspended by Motion to Reconsider
Celis v. State Farm, 580 NW 2d 64 (Minn. App. 1998): Where new trial motion under Minn. R. Civ. P. 59.03 was served within 15 days of notice of filing of order, but hearing was not scheduled within 30 days, because clerk told attorney that was the first day available, and court did not issue its order extending the 30-day period until after the 30 days, district court lacked jurisdiction to hear the motion.	Time Lines for Hearing Motion
Scherbing v. Scherbing, (Unpub.), C6-97-1243, F & C, filed 3-3-98 (Minn. App. 1998): Obligee, after receiving ALJ order denying support, filed a motion for reconsideration provided by OAH. The NOF filed by the county states that a party who disagrees with the order must file a motion for reconsideration on forms provided by the child support enforcement office. ALJ refused to reopen the order because obligee did not meet requirements of rules of civil procedure. Court of Appeals concluded that obligee had a reasonable excuse for filing a motion unauthorized by the rules of civil procedure where the issuing agency was responsible for the form of the motion. Also, pro se party could not be penalized for failure to attach necessary documentation where form affidavit did not call for such information. This decision is necessary in the case of a pro se party, or agency could effectively immunize its decisions from judicial review by misleading potential appellants with incorrect form motions. Contra: Carter v. Anderson, 554 NW 2d 110, 115 (Minn. App. 1996) where a party represented by counsel had no reasonable excuse for filing motion for reconsideration rather than making motion authorized by rules. Minn. R. Gen. Pract. 115.11 allow such motions and is intended to remove some the uncertainty surrounding use of these motions after Carter (See commentary to the 1997 Amendment to the Rule).	Where Motion for Reconsid-eration and Affidavit Forms Sup-plied by County did not meet Legal Require-ments, Pro se Party cannot be Denied Relief because she Relies on those Forms
Marzitelli v. City of Little Canada, 582 NW 2d 904 (Minn. 1998): A party who makes a motion for a new trial or amended findings may ask the Court of Appeals for a stay of the time limitation for appeal, thereby allowing the trial court to retain jurisdiction to rule on the motion.	Effect of Motion for New Trial/ Amended Findings on Time to Appeal
Elias and County of Olmsted v. Suhr, (Unpub.), C5-98-1745, F & C, filed 4-13-99 (Minn. App. 1999): ALJ was correct in refusing to consider arguments first made by the county in post-hearing motions.	New Issues Not Considered
Rooney v. Rooney, (Unpub.), C9-98-1893, F & C, filed 5-4-99 (Minn. App. 1999): Post decree motions to modify a support order do not involve a trial; therefore, a new trial motion is not authorized.	New Trial Motion not Authorized on a MTM Child Support

Rasinski v. Schoepke, (Unpub.), C4-99-774, F & C, filed 1-11-2000 (Minn. App. 2000): When obligor brought motion for amended findings on ongoing support, it was proper for ALJ, on review to change the order regarding past medical support reimbursement. By making a motion to challenge specific findings, a party in essence asks the judge to re-examine all of the evidence in the case, and may not limit the trial court=s review to only those issues raised in the motion. (Citing McCauley v. Michael, 256 NW 2d 491,500 (Minn. 1977).	Motion for Amended Findings Allows Review of all Issues
Flint v. Flint, (Unpub.), C9-02-1656, filed 5-20-03, (Minn. App. 2003): Prohibited except by express permission of the court under Minn. R. Gen. Pract. 115.11.	Motion for Reconsidera-tion
Storm v. Siwek, (Unpub.), C4-03-280, filed 7-8-03 (Minn. App. 2003): A party cannot raise a new issue or a different theory on the same issue under a motion to reconsider pursuant to Minn.R.Gen.Pract. 115.11. The district court and the CSM properly denied motion to reconsider based on a new theory.	Motion to Reconsider No New Theory
Storm v. Siwek, (Unpub.), C4-03-280, filed 7-8-03 (Minn. App. 2003): The court has the discretion whether to hear a motion for reconsideration. A request to reconsider is intended to be decided by the judicial officer who heard the case. Minn.RGen.Pract. 115.11.	Motion to Reconsider
Mingen v. Mingen, 679 NW 2d 724 (Minn. 2004): Minn. R. Civ. App. P. 104.01, subd. 2 provides that the filing of a post-decision motion under MRCP 50, 52, 59 or 60 tolls the time to appeal the order or judgment until 60 days after notice of filing of the order disposing of the post trial motion. However, the post decision motion must be brought within 60 days after entry of judgment, and cannot be delayed based upon the fact that the notice of entry of the original order was not given until after entry of judgment.	Tolling of Time to Appeal Based on Post-Decision Motion
Williams v. Carlson, 701 NW 2d 274, (Minn. App. 2005): The receipt of genetic test results excluding the father as a biological father was not the basis for a new custody trial due to newly discovered evidence because the parties had agreed at the close of trial and before the genetic results were received that the parties had seven days after receipt of genetic tests to submit written arguments and proposed findings, and the court addressed the test results in its conclusions and memorandum.	Genetic tests not basis for new trial where parties could address the tests in their arguments
In re the Marriage of Bydzovsky v. Bydzovsky; Minn. Ct. App. Unpub. (A05-1702): Appellant-husband appealed the denial of his motions for amended findings or a new trial. Court affirmed the district court's refusal to enforce a proposed but unsigned MTA. The proposed agreement lacked two of the four elements required for district court approval: the parties agreement was recited in open court and acknowledgement of understanding and approval of its terms.	MTA
In re the Marriage of Jeremy James Zander v. Melinda Alice Zander. A05-2094, Filed 8/22/06 (Minn.App. 2006); rev. denied November 14, 2006: Husband lived on reservation at time of dissolution. Wife moved for amended findings or new trial partially on basis that husband moved off reservation shortly after dissolution. The court held that the move was not newly discovered evidence or fraud on the court as there was no intent to deceive the court. Motion for amended findings or new trial on this basis denied.	Amended findings or new trial.
In re the Marriage of: Thomas Caroll Rubey v. Valerie Ann Vannett, A05-310, COA, filed May 4, 2006 (Minn. Sup. Ct. 2007): Minn. R. Civ. P. 59.03. Appellant requested new trial/amended findings within 30 days of custody order, but failed to obtain hearing or extension for good cause within 60 days as required by Minn. R. Civ. App. P. 59.03. District Court properly denied motion for new trial. However, timely filing of motion for new trial tolled limitation on appeal, regardless whether hearing was untimely. Minn. R. Civ. App. P., Rule 104.01, subd. 2. Remanded to Court of Appeals to consider appeal from custody order.	Minn. R. Civ. P. 59.03. requires hearing of motion for new trial/amended findings within 60 days, or written confirmation of extension of hearing time for good cause. Per Minn. R. Civ. App. P. 104.01 limitation is tolled by timely motion for new trial, regardless whether timely hearing is scheduled.

In re the Marriage of: Erickson v Erickson, (Unpub.), A06-2061, filed 11/20/07 (Minn. App. 2007): A pay increase that occurs after the district court has already made its order reducing child support, and, in this case, after the reduction has already been appealed, is a proper basis for a future motion to modify, but not a motion for new trial under Rule 60.02.	Motion for New Trial Based on New Circumstances
H.T.S. vs. R.B.L., (Unpub.), A07-0561, filed December 11, 2007 (Minn. App. 2007): The decision whether to reopen the record based on a claim of surprise rests within the district court's discretion. Denial did not violate due process. Decision governed by caselaw and rules 60 and 59 of the Minn. R. Civ. Proc.	Claim of surprise. Failure to reopen record not a violation of due process.
In re the Marriage of Hempel v. Krsnak, No. A17-1055 (Minn. Ct. App. Sept. 17, 2018): A District Court's conclusion that a party made a prima facie showing on the first element of fraud-on-the-court does not constitute a finding of fact or legal determination of fraud. The court has discretion to apply the doctrine of laches to bar a claim to reopen a dissolution judgment and decree. Lack of diligence along with prejudice to the other party supported were considered by the court.	Marriage Dissolution, Nondisclosure in legal action
Madden v. Madden, 923 N.W.2d 688 (Minn. Ct. App. App. 2019): On a motion to modify permanent spousal maintenance, income may be attributed to a recipient based on the recipient's earning capacity only if there is a finding of the recipient's earning capacity at the time of the modification proceeding. Income may not be attributed to a recipient based on their lack of reasonable efforts to become partially self-supporting by increasing their earning capacity thorugh additional or vocational training, unless there had been an express obligation on the recipient to make such reasonable efforts.	Spousal Maintenance, Modification, Maintenance, Imputing Income, Marriage Dissolution
Buck Blacktop v. Gary Contracting and Trucking Co. LLC, et al., A18-1059 (Minn. Ct. App. May 6, 2019): The four-part test in *Finden v. Klass*, 128 N.W.2d 748 (Minn. 1964) does not apply to a motion to vacate brought under paragraph (f) of Minn. R. Civ. Pro. 60.02. This paragraph allows for the court to vacate a judgment for "any other reason justifying relief from the operation of judgment."	Judgments
Sokkhan Ka v. Mai Yia Vang, No. A19-0156, 2019 WL 4594674 (Minn. Ct. App. Sept. 23, 2019): District court's implicit denial of father's motion to amend its findings on his child-support obligaton was not clearly erroneous because it was based on facts not contemplated by the parties' on-the-record agreement.	Motion to Amend; On the record agreement
Rowe v. Osborn, A20-1505, 2021 WL 3478404 (Minn. App. 2021): The district court properly exercised its discretion in its authority over the admission of expert testimony when the party failed to pay their court ordered expenses for the expert and had been given a significant amount of time to cross examine the witness.	Custody Evaluator; Testimony
In Re the Marriage of: Winkowski v. Winkowski, A21-0059, 2021 Wl 4059098 (Minn. App. 2021): Evidence of a party's failure to disclose a new job during proceedings to modifying the child support obligation was sufficient to reopen the child support order when a motion to do so was made.	Modification
Bender v. Bernhard, A22-1783, 2023 WL 5011096 (Minn. Ct. App. 2023): The district court did not abuse its discretion by denying appellant-mother's motion to reopen when it determined that the newly discovered evidence failed to satisfy the third requirement of § 518.145, subd. 2 and would not change the result as the newly discovered evidence does not prove the son is incapable of self-support pursuant to § 518A.26, subd. 5.	Emancipation-Definition of Child

I.B.7. - Vacation of Judgments / Clerical Error (See also Part III.G.9.)	
Minn. R. Civ. P. 60; Minn. Stat. ' 518.145, Subd. 2; Minn. Stat. ' 518.551, Subd. 6 - awards of child support can be reopened through ' 518.145, Subd. 2. Note: Motions for Reconsideration do not serve as basis for relief under either Minn. R. Civ. P. or statute, and a party that relies on those forms provided by the county or OAH does so at his own risk.	
Mund v. Mund, 90 NW 2d 309 (1958): Where parents omit mention of child of marriage in divorce proceedings, the court under its continuing jurisdiction to modify, alter or amend the divorce decree may correct the error and provide for the support of a child omitted in the decree; the one-year statute of limitations under Rule 60.02 for amending a mistake in a judgment does not apply.	Child Omitted in Decree
Matson v. Matson (Matson II), 333 NW 2d 862 (Minn. 1983): Grounds for reopening or vacating judgment are limited to lack of personnel or subject matter jurisdiction of the rendering court, fraud in the procurement (extrinsic), satisfaction, lack of due process or other grounds that make a judgment invalid or unenforceable.	Vacation
Arzt v. Arzt, 361 NW 2d 135 (Minn. App. 1985): Rule 60.02 not intended to allow district court to reopen or amend judgment beyond time for appeal from that judgment merely because court feels it has committed judicial error.	Rule 60.02
Schroetke v. Schroetke, 365 NW 2d 380 (Minn. App. 1985): Vacation of child support order in Judgment and Decree permissible under Minn. R. Civ. P. 60.02 where husband misrepresented to wife that he had no attorney prior to signing a stipulation for support.	Misrepre-sentation
Miller v. Miller (Gloria v. Anthony), 371 NW 2d 248 (Minn. App. 1985): Appellate review not remedy for clerical mistakes in judgment, but Minn. R. Civ. P. 60.02 is.	Clerical Mistakes
Egge v. Egge, 361 NW 2d 485 (Minn. App. 1985): Clerical errors under Rule 60.01 are the errors of form made by the court itself, while Amistakes under Rule 60.02 are errors of a more substantial nature. Mistakes, include error[s] of the parties in expressing their basic intent.	Mistake v. Clerical Error
Solberg v. Solberg, 382 NW 2d 859 (Minn. App. 1986): No relief on appeal for error in calculation of arrears; proper remedy is motion for relief under Rule 60.02.	Calculation Error
Lindsey v. Lindsey, 388 NW 2d 713 (Minn. 1986): Motions to modify divorce decree brought under Rule 60.02 should not be entertained by the district courts as they lack jurisdiction; Rule 60.02 applies to a final judgment other than a divorce decree. Only when facts are alleged that amount to a fraud on the court may a district court set aside a divorce decree.	Rule 60.02
Hennepin County Welfare Board v. Kolkind, 391 NW 2d 539 (Minn. App. 1986): 60.02 (3) motions based on fraud and misrepresentation must be brought within a year.	Time Limits Under Rule 60
Hennepin County Welfare Board v. Kolkind, 391 NW 2d 539 (Minn. App. 1986): Minn. Stat. ' 548.14 allows an independent action to attack a judgment on the basis of fraud or misrepresentations and has a three year statute of limitations which does not begin to run until after the fraud has been discovered.	' 548.14 - Fraud
Chapman v. Special School District No.1, 454 NW 2d 921 (Minn. 1990): If a Rule 60.02 motion could have been brought under clauses (a), (b), or (c), the court cannot grant relief under clause (f) in order to get around the one year statute of limitations.	Rule 60 Time Limits
Peterson and County of Ramsey v. Eishen, 512 NW 2d 338 (Minn. 1994): General Rule: Judgment that is void due to improper service can be vacated at any time. In exceptional circumstances, the court can require diligence on the part of the party moving to vacate the judgment within a reasonable time after party acquires knowledge of judgment.	Reasonable Time to Vacate
State ex.rel. Blackwell v. Blackwell, 534 NW 2d 89 (IA.1995): Once judgment for reimbursement for public assistance expended and future support had been entered against father, and his child support obligations had accrued, parties rights vested and district court, in granting dissolution and disestablishment of paternity, could not reduce or cancel accrued support retroactively. Agency could continue income withholding.	Effect of Disestablishment of Paternity on Collection of Accrued Support
Lofgren v. Lofgren, (Unpub.), C5-94-2062, F & C, filed 8-22-95 (Minn. App. 1995): Where the allegation is that court has committed judicial error (in this case, not giving obligor credit for union dues and health insurance in determining child support) remedy is either a motion for amended findings made within 15 days after service of notice of filing of the order or appeal. The aggrieved party may not utilize Rule 60.02 or Minn. Stat. ' 518.145 as an alternative method of appealing the judgment.	Judicial Error

Mesenbourg v. Mesenbourg, 538 NW 2d 489 (Minn. App. 1995): There is no time limit for commencing proceedings to set aside a judgment void for lack of jurisdiction over the subject matter or over the parties. However, a default judgment is not void for lack of personal jurisdiction where party waived the personal jurisdiction issue by failing to file a motion to dismiss under Minn. R. Civ. P. 12.02(b) at time he was served with lawsuit.	Void for Lack of Personal Jurisdiction
Strandberg and Ramsey County v. Haessly, (Unpub.), C6-95-2680, F & C, filed 6-11-96 (Minn. App. 1996): Where party seeks relief from judgment under rule 60.02, court should vacate order based on claim of attorney neglect if, the client (1) has a reasonable claim on the merits, (2) has a reasonable excuse for his failure or neglect, (3) has acted with due diligence after notice of entry of judgment, and (4) shows that no substantial prejudice will result to other party. (See Finden v. Klass, 128 NW 2d 748, 758 (Minn. 1964).) Issue is whether party has a reasonable defense/claim. Party does not have to prove (s)he would ultimately prevail on the claim.	Vacation of Judgment - Attorney Neglect
Kalil v. Abdu, (Unpub.), C0-96-787, F & C, filed 9-24-96 (Minn. App. 1996): ALJ's refusal to vacate default order setting support at minimum wage amount and granting Ramsey County reimbursement of past public assistance was upheld by court of appeals. Father did not meet the factors relevant to vacating a default judgment as enumerated in Hinz v. Northland Milk & Ice Cream Co., 53 NW 2d 454, 455-56 (1952), and Wiethoff v. Williams, 413 NW 2d 533, 536 (Minn. App. 1987): two weak factors not overcome by two strong factors.	ALJ's Refusal to Vacate Default Order Upheld
Shirk v. Shirk, 561 NW 2d 519 (Minn. 1997): Where a judgment and decree is entered based on a stipulation in a dissolution proceeding, the sole relief from the judgment lies in meeting the requirements of Minn. Stat. ' 518.145, Subd. 2. Incompetence of counsel is not a basis to vacate a stipulation.	Incompetence of Counsel; Stipulated Judgment
Meyer v. Hein, (Unpub.), C6-97-979, F & C, filed 1-13-98 (Minn. App. 1998): ALJ decision not to vacate an order denying obligor's request for modification after obligor failed to appear was proper under Minn. R. Civ. P. 60.02(a). Although ALJ did not make findings on all the Hinz factors (53 NW 2d at 456), evidence supported order. Factors to consider in motion to vacate default judgment: Did person seeking vacation (1) have a reasonable excuse for failure to act; (2) act with due diligence after entry of order?; and (3) will substantial prejudice result to opponent?	Motion to Vacate ALJ Order
Pangborn v. Pangborn, (Unpub.), C9-97-1317, F & C, filed 2-10-98 (Minn App. 1998): Where obligor lied under oath about her employment and income at the default dissolution proceeding in 1991, resulting in a far reduced child support order, she committed fraud on the court, and under Minn. Stat. ' 518.145, subd. 2 (1996), the district court should have set aside the child support portion of the J&D, and recomputed child support retroactive to 1991. Obligee's motion to vacate the order for fraud was made within a reasonable time, because even though it had been six years when he brought the motion, obligee began seeking verification of obligor's income in 1992, did not receive information until 1997, and brought the fraud motion promptly thereafter. (citing Maranda v. Maranda,. 449 NW 2d 158, 165 (Minn. 1989).	Fraud on Court
Scherbing v. Scherbing, (Unpub.), C6-97-1243, F & C, filed 3-3-98 (Minn. App. 1998): Rule 60.02 and Minn. Stat. ' 518.145, subd. 2, may be used to open up a child support order even where a money judgment has not been entered.	No Money Judgment
Scherbing v. Scherbing, (Unpub.), C6-97-1243, F & C, filed 3-3-98 (Minn. App. 1998): Because the language of Minn. Stat. ' 518.145, subd. 2 is identical to Rule 60.02(a), case law construing Rule 60 applies.	Rule 60 Pre-cedents Apply to ' 518.145
Scherbing v. Scherbing, (Unpub.), C6-97-1243, F & C, filed 3-3-98 (Minn. App. 1998): A party seeking relief under Rule 60.02(a) or Minn. Stat. ' 518.145, subd. 2, must meet the following requirements set out in Boulevard Del, 343 NW 2d at 53: Party must demonstrate he: (1) has a reasonable claim on the merits; (2) had a reasonable excuse for failure to act at trial; (3) acted with due diligence following notice of entry of judgment; and (4) reopening the judgment would not substantially prejudice the opposing party.	Four-part Test
Hestekin v. Hestekin, 587 NW 2d 308 (Minn. App. 1998): Deficient practices in the court's approval of a divorce stipulation does not serve to establish a basis for vacating a judgment absent a showing of mistake, fraud, duress, or other grounds stated in Minn. Stat. ' 518.145, subd. 2.	Vacation of Stipulation only Grounds under ' 518.145

Hawkinson v. Hawkinson, (Unpub.), C5-99-296, F & C, filed 8-3-99 (Minn. App. 1999): Obligor who defaulted in action in which judgment for support arrears was entered, was precluded from obtaining an order vacating the judgment based on his argument that he "satisfied the judgment by taking care of the children." He had no valid argument that he excusably neglected to participate in a hearing before the judgment was entered, nor did he qualify for any other relief under Rule 60.02.	Substantive Argument Against Entry of Judgment Must be Made Before the Judgment is Entered
Imperial Premium Finance Co. v. GK Cab Co., 603 NW 2d 853 (Minn. App. 2000): A party seeking relief from a default judgment under Rule 60.02 must demonstrate: (1) a reasonable case on the merits, (2) a reasonable excuse for the failure to act, (3) that it acted with due diligence after notice of entry of judgment, and (4) that there would be no substantial prejudice to the opposing party if the motion to vacate is not granted.	Vacation of Default Judgment Under Rule 60.02
Imperial Premium Finance Co. v. GK Cab Co., 603 NW 2d 853 (Minn. App. 2000): The unavailability of witnesses is a relevant factor in determining prejudice in a case where defaulting party seeks relief from default judgment	Prejudice to Non-Defaulting Party
Lyon Financial Services v. Waddill, 607 NW 2d 453 (Minn. App. 2000): Although satisfaction of a judgment generally precludes a party from moving to vacate the judgment, where a money judgment has been involuntarily satisfied, the court still has jurisdiction to hear and decide a timely motion to vacate.	Effect of Involuntary Satisfaction of Judgment
Brazinsky v. Brazinsky, 610 NW 2d 707 (Minn. App. 2000): A child support magistrate's authority under Minn. R. Gen. Prac. 371.01, Subd. 1 to correct a clerical mistake upon the CSM's own motion may only be used to correct a mistake that is apparent on the face of the record and capable of being corrected by reference to the record only. (The CSM found that the custodial parent's medical costs were $87.50 per pay period, not $87.50 per month, and changed the child support order.) Rule 371.01, Subd. 1, is similar to Minn. R. Civ. P. 60.01 in which the Minnesota Supreme Court has described a clerical mistake as apparent on the face of the record, and not involving the exercise of judicial consideration or discretion. Clerical errors arise from oversight or omission. A motion under Rule 60(a) can only be used to make the judgment or record speak the truth, and cannot be used to make it say something other than what originally was pronounced. In this case, the record, including check stubs and mother's affidavit was inconsistent and unclear with regard to the cost of medical insurance, and magistrate's order was based on a judicial evaluation of the evidence, and was not a clerical error.	Clerical Error does not Involve Exercise of Judicial Discretion
Rogers v. Rogers, 622 NW 2d 813, (Minn. 2001): The district court has the authority to modify a child support obligation, on its own without a motion of either party, when the adjustment of child support is incidental to correction of a clerical error. The court may correct a clerical error at any time under Minn. R. Civ. P. 60.01. Reverses Court of Appeals, Rogers v. Rogers, 606 NW 2d 724 (Minn App. 2000).	*Sua Sponte* Adjustment of Child Support Due to Clerical Error
Reid and County of Stearns v. Strodtman, 631 NW 2d 414 (Minn. App. 2001): Minn. Stat. ' 518.145, Subd. 2 governs the reopening of judgments in marital dissolution cases, but Minn. R. Civ. Prac. 60.02 is an available procedure to apply for relief from a paternity judgment, or from a child support modification proceeding arising out of a paternity file.	Rule 60.02 Applies to Mod of Paternity Order
Hughes v. Hughes, (Unpub.), CX-02-113, F & C, filed 7-16-02 (Minn. App. 2002): Where NCP was misled by CP's attorney, at the time of the MTA, to believe that $1000 per month that he agreed to pay was guidelines child support, and he later learned that it was an above-guidelines deviation, once the time to appeal from the original judgment expired, NCP's sole means to challenge original judgment was by motion to reopen the judgment under Minn. Stat. ' 518.145. District Court, finding no change in circumstances, did not err in refusing to modify support under ' 518.64.	Obligor Misled on Law when Agreed to Support Amount

Goldberg v. Goldberg, (Unpub.), C1-03-382, filed 8-26-03 (Minn. App. 2003): Just as the court has the power to stay entry of a judgment for child support arrears as long as the obligor remains current with his ongoing support payments and monthly payments on arrears, the court can also vacate the stay and enter judgment under its equitable powers, even if the obligor has remained current with his monthly payments. In this case, NCP had inherited $1.5 million from his father's estate that could be used to satisfy his arrears, and he would never have been able to fully satisfy the arrears through the monthly payments. It is not clear if the requirements of Minn. Stat. ' 518.145 must be met in this situation, but even if the statute applies, Minn. Stat. ' 518.145, subd. 2(5) gives the court the authority to grant relief from the stay of entry of judgment on the ground that it is no longer equitable for the stay to have prospective application.	Vacation of Stay of Entry of Judgment
Foley v. Foley, (Unpub.), A03-1134, filed 3-23-04 (Minn. App. 2004): Award of homestead in parties' J& D could not be vacated on grounds that the judgment had been satisfied under ' 518.145, subd. 2(5) by parties' remarriage and cohabitation in the home, nor could it be vacated based on the unforeseen circumstance provision of ' 518.145. The judgment stands, despite the remarriage.	J&D Survives Remarriage
Pelzer v.Pelzer, (Unpub.), A03-1328, filed 4-20-04 (Minn. App. 2004): More than a year after entry of the J&D, a party sought to have the property description corrected. The property description contradicted other references in the J&D relating to the property. If the incorrect description was a mistake under Rule 60.02, the party was barred from having the judgment amended due to the 1-year statute of limitations. If it was clerical error under Rule 60.01, there was no statute of limitations and the correction could be made. The court held that where the decree is erroneous and ambiguous on its face, the error is not anAerror of the parties in expressing their basic intent, as referred to in Egge. Rather, it is a clerical error and should be corrected to clarify the ambiguity. Though the district court may not vacate or amend the original decree, it may re-open and correct the judgment to reflect/ clarify its contemporaneous intent. Citing Eid v. Hodson, 542 NW 2d 402, 405-06 (Minn. App. 1996); Edelman v. Edelman, 354 NW 2d 562, 563-64 (Minn. App. 1984).	Mistake vs. Clerical Error
Department of Human Services v. Chisum, 85 P. 3d 860 (Okla. Civ. App. Div. 1, 2004): Oklahoma Court of Appeals ruled that the specific provisions of their statute that allows for release from the acknowledgment of paternity and any child support order if father proves material mistake in fact and court determines he is not the father controls over the more general provisions of the statute that state grounds required for vacating a final order. Thus, father was not barred by *res judicata* from challenging the child support order and acknowledgment under the acknowledgment statute.	Res Judicata does not Prevent Vacation of C/S Order Based on ROP
In re the Marriage of: Bauman v. Bauman; Minn. Ct. App. Unpublished. (A05-2396): Appellant husband challenged the district court's decision to grant summary judgment without holding an evidentiary hearing. The matter was remanded on the issue of summary judgment because the district court impermissibly weighed the evidence in dismissing appellant's motion.	Summary Judgment Improper
In Re the Marriage of Donovan v. Donovan, (Unpub.), Filed 12/5/06 (Minn. App. 2006): The court reversed the ruling of the district court which ordered the reopening of a judgment and decree in order to make additional findings. The district court reopened the judgment based on its finding of ambiguity. However, Minn. Stat. § 518.64, subd. 2, outlines the statutory reasons for reopening a judgment and ambiguity is *not* listed as such a reason. Therefore, the district court erred in ordering the judgment reopened. The case was reversed and remanded.	JUDGMENT: A judgment must not be opened for any reason other than those statutorily provided for.

Donovan v. Donovan, No. A07-2060, 2008 WL 4471963 (Minn. Ct. App. Oct. 7, 2008): In 1993, the parties negotiated a martial termination agreement and submitted it to the DC for approval. The parties were awarded joint legal custody and Mother was granted sole physical custody.. The martial termination agreement provided a detailed and complex calculation for bonus payments. In 2005, the parties orally stipulated to the transferring of physical custody of their younger child to the maternal grandparents; Father's child support obligation was suspended. Father moved to clarify and interpret the dissolution judgment or reopen the judgment and vacate the child support bonus provision. The District Court ordered that the dissolution judgment be reopened to allow the court to make adequate written findings. The District Court then issued an order stating that child support bonus provision was clear and unambiguous, and that Mother was entitled to a judgment of $253,816 (bonus, plus accrued interest). Father appealed. The Court of Appeals held a dissolution provision is unambiguous if its meaning can be determined without any guide other than knowledge of the facts on which the language depends for meaning. Equitable defenses like laches are inapplicable to child support arrearage motions because the child's right to support must be protected.	Equitable defenses such as laches are inapplicable to child support arrearage motions.
Northland Temporaries vs. Anthony Turpin, et al., A06-2201, filed February 5, 2008 (Minn. App. 2008): District court denied appellant's motion to vacate a default judgment. Reversed and remanded as district court's determination of *Hinz* factors based partially on mistake of fact and error of law. Dicta indicates that a lay person's failure to answer in some circumstances may not be unreasonable. Remand is appropriate where erroneous decision below is based on factual error as it is within the province of the district court to resolve factual disputes in testimony and affidavits and to determine whether excuse is reasonable. ***Hinz* and *Finden* do not limit the district court's discretion to grant rule 60.02 relief. They limit discretion to deny relief. Satisfaction of all four *Hinz* factors is not required for district court to grant relief. Cannot deny relief if all four factors met. Must show a meritorious claim or reasonable defense on the merits.**	Rule 60.02 relief does not require all four *Hinz* factors be fully met Mistake of Fact Error of Law
Kuller v. Kuller, No. A13-2277, 2014 WL 3892503 (Minn. Ct. App. Aug. 11, 2014): On July 13, 2013, a CSM issued an order lowering appellant's child-support obligation. The period for bringing a motion to review closed on August 23, 2013. Appellant-father's attorney mailed a letter requesting permission to bring a motion to review on August 12, 2013. The district court dismissed the request, noting that the letter was correspondence, not a motion, and thus did not confirm to an authorized post-decision motion. The Court of Appeals affirmed noting that Rule 377.01 of the Expedited Process Rules prohibits any post-decision relief that is not a motion for review, corrections or alleging fraud.	Expedited Process Rules prohibit post-decision relief that is not a motion for review, corrections or alleging fraud.
Jones v. Jones, No. A13-0482, 2014 WL 801714 (Minn. Ct. App. Mar. 3, 2014): Mother and father had a marital termination agreement that was incorporated into their 2009 dissolution judgment and decree.. The father moved the District Court to lower his obligations. The Child Support Referee informed the parties of an error in the calculation of support. Both parties agreed support should have been set at the lowered amount of $1,414 minus mother's share of dependent health care. The District Court corrected the error retroactive to the date of entry of the judgment and decree. The mother appealed claiming the 2009 judgment and decree correctly stated the father's support obligation, and that it was not a clerical error. The Court of Appeals ruled that the mother had waived her right to appeal the retroactive correction because she had failed to raise the issue before the District Court.	Waived right to appeal after conceding to clerical error and agreeing to retroactive modification.
Buck Blacktop v. Gary Contracting and Trucking Co. LLC, et al., A18-1059 (Minn. Ct. App. May 6, 2019): The four-part test in *Finden v. Klass*, 128 N.W.2d 748 (Minn. 1964) does not apply to a motion to vacate brought under paragraph (f) of Minn. R. Civ. Pro. 60.02. This paragraph allows for the court to vacate a judgment for "any other reason justifying relief from the operation of judgment."	Judgments

In re the Marriage of: Fish v. Fish, A19-0560, 2020 WL 774009 (Minn. Ct. App. 2020): Parties have a duty to disclose changes in financial information that occurs after an oral stipulation but before a written order is entered by the court. A change in circumstances that occurred after the entry of an order is addressed by a modification motion and a change that existed before the entry of an order is addressed by a motion to reopen the order.	Modification
Krabbenhoft v. Krabbenhoft, A19-0353, 2020 WL 1129865 (Minn. Ct. App. Mar. 9 2020): An order on equitable grounds must find that a party received child support payments illegally, unlawfully, or in a way that is morally wrong. When parties agree to the terms of an agreement, including child support calculations, as written and as read into the record, a mistake that occurs in the calculations is not a clerical error as the mistake did not have the effect of making the document say something different from that which the parties agreed too.	Judgments; Overpayments of Child Support; Retro Mod (downward) Overpayment
Kossack v. Kossack, A22-0636, 2023 WL 4417381 (Minn. Ct. App. 2023): The district court did not abuse its discretion when it granted respondent-husband's motion to modify spousal maintenance and then applying it retroactively pursuant to § 518A.39, subd. 2(a)(1), § 518.552, subd. 2(a)-(h), § 518A.39, subd. 2(f), & Minn. R. Gen. Prac. 303.10(a)-(b). The district court also acted within its discretion in correcting a clerical error in the parties' dissolution decree, Minn. R. Civ. P. 60.01.	Retroactive-Modification-Date of Service; Retroactive-Overpayments; Spousal Maintenance, generally; Spousal Maintenance-Support Order; Unreimbursed & Uninsured Medical/Dental Expenses-Ordering

I.B.8. - Discovery and Sanctions	
Minn. R. Civ. P. 26-37 - cover Depositions and Discovery; Rule 37 - covers sanctions for failure to cooperate with discovery.	
Minnesota State Bar Ass'n v. Divorce Assistance Ass=n, Inc., 248 NW 2d 733 (Minn 1976): Fifth Amendment privilege against self-incrimination is available to a witness, including a party, in a civil proceeding. However, the privilege does not extend to a corporation or an incorporated association, thus a custodian of the records of a corporation or an association must produce subpoenaed records even though information in the records may incriminate him personally.	No 5th Amendment Privilege to Custodian of Records of a Corporation
County of Isanti v. Formhals, 358 NW 2d 703 (Minn. App. 1984): One who does not comply with order to produce documentation of income cannot allege error in income calculation.	Failure to Provide Income Documents
Vaughn v. Love, 347 NW 2d 818 (Minn. App. 1984): Suppression of testimony of undisclosed witnesses not an abuse of discretion; party required to identify anyone with knowledge of the case, regardless of intent to call person as witness.	Failure to Name Witnesses
Williams, Y.L. Jones v. Grand Lodge of Free Masonry, 355 NW 2d 477 (Minn. App. 1984): In light of plaintiff's history of refusing to appear at deposition and a previous warning of the trial court, the trial court's decision to dismiss plaintiff's complaint with prejudice was not error.	Refusal to Attend Deposition
Quill v. TWA, 361 NW 2d 438, 445 (Minn. App. 1985), *rev. den.* (Minn. Apr. 18, 1985): Exclusion of evidence as a consequence of a discovery violation is a severe sanction that district courts should use with restraint.	Exclusion of Evidence Severe Sanction
Sudheimer v. Sudheimer, 372 NW 2d 792 (Minn. App. 1985): Existence of a clear warning by court that dismissal or similar sanction would automatically result if party did not comply with discovery deadline is significant factor in determining whether sanction appropriate.	Warning by Court
Sudheimer v. Sudheimer, 372 NW 2d 792, 795 (Minn. App. 1985): An appellate court will consider a district court's clear warning that the uncooperative party will be sanctioned as a significant factor in deciding whether the sanction was appropriate.	Sanction More Likely Upheld if Court First Warned Party
Mathias v. Mathias, 365 NW 2d 293 (Minn. App. 1985): Court erred in not allowing discovery to be completed before ruling on a modification motion.	Modification
Shetka v. Kueppers, Von Fldt & Salemn, 454 NW 2d 916, 921 (Minn. 1990): District Court has wide discretion on discovery issues, and decision will not be altered on appeal absent an abuse of discretion.	Wide Discretion on Discovery
Witte and County of Olmsted v. White, (Unpub.), C8-02-45, F & C, filed 9-24-02 (Minn. App. 2002): Where a pro se party has engaged in a pattern and practice of filing frivolous and vexatious motions, the conduct is sanctionable under Minn.R.Civ.P. 11.03 and Minn.R.Gen.Prac.9.01. An order requiring the party, before he files or serves any future motion to present it first to the court for review and to obtain the court's prior consent to proceed with the motion is an appropriate sanction.	Sanctions for Frivolous Litigation
Witte and County of Olmsted v. White, (Unpub.), C8-02-45, F & C, filed 9-24-02 (Minn. App. 2002): Before a court sanctions a party under Minn.R.Civ.P. 11.03 or Minn.R.Gen.Prac.9.01 the procedures required by those rules must first be followed. Minn.R.Civ.P Rule 11.03 and Minn.R.Gen.Prac.9.01 both require separate motions for sanctions or notice by the court, and the party is entitled to a separate hearing on the issue of whether he has engaged in the alleged conduct and that the sanction imposed be limited to what is sufficient to deter repetition. Rule 11 requires an order to show cause.	Procedures for Vexatious Litigation Sanctions
Person v. Person, (Unpub.), AO3-433, filed 2-17-04, Minn. App. 2004): The district court has wide discretion regarding discovery, and absent an abuse of that discretion, its discovery decision will not be altered on appeal.	Compelling Discovery
Lippert v. Lippert, (Unpub.), A04-301, F & C, filed 9-28-04 (Minn. App. 2004): Where party's disclosures related to his claimed nonmarital interest in the homestead in a dissolution proceeding may have been inadequate, but he did give some notice of his claim prior to trial, and the record did not indicate the inadequacy of disclosure was intended to deceive or antagonize the other party or the trial court, the trial court erred in excluding all of the party's evidence at trial regarding his nonmarital interest.	Incomplete Discovery Responses not a Basis to Exclude all Evidence on the Issue at Trial

Lohmann and Kopeska v. Alpha II Mortgage, (Unpub.), A04-608, F & C, filed 1-18-05 (Minn. App. 2005): Husband was employed by (non party) Alpha II, and there was a dispute as to whether he was also part owner. Despite confidentiality stipulation that would seal the file to maintain confidentiality of the Alpha II business information, husband did not respond to discovery requests regarding relationship to Alpha II. Wife subpoenaed officer of Alpha II, requesting Alpha documents regarding husband's ownership interest. Alpha sought a protective order to quash the subpoena duces tecum, because Alpha II is not a party to the dissolution. The district court did not abuse its discretion in refusing to quash the subpoena after balancing the need of the party to inspect the documents against the burden or harm on the person subpoenaed.	Subpoena duces tecum of other party's employer was proper, even though not a party.
In Re Petition of S.A.L.H., A05-2213 (Traverse County): Obligee challenged the court's authority over child custody issues when obligor filed a motion for custody in October 2004, prior to the court's adjudication in December 2004. The Court of Appeals determined that since paternity was never disputed, obligor's premature filing of his motion constitutes a technical defect, which does not prejudice either party and does not provide grounds for dismissal. Second, it is not error to allow further discovery to confirm obligor's income and authorize the county to recalculate support by applying the guidelines to any revised income where the court ordered monthly child support based on the evidence before it and the parties could challenge the public authority's calculation in district court. Third, the Court of Appeals held the district court lacked the authority to bind a stepparent and erred in directly ordering the stepparent to provide medical support.	Additional discovery appropriate.
Schneider vs. Schneider and County of Anoka, Intervenor, (Unpub.), A06-1788, F & C, filed August 28, 2007 (Minn. App. 2007): In February 2006, Respondent was served with notice of hearing and intent to suspend drivers license. At February 2006 hearing, CSM temporarily denied the county's request pending an April 2006 review hearing. At the review hearing, county indicated that contrary to the order, Respondent's license had been suspended in error. CSM imposed fine of $150 against the county to reimburse Respondent for reasonable costs incurred as a result of the county's wrongful suspension of the driver's license. District court affirmed. Court of Appeals reversed finding that "the record contains no evidence regarding costs incurred by Respondent as a result of the suspension of his driver's license and the incurrence of costs by Respondent was the stated reason for imposing the fine…" The Court did not address the county's argument that the district court did not have the inherent authority to impose the fine.	Record does not support imposing fine on county for erroneously suspending obligor's driver's license.
McArton v. McArton, No. A12-1478, 2013 WL 1092418 (Minn. Ct. App. Mar. 18, 2013):. At a motion hearing the district court stated that the parties were prohibited from releasing any financial, counseling, or therapeutic records involving mother, father, or the children to any third party other than attorney, for court findings, to the Guardian ad Litem, or to a counselor or therapist. Appellant argued that the restriction is an invalid injunction that violates her free speech rights under the United States and Minnesota Constitutions. Because the district court issued the injunction without making the necessary findings, the appellate court reversed. The Court of Appeals stated the partying seeking a permanent injunction must show that legal remedies are inadequate and that the injunction is necessary to prevent "great and irreparable harm." Failure to make findings supporting an injunction is an abuse of discretion.	Injunction necessary to prevent "great and irreparable harm".
Swenson v. Pedri, No. A15-1900 (Minn. Ct. App. September 6, 2016): The court properly denied discovery requests of party's new husband's financial information. Gross income does not include the income of the obligor's or obligee's spouse. The district court must use one of the three methods to impute income to an obligor when there is not an accurate amount of actual income.	Calculation of gross income, Discovery re: income, imputed income
Eyal v. Eyal, No. A16-1272 (Minn. Ct. App. Mar 13, 2017): The district court lacked jurisdiction to reinstate spousal maintenance, where the maintenance period had expired and the judgment did not expressly reserve jurisdiction. Absent a clear abuse of discretion, the district court decision to deny a discovery request will not be disturbed.	Maintenance

Shreve v. Shreve, No. A16-0663 (Minn. Ct. App. Apr 10, 2017): Under Rule 35.01 of Minnesota Civil Procedure Rules to obtain medical discovery, a party is required to show good cause. When a party places his/her physical or mental condition into controversy the party waives any privilege that party may have in that action.	Maintenance; Discovery
In re the Marriage of: Fish v. Fish, A19-0560, 2020 WL 774009 (Minn. Ct. App. 2020): Parties have a duty to disclose changes in financial information that occurs after an oral stipulation but before a written order is entered by the court. A change in circumstances that occurred after the entry of an order is addressed by a modification motion and a change that existed before the entry of an order is addressed by a motion to reopen the order.	Modification
Reichert v. Born, A21-0069, 2021 WL 34784725, (Minn. App. 2021): The district court has discretion to not compel a party to comply with discovery requests when the requests are not relevant to any claim or defense and proportional to the needs of the case.	Discovery

I.B.9. - Intervention	
Minn. R. Civ. P. 24 - Intervention; Minn. Stat. ' 518.A.49 - public authority as party in IV-D case; Minn. Stat. ' 257.60 - public authority as party in IV-D paternity case; Minn. Stat. ' 393.07, subd. 9 - public authority role in contempt case.	
Bumgarner v. Ute Indian Tribe of Uintah and Ouray Res., 417 F 2d 1305, 1309 (10th Circ.1970): At the outset it should be noted that intervention under Rule 24.02 is clearly discretionary with the trial court and the trial court will not be reversed unless there is a showing of clear abuse of that discretion.	Permissive Intervention - Abuse of Discretion Standard
Engelrup v. Potter, 224 NW 2d 484, 489 (Minn. 1974): The spirit behind Rule 24 is to encourage all legitimate interventions, and the rule is to be liberally applied.	Liberal Intent of Rule 24
Brakke v. Beardley, 279 NW 2d 798. 801 (Minn. 1979): Post-trial intervention is not viewed favorably.	Post-trial Intervention
Omegon Inc. v. City of Minnetonka, 346 NW 2d 684, 687 (Minn. App. 1984): The court has deemed intervention untimely if the prejudice to the original parties will be substantial. This resulted from a plaintiff waiting until after the case was decided, a decision he disfavored, and then moved to intervene and appeal the decision.	Prejudice Substantial - Untimely Intervention
Minneapolis Star & Tribune Co. v. Schumacher, 392 NW 2d 197, 207 (Minn. 1986): Rule 24.01 establishes a four-part test that a nonparty must meet before being allowed to intervene as a matter of right: 1) a timely application for intervention; 2) an interest relating to the property or transaction which is the subject of the action 3) circumstances demonstrating that the dispo-sition of the action may as a practical matter impair or impede the party=s ability to protect that interest: and 4) a showing that the party is not adequately represented by the existing parties.	Four Part Test for Intervention
Rasmussen v. Rasmussen, (unpub.), 1988 WL 110098, (Minn. App. 1988), filed October 25, 1988, *rev.den*. 12/16/98: Swift County properly intervened in a marital dissolution case as a matter of right, in order to have father's future child support redirected to the Swift County Welfare Department to reimburse it for expenses associated with caring for the parties' child who was in foster care pursuant to a juvenile court order. However, the appellate court noted that formal intervention was not necessary, because pursuant to Minn. Stat. ' 518.551, subd. 9 (1986), the public agency is joined as a party in each case in which rights are assigned under Minn. Stat. ' 256.74, subd. 5 (1986). (Ed. note: Minn. Stat. ' 518.551, subd.9 (2001) references ' 256.741, subd.2 (2001) which does not appear to include an assignment for IV-E foster care. Minn. Stat. ' 256.74,1 subd. 5 was repealed in 1997).	Motion to Intervene and Redirect
Kozak v. Wells, 278 F 2d 104 (April 26, 1990): In determining whether conditions for intervention have been met, the court will look to the pleadings and, absent sham or frivolity, a court will accept the allegation in the pleadings as true. (Ed. Note: Some negative history, but not overruled.)	Evidence for Intervention
Blue Cross/Blue Shield v. Flam by Strauss, 509 NW 2d, 393, 396, *rev.den.* (Minn. Feb 24, 1994): Timeliness of an application to intervene is determined on a case-by-case basis and depends on factors such as (1) how far the subject suit has progressed; (2) the reason for the delay in seeking intervention; and (3) any prejudice to existing parties because of delay. 48 M.S. A., Rules Civ. Proc., Rule 24.01.	Timeliness of Application for Intervention
Valentine v. Lutz,512 NW 2d 868 (Minn. 1994): Where intervention is sought as a matter of right the Court of Appeal conducts an independent review of the district court=s order. See also Halverson v.Halverson, 617 NW 2d 448 and Weiler v.Lutz, 501 NW 2d 667,670 (Minn. App. 1993).	Independent Review of Intervention by Right

Luthen v. Luthen and Itasca County Health and Human Services, Intervenor and Longrie, Inter-venor, 596 NW 2d 278 (Minn App.1999): Neither the mother of a child born out-of-wedlock, nor the county, where the county has not provided support to the child, intervene as a matter of right under Minn. R. Civ. P. 24.01 in a dissolution proceeding involving the child=s father in order to preserve assets available for future child support. The court noted: 1) the father did not have a current support obligation to the child as child support was reserved in the paternity adjudi-cation; 2) support obligations are based on income, not on property; 3) Minn. Stat. ' 518.58(1998) does not give third party creditors, including child support obligees, a vested interest in the marital property of an obligor or his wife; 4) children do not have a vested interest in marital property; 5) the dissolution will not place the father in a position where he will be unable to pay support.	County and Mother of Child Born Out-of-Wedlock Have no Right to Intervene in Father's Dissolution
Kilpatrick v. Kilpatrick, 673 NW 2d 528 (Minn. App. 2004): In a IV-D case where there is no assignment of support, and where the county is not a party to the case, the public authority does not have standing in a child support case, and the CSM does not have jurisdiction to hear the motion, unless the county has intervened. The county has a pecuniary interest and an interest in the welfare of the children and may intervene as a matter of right. Minn. Stat. ' 518.551, subd. 9(b)(2002). See Minn. R. Gen. Pract. 360.01, subd. 1 for procedural requirements in the Expedited Process. (Ed. note: This was an ex pro case, but reading of the case makes clear same requirement applies in district court. See Minn. R. Civ. Pro. 24 for procedural requirements.)	CSM Jurisdiction of County Standing in NPA IV-D Case / Intervention
Holt and County of Becker v. Holt, (Unpub.), A03-1795, filed 7-20-04 (Minn. App. 2004): Obligor challenged county's right to participate in an ex pro case where the assignment was statutory, and not "actual." A statutory assignment under Minn. Stat. § 256.741, subd. 2 makes the county a party to a case (Minn. Stat. § 518.551, subd. 9(a), and makes the case a IV-D case (Minn. Stat. § 518.54, subd. 2). As a party, the county had a right to participate and intervention was not required.	No Intervention Required in PA Case
Hoppe v. Hoppe, (Unpub.), A04-1279, F & C, filed 3-22-05 (Minn. App. 2005) rev. den. (Minn. 6-14-05):In order to participate in NPA cases venued in district court, the public authority is required to intervene as a matter of right. Without intervention, the county lacks standing, and the district court lacks jurisdiction to decide the county's motion. Intervention in district courts is under Minn. R. Civ. P. 24,01; Minn. R. Gen. Prac. 360.01 applies to proceedings brought in ex pro.	Public authority must intervene in NPA IV-D cases venued in district court

I.C. - EXPEDITED CHILD SUPPORT PROCESS	
Final Rules of the Expedited Child Support Process, General Rules of Practice 351-377. (effective date: 7-1-2001); Minn. Stat. 518.46 (encated 2015). Family Court Rule 301 - Rules 301-313 do not apply to proceedings commenced in the Expedited Child Support Process, except for Rules 302.04, 303.05, 303.06, 308.02 and 313; Minn. Stat. ' 484.702 - Jurisdiction.	
In Re Access to Certain Welfare Records Used for Evaluation and Administration of Expedited Child Support Process, C4-85-1848; C4-99-404, F & C, filed 6-29-99 (Minn. Sup. Ct. 1999): Records that are private, released by the public authority to the state court administrator's office and to district court administrators will not be accessible to the public.	PRISM Records Provided Court Admin. are Private
Brazinsky v. Brazinsky, 610 NW 2d 707 (Minn. App. 2000), C0-99-1954, F & C, filed 5-30-00: The CSM abused her discretion by dismissing, without explanation, the party's motion with prejudice, after the party had voluntarily withdrawn the motion.	Dismissed with Prejudice
Honzay v. Jordet. (Unpub.), C6-99-1926, F & C, filed 6-27-00 (Minn. App. 2000): District court must make specific findings if it modifies the findings of a CSM. Minn. R. Gen. Prac. ' 372.05, Subd. 2. Further, court must make findings under Minn. Stat. ' 518.551, Subd. 5(i) (1998) to justify deviation from guidelines.	District Court Mod of CSM Order
Ramsey County and Sizer v. Bultman, (Unpub.), C3-00-336, F & C, filed 10-31-00 (Minn. App. 2000): Where party does not seek review of CSM ruling before appealing under Rule 372.01, review is limited to issues actually addressed by the CSM and must be conducted on the record created before the CSM.	Scope of Appellate Review if no Review by CSM
Ramsey County and Sizer v. Bultman, (Unpub.), C3-00-336, F & C, filed 10-31-00 (Minn. App. 2000): Where the parties submitted a stipulation to the CSM in a default proceeding reserving child support, and the record was inadequate to allow the CSM to make the findings necessary to support a deviation from the guidelines (a reservation is a deviation - see O'Donnell, 412 NW 2d 394), the CSM should have refused to accept the stipulation. It was not proper for the CSM to set support, when the parties were not present to litigate support; but neither would it have been proper for CSM to accept the stipulation without an adequate record to support a guidelines deviation. (See Toughill, 609 NW 2d 634.)	Procedure in Expedited Process Default Where Record Inadequate to Support Party=s Stipulation
Blonigen v. Blonigen, 621 NW 2d 276 (Minn. App. 2001): When a district court reviews a CSM=s order for child support under Minn. R. Gen. Prac. 372.05, Subd. 2, the district court owes no deference to the CSM's findings and reviews the order *de novo*.	*De Novo* Review by District Court
Blonigen v. Blonigen, 621 NW 2d 276 (Minn. App. 2001): The district court may modify the CSM's order pursuant to Minn. R. Gen. Prac. 372.05, Subd. 2 without reviewing a transcript of the hearing if no transcript was submitted pursuant to Rule 372.05, Subd. 5.	Transcript Not Required
Leverington v. Leverington, (Unpub.), C3-99-1373, F & C, filed 3-27-2001 (Minn. App. 2001): In reviewing a CSM's order, the district court must base its decision on the court file, but since a transcript of the hearing is not required, the court is not required to consider a transcript, even if it is provided.	District Court Review
Rhonda Ann Loch n/k/a Rhonda Ann Jost v. Larry Anthony Fuchs, (Unpub.), C3-01-10, F & C, filed 6-26-01 (Minn. App. 2001): The Assistant Stearns County Attorney's participation was not improperly "advocating against equal treatment for all citizens." The notice of intervention was properly filed and the office of the attorney represents its own public interest pursuant to Minn. Stat. ' 518.551, Subd. 9(b).	County Intervention
Rhonda Ann Loch n/k/a Rhonda Ann Jost v. Larry Anthony Fuchs, (Unpub.), C3-01-10, F & C, filed 6-26-01 (Minn. App. 2001): After review of a magistrate's order by district court, the only appeal available is to the court of appeals, supported by the Rules of the Expedited Process and Minn. R. Gen. P. 372.06. The appellant does not have the right to a second review by district court even though the district court remanded the order back to the magistrate for additional findings.	No Second Review by District Court

Reid and County of Stearns v. Strodtman, 631 NW 2d 414 (Minn. App. 2001): Because the Expro Rules do not address vacating judgment and granting new trial for the reasons set forth in Minn. R. Civ. Prac. 60.02, Minn. R. Civ. Prac. 60.02 is consistent with the Expro Rules and Minn. R. Civ. Prac. 60.02 promotes fairness in accordance with interim Expro Rules Minn. R. Gen. Prac. 351, Minn. R. Civ. Prac. 60.02 applies to Expro proceedings. (Ed. Note: This case was decided under the interim Expro Rules, but should also apply to the final rules since Rule 351 remains substantially unchanged.)	Rule 60.02 Relief Available in Expro
Krueth v. Itasca County Health and Human Services and Krueth v. Trunzo, (Unpub.), C2-01-256, F & C, filed 7-31-01 (Minn. App. 2001): Because the motion to review form, supplied to the parties by the court, requires parties to disclose any new information they would like to present that they were unable to present at the time of hearing, such new information, served on the other party, is admissible and may be considered by the district court pursuant to Rule 372.05, Subd. 4.	New Evidence Submitted to District Court on Review Form
Krueth v. Itasca County Health and Human Services and Krueth v. Trunzo, (Unpub.), C2-01-256, F & C, filed 7-31-01 (Minn. App. 2001): When the district court reviews a CSM order, it may make new findings, even though it has not reviewed the transcript from the hearing.	Findings of District Court When No Transcript
Krueth v. Itasca County Health and Human Services and Krueth v. Trunzo, (Unpub.), C2-01-256, F & C, filed 7-31-01 (Minn. App. 2001): Where CSM did not rule on the issue of which party could claim the tax exemption, and respondent requested the court to rule on that issue on his motion for review, served on the parties, the district court had jurisdiction to rule on the issue.	District Court Can Rule on New Issues Not Ruled on by CSM
Serino v. Serino, (Unpub.), C6-01-809, F & C, filed 12-18-01 (Minn. App. 2001): Motion to reconsider was appropriate after dispositive court decision was issued which affected the trial court's decision.	Motion to Reconsider
Davis v. Davis, 631 NW 2d 822 (Minn. App. 2001): Failure to submit a transcript to the district court for review of the CSM's decision precludes consideration of the transcript on appeal because the transcript is not part of the record on appeal.	Transcript in ExPro Case
Davis v. Davis, 631 NW 2d 822 (Minn. App. 2001): The district court reviews a CSM's decision *de novo*.	*De Novo* Review
Ludwigson v. Ludwigson, 642 NW 2d 441 (Minn. App. 2002): A CSM has the authority to award need-based attorney fees under Minn. Stat. ' 518.14, Subd. 7 (2000).	CSM can Award Attorney's Fees
Ludwigson v. Ludwigson, 642 NW 2d 441 (Minn. App. 2002): Where J & D provided that CP would be entitled to tax exemption when she became employed, CSM in subsequent modification proceeding did not abuse its discretion when the CSM interpreted the J & D to require CP to earn a minimum of $1,500.00 per month in order to qualify for the exemption.	CSM can Interpret Minimum Requirements for Tax Exemption
Clark v. Clark, (Unpub.), C4-02-141, F & C, filed 7-30-02 (Minn. App. 2002): The court had personal jurisdiction over a non-resident party when she appeared by telephone in the expedited process hearing.	Appearance by Telephone
In Re Marriage of Kalbakdalen vs. Kalbakdalen, (Unpub.), C5-02-455, F & C, filed 10-8-02 (Minn. App. 2002): Obtaining review of a CSM's decision under Minn. R, Gen. P. 376 is not a prerequisite to appeal, but failure to obtain the review limits the scope of review by the court of appeals to the scope of review where party did not seek a new trial after judgment being entered in district court: e.g., whether the evidence supports the findings and whether the findings support the conclusions.	Scope of Review of CSM Order if no Review Under Rule 376
Storm v. Siwek, (Unpub.), C4-03-280, filed 7-8-03 (Minn. App. 2003): A party cannot raise a new issue or a different theory on the same issue under a motion to reconsider pursuant to Minn.R.Gen.Pract. 115.11. The district court and the CSM properly denied motion to reconsider based on a new theory.	Motion to Reconsider No New Theory
Storm v. Siwek, (Unpub.), C4-03-280, filed 7-8-03 (Minn. App. 2003): The court has the discretion whether to hear a motion for reconsideration. A request to reconsider is intended to be decided by the judicial officer who heard the case. Minn.RGen.Pract. 115.11.	Motion to Reconsider

Gruenes v. Eisenschenk, 668 NW 2d 235 (Minn. App. 2003): CSM must determine whether the case is IV-D in order to support finding that there is jurisdiction in the expedited child support process. Minn. Stat. '' 484.702, subd. 1(b), (f) and 518.54, subd. 14 (2002). For a AIV-D case to exist a party (either party obligor or obligee) must have assigned his or her right to receive support to the state or applied for the requisite child-support services.	Jurisdiction
Middlestedt v. Middlestedt, (Unpub.), C4-02-2164, filed 9-9-03 (Minn. App. 2003): CSM has authority to deny party's motion to compel discovery on the basis that the motion was brought to harass the other party. Minn.R Gen.Prac. 361.04, subd. 1.	CSM Limits Discovery
Vogelsberg v. Vogelsberg, 672 NW 2d 602 (Minn. App. 2003) A district court has jurisdiction to review a second decision of a child support magistrate where the first decision was reviewed by the District Court following an initial decision of a child support magistrate, and remanded from the district court.	Second Motion for Review
Kilpatrick v. Kilpatrick, 673 NW 2d 528 (Minn. App. 2004): A county has standing to make a motion to modify child support and is a real party in interest in a IV-D case where there has been an assignment of support. Minn. Stat. ' 518.551, subd. 9(b)(2002), and intervention is not required.	County has Standing/ Party Status in PA Case
Kilpatrick v. Kilpatrick, 673 NW 2d 528 (Minn. App. 2004): In a IV-D case where there is no assignment of support, and where the county is not a party to the case, the public authority does not have standing in a child support case, and the CSM does not have jurisdiction to hear the motion, unless the county has intervened. The county has a pecuniary interest and an interest in the welfare of the children and may intervene as a matter of right. Minn. Stat. ' 518.551, subd. 9(b)(2002). See Minn. R. Gen. Pract. 360.01, subd. 1 for procedural requirements in the Expedited Process. (Ed. note: This was an ex pro case, but reading of the case makes clear same requirement applies in district court. See Minn. R. Civ. Pro. 24 for procedural requirements.)	CSM Jurisdiction of County Standing in NPA IV-D Case / Intervention
Porro v. Porro, 675 NW 2d 82 (Minn. App. 2004): Minn. Stat. ' 484.702 does not confer jurisdiction in expedited process over UIFSA case where subject matter jurisdiction requirements of Minn. Stat. ' 518C.611 are not met.	Jurisdiction in Ex pro over UIFSA Modification
Holt and County of Becker v. Holt, (Unpub.), A03-1795, filed 7-20-04 (Minn. App. 2004): Obligor challenged county's right to participate in an ex pro case where the assignment was statutory, and not "actual." A statutory assignment under Minn. Stat. § 256.741, subd. 2 makes the county a party to a case (Minn. Stat. § 518.551, subd. 9(a), and makes the case a IV-D case (Minn. Stat. § 518.54, subd. 2). As a party, the county had a right to participate and intervention was not required.	No Intervention Required in PA Case
Holt and County of Becker v. Holt, (Unpub.), A03-1795, filed 7-20-04 (Minn. App. 2004): CSO statements made in affidavit and in testimony regarding the amount of public assistance expen-ded in the case based on information obtained from the state child support computer system was admissible under the public records exception to the hearsay rule. Minn. R. Evid. 803(8).	CSO Affidavit re: Amount of PA is Admissible as a Public Record.
Powers, f/k/a/ Duncan v. Duncan, (Unpub.), A04-19, F & C, filed 10-5-04 (Minn. App. 2004): The CSM may make findings as to indicia of emancipation, but must refer the determination as to whether the child is emancipated to district court under Minn. R. Gen. Prac. 353.01, Subd. 3(b) and 353.02.	CSM must Refer Emancipation Issue to District Court
Larsen v. Larsen, (Unpub.), A03-1103, F & C, filed 6-29-04 (Minn. App. 2004): Where the child began to live full-time with one parent, subject to visitation by the other parent, but the joint physical custody provision of the order had not been modified, CSM permitted to establish ongoing support in the divorce file under Minn. Stat. § 518 from the date of filing of the motion, even though there was no motion pending to change custody. Must apply Hortis-Valento.	CSM has Jurisdiction to Set Support Where Physical Custody Shifts but no Change in Custody Order

Maki v. Hansen, 694 NW 2d 78 (Minn. App. 2005): Although respondent served documents on the other party and not the other party's attorney, and although respondent mailed the documents herself, rather than having a third party mail the documents, as required by Minn. R. Gen. Pract. 355.01 and 355.02, where other party had actual notice of the motion, and the opportunity to respond and be heard, he was not prejudiced, and the motion should not be dismissed due to improper service.	Actual notice and opportunity to respond overcomes failure to follow rules of service
Kozel v. Kozel, nka Kurzontkowski, (Unpub.), A04-1714, F & C, filed 5-24-05, Minn. App. 2005): When conducting a *de novo* review of a CSM's order, the district court is not required to make specific findings as to each point raised in appellant's motion; the district court need only "specifically state in the order that those findings… are affirmed." Further, the district court is required to "affirm the order unless it determines that the findings and order are not supported by the record or the decision is contrary to law." Minn. R. Gen. Pract. 377.09, Subd. 2(b).	Review of CSM Order by District Court; Standard and Findings Required.
Jones v. Simmons, (unpub.) A05-1325, filed May 16, 2006 (Minn. App. 2006). Ct. App. affirmed district court decision overruling CSM's imputation of income. When Court Administrator serves CSM decision *by mail,* parties have 23 days in which to request district court review. Notwithstanding inconsistent rules of court, District Court review is *de novo,* and CSM decision is not entitled to deference. When parties failed to supply District Court with transcript of CSM hearing, and CSM did not make necessary finding that NCP "chose to be unemployed," District Court properly ruled that imputation of income was not supported in the record before it.	Timeliness of motion for review. *De novo* review in district court. Transcript of CSM hearing. Inadequate findings by CSM.
Tipler v. Edson, (unpub.) A05-1518, filed May 23, 2006 (Minn. App. 2006) [Anoka County, Intervenor, by BAFL]. CSM did not abuse discretion by refusing to hear issue of calculation of arrears filed less than 10 days before scheduled hearing, particularly when obligor knew hearing date 11 months in advance.	Time limit for filing responsive motions. Abuse of discretion.
In Re the Marriage of Wheeler v. Wheeler, (Unpub.), A06-569, Filed September 5, 2006 (Minn. App. 2006): CP failed to inform CSM of boarding school expenses at the time of a hearing of motion to modify support and only weeks later attempted to move the *district* court to divide the boarding school expenses and was denied. CP later brought same motion before the CSM and CSM denied motion on res judicata grounds. CP insisted district court's ruling was "referring the matter back to the CSM." Court of Appeals upheld the decision of CSM indicating the matter was res judicata and stating "finding that a party failed to raise an issue at the appropriate time equates to a finding of waiver, not to a remand of the issue." *citing* Graham v. Itasca County Planning Comm'n, 601 N.W.2d 461, 468 (Minn. App. 1999).	EX PRO PROCEDURE: Motion to mod. that has been denied by the district ct. is res judicata before the CSM when there has been no change in circumstances.
In re the Marriage of: Leah Grace Staquet v. Paul John Staquet, (Unpub.), A07-0493, filed April 1, 2008 (Minn. App. 2008): Obligor originally brought a motion to modify before a district court judge, asserting stress from his dissolution prevented him from working as a pilot. Obligor produced no medical documentation of disability, but provided pay stubs showing the amount of disability he was receiving. The district court judge denied the modification, finding obligor did not meet his burden of proof to show he was not voluntarily unemployed or underemployed. Less than 2 months later, appellant obligor sought modification before a CSM, presenting the same documentation and testimony. The CSM reduced appellant's support. The Court of Appeals held the CSM abused discretion by effectively overruling the district court without additional evidence of obligor's disability.	CSM abuse of discretion by overruling district court's decision.
In re the Marriage of: Swenson v. Pedri, No. A17-0616 (Minn. Ct. App. Dec. 26, 2017): Unless parties agree to an alternative effective date, the modification of support can only go back to service of the motion to modify. The court may decline to consider new evidence on a motion for review when a party has not previously requested authorization to submit new evidence. When a reduction to income was used to calculate support in the original judgment and decree the district court is not required to use the reduction in its current modification, when the original judgment did not state that the reduction would be used for future calculations nor was the reduction applied when calculating income in the prior modifications. When the court is not provided with evidence necessary to apportion child care expenses, the court was within its discretion to order each parent to be responsible for his and her own child-care expenses.	Child care support, gross income, modification, effective date

White v. Loesch, A22-0964, 2023 WL 8889700 (Minn. Ct. App. 2023): The Child Support Magistrate's finding that appellant-father was voluntarily unemployed and their calculation of his potential income for child support purposes was not an abuse of discretion. The Child Support Magistrate did not err by requiring appellant-father to testify. The County is allowed to call an adverse party to testify. The CSM does not act as an advocate when asking a party follow up questions.	Calculation of Gross Income; Gross Income, Calculation; Imputing Potential Income; Income, Calculation/Determination of Gross Inc.; Potential Income; Expedited Process;
In re the Marriage of: Kevin Eric Alstrin vs. Allison Lynn Alstrin, A24-0803, 2025 WL 249560 (Minn. Ct. App. Jan. 22, 2025): Appellant-father's challenge to the district court's order that he is responsible to reimburse respondent-mother for the parties' children's extracurricular activity fees and expenses is unavailing and the court of appeals affirms.	Basic Support-Definition

I.D. - LEGAL PRINCIPLES	
I.D.1. - Generally	
Richardson v. Richardson, 15 NW 2d 127 (Minn. 1944): Entry of a final divorce judgment and decree supercedes an order for temporary support ordered in the divorce action, and arrears do not survive, unless the final decree includes provision that arrears due under the temporary order survive.	Merger
McClelland v. McClelland, 393 NW 2d 224, 228 (Minn. App. 1986): A party seeking modification must show modification is warranted by the preponderance of the evidence standard.	Preponderance of the Evidence
Norman County Social Services Board o/b/o Rasmusson v. Rasmusson, (Unpub.), C0-89-1144, filed 11-28-89, (Minn. App. 1989): If the final judgment in a divorce case does not mention child support arrearages due under the temporary support order, the temporary order is unenforceable and the arrears are uncollectible. This is the case even if the MTA was not approved by the county.	Merge of Child Support Arrears
Schaff v. Schaff, 446 NW 2d 28 (N.D. 1989): When parents of a child born out-of-wedlock married each other, child custody and future support provisions of paternity judgment were nullified. If those parents subsequently seek a divorce, the divorce laws are then applicable to the (*de novo*) determination of custody and support.	Support Obligation under Paternity Judgment Ends Upon Marriage
Hildebrand v. Hildebrand, 477 NW 2d 1 (Neb. 1991): Child support obligations under prior dissolution decree were terminated upon parties' remarriage.	Support Obligation Under J & D ends Upon Re-Marriage
State v. Iglesias, 517 NW 2d 175 (Wis. 1994): Monies posted as bail can be used to satisfy fines and costs levied against a defendant, even if the bail was posted by a third party. Citing United States v. Higgins, 987 F.2d 543 (1993) and United States v. Salerno, 481 U.S. 739 (1987).	Bail Posted by 3rd Party
Holmberg v. Holmberg, 588 NW 2d 720 (Minn. 1999): The following factors will be considered in a separation of powers analysis: (1) public policy; (2) judicial checks on administrative actors; (3) the function delegated; (4) ALJ appealability; (5) voluntariness of entry into the administrative system; and (6) whether the legislative delegation is comprehensive or presumed.	Delegation of Powers to Administrative Tribunal
Nevels v. State of Minnesota Department of Human Services, 590 NW 2d 798, (Minn. App. 1999): An agency's interpretive rules, in contrast to properly promulgated legislative rules are not controlling, but may be looked to by the court and litigants for guidance. The weight depends on the thoroughness evident in the rules consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it the power to persuade. State of Minnesota v. Brooks, 604 NW 2d 345 (Minn. 2000): The setting of a monetary bail amount in a pre-conviction criminal case that can be satisfied only by a cash deposit of the full amount set by the court violates Article I, Section 7 of the Minnesota Constitution. [Ed. note: Art. I, Section 7 refers to bail "before conviction"; thus this case does not necessarily apply to post-conviction bail. Also, in footnote 1, the Supreme Court indicated that the decision does not address the practice of some courts to permit an accused to make a cash deposit in an amount less than the full amount of bail set by the court, implying that this may be an acceptable alternative.]	Weight of Agency Rules Pre-Conviction Cash-Only Bail Unconsti-tutional
Kammueller v. Kammueller, 672 NW 2d 594 (Minn. App. 2003): Minn. Stat. ' 518.54, subd. 8 which provides, A person who is designated as the sole physical custodian of a child is presumed not to be an obligor for the purposes of calculating correct support...unless the court makes specific findings to overcome this presumption and the definition of physical custodian at Minn. Stat. ' 518.003 do not violate the equal protection clause of the Minnesota or U.S. Constitutions.	Distinction Between CP & NCP Not UnConstitu-tional

Kammueller v. Kammueller, 672 NW 2d 594 (Minn. App. 2003): The Rational basis test applies to equal protection challenges of the child-support statute. Because child support obligations are premised on the child's right and need to be supported by its parents, there is no fundamental right of a parent to have a child-support obligation based solely on the amount of time the parent spends with the child. (Cites Walker v. Walker, 574 NW 2d 761(Minn. App.1998))	No Fundamen-tal Right to Base C/S on % of PT
Kammueller v. Kammueller, 672 NW 2d 594 (Minn. App. 2003): Minn. Stat. ' 518.54, subd. 8 and Minn. Stat. ' 518.003 meet the three-pronged rational basis test. (1) There is a genuine and substantial distinction between custodial and non-custodial parents, rather than an arbitrary definition. The definition meets the traditional pattern, and both statutes allow for the classifications to be overcome. (2) The classification in ' 518.54, subd. 8 is relevant to the purpose of the law, that the child receive adequate support. The presumption that the parent not living with the child should be responsible for the external contributions is rebuttable. (3) It is a legitimate interest of the government to promote the welfare of its children.	Distinction Between CP & NCP Not Unconstitu-tional
Kilpatrick v. Kilpatrick, 673 NW 2d 528 (Minn. App. 2004): A county has standing to make a motion to modify child support and is a Areal party in interest in a IV-D case where there has been an assignment of support. Minn. Stat. ' 518.551, subd. 9(b)(2002), and intervention is not required.	County has Standing/ Party Status in PA Case
Rettke and Estate of Rettke v. Rettke, f/k/a Krueger, 696 NW 2d 846 (Minn. App. 2005): When a party to a pending marriage dissolution dies, the dissolution proceeding is over. Quote: "You can't divorce a dead person." Further, the court could not enter judgment enforcing a property settlement between the parties, when the settlement had never been incorporated into the MTA and approved by the court before the death of one of the parties. Surviving spouse cannot both take a share from the mediated dissolution settlement as if the dissolution had gone through, and also take a share of husband's estate as a surviving spouse.	Effect of Death of Party to Action Prior to Adjudication
Askar vs. Sharif, (Unpub.), A07-897, filed June 3, 2008 (Minn. App. 2008): The County challenges the district court's affirmance of a CSM's decision to reinstate respondent's driver's license. Because the county acquiesced in the CSM's decision to reinstate the obligor's drivers license, the county has waived its arguments on appeal that the CSM had no authority to do so. Additionally, the County argues that the procedure violated the county's due process rights. Because the county is a legislatively created body, it cannot be deprived of due process rights because counties have no such rights.	County has no due process rights
Stier v. Peterson, A17-0024, 2017 WL 4103889 (Minn. Ct. App. Sep. 18, 2017): Retained earnings from a business may be included in gross income if the party seeking to have them excluded has failed to establish the retained earnings are for a business expense that is ordinary and necessary. A party cannot complain about the district court's failure to rule in his/her favor when the reasons it did so is because the party failed to provide the district court with the evidence needed to fully address the issue.	Gross income; burden to provide evidence
Bandemer v. Ford Motor Co., No. A17-1182 (Minn. Ct. App. April 23, 2018): Minnesota has personal jurisdiction over a foreign defendant who purposefully availed itself of the benefits and protections of Minnesota law because it initiated contacts with Minnesota and actively sought out business through marketing in the state.	Long arm jurisdiction

Rzeczkowski v. Borrero, A22-0954, 2023 WL 2762442 (Minn. Ct. App. 2023): The district court correctly recognized the parties' Columbian Dissolution and Liquidation of Marital Partnership is valid under the principal of comity, but a remand for findings regarding conscionability is required. Remand is also appropriate regarding Husband's claim for needs-based attorney fees. The district court's order denying spousal maintenance and its finding of Wife's gross monthly income are affirmed.	50/50 Custody-Support Calculation; Bonuses, Commissions, etc. as Gross Income; Child Support and Maintenance in Orders-Requirement; Dissolution of Marriage; Foreign Judgment Definition; Maintenance, Spousal

I.D.2. - Personal Jurisdiction - "Minimum Contacts - Service of Process" (See also Part III.G.8.)	
A Minnesota court must have jurisdiction over a person before a new action can be heard. Personal jurisdiction requires personal (or substitute) service (or an acknowledgement of service) (See Part I.B.2.); The person must be served in the State of Minnesota unless there is long arm jurisdiction under Minn. Stat. ' 543.19 - Personal Jurisdiction over Nonresidents; Minn. Stat. ' 543.20 - service at place of employment or post-secondary institution; Bases for Jurisdiction over Non-resident Minn. Stat. ' 518C.201.	
In Re Wretland, 32 NW 2d 161 (Minn. 1948): A minor is incompetent to give jurisdiction over himself by a voluntary appearance. A guardian ad litem must be appointed to have personal jurisdiction over a minor.	Over a Minor
Sherrer v. Sherrer, 334 U.S. 343, 68 S.Ct. 1087 (1948): Where both parties appear and the issue of jurisdiction is litigated, neither party may collaterally attack the divorce, including its financial aspects.	Appearance of Parties Sufficient
Allegrezza v. Allegrezza, 53 NW 2d 133 (Minn. 1952): Where the defendant in a divorce case was personally served out of state, the court had *in rem* jurisdiction, and could dissolve the marriage. However, where there is no personal service of the action within the state, and the defendant does not appear, the court does not have *in personam* jurisdiction, and thus cannot enter a judgment against the defendant for the payment of alimony, attorney's fees, or court costs. The same would be true if the defendant had been served by publication.	Personal Service of Action in State Required for Jurisdiction Over Financial Issues
Vanderbilt v. Vanderbilt, 354 U.S. 416, 77 S.Ct. 1360 (1957): If a divorce is entered without personal jurisdiction over the defendant, it is valid as to the change of the status of the parties from married to divorced; the full faith and credit effect of an ex-parte decree does not extend to the incidents of divorce.	Divorce Without Personal Jurisdiction
State v. Pierce, 100 NW 2d 137 (Minn. 1959): Where personal service is required, but service is made by mail and the party to be served actually receives the documents, service is effective.	Service effective if papers actually received even if not personally served
Kulko v. Superior Court, 436 U.S. 84, 98 S.Ct. 1690 (1978): In child support case, visits to a state are not sufficient "minimum contacts" with a child in a state allowing long-arm jurisdiction.	Long-Arm Jurisdiction
Stonewall Insurance v. Horak, 325 NW 2d 134 (Minn. 1982): Service of process by certified mail on MN domiciliary currently residing in West Germany as serviceman is permitted under 543.19 and Minn. R. Civ. P. 4.03.	Process - Foreign Resident
Wachsmuth v. Wachsmuth, 352 NW 2d 132 (Minn. App. 1984): Defendant submitted to jurisdiction of the court by bringing a MTM and could not then vacate the default paternity judgment of the court on a claim that the court lacked jurisdiction due to inadequate service of process.	Submission to Jurisdiction
Juhl v. Rose, 366 NW 2d 706 (Minn. App. 1985): Service of process, not the proof thereof, confers jurisdiction upon a court.	Process
Sudheimer v. Sudheimer, 372 NW 2d 792 (Minn. App. 1985): Failure to comply with Rule 6.04 notice requirement is not a jurisdictional defect, but may be enforced if prejudice is shown.	Notice Requirement
In Re the Marriage of Mortenson v. Mortenson, 409 NW 2d 20 (Minn. App. 1987): Minnesota's long-arm jurisdiction statute is preempted by the more restrictive jurisdictional provisions of the Uniformed Services Former Spouse's Protection Act, 10 U.S.C.A. ' 1408(c)(4).	Military Pre-emption
Ferguson v. Ferguson, 411 NW 2d 238 (Minn. App. 1987): No personal jurisdiction over non-resident father to modify Montana dissolution decree as to support; mother had adequate remedy under URESA. (But compare UIFSA.)	Modification
Brown County Family Service Center v. Miner, 419 NW 2d 117 (Minn. App. 1988): Alleged father who owned property in state but who resided in Kansas and had never personally been in Minnesota and any business interests in Minnesota were a few telephone calls and letters sent to a Minnesota address, had insufficient minimum contacts with the state for the state to exercise personal jurisdiction over him to enter child support award.	Minimum Contacts
Impola v. Impola, 464 NW 2d 296 (Minn. App. 1990): Long arm statute, Minn. Stat. ' 543.19 applies to dissolution actions. If sufficient minimum contacts occurred in Minnesota, trial court has personal jurisdiction over a non-resident respondent to order temporary child support.	Dissolution - Child Support

Scott v. Scott, 492 NW 2d 831 (Minn. App. 1992): A nonresident child support obligor does not waive the defense of lack of personal jurisdiction in a modification proceeding by failing to petition to vacate the registration of the foreign support order under Minn. Stat. ' 518C.25 (1990).	Effect of Failure to Vacate Registration
Mesenbourg v. Mesenbourg, 538 NW 2d 489 (Minn. App. 1995): There is no time limit for commencing proceedings to set aside a judgment void for lack of jurisdiction over the subject matter or over the parties. However, a default judgment is not void for lack of personal jurisdiction where party waived the personal jurisdiction issue by failing to file a motion to dismiss under Minn. R. Civ. P. 12.02(b) at time he was served with lawsuit.	Waiver Due to Failure to File Motion to Dismiss
Gorz v. Gorz, 552 NW 2d 566 (Minn. App. 1996): Although contempt actions must be initiated by personal service of an order to show cause, obligor waived any objection to jurisdiction based upon obligee's failure to personally serve order to show cause and contempt motion because he had already invoked the court's jurisdiction over him and the child support issue by moving for modification and by participating in the proceedings and personally appearing at the hearing.	Failure to Personally Serve Order to Show Cause
Anderson and Beltrami County, Beaulieu, 555 NW 2d 537 (Minn. App. 1996): In a paternity action, alleged father, who was a member of the Red Lake Band of Chippewa Indians, residing on the reservation challenged Minnesota Court jurisdiction over him. Court of appeals held that the Minnesota Court (ALJ in this case) had jurisdiction because (1) he was employed off the reservation at the time the action was commenced and (2) he voluntarily agreed to a paternity blood test.	Jurisdiction Over Indian
Hughs v. Cole, 572 NW 2d 747 (Minn. App. 1997): In an OFP proceeding, Minnesota's long-arm statute allows personal jurisdiction over non-resident defendant who abused his child in another state, but the child suffered emotional distress as a result in Minnesota. Minimum contacts existed because: (1) father made repeated phone calls to Minnesota; and (2) since the boy lives in Minnesota, it is foreseeable that consequences could arise here.	In an OFP Case Where Abuse did not Occur in Minnesota
Hughs v. Cole, 572 NW 2d 747 (Minn. App. 1997): Four jurisdictional requirements over non-resident: (1) long-arm statute must be satisfied; (2) minimum contacts between defendant and the state; (3) must be a relationship between the contacts and the cause of action; and (4) state must have an interest in providing a forum.	Four Elements to Establish Jurisdiction Over Non-Resident
Lundgren v. Green, 592 NW 2d 888 (Minn. App. 1999): The general presumption that the house of usual abode for a married individual is the house in which his spouse and family reside may be overcome by facts establishing that the individual has moved out of the house, established a new residence, and has no intention of returning to his former address. Service requirements were not met, even though the party had actual notice.	Usual Place of Abode When Parties are Separated
O'Sell v. Peterson, 595 NW 2d 870 (Minn. App. 1999): Service on a 14-year-old stepson of defendant at defendant's home was effective abode service even though stepson usually resides in Iowa, because he was staying with defendant during a regular and planned visitation.	Abode Service on Visiting 14-year-old
Galbreath v. Coleman, 596 NW 2d 689 (Minn. App. 1999): Obligor preserved his right to challenge the court's jurisdiction to enter a default paternity judgment against him, when subject to a civil contempt proceeding he raised the jurisdictional issue at the same time he invoked the court's power by requesting an order for blood tests.	No Waiver Where Challenge Jurisdiction and Request Relief at Same Time
United States v. Kramer, 225 F.3d 847, 851 (7th Cir. 2000): The DPPA, 18 U.S.C. § 228(a), permits a defendant in a criminal nonsupport prosecution in federal court to challenge the personal jurisdiction of the state court that issued the underlying child support order. 225 F.3d at 857.	Personal Jurisdiction Challenge in DPPA Prosecution
County of Anoka and Holderness v. Williams, (Unpub.), C0-00-1573, F & C, filed 5-15-01 (Minn. App. 2001): Where respondent was served at his last known address by abode service, the address documented by the United States Postal Service as the place where he receives his mail, and subsequent orders and judgments mailed to the same address were not returned as undeliverable, respondent's self-serving affidavit alleging he was living out-of-state attending college was insufficient to meet his burden of overcoming the affidavit of service by clear and convincing evidence.	Burden on Defendant to Overcome Affidavit of Service by Clear and Convincing Evidence

Dudley v. Dudley, (Unpub.), C2-00-2143, F & C. filed, 8-21-01 (Minn. App. 2001): Minnesota court properly exercised long arm jurisdiction in dissolution case over respondent who was married in Minnesota, and resided in Minnesota with his wife and children until December 1999. Cites Impola 464 NW 2d 299.	Long Arm Jurisdiction Based on Marriage in State
Nagle and County of Chisago v. Nagle, (Unpub.), C9-01-965, F & C, filed 2-12-2002 (Minn. App. 2002): Where county was not a party to the action, district court did not have jurisdiction to order the county to do anything, including paying attorney's fees, repairing obligor's credit history, or satisfying liens against him.	No Jurisdiction Over Non-party County
Sammons v. Sartwell, 642 NW 2d 450 (Minn. App. 2002): The district court may not enter a judgment against a person who is not a party to the proceeding.	Cannot Enter Judgment Against Non-party
Porro v. Porro, (Unpub.), C3-02-647, F & C, filed 11-26-02 (Minn. App. 2002): (UIFSA) J&D in Massachusetts. Custodial parent and child move to Minnesota. Non-custodial parent moves to Nebraska. Custodial parent registers J&D in Minnesota. Court did not provide non-custodial parent notice of registration. Custodial parent filed motion to modify. Non-custodial parent filed responsive motions, requested two continuances, and took part in the hearings before a CSM. Through these acts, non-custodial parent consented to jurisdiction in Minnesota. The court had no duty to inform him of jurisdictional requirements.	Consent to Personal Jurisdiction
Ochs v. Kimball, (Unpub.), C5-02-1766, filed 7-8-03 (Minn. App. 2003): Personal service was effectuated by leaving the summons and complaint inside the screen door of the person's home, after party slammed the door, refusing to accept the documents. Service cannot be avoided by physically refusing to accept a summons where the process server and the party are in speaking distance, and such action is taken as to convince a reasonable person that personal service is being attempted. See Nielsen v. Braland, 119 NW 2d, 737,739 (Minn. 1963). It is not necessary that the server physically touch the party, or that the party know what papers the server was attempting to serve.	Personal Service
Wick v. Wick and Ridge, 670 NW 2d 599 (Minn. App. 2003): When requesting joinder of a party to a civil contempt action, who is not a payor of funds, the party sought to be joined must be served with a summons and complaint with notice of the specific cause of action that the county tends to assert against the party.	Joinder Requires Personal Service
United States v. Bigford, 365 F. 3d 859, 10th Circuit (Okla. April 13, 2004): Defendant's claim that the Oklahoma default child support judgment was rendered without personal jurisdiction over him may be raised as a defense in a Deadbeat Parents Punishment Act criminal prosecution, even if he had not challenged the default judgment within three years of entry in the state court (the state's 'absolute verity' rule) as provided by state law. Even if the federal court decides that prosecution is barred in federal court based upon 14th amendment due process considerations, that decision does not interfere with the state's ability to enforce the order under its own laws. Defendant would have to re-raise the personal jurisdiction defense in state court under state law to challenge any state enforcement action. Defendant bears the burden to prove lack of personal jurisdiction.	Defendant may Challenge Personal Jurisdiction in State c/s Case as Defense to Federal Prosecution under DPPA
In re Marriage of Malwitz, 99 P. 3d. 56 (Colo. 2004): The Colorado Supreme Court ruled that the Colorado court had personal jurisdiction over nonresident NCP under UIFSA. NCP's abuse of mother was the "act" that caused CP to flee Texas and move to Colorado, where her family lived. Two harassing phone calls to CP's dad in CO were sufficient "minimum contacts". NCP could have reasonably foreseen that CP would go to Colo. and apply for public assistance. (See Minn. Stat. § 518C.201(5) which confers jurisdiction if the child resides in the state due to the acts or directives of the individual.).	Domestic Abuse gives Basis for Personal Jurisdiction over Non-Resident
County of Nicollet v. Jacquelyn Ann Pollock, n/k/a Jacquelyn Ann Miller, Jerry Joseph Duwenhoegger, (Unpub.), A06-875, Nicollet County, filed May 22, 2007 (Minn. App. 2007): Appeal from the District Court's order affirming the CSM's order requiring prisoner to pay child support while he is incarcerated. CSM found appellant was earning an income of $60 per month while in prison and could afford an obligation of $30 per month. Prison income may be used to determine child support and earning $60 per month was a substantial change in earnings from $0. (Citing Johnson v. O'Neill, 461 N.W.2d 507, 508 (Minn. App. 1990).	Prison income may be used to determine child support. Earnings of $60 per month was "substantial change" from $0.

In re Rodewald v. Taylor, 797 N.W.2d 729 (Minn. Ct. App. 2011): Mother and father signed a ROP for joint child. Mother moved out of father's residence and initiated a child-custody and child-support action against father. Mother attempted to serve father personally multiple time.. Father did not appear at hearing, and the district court proceeded by default. Father moved to vacate the default judgement. Court of appeals held that the child custody, parenting time, and child-support proceedings were properly initiated by motion, because the language of Minn. Stat. 518.156, subd. 1(2) allows those proceedings to be initiated by either motion or petition when there is a valid ROP. "The plain language of Minn. Stat. § 518.156, subd. 1(2) allows a parent to initiate child-custody proceedings by motion when valid ROP exits."	Services of Process; Recognition of Parentage; Pternity; Jursidiction.
In re the Marriage of: Suljic v. Suljic, No. A16-0058, 2016 WL 4596560 (Minn. Ct. App. Sept. 6, 2016): District court has jurisdiction to render judgments with respect to property on spousal maintenance if it has jurisdiction over both parties. To establish jurisdiction over a non-resident in a dissolution proceeding the long arm statute must be satisfied and there must be minimum contacts between the non-resident and this state.	Long-arm jurisdiction
Taylor v. Taylor, No. A16-0577, 2016 WL 6077203 (Minn. Ct. App. Oct. 17, 2016): A party waives the defense of lack of personal jurisdiction if the party has invoked the jurisdiction of the court to rule on an issue. A party must raise an issue in order for it to be addressed on appeal.	Defense of personal jurisdiction. Issue must be raised to appeal.
Livingston Financial, LLC, as successor in interest to US Bank v. Daniel O. Ward, II, No. A16-2004, 2017 WL 2625780 (Minn. Ct. App. Jun 19, 2017): "Usual place of abode" means the place where the defendant is actually living at the time when service is made. When service is questioned the burden shifts to plaintiff.	Service of Process
Bandemer v. Ford Motor Co., No. A17-1182 (Minn. Ct. App. April 23, 2018): Minnesota has personal jurisdiction over a foreign defendant who purposefully availed itself of the benefits and protections of Minnesota law because it initiated contacts with Minnesota and actively sought out business through marketing in the state.	Long arm jurisdiction
In re Custody of L.R.W., No. A17-1551, 2018 WL 3520822 (Minn. Ct. App. Jul. 23, 2018): Parties effectively waived their objections and defenses to personal jurisdiction and service of process when they submitted to the jurisdiction of the court by actively participating in the proceedings.	Personal Jurisdiaction, Service of Process
Young v. Maciora, 904 N.W. 2d 509 (Minn. App. 2020): When personal jurisdiction is challenged, the plaintiff must prove that the defendant has sufficient contacts with the forum state. A nonresident causing service on a resident for a separate litigation, standing alone, does not establish sufficient minimum contacts with Minnesota nor do contacts aimed at Minnesota resident, rather than at Minnesota as a forum.	Jurisdiction
Hansen v. Hansen, No. A19-1779 (Minn. Ct. App. Jun 29, 2020): A child's absence from another state or country is not considered "temporary" if the child regularly returns to that place. Establishing a significant presence in Minnesota depends on the nature and quality of the party's contacts in the state and must be more than mere physical presence.	Uniform Child Custody Act
Jacobson v. Vukosavovic, A22-0998, 2023 WL 3445151 (Minn. Ct. App. 2023): The district court did not err by dismissing appellant-wife's motion for dismissal for lack of personal jurisdiction as all three primary factors and one secondary factor support the exercise of personal jurisdiction while one factor is neutral. The district court also did not abuse its discretion by denying appellant-wife's motion to dismiss due to venue inconvenience, nor did it abuse its discretion by denying her motion for conduct-based attorney fees.	Dissolution of Marriage; Long arm Jurisdiction MN (personal jurisdiction over nonresidents); Personal Jurisdiction over nonresidents MN

I.D.3. - Subject Matter Jurisdiction	
A Minnesota court must have jurisdiction over the subject matter. Jurisdiction is statewide in Minnesota. Statutes give Minnesota courts authority to hear cases covering certain subject matters; Minn. Stat. ' 484.702 - Jurisdiction.	
Mund v. Mund, 252 Minn. 442, 90 NW 2d 309 (1958): Where parties omit mention of marriage and fail to make provision for such issue, court under its continuing jurisdiction to modify, alter, or amend the divorce decree may correct the error and provide for the support of a child so omitted.	Continuing Jurisdiction
Bjordahl v. Bjordahl, 308 NW 2d 817 (Minn. 1981): Continuing jurisdiction extends to modification or enforcement of divorce decree and is not a new and independent action requiring independent jurisdictional contacts.	Continuing
Desjarlait v. Desjarlait, 379 NW 2d 139 (Minn. App. 1985), *rev.den* (Minn. 1-31-86): A member of an Indian band voluntarily invokes state jurisdiction by filing a dissolution petition in the state court.	Indian Voluntarily Invokes
Scott v. Scott, 352 NW 2d 62 (Minn. App. 1984): Trial court has equity jurisdiction in dissolution matters that is broad enough to permit modification of child support even where no motion before court.	No Motion Required
Becker County Welfare Dept. v. Bellcourt, 453 NW 2d 543 (Minn. App. 1990): The county district court has subject matter jurisdiction in a paternity action brought against a Native American.	Native American
Becker County Welfare Dept and Wert v. Bellcourt, 453 NW 2d 543 (Minn. App. 1990): 28 USCA ' 1360(a) authorizes state courts to exercise subject matter jurisdiction in paternity and child support cases involving Native Americans.	Over Native Americans
Molinaro v. Erkkila, (Unpub.), CX-92-477, F & C, filed 8-25-92 (Minn. App. 1992): The trial court retains continuing jurisdiction to modify or enforce a child support obligation which arose under a Minnesota dissolution decree even when obligor resides out of state.	Continuing Jurisdiction on Support
Mesenbourg v. Mesenbourg, 538 NW 2d 489 (Minn. App. 1995): There is no time limit for commencing proceedings to set aside a judgment void for lack of jurisdiction over the subject matter or over the parties. However, a default judgment is not void for lack of personal jurisdiction where party waived the personal jurisdiction issue by failing to file a motion to dismiss under Minn. R. Civ. P. 12.02(b) at time he was served with lawsuit.	Judgment Set Aside for Lack of
Anderson and Beltrami County, Beaulieu, 555 NW 2d 537 (Minn. App. 1996): Where tribal member retained employment on reservation after the action commenced, exercise of Minnesota State Court jurisdiction in a paternity case did not impinge on the tribe's self-governance where (1) mother and child live off the reservation and (2) the mother applied for AFDC through the county. The tribe's interest in self-governance is out-weighed by the state interest in securing child support payments as required by the AFDC program. (Court applies legal principals set out in Red Lake Band v. State, 248 NW 2d 722 (Minn. 1976).)	Native American
Campbell v. Campbell, (Unpub.), C8-96-2447, F & C, filed 6-3-97 (Minn. App. 1997): District court has subject matter jurisdiction to resolve family law and child support matters between Indians or to which Indians are a party with regard to the Red Lake Reservation. 18 USC ' 1162 (1994), 250 USC '' 1321-1324 (1994), 28 USC ' 1360 (1994); Cohen v. Little Six, 543 NW 2d 376, 381 (Minn. App. 1996), aff'd without opinion (Minn. Jan. 21, 1997).	Native American Child Support

Holmberg v. Holmberg, 588 NW 2d 720, (Minn. 1999): The administrative child support process created by Minn. Stat. ' 518.5511 (1996), violates the separation of powers doctrine by infringing on the district court's original jurisdiction by creating a tribunal which is not inferior to the district court, and by permitting child support officers to practice law. Therefore, the statute is unconstitutional. The ruling is prospective.	Unconsti-tutional
Bode v. D.N.R., 633 NW 2d 25 (Minn. 2000): When a party collaterally (in a different proceeding) attacks a judgment, claiming that the judgment is void for lack of subject matter jurisdiction, the modern rule, as reflected in ' 12 of the Restatement (Second) of Judgments should apply because it balances the principles of finality and validity. Under the modern rule, lack of subject matter jurisdiction does not automatically make the judgment void; where the court has rendered a judgment in a contested action, it cannot be vacated unless: (1) the subject matter was plainly beyond the court's jurisdiction; (2) allowing it to stand would substantially infringe on the authority of another tribunal or agency of government; and (3) court lacked capability to make an informed decision on a question of its own jurisdiction.	Judgment not Automatically Void
Bode v. D.N.R., 633 NW 2d 25 (Minn. 2000): Direct attacks on a judgment based on lack of subject matter jurisdiction must be brought within a reasonable time under Rule 60.02. What is a reasonable time must be determined by the circumstances, including intervening rights, loss of proof by or prejudice to the adverse party, equities of the case, and the general desirability that judgments be final. Where parties waited 18 years after the initial appeal to district court and 12 years after entry of judgment to make their claim of lack of subject matter jurisdiction, and other party relied on judgment and took actions on it, the motion was not made in a reasonable time.	Reasonable Time to Attack Judgment
Schroeder v. Schroeder, 658 NW 2d 909 (Minn. App. 2003): Failure to challenge registration of CA J&D did not bar subsequent challenge of subject matter jurisdiction, since lack of subject matter jurisdiction may be raised at any time, including for the first time on appeal. Minn. R. Civ. P. 12.08(c) Cochrane v. Tudor Oaks Condo. Project, 529 NW 429, 432 (Minn. App. 1995). Also, party cannot confer subject matter jurisdiction to district court either by waiver or consent. Hemmesch v. Monitor, 328 NW 2d 445, 447 (Minn. 1983),	Cannot be Waived
Rooney v. Rooney, 669 NW 2d 362 (Minn. App. 2003): A district court has subject-matter jurisdiction to determine whether a religious entity is a payor of funds for child-support withholding purposes pursuant to Minn. Stat. ' 518.6111.	To Determine if a Church is Subject to Child Support Law
Porro v. Porro, 675 NW 2d 82 (Minn. App. 2004): Where J&D was in MA, CP moved to MN and NCP moved to NE, and CP registered order in MN and filed motion for modification, court of appeals held that Minnesota lacks subject matter jurisdiction to modify a foreign child-support order when the petitioner is a MN. resident and the other parent lives elsewhere, unless the parents have filed written consents in the Minnesota courts to modify the order and assume CEJ over the order. Minn. Stat. ' 518C.205(a); Minn. Stat. ' 518C.611(a)(2) (CEJ by consent); Minn. Stat. '518C.611(a)(1)(unless both parties are residents of new state (518C.613(a)), petitioner for modification must be nonresident).	No Subject Matter Jurisdiction to Modify Foreign Order
Porro v. Porro, 675 NW 2d 82 (Minn. App. 2004): Minn. Stat. ' 484.702 does not confer jurisdiction in expedited process over UIFSA case where subject matter jurisdiction requirements of Minn. Stat. ' 518C.611 are not met.	Jurisdiction in Ex pro over UIFSA Modification

In re Welfare of S.R.S., 756 N.W.2d 123 (Minn. Ct. App. 2008): Colorado granted sole custody to Appellant (Mother) and visitation to respondent (Father). CO approved Mother's request to relocate to Minnestoa with the child. In 2005, Father moved CO to modify his visitation rights and the Appellant request the motion be stayed and jurisdication be transferred to Minnesota. CO granted Mother's motion, though Father objected to the transfer. MN denied Father's request to modify visitation. Child support continued to be enforced by the CO child support enforcement authority after transfer. Mother moved to modify Father's child support obligation in MN; Father request clarification of the issue of jurisdiction regarding child support. CO stated its intent was to transfer jurisdiction of the entire case to MN, including ability to enforce and modify child support. The Disctrict determined MN did not have jurisdiction to modify the CO child support order and the CSM's child support order was reversed. The appealate court determined Minnesota courts do not have subject matter jurisdiction under the Uniform Interstate Family Support Act to modify a Colorado child support order when all of the parties do not reside in Minnesota and the order has not been registered in Minnesota. Because (1) all of the parties do not reside in Minnesota, (2) the Colorado order was not registered in Minnesota, (3) appellant-petitioner is a Minnesota resident, and (4) no written consent was filed with the Colorado court allowing Minnesota to modify the support order, the district court correctly concluded that the Minnesota court may not modify the Colorado support order. This result is consistent with the intent of the UIFSA, which contemplates that in order to achieve a "rough justice between the parties," when the parents do not reside in the same state, the party seeking modification of a support order must do so in a state that is not the state in which the party seeking the modification resides. Porro v. Porro, 675 N.W.2d 82, 87 (Minn. App. 2004). The Full Faith and Credit Clause of the United States does not require Minnesota to accept subject matter jurisdiction in violation of Minnesota law.	Interstate, UIFSA Modification of Child Support Order.
Hennepin County v. Hill, 777 N.W.2d 252 (Minn. Ct. App. 2009): When the parites marriage was dissolved, a Mississippi court ordered that father to pay child support to mother until their children were emancipated. Under Mississippi law, the parties' youngest child would be emancipated at the age of 21. But the mother and the father later moved to Minnesota, and the Mississippi decree was registered in Minnesota pursuant to the Uniform Interstate Family Support Act. Under Minnesota law, the parties' youngest child would be emancipated at the age of 20. When their youngest child turned 20, the father moved to terminate his child-support obligation. The district court denied the motion on the ground that Mississippi law would not allow modification of the duration of Hill's child-support obligation. The Court of Appeals found that when a court of another state has issued an order requiring the payment of child support for specified period of time, and if, in light of the facts of the case, the law of the issuing state would allow the duration of the child-support obligation to be modified, a district court of Minnesota may not modify the duration of the child-support obligation pursuant to Minnesota law.	Subject Matter, Full Faith and Credit.
Gatfield v. Gatfield, 682 NW 2d 632 (Minn. App. 2004): Although the U.S. Supreme Court in Mansell v. Mansell, 490 U.S. 581 (1989) ruled that the Uniformed Services Former Spouse's Protection Act, 10 USC 1408 does not subject VA disability benefits to a property claim by a spouse, this ruling does not deprive state courts of jurisdiction to enforce provisions of a dissolution judgment that were stipulated to by the husband, making a share of those benefits available to the spouse.	Stipulation Awarding Veteran's Disability Benefits in Property Settlement Enforceble
R.G.Y. v. S.P.V.C, (Unpub.), A04-132, F&C, filed 12-7-04 (Minn. App. 2004): Minn. Stat. § 518.156, subd. 1(2) (2002) providing that a custody proceeding be commenced "by filing a petition or motion seeking custody or parenting time with the child in the county where the child is permanently a resident or where the child is found" is not jurisdictional, but is a venue issue. The jurisdiction of a state court "is not limited to any particular county, but exists throughout the state." Panzram v. O'Donnell, 48 F.Supp. 74, 78 (D. Minn. 1942). Venue is not jurisdictional in Minnesota. *Id. See also:* Claseman v. Feeney, 211 Minn. 266, 268, 300 NW 818, 819 (1941) ("Since our district courts virtually constitute one court of general jurisdiction coextensive with the boundaries of the state, the fact that a civil action is brought or tried in the wrong county is not jurisdictional.").	Jurisdiction is Statewide in Minnesota District Courts; Distinction Between Jurisdiction and Venue

R.G.Y. v. S.P.V.C., (Unpub.), A04-132, F&C. filed 12-7-04 (Minn. App. 2004): "Special proceedings" are only exempted from rules of civil procedure insofar as they are inconsistent or in conflict with the rules. The fact that Chapter 518 is listed as a "special proceeding" at Minn. R. Civ. P. Appendix A. does not change the venue requirement in custody proceedings at Minn. Stat. § 518.156, subd. 1(2) (2002) into a jurisdictional requirement.	Special Proceeding not Exempt from all the Rules of Civil Procedure
Block v. Holmberg, (Unpub.), A04-942, F & C, filed 1-18-05 (Minn. App. 2005): The requirements for subject matter jurisdiction under UIFSA and UCCJEA must be analyzed separately. A court cannot confer jurisdiction under UIFSA, contrary to the UIFSA statute, on an argument that the court has ancillary subject matter jurisdiction under UIFSA because it has subject matter jurisdiction under UCCJEA. Citing Schroeder, 658 NW 2d 909, 912 (Minn. App. 2003) and Stone, 636 NW 2d 594, 596 (Minn. App. 2001).	Jurisdiction under UCCJEA does not confer juris. under UIFSA
Block v. Holmberg, (Unpub.), A04-942, F & C, filed 1-18-05 (Minn. App. 2005): Questions of subject matter jurisdiction are reviewed *de novo*. Citing Johnson v. Murray, 648 NW 2d 664, 670 (Minn. 2002).	*De Novo* Review
Block v. Holmberg, (Unpub.), A04-942, F & C, filed 1-18-05 (Minn. App. 2005): Because the matter of subject matter jurisdiction goes to a court's authority to preside over a matter, an appellant may raise the lack of subject matter jurisdiction for the first time on appeal. Citing Cochrane v. Tudor Oaks Condo, 529 NW 2d 429, 432 (Minn. App. 1995), *rev. den.* (Minn. May 31, 1995).	Subject matter jurisdiction may be raised
Hoppe v. Hoppe, (Unpub.), A04-1279, F & C, filed 3-22-05 (Minn. App. 2005): The district court has jurisdiction to hear modification motions that are brought in connection with ongoing civil contempt proceedings on IV-D cases.	District Crt has jurisd. to hear a MTM in a IV-D contempt case
Alissa Christine Beardsley v. Dante Antonio Garcia, Jr., A06-922, Hennepin County, filed May 22, 2007 (Minn. App. 2007): The district court has both subject matter jurisdiction and statutory authority to issue a domestic abuse OFP granting temporary supervised parenting time with the parties' child to respondent whose paternity has been acknowledged by the parties in a ROP. (Citing In re Custody of Child of Williams v. Carlson, 701 N.W.2d 274, 282 (Minn. App. 2005) holding that if ROP was never properly vacated, it continues to have the force and effect of a judgment or order that the father named in the ROP is the adjudicated father.) The OFP statute does not distinguish between adoptive, biological, adjudicated or married fathers.	Court may order temporary parenting time to ROP father in OFP proceeding
Perry vs. Perry, n/k/a Hall-Dayle, A07-0981, F&C, filed May 20, 2008 (Minn. App. 2008): A district court/CSM has jurisdiction over a motion to modify support during the pendency of the appeal of a previous child support order if the motion is properly grounded on changed circumstances and where the motion is supplemental and collateral to the issue on appeal. A party must be able to request modification when circumstances change to avoid the statutory bar on retroactive modification. However, in the interest of judicial economy, the district court also has discretion to stay or defer its decision until after the appeal is determined.	While an appeal is pending, dist-rict crt retains jurisdiction as to matters independent of, supplemental to, or collateral to the order or judgment appealed from, and to enforce its order or judgment.
Wareham v. Wareham, 791 N.W.2d 562 (Minn. Ct. App. 2010): Parent's marriage was dissolved and child support was established while mother was living in Minnesota and father was stationed overseas. Mother was receiving then and has, throughout this issue, received IV-D services through the county. Subsequently, mother moved to Kentucky, so neither parent nor any children were living in Minnesota. In 2010, mother moved to modify the existing child support order. A CSM concluded that under UIFSA, Minnesota no longer had continuing, exclusive jurisdiction to modify the CS order, because neither party nor the minor children resided in Minnesota. The Court of Appeals held that according to Minn. Stat. § 518C.205 (a)(2), even though nobody resided in Minnesota, MN still had continuing, exclusive jurisdiction, because the parties never filed written consents with the MN tribunal transferring jurisdiction to another state.	Interstate/UIFS A; child Support; Jurisdiction; Modifications.

Wipf v. Wipf, No. A10-1345, 2011 WL 292173 (Minn. Ct. App. Feb. 1, 2011): The parties attempted to stipulate to jurisdiction in South Dakota had six children during there marriage. After the parties separate, father moved to South Dakota, and Mother and children continued to reside in Minnesota. Father initiated a custody proceeding in South Dakota despite the fact the Mother and children never resided in South Dakota. Both parties agreed to waive any jurisdictional issues and confer jurisdiction on the South Dakota court. The South Dakota court sua sponte requested the parties address the issue of jurisdiction, and the parties announced on the record that they were waiving any jurisdiction challenge. The appellate court affirmed the district court's finding that subject matter jurisdiction cannot be conferred by the parties under the UCCJEA and South Dakota had never been the children's home state.	Jurisdiction to Enter Decree, Home State of Child, Determination of Jurisdiction
Cook v. Arimitsu,907 N.W.2d 233 (Minn. Ct. App. Jan. 22, 2018): A child's home state under the UCCJEA, for purposes of determining a court's jurisdiction over custody, is the home state of the child or the home state of the child within six months before the commencement of the proceeding. The six-month period begins to run when the other parent has notice that the child's out of state absence will be permanent. "Substantial compliance" with the requirements for registration and confirmation of a foreign order is sufficient under the UCCJEA.	Dissolutions, Foreign Judgments, UCCJEA, Hague Convention
Peterson v. Gordon, A17-1743 (Minn. Ct. App. May 7, 2018): Moving a minor child(ren) to another state and claiming residence in said state 10 days prior to the commencement of a custody and parenting time action, is not sufficient under UCCJEA to identify the new state the "home state". Home state for purposes of the UCCJEA is the state of residence for at least six consecutive months immediately prior to commencement of a child custody proceeding.	Uniform Child Custody Act
In the Matter of the Welfare of the Children of: S.E.M., J.M.K., S.M.M. and D.J.S., No. A18-0177 (Minn. Ct. App. May 29, 2018): When CHIPS and permanency matters remain pending, the family court must defer to the juvenile court's exclusive jurisdiction over the child and over the relevant issues. The juvenile protection rules provide that family court has concurrent jurisdiction over a child's name, parentage and child support only – not over custody or parenting time while a CHIPS or permanency matter is pending.	CHIPS
Hansen v. Hansen, No. A19-1779 (Minn. Ct. App. Jun 29, 2020): A child's absence from another state or country is not considered "temporary" if the child regularly returns to that place. Establishing a significant presence in Minnesota depends on the nature and quality of the party's contacts in the state and must be more than mere physical presence.	Uniform Child Custody Act
In re the Cusotdy of S.E.R.R., A20-1541, 2021 WL 1604711 (Minn. Ct. App. 2021): A district court has subject matter jurisdiction for a custody petition if the child in question is under the age of 18 at the date of commencement or if the child is under the age of 20 while still attending secondary school.	Minor Child – Definition; Uniform Child Custody Act

I.D.4. - Venue (See also Part III.G.8.)	
Venue applies to where (in which county or district) a matter can be heard within the state and is different from jurisdiction. See Minn. Stat. ' 542.01 (where to bring) and Minn. Stat. ' 542.11 (change of venue).	
State v. Rudolph, 203 Minn. 101, 280 NW 1 (1938): If defendant fails to move for a change of venue before trial, he is barred from raising question that trial court without jurisdiction to proceed in that cause based on improper venue.	Venue / Waiver
Jacobs and County of Rice v. Jacobs, (Unpub.), C5-97-309, F & C, filed 12-30-97 (Minn. App. 1998): Minn. Stat. ' 256.87 action brought by Rice County. Obligor resided in Ramsey County and had no car. It was proper for ALJ to deny obligor's motion for change of venue to Ramsey County: (1) all actions shall be tried in the county where the action began and where one or more of the defendants reside ('542.09); and (2) in an action before an ALJ, a party may appear by telephone, therefore obligor was not inconvenienced.	Out-of-County Party because he could Appear by Phone
Paternity of J.M.V. and Valento v. Swenson; Ramsey County and Christensen v. Swenson, 656 NW 2d 558 (Minn. App. 2003): Where obligor had child support orders involving different children in two different counties, both of which were appealed, court of appeals had the power to consolidate the cases, changing venue of one of them and sending them together to one county on remand, so that a single judicial officer could oversee the child support determination on both cases.	Multiple Family Cases
R.G.Y. v. S.P.V.C, (Unpub.), A04-132, F&C, filed 12-7-04 (Minn. App. 2004): Minn. Stat. § 518.156, subd. 1(2) (2002) providing that a custody proceeding be commenced "by filing a petition or motion seeking custody or parenting time with the child in the county where the child is permanently a resident or where the child is found" is not jurisdictional, but is a venue issue. The jurisdiction of a state court "is not limited to any particular county, but exists throughout the state." Panzram v. O'Donnell, 48 F.Supp. 74, 78 (D. Minn. 1942). Venue is not jurisdictional in Minnesota. *Id. See also:* Claseman v. Feeney, 211 Minn. 266, 268, 300 NW 818, 819 (1941) ("Since our district courts virtually constitute one court of general jurisdiction coextensive with the boundaries of the state, the fact that a civil action is brought or tried in the wrong county is not jurisdictional.").	Jurisdiction is Statewide in Minnesota District Courts; Distinction Between Jurisdiction and Venue
R.G.Y. v. S.P.V.C., (Unpub.), A04-132, F&C. filed 12-7-04 (Minn. App. 2004): "Special proceedings" are only exempted from rules of civil procedure insofar as they are inconsistent or in conflict with the rules. The fact that Chapter 518 is listed as a "special proceeding" at Minn. R. Civ. P. Appendix A. does not change the venue requirement in custody proceedings at Minn. Stat. § 518.156, subd. 1(2) (2002) into a jurisdictional requirement.	Special Proceeding not Exempt from all the Rules of Civil Procedure
R.G.Y. v. S.P.V.C., (Unpub.), A04-132, F&C filed 12-7-04 (Minn. App. 2004): A party waives objection to venue if the party fails to file a proper motion under Minn. R. Civ. P. 7.02.	Venue Objection Waived
In re Krogstad, 958 N.W.2d 331 (Minn. 2021): The use of "several" in Minn. Stat. § 542.10 (2020) means "separate" allowing two defendants to unite in a request to change the venue of a civil action if brought in a county where one defendant resides but the cause of action did not arise there.	Change of Venue
Jacobson v. Vukosavovic, A22-0998, 2023 WL 3445151 (Minn. Ct. App. 2023): The district court did not err by dismissing appellant-wife's motion for dismissal for lack of personal jurisdiction as all three primary factors and one secondary factor support the exercise of personal jurisdiction while one factor is neutral. The district court also did not abuse its discretion by denying appellant-wife's motion to dismiss due to venue inconvenience, nor did it abuse its discretion by denying her motion for conduct-based attorney fees.	Dissolution of Marriage; Long arm Jurisdiction MN (personal jurisdiction over nonresidents); Personal Jurisdiction over nonresidents MN
Bush v. Link, A23-1027, 2024 WL 2131448 (Minn. Ct. App. 2024): The district court properly declined jurisdiction as an inconvenient forum pursuan to its analysis of Minn. Stat. § 518D.207(b) (2022).	Dissolution of Marriage; Jurisdiction

I.D.5. - Full Faith and Credit	
Minn. Stat. Chapter 645 - Interpretation of Statutes.	
Matson v. Matson (Matson II), 333 NW 2d 862 (Minn. 1983): Full Faith and Credit clause requires that courts of MN recognize and enforce judgments of other states even though they could not be obtained under MN law.	Full Faith and Credit
Rudolf v. Rudolf, 348 NW 2d 740 (Minn. 1984): Full faith and credit clause requires recognition and enforcement by a state of installments which have accrued under unalterable judgment rendered in sister state.	URESA
Hines v. Hines, (Unpub.), A04-691, F&C, filed 12-28-04 (Minn. App. 2004): Parties divorced in Illinois, but both parties and the child subsequently moved to Minnesota. Appellant's prior motion in the Illinois court to transfer jurisdiction over child support to Minnesota based on *forum non conveniens* was denied by the Illinois Court. Appellant later brought a motion in the Minnesota Court asking Minnesota to assume subject matter jurisdiction for child support modification under Minn. Stat. § 518C.613(a)(2002). The lower court denied his motion based on its determination that the Minnesota court must give full faith and credit to the Illinois order denying appellant's motion to transfer jurisdiction of the child support issue. The court of appeals reversed. The court of appeals held that because Appellant never raised the issue of subject matter jurisdiction in the Illinois court, rather basing his motion on *forum non conveniens*, the Illinois Court did not consider and did not rule on whether it had subject matter jurisdiction, and thus there is no order in which Illinois determines that it continues to have subject matter jurisdiction to which the Minnesota Court must give full faith and credit. Thus, under § 518C, since both parties and the child now live in Minnesota, Minnesota properly has subject matter jurisdiction to modify the Illinois Child Support Order.	Minnesota Court that has Subject Matter Jurisdiction to Modify Child Support under 518C does not have to defer based on Full Faith and Credit to Illinois Court Order Refusing to Transfer the Case to Minnesota, since that Court did not Address Subject Matter Jurisdiction
Hennepin County v. Hill, 777 N.W.2d 252 (Minn. Ct. App. 2009): If a court of another state has issued an order requiring the payment of child support for specified period of time, and if, in light of the facts of the case, the law of the issuing state would allow the duration of the child-support obligation to be modified, a district court of Minnesota may not modify the duration of the child-support obligation pursuant to Minnesota law.	Full Faith and Credit
Moon v. Moon, No. A16-0173, 2016 WL 7337086 (Minn. Ct. App. Dec. 19, 2016): The district court did not err in interpreting a child support order from Massachusetts. The district court did not modify the Massachusetts order but rather interpreted an ambiguous provision in order to enforce the order. Further, the district court did not violate the Fair Faith and Credit for Child Support Act (FFCCSOA) or the Uniform Interstate Family Support Act (UIFSA) by interpreting the meaning of the Massachuetts decision.	UIFSA; Interpretering foreign judgments.

I.D.6. - Estoppel / Res Judicata / Finality	
Matson v. Matson (Matson I), 310 NW 2d 502 (Minn. 1981): Because defendant, although served, did not appear in proceedings resulting in Wisconsin judgment and did not litigate jurisdictional issue, he is not bound on that issue by *res judicata*.	Res Judicata
Vogt v. Vogt, 394 NW 2d 625 (Minn. App. 1986): Decree which orders that "any arrearage would not merge with this judgment and that will be dealt with separately" reserves the issue of arrearages and the trial court erred in finding the issue of arrearages owed was *res judicata*.	"Arrears don't Merge"
Zickefoose v. Muntean, 399 NW 2d 178 (Minn. App. 1987): Amendment of judgment and decree to allow removal of child from state and reduce child support, without addressing arrears, does not operate as to bar or merge a subsequent suit to complete payment of arrearages; nor is collateral estoppel applicable as issue of arrearages was neither litigated nor essential to the judgment entered.	Silence on Arrears
Hennepin County and Strong v. Strong, (Unpub.), C8-96-2481, F & C, filed 4-29-97 (Minn. App. 1997): Facts: Children receive $621.00 in obligor's RSDI dependent benefits. Obligor receives $1199.00 per month RSDI. Obligor's ongoing child support had been suspended when children began to receive dependent benefits. Hennepin County garnished obligor's RSDI to collect on a judgment for arrears. District Court ordered Hennepin County to stop collection, and further credited the obligor with $72.00 per month (20% of $360.00 guidelines support) towards his arrears, seeing the $621.00 as a "windfall" to CP. Court of Appeals reversed: district court's order was an illegal retroactive modification of child's support under Minn. Stat. ' 518.64, Subd. 2(c) and further was barred by *res judicata* due to prior order declining to vacate a judgment for unsatisfied arrearage.	RSDI Benefits Garnished to Pay Arrears
Longrie v. Luthen, (Unpub.) C5-01-140, F & C, filed 10-23-01 (Minn. App. 2001): Where dissolution settlement was negotiated at the same time that husband's girlfriend was seeking support in a paternity action, evidence that obligor used his divorce settlement to transfer all of his income-producing property to his wife in order to avoid having the income considered when his support owed the girlfriend was set was admissible. It was not an impermissible collateral attack on the divorce decree because girlfriend was not attempting to alter the dissolution judgment.	Evidence in One Party's File can be Used to Buttress Financial Argument in Another Party's File
Ford v. Mostaghioni, (Unpub.), C3-01-1044, F & C, filed 1-15-02 (Minn. App. 2002): Husband has strong argument that a dissolution J & D, entered based upon the parties' stipulated agreement, is res judicata on the issue of non-paternity of a child born during the marriage.	Stipulation to Non-paternity in J & D
Jarvela v. Burke, 678 NW 2d 68 (Minn. App. 2004) A03-1232, filed 4-20-04: Even though a prior order did not extend child support beyond the child's 18th birthday, a court may later extend the duration of the order for a disabled child who is incapable of self-support. The doctrines of *res judicata* and Collateral Estoppel do not apply to modification of support orders. Citing Bjordahl v. Bjordahl, 308 NW 2d 817, 819 (Minn. 1981) and Atwood v. Atwood, 91 NW 2d 728, 734 (Minn. 1958).	Res Judicata N/A to Modification of Support Order
In re: the Marriage of Dewall, (Unpub.), A05-195, filed 10-25-2005 (Minn. App. 2005): The district court properly denied obligor's motion to decrease child support when obligor's motion requested a deduction for support paid for his subsequent child, and when the court had, just five months earlier, heard the exact same issues (*res judicata* discussion). The appellate court noted that the district court was not required to consider the obligor's subsequent child in the context of a motion to reduce support.	Same motion filed five months after denial Subsequent child not basis to modify prior obligation
In Re the Marriage of Wheeler v. Wheeler, (Unpub.), A06-569, Filed September 5, 2006 (Minn. App. 2006): CP failed to inform CSM of boarding school expenses at the time of a hearing of motion to modify support and only weeks later attempted to move the *district* court to divide the boarding school expenses and was denied. CP later brought same motion before the CSM and CSM denied motion on res judicata grounds. CP insisted district court's ruling was "referring the matter back to the CSM." Court of Appeals upheld the decision of CSM indicating the matter was res judicata and stating "finding that a party failed to raise an issue at the appropriate time equates to a finding of waiver, not to a remand of the issue." *citing* Graham v. Itasca County Planning Comm'n, 601 N.W.2d 461, 468 (Minn. App. 1999).	EX PRO PROCEDURE: Motion to mod. that has been denied by the district ct. is res judicata before the CSM when there has been no change in circumstances.

Jama v. Olson, No. A16-1490 (Minn. Ct. App. Sep 5, 2017): If an issue has not previously been litigated the doctrines of res judicata and collateral estoppel do not apply. A person must establish how his/her disability limits his/her participation in court proceedings in order to grant reasonable accommodations. On its own motion a district court can impose restrictions on a frivolous litigant's ability to file claims, motions or requests.	Res judicata; reasonable accommoda-tions; frivolous litigant
Do v. Nguyen, A20-0986, 2021 WL 1604706 (Minn. Ct. App. 2021): A district court abuses its discretion by failing to address statutory factors in light of new changed circumstances presented in a motion filed similar to a prior dismissed motion. The award of conduct-based attorneys fees is an abuse of discretion when the district court failed to adequately examine the record and include findings of fact. When findings of fact include analysis of all statutory factors and the findings are supported by evidence in the record, the district court does not abuse its discretion in modifying a parties' parenting time.	Modification; Modification Effective Date; Retro Mod Overpayment
Povarchuk v. Povarchuk, A23-0208, 2023 WL 6381567 (Minn. Ct. App. 2023): The district court did not abuse its discretion by granting Respondent-mother's motion as it had the authority to enforce the parties' prior stipulation regarding the children's participation in camps and activities, and the principle of *res judicata* does not apply as appellant-father could not show error. Appellant-father's separate motion was also correctly denied as time-barred.	Custody-Best Interest of Child; Custody-Joint Legal Custody; Custody-Joint Physical Custody; Parenting Time

I.D.7. - Equity / Laches	
Ryan v. Ryan, 219 NW 2d 912 (Minn. 1974): Equitable defenses are not available in an action for support arrearages.	Equitable Defenses
Faribault-Martin-Watonwan Human Services ex rel. Jacobson v. Jacobson, 363 NW 2d 342, 346 (Minn. App. 1985): Because of the need to protect a child's right to support, equitable estoppel is not available as a defense to the collection of child support arrears.	Equitable Estoppel not a Defense
Vitalis v. Vitalis, 363 NW 2d 57 (Minn. App. 1985): Lack of diligence in collection of support cannot defeat continuing support obligation, since focus is on needs of child, not diligence of custodial parent.	Lack of Diligence
Vitalis v. Vitalis, 363 NW 2d 57 (Minn. App. 1985): Collection of arrearages is not barred by laches.	Laches
S.G.K. v. K.S.K., 374 NW 2d 525 (Minn. App. 1985): Laches is no defense to action to collect arrearages.	Laches
McNattin v. McNattin, 450 NW 2d 169, 172 (Minn. App. 1990): Mother induced father to change custody of child by representing that she would forego child support. Because equitable estoppel was used to enforce a promise in a sort of contract negotiation, mother was barred from seeking support, absent a change of circumstances.	Equitable Estoppel is a Defense if a Contract Existed
Donovan v. Donovan, No. A07-2060, 2008 WL 4471963 (Minn. Ct. App. Oct. 7, 2008): Equitable defenses like laches are inapplicable to child support arrearage motions because the child's right to support must be protected. Non-custodial parent cannot satisfy his child support obligation by paying sums of money directly to his children; payment of child support is to be cash and giving gifts or purchasing food/clothing does not fulfill that obligation.	Child support cannot be satisfied with lump sums given directly to child(ren).
Thies v. Kramp, No. A11-1536, 2012 WL 1070114 (Minn. Ct. App. Apr. 2, 2012): The Court of Appeals determined that there was misapplication of the law because Minn. Stat. § 257.75, subd.4 controls the vacation of a ROP and contains no exceptions, timeliness, or doctrines of res judicata or mootness that would deny the Appellants requested relief. This decision not to vacate the 2009 order or determine that he is entitled to a declaration that he is not the legal father because it was beyond the scope of appeal.	Minn. Stat. § 257.75, subd.4 controls the vacation of a ROP
In re the Marriage of: Benson v. Peterson, No. A15-1967 (Minn. Ct. App. Mar 6, 2017): Distributions received from an inherited IRA qualified as gross income for purposes of calculating child support. The court must make findings required by Chapter 5B when requiring a safe at home participant to disclose names and addresses.	Confidential Information; Income Determination
In re the Marriage of Hempel v. Krsnak, No. A17-1055 (Minn. Ct. App. Sept. 17, 2018): A District Court's conclusion that a party made a prima facie showing on the first element of fraud-on-the-court does not constitute a finding of fact or legal determination of fraud. The court has discretion to apply the doctrine of laches to bar a claim to reopen a dissolution judgment and decree. Lack of diligence along with prejudice to the other party supported were considered by the court.	Marriage Dissolution, Nondisclosure in legal action
Krabbenhoft v. Krabbenhoft, A19-0353, 2020 WL 1129865 (Minn. Ct. App. Mar. 9 2020): An order on equitable grounds must find that a party received child support payments illegally, unlawfully, or in a way that is morally wrong. When parties agree to the terms of an agreement, including child support calculations, as written and as read into the record, a mistake that occurs in the calculations is not a clerical error as the mistake did not have the effect of making the document say something different from that which the parties agreed too.	Judgments; Overpayments of Child Support; Retro Mod (downward) Overpayment

Rzeczkowski v. Borrero, A22-0954, 2023 WL 2762442 (Minn. Ct. App. 2023): The district court correctly recognized the parties' Columbian Dissolution and Liquidation of Marital Partnership is valid under the principal of comity, but a remand for findings regarding conscionability is required. Remand is also appropriate regarding Husband's claim for needs-based attorney fees. The district court's order denying spousal maintenance and its finding of Wife's gross monthly income are affirmed.	50/50 Custody-Support Calculation; Bonuses, Commissions, etc. as Gross Income; Child Support and Maintenance in Orders-Requirement; Dissolution of Marriage; Foreign Judgment Definition; Maintenance, Spousal

I.D.8. - Statutory Construction	
Moritz v. Moritz, 368 NW 2d 337 (Minn. App. 1985): In cases of conflict in provisions of statute, the most recent statement of legislature prevails.	Legislative
Polk County Social Services, obo Hagen, fka Clinton v. Clinton, 459 NW 2d 362 (Minn. App. 1990): While statutes are presumed to be applied prospectively, that proposition is not immutable. Where language of an amendatory statute is meant to clarify the law, the presumption of prospective application is rebutted.	Prospective Application
In re Rodewald v. Taylor, 797 N.W.2d 729 (Minn. Ct. App. 2011): Mother and father signed a ROP for joint child. Mother moved out of father's residence and initiated a child-custody and child-support action against father. Mother attempted to serve father personally multiple time. Mother, assisted by counsel, then served the father with the motion by mail. Father did not acknowledge service but told mother he would not come to the hearing. Father did not appear at hearing, and the district court proceeded by default. Court of appeals affirmed, holding that the child custody, parenting time, and child-support proceedings were properly initiated by motion, because the language of Minn. Stat. 518.156, subd. 1(2) allows those proceedings to be initiated by either motion or petition when there is a valid ROP.	Service of Process; Recognition of Parentage; Paternity; Jurisdiction
Rooney v. Rooney, 782 N.W.2d 572 (Minn. Ct. App. 2010): Mother sued father's/ex-husband's employer for failing to withhold money from father's income to pay her child support. Employer was held liable to mother for failing to withhold, and the judgment was approximately $235,000.00 (included unpaid child support, spousal maintenance, interest, and cost of living adjustment). Mother then sought to recover attorney fees she incurred in getting the judgment. District court denied her motion for attorney fees because most of the attorney fees were incurred before the judgment against the employer was entered. MN court of appeals held that Minn. Stat. § 518A.53, subd. 5(c) permits the recovery of attorney fees incurred prior to the entry of an arrearages judgment against a third-party payor of funds.	Judgments; child Support; Income Withholding.
Wareham v. Wareham, 791 N.W.2d 562 (Minn. Ct. App. 2010): Parent's marriage was dissolved and child support was established while mother was living in Minnesota and father was stationed overseas. Mother was receiving then and has, throughout this issue, received IV-D services through the county. Subsequently, mother moved to Kentucky, so neither parent nor any children were living in Minnesota. MN court of appeals held that according to Minn. Stat. § 518C.205 (a)(2), even though nobody resided in Minnesota, MN still had continuing, exclusive jurisdiction, because the parties never filed written consents with the MN tribunal transferring jurisdiction to another state.	Interstate/UIFSA; Child Support; Jurisdiction; Modification.
Christianson v. Henke, 831 N.W.2d 532 (Minn. 2013): District court granted paternal grandmother grandparent visitation. Under Minn. Stat. § 257C.08, subd. 2, a court can only award grandparent visitation following the "commencement" of certain proceedings, including a proceeding for parentage. The mother appealed the District Court order granting grandparent visitation arguing that the District Court lack subject matter jurisdiction to award grandmother custody arguing that a ROP is not a proceeding for parentage. The Court of Appeals affirmed. The Supreme Court affirmed, finding an official document, such as a ROP, is included with the plain language meaning of the term "proceeding". A Recognition of Parentage executed and filed with the appropriate state agency under Minn. Stat. § 257.75 is a "proceeding" for purposes of determining grandparent visitation. A ROP has the full force and effect of a judgment establishing parentage.	Recognition of Parentage; Visitation

Buck Blacktop v. Gary Contracting and Trucking Co. LLC, et al., A18-1059 (Minn. Ct. App. May 6, 2019): The four-part test in *Finden v. Klass*, 128 N.W.2d 748 (Minn. 1964) does not apply to a motion to vacate brought under paragraph (f) of Minn. R. Civ. Pro. 60.02. This paragraph allows for the court to vacate a judgment for "any other reason justifying relief from the operation of judgment."	Judgments
Jundt v. Jundt, A24-0495, 2024 WL 3929872 (Minn. Ct. App. 2024): Appellant's argument that Minn. Stat. § 548.091, subd. 3b is the exclusive method to renew a child-support judgment is unavailing, and the district court properly entered summary judgment in Respondent's favor.	Judgement-Administrative Renewal
Smith v. Young, Ramsey County Child Support, A23-1330, 2024 WL 1507610 (Minn. Ct. App. 2024): Only the obligor may bring a motion to stop a cost-of-living adjustment as the language of Minn. Stat. § 518A.75, subd. 2(a) is unambiguous.	Cost-of-Living Adjustments

I.D.9. - Pro Se Litigants	
State, ex rel. Ondracek v. Blohm, 363 NW 2d 113 (Minn. App. 1985): A respondent need not be represented by an attorney in dissolution proceeding for a finding of paternity to be binding.	Pro se - Binding
Ronay v. Ronay (Ronay II), 369 NW 2d 12 (Minn. App. 1985): Right to represent oneself in legal proceedings does not entitle party to modification of procedural rules.	Pro se
Swicker v. Ryan, 346 NW 2d 367 (Minn. App. 1984), *rev.den.* (Minn. 6-12-94): Unfamiliarity with procedural rules is not good cause to excuse an untimely action.	Unfamiliarity with Rules
Weber v. Weber, (Unpub.), C7-95-744, F & C, filed 9-26-95 (Minn. App. 1995): Obligor sought retroactive modification to the date he submitted a letter to the court complaining about his order. A letter submitted to the court is not a motion due to the failure to request specific relief and stating legal grounds for the relief and modification cannot be made retroactive to the date of the letter. Pro se litigants are held to the same standard as attorneys and unfamiliarity with the rules is not cause to excuse a timely action. Witte and County of Olmsted v. White, (Unpub.), C8-02-45, F & C, filed 9-24-02 (Minn. App. 2002): Where a pro se party has engaged in a pattern and practice of filing frivolous and vexatious motions, the conduct is sanctionable under Minn.R.Civ.P. 11.03 and Minn.R.Gen.Prac.9.01. An order requiring the party, before he files or serves any future motion to present it first to the court for review and to obtain the court's prior consent to proceed with the motion is an appropriate sanction.	Letter not Motion Sanctions for Frivolous Litigation
Witte and County of Olmsted v. White, (Unpub.), C8-02-45, F & C, filed 9-24-02 (Minn. App. 2002): Before a court sanctions a party under Minn.R.Civ.P. 11.03 or Minn.R.Gen.Prac.9.01 the procedures required by those rules must first be followed. Minn.R.Civ.P Rule 11.03 and Minn.R.Gen.Prac.9.01 both require separate motions for sanctions or notice by the court, and the party is entitled to a separate hearing on the issue of whether he has engaged in the alleged conduct and that the sanction imposed be limited to what is sufficient to deter repetition. Rule 11 requires an order to show cause.	Procedures for Vexatious Litigation Sanctions
Coopman and Otto v. Rimmer, 700 NW 2d 521, (Minn. App. 2005): On a motion to vacate a default judgment, a defendant's failure to comply with the rules of procedure is not excused merely because the defendant is pro se; in ruling on the motion, the court, in its discretion, may consider, among otherthings, whether the defendant's failure to comply was intentional or not; whether the failure to comply was the result of the defendant's own conduct, as opposed to conduct of some other person or entity; and the length of time the defendant had in which to comply. The pro se party's excuse that he had a "reasonable excuse for failure to act" due to his lack of understanding of the technical requirements of civil procedure was rejected. The Summons informed him that he had 20 days to answer, and an order required the filing of Informational Statements thus he should have known that some kind of paper filing was required by the court. Although some accommodations may be made for pro se litigants, pro se litigants are generally held to the same standard as attorneys and must comply with court rules. (Citing Fitzgergald, 629 NW 2d 115,119 (Minn. App. 2001).	Pro se litigant's motionto vacate on basis of his lack of understanding of the procedural rules, was rejected.
In Re the Marriage of Renard v. Renard, (Unpub.), A05-2573, Filed 2/13/07 (Minn. App. 2007): Court did not abuse its discretion by denying obligor's motion for a continuance to obtain counsel where he had three prior attorneys, contributed to withdrawal of counsel and delayed the proceedings. There is no constitutional or statutory right to counsel in a dissolution proceeding.	CONTINUANCE FOR COUNSEL
In re the Marriage of: Essam El-Dean Hassan Ahmed, petitioner, Appellant, vs. Eman Bakry Haroun, Respondent., (Unpub.), A06-1773, Dakota County, filed July 31, 2007 (Minn. App. 2007): Two weeks before dissolution trial Appellant's attorney withdrew. District court denied Appellant's request for what would be the fourth continuance for him to obtain counsel. Appellant entered into oral stipulation. Appellant argues stipulation should be vacated because he was not represented. A party is not entitled to a continuance merely because their lawyer withdrew from the case two weeks before trial. Here, the circumstances in the case justified the court's decision to deny a fourth continuance (as the three prior continuances were due to appellant's actions).	A party is not entitled to a continuance merely because their lawyer withdrew from the case two weeks before trial.

Jama v. Olson, No. A16-1490 (Minn. Ct. App. Sep 5, 2017): If an issue has not previously been litigated the doctrines of res judicata and collateral estoppel do not apply. A person must establish how his/her disability limits his/her participation in court proceedings in order to grant reasonable accommodations. On its own motion a district court can impose restrictions on a frivolous litigant's ability to file claims, motions or requests.	Res judicata; reasonable accommoda-tions; frivolous litigant
Fumagalli v. Duesterhoeft, No. A16-2018 (Minn. Ct. App. Aug 28, 2017): Pro se parties are held to the same standard as attorneys, and the father had the opportunity to present his job search records on his own. There is no affirmative duty on CSM's behalf to request it. The court should use the most recent order involving parenting time when applying the parenting time expense adjustment. The court should consider 401K assets when determining whether to modify child support.	Determination of Income; Parenting time
In re Derek Mausolf, A20-1626, 2021 WL 2793749 (Minn. App. 2021): Repeated motions resulting in adverse rulings, harassing conduct, and filings not made in good faith are sufficient basis to conclude a party is a frivolous litigant and to set preconditions on any future motions filed by the party.	Frivolous Litigant

I.D.10. - Notice Requirements	
Minn. Stat. ' 518A.48 - automated notices; Minn. Stat. ' 518.68 - required notices in every order that provides for child support; Family Court Procedure Rule 308.01(a) - requires all decrees including awards of support or maintenance to include certain provisions set forth in Minn. Stat. ' 518.68 (Apendix A); (b) requires the party obtaining the J&D to serve on the child support agency if a party is receiving assistance and direct that payments be made to public agency; (c) if party is receiving services from child support agency, a copy of the decree which is being submitted to the court for execution shall be served on the county agency; Family Court Procedure Rule 303.06 required provisions in all orders and decrees which include awards of support and/or maintenance: (See also Minn. Stat. ' 518.68, Subd. 2.(3) for complete language): (a) gifts will not fulfill obligation; (b) denial of visitation not an excuse for non-payment; (c) payment of support takes priority over other debts and obligations; (d) party who remarries does so with full knowledge of his obligation under this order; (e) seasonal employees to budget so payments made regularly; (f) no retroactive reduction of support - must file motion if laid off.	
Lehr v. Robertson, 463 U.S. 248, 103 S.Ct. 2985, 77 L.Ed. 2d 614 (1983): Putative father filed petition to open, vacate, and/or set aside an order of adoption. Supreme Court held that where putative father had never established a substantial relationship with his child, the failure to give him notice of pending adoption proceedings, despite the state's actual notice of his existence and whereabouts, did not deny the putative father due process or equal protection since he could have guaranteed that he would receive notice of any adoption proceedings by mailing a postcard to the putative father registry.	Due Process - Notice to Putative Father Adoption
State of Minnesota v. Andow, 372 NW 2d 747 (Minn. App. 1985): Where statute requires court to restate notice provisions in order, such notice requirement is directory not mandatory, where no consequences for failure to restate notice provisions. Decision was reversed by State v. Andow, 386 N.W.2d 230 (Minn. 1986), but not the issue regarding notice.	Notice
Benedict v. Benedict, 361 NW 2d 429 (Minn. App. 1985): Automatic child support increase provision triggered by increase in obligor's income does not require notice to obligor to become effective.	Notice
Iverson v. Schulte, 367 NW 2d 570 (Minn. App. 1985): County has no duty to give persons subject to state and federal statutes and regulations direct notice of their content and applications.	Duty for Public Auth.
County of Swift v. Olson, (Unpub.), C4-01-212, F & C, filed 7-17-01 (Minn. App. 2001): It was error for court to change division of arrears between county and custodial parent based on post-hearing ex parte letter from county attorney to court indicating a greater portion was due the county than alleged at hearing, but court of appeals affirmed the judgment since no prejudice to the obligor.	Ex Parte Communi-cation
Witte and County of Olmsted v. White, (Unpub.), C8-02-45, F & C, filed 9-24-02 (Minn. App. 2002): Before a court sanctions a party under Minn.R.Civ.P. 11.03 or Minn.R.Gen.Prac.9.01 the procedures required by those rules must first be followed. Minn.R.Civ.P Rule 11.03 and Minn.R.Gen.Prac.9.01 both require separate motions for sanctions or notice by the court, and the party is entitled to a separate hearing on the issue of whether he has engaged in the alleged conduct and that the sanction imposed be limited to what is sufficient to deter repetition. Rule 11 requires an order to show cause.	Procedures for Vexatious Litigation Sanctions
In re the Marriage of: Thomas Caroll Rubey v. Valerie Ann Vannett, (Unpub.), A05-310, filed May 15, 2007 (Minn. App. 2007): Parties were denied due process when district court, at conclusion of trial regarding physical custody, rejected their stipulation to joint legal custody *sua sponte*, without opportunity to be heard.	District court cannot change the terms of a stipulation without giving timely notice and opportunity to the parties to present evidence and argument.

Huntsman v. Huntsman, County of Washington, Intervenor, A06-1064, Filed June 26, 2007 (Minn. App. 2007): The court rejected Obligor's argument that failure to issue a pre-withholding notice prior to implementing income withholding violated his due process rights. The court noted that the Obligor indeed was provided with notice of income withholding procedures along with his dissolution judgment. Moreover, the court found that neither state nor federal law requires an obligor be given pre-withholding notice prior to the implementation and administration of income withholding procedures because income withholding is an administrative action that the public authority may take without the necessity of obtaining an order from any judicial or administrative tribunal. The court further found that "support orders" include orders for spousal maintenance and income withholding procedures apply with equal force for spousal maintenance support orders.	INCOME WITHHOLDING Income withholding is administrative in nature
Eben f/k/a Brouillette vs. Brouillette, (Unpub.), A06-2181, filed December 11, 2007, (Minn. App. 2007): The CSM did not err in denying the submission of new evidence after the close of the record; the parties cannot submit new evidence after the close of the hearing unless requested by the CSM with written or oral notice to the parties.	No new evidence after close of record unless requested by CSM.
Krznarich vs Freeman, (Unpub.), A07-993, filed December 18, 2007 (Minn. App. 2007): The court did not err in denying appellant's motion to add to the record and submit new evidence in support of amended findings and a new trial. New evidence may be submitted only if it is material and could not have been found with reasonable diligence and produced at the original trial.	No new evidence after close of record unless requested by CSM.
In re J.M.M., 890 N.W. 2d 750 (Minn. App. 2017): Notice of a request to change a minor child's name under the Minnesota Change of Name Act is not required to the biological parent who does not have a legally reconginzed parent-child relationship under the Minnesota Parentage Act.	Name change of minor child(ren).
Olsen v. Koop, A17-1151, 2018 WL 1701901 (Minn. Ct. App. Apr. 9, 2018): Court-initiated modification of legal custody is not directly authorized or prohibited by statute. Issues that are not raised by the parties but are tried by the implied consent of the parties shall be treated as if they had been raised. Court initiated modification of legal custody modification may be proposed if both parties were notified that legal custody would be addressed and neither objected, thereby implicitly consenting to try the custody issue; the court gave notice that it could not grant appropriate relief in the best interests of the chid without hearing the custody issue; and a party did not argue any prejudice resulted from the decision to set an evidentiary hearing on custody.	Custody
In the Matter of the applicaton of J.M.M. o/b/o Minor for a Change of Name, 937 N.W. 2d 743 (Minn. 2020): Minn. Stat. §259.10 does not require that notice of a name-change applicaton on behalf of a minor child be given to a biological father who is neither listed on the minor's birth certificate nor an adjucitated father under the Parentage Act, and therefore is not a legal parent.	Child's Name
LuAnn Carol Stanius, Lisa Stanius v. Jason Bartig, A20-1094, 2021 WL 1343082 (Minn. Ct. App. Apr. 12, 2021): Father was entitled to notice pursuant to Minn. Stat. 257C.03 subd. 3(a)(1)(v). Father's participation at the evidentiary hearing without objection to notice amounts to consent. The fact that the district court judge previously presided over a separate matter involving the parties is not a sufficient basis for removal of a judge. Nothing in the record suggested that the judge had an affirmative bias against father and the record contained no rational basis upon which to question the judge's impartiality.	Third Party Custody/ Support (257C.01)

I.E. - APPOINTMENT OF COUNSEL / PROVISION OF LEGAL SERVICES BY THE PUBLIC AUTHORITY (See also Part III.G.3.)	
Minn. Stat. ' 518A.47 - states that attorney represents the public authority and that there is no attorney-client relationship between attorney and the recipient of services; requires notice to the applicant or recipient of service of the role of the attorney.	
Cox v. Slama, 355 NW 2d 401 (Minn. 1984): Counsel must be appointed for indigent obligor facing civil contempt for failure to pay child support, only when the court reaches a point in the proceedings that incarceration is a real priority. Trial *de novo* after counsel appointed.	Free Counsel
Barth v. Barth, 356 NW 2d 743 (Minn. App. 1984): Indigent obligor's right to court appointed counsel attaches before entry of conditional order for incarceration.	Free Counsel: Time to Appt
Prebil v. Juergens, 378 NW 2d 652 (Minn. App. 1985): Contempt finding improper when court failed to consider appointment of counsel at contempt hearing when father said he could not afford counsel.	Appointment of Counsel
Grogan v. Grogan, (Unpub.), C7-90-1454, F & C, filed 2-1-91 (Minn. App. 1991) 1991 WL 6381: County attorney authorized to represent custodial parent who is not recipient of public assistance - not denial of equal protection.	County Atty Representation of NPA
McSweeney v. McSweeney, 618 A.2d 1332 (Vermont 1992): Non-attorney employees of the public authority cannot prosecute RURESA cases on behalf of state's attorneys, since the statute makes the prosecuting attorney@ responsible for the representation of obligees. In RURESA proceedings, the obligee has no say about what action to pursue and is completely dependent on state's attorneys to identify all issues and protect their interests.	Role of CSO in RURESA Hearings
Hill v. Hill, 624 NE 2d 288 (Ohio 1993): A non-attorney employee of the child support agency (CSA), engaged in the unauthorized practice of law when he represented CSA at a hearing before a referee. He could give evidence, but it was improper for him to make a recommendation as to the case's disposition.	Unauthorized Practice of Law by CSO
Johnson v. Johnson, (Unpub.), C4-97-74, F & C, filed 9-9-97, (Minn. App. 1997): County's knowledge of obligor's income in 1994 when it obtained a support increase is not imputed to mother because there was no attorney-client relationship between mother, a recipient of support collection services, and the county. Therefore, in 1996 mother was properly allowed a retroactive modification to 1989 when she just learned in 1996 that father got a full-time job in 1989 and he had failed to inform the county of changes in his income as required by the decree, constituting a material representation under Johnson, 533 NW 2d 859.	No Attorney-Client Relationship Between Mother and County
Frenzel and Carver county v. Frenzel, (Unpub.), C3-97-664, F & C, filed 11-10-97 (Minn. App. 1997): County attorneys who render services in the child support enforcement program have no attorney-client relationship with the recipient, particularly when actions of county attorney are consistent with non-representation.	No Attorney-Client Relationship
Sleepy Eye Care Center v. Commissioner of Human Services, 572 NW 2d 766 (Minn. App. 1998): An assistant attorney general who acts as an advocate in a contested case before an ALJ, may not advise the commissioner who drafts the order. The AG's internal procedures for screening attorney-advocate from attorneys who advise decision makers allows AG's office to play this dual role and does not necessitate the hiring of outside counsel.	Conflicts of Interest in Public Attorney Office
Hasskamp and Ramsey County v. Lundquist, (Unpub.), C8-97-1373, F & C, filed 2-10-98 (Minn. App. 1998): The county is entitled to file its own responsive brief in a child support/ paternity case, since no attorney-client relationship exists between the attorney representing the public authority and the child support recipient under Minn. Stat. ' 518.255 (1996).	County Attorney Entitled to File its Own Brief o/b/o the Public Authority
Holmberg v. Holmberg, 588 NW 2d 720, (Minn. 1999): The drafting of pleadings and representation of the public authority at hearing by child support officers without attorney supervision constitutes the practice of law. Cites: Jorissen, 391 NW 2d 822, 825 (Minn. 1986) and Cardinal, 433 NW 2d 870.	Practice of Law by CSOs
State of Arkansas Office of Child Support Enforcement v. Terry, (Ark. S. Ct., 2-11-99, Case No. 98-1279): Child support enforcement attorneys represent the interest of the state in attempt to enforce an obligation owed to the state and do not represent the individual party seeking enforcement. As a result, there is no conflict of interest in permitting CSEO to enforce the mother's child support rights against the father, even though the office had previously attempted to enforce the father's assigned rights against the mother.	Child Support Attorney Represents State; No Conflict to Sue Both Parents

Gramling v. Memorial Blood Center, 601 NW 2d 457 (Minn. App. 1999): Child sued St. Louis County because court did not pursue paternity in 1979 after an erroneous blood test exclusion. Court properly granted summary judgment in favor of the county because no attorney-client relationship existed between the child's mother and the county. The assignment of support did not create an attorney-client relationship, and the mother did not seek legal advice from the county. The (1979) paternity statute did not create an affirmative duty for the county to conclusively establish paternity. A parent has no cause of action under that statute against a county that has declined to pursue the establishment of paternity.	Neither Paternity Statute nor PA Assignment Provide Basis for Child/ Parent to Hold County Liable for Failure to Establish Paternity
Cooper v. Parrish, 203 F.3d 937 (6th Cir. 2000): A prosecutor functioning in an enforcement role as an advocate for the state in a civil proceeding (in this case bringing civil forfeiture complaints) is entitled to absolute prosecutorial immunity in an action under 42 U.S.C. ' 1983. However, prosecutor can only claim qualified (good faith) immunity when swearing to the truth of the factual allegations in a complaint since the prosecutor does not exercise his professional judgment or act as an advocate in that role; testifying about facts is the function of the witness, not the lawyer.	Prosecutorial Immunity in ' 1983 Action
In re Conservatorship of Riebel, 625 NW 2d 480 (Minn. 2001): A power of attorney does not authorize a non-lawyer to sign pleadings on behalf of another person or to represent principal in court proceedings, since doing so would constitute the unauthorized practice of law, and violate the Constitutional separation of powers. The language at Minn. Stat. § 523.24 allowing the attorney-in-fact to "prosecute before any court… any claim" cannot be interpreted in such a way as to render the statute unconstitutional. It is the province of the court to decide who is qualified to practice law, not the legislature. What Minn. Stat. § 523.24, subd. 10 (1) does is to allow the person with a power of attorney to act on behalf of a client in an attorney-client relationship. Thus, the attorney-in-fact may consult with and hire an attorney-at-law on behalf of the principal.	Power of Attorney Limitations: It is the Unauthorized Practice of Law for a Non-Attorney Attorney-in-fact to Sign Pleadings or Represent the Principal in Court
In Re the Marriage of Renard v. Renard, (Unpub.), A05-2573, Filed 2/13/07 (Minn. App. 2007): Court did not abuse its discretion by denying obligor's motion for a continuance to obtain counsel where he had three prior attorneys, contributed to withdrawal of counsel and delayed the proceedings. There is no constitutional or statutory right to counsel in a dissolution proceeding.	CONTINUANCE FOR COUNSEL
Schirmer vs. Guidarelli, f/k/a Schirmer, (Unpub.), A07-1021, filed May 27, 2008 (Minn. App. 2008): There was no error where the lower court declined appellant's representation by a non-attorney agent (acting under POA) where appellant was able to competently engage in the hearing on his own.	Power of Atty Limits
Jacobson v. Vukosavovic, A22-0998, 2023 WL 3445151 (Minn. Ct. App. 2023): The district court did not err by dismissing appellant-wife's motion for dismissal for lack of personal jurisdiction as all three primary factors and one secondary factor support the exercise of personal jurisdiction while one factor is neutral. The district court also did not abuse its discretion by denying appellant-wife's motion to dismiss due to venue inconvenience, nor did it abuse its discretion by denying her motion for conduct-based attorney fees.	Dissolution of Marriage; Long arm Jurisdiction MN (personal jurisdiction over nonresidents); Personal Jurisdiction over nonresidents MN
Bender v. Bernhard, A22-1783, 2023 WL 5011096 (Minn. Ct. App. 2023): The district court did not abuse its discretion by denying appellant-mother's motion to reopen when it determined that the newly discovered evidence failed to satisfy the third requirement of § 518.145, subd. 2 and would not change the result as the newly discovered evidence does not prove the son is incapable of self-support pursuant to § 518A.26, subd. 5.	Emancipation-Definition of Child

I.F. - ROLE OF PUBLIC AUTHORITY	
Minn. Stat. ' 518A.26, Subd. 18- defines "public authority"; Minn. Stat. ' 518.A.47 - provision of legal services by public authority; service of legal documents.	
St. George v. St. George, 304 NW 2d 640 (Minn. 1981): The county attorney can represent parties seeking to enforce support or maintenance obligations through income withholding under Minn. Stat. ' 518.611 (1980) regardless of whether or not such parties are receiving public assistance.	NPA Main-tenance of Support
Iverson v. Schulte, 367 NW 2d 570 (Minn. App. 1985): County has no duty to give persons subject to state and federal statutes and regulations direct notice of their content and applications.	Duty for Public Auth.
Hogsven v. Hogsven. (Unpub.),1988 WL 27619 (Minn. App. 1988): A recipient of public assistance is considered to have assigned to the agency responsible for child support enforcement all rights to child support. Minn. Stat. § 256.74, subd. 5 (1986). Rice County, as the public agency, is joined as a party in each case in which rights are assigned. Rice County had standing, as appellant's assignee, to seek judgment against respondent for unpaid child support in this action.	County has Standing to Seek Judgment for Support Arrears in PA Case
Wehunt (Brown Intervenor-Appellant) v. Ledbetter, 875 F.2d 1558, 15 FLR 1442 (11th Cir. 1989): Mother who assigned her right to support payments over to government in exchange for government aid does not have private right of action under 42 USC ' 1983 to enforce provisions of Child Support and Establishment of Paternity Act (Title IV-D of Social Security Act) that would require the state to locate child's father, establish paternity, and obtain support order. Nor does the mother who failed to allege that such practices harmed her, or that she would benefit directly from enforcement of Title IV-D, have standing to sue the Secretary of Health and Human Services under the Administrative Procedure Act for failure to enforce provisions of Title IV-D.	No Private Right of Action
Stich v. Stich, 435 NW 2d 848 (Minn. App. 1989): Orders for reduced child support obtained by county officials, which are not entered as modifications of the original award, do not eliminate the greater support obligation stated in the award. The original award may be forgiven now only insofar as a retroactive downward modification of the award is by trial court findings.	Effect of Support Mod. by County on CP
Carelli v. Howser, U.S. District Court, Southern District of Ohio, Carelli v. Howser; No. C-1-89-0319, filed 2-14-90, released 4-30-90: The federal court in Ohio ruled that a group of custodial parents= eligible for child support enforcement services under Title IV-D of the Social Security Act have a cause of action under 40 U.S.C. 1983 against state and local officials charged with enforcement of the state=s child support plan. This court agreed with the dissent in Wehunt, holding that Title IV-D was enacted primarily for the benefit of children and their families (rather than for the primary benefit of state and federal treasuries as the majority in Wehunt held).	CPs have Right of Action Against Public Authority under 42 U.S.C. 1983
Aitkin County Family Service Agency o/b/o Wiebrand v. Gangl, (Unpub.), C7-91-41, F & C, filed 7-16-91 (Minn. App. 1991), 1991 WL 126661: Under Minn. Stat. ' 518.551, Subd. 1 (Supp. 1991), a county has statutory authority to act for other counties and may be awarded monies for arrearages owed to other counties.	Act for Other Counties
Wabasha County, State, on Behalf of Zimmerman v. Rud, (Unpub.),1995 WL 550931 (Minn. App 1995): The court of appeals rejected obligor's argument that Wabasha County lacked standing because (1) his former spouse receives no public assistance, and (2) Minn. Stat. § 518.551, subd. 9 (1994) provides for the joinder of the public agency responsible for child support only when rights are assigned pursuant to an application for public assistance. The court held that Minn. Stat. § 518.551, subd. 1(b) (1994) grants the public authority broad powers to pursue child support enforcement matters on behalf of a custodial parent who has applied for child support collection services. Because the record establishes that Wabasha County provides child support collection services to Rud's former spouse, the county has standing.	County has Standing in NPA IV-D Case
Battee v. Battee, (Unpub.), C8-96-584, F & C, filed 6-17-96 (Minn. App. 1996): It was proper for the public authority to file the Notice of Filing to commence the appeal period. Because the motion was for determination of Battee's arrears, the county was adverse to Battee in the action, and the proper entity to serve the NOF. Cites O'Brien v. Wendt (Minn. 1980).	Public Authority, as Adverse Party, can File NOF

Enstad v. Yellow Medicine County, (Unpub.), C1-96-202, F & C, filed 8-30-96 (Minn. App. 1996): In 1985, county brought, then withdrew motion to increase, based on determination by county attorney and child support officer that financial statements submitted by obligor did not support increase. Eight years later CP did a private motion to increase and obtained substantial increase. CP sued county, claiming with a proper investigation in 1985, county would have discovered AP's financial statements were not accurate and she would have gotten an increase. The court held that the decision not to investigate the obligor's financial condition involved the exercise of judgment and discretion and therefore was protected by official immunity.	County Protected by Official Immunity
Blessing v. Freestone, 520 U.S. 329, 117 S. Ct. 1353 (1997): The United States Supreme court held that Title IV-D does not give individuals, including CPs whose children are eligible for IV-D services, a federal right to force the state agency to "substantially comply" with the provisions of Title IV-D. However, the court held further that nothing in Title IV-D precludes ' 1983 lawsuits, and there may be some specific Title IV-D provisions which give rise to individual rights. The case should go back to federal district court for the lower court to determine what specific rights the parents are asserting and whether any specific claim asserts an individual federal right. It was not enough for parents to claim generally that their "rights" were being violated and seek an injunction forcing the Arizona IV-D agency to "substantially comply" with all of IV-D's provisions. Plaintiff seeking ' 1983 action must assert the violation of a federal right not a federal law.	No Individual Right to Force State Agency to "Substantially Comply" with IV-D. A More Specific Claim may, however, be Available
Walker v. Walker, 574 NW 2d 761 (Minn. App. 1998): Minn. Stat. ' 518.551, subd. 1(b)(1996), which allows the court to direct an obligor to pay child support to the county rather than directly to the obligee, even though there are no arrears is constitutional - does not violate equal protection. Obligor could be found in contempt and face incarceration for failure to adhere to the court=s order as set out in Appendix A, regarding method of payment.	Order Requiring Payment to Public Authority Constitutional
Holmberg v. Holmberg, 588 NW 2d 720, (Minn. 1999): The drafting of pleadings and representation of the public authority at hearing by child support officers without attorney supervision constitutes the practice of law. Cites: Jorissen, 391 NW 2d 822, 825 (Minn. 1986) and Cardinal, 433 NW 2d 870.	Practice of Law by CSOs
Rivera v. Ramsey County, 615 NW 2d 854 (Minn. App. 2000): County has standing to appeal a district court child support order even though the county has not expended public assistance, the custodial parent did not appeal, and the county is seeking to establish support on behalf of another state's child support office.	County has Standing to Appeal NPA Order
Kilpatrick v. Kilpatrick, 673 NW 2d 528 (Minn. App. 2004): In a IV-D case where there is no assignment of support, and where the county is not a party to the case, the public authority does not have standing in a child support case, and the CSM does not have jurisdiction to hear the motion, unless the county has intervened. The county has a pecuniary interest and an interest in the welfare of the children and may intervene as a matter of right. Minn. Stat. ' 518.551, subd. 9(b)(2002). See Minn. R. Gen. Pract. 360.01, subd. 1 for procedural requirements in the Expedited Process. (Ed. note: This was an ex pro case, but reading of the case makes clear same requirement applies in district court. See Minn. R. Civ. Pro. 24 for procedural requirements.)	CSM Jurisdiction of County Standing in NPA IV-D Case / Intervention
Kilpatrick v. Kilpatrick, 673 NW 2d 528 (Minn. App. 2004): A county has standing to make a motion to modify child support and is a real party in interest in a IV-D case where there has been an assignment of support. Minn. Stat. ' 518.551, subd. 9(b)(2002), and intervention is not required.	County has Standing/ Party Status in PA Case
Beach v. State of Minnesota and Hennepin County, (Unpub.), A04-528, F & C, filed 10-12-04 (Minn. App. 2004): Obligor claimed that 42 U.S.C. § 1301(d) of the Social Security Act prohibits IV-D services against him, since the provision prohibits a federal official or agent to "take charge of any child over the objection of either of the parents of such child." The court of appeals rejected this argument for 3 reasons: (1) the federal statute does not include state officials; (2) "taking charge" of a child does not include such actions as AIW or DL suspension; (3) The federal government requires that the states establish procedures for collecting child support. Support is set in state courts according to guidelines determined by the state legislature the federal government is not involved.	State's Provision of Child Support Services does not Violate the "Take Charge of any Child" Prohibition of 42 U.S.C.§ 1301(d)

Beach v. State of Minnesota and Hennepin County, (Unpub.), A04-528, F & C, filed 10-12-04 (Minn. App. 2004): Congress can condition states' receipts of federal funds if it does so unambiguously and enables states to exercise their choice knowingly. South Dakota v. Dole, 483 U.S. 203, 207 (1987). Minnesota has chosen to accept IV-D funds on the condition that services are provided to both PA recipients (needy families) and any family seeking child support services.	Constitutional to Provide NPA Services
Beach v. State of Minnesota and Hennepin County, (Unpub.), A04-528, F & C, filed 10-12-04 (Minn. App. 2004): Congress can employ its power to further broad policy objectives, and ensuring that parents provide for their children to the extent they are able is a well-established public policy. South Dakota v. Dole, 483 U.S. 203, 207 (1987).	IV-D Law Furthers Public Policy Requiring Parents to Support Children
Beach v. State of Minnesota and Hennepin County, (Unpub.), A04-528, F & C, filed 10-12-04 (Minn. App. 2004): Minnesota's child support laws were passed and are being enforced in accordance with due-process rights as set forth in the Minnesota and federal constitutions.	Child Support Law and Enforcement Procedures Afford due Process
Weiss v. Griffin, No. A16-1632, 2017 WL 1375336 (Minn. Ct. App. Apr 17, 2017): If an individual is in default on child support payments, the county shall take steps necessary to compel compliance which may include contempt. A court may require an obligor to post security for their obligations (even before a payment is missed). The district court may not compel a person to do something he is wholly unable to do but the court is not prevented from increasing the monthly purge condition upon a showing of ability.	Constructive Contempt
Smith v. Young, Ramsey County Child Support, A23-1330, 2024 WL 1507610 (Minn. Ct. App. 2024): Only the obligor may bring a motion to stop a cost-of-living adjustment as the language of Minn. Stat. § 518A.75, subd. 2(a) is unambiguous.	Cost-of-Living Adjustments

I.G. - DATA PRIVACY	
Minn. Stat. Chapter 13, Data Practices Act (Tennessen Warning ' 13.04, Subd. 2, Welfare Data ' 13.46); Minn. Stat. ' 256.87, Subd. 8 - Disclosure of Address Prohibited; Minn. Stat. ' 257.70 - Confidentiality of Paternity Proceedings; Minn. Stat. ' 518.005, Subd. 5 - Prohibited Disclosure; Minn. Stat. ' 518A.46, Subd. 6 - Sharing of information in the expedited process; Minn. Stat. ' 518.146 - Social Security numbers and tax returns; Minn. Stat. ' 256.979 - access to information necessary for location and support/paternity establishment and enforcement ; Rules of General Practice, Rule 313 - Method of filing tax returns and social security numbers; Minn. Stat. ' 518.146, Minn. Stat. ' 518.5513, Subd. 3, U.S.C. ' 666(a)(13), (c)(2)(A), 42 U.S.C. ' 405(C)(2)(C)(viii) - federal and state laws requiring confidential treatment of social security numbers and tax returns..	
Miller v. Reed, U.S. Court of Appeals, 9th Cir. (1999), Case No. 9717006: Parent refused to divulge his SS# to the California Department of Motor Vehicles, in order to obtain a driver=s license renewal, based on religious beliefs, and constitutional right to interstate travel. The SS# was collected for child support purposes. The 9th Circuit held that because there is no fundamental right to drive, and the law only incidentally burdened the parent=s religious belief or practice, the law was not unconstitutional.	Requirement to Divulge SS# not Unconstitu-tional
AFSME v. Grand Rapids Public Utilities Commission, 645 NW 2d 470 (Minn. App. 2002): A federal law that "specifically authorizes" using employees' social security numbers - classified as private data on individuals under Minn. Stat. ' 13.49, subd. 1(2000) - in conjunction with federally-mandated drug and alcohol testing constitutes specific authorization by law under the Minnesota Statute, such that the release of social security numbers for purposes of the testing does not constitute a violation of the Data Practice Act.	Social Security Numbers
Reid and County of Stearns v. Strodtman, 631 NW 2d 414 (Minn. App. 2001): Because the Expro Rules do not address vacating judgment and granting new trial for the reasons set forth in Minn. R. Civ. Prac. 60.02, Minn. R. Civ. Prac. 60.02 is consistent with the Expro Rules and Minn. R. Civ. Prac. 60.02 promotes fairness in accordance with interim Expro Rules Minn. R. Gen. Prac. 351, Minn. R. Civ. Prac. 60.02 applies to Expro proceedings. (Ed. Note: This case was decided under the interim Expro Rules, but should also apply to the final rules since Rule 351 remains substantially unchanged.)	Rule 60.02 Relief Available in Expro
Seeber v. Weiers and Rice County, (Unpub.), A04-288, F & C, filed 10-12-04 (Minn. App. 2004): Father of a child is not entitled to release of county's file related to the child's mother's application for welfare benefits under the Minnesota Gov't Data Practices Act. The county file is private data. Under the MGDPA, an "individual" as defined at Minn. Stat. § 13.02, Subd. 8 to include the parent or guardian of a minor shall be shown the private data, if the individual *is the subject of the data.* If the child were the subject of the data, the father could see the file. In the case of a welfare file, however, the subject of the data is the applicant, in this case the mother, and any reference to the child is incidental to the mother's welfare application. Father is denied access to the file since "data on individuals" does not include the appearance of a name or identifying information that is incidental to the data pertaining to the subject of the file. Minn. Stat. § 13.02, Subd. 5.	Father not Entitled to Release of Mother's Welfare File Under MGDPA
In re the Matter of: Fernandez v. Anariba, A16-0544 (Minn. Ct. App. Jan 30, 2017): The district court must make findings before ordering a safe at home participant to disclose his/her address.	Confidential Information; Safety Concerns
In re the Marriage of: Benson v. Peterson, No. A15-1967 (Minn. Ct. App. Mar 6, 2017): Distributions received from an inherited IRA qualified as gross income for purposes of calculating child support. The court must make findings required by Chapter 5B when requiring a safe at home participant to disclose names and addresses.	Confidential Information; Income Determination

I.H. – CONSTITUTIONAL ISSUES	
Iverson v. Schulte, 367 NW 2d 570 (Minn. App. 1985): Assignment of support provision is constitutional as applied to AFDC applicants with prior support order and those without prior support order as they are not similarly situated.	Assignment is Constitutional
County of Steele and Machacek v. Voss, 361 NW 2d 861 (Minn. 1985): Minn. Stat. § 257.62, subd. 5, requiring payment of temporary child support in unadjudicated paternity cases, does not discriminate against alleged fathers on the basis of gender in violation of equal protection. Paternity statutes are gender neutral- maternity as well as paternity may be adjudicated under Chapter 257.	No Prot. Violation. Chapter 257 does not Discriminate Based on Gender
County of Steele and Machacek v. Voss, 361 NW 2d 861 (Minn. 1985): No impermissible discrimination under Minn. Stat. § 257.62, subd. 5 between treatment of "married established fathers and unmarried alleged fathers." Two classes not treated the same. Alleged fathers pay into escrow and amounts can be refunded.	No Prot. Violation. AFs and Fathers not Treated the same.
County of Steele and Machacek v. Voss, 361 NW 2d 861 (Minn. 1985): Minn. Stat. § 257.62, subd. 5 does not violated due process. Defendants have a right to a meaningful hearing before support is set, and court takes into account defendant's own needs and financial resources. Inability to cross examine blood testing export at temporary support hearing does not deny defendant a meaningful hearing. Further, since it's temporary support, defendants are only being denied temporary use of their money.	Temporary Child Support Statute does not Deny due Process- Meaningful Hearing.
County of Steele and Machacek v. Voss, 361 NW 2d 861 (Minn. 1985): Minn. Stat. § 257.62, subd. 5 does not violate due process; the risk of erroneous deprivation of property is not great, since the validity of paternity tests is no longer seriously questioned.	Temp. c/s does not Deny due Process; Chance of Error with Genetic Test is Small
County of Steele and Machacek v. Voss, 361 NW 2d 861 (Minn. 1985): Minn. Stat. § 257.62, subd. 5: The government's interest in establishing temporary child support lies in the large public expenditures being made for children not otherwise being supported by their parents. It is far harder to collect past support, once the man is adjudicated, than it is to collect support out of current income, pending final determination of paternity.	Due Process: Gov't Interest in limiting PA Expenditures
Moylan v. Moylan, 384 NW 2d 859 (Minn. 1986): In a concurring opinion, Justice Yetka Addresses the constitutionality issue. Citing Wisconsin v. Yoder, 406 U.S. 205 (1972), he notes it would be a gross invasion of family privacy for married parents to be required a minimum dollar amount of support for their children. He argues that if legislature can't do this in the case of married parents, it also cannot do it for parents who are unmarried, divorced or separated unless their inability or refusal to support their children imposes a burden on the taxpayers. (He thus distinguishes the way guidelines can be applied in PA vs. NPA cases). He opines that Minnesota's guidelines are only constitutional because they allow a judge to deviate from the guidelines by spelling out his reasons. Yetka says the guidelines cannot be mandatory, but must be carefully and judicially applied to the facts of each case.	Yetka: MN Guidelines Constitutional as long as Court has Discretion to Deviate
Bowen v. Gilliard, 107 S.Ct. 3008 (1987): Requirement of AFDC applicants that they must assign child's outside support payments to the state, which then remits the same as part of an AFDC payment for the whole family, and not just the child, does not amount to an unconstitutional taking of the child's property and is constitutional. Lengthy dissenting opinion of Justices Brennan and Marshall argues that not allowing support to go directly to the child is an unwarranted intrusion into the fundamental parent and child relationship.	Assignment is constitutional
Rose v. Rose, 107 S.Ct. 2029 (1987): Tennessee statute pursuant to which veteran was ordered by state divorce court to pay child support from his veteran's disability benefits was not preempted by federal statute giving Administrator of Veteran's Affairs authority to apportion compensation on behalf of children. Can hold veteran in contempt where sole source of income is veteran's disability benefits. Disability benefits may be exempt from attachment while in VA's hands, but once delivered to veteran, they can be used to satisfy child support order.	Supremacy Clause not Violated

Walker v. Walker, 574 NW 2d 761 (Minn. App. 1998): Minn. Stat. ' 518.551, subd. 1(b)(1996), which allows the court to direct an obligor to pay child support to the county rather than directly to the obligee, even though there are no arrears is constitutional - does not violate equal protection. Obligor could be found in contempt and face incarceration for failure to adhere to the court's order as set out in Appendix A, regarding method of payment.	Requiring Pmt. to Public Authority Constitutional
Holmberg v. Holmberg, 588 NW 2d 720, (Minn. 1999): The administrative child support process created by Minn. Stat. ' 518.5511 (1996), violates the separation of powers doctrine by infringing on the district court's original jurisdiction by creating a tribunal which is not inferior to the district court, and by permitting child support officers to practice law. Therefore, the statute is unconstitutional. The ruling is prospective	Administrative Process Violates Separation of Powers
Miller v. Reed, U.S. Court of Appeals, 9th Cir. (1999), Case No. 9717006: Parent refused to divulge his SS# to the California Department of Motor Vehicles, in order to obtain a driver's license renewal, based on religious beliefs, and constitutional right to interstate travel. The SS# was collected for child support purposes. The 9th Circuit held that because there is no fundamental right to drive, and the law only incidentally burdened the parent's religious belief or practice, the law was not unconstitutional	OK to Require SS# to Obtain Driver's License. No Fundamental Right to Drive
LaChapelle v. Mitten, 607 NW 2d 151, 163-65 (Minn. App. 2000), *rev.den.* (Minn. 16 May 2000): Minnesota's custody statute is not unconstitutional based on equal protection. The equal protection laws allow the government to distinguish between people if the distinction serves a legitimate government interest. The compelling state interest is the protection of the best interests of the child. Further, the best-interest standard is focused on the child, not the parents, and that therefore the standard applies equally to all parents.	MN. Custody Statute does not Violate Equal Protection-Distinction
Anastasoff v. US, 99-3917 (8th Circ. 2001): 8th Circuit Rule 28A(i) that declares that unpublished opinions are not precedent is unconstitutional under Article III, because it purports to confer on the federal courts a power that goes beyond the "judicial." Courts are bound to follow all prior decisions, unpublished or not.	Unpublished Decisions
In re Conservatorship of Riebel, 625 NW 2d 480 (Minn. 2001): A power of attorney does not authorize a non-lawyer to sign pleadings on behalf of another person or to represent principal in court proceedings, since doing so would constitute the unauthorized practice of law, and violate the Constitutional separation of powers. The language at Minn. Stat. § 523.24 allowing the attorney-in-fact to "prosecute before any court… any claim" cannot be interpreted in such a way as to render the statute unconstitutional. It is the province of the court to decide who is qualified to practice law, not the legislature. What Minn. Stat. § 523.24, subd. 10 (1) does is to allow the person with a power of attorney to act on behalf of a client in an attorney-client relationship. Thus, the attorney-in-fact may consult with and hire an attorney-at-law on behalf of the principal.	Power of Attorney Limitations: It is the Unauthorized Practice of Law for a Non-Attorney Attorney-in-fact to Sign Pleadings or Represent the Principal in Court
Georgia Department of Human Services v. Sweat, 580 S.E. 2d 206, (Ga. 2003): Georgia=s child support guidelines, which require consideration of only the obligor=s income in calculating child support, do not violate the equal protection provisions of either the United States or Tennessee Constitutions. AEqual protection is not violated because the guidelines do not treat similarly-situated individuals differently." Guidelines distinguish only between custodial and non-custodial parents, without regard for gender. Custodial and non-custodial parents are not similarly situated.	Constitution-ality - Equal Protection
Georgia Department of Human Services v. Sweat, 580 S.E. 2d 206, (Ga. 2003): Georgia's child support guidelines, which require consideration of only the obligor's income in calculating child support, do not violate due process provisions of either the United States or Tennessee Constitutions. Due process is not violated simply because a classification is not made with mathematical nicety or because in practice it results in some inequality." Due process is met if the classifications are relevant to the state's reasonable objective (here of providing adequate support for children whose parents are separated or divorced), and the classifications are not arbitrary (guidelines take into account and vary the amount of support to be paid based upon the NCP's income as well as 18 enumerated special circumstances in the Ga. statute).	Constitution-ality - Due Process

Georgia Department of Human Services v. Sweat, 580 S.E. 2d 206, (Ga. 2003): The Georgia child support guidelines, based solely on obligor's income, do not violate the constitutional right to privacy, as an NCP has no recognizable privacy interest in the process by which child support obligations are determined. Nor do guidelines result in an illegal taking of private property from the obligor in violation of the Ga. Constitution which provides that private property shall not be taken or damaged for public purposes without just and adequate compensation being first paid. Guidelines are not a governmental taking, nor is the taking for public purposes; rather it is to ensure that NCPs help pay the cost of supporting their children.	Other Constitutional Challenges
Georgia Department of Human Services v. Sweat, 580 S.E. 2d 206, (Ga. 2003): Where no fundamental right or suspect classification is involved, due process and equal protection challenges to legislative classification is examined under the rational basis test. The court will uphold the statute if, under any conceivable set of facts, the classifications drawn in the statute bear a rational relationship to a legitimate end of government not prohibited by the Constitution.	Rational Basis Test Applies to Constitutional Challenge of Guidelines
Gallagher v. Elam, 104 S.W.3d 455 (Tenn. 2003): Tennessee's child support guidelines, enacted by rule pursuant to statute, which require consideration of only the obligor's income in calculating child support, do not violate the equal protection and due process provisions of either the United States or Tennessee Constitutions.	Percentage of Obligor's Income Guideline is Constitutional
Gallagher v. Elam, 104 S.W.3d 455 (Tenn. 2003): Neither the strict scrutiny nor the heightened scrutiny standards apply to an examination of constitutionality of child support guidelines: Support obligors are not a suspect class or a quasi-suspect class; further, allocating a certain amount of financial support to one's children is a mandatory obligation, not a fundamental right, thus guidelines do not impermissibly interfere with a fundamental right. The rational basis test applies to both the due process and equal protection claims. The challenged classification must have a reasonable relationship to a legitimate state interest	Rational Basis Test Applies to Constitutional Challenge of Guidelines
Kammueller v. Kammueller, 672 NW 2d 594 (Minn. App. 2003): Minn. Stat. ' 518.54, subd. 8 which provides, A person who is designated as the sole physical custodian of a child is presumed not to be an obligor for the purposes of calculating correct support...unless the court makes specific findings to overcome this presumption and the definition of physical custodian at Minn. Stat. ' 518.003 do not violate the equal protection clause of the Minnesota or U.S. Constitutions	Distinction Between CP & NCP Not UnConstitu-tional
Kammueller v. Kammueller, 672 NW 2d 594 (Minn. App. 2003): The Rational basis test applies to equal protection challenges of the child-support statute. Because child support obligations are premised on the child's right and need to be supported by its parents, there is no funda-mental right of a parent to have a child-support obligation based solely on the amount of time the parent spends with the child. (Cites Walker v. Walker, 574 NW 2d 761(Minn. App. 1998))	No Fundamen-tal Right to Base C/S on % of PT
Kammueller v. Kammueller, 672 NW 2d 594 (Minn. App. 2003): Minn. Stat. ' 518.54, subd. 8 and Minn. Stat. ' 518.003 meet the three-pronged rational basis test. (1) There is a genuine and substantial distinction between custodial and non-custodial parents, rather than an arbitrary definition. The definition meets the traditional pattern, and both statutes allow for the classifications to be overcome. (2) The classification in ' 518.54, subd. 8 is relevant to the purpose of the law, that the child receive adequate support. The presumption that the parent not living with the child should be responsible for the external contributions is rebuttable. (3) It is a legitimate interest of the government to promote the welfare of its children.	Distinction Between CP & NCP Not Unconstitu-tional
Higgins v. Higgins, (Unpub.), C7-02-1056, F & C, filed 2-11-03 (Minn. App. 2003): Higgins challenged ten statutes in Chapter 518, including child support guidelines, and the statute allowing the court to grant sole legal and physical custody, as being unconstitutional because they violate his constitutionally protected equal right to be an equal parent. The court of appeals held that his equal protection argument failed, because the state's interest in protecting the best interests of children would justify depriving parents of the right to be Aequal parents, if in fact parents have that fundamental right. Citing LaChapelle v. Mitten, 607 NW 2d 151, 163-65 (Minn. App. 2000), *rev.den*. (Minn. 16 May 2000.)	Sole Custody does not Violate Equal Protection

Ward v. McFall, 593 SE 2d 340 (Ga. 2004): Georgia Supreme Court rejected argument that Georgia's child support guidelines were invalid under the supremacy clause because they do not consider economic data on the cost of raising children required by 45 CFR ' 302.56(h). The United States Supreme Court has stated in Egelhoff v. Egelhoff, 532 US 141, 156-157 (2001) that ABefore a state law governing domestic relations will be overridden, it must do major damage to clear and substantial federal interests. The Georgia Supreme Court held that even if Georgia has not reviewed its guidelines in the exact manner stated in 45 CFR ' 302.56(h), it does not do Amajor damage to the federal interest in obtaining child support orders to enforce the obligations of NCPs. Further, the court will defer to the determination of the United States Department of Health and Human Services, that by approving and certifying Georgia's state plan, has judged that Georgia has Asubstantially complied with federal law.	Constitution-Supremacy Clause-Pre-emption
Keck v. Harris, 594 SE 2d 367 (Ga. 2004): Federal child support statutes and regulations do not pre-empt the states in areas of domestic relations. Georgia guide-lines do not violate the supremacy clause of the Constitution. Cites Ward v. McFall.	State's Guidelines not Preempted by Title IV-D
In Re Jesua V., 10 Cal Rptr 3d 205 (Cal. 2004): Prisoners have a due process right of access to the courts, and must be given a meaningful opportunity to be heard. How that right is achieved is to be determined by the discretion of the trial court. In this case, the Supreme Court of California held that the father received meaningful access to the courts through his appointed counsel, and his personal appearance was not constitutionally required.	Personal Appearance of Incarcerated Defendant not Req'd
Beach v. State of Minnesota and Hennepin County, (Unpub.), A04-528, F & C, filed 10-12-04 (Minn. App. 2004): Obligor claimed that 42 U.S.C. § 1301(d) of the Social Security Act prohibits IV-D services against him, since the provision prohibits a federal official or agent to "take charge of any child over the objection of either of the parents of such child." The court of appeals rejected this argument for 3 reasons: (1) the federal statute does not include state officials; (2) "taking charge" of a child does not include such actions as AIW or DL suspension; (3) The federal government requires that the states establish procedures for collecting child support. Support is set in state courts according to guidelines determined by the state legislature the federal government is not involved.	IV-D does not Violate "take charge of any child" Provision
Beach v. State of Minnesota and Hennepin County, (Unpub.), A04-528, F & C, filed 10-12-04 (Minn. App. 2004): Congress can condition states' receipts of federal funds if it does so unambiguously and enables states to exercise their choice knowingly. South Dakota v. Dole, 483 U.S. 203, 207 (1987). Minnesota has chosen to accept IV-D funds on the condition that services are provided to both PA recipients (needy families) and any family seeking child support services.	Constitutional to Provide NPA Services
Beach v. State of Minnesota and Hennepin County, (Unpub.), A04-528, F & C, filed 10-12-04 (Minn. App. 2004): Congress can employ its power to further broad policy objectives, and ensuring that parents provide for their children to the extent they are able is a well-established public policy. South Dakota v. Dole, 483 U.S. 203, 207 (1987).	IV-D furthers Public Policy Requiring Parents to Support Children
Beach v. State of Minnesota and Hennepin County, (Unpub.), A04-528, F & C, filed 10-12-04 (Minn. App. 2004): Minnesota's child support laws were passed and are being enforced in accordance with due-process rights as set forth in the Minnesota and federal constitutions.	Minnesota Child Support Laws and Procedures Afford due Process
United States v. Card, 390 F.3d 592, 2004 U.S. App. (8th Cir., filed December 9, 2004): A father's obligation to support his child, when able, is fundamental.	Fundamental Obligation to Support
Doll and Stearns County v. Barnell; Strandmark and County of Anoka v. Starr, 693 NW 2d 455 (Minn. App. 2005), rev. den. (Minn. 6-14-05): Child support guidelines do not impact parents fundamental right to control their care of their children. A parent does not have a fundamental right respecting the amount of a child support obligation, therefore the rational basis standard of review applies.	No fundamental right respecting the child support obligation
Doll and Stearns County v. Barnell; Strandmark and County of Anoka v. Starr, 693 NW 2d 455 (Minn. App. 2005), rev. den. (Minn. 6-14-05): Because custodial and noncustodial parents are not similarly situated, and further, the guidelines have a rational basis, and do not involve a fundamental right or suspect classification, the argument that the child support guidelines deny equal protection fails.	Minnesota guidelines do not violate Equal protection

Doll and Stearns County v. Barnell; Strandmark and County of Anoka v. Starr, 693 NW 2d 455 (Minn. App. 2005), rev. den. (Minn. 6-14-05): There is a rational basis for Minnesota's child support guidelines: The legislature may determine to maximize child support, and to recognize the care a custodian provides, without placing a dollar value on it, in assessing a presumptive level of need for children. (In other words, the custodial parent's income does not have to be factored into the presumptive formula for the guidelines to be constitutional). Further the guidelines permit attention to the unique circumstances of each case.	Rational basis for Minnesota's child support guidelines
Doll and Stearns County v. Barnell; Strandmark and County of Anoka v. Starr, 693 NW 2d 455 (Minn. App. 2005), rev. den. (Minn. 6-14-05): Minnesota's child support guidelines do not violate the due process clause of the United States Constitution; they are not unreasonable, arbitrary or capricious, and they bear a rational relation to the public purpose they seek to promote. The legislative history of Minnesota's guidelines indicates that the Legislature has endeavored to tailor the guidelines to render fair and reasonable child-support amounts, and the cost of rearing has been part of that formula. The legislature has factored in the many variables involved in the debate as to what amount of award is "adequate" to support a child, and has allowed deviations from the guidelines, with the paramount consideration being the best interests of the child.	Minnesota's guidelines do not violate due process
Doll and Stearns County v. Barnell; Strandmark and County of Anoka v. Starr, 693 NW 2d 455 (Minn. App. 2005), rev. den. (Minn. 6-14-05): Minnesota guidelines do not violate or conflict with the mandates of federal law. The guidelines satisfy all federal child-support requirements, including a consideration of the economic data on the cost of raising children. Further, a conflict with federal law would not be significant for preemption purposes; the state would simply be ineligible for incentive payments under the federal scheme. Where there is no federal preemption of state law, there is no violation of the supremacy clause of the U.S. Constitution.	Minnesota's guidelines do not violate the supremacy clause-there is no federal preemption of state law.
In re the Marriage of Jeremy James Zander v. Melinda Alice Zander ; A05-2094, Filed 8/22/06 (Minn.App. 2006); rev. denied November 14, 2006: Even though the Mdewakanton Sioux Tribal Domestic Relations Code specifically states that all per capita payments are non-marital property belonging to the tribal member, the district court concluded that Minnesota law governs the dissolution and where the Tribal Code is inconsistent with Minnesota law, the Code does not apply. This case was distinguished from *Kucera v. Kucera, 275 Minn. 252, 146 N.W. 2d 181.* Dissent would have characterized the per capita payments as akin to a "gift" and held that since issue of first impression, the tribe should have had an opportunity to make an appearance because a provision of its code was at issue in the majority opinion.	Indian Law, subject matter jurisdiction.
H.T.S. vs. R.B.L., (Unpub.), A07-0561, filed December 11, 2007 (Minn. App. 2007): The decision whether to reopen the record based on a claim of surprise rests within the district court's discretion. Denial did not violate due process. Decision governed by caselaw and rules 60 and 59 of the Minn. R. Civ. Proc.	Claim of surprise. Failure to reopen record not a violation of due process.
Krznarich vs Freeman, (Unpub.), A07-993, filed December 18, 2007 (Minn. App. 2007): The fact that the judge did not read the motions filed by the parties until after the hearing did not deprive the parties of a fair hearing, and does not merit a new trial.	Due process not violated where judge did not read motions before the hearing.
Carlene Yvonne Nistler v. Terrance Roger Nistler, (Unpub.), A07-0793, filed April 1, 2008 (Minn. App. 2008): Appellant obligor argued he was denied due process as a pro se litigant when CSM failed to sua sponte grant him a continuance or leave the record open for submission of documents. Court of Appeals held no abuse of discretion to fail to grant relief that obligor did not request, noting the obligor has the initial burden of proof and pro se litigants are held to the same standard as attorneys.	No due process violation when court fails to order something not requested by pro se litigant.

In re the Matter of: County of Carver ex rel Lori J. Schuman vs. Daniel L. Revsbech, (Unpub.), A07-0442, filed April 22, 2008 (Minn. App. 2008): Appellant father appeals order determining medical and child care arrears existed. The Court of Appeals affirmed, stating (1) it was not an abuse of discretion to interpret language in a prior order concluding that the prior order modified only basic support arrearages, and not medical or childcare support arrearages. (2) Appellant argues that the arrearages merged into the subsequent order which recalculated appellant's basic support arrearages, but did not address medical or childcare arrearages. The court rejected the argument noting the order was not temporary as defined by Minn. Stat. § 518.131 nor is it a temporary alimony order. Finally, the issue was established after full litigation of the claim, in which Appellant had counsel and presented arguments and facts. As such, Appellant was not denied due process.	Medical and childcare arrears did not merge with district court's recalculation of basic support arrears.
Robert Atkinson v. Minn. Dept. of Human Services, No. A16-1688, 2017 WL 2427585 (Minn. Ct. App. Jun 5, 2017): The method used by DHS in determining income to asses a parental fee for MA does not violate a party's substantive due process rights or equal protection rights. The income based formula indentifies a limited number of exceptions. The absence of additional exceptions is reasonable.	Parental Fee for MA program
Meeker County and Victoria Lynn Moreno, n/k/a Victoria Lynn Baalson v. Kyle Richard Greene, No. A16-1701, 2017 WL 3013234 (Minn. Ct. App. Jul 17, 2017): A violation of an individual's Free Exercise of Religion is considered using a balancing test with four prongs: (a) Whether the objector's belief is sincerely held; (b) Whether the state regulation burdens the exercise of religious beliefs; (c) Whether the state interest in the regulation is overriding or compelling; and (d) Whether the state regulation uses the least restrictive means. Minn. Stat. § 518A.68 did not violate the obligor's right to religious freedom. Minn. Stat. § 518A.68 promotes a public purpose by attempting to ensure adequate and timely payment of child support. The statute does not unreasonably burden or interfere with appellant's right to employment.	Recreational License Suspension (518A.68)
In re the Marriage of: Cusick v. Cusick, A19-00224, 2020 WL 1242964 (Minn. Ct. App. 2020): Federal law does not preempt state law in family law matters absent a clear intent to do so by Congress. Overtime pay that began before the entry of the existing child support order should continue to be counted as gross income in a modification motion context.	Income, Determination of; Modification; Overtime - in modification

PART II - CHILD SUPPORT II.A. - GENERAL PRINCIPLES	
II.A.1. - Obligation to Support	
Minn. Stat. ' 518A.38, Subd. 4 - court may order support to be paid to a person other than a parent if the court approves the custody arrangement regardless of whether the person has legal custody; 42 U.S.C. ' ' 466, 651-669 (Child Support Enforcement Amendments of 1984).	
Beigler v. Chamberlin, 165 NW 2d 128 (1917): Parent's obligation to support child commences with child's birth.	Commence-ment of Obligation
Jacobs v. Jacobs, 309 NW 2d 303 (Minn. 1981): Parent's obligation to support child begins with child's birth.	Duty from Birth
County of Anoka v. Richards, 345 NW 2d 263 (Minn. App. 1984): As between the parent and the public, the primary obligation of support of a child should fall on the parent and the county should only be expected to contribute to the extent that the parent is unable.	Primary Obligation
Hortis v. Hortis, 367 NW 2d 633 (Minn. App. 1985): Both parents owe equal duty to support, but historically the assumption has been that custodial parent provides his/her share through services or expenditures not monitored by court.	Custodial Parent's Obligation
Swanson v. Swanson (Patricia v. Roy), 372 NW 2d 420 (Minn. App. 1985): Primary obligation for support of a child should fall on parents rather than public.	Primary Obligation
Grunseth v. Grunseth, 364 NW 2d 430 (Minn. App. 1985): Child support continues despite provision in Judgment and Decree to the contrary when a child leaves home but continues to have a bedroom at home.	Child Leaves Home
Cotter v. Cotter, 392 NW 2d 274 (Minn. App. 1986): Failure to award child support is error without sufficient findings on the needs of the children and the financial condition of the parents.	Failure to Award
Aumock v. Aumock, 410 NW 2d 420 (Minn. App. 1987): Child support relates to non-bargainable interest of the children. Inasmuch as decree permanently waiving child support is against public policy and unenforceable and child support is to be deemed reserved in the dissolution decress, the trial court must establish a subsequent child support award based on its determination of facts and circumstances existing at the time of the application of support. Stipulated permanent waiver of child support is against public policy and unenforceable; abrogation of the waiver without setting support constitutes a reservation.	Waiver of Support - Reservation
Bowen v. Gilliard, 107 S.Ct. 3008 (1987): The following language appearing in the dissenting opinion of Justices Marshall and Brennan, discusses the importance of child support, and can be used in arguing for support from a low income parent: "Thus, aside from its intrinsic importance, child support is a strand tightly interwoven with other forms of connection between father and child. Removal of this strand can unravel all the others," p. 3025 (Studies cited in footnotes on pp.3024-3025).	Importance of Support from Low Income Parent
Martin v. Martin, 401 NW 2d 107 (Minn. App. 1987): Court of appeals express disfavor with decree that awards no child support; noncustodial parents have an obligation to commit a certain amount of their income to their children.	Reservation of Support
Douglas County Child Support Enforcement Unit v. Covegn, 420 NW 2d 244 (Minn. App. 1988): A duty to support a child is present regardless of whether parent has legal custody.	Effect of Legal Custody
Warwick v. Warwick, 438 NW 2d 673 (Minn. App. 1989): Requiring a non-custodial parent to make and report efforts to find a new job does not violate state and federal prohibitions against involuntary servitude.	Involuntary Servitude
Schaff v. Schaff, 446 NW 2d 28 (N.D. 1989): When parents of a child born out-of-wedlock married each other, child custody and future support provisions of paternity judgment were nullified. If those parents subsequently seek a divorce, the divorce laws are then applicable to the (*de novo*) determination of custody and support.	Support Obligation under Paternity Judgment Ends Upon Marriage
Hildebrand v. Hildebrand, 477 NW 2d 1 (Neb. 1991): Child support obligations under prior dissolution decree were terminated upon parties= remarriage.	Support Obligation Under J & D ends Upon Re-Marriage

In Re the Support of J.M.K. and S.R.K., 507 NW 2d 459 (Minn. App. 1993): Minn. Stat. ' 256.87, Subd. 5, does not give basis for retroactive child support payments. However, court can award retroactive support under Minn. Stat. ' 518. (This pre-dated NPA past support under Minn. Stat. ' 256.87.)	Retroactive Establish-ment of Support
Korf v. Korf, 553 NW 2d 706 (Minn. App. 1996): Jacobs cannot be used to claim that retro-active child can go back indefinitely, even before commencement of a dissolution. Support order can go retroactive to date of service in a dissolution action, and under some circum-stances, the court in its final decree can hold the obligor responsible for support retroactive to the date of the parties' separation, even though that comes before commencement of the dissolution action.	Retroactive Child Support in Dissolution Proceeding
Kotzenmacher v. McNeil, (Unpub.), C2-96-1309, F & C, filed 12-3-96 (Minn. App. 1996): Husband did not have standing to obtain reimbursement of child support from biological father. No statute provides for reimbursement of private parties who have provided child support. Neither does doctrine of unjust enrichment provide a remedy to husband.	No Reim-bursement to Non-Parent for Past Provider Support
Hamm v. Office of Child Support Enforcement, 985 SW 2d 742 (Ark. S. Ct. 1999): The state's interest in requiring minor parents to support their children overrides the states competing interest in protecting juveniles from improvident acts. A minor child is entitled to support from both her parents, regardless of their ages.	Minor Parents' Obligation to Support
Spaeth v. Spaeth, (Unpub.), CA-1216-99, F & C, filed 11-23-99: Obligor had percentage order, and provided CP with pay check stubs as well as payments. Child support payments were computed on straight time, and did not include overtime and did not include tax refunds. District court erred when it determined that CP and county waived any claim for arrearages by accepting and cashing the payments. (1) There can be no waiver without an actual or implied intent to waive; (2) Any agreement between parents waiving child support is not binding on the court as child support relates to the non-bargainable interests of children (citing Aumock, 410 NW 2d at 421).	No Waiver of Arrears Where CP Accepted Payments not Knowing they were not the Full Amount Owed
State, ex rel Buckner v. Buckner, Tenn. Ct. App. No. E2000-00959-COA-R3-CV, filed 8-24-00: Father=s mortgage payments made in lieu of support did not relieve father of obligation to reimburse the state for AFDC payments.	Not Satisfied by Mortgage Payment
Moe v. Kerner, (Unpub.), C7-00-1196, F & C, filed 12-26-2000 (Minn. App. 2001): Father signed MTA agreeing to monthly payment of child support plus 50% of school, medical and day care expenses. Father alleges mother told him the child support provision was necessary to Asatisfy the judge@ but that they would never try to collect child support under any circum-stances so long as he paid 50% of the expenses. Two years later, mother applied to the public authority for support and collection. Father commenced a civil action for breach of contract/ fraud against mother. District court correctly dismissed his complaint pursuant to Minn. R. Civ. P. 12.02(e) for failure to state a claim upon which relief can be granted, since waivers of child support are not legally binding as against public policy. See Tammen v. Tammen, 182 NW 2d 840, 842 (1970) and Aumock v. Aumock, 410 NW 2d 420, 421 (Minn. 1987).	Contract to Not Collect Support Unenforceable
Kellogg v. Kellogg, (Unpub.), C5-02-161, F & C, filed 8-19-02 (Minn. App. 2002): In the J&D, CP stipulated to a waiver of her right to child support, except in the extraordinary event of an adverse substantial change in CP's financial circumstances. CP's income declined from $181,236 to $146,270 net, but her income was still more than twice the upper income limit for a guidelines award. In light of CP's high income and the consideration given in the J&D for CP=s waiver of support, it was proper for the court to deny CP's request for support from the NCP.	Waiver of Support by High Income CP
Paternity of J.M.V. and Valento v. Swenson; Ramsey County and Christensen v. Swenson, 656 NW 2d 558 (Minn. App. 2003): Child support obligors in multiple family cases should have payment obligations that can be met and are collectible; one judicial officer should not create unreasonably high support obligations for multiple families.	Multiple Family Cases
Gruenes v. Eisenschenk, 668 NW 2d 235 (Minn. App. 2003): The fact that a party has had custody of children without receiving support is not sufficient basis to override the general rule against retroactive establishment of support.	No Retroactive Support

Bunce v. Bunce, (Unpub.), A03-1030, filed 5-4-04 (Minn. App. 2004): Where custody was changed from mother to father, based on court services recommendation, and court then denied retro establishment of mother's child support obligation to father to the date he filed his motion, giving as its basis grounds not supported by law, but held father responsible for unsubstantiated arrears, the case was reversed and remanded. The appellate court found presence of gender bias where the lower court did not apply the same standard to mother's support obligation that would be applied to a man.	Decision Based on Gender is Abuse of Court Discretion
Powers, f/k/a/ Duncan v. Duncan, (Unpub.), A04-19, F & C, filed 10-5-04 (Minn. App. 2004): CSM's finding that the child lives with friends and not with CP is an inadequate basis to absolve NCP of the obligation to pay child support. The fact that a child does not live with the person awarded physical custody does not necessarily relieve the obligor from having to pay support. See. Minn. Stat. § 518.17, Subd.3&4.	Child Lives with Friends
In re the Marriage of Joseph M. Kemp v. Sara N. Kemp, n/k/a Sara N. Lipetzky, (unpub.), A05-2039, (Redwood County), filed 8/22/06 (Minn. App. 2006): Dissolution stipulation stated that in lieu of child support, the parties agreed that each would provide the basic needs of the children while the children were in his/her care. Other expenses were divided with father paying 60% and mother 40%. Two years later, father motioned to modify based on the mother's increased income and the father's inability to meet his and the children's monthly expenses. District court granted motion and ordered guideline support. Mother asserts court did not give proper weight to the stipulation. Court held the basic right of minor children to support may not be affected by any agreement between the parents or third persons.	Stipulations.
In re the Marriage of Arneson v. Meggitt, (Unpub.), A06-1437, Filed October 30, 2007 (Minn. App. 2007), Dakota County: The district court did not err when it extended the obligor's child support obligation one year beyond that which was stipulated to by the parties in their J&D when the child of the parties had fallen behind in school due to behavioral and academic issues and his graduation date was subsequently delayed one year. Stipulated child support judgments are not contracts that bind the court, and the court may reset child support because of the important public policy favoring the nonbargainable interests of the child. *See Swanson v. Swanson*, 372 N.W.2d 420, 423 (Minn. App. 1985).	Court has broad discretion to modify child support even in the face of a stipulation when modification benefits the best interests of the child.
Lubich n/k/a Miller vs. Lubich, (Unpub.), F & C, A07-1159, filed March 4, 2008 (Minn. App. 2008): Appellant non-custodial father challenges denial of his motion to require respondent/custodial parent to pay child support for parties' sole remaining minor child who resides with him. Appellant argued that the district court misapplied the law and abused its discretion by not making findings to overcome the presumption that respondent was not a child support obligor (Minn. Stat. §518A.26, subd. 14) and impose a child support obligation on her because the child lives primarily with him. The district court found that appellant owes respondent many thousands in arrears and even though appellant's support obligation had previously been reduced he had not significantly reduced his arrears. The Court of Appeals distinguished this case from both *Rumney* [sic] and *Tweeton* because neither of those cases involved an obligor with significant arrears. The district court's refusal to require respondent to pay support was affirmed.	Establishing child support against parent who has custody by court order.
Williams v. Williams, (Unpub.), A06-1918, filed April 8, 2008 (Minn. App. 2008): Appellant father appeals from the district court's order increasing child support. The original order granted the parties joint custody and set no support obligation for either parent. The order required mother to pay for the child's clothing and health insurance expenses and required father to pay for camp and extracurricular activities. The district court implied, but never made findings, establishing the prior order as unreasonable based on public policy because no specified dollar amount of child support was ordered. The Court of Appeals held the public policy concern in favor of a specified dollar amount is not triggered in this case as the dissolution does not assign child support on a percentage basis. Therefore, there is no presumption on this basis alone that the support is unreasonable or unfair. The Court of Appeals remands.	Public policy argument for a set dollar amount of child support does not apply when no support is ordered by either parent.

Gilbertson vs. Graff and County of Clay, Intervenor, (Unpub.), A07-2236, filed June 24, 2008 (Minn. App. 2008): Appellant argues that, because the child is not longer living with respondent (but with a third party), respondent should also be responsible for child support. The individual with court-appointed custody is presumptively not the obligor for child support purposes. *Bender v. Bender*, 671 N.W.2d 602, 607 (Minn. App. 2003). However, where the child begins to reside with a third party, there is presumably a change in circumstances that would support a recalculation of child support.	Support owed to third parties
Gilbertson vs. Graff and County of Clay, Intervenor, (Unpub.), A07-2236, filed June 24, 2008 (Minn. App. 2008): Appellant asserts that someone over 18 years of age, who is capable of self-support, should be required to support himself. The child support order clearly sets forth the conditions that would terminate the child support obligation. It does not matter that the child is capable of supporting himself; child support obligations cannot be terminated on this basis.	Termination of child support not warranted solely because child able to support himself.

II.A.2. - Priority of Support	
State v. Fuerst, 168 NW 2d 1 (Minn. 1969): The Minnestoa Supreme Court held that an obligor's duty to support his or her progeny must take precedence over every consideration not arising from absolute necessities or self-sustenance. Obligation of father to support his child must take precedence over every consideration for himself not arising from absolute necessity of self-sustenance.	Non-necessities
Arora v. Arora, 351 NW 2d 668 (Minn. App. 1984): The obligation to support a child must take precedence over other obligations unless they arise from the necessities of self-sustenance.	
Bakke v. Bakke, 351 NW 2d 387 (Minn. App. 1984): Child support payments take precedence over personal investments or luxury purchases.	Investments vs. Support
Bakke v. Bakke, 351 NW 2d 387, 388 (Minn. App. 1984): Child support takes precedence over personal investment or luxury purchases such as boat and snowmobile licenses and entertainment.	Entertainment Expenses
Bledsoe v. Bledsoe, 344 NW 2d 892 (Minn. App. 1984): Child support payments take priority over restitution payments resulting from obligor's own voluntary criminal actions.	Restitution
Nazarenko v. Mader, 362 NW 2d 1 (Minn. App. 1985): Child support payments should be preferred to debt payments.	Debt Payments
Covington v. Markes, 366 NW 2d 692 (Minn. App. 1985): Not error to award obligee child support even though obligor has considerably less expendable income due to obligor's voluntary decisions such as purchase of home or car.	Home/Car Purchase
Hortis v. Hortis, 367 NW 2d 633 (Minn. App. 1985): Child support should not be used to equalize income between parents.	Income Equalization
Ronay v. Ronay (Ronay II), 369 NW 2d 12 (Minn. App. 1985): Unconscionable to reduce child support, thereby making attorneys fees payable out of child support.	Attorney Fees
Finck v. Finck, 399 NW 2d 575 (Minn. App. 1987): The obligation to support a child must take precedence over other obligations unless they arise from the necessities of self-sustenance.	Takes Precedence
Kuronen v. Kuronen, 499 NW 2d 51, 54 (Minn. App. 1993) *rev.den.* (Minn. 6-22-93): Parent's obligation to support child takes precedence over every consideration outside the absolute necessities of self sustenance.	Non-Necessities
Tiede v. Tiede, No. A09-2327, 2010 WL 3220129 (Minn. Ct. App. Aug. 17, 2010): Father filed a motion requesting permission to pay a portion of his child support obligation directly to the companies holding the mortgages on the martial homestead. The District Court granted the Father's request to pay a portion of his child support obligation directly to the mortgage companies. The Court of Appeals held the court may characterize payments regarding homestead property as being in the nature of child support and may allow the obligor to offset those payments against child support payments. The children benefit directly from the obligor making the mortgage payments by allowing the children to remain in the marital homestead.	Children benefit directly form the obligor making mortgage payments in order to allow children to remain in martial homestead.
Traguott v. Traguott, A22-1446, 2023 WL 3701366 (Minn. Ct. App. 2023): The district court did not abuse its discretion by imposing sanctions on appellant-father under § 549.211 as the record supports the finding that father had no good-faith basis for his contempt motion, and the amount of the sanction was modest, consistent with deterrence rather than punishment.	Attorney Fees in Contempt Action; Contempt-Order to Show Cause; Good Cause

II.A.3. - Standard of Living	
Kreidler v. Kreidler, 348 NW 2d 780 (Minn. App. 1984): Whenever possible, court should minimize financial consequences of dissolution for child; not in best interest of child to deny him the standard of living he would have enjoyed but for the dissolution; i.e., the benefit of both father's income and mother's.	Standard of Living
LeTourneau v. LeTourneau, 350 NW 2d 476 (Minn. App. 1984): Child should not be precluded from benefitting from income of both parents, nor should parent precluded from accruing savings simply because her income less expenses results in figure lower than guidelines.	Standard of Living/ Custodial Savings
Helland v. Helland, 354 NW 2d 591 (Minn. App. 1984): Adverse financial consequences of marital dissolution should be minimized for minor children to greatest extent possible.	Minimize Consequences
Kowalzek v. Kowalzek, 360 NW 2d 423 (Minn. App. 1985): Mechanical calculation of child support arrived at by subtracting custodial parent's guidelines support obligation from noncustodial parent guideline support obligation ignores standard of living child would have enjoyed but for dissolution.	Standard of Living
Fuller v. Glover, 414 NW 2d 222 (Minn. App. 1987): Trial court has duty to minimize financial consequences of marital dissolution for minor child.	Effect of Dissolution
County of Nicollet v. Haakenson, 497 NW 2d 611 (Minn. App. 1993): It was proper for ALJ to grant guidelines child support in an amount greater than the child's share of monthly living expenses because: (1) actual expenses attributable to child is different from child's needs; (2) guidelines support establishes a rebuttable presumption of the needs of the child; and (3) child entitled to enjoy the benefits of income of both parents.	Guidelines Support Greater than Child's Current Monthly Expenses
In re the Marriage of Gerald Ernest Jeschke, petitioner, Appellant, vs. Kirsten Jean Libby, Respondent, (Unpub.), A06-1359, Ramsey County, filed July 31, 2007 (Minn. App. 2007): District court ordered that if the child of the parties remained in private school appellant should pay 2/3rd the cost and respondent 1/3rd the cost of tuition. Appellant argues abuse of discretion for the district court to allocate the cost of private school tuition. Court's order did not require the parties sent the child to private school, but found continuation of private school provided the child with the standard established by the parties over the years. The allocation was supported by the record.	Allocation of private school tuition not an abuse of discretion where the court did not require the child to stay in private school, but held that the parties had established a standard of living for the child by continuation of private school and the cost should be allocated if they continued.

II.A.4. - Other	
Reynolds v. Reynolds, (Unpub.), C0-96-1826, F & C, filed 2-25-97 (Minn. App. 1997): Although the decision to set the effective date of child support is within the court's discretion (See Finch v. Marosich, 457 NW 2d 767,770 (Minn. App. 1990), where district court did not establish child support retroactive to the date of service of the obligee aunt's motion, where the children's expenses exceeded their Social Security payments, and where obligor father had a legal obligation to support the child, and aunt and uncle did not, trial court should have addressed retroactive support rather than setting prospective support only.	Effective Date of Support Obligation
Ramsey County v. Taylor, A05-1318 (Ramsey County): Court of Appeals upheld an award of child support retroactive to November 1990, the date the initial summons was served, despite the fact that obligee did not pursue resolution of her action until 2003, with the help of Ramsey County. The Court of Appeals opined that: (1) Minn.R.Civ.P. 3.01(a) provides a civil action is commenced when summons is served; (2) obligee's failure to pursue her claim was not voluntary as she had a reasonable fear for her safety based on a previous Order for Protection; and (3) public policy of obligor's duty to support the child outweighs quick resolution of an action and any laches argument. Court of Appeals remanded for income determination because the district court mistakenly relied on obligor's affidavit for the proposition of his anticipated income and the affidavit made no such assertion. Affirmed in part, reversed in part, and remanded.	Establishing support retroactive back to date initial summons was served was appropriate.
In re the Marriage of Fumagalli v. Fumagalli, No. A16-0735 (Minn. Ct. App. Mar 20, 2017): A parent who is momentarily unemployed is not entitled to an immediate modification of a child support obligation, even if the unemployment is of uncertain duration and possibly of very short duration. To the contrary, caselaw indicates that it sometimes is appropriate to take a broader view of a party's income by considering that the party has earned in the recent past. Considering cost-of-living differences from other states is not one of the seven specified factors that the district court must take into consideration in determining whether to deviate from a presumptive child support obligation.	Modification; Guidelines
In re the Marriage of Rebecca Lynn McNeil v. Mark Aaron McNeil, No. A16-0696, 2017 WL 2535679 (Minn. Ct. App. Jun 12, 2017): The district court can address the allocation of extracurricular expenses although not specifically litigated because the issue of child support was litigated. The court can apportion the division when the net monthly support payments remains less than presumptive guidelines.	Addressing division of extracurricular activities when child support is addressed.
In re the Marriage of: Towobola Abimbola Oladejo vs. Olanrewaju Muideen Oladejo, No. 23-1609, 2025 WL 440097 (Minn. Ct. App. Feb. 10, 2025): The Court of Appeals affirms the district court's rulings on the issues of joint legal and joint physical custody, the calculation of basic support, and the finding of no childcare costs. The issue of whether marital or non-marital funds were used to pay the mortgage on the marital home after the valuation date is remanded as it affects husband's equity equalizer payment to wife.	Best Interest of Child-Custody; Custody; Basic Support-Definition; Basic Support-Guideline Table; Childcare Support (Support $)-Definition; Guidelines Table for Basic Support; Modification

II.B. - RECEIPT OF PUBLIC ASSISTANCE	
II.B.1. - Generally	
Minn. Stat. ' 518A.44 - requires petitioner in a dissolution, parentage or custody action to notify the public authority of the proceedings if either party in receiving assistance. Subd. 6 - provides that if court finds notice was not given, child support must be set according to guidelines; Minn. Stat. ' 518A.45 - requires notice to public authority of a pending dissolution whenever public assistance is issued. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (PRWORA), 42 U.S.C., Pub. L. No. 104-193, 110 Stat. 2105 (1996) replaced 42 U.S.C. 601-617 - Title IV-A of the Social Security Act - AFDC.	
Steffes v. Minnesota Department of Public Welfare, 309 NW 2d 314 (Minn. 1981): Child eligible to receive AFDC benefits when natural father resides in home but has been discharged for liability for support by means of court approved lump sum settlement.	Lump Sum Settlements
State, ex rel. Meneley v. Meneley, 398 NW 2d 28 (Minn. App. 1986): Counties should be cautious in their documentation and proof of receipt of public assistance and have a current affidavit available at the time of the court hearing.	Affidavit Needed at Hearing
Maskrey v. Maskrey, 380 NW 2d 598 (Minn. App. 1986): Trial court erred in enjoining father from applying for AFDC for child until he obtained order granting him legal custody as the county is required to furnish AFDC if the child is in need and the parent with whom the child resides, regardless of legal custody, is unable to provide for those needs.	AFDC Eligibility
Huston v. Huston, 412 NW 2d 344 (Minn. App. 1987): Trial court improperly assumed that former wife would continue to receive AFDC after an increase in child support where child support exceeded amount of AFDC grant, making her ineligible.	Eligibility
Todd v. Norman, U.S. Ct. App. 8th Cir. 3-12-88: Social Security disability benefits are not "child support payments" that may be disregarded in calculating AFDC eligibility levels.	Social Security Disability not Child Support
Holmgren v. State of Minnesota Department of Human Services, et al, (Unpub.), C1-90-2566, F & C, filed 5-21-91 (Minn. App. 1991): The court of appeals upheld the decision of the Commissioner of Human Services to reduce the AFDC grant of a mother who refused to cooperate in establishing paternity because the agency explicitly based its determination on other factors in addition to blood test results.	Non-Cooperation by AFDC Recipient
State of Minnesota v. Conteres, (Unpub.), C6-95-1514, F & C, filed 10-6-95 (Minn. App. 1995): Amount of civil restitution ordered against mother who wrongfully obtained assistance should be the amount of the overpayment minus court-ordered support actually paid by AP for that period (as opposed to court-ordered obligation of AP). If ultimately county obtains an overage, it can be handled in same manner as other excess collections.	Amount of Restitution for Welfare Theft
Renee v. Department of Public Welfare, 702 A. 2d 575 (Pa. 1997): States are given broad discretion to administer their welfare programs and deferential review is accorded their implementation.	State's implementa-tion of welfare programs
Kilpatrick v. Kilpatrick, 673 NW 2d 528 (Minn. App. 2004): A county has standing to make a motion to modify child support and is a real party in interest in a IV-D case where there has been an assignment of support. Minn. Stat. ' 518.551, subd. 9(b)(2002),(Renumbered Minn. Stat. §518A.49) and intervention is not required	County has Standing/ Party Status in PA Case
Holt and County of Becker v. Holt, (Unpub.), A03-1795, filed 7-20-04 (Minn. App. 2004): CSO statements made in affidavit and in testimony regarding the amount of public assistance expended in the case based on information obtained from the state child support computer system was admissible under the public records exception to the hearsay rule. Minn. R. Evid. 803(8).	CSO Affidavit re: Amount of PA is Admissible as a Public Record

Austin, et al v. Goodno, Commissioner of Human Services, (Unpub.), AO4-759, F&C, filed 12-28-04 (Minn. App. 2004): Minn. Ct. App. Laws 2003 amendment to Minn. Stat. § 256J.37 reduced MFIP benefits when a parent of child receives SSI benefits, up to $50 of rent assistance is to be counted as unearned income in the calculation of the MFIP grant, and the earned income level at which households lose MFIP eligibility went from 120% and 115% of the federal poverty guidelines. Effective date of statute was to be 7/1/03. Plaintiffs obtained an injunction preventing implementation of amendments until DHS obtained USDA approval. USDA approval was granted 7/16/03. DHS now wants to be able to recoup "overpayments" made in July, 2003. Court of appeals ruled DHS could not recoup the monies because under federal law, prior approval is necessary before DHS may implement statutory amendments that affect MFIP; subsequent approval does not have retroactive affect.	Prior Approval from Feds for Statutory Changes in MFIP Eligibility is Required before DHS Implements Statute
Hare, f/k/a Parker vs. Grewe, (Unpub.), A07-0850, F&C, filed May 20, 2008 (Minn. App. 2008): District court/CSM has discretion to deny continuance when requesting party had sufficient notice and time to hire an attorney and prepare for hearing, and was therefore not prejudiced.	Discretion to deny continuance.
Lee v. Vacko, A16-1982 (Minn. Ct. App. Sep. 11, 2017): Child support obligations may be suspended if the obligor receives public assistance. The receipt of public assistance must be lawfully received. A conviction of fraud based on an Alford plea is admissible as evidence in a civil trial.	Modification; Suspension of support based on receipt of public assistance.

II.B.2. – Assignment	
Minn. Stat. ' 256.741, Subd. 2 (1999); Minn. Stat. ' 518A.49	
State of Wisconsin, ex rel. Southwell v. Chamberland, 361 NW 2d 814 (Minn. 1985): Public agency, as assignee of rights of child support, is not limited to amount of assistance expended for child alone, but has rights to all support owed up to total AFDC expended.	Up to Total AFDC for All Children
State of Wisconsin, ex rel. Southwell v. Chamberland, 361 NW2d 814 (Minn. 1985): Assignment of support extinguishes any right of obligee to recover assigned arrears on her own behalf.	Extinguishes Obligee's Rights
Iverson v. Schulte, 367 NW 2d 570 (Minn. App. 1985): Assignment of support allows county to be awarded arrearages accrued before AFDC received and any expended for family members.	Pre-AFDC Arrears
Iverson v. Schulte, 367 NW 2d 570 (Minn. App. 1985): Assignment of support provision is constitutional as applied to AFDC applicants with prior support order and those without prior support order as they are not similarly situated.	Constitu-tional
Iverson v. Schulte, 367 NW 2d 570 (Minn. App. 1985): Contract arguments are inapplicable to an assignment which arises by operation of law up to total amount of AFDC expended for family.	Contract Theory N/A
Iverson v. Schulte, 367 NW 2d 570 (Minn. App. 1985): Appeals court finds that county has no duty to give persons subject to state and federal statutes and regulations direct notice of their content and application.	Notice - Laws
Iverson v. Schulte, 367 NW 2d 570 (Minn. App. 1985): Assignment gives county right to child support that accrued before recipient began receiving AFDC.	Arrears
Maskrey v. Maskrey, 380 NW 2d 598 (Minn. App. 1986): Error for court to order father to indemnify mother for claims made against her by the county for reimbursement of AFDC funds expended on behalf of the parties' minor child.	Indemnifi-cation
Bowen v. Gilliard, 107 S.Ct. 3008 (1987): Requirement of AFDC applicants that they must assign child's outside support payments to the state, which then remits the same as part of an AFDC payment for the whole family, and not just the child, does not amount to an unconstitutional taking of the child's property and is constitutional. Lengthy dissenting opinion of Justices Brennan and Marshall argues that not allowing support to go directly to the child is an unwarranted intrusion into the fundamental parent and child relationship.	Supreme Court Upheld
Hitzeman v. Ramsey County, (Unpub.), C2-87-1514, F & C, filed 12-22-87 (Minn. App. 1987): Assignment of rights under Minn. Stat. ' 256.87 includes any child support arrearages due at the time of the assignment and the assignment need not be exercised while assistance is being received and may be enforced after assistance terminates.	Can Exercise After Termina-tion
Hogsven v. Hogsven. (Unpub.),1988 WL 27619 (Minn. App.1 988): A recipient of public assistance is considered to have assigned to the agency responsible for child support enforcement all rights to child support. Minn. Stat. § 256.74, subd. 5 (1986). Rice County, as the public agency, is joined as a party in each case in which rights are assigned. Rice County had standing, as appellant's assignee, to seek judgment against respondent for unpaid child support in this action.	County has Standing to Seek Judgment for Support Arrears in PA Case
Holmgren v. State of Minnesota Department of Human Services, et al, (Unpub.), C1-90-2566, F & C, filed 5-21-91 (Minn. App. 1991): Agency's decision to non-coop. paternity client when she fails to provide complete information on potential fathers, and both men named have been excluded by blood tests is upheld.	Non-Coop.
Gramling v. Memorial Blood Center, 601 NW 2d 457 (Minn. App. 1999): Child sued St. Louis County because court did not pursue paternity in 1979 after an erroneous blood test exclusion. Court properly granted summary judgment in favor of the county because no attorney-client relationship existed between the child's mother and the county. The assignment of support did not create an attorney-client relationship, and the mother did not seek legal advice from the county. The (1979) paternity statute did not create an affirmative duty for the county to conclusively establish paternity. A parent has no cause of action under that statute against a county that has declined to pursue the establishment of paternity.	Neither Pater-nity Statute nor PA Assignment Provide Basis for Child/ Parent to Hold County Liable for Failure to Establish Paternity

II.B.3. - Good Cause	
Minn. Stat. ' 256.741, Subd. 10 (2002)	
Cass County Welfare Department v. Wittner, 309 NW 2d 320 (Minn. 1981): County cannot require AFDC recipient to disclose identity of father of her child before considering her good cause claim for failure to cooperate with child support efforts.	AFDC Cooperation
Renee v. Department of Public Welfare, 702 A. 2d 575 (Pa. 1997): The state's decision to deny PA applicant's good cause claim was supported by the finding that she failed to present corroborative evidence, or even to notify someone involved with the good cause proceedings that the corroborative evidence existed and was in the possession of DPW. The state's eligibility criteria for good cause determinations are entitled to deferential review by the court.	State's criteria to grant good cause entitled to deference, including requirement of cooborative evidence.
Moore and Hennepin County v. James, (Unpub.), C4-03-70, filed 6-24-03, (Minn. App. 2003): The court cannot dismiss an action for good cause based on its own determination that good cause exists. An individual is required to follow the procedure set out in statute for claiming good cause, including filing a written claim with the public agency on the form provided by DHS. The good cause determination is then made administratively by the public assistance agency.	Not for the Court to Decide

II.B.4. - Effect on Support Order	
Minn. Stat. ' 518A.43, Subd. 2 - cannot consider debts in public assistance case in setting guidelines support; Minn. Stat. ' 518A.43, Subd. 4 - no deviations from guidelines unless court finds that failure to deviate would impose an extreme hardship on the obligor; Minn. Stat. ' 518.57, Subd. 3 - child support obligation may not be deemed satisfied by obligor integrating the child in his home if obligee receives assistance.	
Seller v. Geshick, 387 NW 2d 439 (Minn. App. 1986): Trial court ordered current support for one child on a four child grant in the amount of of the children's portion of the grant. Court of appeals held it was error to not order support according to guidelines.	Child's Portion of Grant
Novak v. Novak, 406 NW 2d 64 (Minn. App. 1987): Application of guidelines required by mother's status as public assistance recipient even though such support could render mother ineligible for such assistance.	Public Assistance
Bauerly v. Bauerly, 765 N.W.2d (Minn. Ct. App. 2009): A District court found there was an error in calculating child support in the J&D which resulting in him overpaying child support. Because the father over paid in child support he sought equitable relief in the form of reduction in his future payments. Because a district court has inherent equitable powers in marriage dissolution cases, a district court may, in its discretion, order compensation for overpaid support Minn. Stat. § 518A.52, which states that a public authority shall compensate an obligor for overpaid support through reducing debts and arrearages owed to the oblige and by reducing future support, constitutes a mandate only as to the public authority and does not limit a district court's inherent power to grant equitable relief.	Reimbursemnt.

II.C. - MINN. STAT. ' 256.87 ACTIONS	
II.C.1. - Generally	
County of Anoka v. Richards, 345 NW 2d 263 (Minn. App. 1984): Reservation of child support in paternity order does not prevent court from subsequently entering judgment in favor of county pursuant to Minn. Stat. ' 256.87.	Reservation
Crow Wing County Social Services v. McDermond, 363 NW 2d 97 (Minn. App. 1985): Notwithstanding custody award to father, fact that children receiving AFDC while residing with mother means father must reimburse county under Minn. Stat. ' 256.87.	De facto Custody / 256 Action
County of Hennepin on behalf of Clark v. Hernandez, 554 NW 2d 618 (Minn. App. 1996): Obligor is entitled to a forum to challenge the determination that child is a "dependent" child for AFDC purposes, and if not, AFDC was not properly provided and county is not entitled to reimbursement under Minn. Stat. ' 256.87. County must prove its reimbursement claim by a preponderance of the evidence.	Challenge of AFDC Eligi-bility
Faribault County Human Services and Peterson v. Seifert, (Unpub.), C2-98-455, F & C, filed 9-15-98 (Minn. App. 1998): A recognition of parentage, signed by minor parents, is a basis for bringing an action under Minn. Stat. '' 256.87 and 256.74 to obtain public assistance reimbursement and to establish child and medical support. (Parties here were over 18 when Minn. Stat. ' 256.87 action was brought.)	Minor ROP Basis for ' 256.87 Action
Rivera v. Ramsey County, 615 NW 2d 854 (Minn. App. 2000): Where a party seeks to modify an obligor's foreign child support order under the Full Faith and Credit for Child Support Orders Act, 280 U.S.C. ' 1738B, the order must be registered first. Further, the county seeking a support order must obtain one by modifying the registered foreign order pursuant to ' 518C, and may not establish a new support under ' 256.87. By not registering the Puerto Rican order and not seeking to modify that order as provided in Chapter 518C, the county has attempted to circumvent the intent of Congress and the Minnesota Legislature and to have this state's court ignore the full faith and credit owed to judicial proceedings of another jurisdiction.	' 256.87 Action to Establish Where There is a Foreign Order Entitled to Full Faith and Credit
Buettner v. Buettner, (Unpub.), C3-00-1504, F & C, filed 3-20-01 (Minn. App. 2001): Where child had moved full-time into father's home, but had not Abeen integrated into father's home with mother's consent, and where there was no court order granting father sole physical custody, trial court was correct in determining that father did not have a cause of action against mother for support under Minn. Stat. ' 256.87. The appropriate mechanism for a father to receive support is to bring a motion to change the existing custody order. (Ed. Note: This was a joint physical custody case, but the same concept should apply in a sole custody case. It is not clear whether an order changing custody is necessarily required to award support to the *de facto* custodian, or if a finding that the child was integrated into the parent's home with the other parent's consent would be sufficient. Also, this is a NPA case; result may be different in PA case. See Crow Wing County v. McDermond, 363 NW 2d 97 (Minn. App. 1985).)	*De facto* Custody Change

II.C.2. - Jurisdiction - Who is a "Parent"?	
Minn. Stat. ' 257C.02(b)(2002)-a de facto or third-party custodian can establish support under Minn. Stat. ' 256.87.	
County of Isanti v. Formhals, 358 NW 2d 703 (Minn. App. 1984): Court within county furnishing public assistance has jurisdiction to hear reimbursement proceeding under Minn. Stat. ' 256.87.	Jurisdiction
King v. Braden, 418 NW 2d 739 (Minn. App. 1988): County is not entitled to reimbursement from father of emancipated minor child who receives AFDC payments for her own children because he has no duty to support his grandchildren.	Child as Minor Caretaker
Wilson and County of Olmsted v. Speer, 499 NW 2d 850 (Minn. App. 1993): Where the presumption of paternity arises from a declaration of parentage (Minn. Stat. '' 257.34 and 257.55 1(e)), the child, mother, or county is not compelled to bring an action to adjudicate paternity before the court may order a presumed father to pay guideline child support and reimburse AFDC under Minn. Stat. ' 256.87.	Declaration of Parentage
County of Stearns v. Jeffrey Scholl, (Unpub.), CX-93-2242, F & C, filed 5-10-94 (Minn. App. 1994) 1994 WL 175013: ALJ has jurisdiction under Minn. Stat. ' 256.87 to hear a case due to presumption of paternity based on marriage, even though parent is contesting parentage in a dissolution proceeding. (ALJ reserved support).	Marriage Presumption
Sankstone and County of Olmsted v. Berge, (Unpub.), C4-96-131, F & C, filed 7-23-96 (Minn. App. 1996): Under Minn. Stat. ' 518.5511, Subd. 1(b), "Other issues outside the jurisdiction of administrative process" include attacks on jurisdiction, sufficiency of process and equitable claims, all of which must be raised in district court, not before an ALJ.	No Jurisdic-tion of ALJ
Casper and Winona County v. Casper, 593 NW 2d 709 (Minn. App. 1999): Obligor is entitled to retroactive forgiveness of arrears that accrued after obligor started receiving social security disability benefits, to the extent that obligor's children received social security benefits based on obligor's disability.	Obligor Entitled to Retroactive Credit Against Arrears in the Amount of SSA Benefits were Paid to Children from his Account
Casper and Winona County v. Casper, 593 NW 2d 709 (Minn. App. 1999): To the extent an obligor paid past child support, even though the children received SSA, the Custodial parent and children are entitled to keep any child support payments received as well as the SSA, as the excess payments constitute a gratuity.	Obligor not Entitled to Refund for Excess Child Support Paid While Children Received SSA
In Re Petition of S.A.L.H., A05-2213 (Traverse County): Obligee challenged the court's authority over child custody issues when obligor filed a motion for custody in October 2004, prior to the court's adjudication in December 2004. The Court of Appeals determined that since paternity was never disputed, obligor's premature filing of his motion constitutes a technical defect, which does not prejudice either party and does not provide grounds for dismissal. Second, it is not error to allow further discovery to confirm obligor's income and authorize the county to recalculate support by applying the guidelines to any revised income where the court ordered monthly child support based on the evidence before it and the parties could challenge the public authority's calculation in district court. Third, the Court of Appeals held the district court lacked the authority to bind a stepparent and erred in directly ordering the stepparent to provide medical support.	Order cannot bind stepparent who is not a party.

II.C.3. - Additional Remedy	
County of Anoka v. Richards, 345 NW 2d 263 (Minn. App. 1984): Order entered pursuant to Chapter 256.87 does not modify child support provision in paternity judgment and is not governed by modification provisions of Minn. Stat. ' 518.64.	256 Action
County of Isanti v. Formhals, 358 NW 2d 703 (Minn. App. 1984): Standards of 256 Action Minn. Stat. ' 518.64 do not apply to Chapter 256.87 action.	256 Action
County of Isanti v. Formhals, 358 NW 2d 703 (Minn. App. 1984): Minn. Stat. ' 256.87 gives county additional remedy of reimbursement notwithstanding existence of previous court order and notwithstanding fact that obligor is current under that order.	Additional Remedy
State, Clay County, on Behalf of Hendrickson v. Hendrickson, 403 NW 2d 872 (Minn. App. 1987): Reimbursement action is totally separate from child support order; reimbursement may be ordered regardless of existence of final decree of dissolution.	Separate from Support Order
State, Clay County, on Behalf of Hendrickson v. Hendrickson, 403 NW 2d 872 (Minn. App. 1987): Court not required to consider statutory factors regarding modification of support orders in modifying separate reimbursement order.	Modification of 256 Order
Curtis v. Curtis, 442 NW 2d 173 (Minn. App. 1989): Evidence supported determination that former husband acted in bad faith in terminating employment at which he had worked for more than ten years and from which he had net monthly income of $1,417.00 and justified refusal to reduce child support or forgive arrears, although husband stated in affidavit that he quit work because of allergies and because of doctor's recommendations and doctor's letter was submitted which discussed husband's allergies and possibility that his nasal condition might have been aggravated by his employment.	Income Imputed In- spite of Doctor's Report
Loscheider v. Loscheider, 563 NW 2d 331 (Minn. App. 1997), review granted (July 10, 1997): Although an order in a Minn. Stat. ' 256.87 action does not modify a support provision in a decree, it supersedes a support provision in a decree for as long as the order is in effect. In this case, the order in the reimbursement action establishing ongoing support and past reimbursement superseded the support waiver provision in the parties' decree.	' 256 Order Supersedes Waiver of c/s in J&D
County of Stearns v. Weber, 567 NW 2d 29 (Minn. 1997): Minn. Stat. ' 256.87 is an additional remedy available for reimbursement of past AFDC expenditures, but is not the exclusive remedy. Past AFDC can be recouped in a paternity action without bringing a separate ' 256.87 action or motion. The statute of limitations is two years prior to commencement of the paternity action. In this case, the Supreme Court reverses the court of appeals in Stearns v. Weber and also overrules the court of appeals decisions in County of Ramsey v. Shir, Hennepin County v. Geshick, and Isanti County v. Swanson.	Not Exclusive Remedy

II.C.4. - Ongoing Support Obligation	
Minn. Stat. ' 256.87, Subd. 1a (PA) and Subd. 5 (NPA).	
Nicollet County v. Larson, 421 NW 2d 717 (Minn. 1988): Child support guidelines apply in determining amount of ongoing reimbursement that non-custodial parent is required to make for present public assistance provided to child or child's caretaker.	Guidelines Applicable
Nicollet County v. Larson, 421 NW 2d 717 (Minn. 1988): Non-custodial parent was entitled to introduce evidence of expenses in proceeding brought pursuant to Minn. Stat. ' 256.87 to support departure from child support guidelines.	Evidence
State, ex rel. Miller v. Miller, 446 NW 2d 199 (Minn. App. 1989): Parties divorced and non-custodial father was ordered to pay $160 per month child support. Mother began receiving AFDC. The county commenced a Minn. Stat. ' 256.87 action and the trial court concluded father was obligated to the county for the $160.00 per month decree obligation plus any AFDC benefits. The court of appeals reversed stating the trial court should have applied the child support guidelines to father's income.	Guidelines Apply
State, ex rel. Miller v. Miller, 446 NW 2d 199 (Minn. App. 1989): It would have been preferable for county to have modified the child support in the Judgment and Decree rather than bringing a separate Minn. Stat. ' 256.87 action.	Mod of J&D Preferable to ' 256.87
Herrley v. Herrley, 452 NW 2d 711 (Minn. App. 1990): The amount of ongoing reimbursement obligation under Minn. Stat. ' 256.87 must be specifically stated rather than allowing for automatic increases, according to statutory guidelines, as income increases.	Specific Calculation
Mower County Human Services Assignee for Marilyn Hanson v. Stanley Rudsenske, (Unpub.), C1-93-1416, F & C, filed 12-24-93 (Minn. App. 1993): In joint custody case, where county seeks child support under Minn. Stat. ' 256.87, improper when applying Valento formula, for ALJ to treat AFDC payments as income to AFDC recipient. Also, deduction for maintenance respondent pays to petitioner improper.	AFDC not Income Available for Set-off
Larsen v. Larsen, (Unpub.), A03-1103, F & C, filed 6-29-04 (Minn. App. 2004): Where the child began to live full-time with one parent, subject to visitation by the other parent, but the joint physical custody provision of the order had not been modified, CSM permitted to establish ongoing support in the divorce file under Minn. Stat. § 518 from the date of filing of the motion, even though there was no motion pending to change custody. Must apply Hortis-Valento.	CSM has Jurisdiction to Set Support Where Physical Custody Shifts but no Change in Custody Order
County of Anoka ex rel Hassan v. Roba, 690 NW 2d 322, (Minn. App. 2004) A04-168, filed 11-30-04: In a Minn. Stat. § 256.87 action against child's mother to pay support in a PA relative caretaker case brought under Minn. Stat. § 256.87, the CSM included the standard "age 18, or age 20, if still in secondary school" language for the duration of the obligation. The appellate court, noting that the definition of "minor child" under Minn. Stat. § 256J.08, subd. 60 has a different standard, e.g. age 18, or up to age **19** if still in secondary school, believed it was "unclear" whether the CSM would have authority to continue child support payments beyond age 19 in a PA reimbursement action, and remanded to give the obligor the opportunity to challenge the receipt of assistance and her duty to support beyond age 19. [Ed. Note: ? if a definition in Chapter 256J should apply to Chapter 256. Also, there is some thought among some county attorneys that Minn. Stat. § 256.87, subd. 3 (continuing support after PA) should not apply if the requirements of Minn. Stat. § 256.87, subd. 5 have not been met—e.g. the "obligee" needs to either be the court-ordered custodian, or be able to prove that the child is in his/her physical custody with the consent of the legal CP].	Continuing Child Support in Question in § 256.87 PA Case, once Child is 19 and still in School and no longer a "Minor Child" Under § 256J, but is still a Minor Child Under § 518.

County of Anoka ex rel Hassan v. Roba, 690 NW 2d 322, (Minn. App. 2004) A04-168, filed 11-30-04: In a Minn. Stat. § 256.87 action against child's mother to pay support in a PA relative caretaker case, brought under Minn. Stat. § 256.87, mother had a net monthly income of $1,199, and monthly expenses of $1,075, and claimed an inability to pay child support in the guideline amount. The court of appeals stated that "ability to pay must be measured by the difference between her income and necessary monthly expenses." The court ruled that where the obligor submits evidence to show that he or she lacks the ability to pay, the fact finder must make findings to show that it has considered whether deviation is necessary. [Ed. Note: Court of appeals based its ruling on Minn. Stat. § 518.551, subd. 5(c) language that says, "In addition to the child support guidelines, the court shall take into consideration the following factors in setting or modifying child support or in determining whether to deviate from the guidelines" and on two pre-1993 cases: Becker County v. Peppel, (Minn. App. 1992) and County of Pine v. Petersen, (Minn. App. 1990). The court of appeals mentioned, but did not discuss the effect of Minn. Stat. § 518.551, subd. 5(i) enacted in 1991, requiring findings on subd. 5(c) factors only when deviating, as well as Minn. Stat. § 518.551. subd. 5(j) enacted in 1993, requiring extreme hardship for deviation in PA cases. The Peppel court did discuss 5(i), but 5(j) had not been enacted at the time of the Peppel and Peterson decisions.]	"Ability to Pay", in a § 256.87, subd. 1a Action Where the Difference Between Obligor's Income and Expenses is less than Guidelines Amount; Required Findings
Rzeczkowski v. Borrero, A22-0954, 2023 WL 2762442 (Minn. Ct. App. 2023): The district court correctly recognized the parties' Columbian Dissolution and Liquidation of Marital Partnership is valid under the principal of comity, but a remand for findings regarding conscionability is required. Remand is also appropriate regarding Husband's claim for needs-based attorney fees. The district court's order denying spousal maintenance and its finding of Wife's gross monthly income are affirmed.	50/50 Custody-Support Calculation; Bonuses, Commissions, etc. as Gross Income; Child Support and Maintenance in Orders-Requirement; Dissolution of Marriage; Foreign Judgment Definition; Maintenance, Spousal
Floyd v. Floyd, A22-1148, 2023 WL 3443466 (Minn. Ct. App. 2023): The district court's determination that spousal maintenance was terminated pursuant to § 518A.39, subd. 3 was correct as there was no express waiver of statutory operation made by the parties. The districts upward deviation from the child support guidelines was not an abuse of discretion as the court determined the children's standard of living would be adversely affected absent a deviation and award of attorney fees to appellant-wife are affirmed.	Child Support and Maintenance Order; COLA (Cost-of-Living-Adjustment); Deviation from Guidelines-Evidence; Income Disparity Between Parties; Maintenance; Spousal Maintenance/Alimony

II.C.5. - Reimbursement of AFDC / Past Support	
Minn. Stat. ' 256.87, Subd. 1.	
Crow Wing County Social Services v. McDermond, 363 NW 2d 97 (Minn. App. 1985): Minn. Stat. ' 256.87 requires father to reimburse county for AFDC notwithstanding custody provisions of Judgment and Decree.	Custody Irrelevant
Isanti County v. Swanson, 394 NW 2d 180 (Minn. App. 1986): Calculation of past support obligation under Minn. Stat. ' 256.87 may consider past earnings rather than simply current income levels.	Past Earnings
Isanti County v. Swanson, 394 NW 2d 617 (Minn. App. 1986): Where trial court had adjudicated paternity and entered judgment, the paternity action had ended, and proceedings to set past support are governed by Chapter 256. The two year statute of limitation refers to the filing of the action for contribution and not the paternity adjudication. (See same case on p. VIII-E-3.)	256 Action
State of Minnesota, ex rel. Region VIII North Welfare v. Evans, 402 NW 2d 158 (Minn. App. 1987): Where action under Minn. Stat. ' 256.87 is for past and ongoing reimbursement, amount ordered is not child support, but past and ongoing reimbursement to the welfare department.	Not Child Support
Hitzeman v. Ramsey County, (Unpub.), C2-87-1514, F & C, filed 12-22-87 (Minn. App. 1987): Assignment of rights under Minn. Stat. ' 256.87 includes any child support arrearages due at the time of the assignment and the assignment need not be exercised while assistance is being received and may be enforced after assistance terminates.	Can Exercise After Termination
Nicollet County v. Larson, 421 NW 2d 717 (Minn. 1988): Child support guidelines do not apply to determination of non-custodial parent's obligation to reimburse county for past public assistance provided to child or child's caretaker; obligation is conditioned on non-custodial parent's ability to pay as found after full and complete evidentiary hearing. (Compare current statute.)	Ability to Pay
Mancuso v. Mancuso, 417 NW 2d 668 (Minn. App. 1988): Requirement of decree that husband repay county $266.00 per month for public assistance received by couple's child was not abuse of discretion, court found that one-half of amount of public assistance received by wife went to care for her daughter from previous marriage and one-half went to minor child of parties.	Not Abuse of Discretion
County of Pine v. Petersen, 453 NW 2d 718 (Minn. App. 1990): When determining a non-custodial parent's contribution for public assistance expended in support of the parent's child, the court must make findings which include evidence of the non-custodial parent's expenses. This is because Minn. Stat. ' 256.87, Subd. 1, which refers to judgments for past assistance; require the court determine the non-custodial parent's ability to pay. Minn. Stat. ' 256.87, Subd. 1a, which refers to future support contribution, as interpreted by the Supreme Court in Nicollet County v. Larson, 421 NW 2d 717 (Minn. 1988), states future awards must be decided with an eye toward the guidelines. The court states the guidelines are only one factor to be considered.	Ability to Pay
County of Crow Wing v. Thoe, 357 NW 2d 357 (Minn. App. 1990): If child support has previously been ordered, the county can only collect the child support accrued when the county bring an action under Minn. Stat. ' 256.87 for AFDC reimbursement.	Previous Child Support Order
County of Crow Wing v. Thoe, 357 NW 2d 357 (Minn. App. 1990): Minn. Stat. ' 518.64 regarding modification of child support does not apply to actions for reimbursement under Minn. Stat. ' 256.87.	Modification
County of Hennepin on Behalf of Johnson v. Boyle, 450 NW 2d 187 (Minn. App. 1990): Visitation issues are not recognized when determining continuing reimbursement under Minn. Stat. ' 256.87.	Visitation
State, ex rel. Region VIII Welfare Dept. v. Schaapveld, (Unpub.), C9-89-2292, F & C, filed 5-22-90 (Minn. App. 1990): The court must make a determination regarding the non-custodial parent's ability to pay when ordering reimbursement of past public assistance pursuant to Minn. Stat. ' 256.87.	Ability to Pay

Anderson and County of Beltrami v. Anderson, 470 NW 2d 719 (Minn. App. 1991): A prior reservation of child support does not preclude a parent's liability for public assistance furnished during the two years preceding the commencement of a reimbursement action under Minn. Stat. ' 256.87, Subd. 1 (1990). (Crippen, concurring specially: Regardless of the prior decree, the statute permits reimbursement for support during the prior two years, limited only by the amount of assistance furnished and the obligor's ability to repay. This reimbursement right is independent of the expanded ten-year reimbursement period.)	Reservation
Fonseca v. Wohlers, (Unpub.), C3-94-150, F & C, filed 8-2-94 (Minn. App. 1994) 1994 WL 396356: Mother wrongfully obtained AFDC from Kanabec County while child lived with father. County sought reimbursement of AFDC from father under Minn. Stat. ' 256.87. Court of appeals ruled father not liable for reimbursement, because an AFDC payment which is excessive (an overpayment) is not provided "for the benefit of the child" and as required under Minn. Stat. ' 256.87. County must proceed against mother for overpayment. Non-recipient parent is not liable for an AFDC overpayment, whether due to error by county or other parent.	Liability of Parent Where AFDC Recipient Wrongfully Obtained Assistance
State ex.rel. Blackwell v. Blackwell, 534 NW 2d 89 (IA.1995): Once judgment for reimbursement for public assistance expended and future support had been entered against father, and his child support obligations had accrued, parties' rights vested and district court, in granting dissolution and disestablishment of paternity, could not reduce or cancel accrued support retroactively. Agency could continue income withholding.	Effect of Disestablishment of Paternity on Collection of Accrued Support
Hovda v. Anderson and County of Olmsted v. Bush, (Unpub.), C0-95-925 and C2-95-926, F & C, filed 9-26-95 (Minn. App. 1995): An obligor may be ordered to perform community work service in lieu of payment of judgments for birth expenses and AFDC reimbursement pursuant to Minn. Stat. ' 518.551, Subd. 5a (1994):	Community Service
County of Hennepin on behalf of Clark v. Hernandez, 554 NW 2d 618 (Minn. App. 1996): Grandmother received a $250.00 relative caretaker AFDC grant for 15-year-old runaway. Mother (obligor) objected to child living with grandmother. Court of appeals ruled that it is in court's discretion whether to order reimbursement, and how much to order (citing Evans, 402 NW 2d at 161). County of Nicollet v. Larson, 421 NW 2d 717, does not eliminate an initial determination of whether reimbursement is warranted, but only sets out factors used to determine the amount owed, once court decides to order reimbursement.	Court's Discretion to Determine Whether to Order Reimbursement
Kotzenmacher v. McNeil, (Unpub.), C2-96-1309, F & C, filed 12-3-96 (Minn. App. 1996): Husband did not have standing to obtain reimbursement of child support from biological father. No statute provides for reimbursement of private parties who have provided child support. Neither does doctrine of unjust enrichment provide a remedy to husband.	No Reimbursement to Non-Parent for Past Provider of Support
County of Stearns v. Weber, 567 NW 2d 29 (Minn. 1997): Minn. Stat. ' 256.87 is an additional remedy available for reimbursement of past AFDC expenditures, but is not the exclusive remedy. Past AFDC can be recouped in a paternity action without bringing a separate ' 256.87 action or motion. The statute of limitations is two years prior to commencement of the paternity action. In this case, the Supreme Court reverses the court of appeals in Stearns v. Weber and also overrules the court of appeals decisions in County of Ramsey v. Shir, Hennepin County v. Geshick, and Isanti County v. Swanson.	Chapter 257 also a Remedy
County of Washington v. Johnson, 568 NW 2d 459 (Minn. App. 1997): Where the county obtains past reimbursement of AFDC under a paternity order, and ongoing support is reserved, county may later seek past AFDC reimbursement under Minn. Stat. ' 256.87 for the time period subsequent to the prior reimbursement order, during which time support was reserved in the paternity order.	' 256.87 Reimbursement Allowed for Period after ' 257 Reimbursement Order
VerKuilen v. VerKuilen, 578 NW 2d 790 (Minn. App. 1998): A party in joint custody case is not excuse from reimbursement of public assistance because the county does not seek reimbursement from the parent who receives public assistance.	Reimbursement of PA in Joint Custody Case

State of Minnesota and Gordon v. Weege, (Unpub.), C8-98-1898, F & C, filed 5-11-99 (Minn. App. 1999): Because under Minn. Stat. ' 256.741, subd. 1 (1998) Apublic assistance@ includes medical assistance, a Custodial parent receiving MA does not have a cause of action against a Non-custodial parent for two years of back support under Minn. Stat. ' 256.87, subd. 5 (1998), since the language in the statute allows for past support only for a Custodial parent not receiving PA. It appears the court of appeals assumed the county would be entitled to the back support. Ed. note: It is doubtful this outcome was intended by the legislature; consideration should be given to amending the statute. Please note this is an unpublished case and not precedential.	CP on MA Cannot Receive Past Support
Countryman v. Countryman, (Unpub.), C8-99-213, F & C, filed 7-27-99 (Minn. App. 1999): Obligee who is recipient of PA cannot be held responsible for reimbursement of PA under Minn. Stat. ' 256.87, subd. 1.	Recipient not Liable
Letsos v. Letsos, (Unpub.), C3-99-233, F & C, filed 9-21-99 (Minn. App. 1999): The reimbursement amount in a Minn. Stat. ' 256.87 action is based on guidelines, and need not be restricted to the amount of public assistance that was paid. Any excess is remitted to the CP under Minn. Stat. ' 518.551, subd. 1(b)(1988).	Reimbursement Judgment may be Greater than PA Expended
Letsos v. Letsos, (Unpub.), C3-99-233, F & C, filed 9-21-99 (Minn. App. 1999): Court may award two years of reimbursement in a Minn. Stat. ' 256.87 action, even though it would have been precluded from seeking a retroactive modification between the same parties in their dissolution J&D.	Failure to meet Modification Standard in a J&D does not Preclude Past Reimburse-ment under ' 256.87
County of Olmsted and Bennett v. Bennett, (Unpub.), C0-99-1923, F & C, filed 7-18-00 (Minn App. 2000): A reservation of child support in a dissolution decree did not preclude the county's claim for reimbursement of past public assistance under Minn. Stat. ' 256.87. ALJ erroneously ruled that Minn. Stat. ' 518.551, Subd. 6 (1998) barred a claim for reimbursement. Subd. 6 applies where the court has determined support, and does not apply to a reservation.	' 518.551, Subd. 6 not a Bar to Reim-bursement Under ' 256.87
Kalif v. Kalif, (Unpub.), C8-00-1269, F & C, filed 3-6-2001 (Minn. App. 2001): Under Minn. Stat. ' 256.87, regardless of his current financial circumstances, appellant=s reimbursement obligation is to be determined based on his ability when the benefits were furnished. (See Verkuilen, 578 NW 2d 790, 792 (Minn. App. 1998).	Reimburse-ment Based on Past Ability
Davis v. Davis n/k/a Haux, 631 NW 2d 822 (Minn. App. 2001): When the judgment and decree reserved support and provided that when obligor's salary reaches $600.00 net per month, child support will be established pursuant to guidelines, obligor has no obligation to pay child support, until a court order establishes the amount, which cannot be retroactive. This differs from the situation in Martin v. Martin, 401 NW 2d 107, 109, 111 (Minn. App. 1987), where order provided that when obligor returned to full-time employment, she was to pay according to guidelines.	Order Requiring Future Establish-ment Pursuant to Guidelines
Davis v. Davis n/k/a Haux, 631 NW 2d 822 (Minn. App. 2001): Where the issue of child support is reserved in the original dissolution decree, a subsequent action for support brought under Minn. Stat. ' 256.87 is not an action for modification of an existing support order, but is an action to establish a support obligation that cannot be retroactive.	No Retro Estab. Where Support Reserved in J&D
Davis v. Davis, 631 NW 2d 822 (Minn. App. 2001): Where support is reserved in the original decree, it is generally improper to give a support order established in a subsequent Minn. Stat. ' 256.87 action retroactive effect.	No Retro-activity
Pasket v. Hale, (Unpub.), C0-02-1884, filed 6-10-03, (Minn. App. 2003): Where parties signed a ROP, but custody was contested, Minn. Stat. ' 256.87, Subd. 5 does not provide a basis for past support for the NPA obligee (mother), since she neither had physical custody of the child with the consent of a custodial parent or by order of the court. However, there is a basis for two year's past support under Minn. Stat. ' 257.75, Subd. 3 (2002) where parties have executed a ROP	NPA Past Support With a ROP

Larsen v. Larsen, (Unpub.) A03-1103, filed 6-29-04 (Minn. App. 2004): Minn. Stat. § 256.87, subd. 5, applies exclusively to situations in which one parent has sole physical custody. In a case where the parties were awarded joint physical custody in the J&D, and later the child began to live full time with one parent, subject to visitation by the other parent, but the joint physical custody provision of the order had not been modified, Minn. Stat. § 256.87, subd. 5, did not permit an award of retro-active child support to the parent with actual physical custody. Okay to establish ongoing support in the divorce file under § 518 from the date of filing of the motion. Must apply Hortis-Valento.	No Past Support Under § 256.87 subd. 5 for NPA Parent who has Joint Physical Custody
Holt and County of Becker v. Holt, (Unpub.), A03-1795, filed 7-20-04 (Minn. App. 2004): In case where J&D required obligor to provide health insurance, and he failed to do so, the CSM entered judgment against him for the entire amount of MA expended as a result of his failure to provide insurance. The appellate court in Holt, distinguishing Christenson, 490 NW 2d 447 (Minn. App. 1992), held that medical assistance reimbursement may be obtained under Minn. Stat. § 256.87 (as past public assistance expended), but the amount recoverable must be based on obligor's ability to pay during that period. Court must make findings justifying ruling. Ed. Note.- If the County brought the motion for judgment under the decree, and not as a new § 256.87 action, why wouldn't Christenson have allowed the court to at least enter judgment for the amount that the obligor should have paid in premiums? § 256.87 should not limit the amount that can be reimbursed where there is a prior enforceable order.	Reimburse-ment of Medical Assistance must be Based on Ability to Pay During Recovery Period
Office of Child Support ex rel. Lewis v. Lewis, 882 A.2d 1128, (Vt. Dec 23, 2004) (NO. 2003-354): NCP lived in VT. Action by VT IV-D at req of IA IV-D. HELD: Absent prior proceeding in IA to establish PA debt and NCP's repayment obligation, VT lacked jurisdiction to issue VT CS order to repay debt because [1] VT law re: repay of PA only applies to VT PA, [2] VT has no assignment of CP rights, and [3] UIFSA does not confer addl jurisd. IA did not follow IA law re: recoup of PA debt. VT IV-D could not file UIFSA in VT per § 301(c) - can only initiate to another state or file direct in another state [no mention of § 307].	Responding Tribunal Cannot Order Re-payment of Initiating State's Past PA, if Initiating State has not Established the Amount of the Debt
Nancy Mignone v. Sean Bouta, (Unpub.), A05-174, filed 12-13-2005 (Minn. App. 2005): Obligor appeals from the district court's ruling of past and prospective child support, alleging that the calculations were incorrect because the parties shared physical custody of the child. The appellate court found that the district court made sufficient finding for current child support in stating that obligor's expenses and time with the child did not exceed normal visitation costs. However, the district court made insufficient findings in calculating obligor's past support since the court discussed the time the obligor currently spends caring for his child, and did not address the time that the obligor cared for his child in the past. The case was remanded for the district court to apply Minn. Stat. § 518.57 in calculating past support (giving the option of reopening the record) to determine if the obligor has satisfied his child support obligation by providing a home, care and support for the child, or if the child was integrated into the family of the obligor with consent of the obligee and child support payments were not assigned to the public agency under Minn. Stat. §256.741.	Living arrangements of child must be considered in calculating past child support. No duration for liberal parenting time

In Re the Marriage of Kim Marie Bunce vs. John Russell Bunce, A05-1722, Hennepin County, filed 7/11/06: Kim Bunce was awarded custody of the parties' two children in their divorce and John Bunce was ordered to pay child support. In December 2000, the parties' oldest child moved in with the father and remained with the father until his emancipation in June 2003. John Bunce then moved to modify custody of the parties' oldest child in May 2001 and the child's custody was changed to the father in September 2002. In November 2002, Kim Bunce was ordered to pay retroactive child support for the oldest child beginning in June 2001, the first month after appellant moved for a change in custody. Kim Bunce challenged the June 2001 date and the district court modified its order to begin her retroactive child support to October 2002, the first month after the change in custody, based on the fact that although "N" was living with John Bunce, Kim Bunce was paying most of the expenses. Appellant appealed that decision. The Court of Appeals reversed the original district court order and remanded the case to the lower court. As a result of the remand, the district court ordered that the parties' child support obligations to each other - Kim Bunce's obligation for "N" and John Bunce's obligation for "K" - are satisfied as mutually offsetting. The district court made 86 comprehensive findings, including: (1) John Bunce's income was insufficient to meet his own needs so that it was reasonable to believe that Kim Bunce provided for "N's" needs; (2) John Bunce was and continues to be voluntarily unemployed, claiming that he only made $8,000 to $8,500 per year, wherein during the marriage he made $20,000 to $24,000 per year; (3) John Bunce failed to disclose that he had a second part-time job; (4) John Bunce falsely stated that he paid $200 in monthly rent when he testified that he paid no rent; (5) Respondent furnished well over half the support even after the child "N" began to live with the dad; (6) the child was working and paying many of his own expenses during the time he lived with his dad. The district court found that imposing a retroactive child support obligation on Kim Bunce would cause a substantial financial hardship for her and would serve no useful purpose. John Bunce then appealed that district court decision, saying that the district court abused its discretion in not requiring Kim Bunce to pay retroactive child support from June 2001 to October 2002. The Court of Appeals upheld the district court's decision in view of John Bunce's repeated failure to make full financial disclosure to the court. The court's finding that while the child lived with John Bunce, Kim Bunce paid over half of the child's expenses is not against the facts in the record and is supported by the record. There was a sequestration issue and the district court's denial of Appellant's motion to release the sequestered funds before the second child emancipated was not an abuse of discretion.	Custody/retroactive child support
Olson v. Jax, (Unpub.), A06-27, Filed December 19, 2006 (Minn. App. 2006): The court upheld the district court's award of past daycare expenses. The court found that although the obligor was available to care for the minor child during the time daycare expenses were incurred, the district court was aware of this fact and, in its discretion, chose to allot parenting time around the daycare schedule.	PAST SUPPORT: Reimbursement of daycare expenses appropriate even though NCP was available to care for child.
In re the Marriage of Gail P. Bender, f/k/a Gail Papermaster v. Alan Paul Bender, (Unpub.), A06-1072, Hennepin County, filed June 19, 2007 (Minn. App. 2007): Although normally the court does not credit parties for clothing expenditures, in this case the prior order required mother to pay for the child's clothing expenses. Her payments for clothing were not an attempt to evade her support obligation or substitute payment for clothing. Therefore, granting a credit toward her past support owed as not an abuse of the lower court's discretion.	Credit against support obligation for child's clothing expenditures not an abuse of discretion in this case.
Nyhus v. Ka, No. A18-1089, 2019 WL 1007776 (Minn. Ct. App. March 4, 2019): A child support magistrate may not award an oblige past support for the time period of two years preceding the establishment action when the parties have joint physical custody and therefore are both considered "custodial" parents.	Past support for up to two years prior only against "noncustodial" parent

Saenz and Brown County Human Services v. Horman, A20-1213, 2021 WL 4144015 (Minn. App. 2021): Court of Appeals affirms the district court decision denying mother's request for reimbursement of medical expenses because the language of the stipulation was not ambiguous- "unpaid" means a bill that has not yet been paid, and mother and her husband had paid the medical expenses for which she was seeking reimbursement.	Past Support-Paternity; Unreimbursed/ Uninsured Expenses-Ordering; Reservation
S.A. v. L.H., A21-0921, 2022 WL 1918963 (Minn. App. 2022): Under Minn. Stat. § 257.66, subd. 4 the District Court has the authority to address a past support award as part of a parentage proceeding not as part of a separate action filed after the fact. District Court lacks authority to award retroactive support pursuant to Minn. Stat. § 256.87, subd. 5 when a party has custody of a joint child with neither the consent of the other parent or order of the court.	Past Support – Generally; Past Support – Paternity; Retro Support for Paternity; Retro Support in Establishment - NPA
Adetifa v. Pay-Bayee, A22-1546, 2023 WL 5185629 (Minn. Ct. App. 2023): The district court did not err when it awarded mother sole physical custody as the record supports its best-interests findings, § 518.17, subd. 1. It also did not err when it set a parenting time schedule, ordered father to pay child support, used father's 2021 income to forecast his 2022 income, when it divided unreimbursed birth expenses pursuant to § 518A.41, awarded mother conduct-based and need-based attorney fees, and when it reserved the issue of tax dependency.	Past Support – Generally; Past Support – Paternity; Retro Support for Paternity;
Meheretia v. Hailu, A22-1197, 2023 WL 8713782 (Minn. Ct. App. 2023): Testimony is evidence. The district court's past support order was not an abuse of discretion by relying solely on testimony to determine when appellant-father left the marital.	Past Support – Generally; Past Support – Paternity; Retro Support for Paternity;

II.D. - INCOME DETERMINATION	
II.D.1. - Generally	
Minn. Stat. ' 518A.26, Subd. 8 - Definition of Income. Minn. Stat. ' 518A.29(a)(b) - overtime exclusion; Minn. Stat. ' 518A.38, Subd. 2 - Seasonal Income. Minn. Stat. ' 518A.39, Subd. 2(d)(2)(iii) -overtime exclusion in modification cases. Internal Revenue Service advisory memorandum (C.C.A. 2004-44026- interest paid on past-due child support is taxable income to the recipient.)	
Dinwiddle v. Dinwiddle, 379 NW 2d 227 (Minn. App. 1985): Tax refunds constitute income in the year in which they are received.	Tax Refunds
Fick v. Fick, 375 NW 2d 870, 873 (Minn. App. 1985): Proper for district court to determine husband's monthly income by averaging his income over three years.	Income Averaging
Margeson v. Margeson, 376 NW 2d 269 (Minn. App. 1985) *rev.den.*: Bonus and overtime pay properly considered where father failed to provide medical evidence to support claim that foot injury would decrease overtime income.	Overtime + Bonus
Erler v. Erler, 390 NW 2d 316 (Minn. App. 1986): No abuse of discretion to include income from part-time jobs when they have been a regular, steady source of income.	Part-time Jobs
Tibbetts v. Tibbetts, 398 NW 2d 16 (Minn. App. 1986): Error for trial court not to consider obligor's tax refunds when calculating income.	Tax Refunds
Roth v. Roth, 406 NW 2d 77 (Minn. App. 1987): Profits of Subchapter S corporation owned solely by father should have been considered as income.	Subchapter S corporation
Lenz v. Wergin, 408 NW 2d 873 (Minn. App. 1987): Court may compute net income by deducting amounts withheld and adding refunds attributed to obligor's income; if Court uses a 1040 form to compute net income, it must add in untaxable income.	1040 Form - Add Untaxable Income
Lenz v. Wergin, 408 NW 2d 873 (Minn. App. 1987): Tax refunds constitute income in the year in which they are received.	Tax Refunds
Koury v. Koury, 410 NW 2d 31 (Minn. App. 1987): In calculating income, income tax refunds, excluding that part attributable to the obligor's new spouse, should be considered for the year in which received.	Tax Refunds
Huston v. Huston, 412 NW 2d 344 (Minn. App. 1987): Former husband's net income for purposes of determining support obligation did not include husband's current spouse's new income.	New Spouse's Income
Thomas v. Thomas, 407 NW 2d 124 (Minn. App. 1987): A six-month-old tax return does not represent current income for the purpose of computing the child support obligation.	Based on current income
LaTourneau v. LaTourneau, (Unpub.), C8-92-107, F & C, filed 5-12-92 (Minn. App. 1992): Absent evidence of factors requiring exclusion of overtime in net income calculations, it is properly included in the figure. See Minn. Stat. ' 518.551, Subd. 5(a)(2) (Supp. 1991).	Overtime
State of Wisconsin and Weber v. Csedo, (Unpub.), C3-92-645, F & C, filed 8-18-92 (Minn. App. 1992): If income is variable due to obligor's receipt of commission income, income averaging is a proper method for calculating the obligor's net monthly income.	Commission Income / Income Averaging
Bartl v. Bartl, 497 NW 2d 295 (Minn. App. 1993): Obligor maintained a room in the city where he lives during the week. Expenses incurred in maintaining employment miles from an obligor's residence are to be considered in determining income available for child support.	Expenses related to working a long distance from obligor's home
In Re the Marriage of Johnson and Johnson, 533 NW 2d 859 (Minn. App. 1995): In a modification proceeding, court must consider the statutory factors in Minn. Stat. ' 518.64, Subd. 2(b)(2) in determining whether to calculate overtime as net income. In this case, obligor had worked overtime during the marriage with the exception of the year of the divorce. After the divorce, he started working overtime again. It was proper of the trial court to reach back to obligor's income during the two years immediately preceding the filing of the dissolution to determine if the excess employment began after entry of the existing support order. However, where the obligor worked more overtime post-dissolution than during the marriage, the extra post-dissolution overtime income over and above the pre-dissolution overtime income must be excluded from income calculation in the modification proceeding.	Consideration of Overtime
Rolbiecki v. Rolbiecki, (Unpub.), C2-96-2539, F & C, filed 5-20-97 (Minn. App. 1997): Respondent cannot limit his child support by restructuring his compensation package in order to avoid an increase in payments. (See Buntje v. Buntje, 511 NW 2d 479,481 (Minn. App. 1994).	Restructuring Compensation Package to

	Limit Support
Tonia v. Tonia, (Unpub.), C5-97-1914, F & C, filed 6-15-98 (Minn. App. 1998): A single lump sum payment is not Aincome@ under Minn. Stat. ' 518.54, subd. 6 because it is not periodic. The trial court abused its discretion when it included a personal injury lump sum in income for purpose of calculating child support in modification proceeding. Court of appeals distinguished Lukaswicz, 494 NW 2d 507, 508 (Minn. App. 1993), because in that case obligor had arrears, and lump sum was attached for payment of child support arrears under Minn. Stat. ' 518.611, subd. 6. Tonia had no arrears. Petition for review to supreme court filed 7-16-98.	Lump Sum Payment not Income
Klingenschmitt v. Klingenschmitt, 580 NW 2d 512 (Minn. App. 1998): Provisions in the DHS IV-D Manual, although advisory in nature and lacking the effect of law, nevertheless Aapproach the status of the formal rule of law@ of the agency when used by the agency to justify its determination in a particular case.	Weight Given the IV-D Manual
DuSchane v. McCanny, (Unpub.), C8-97-2247, F & C, filed 6-30-98 (Minn. App. 1998): It was proper for ALJ to exclude overtime where the criteria of Minn. Stat. ' 518.64, subd. 2(c)(Supp. 1997), were met. Cases which pre-date the statute (Carver Co. v. Fritzke, Lenz v. Wergin, Strauch v. Strauch, do not apply).	Overtime Under Statute
Duffney v. Duffney, 625 NW 2d 839 (Minn. App. 2001): The proceeds from obligor's one-time sale of timber from his property was not a periodic payment, and thus not income for purposes of the child support calculation.	One-Time Payment Not Income
Bullock v. Bullock, (Unpub.), C1-01-6, F & C, filed 8-14-01 (Minn. App. 2001): Because court, when establishing support, subtracted the standard deductions set out in the tax table from his total monthly income, it was proper for CSM to decline to add obligor=s tax refund as income for purpose of calculating child support at a modification hearing.	Tax Refund
Bullock v. Bullock, (Unpub.), C1-01-6, F & C, filed 8-14-01 (Minn. App. 2001): A one time payment received when obligor cashes out his 401K is not a periodic payment and thus is not income for child support under Minn. Stat. ' 518.54, Subd. (6) (2000).	401K Cash Out Not a Periodic Payment
Williams n/k/a Fischer v. Williams, 635 NW 2d 99 (Minn. App. 2001): The district court must determine whether obligor's Subchapter S distribution is more akin to added compensation for labor (and thus "income" for purpose of child support) or an investment return on his contribution of capital. That analysis, based on the facts in the case, must then be applied consistently in the determination of arrears, and in the calculation of future support.	Analysis to Determine if Subchptr S Distribution is Income
Young v. Young, (Unpub.), C9-02-104, F & C, filed 6-4-02 (Minn. App. 2002): The district court may consider overtime pay when modifying, or refusing to modify, a support obligation if the record shows that the overtime income predated the existing support obligation by more than two years, even where the original judgment did not use OT income to set the amount of support (citing Johnson, 533 NW 2d 859,863-4).	OT Included in Mod Case Even Where Original J&D did not Include OT
Hennepin County and Hagerty v. Grau, (Unpub.), CX-02-1617, filed 4-22-03 (Minn. App. 2003): A flex-benefits payment, received by obligor on a monthly basis to pay health coverage costs is Income pursuant to Minn. Stat. ' 518.54, Subd. 6(2002). When computing net income for child support, it was proper for CSM to include the flex benefit amount in gross income, and then subtract out the amount obligor actually paid for health coverage costs, to reach net income.	Flex Benefit Payment
Hollenhorst v. Hollenhorst, (Unpub.), A04-1712, filed 4-26-05 (Minn. App. 2005): Mortgage proceeds, obtained by voluntarily liquidating equity in income generating rental properties, properly were counted as part of a child support obligor's income. This is part of the earnings from "real and personal property," Minn. Stat. § 518.551, subd. 5(c)(1), and properly counted as income. Sieber v. Sieber, 258 NW 2d 754, 757, n.2 (Minn. 1977). Non-periodic assets may be included in support calculations. Kuronen v. Duronen, 499 NW 2d 51, 53 (Minn. App. 1993).	Mortgage Proceeds Generated by Liquidating Equity in Rental Property Income

Hall v. Hall, (Unpub.), A04-2055, F & C, filed 6-28-05, (Minn. App. 2005): CSM properly excluded from obligor's income an average of $170 per week deducted from his wages and escrowed by his union for vacation and sick time. The court of appeals ruled that because the vacation and sick time deduction is not actually income received by the obligor, but is escrowed into an account to supplement income only when obligor takes vacation or sick time, it should not be included as part of net income. Even though 518.551 subd. 5(b)(2004) does not specify whether such sums are deductible, the definition of income is based on money *available* to the obligor, and these sums are not available. Cites Lenz v. Wergin, 408 NW 2d 873,876 (Minn. App. 1987) and Dinwiddie, 379 NW 2d 227,229 (Minn. App. 1985).	Money taken from Obligor's Pay and Escrowed into an Account to be Used for Vacation and Sick Leave, is not Available to Obligor, thus not Income for Child Support.
In re: Horace D. Allen v. Nikki Thompson, (Unpub.), A04-2225, filed 8-30-2005 (Minn. App. 2005): Parties agreed in their divorce decree that (1) the petitioner's (obligor's) income should increase when he completes his MBA and (2) that support would automatically increase effective July 1, 2004, unless petitioner demonstrates his income has not increased significantly despite best efforts to secure appropriate employment. Prior to the automatic increase, obligor filed a motion to keep child support at the original level (without the increase) based upon evidence of a new medical condition which limited his employment opportunities, as well as evidence that his earnings had not increased as anticipated. CSM found that obligor proved his medical condition (speech limitations), but had not proved that his income had not increased significantly based upon obligor's evidence of a single paycheck. CSM expected obligor to produce his 2003 tax return, but never requested this production. The appellate court found obligor's paycheck to be "credible evidence" that his income had not increased and found that the CSM abused her discretion in failing to grant the requested relief.	Obligor provided credible evidence of income
In re the Marriage of Sigfrid vs. Sigfrid, (Unpub.), A05-353, F&C, filed January 17, 2006 (Minn. App. 2006): Even through the court erred in calculating obligor's net income for 2002, because his net income still exceeded the max under the guidelines, the child support award was appropriate. Further because the court ordered support according to the guidelines, the court's findings concerning obligor's income were sufficient and no further findings were necessary.	Award of child support based on maximum net income under the guidelines supported by facts.
In Re the Marriage of Dee Henderson vs. Gregory Duane Dittrich, A05-1696, Washington County, filed 7/11/06 (Minn. App. 2006): Both the mother and the father agree that the court cannot consider the income of the mother's husband when setting child support for this child.	Child support obligation- should not consider stepparent income when setting support.
In Re the Marriage of Liveringhouse v. Liveringhouse, (Unpub.), A05-2531, Filed 12/5/06 (Minn. App. 2006): The court affirmed the district court's determination of an obligor's net income despite an absence of itemized deductions. The court noted that without the record and no other evidence indicating error, it could only presume that the district court found no deductions to be appropriate. *Citing* Custom Farm Servs., Inc. v. Collins, 306 Minn 571, 572, 238 N.W.2d 608, 609 (1976) (an appellate court cannot presume error). The court noted that it is the obligor's burden to supply evidence substantiating his challenge of the district court's decision.	INCOME: Determination of net income will stand absent evidence to the contrary.
In re the Marriage of: Erickson v Erickson, (Unpub.), A06-2061, filed 11/20/07 (Minn. App. 2007): District court reduced NCP's child support based on average income in 2005, but omitted consideration of increased income in 1st quarter of 2006. Because NCP's income fluctuated, this was not an abuse of discretion.	Omission of Recent Income Not Abuse of Discretion

Weiss vs. Weiss, (Unpub.), A06-2433, filed December 24, 2007 (Minn. App. 2007): It was not unreasonable for the court to determine appellant's income based on an income-averaging method where appellant failed to put forth sufficient evidence of his net monthly income.	Income-averaging method appropriate where there is fluctuation in the industry and insufficient evidence provided to the court.
Modeo-Price v. Price, No. A13-0190, 2013 WL 5777918 (Minn. Ct. App. Oct. 28, 2013): Appellant-father brought a motion to modify his support due to a medical disability. The CSM determined that the appellant was not impaired by a disability, had the ability to work full time, and should be imputed income. The District Court reviewed the issue de novo and determined that the appellant failed to verify any changes to his income and continued to have the ability to work. The Court of Appeals reversed and remanded, deterimining the District Court erred by finding that the appellant father has the ability to work to work full time and also erred by concluding that mother's income is irrelevant to determining a child support order.	Inability to work full-time; mother's income relevant to determining child-support.
Hansen v. Todnem, 891 NW 2d 51 (Minn. App. 2017): Courts are not limited to $15,000 for monthly combined parental income for child support. District Court has discretion to consider premiums, deductibles and copays when determining the affordability of a health care policy.	Guidelines; Medical Support
Stillwell v. Stillwell, No. A16-0114, 2016 WL 7041900 (Minn. Ct. App. Dec. 5, 2016): The statutory structure for establishing and modifying child support is in Minn. Stat. 518A.32, subd. 2; directly instructing a district court to select one of three available methods for imputing income for child support purposes. Court is required to review the parties' current circumstances at the time the motion to establish child support is made and not rely on evidence presented in prior hearings on another issue.	Imputing income; Income – determination of; Potential income.
In re the Marriage of: Swenson v. Pedri, No. A17-0616 (Minn. Ct. App. Dec. 26, 2017): Unless parties agree to an alternative effective date, the modification of support can only go back to service of the motion to modify. The court may decline to consider new evidence on a motion for review when a party has not previously requested authorization to submit new evidence. When a reduction to income was used to calculate support in the original judgment and decree the district court is not required to use the reduction in its current modification, when the original judgment did not state that the reduction would be used for future calculations nor was the reduction applied when calculating income in the prior modifications. When the court is not provided with evidence necessary to apportion child care expenses, the court was within its discretion to order each parent to be responsible for his and her own child-care expenses.	Child care support, gross income, modification, effective date
In re the Custody of M.M.L., No. A17-1240 (Minn Ct. App. Apr. 16, 2018): When the district court record does not contain sufficient information to calculate imputed income under Minn. Stat. § 518A.32, subd. 2(1), imputation of income should be based on the minimum-wage calculation in Minn. Stat. § 518A.32, subd. 2(3). A finding that the parties were before the court due to a parties failure to pay child support and to find employment is not a sufficient basis for an award of conduct based attorney's fees.	Attorney's fees, imputing income, income determination, potential income
Lund v. Lund, A18-0168, 2018 WL 6165333 (Minn. Ct. App. Nov. 26, 2018): An obligor's gross income does not include the income of his/her new spouse when the obligor has no ownership interest in the new spouse's business and the obligor's role is limited to only being an independent contractor.	New spouse's income
Jayawardena v. Jayawardena, A19-0390 (Minn Ct. App. Aug. 26, 2019): Bonus payments establishing dependability should be included in gross income. Nothing precludes a finding of dependability based on only one year's receipt of bonus income if the record establishes ongoing eligibility for and likely for receipt of bonuses. Credit card debt should not have been excluded in the calculation of living expenses as it was not duplicative.	Income Determination; Bonuses; Commissions; Living Expenses.

In re the Marriage of: Beth Marie Delzer v. Randy Edward Delzer, A19-0884, 2020 WL 2517544 (Minn Ct. App. May 18, 2020): Under Minn. Stat. § 518A.29(a), "gross income includes…spousal maintenance." Thus, spousal maintenance must be added to receiving party's income for purposes of child support.	Income; Spousal Maintenance
Billett v. Billett, A19-1993, 2020 WL 7490496 (Minn. Ct. App. Dec. 21, 2020): A district court does not abuse its discretion by declining to consider potential bonuses as income when the bonuses are not regular or dependable forms of payment. This applies in either the determination of income for child support or for the award of spousal maintenance.	Income determination and potential bonus income
County of Dakota ex rel, Michelle Marie Hinz v. Bryan Arthur Rittweger, A20-1244, 2021 WL 3852264 (Minn. App. 2021): The court can consider both the actual income from a disability payment of a party and the potential income from the party's business in calculating gross support. The court has discretion to supplement statutes with equitable principles, however they are not required to do so.	Imputing Income; Determination of Income; Potential Income; Parenting Time/ Overnights
LaPara v. LaPara, A21-0343, 2022 WL 760777 (Minn. Ct. App. 2022): Contingent and variable incomes can be periodic and may be considered for the purpose of calculating support so long as they occur regularly.	Bonuses, commission, etc (518A.29); Gross Income; Income, Determination of
Mills v. Mills, A21-0774, 2022 WL 829365 (Minn. Ct. App. 2022): It is the burden of the person objecting to inclusion of overtime income to demonstrate it should not be included in the calculation of gross income per §518A.29(b)(2).	Gross Income; Income, Definition of; Income, Determination of; Overtime-Income Determination
Fanning v. Fanning, A21-0984, 2022 WL 3022371 (Minn. Ct. App. 2022): Appellant-father argues the CSM incorrectly calculated his basic support amount and incorrectly determined Respondent-wife's monthly income. The issue of basic support was remanded as his support amount shall be determined per § 518A.34, not § 518A.42, and the CSM's determination of Respondent's income was affirmed. When an individual does not meet the qualifications for the minimum basic support under 518A.42, the amount calculated under 518A.34 shall be ordered, even if that amount is less than the minimum support amount.	Basic Support – Table; Child Support Guidelines; Income, Determination of; Minimum Basic Support
Alstrin v. Alstrin, A22-0247, 2022 WL 17086766, (Minn. Ct. App. 2022): Appellant-father challenges the District Court's support order during his severance period and its use of a "revert back" provision once his income returns to its prior level. The District Court erred as it did not apply the guidelines under § 518A.35 and § 518A.36 and did not explain its deviation under § 518A.37, subd. 2	Child-Support, Marriage Dissolution
Nelson v. Nelson, A22-0077, 983 N.W.2d 923, (Minn. Ct. App. 2022): A district court must use the court ordered amount of parenting time when calculating the parenting time expense adjustment to basic support, and not the parenting time actually exercised per § 518A.34(b)(6), § 518A.36, subd. 1(a) (2022).	Child Support, Marriage Dissolution, Maintenance

Rzeczkowski v. Borrero, A22-0954, 2023 WL 2762442 (Minn. Ct. App. 2023): The district court correctly recognized the parties' Columbian Dissolution and Liquidation of Marital Partnership is valid under the principal of comity, but a remand for findings regarding conscionability is required. Remand is also appropriate regarding Husband's claim for needs-based attorney fees. The district court's order denying spousal maintenance and its finding of Wife's gross monthly income are affirmed.	50/50 Custody-Support Calculation; Bonuses, Commissions, etc. as Gross Income; Child Support and Maintenance in Orders-Requirement; Dissolution of Marriage; Foreign Judgment Definition; Maintenance, Spousal
Falavarjani v. Tabrizi, A23-1517, 2024 WL 1987790 (Minn. Ct. App. 2024): The district court correctly excluded respondent-husband's bonuses from its PICS and child support calculations as they are not sufficiently repetitive to be considered as dependable income for child support.	Bonuses, Commissions, etc. as Gross Income; Calculation of Gross Income; Income, Calculation/Determination of Gross Inc.
Larson v. Larson, A23-1369, 2024 WL 2130757 (Minn. Ct. App. 2024): The district court erred in its calculation of appellant-father's income by not properly applying Minn. Stat. § 518A.30 and ignoring *Haefele v. Haefele*, 837 N.W.2d 703, 711 (Minn. 2013), but correctly maintained the parties' "childcare" payment and correctly denied father's motion for conduct-based attorney fees.	Bonuses, Commissions, etc. as Gross Income; Calculation of Gross Income; Income Calculation/Determination of Gross Inc.; Childcare Support; Childcare Decrease
Keim v. Keim, A23-1256, 2024 WL 2885586 (Minn. Ct. App. 2024): The Court of Appeals found the Child Support Magistrate erred when calculating appellant-father's monthly income not in accordance with Minn. Stat. § 518A.29 and § 518A.30, and when they used the 2022 guidelines rather than the 2023 guidelines.	Calculation of Gross Income; Deviation from Guidelines; Gross Income, Calculation; Income, Calculation/Determination of Gross Inc.; Self-Employment Income
In re the Marriage of: Patterson v. Patterson, A24-1029, 2024 WL 5242092 (Minn. Ct. App. Dec. 30, 2024): The district court did not abuse its discretion in imputing income for appellant-wife as she has demonstrated a capacity to earn a higher income. Wife's arguments against the court's determination of husband's income are unavailing as she did not provide a transcript or cite any legal authority showing error.	Imputing potential income; Potential income: Stay at home parent; Methods, Generally; Income calculation/determination of gross income

II.D.2. - Evidence of Income and Expenses / Failure to Document (See also II.O.10.)	
Minn. Stat. ' 518A.28(a)- sets out documentation of income parties are required to provide; Minn. Stat. ' 518A.28(d)- - "credible" evidence court may use to determine income if parent does not appear.	
Hertz v. Hertz, 229 NW 2d 42 (Minn. 1975): Corporate profit less capital retained for necessary business purposes is a proper source of a child support obligor's income.	Business Income
Ferguson v. Ferguson, 357 NW 2d 104 (Minn. App. 1984): Court may consider past earnings to determine whether income for particular year cannot be relied on.	Past Earnings
County of Isanti v. Formhals, 358 NW 2d 703 (Minn. App. 1984): One who does not comply with order to produce documentation of income cannot allege error in income calculation.	Failure to Document
Larson v. Larson (Laurel v. Loren), 370 NW 2d 40 (Minn. App. 1985): If necessary to construct net income figure for guidelines, court should appoint an expert and apportion costs to parties according to ability to pay.	Experts
Otte v. Otte, 368 NW 2d 293 (Minn. App. 1985): Expert testimony should be used in computing self-employed farmer's income; taxable income is not always the same as net income.	Farmer
Coady v. Jurek, 366 NW 2d 715 (Minn. App. 1985): Court can consider "cash flow" in addition to "paper income" to determine net income.	Cash Flow
Taflin v. Taflin, 366 NW 2d 315, 319 (Minn. App. 1985): Where obligor had an opportunity to submit evidence of his expenses but failed to enter any credible evidence, he will not be heard to complain on appeal.	Evidence of Expenses
Taflin v. Taflin, 366 NW 2d 315 (Minn. App. 1985): Obligor cannot complain when financial information produced by obligor had significant omissions.	Omissions in Provided Information
Vitalis v. Vitalis, 363 NW 2d 57, 59 (Minn. App. 1985): Where a noncustodial parent's lifestyle is not commensurate with the stated taxable income, cash flow or gross receipts may be appropriately used to determine income for purposes of child support.	Cash Flow or Gross Receipts
Sundell v. Sundell, 396 NW 2d 89 (Minn. App. 1986): Sufficient basis in record for findings on income of obligor to justify modification although obligor failed to produce documentation or testimony disclosing number of hours worked or hourly wage.	Estimate Income
Schelmeske v. Veit, 390 NW 2d 309 (Minn. App. 1986): No abuse of discretion to reject taxable income when obligor is in the business of buying and selling real estate, and to rely on deposits into obligor's personal checking account to obtain a more accurate representation of gross income.	Bank Deposits
Sundell v. Sundell, 396 NW 2d 89 (Minn. App. 1986): No error for court to estimate income and expenses when the obligor fails to produce records or answer questions; if obligor wanted court to have accurate figures, he could have furnished them.	Estimate Income
Johnson v. Fritz, 406 NW 2d 614 (Minn. App. 1987): Court could consider lifestyle of father, a sole business owner, where income figures offered by him were inconsistent with that lifestyle.	Lifestyle of Obligor
County of Ramsey v. Shir, 403 NW 2d 714 (Minn. App. 1987): Father cannot complain about calculation when he failed to provide copy of his tax return; on remand, court may recalculate.	Failure to Document
Marx v. Marx, 409 NW 2d 526 (Minn. App. 1987): Court properly rejected taxable income, which showed consistent losses, and estimated income by taking wages and interest less 25% for taxes and other deductions.	Reject Taxable Income - Estimate
Spooner v. Spooner, 410 NW 2d 412 (Minn. App. 1987): Failure to submit financial information in a proper fashion to the trial court justifies adverse inference.	Failure to Provide Information
Vaughan v. Putrah, 412 NW 2d 412 (Minn. App. 1987): Mother's assertion that father enjoyed fruits of good income such as purchase of motor vehicle and other items as well as two vacations was not suffi-cient to establish that trial court was clearly erroneous in determining that father's income had dropped.	Purchases
Pavlasek v. Pavlasek, 415 NW 2d 42 (Minn. App. 1987): No abuse of discretion by trial court in determining husband's net income based on pay stubs for the first six months of the year despite his contention that they did not reflect his post-dissolution tax liabilities.	Paystubs
County of Ramsey v. Shir, 403 NW 2d 714 (Minn. App. 1987): Where obligor has failed to produce adequate documentation of his income, court has wide latitude in determining income.	Failure to Document

Finch v. Marusich, 457 NW 2d 767 (Minn. App. 1990): Judge may disregard a party's unverified schedule of expenses.	Schedule of Expenses
Hamlin v. Hamlin, (Unpub.), C7-95-596, F & C, filed 10-31-95 (Minn. App. 1995): Where obligee failed to produce checkbook registers, check and pay stubs demanded in obligor's request for production of documents, appellate court found that, nevertheless, ALJ made findings required by statute and the fact that she did not have the checkbook registers, etc. did not warrant reversal.	Failure to Produce Requested Records
Jackson v. Jackson, (Unpub.), C1-96-488, F & C, filed 10-15-96 (Minn. App. 1996): If obligor's monthly income is difficult to determine, his lifestyle maybe considered in estimating his income. (Citing Marx, 409 NW 2d 526, 529 (Minn. App. 1987).)	Consideration of Lifestyle
State of Minnesota, by its agent, County of Anoka o/b/o Dahl v. Gjerde, (Unpub.), C0-96-840, F & C, filed 11-19-96 (Minn. App. 1996): ALJ's findings related to value of obligor's in-kind payments, including value of home provided by his parents, upheld where obligor failed to disclose financial documentation requested by ALJ nor did he provide evidence at the hearing of the actual value of the payments.	Failure to Document In-Kind Payments
Lingbeck v. Block, (Unpub.), C8-96-1136, F & C, filed 12-31-96 (Minn. App. 1996): Because obligor failed to provide his tax returns ten days prior to the pre-hearing conference pursuant to Minn. Stat. § 518.551, Subd. 5b(a), it was proper for trial court to refuse to consider his tax returns in determining the outcome of his motion to modify. Even though he testified about the tax returns, custodial parent did not consent to having the documents treated as if they had been timely filed; her attorney objected to introduction of the tax returns, and the tax returns were not introduced.	Failure to Timely File
Eisenschenk n/k/a Weeks v. Sanford, (Unpub.), C4-97-740, C5-97-1167, F & C, filed 11-25-97 (Minn. App. 1997): ALJ properly modified child support based upon a gross income calculation based solely on annual bank deposits where the obligor refused to provide other documentation of income or to testify regarding his financial situation or income.	Bank Deposits
Guyer v. Guyer, 587 NW 2d 856, (Minn. App. 1999): Where parties stipulated that obligor pay 25% of his bonus as child support, and where obligor could not predict whether he would receive a bonus each year, it was proper for court to order that obligor disclose his corporate financial records for three years to the other party. Controlling statute was § 518.17, subd. 3(a)(3)(1998), which requires a just determination of support and not § 518.551, subd. 5b (1998), which provides for various methods of determining income.	Disclosure Required of Corporate Financial Records
Elias and County of Olmsted v. Suhr, (Unpub.), C5-98-1745, F & C, filed 4-13-99 (Minn. App. 1999): Where county did not provide the ALJ financial information on the relative caretaker and the child, thereby "precluding the ALJ from addressing the costs of raising the child and the tax dependency questions," ALJ did not err in awarding non-custodial parent the dependency exemption and in deviating downward from the guidelines.	Burden on County to Provide Financial Info on CP and Child
Mills v. Anderson, (Unpub.), C2-98-1248, F & C, filed 2-22-99 (Minn. App. 1999): Where obligor supplied nine months of check stubs, it was error for court to set support based on higher claimed income in a car loan application, absent a finding that obligor was purposely underemployed or had supplemental income.	Car Loan Application
Rasinski v. Schoepke, (Unpub.), C4-99-774, F & C, filed 1-11-2000 (Minn. App. 2000): Where father owns a service station and is self-employed as an auto mechanic, but provided ALJ with only limited financial documentation, it was proper for ALJ to calculate earning capacity based on the Minnesota Salary Survey.	Salary Survey to Impute Income
Larson v. Pavicic, (Unpub.), C1-99-1476, F & C, filed 5-16-00 (Minn. App. 2000): Even though ALJ properly faulted the quality of the evidence submitted, it was error for ALJ to disallow all claimed business expenses since the obligor must have incurred at least some expenses in the production of his income. Reversed and remanded for a redetermination of income.	Cannot Disallow all Claimed Expenses
Salinas v. Salinas, (Unpub.), C2-00-1042, F & C, filed 1-9-2001 (Minn. App. 2001): In modification proceeding, it was not sufficient to base child support on gross income in two-year-old Judgment and Decree even though father's affidavit said his net income was almost exactly the same as it was at the time of dissolution. Must base support on current income.	Based on Current Income

Traxler v. Traxler, (Unpub.), C6-00-1495, F & C, filed 3-6-2001 (Minn. App. 2001): Child support must be calculated based on current net income. Minn. Stat. ' 518.64, Subd. 2(c)(i). CSM erred by using a 1998 stipulated income amount as current income in a case that was heard in 2000, even though obligor testified that he has always made approximately what he is making now.	Must Determine Current Income
Clark v. Clark, (Unpub.), C4-02-141, F & C, filed 7-30-02 (Minn. App. 2002): The court had personal jurisdiction over a non-resident party when she appeared by telephone in the expedited process hearing.	Appearance by Telephone
Walswick-Boutwell v. Boutwell, 663 NW 2d 20 (Minn. App. 2003): It was proper for the court to award a portion of obligor's PERA disability annuity to obligee as marital property, and, at the same time, treat obligor's remaining portion of the annuity as income for purposes of calculating child support. Cites Swanson v. Swanson, 583 NW 2d 15, 18 (Minn. App. 1998) and Watson v. Watson, 379 NW 2d 588, 591(Minn. App. 1985). Distinguishes Kruschel, 419 NW 2d 119 (Minn. App. 1988).	PERA Disability Benefits Both Marital Property and Income for Support
State of Minnesota ex rel. Kandiyohi County Family Services, v. Elmahdy, (Unpub.), C3-02-2091, filed 7-29-03 (Minn. App. 2003): Where an obligor who owned his own business sought a decrease in his child support obligation based on a decline in his income, the district court properly allowed bank records into evidence demonstrating that he deposited more than $90,000 in the year he alleged decreased income, and properly considered the equity in NCP's home to support denial of MTM.	Bank Deposits
Zaghloul v. Elashri, (Unpub.), A04-321, F & C, filed 8-24-04 (Minn. App. 2004): When the court made a determination of obligor's income different than income reported on his tax returns, basing the determination on statements he had made to others regarding his income, evidence that he had transferred funds to business associates, and his lifestyle, Minn. Stat. § 518.551, Subd. 5b(e), requiring support to be set at 150% of the minimum wage did not apply, since that provision only applies where there is insufficient information to determine actual income.	The 150% Standard is N/A if the Court is able to Determine Income Based on the Evidence Before it.
Zaghloul v. Elashri, (Unpub.), A04-321, F & C, filed 8-24-04 (Minn. App. 2004): When the court "imputed" obligor's actual income to be in an amount significantly greater than income reported on tax returns, and there was no finding of voluntary unemployment or under employment, the word, "imputed" was used according to its common meeting, and not as defined at Minn. Stat. § 518.551, Subd. 5b(d). Thus, the court was not required to determine obligor's earning capacity using the factors listed in that subdivision.	Determination of Actual Income Requires Consideration of Different Factors than Determination of Earning Capacity
Lohmann and Kopeska v. Alpha II Mortgage, (Unpub.), A04-608, F & C, filed 1-18-05 (Minn. App. 2005): Husband was employed by (non party) Alpha II, and there was a dispute as to whether he was also part owner. Despite confidentiality stipulation that would seal the file to maintain confidentiality of the Alpha II business information, husband did not respond to discovery requests regarding relationship to Alpha II. Wife subpoenaed officer of Alpha II, requesting Alpha documents regarding husband's ownership interest. Alpha sought a protective order to quash the subpoena duces tecum, because Alpha II is not a party to the dissolution. The district court did not abuse its discretion in refusing to quash the subpoena after balancing the need of the party to inspect the documents against the burden or harm on the person subpoenaed.	Subpoena duces tecum of other party's employer was proper, even though not a party.
In re: the Matter of K. A. Murphy v. Daniel Miller, (Unpub.), A05-151, filed 8-2-2005 (Minn. App. 2005): The district court did not err in denying obligor's motion to reduce support where the court could not readily determine obligor's self-employment income, but had evidence to conclude that obligor had "more than sufficient resources" to pay his current child support obligation, since almost all of obligor's living and household expenses were paid by his business before determining his adjusted gross monthly income.	Obligor's living and household expenses paid by business

Rachele Gunter v. Steven Gunter, (Unpub.), A04-2114, filed 12-6-2005 (Minn. App. 2005: Failure to allow deduction for medical insurance premium was not error where the obligor provided evidence of the rate, but no evidence that the premium had been paid. However, the district court erred in imputing summer income (three months) to the obligor, who worked during the school year (nine months) where the record did not support the court's inference that part-time summer jobs would pay an amount comparable to what the obligor earns during the school year.	Verification of payment required before allowing medical insurance deduction. Seasonal employment must be considered when imputing off-season income
Labarre vs. Kane, (Unpub.), A05-496, F&C, filed January 3, 2006 (Minn. App. 2006): Court did not error in finding self-employed obligor's reported income was inaccurate based on lifestyle and cash flow of his bank accounts. However, the court failed to make findings on (1) children's needs and (2) appellant's total ability to pay, and failed to allocate the available resources between the two children. The magistrate further erred in its calculation by not properly deducting paid state and federal income taxes, and its failure to consider the legitimacy of business deductions and obligor's subsequent support obligation. Case remanded for recalculation of appellant's income for child support purposes.	Insufficient findings to increase support of self-employed obligor
Hilliker v. Miller, (unpub.) A05-1538, filed May 9, 2006 (Minn. App. 2006). District court acted within its discretion in finding NCP was half-owner of the Chatterbox Pub with his wife, even though wife was the nominal owner, and attributing half the pub's income to him for calculation of child support.	Attribution of income from shared business despite legal ownership by spouse.
Flagstad v. Green, (unpub.) A05-1305, filed May 23, 2006, (Minn. App. 2006). Reversing district court decision to increase NCP's child support obligation from $450 to $1,743/mo., Ct. App. noted that district court may find income tax returns unreliable, but district court's reliance on two loan applications was clearly erroneous without considering business expenses and without evidence of substantial cash flow, lifestyle, or other concrete evidence of available resources. Absent clear evidence of actual income, child support may be based on earning capacity. Award of attorney's fees, for dilation of proceedings, was also reversed. Remanded for further proceedings.	Self-employment. Income tax returns. Earning capacity. "Concrete evidence." Attorney's fees.
Tipler v. Edson, (unpub.) A05-1518, filed May 23, 2006 (Minn. App. 2006) [Anoka County, Intervenor, by BAFL]. Although income from voluntary overtime must be excluded in the calculation of income for child support, it is the obligor's burden to prove overtime is voluntary. Inclusion of overtime by the CSM and district court finding that obligor did not meet burden was not clearly erroneous when obligor's proof was bare assertion that it was voluntary under "working agreement with union," and no such clause appeared in agreement reviewed by court. When income fluctuates, income averaging "more accurately measures income" and use of five-year period was not clearly erroneous nor abuse of discretion.	Overtime. Burden of Proof. Income averaging (five years).
Pennington County and Hutchinson v. Matthew, (Unpub.), A05-1467, filed May 30, 2006 (Minn. App. 2006): Appellate court found that determining an appropriate level of support by relying upon an obligor's earning capacity and earnings history (i.e., considering prior tax returns where obligor worked excess hours – approx. 90-100 hours per week) was appropriate where the court found it "impracticable" to determine obligor's actual income. The District Court did not err in refusing to accept obligor's testimony of his current self-employment earnings where obligor's supporting documentation and evidence was either lacking or "tenuous."	If "impracticable" to determine obligor's actual self-employment income, court can appropriately rely upon the obligor's earning capacity and earnings history even if average includes excess hours (above 40 per week) worked in prior years.

In Re the Marriage of Giese v. Giese, (Unpub.) A05-949, filed June 20, 2006 (Minn. App. 2006): Court found that the district court did not show bias in rejecting an obligor's income and expense figures when the court found the obligor was not credible and the figures the obligor provided were inconsistent with other evidence.	Determination of income not erroneous when it excluded evidence submitted by Obligor that was not credible.
Aitkin County Health and Human Services and James v. Smith, (Unpub.) A05-2114, Filed September 12, 2006 (Minn. App. 2006): The Court held the district court erred when it (1) considered capital gains that were one-time payouts as "ongoing" income of the Obligor; (2) used the self-employed Obligor's expenses as a basis for determining his actual income without first making a finding that the Obligor was underemployed; and (3) calculated past support based on the income figure which was unsupported by the record. Reversed and remanded.	INCOME: use of expenses as basis for self-employed Obligor's income requires a finding that Obligor is voluntarily underemployed
In Re the Marriage of Morter v. Morter, (Unpub.), A05-2476, Filed September 19, 2006 (Minn. App. 2006): The district court did not err when it imputed income to a self-employed Obligor based on a previous (in 2000) determination of his income of $11,922 per month that the Obligor did not contest, when the court found the Obligor lacked credibility and failed to supply credible evidence of earnings. The Obligor claimed a personal income of only $47,764 per year, but was found to be concealing his true income by running his corporation in his current wife's name. Because this proceeding was an establishment of support subsequent to a reservation of support after a change in custody, the modification statute requiring change in circumstances does not apply.	INCOME: a previously stipulated income may be considered the current income of a self-employed Obligor when the Obligor's evidence of current income is not credible.
In Re the Marriage of Martin v. Martin, (Unpub.), A06-300, Filed December 5, 2006 (Minn. App. 2006): The court affirmed the district court's denial of obligor's motion to modify child support based on the obligor's refusal to provide tax returns or other information regarding his income. Though Minn. Stat. § 518.551 does not mandate the production of income tax returns, CSM is justified in requiring them where a sizeable decrease in income is alleged and there is little supporting evidence to determine the obligor's actual income.	INCOME: Tax returns are not statutorily required as proof of income but court may require them where other income information is lacking.
Bauerly v. Bauerly, (Unpub.), A06-557, Filed April 10, 2007 (Minn. App. 2007): The court reversed and remanded the district court's income findings and child support calculation. The district court calculated obligor's income based on old evidence despite evidence of obligor's current income provided by obligor at trial. The appellate court reversed, citing Thomas v. Thomas, 407 N.W.2d 124, 127 (Minn. App. 1987); Merrick v. Merrick, 440 N.W.2d 142, 146 (Minn. App. 1989), stating that child support must be calculated based on *current* income figures. The court remanded for a new calculation or findings explaining why the court didn't base support on the evidence provided by the obligor or an explanation of why the current evidence would not be appropriate.	INCOME: Most current income must be used for the purposes of calculating support or findings must explain why current income is not appropriate.
County of Nicollet v. Jacquelyn Ann Pollock, n/k/a Jacquelyn Ann Miller, Jerry Joseph Duwenhoegger, (Unpub.), A06-875, Nicollet County, filed May 22, 2007 (Minn. App. 2007): Appeal from the District Court's order affirming the CSM's order requiring prisoner to pay child support while he is incarcerated. CSM found appellant was earning an income of $60 per month while in prison and could afford an obligation of $30 per month. Prison income may be used to determine child support and earning $60 per month was a substantial change in earnings from $0. (Citing Johnson v. O'Neill, 461 N.W.2d 507, 508 (Minn. App. 1990).	Prison income may be used to determine child support. Earnings of $60 per month was "substantial change" from $0.

Tammy Jo Arkell, n/k/a Arkell-Lund v. Richard Donald Wieber and Sterns county, Intervenor, (Unpub.), A06-1008, Stearns County, filed June 5, 2007 (Minn. App. 2007): Order increased appellant-father's child support from $368.00 to $713.00 per month. Appellant argues the magistrate failed to consider his subsequently born children and that he rebutted the presumption that the then existing child support award was unreasonable and unfair. This court affirms the lower court, holding that appellant's claim that his expenses outweighed his income did not mean he was automatically entitled to a deviation in support. Additionally, appellant failed to provide financial statements prior to the hearing and failed to attribute household expenses to his subsequently born children so that their expense could be determined.	Appellant father not entitled to deviation based on needs of subsequently born children when father failed to provide financial statements. Deviation is not automatic even though expenses may exceed income.
In re the Marriage of Gerald Ernest Jeschke, petitioner, Appellant, vs. Kirsten Jean Libby, Respondent, (Unpub.), A06-1359, Ramsey County, filed July 31, 2007 (Minn. App. 2007): Appellant employed by company in which his wife has an ownership interest; wife testified she had sole authority to determine the payment of salaries. Appellant received two checks per month of $6,250 each until Respondent motioned for increase in child support, after which checks ceased. Upon respondent's motion, district court increased child support. Appellant argues the record does not support the imputation of income to him. The court need not determine income solely on paystubs *(citing Minn. Stat. §518.551, subd. 5b (2006)*, and may consider "employer statements", "statement of receipts and expenses if self-employed" and "other documents evidencing income received." Court cannot conclude the district court imputed or estimated appellant's income. Findings indicate the appellant was entitled to continued paychecks; he continued to be fully employed by the company and the expectation was that he would eventually receive the compensation.	The court is not required to rely solely on paychecks to determine income; may also consider employer statements, statements of receipts and expenses if self-employed, and other documents evidencing income received.
In re the Marriage of Jennifer Marie Gran, f/k/a Jennifer Marie-Gran Barkley, petitioner, Respondent, vs. Craig William Barkley, Appellant, (Unpub.), A06-1887, Scott County, filed July 31, 2007 (Minn. App. 2007): Appellant self-employed in his own business. Did not prepare tax returns for 1999-2004 until 2005 and had not paid taxes for those years. Appeals the calculation of his income for child-support. District court has broad discretion to consider other evidence, such as cash flow and the lifestyle of a sole business owner, in determining appellant's net monthly income. Appellant argues district court should have based its calculation on his 2005 tax return. Appellant did not make this evidence available to the court at the time of the trial, and the court was not required to have the record reopened for submission.	District court has broad discretion to consider other evidence, such as cash flow and the lifestyle of a sole business owner, in determining appellant's net monthly income, and is not required to reopen the record for submission of additional income evidence.
In re the Marriage of Jennifer Marie Gran, f/k/a Jennifer Marie-Gran Barkley, petitioner, Respondent, vs. Craig William Barkley, Appellant, (Unpub.), A06-1887, Scott County, filed July 31, 2007 (Minn. App. 2007): Self-employed appellant argues district court should have deducted his payments for child support arrearages for another child, for his own medical insurance, and for the children's medical insurance. Based on appellant's record of unpaid taxes for 1999 to 2004 and unrecorded cash receipts, the district court had to deduce appellant's monthly income from the best material available, and did not abuse its discretion.	Not an abuse of discretion for court to base calculation of income upon self-employed obligor's business register or taking obligor's lifestyle into consideration where it is the best material available to the court.
Eben f/k/a Brouillette vs. Brouillette, (Unpub.), A06-2181, filed December 11, 2007, (Minn. App. 2007): The CSM did not err in denying the submission of new evidence after the close of the record; the parties cannot submit new evidence after the close of the hearing unless requested by the CSM with written or oral notice to the parties.	No new evidence after close of record unless requested by CSM.

Krznarich vs Freeman, (Unpub.), A07-993, filed December 18, 2007 (Minn. App. 2007): The court did not err in denying appellant's motion to add to the record and submit new evidence in support of amended findings and a new trial. New evidence may be submitted only if it is material and could not have been found with reasonable diligence and produced at the original trial.	No new evidence after close of record unless requested by CSM.
Samantha Jane Gemberling vs. Karl Hampton, (Unpub.), A07-0074, filed January 15, 2008 (Minn. App. 2008): The CSM did not error in finding that appellant failed to meet his burden of proof regarding a change in his income in that the CSM found and the record demonstrates appellant provided incomplete information and his tax returns omitted pertinent schedules regarding his income.	Change in circumstances burden not met where incomplete tax returns submitted as proof of change.
Baudhuin vs. Baudhuin, (Unpub.), F & C,A07-0156, filed March 11, 2008 (Minn. App. 2008): Appellant petitioner argues the district court erred by denying her motion for increase in maintenance, discharging alleged child support arrears, and awarding respondent attorney's fees based on appellant's conduct, among other issues. Court of Appeals finds no error; appellant effectively prevented the district court from resolving the issue of maintenance in her favor and properly addressing the Court of Appeals' instructions on a prior remand by her failure to produce properly discoverable information regarding her financial circumstances and her student (law school) status. The district court acted within its discretion in setting child support, based on the failure of both parties to timely submit evidence of financial situations for the court to properly determine child support. The court ordered each party, based on the conduct of each individually, to pay attorney's fees to the other of $10,000 each. No abuse of discretion.	No error where conduct of parties effectively prevented the court from resolving the issues of maintenance and child support.
Jennifer Gwen Loveland v. Francis Joseph Brosnan, (Unpub.), A07-0388, filed April 8, 2008 (Minn. App. 2008): Appellant obligor appeals from the district court's order denying his motion to modify his child support. The CSM found that appellant had failed to provide sufficient or reliable information regarding his income. Obligor's ability to maintain a lifestyle incurring over $6,000 in monthly expenses while on an unpaid medical leave for over 1 ½ years cut against his claim that his reduced earnings prevented him from making child support payments. Obligor failed to submit any information regarding his future employment prospect at his previous employer. Additionally, the documents submitted by obligor called into question his actual current income. No abuse of discretion.	Moving party has burden to demonstrate his earning capacity is diminished, his financial situation has deteriorated, or that he has made a good faith effort to seek reinstatement of re-employment.
Carlene Yvonne Nistler v. Terrance Roger Nistler, (Unpub.), A07-0793, filed April 1, 2008 (Minn. App. 2008): Appellant obligor argued for a decrease in support alleging his income substantially decreased since the dissolution. CSM denied because obligor failed to demonstrate that he is not voluntarily underemployed. Court of Appeals affirmed, citing obligor had the burden to show why he did not pursue work in the field he had experience and why he pursued another career.	Obligor has burden of demonstrating reduced income is not voluntary underemploy-ment
Huntsman v. Huntsman, No. A12-2147, 2013 WL 5777908 (Minn. Ct. App. Oct. 28, 2013), review denied (Dec. 17, 2013): Appellant-father brought a motion to modify support since he was now receiving unemployment benefits. Appellant provided tax documents that were redacted and wanted the court to rely on his affidavit of income and oral testimony instead. The District Court ruled that there was not a significant change in circumstances because there was insufficient credible evidence of a change of income. The District Court sanctioned the appellant under Rule 9 of the Minn. R. Civ. Pro., requiring him to pay his arrears before any future motions. The Court of Appeals affirmed finding the father's failure to comply with the district court's demand for full and completer disclosure of all financial information was grounds to decline appellant's motion to modify. The Court note the district court need not consider an affidavit nor oral testimony regarding income if the Court has reasonable grounds to dispute its credibility. Moreover, the Court of Appeals found the District Court's decision to limite Appellant's ability to file future motions to be substantiated by the record and not an abuse of discretion. The district could sanction under Rule 9, as part of its ruling on remand.	Failure to comply with financial information is grounds to decline motion to modify.

Stillwell v. Stillwell, No. A16-0114, 2016 WL 7041900 (Minn. Ct. App. Dec. 5, 2016): The statutory structure for establishing and modifying child support is in Minn. Stat. 518A.32, subd. 2; directly instructing a district court to select one of three available methods for imputing income for child support purposes. Court is required to review the parties' current circumstances at the time the motion to establish child support is made and not rely on evidence presented in prior hearings on another issue.	Imputing income; Income – determination of; Potential income.
Adam v. Adom, No. A17-0246, 2017 WL 5985393 (Minn. Ct. App. Dec 4, 2017): A party cannot complain about a district court's failure to rule in their favor when one of the reasons it did not do so was because they failed to provide the court with evidence that would allow them to fully address the question. The CSM has discretion to determine the obligor's ability to pay based on his/her testimony as to the potential income he/she may earn.	Gross Income
Hillstrom v. Aschoff, No. A17-0670, 2017 WL 1145868 (Minn. Ct. App. Mar. 5, 2018): A district court does not abuse its discretion when modifying a child support obligation when the moving party submits current income information and the responding party does not submit income information.	Modification
In re the Marriage of Chadwick v. Chadwick, A17-0521 (Minn. Ct. App. Mar. 12, 2018): The district court can not use a person's earning capacity to determine a maintenance obligation absent a finding he was underemployed in bad faith. Failing to provide documentation that obligor applied for other jobs does not support a finding of bad faith. The district court can not find that obligor had the ability to earn the same income prior to his injury without identifying employment that would be within his strict medical restrictions.	Spousal Maintenance
Totimeh v. Totimeh, No. A17-1198, 2018 WL 3340437 (Minn. Ct. App. Jul. 9, 2018: When a party reports a new employer but fails to supply evidence supporting new income, it is not an abuse of discretion to compute the party's child support obligation based on the income received from the party's prior employer.	Evidence of Income, Failure to Document, Earning Capacity.
Lund v. Lund, (Unpub.) No. A18-0168, 2018 WL 6165333 (Minn. Ct. App. Nov. 26, 2018: Both parties have an obligation to provide accurate financial information in child-support proceedings, and the district court may consider credible evidence from one party that the financial affidavit submitted by the other party is false or inaccurate.	Evidence of income - Modification
Vacko v. Shults, (Unpub.) No. A18-0242, 2018 WL 6442697 (Minn. Ct. App. Dec. 10, 2018): The district court does not abuse its discretion by using the information provided as the basis for imputing time when a party fails to provide documentation that allowed the court to deduce his or her financial sitation. Here, father failed to provide the court with the necessary documentation.	Evidence of Income, Failure to Document
In re the Marriage of Adams v. Adams, No. A17-1526, A17-1687 (Minn. Ct. App. Sept. 4, 2018): District Court did not err in calculating a party's wages at their full-time salary when the party earned less than their salary due to absences and the party presents no evidence of how absences will affect their future wages.	Determnation of Income

In re the Marriage of: Sandra Sue Grazzini-Rucki vs. David Victor Rucki, County of Dakota, No. A18-1721, 2019 WL 2495663 (Minn. Ct. App. Jun. 17, 2019): If a Child Support Magistrate orders reinstatement of the driver's license on the obligor's motion to reinstate the driver's license, the CSM must establish a written payment agreement under Minn. Stat. § 518A.65(e)(2). If the obligor later claims they did not consent to the payment agreement, the CSM committed harmless error by not securing the obligor's consent under the statute because had the CSM not established the payment agreement, the driver's license reinstatement motion would have been denied. When determining a party's income, the CSM may determine issues of witness credibility if the party does not provide evidence of income.	Driver's License Suspension, Payment Agreements, Potential Income
Patraw v. Wittmer, No. A18-1647, 2019 WL 2262783 (Minn. Ct. App. May 28, 2019): A child support order that is an agreement between the parties to continue paying the child support amount that was set in a prior order is not a modification of child support. The original child support order sets the baseline to determine whether there has been a substantial change in circumstances. The court may implicitly deny a motion to compel discovery when it grants a motion to modify.	Determination of Income, Modification
In re the Matter of Dennis J. Arvig v. Trudy A. Kawleski, County of Wadena, No. A18-1440, 2019 WL 2495519 (Minn. Ct. App. Jun. 17, 2019): When the prior order does not determine a party's income, it is the burden of the movant on a motion to modify, to provide sufficient credible evidence of their current income as well as their income at the time of the prior order. Without such evidence it can not be determined whether there has been a substantial change in circumstances to warrant a modification of support.	Modification, Substantial Change Presumption $75/20%
Jayawardena v. Jayawardena, A19-0390 (Minn Ct. App. Aug. 26, 2019): Bonus payments establishing dependability should be included in gross income. Nothing precludes a finding of dependability based on only one year's receipt of bonus income if the record establishes ongoing eligibility for and likely for receipt of bonuses. Credit card debt should not have been excluded in the calculation of living expenses as it was not duplicative.	Income Determination; Bonuses; Commissions; Living Expenses.
Kriesel v. Rossman, A19-0712, 2019 WL 7287079 (Minn. Ct. App. Dec. 30, 2019): Income from the joint ownership of a partnership or closely held corporation is treated as self employment income under 518A.30. Unearned income tax credits are not considered income where there is lack of evidence that they were periodically received. Expenses allowed by the IRS may not be allowed when determining income for child support. Additonally, courts need to consider all voluntary payments in the record when calculating retroactive support; the retroactive support awarded is not considered arrears until it is not paid when due.	Income Determination; Tax Return; Self-Employment
In re the Custody of E.J.B., Perry v. Beukema, A19-0553, 2020 WL 1242985 (Minn. Ct. App. 2020): It is not an abuse of discretion to fail to consider evidence the moving party failed to provide.	Imputing Income; Income, Determination of; Modification; Potential Income
Jacobs v. Fenikova, A20-0177, 2021 WL 1244412 (Minn. Ct. App. 2021): A CSM determination that a party is underemployed must be based upon the evidence available in the record. A party's assertion that imputed income was improperly calculated must be supported by actual facts indicating the improper calculation. A CSM's determination of gross monthly income supported by the facts in the record is upheld.	Determination of income; Modification; Potential Income

Banerjee v. Banerjee, A20-1224, 2021 WL 1604355 (Minn. Ct. App. 2021): A district court does not abuse its discretion by determining a party failed to meet their burden of demonstrating a substantial change in circumstances when the party fails to disclose all sources of income in a modification action. Without the ability to accurately calculate a child support obligation based on both parties total actual incomes, it is not an error for the district court to decline to apply a Parenting Expense Adjustment based on court ordered Parenting Time.	Determinationof Income; Definition of Modification - $75/20% Rule; Parenting Expense Adjustment; Parenting Time/ Overnights
Jayawardena v. Jayawardena, A20-1383, 2021 WL 1962490 (Minn. Ct. App. 2021): Credit card debt a party is ordered to pay as part of a dissolution action should be included in a consideration of monthly expenses for the purposes of calculating spousal-maintenance and child support obligations.	Debts – When to Consider; Dissolution; Gross Income; Maintenance
Tishchenko v. Cmiel, A20-1379, 2021 WL 2795846 (Minn. App. 2021): The parent whose income is being calculated has the burden of proving the status of business expenses that should be deducted from income. Judgments against a party for debt that was incurred prior to the marriage are the individual's non-marital debt – even if the judgments were entered during the marriage.	Self-Employment Incom; Marriage Dissolution
Roth v. Roth, A20-1439, 2022 WL 90223 (Minn. Ct. App. 2022): The CSM had discretion to consider a party's tax returns in addition to other evidence submitted to determine a party's gross income for child support purposes.	Income, Determination of; Modification; Self-Employment Income
Macfarlane v. Macfarlane, A21-1741, 2022 WL 6272061 (Minn. Ct. App. 2022): Appellant-wife makes three arguments that the district court erred in its dissolution judgment: 1) it did not consider the parties' pre-tax and post-tax incomes when awarding spousal maintenance, 2) it erred by making a finding of fact requiring the parties to submit further property disputes to binding arbitration, and 3) not specifying the source for a property equalizer payment. The Court of Appeals rules 1) failure to consider parties post-tax incomes ignores § 518.552, subd. 2 and caselaw identifying taxes a factor relevant to a maintenance award, 2) finds harmless error in the findings of fact as the conclusions of law refers to mediation and was incorporated into the judgement, Minn. R. Civ. P. 61 and 3) remands to the district court to clarify its ambiguous order.	Marriage Dissolution, Income, Maintenance
McMullen v. McMullen, A22-0499, 2023 WL 1770124 (Minn. Ct. App. 2023): Potential income may be determined based upon recent business income even when the party no longer owns the business.	Gross Income, Calculation; Imputing Potential Income; Income, Calculation/Determination of gross income; Potential Income, methods
Brandt-Rucker v. Rucker, A22-1203, 2023 WL 6206198 (Minn. Ct. App. 2023): The district court did not abuse its discretion when it denied father's motion to modify parenting time as it did analyze the relevant best-interests factors, § 518.175, subd. 5(b), § 518.17, subd. 1(a). The district court also did not err by including father's rental income even though the purchase of the rental property occurred after his motion to modify support was brought, § 518A.39, subd. 2(f), nor did it err by excluding mother's bonus income due to limited evidence, § 518A.29(a).	Bonuses, Commisions, etc. as Gross Income; Calculation of Gross Income; Gross Income, Calculation
Dunn v. Dunn, A23-1591, 2024 WL 4023033 (Minn. Ct. App. 2024): The district court did not abuse its discretion in its child support calculations as Appellant-Father bore the burden of proof in support of modification, he failed to provide evidence for the district court to consider, and the support amount calculated is consistent with the Minnesota Child Support Guidelines.	Modification
In re the Marriage of: Cross v. Cross, A24-0477, 2024 WL 4751267 (Minn. Ct. App. Nov. 12, 2024): The district court did not err in its calculation of appellant-father's gross income by not subtracting transportation costs or by including his income above 40 hours per week. The	Calculation of gross income; self-employment

district court did err when calculating mother's monthly income by not including her income from ownership interest in her jointly owned business.	income; modification; Income – definition of gross income; Income – calculation/determination of gross income
Ryan Gary Sanford v. Bethany Lynn Beilby, No. A24-1334, 2025 WL 1213728 (Minn. Ct. App. Apr. 28, 2025): The Court of Appeals affirms the district court's award of sole physical custody, sole legal custody, the calculation of monthly child support obligation, and the award of the dependent tax exemptions, but modifies the district court's back support order by $100 due to an arithmetic error.	Best Interest of Child-Custody; Bonuses, Commissions, etc. as Gross Income; Calculation of Gross Income; Custody-Best Interest of Child; Custody; Gross Incoem – Definition; Gross Income, Calculation; Income Tax Exemption; Parental Income for Determining Child Support; Self-Employment Income;

II.D.3. – Obligor' Receipt of Government / Disability Benefits	
Minn. Stat. ' 518A.31(c). - offset for social security benefits received by child.	
Weihe v. Hendley, 389 NW 2d 754 (Minn. App. 1986): AFDC benefits are not income for purposes of applying guidelines.	AFDC Benefits
Digatano v. Digatano, 414 NW 2d 498 (Minn. App. 1987): Requirement in divorce decree that husband pay his Veteran's Administration benefits allocated to his children as child support was proper.	Veteran's Benefits
Rose v. Rose, 107 S.Ct. 2029 (1987): Tennessee statute pursuant to which veteran was ordered by state divorce court to pay child support from his veteran's disability benefits was not preempted by federal statute giving Administrator of Veteran's Affairs authority to apportion compensation on behalf of children. Can hold veteran in contempt where sole source of income is veteran's disability benefits. Disability benefits may be exempt from attachment while in VA's hands, but once delivered to veteran, they can be used to satisfy child support order.	Veteran's Benefits
Lenz v. Wergin, 408 NW 2d 873 (Minn. App. 1987): Workers' compensation lump sum award must be allocated over the years from the date of the injury until obligation for support ceases.	Workers' Compensation Lump Sum
Sward v. Sward, 410 NW 2d 442 (Minn. App. 1987): Military disability benefits and social security benefits may be considered as income in setting child support and maintenance awards.	Military Disability - SS Benefits
Herrley v. Herrley, 452 NW 2d 711 (Minn. App. 1990): Periodically paid impairment compensation is included as income in calculating child support reimbursement payments.	Impairment Compensation
Becker County Human Services v. Peppel, 493 NW 2d 573 (Minn. App. 1992): SSI benefits are designed to provide for the minimum needs of the recipient and should not be considered income for child support.	SSI Not Income
Becker County Human Services v. Peppel, 493 NW 2d 573 (Minn. App. 1992): Disability benefits received based upon the wages earned during employment are attachable pursuant to 42 USC ' 659(a)(1988).	Wage-based Disability
Holmberg v. Holmberg, 578 NW 2d 817 (Minn. App. 1998), *aff'd.* 588 NW 2d 720 (Minn. 1999): A disabled child support obligor is entitled to credit for social security disability benefits paid on behalf of a child for whom the obligor has a duty to support. Overrules Haynes, 343 NW 2d 679 (Minn. App. 1984). Codified by Minn. Stat. § 518A.34(f).	Offset for Child=s Benefit
Koehn v. Heiden, (Unpub.), C3-97-2236, F & C, filed 8-11-98 (Minn. App. 1998): Where social security benefits child receives are greater than guidelines support, obligor is entitled to full credit against his child support order. (Holmberg, 578 NW 2d 817, 818 (Minn. App. 1998), *aff'd.* 588 NW 2d 720 (Minn. 1999)). However, because child still has unmet financial need, the ALJ can still consider if support in any amount would be appropriate, based on obligor's financial situation. Minn. Stat. § 518.551, subd. 5(c)(2)(1996).	Award over Soc.Sec. Benefit to Meet Child's Unmet Needs
Buhl, Gorden, and Ramsey Co. v. Stark, (Unpub.), C5-00-354, C9-00-356, F & C, filed 10-10-00 (Minn. App. 2000): Where obligor's sole source of income was Old Age Survivor's Disability Income (OASDI) and SSI, totalling $475.50 per month, the CSM erred in setting support at $25.00 per month in each case, even though finding that the obligor has access to and may own a motorcycle and a car and makes frequent trips to Wisconsin.	Error to Set Support Where Sole Income is SSI and OASDI
Walswick-Boutwell v. Boutwell, 663 NW 2d 20 (Minn. App. 2003): It was proper for the court to award a portion of obligor's PERA disability annuity to obligee as marital property, and, at the same time, treat obligor's remaining portion of the annuity as income for purposes of calculating child support. Cites Swanson v. Swanson, 583 NW 2d 15, 18 (Minn. App. 1998) and Watson v. Watson, 379 NW 2d 588, 591(Minn. App. 1985). Distinguishes Kruschel, 419 NW 2d 119 (Minn. App. 1988).	PERA Disability Benefits Both Marital Property and Income for Support

Schwagel, vs. Ward, (Unpub.), A06-1812, F & C, filed September 11, 2007 (Minn. App. 2007): Appellant/obligor appeals from district court's orders establishing child support and denying his subsequent motion to modify child support. Appellant argues that district court improperly included his VA disability benefits in his income citing 38 U.S.C. §5301(a)(1) which states that disability payments 'shall not be liable to attachment, levy or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary'. Citing the U.S. Supreme Court decision, *Rose v. Rose,* 481 U.S. 619, 107 S.Ct. 2029 (1987), the Court of Appeals rejected this argument because 'Congress clearly intended veterans' disability benefits to be used, in part, for the support of veterans' dependents.' §[5301(a)(1)] does not extend to protect a veteran's disability benefits from seizure where the veteran invokes that provision to avoid an otherwise valid order of child support'. District court affirmed.	VA disability benefits are income available for child support.
County of Grant v. Koser, 809 N.W.2d 237 (Minn.App.2012): NCP father was deemed eligible for RSDI benefits and received a lump-sum RSDI payment for July 2009 – May 2010. CP mother also received, on behalf of the joint children, a lump-sum RSDI payment of $4, 752 based on NCP's eligibility for July 2009 – May 2010. Grant County moved the district court to modify NCP's support obligation. NCP owed $1,764.15 in arrearages. NCP requested a hearing contending that the lump-sum RSDI benefit made to CP should be applied as a credit toward his arrearages and that the remainder of the lump-sum should be applied toward his prospective support obligation. The CSM found a presumptive change in circumstances and modified NCP's obligation but did not address the lump-sum issue. NCP moved for the district court to review arguing that his obligation had not changed by at least 20% and $75 and reasserted his lump-sum argument. CP agreed to use the lump-sum to satisfy arrearages but not toward the prospective obligation. District court found that NCPs obligation had decreased by more than 20% and $75 and applied $1, 764.15 of the $4, 752 lump-sum RSDI benefit to satisfy the NCP's arrearages but concluded that the remainder of the lump-sum benefit could not be applied toward the NCP's prospective obligation. NCP appealed arguing that (1) the district court erroneously modified the obligation by misapplying the modification statute and (2) that the district court erred by failing to apply the lump-sum benefit as a credit toward NCP's prospective obligation. Court of Appeals found that (1) the district court did not err by calculating NCP's presumptive obligation by using the entire calculation found in § 518A.34 instead of deriving the obligation solely from § 518A.35 because the modification statute contemplates application of all adjustments made to the guidelines basic support amount in determining whether circumstances have changed and (2) the district court erred by declining to subtract the entire lump-sum RSDI payment the CP received from the NCP's obligation because the language of §§ 518A.31(c) and 518A.34(f) does not limit the application of a credit to either arrearages or prospective obligations and does not specify the manner in which the district court must subtract social security benefits from a child-support obligation. Issue is remanded for the district court to exercise its discretion in applying the remaining balance of the lump-sum benefit as a credit toward NCP's prospective obligation. (1) When determining whether a party's circumstances have changed so that a child support obligation is presumed unreasonable and unfair a court may consider application of the entire calculation found in § 518A.34, including all adjustments made to the guidelines basic support amount, and does not have to base their calculation solely from the guidelines under § 518A.35. (2) Social security disability benefits paid to a CP on behalf of joint children based on NCP's eligibility must be subtracted from NCP's child-support obligation. However, the manner in which this amount is to be credited is not specified and the statute does not limit the application of this credit to either arrearages or prospective obligations, so the District Court must exercise its discretion in applying this credit.	Arrears, Child Support; Guidelines, Lump Sum Payments; Modifications; RSDI; SSI

In re Dakota Cnty., 866 N.W.2d 905, 908 (Minn. 2015): Obligor continued paying $1,977 per month in child support while oblige received a $1,748 per month derivative benefit for the children stemming from the obligor's RSDI benefit. Child support obligor brought motion to modify child support obligation, asking court to offset obligation by amount of monthly derivative Social Security benefits received by obligee on behalf of children and to give him credit for all benefits already received. A child support magistrate (CSM) granted the motion. The District Court, modified the child support magistrate's order in part, retaining the offset and clarifying that the amount of the benefits already received by the obligee could be credited against the obligor's prospective obligation. County appealed. The Court of Appeals, 2014 WL 1272165, affirmed, declining to overrule *County of Grant v. Koser*. County petitioned for review, which was granted. The Minnestoa Supreme Court reversed and remanded, holding that an obligee has a legal right to both an RSDI derivate benefit and Child Support until the obligor moves to modify child support. If an obligor wants an existing child support obligation to be reduced on account of derivative Social Security benefits paid to the obligee for a joint child, the obligor must bring a motion to modify the existing child support order. The child support obligation then must be recalculated, but any resulting modification is retroactive only to the date of service of notice of the motion to modify.	RSDI, Modification, arrears, medica expenses, support guidelines.
In re the Marriage of: Cusick v. Cusick, A19-00224, 2020 WL 1242964 (Minn. Ct. App. 2020): Federal law does not preempt state law in family law matters absent a clear intent to do so by Congress. Overtime pay that began before the entry of the existing child support order should continue to be counted as gross income in a modification motion context.	Income, Determination of; Modification; Overtime - in modification
Alstrin v. Alstrin, A22-0247, 2022 WL 17086766, (Minn. Ct. App. 2022): Appellant-father challenges the District Court's support order during his severance period and its use of a "revert back" provision once his income returns to its prior level. The District Court erred as it did not apply the guidelines under § 518A.35 and § 518A.36 and did not explain its deviation under § 518A.37, subd. 2	Child-Support, Marriage Dissolution

II.D.4. - Self-Employment / Business Expenses	
Minn. Stat. § 518A.30 - defines income from self-employment and what business expenses are deductible.	
Hertz v. Hertz, 229 NW 2d 42, 45 (1975): Court must consider the amount of income which is necessary to retain in the corporation for business capital purposes, in determining net income reasonably available for child support.	Retention of Income for Capital Purposes
Ferguson v. Ferguson, 357 NW 2d 104 (Minn. App. 1984): Opportunity for self-employed person to support himself on negligible income is too well-known to require exposition.	Self-Employment
Larson v. Larson (Laurel v. Loren), 370 NW 2d 40 (Minn. App. 1985): Parent may not increase capital net worth and at the same time avoid child support because less cash is available on a monthly basis.	Increase Assets
Larson v. Larson (Laurel v. Loren), 370 NW 2d 707 (Minn. App. 1985): Use of tax shelters may actually increase obligor's financial resources in long run, although reducing cash available on monthly basis.	Tax Shelters
Martin v. Martin, 364 NW 2d 475 (Minn. App. 1985): Court's refusal to depart from guidelines by discounting self-employed obligor's meals and lodging expense as truck driver to arrive at net income not abuse of discretion.	Business Expenses
Dinwiddie v. Dinwiddie, 379 NW 2d 227 (Minn. App. 1985): Error to deduct unearned income from obligor's gross income, but harmless error in light of equitable increase granted.	Unearned Income
Dinwiddie v. Dinwiddie, 379 NW 2d 227 (Minn. App. 1985): Permissible to deduct business employee expense in determining net income.	Business Employee Expenses
Looyen v. Martinson, 390 NW 2d 465 (Minn. App. 1986): Appropriate for court to allocate depreciation and capital expenditures for obligor operating dairy farm as legitimate business.	Farm Expenses
Carver County v. Fritzke, 392 NW 2d 290 (Minn. App. 1986): Exclusion of business expenses is not allowed under guidelines and any exclusion represents a deviation and requires appropriate findings.	Business Expenses
Keil v. Keil, 390 NW 2d 36 (Minn. App. 1986): Deductions for housing and food expenses incurred while working away from home are allowable for purposes of calculating net income, but amount of deduction is within court's discretion.	Working Away from Home
Veit v. Veit, 413 NW 2d 601 (Minn. App. 1987): Trial court properly relied on self-employed husband's average cash flow and additional available funds in calculating his net monthly income for purposes of determining child support, despite wife's claim that average included financially disastrous year which distorted husband's current income, since by nature of husband's business, his income fluctuated, and the average took into account the fluctuations in order to accurately measure his income.	Average Cash Flow
Preussner v. Timmer, 414 NW 2d 577 (Minn. App. 1987): Depreciation deductions on rental property may be considered when determining obligor's net income for purposes of establishing child support obligations, as long as the rental property is not held primarily for the purpose of sheltering income.	Depreciation
Stevens County Social Services Department, ex rel. Banken v. Banken, 403 NW 2d 693 (Minn. App. 1987): In determining an obligor's income, the trial court may not disregard depreciation and need to replace farm machinery absent evidence showing the obligor has no corresponding replacement costs.	Depreciation - Farm Machinery
Lindquist v. Lindquist, (Unpub.), C9-90-290, F & C, filed 7-24-90 (Minn. App. 1990): The portion of appellant's income available to pay child support, the trial court should consider what, if any, depreciation deductions for the appellant's self-operated business are related to good faith legitimate business enterprises and whether those deductions are necessary for business enterprises and whether those deductions are necessary for business capital purposes.	Business Expenses
Hackett v. Hackett, (Unpub.), CX-90-1271, F & C, filed 12-24-90 (Minn. App. 1990) review denied 2-20-91: Even though certain expenses are deductible as ordinary and necessary busi-ness expenses of a corporation, they can still be attributed to a party for purposes of deter-mining the proper amount of child support. Payments for meals, motels, building mainte-nance and motor home by a business may be found to constitute personal income to an individual.	Business Expenses

Beltz v. Beltz, 466 NW 2d 765 (Minn. App. 1991): District Court must evaluate claimed depreciation to determine whether it reflects true depreciation or depreciation for tax purposes only.	Depreciation
Freking v. Freking 479 NW 2d 736 (Minn. App. 1992): A total disregard of depreciation is reversible error, but tax returns alone may not accurately show net income.	Depreciation
Joyce v. Wagner, (Unpub.), CX-91-2494, F & C, filed 7-14-92 (Minn. App. 1992): Depreciation deductions associated with rental property are not used in calculating net income, where rental property is primarily for sheltering income and obtaining tax deductions, not for net profits.	Depreciation Deductions
Hupfer v. Malmon-Hupfer, (Unpub.), C1-92-272, F & C, filed 7-28-92 (Minn. App. 1992): Obligor's debt payments are not subtracted from his net monthly income, where payments are to buy a business, thus raising his equity.	Business Payments
County of Nicollet v. Haakenson, 497 NW 2d 611, 615 (Minn. App. 1993): Legitimate business expenses must be considered by the trial court in determining an obligor=s net income.	Legitimate Business Expenses
Hubbard County o/b/o State of South Dakota and Judy Lampl v. John Lampl, (Unpub.), C8-92-2004, F & C, filed 5-11-93 (Minn. App. 1993): A court does not need to consider an obligor's farming losses if the farming operation was not geared towards generating income sufficient to meet his child support obligations.	Farm Losses
County of Swift and Jaeger v. Jaeger, (Unpub.), C2-95-1980, F & C, filed 5-28-96 (Minn. App. 1996): Where obligor stated that semi-truck need replacing about when it is paid in full, it was proper for ALJ to limit depreciation deduction to amount paid on principal.	Depreciation
Jackson v. Jackson, (Unpub.), C1-96-488, F & C, filed 10-15-96 (Minn. App. 1996): It was not error for ALJ to fail to determine obligor's exact business income, or indicate how much depreciation was credited, stating only that business income was "at least $2500," where child support was based not only on business earnings, but on father's lifestyle, and father's failure to separate personal and business financial dealings. Otte, 368 NW 2d 293 (Minn. App. 1985) was distinguished.	Finding Only as to Approximate Income Withheld
State of Minnesota v. Glowczewski, (Unpub.), C6-97-1792, F & C, filed 4-7-98 (Minn. App. 1998): It was not error for ALJ to adjust obligor's income as stated in his business tax return to reflect the difference between the reasonable market wage for a short order cook, and the amount he paid his mother for that job.	Higher than Market Wages to Family Member
Dakota County and Engebretson v. Lee, (Unpub.), C8-97-2197, F & C, filed 7-21-98 (Minn. App. 1998): Where ALJ found that obligor did not present evidence that any of his rental properties were decreasing in value, it was reasonable to assume the depreciation was for tax purposes only and therefore not exclude it from calculation of income.	Depreciation of Rental Property
Arendt v. Lanand, n/k/a Anand, (Unpub.), C1-98-785, F & C, filed 1-5-99 (Minn. App. 1999): Where NCP bought rental properties as a tax shelter, and NCP did not meet his burden under ' 518.551, subd. 5b(c), to show that expenses associated with the rental properties were ordinary and necessary, it was proper for ALJ to disregard depreciation and other rental property expenses in calculating net income.	NCP's Burden to Prove Claimed Expenses are Ordinary and Necessary
Sayer v. Sayer, (Unpub.), C3-99-426, F & C, filed 11-30-99 (Minn. App. 1999): Where Minn. Stat. ' 518.551, subd. 5b(f)(1998) "gross receipts" minus ordinary and necessary business expenses of a wholly owned corporation are imputed to the self-employed person. Deductible expenses include cost of goods sold, salaries, deductions allowed by law, and some depreciation, when appropriate.	Wholly-Owned Corporation
Leverington v. Leverington, (Unpub.), C3-99-1373, F & C, filed 3-27-2001 (Minn. App. 2001): Obligor owned a 1/3 share in a Subchapter S Corporation. CSM included in income obligor's share of interest the corporation earned on a money-market account it was required to maintain for bonding purposes even though income was not distributed to obligor. CSM excluded other profits distributed to obligor which were only enough to satisfy his tax liability. When considering whether to include income from a Subchapter S Corporation, court should consider the level of control of the operations of the corporation obligor has, and that profits left with the corporation benefit the shareholders by increasing the value of their ownership interest. See Roth, 406 NW 2d 77, 79 (Minn. App. 1987) and Marx, 409 NW 2d 526, 529 (Minn. App. 1987).	Subchapter S Corporation

Haefele v. Haefele, 837 N.W. 2d 703 (Minn.2013): NCP moved to modify his support obligation arguing that certain distributions paid to CP as a shareholder of a subchapter S corporation should be included in her gross income for the prupose of calculating support. The district court granted the motion. The court of appeals reversed concluding that the distributions were not available to the CP or were designated to pay her income tax obligation and therefore were not a part of her gross income. Supreme Court reversed finding that gross income from a shareholder's interest in a closely-held subchapter S corporation must be calculated using § 518A.30 and does not depend on the amount actually distributed or available to the parent shareholder. (1) When determining child support under § 518A.30 a parent's income from self-employment or operation of a business includes the parent's income from joint ownership of a closely-held subchapter S corporation. (2) After calculating the presumptive child-support obligation, the district court must consider all of the circumstances and resources of each parent in actually setting the final obligation. The court may rely on the unavailability of funds included in gross income in departing from the presumptive obligation.	Self-Employment/ Business Expenses; Deduttion of Income; Deviations.
Davis v. Davis n/k/a Haux, 631 NW 2d 822 (Minn. App. 2001): CSM erred when failing to consider necessary and ordinary business expenses of a day care provider when setting support based on gross income.	Business Expenses of Day Care Provider
Schisel v. Schisel., 762 N.W.2d 265 (Minn. Ct. App. 2009): Appellant was a self-employed real estate broker and the Respondent was polic commander. Appellant presented evidence that she had modified her flexible work schedule in order to be more available to her children before and after school. Respondent's work schedule found to be inflexible. The District Court determined that the parenting time schedule would eventually be approximately 60/40 with the majority of the time with the Appellant because her more flexible schedule (althought the record support a different schedule). In calculating child-support adjustment under the *Hortis/Valento* formula, the court must determine actual, rather than hypothetical parenting time. The record supported a 78/22 split rather than the 60/40 determined by the district court. In calculating a child-support obligation of a self employed parent, the district court must consider business expense deductions and must apply the FICA/self-employment tax deduction rate. If the court does not deduct business expenses their failure to do so must be supported by specific findings of fact. In calculating child-supoort adjustments under the *Hortis/Valento* formula, the court must determine actual rather than hypothetical parenting time.	Business Expenses deductions, FICA/Self-employed tax deduction rate.
Macemon, f/k/a Ludowese v. Ludowese, (Unpub.), C9-01-545, F & C, filed 12-4-01 (Minn. App. 2001): The Magistrate determined that farm-related depreciation was only speculative and found that employed obligor based on information compiled by a bank regarding the obligor=s loan repayment capacity and increase in net worth.	Depreciation
Edwards v. Gottsaker, (Unpub.), C1-02-615, filed 7-17-03 (Minn. App. 2003): AAA (Accumulated Adjustment Account) in a Subchapter S Corp is analogous to retained corporate earnings. Unless the party has control over how and when these earnings are distributed, they are not considered earnings. (Decision was based on a spousal maintenance award and not child support award.)	Retained Earnings in Subchapter S Corp.
State of Minnesota ex rel. Kandiyohi County Family Services, v. Elmahdy, (Unpub.), C3-02-2091, filed 7-29-03 (Minn. App. 2003): Where an obligor who owned his own business sought a decrease in his child support obligation based on a decline in his income, the district court properly allowed bank records into evidence demonstrating that he deposited more than $90,000 in the year he alleged decreased income, and properly considered the equity in NCP=s home to support denial of MTM.	Bank Deposits
In re: the Matter of K. A. Murphy v. Daniel Miller, (Unpub.), A05-151, filed 8-2-2005 (Minn. App. 2005): The district court did not err in denying obligor's motion to reduce support where the court could not readily determine obligor's self-employment income, but had evidence to conclude that obligor had "more than sufficient resources" to pay his current child support obligation, since almost all of obligor's living and household expenses were paid by his business before determining his adjusted gross monthly income.	Obligor's living and household expenses paid by business

IRMO: Cylkowski v. Polinchock, (Unpub.), A05-334, filed 11-22-2005 (Minn. App. 2005): CSM did not abuse her discretion in denying self-employed obligor's motion to decrease support and basing income calculations on obligor's cash flow (via bank statements) where income was not easily determined from other sources. (The appellate court noted that it, too, was frustrated by the obligor's documentation/ exhibits and that the CSM properly used an average of deposits in a seven-month period to determine obligor's income.)	Average bank deposits appropriate evidence of income
Labarre vs. Kane, (Unpub.), A05-496, F&C, filed January 3, 2006 (Minn. App. 2006): Court did not error in finding self-employed obligor's reported income was inaccurate based on lifestyle and cash flow of his bank accounts. However, the court failed to make findings on (1) children's needs and (2) appellant's total ability to pay, and failed to allocate the available resources between the two children. The magistrate further erred in its calculation by not properly deducting paid state and federal income taxes, and its failure to consider the legitimacy of business deductions and obligor's subsequent support obligation. Case remanded for recalculation of appellant's income for child support purposes.	Insufficient findings to increase support of self-employed obligor
Bettin vs. Bettin, (Unpub.), A05-265, F&C, filed December 27, 2005 (Minn. App. 2006): The husband made a motion to modify his maintenance obligation. He failed to show that he had incurred a substantial decrease in income, making the present spousal maintenance unreasonable and unfair. His lifestyle was incompatible with the figures that he supplied and his self-generated reports of income and expenses were devoid of any supporting documents and contained conflicting and questionable records of his purported income and expenses.	Denial of motion to reduce spousal maintenance as obligor's lifestyle did not support reduction.
Pennington County and Hutchinson v. Matthew, (Unpub.), A05-1467, filed May 30, 2006 (Minn. App. 2006): Appellate court found that determining an appropriate level of support by relying upon an obligor's earning capacity and earnings history (i.e., considering prior tax returns where obligor worked excess hours – approx. 90-100 hours per week) was appropriate where the court found it "impracticable" to determine obligor's actual income. The District Court did not err in refusing to accept obligor's testimony of his current self-employment earnings where obligor's supporting documentation and evidence was either lacking or "tenuous."	If "impracticable" to determine obligor's actual self-employment income, court can appropriately rely upon the obligor's earning capacity and earnings history even if average includes excess hours (above 40 per week) worked in prior years.
In re the Marriage of: Chaignot v. Chapin; Minn. Ct. App. Unpub. (A05-1966): Appellant-husband challenged district court's calculation of his income. The appellate court reversed the district court's calculations of income, and remanded to reconsider this issue and recalculate support. The district court properly calculated income from deposits made into his business checking account because it determined that his individual tax filings were not reflective of his true income. The district court's calculation of self-employment taxes was reasonable. However, it was error to ignore his business expenses when determining net income. The court made no finding on this issue. It must make a finding whether the expenses are ordinary and necessary and recalculate support if necessary.	Determination of income, self-employed consultant. Calculation based on deposits to business checking account. Court must make findings regarding business expenses and whether they are ordinary and necessary.
Aitkin County Health and Human Services and James v. Smith, (Unpub.) A05-2114, Filed September 12, 2006 (Minn. App. 2006): The Court held the district court erred when it (1) considered capital gains that were one-time payouts as "ongoing" income of the Obligor; (2) used the self-employed Obligor's expenses as a basis for determining his actual income without first making a finding that the Obligor was underemployed; and (3) calculated past support based on the income figure which was unsupported by the record. Reversed and remanded.	INCOME: use of expenses as basis for self-employed Obligor's income requires a finding that Obligor is voluntarily underemployed

In Re the Marriage of Morter v. Morter, (Unpub.), A05-2476, Filed September 19, 2006 (Minn. App. 2006): The district court did not err when it imputed income to a self-employed Obligor based on a previous (in 2000) determination of his income of $11,922 per month that the Obligor did not contest, when the court found the Obligor lacked credibility and failed to supply credible evidence of earnings. The Obligor claimed a personal income of only $47,764 per year, but was found to be concealing his true income by running his corporation in his current wife's name. Because this proceeding was an establishment of support subsequent to a reservation of support after a change in custody, the modification statute requiring change in circumstances does not apply.	INCOME: a previously stipulated income may be considered the current income of a self-employed Obligor when the Obligor's evidence of current income is not credible.
In re the Marriage of Gerald Ernest Jeschke, petitioner, Appellant, vs. Kirsten Jean Libby, Respondent, (Unpub.), A06-1359, Ramsey County, filed July 31, 2007 (Minn. App. 2007): Appellant employed by company in which his wife has an ownership interest; wife testified she had sole authority to determine the payment of salaries. Appellant received two checks per month of $6,250 each until Respondent motioned for increase in child support, after which checks ceased. Upon respondent's motion, district court increased child support. Appellant argues the record does not support the imputation of income to him. The court need not determine income solely on paystubs *(citing Minn. Stat. §518.551, subd. 5b (2006)*, and may consider "employer statements", "statement of receipts and expenses if self-employed" and "other documents evidencing income received." Court cannot conclude the district court imputed or estimated appellant's income. Findings indicate the appellant was entitled to continued paychecks; he continued to be fully employed by the company and the expectation was that he would eventually receive the compensation.	The court is not required to rely solely on paychecks to determine income; may also consider employer statements, statements of receipts and expenses if self-employed, and other documents evidencing income received.
In re the Marriage of Jennifer Marie Gran, f/k/a Jennifer Marie-Gran Barkley, petitioner, Respondent, vs. Craig William Barkley, Appellant, (Unpub.), A06-1887, Scott County, filed July 31, 2007 (Minn. App. 2007): Appellant self-employed in his own business. Did not prepare tax returns for 1999-2004 until 2005 and had not paid taxes for those years. Appeals the calculation of his income for child-support. District court has broad discretion to consider other evidence, such as cash flow and the lifestyle of a sole business owner, in determining appellant's net monthly income. Appellant argues district court should have based its calculation on his 2005 tax return. Appellant did not make this evidence available to the court at the time of the trial, and the court was not required to have the record reopened for submission.	District court has broad discretion to consider other evidence, such as cash flow and the lifestyle of a sole business owner, in determining appellant's net monthly income, and is not required to reopen the record for submission of additional income evidence.
In re the Marriage of Jennifer Marie Gran, f/k/a Jennifer Marie-Gran Barkley, petitioner, Respondent, vs. Craig William Barkley, Appellant, (Unpub.), A06-1887, Scott County, filed July 31, 2007 (Minn. App. 2007): Self-employed appellant argues district court should have deducted his payments for child support arrearages for another child, for his own medical insurance, and for the children's medical insurance. Based on appellant's record of unpaid taxes for 1999 to 2004 and unrecorded cash receipts, the district court had to deduce appellant's monthly income from the best material available, and did not abuse its discretion.	Not an abuse of discretion for court to base calculation of income upon self-employed obligor's business register or taking obligor's lifestyle into consideration where it is the best material available to the court.

In re the Marriage of: Scott Thomas Frampton, petitioner, Appellant, vs. Leicha Chenoa Garcia-Frampton, Respondent, and County of Washington, Intervenor., (Unpub.), A06-1616, Washington County, filed August 7, 2007 (Minn. App. 2007): Where the obligor is self-employed, the obligor's income is equal to gross receipts less ordinary and necessary expenses. The order setting self-employed obligor's child support must include specific findings as to obligor's gross income or ordinary and necessary business expenditures.	Order setting self-employed obligor's child support must include specific findings as to obligor's gross income or ordinary and necessary business expenditures.
Crow Wing County Social Services and Buranen v. Buranen, (Unpub.), A06-2105, Filed August 14, 2007 (Minn. App. 2007): District court erred when it failed to consider obligor's change in status from employee of a business to owner of the business, and whether obligor unjustifiably self-limited his earnings or earning capacity. Because CSM's order made no findings regarding the income and expenses of the self-employed obligor, the Court of Appeals was unable to conduct appellate review (*See Putz v. Putz*, 645 N.W.2d 343, 353-54 (Minn. 2002), and remanded for reconsideration of obligor's income, particularly regarding the income and expenses related to his business.	INCOME: Change in obligor status from employee to business owner and effect on income must be addressed in findings.
Reuter vs. Reuter, (Unpub.), A07-0338, F&C, filed 5/20/08 (Minn. App. 2008): The district court's computation of net income should properly take into account depreciation deductions for dairy cows, farm buildings and farm equipment when calculating the appellant's child support obligation. A self-employed obligor's income is equal to gross receipts minus ordinary and necessary expenses. Minn. Stat. § 518A.30 (2006). This amount does not include amounts allowed by the IRS for accelerated-depreciation expenses, investment credits or other business expenses. However, total disregard of depreciation is reversible error. *Citing Stevens County Social Serv. Dep't ex rel. Banken v. Banken*, 403 N.W.2d 293, 297 (Minn. App. 1987). The court may not disregard depreciation absent evidence that the obligor has no corresponding replacement costs in his farming operation.	The court may not disregard depreciation absent evidence that the obligor has no corresponding replacement costs in his farming operation.
Stier v. Peterson, A17-0024, 2017 WL 4103889 (Minn. Ct. App. Sep. 18, 2017): Retained earnings from a business may be included in gross income if the party seeking to have them excluded has failed to establish the retained earnings are for a business expense that is ordinary and necessary. A party cannot complain about the district court's failure to rule in his/her favor when the reasons it did so is because the party failed to provide the district court with the evidence needed to fully address the issue.	Gross income; burden to provide evidence
Manely v. Manely, No. A17-1436, 2018 WL 3966185 (Minn. Ct. App. Aug. 27, 2018): As the party seeking to deduct business expenses from his income, husband bore the burden of demonstrating that the business expenses were ordinary and necessary.	Self-Employment, Business Expenses, Burden
In re the Marriage of: Camilla Renae Lee vs. Lyndon Carson Lee, A18-0770 (Minn. Ct. App. Apr. 8, 2019): If transcripts of the District Court proceedings are not provided, then the Court of Appeals review is limited to whether the District Court findings support its decision. The District Court did not abuse its discretion by assigning a higher income to a self-employed party than what the party indicated.	Self-employment income
Kriesel v. Rossman, A19-0712, 2019 WL 7287079 (Minn. Ct. App. Dec. 30, 2019): Income from the joint ownership of a partnership or closely held corporation is treated as self employment income under 518A.30. Unearned income tax credits are not considered income where there is lack of evidence that they were periodically received. Expenses allowed by the IRS may not be allowed when determining income for child support. Additonally, courts need to consider all voluntary payments in the record when calculating retroactive support; the retroactive support awarded is not considered arrears until it is not paid when due.	Income Determination; Tax Return; Self-Employment
In re the Marriage of: Thompson v. Thompson, A19-0613, 2020 WL 290449 (Minn. Ct. App. 2020): When a party is self-employed and provides evidence of business expenses, a court must make findings regarding the expenses to allow a reviewing court to evaluate income calculations.	Self-employment income; income, determination of

In re the Marriage of: Kristi Rae Pawlak v. Steven Vincent Pawlak, A20-0719, 2021 WL 1245280 (Minn. Ct. App. Apr. 5, 2021): Based on *Haefele*, party can be found to have a closely held interest in a corporation even if they have no control over amounts of distributions. Gross monthly income where a party has a joint interest in a closely held corporation must be calculated according to Minn. Stat. 518A.30. Deviations can be made only after GMI is calculated and proper findings are made.	Self-Employment Income
Tishchenko v. Cmiel, A20-1379, 2021 WL 2795846 (Minn. App. 2021): The parent whose income is being calculated has the burden of proving the status of business expenses that should be deducted from income. Judgments against a party for debt that was incurred prior to the marriage are the individual's non-marital debt – even if the judgments were entered during the marriage.	Self-Employment Incom; Marriage Dissolution
Roth v. Roth, A20-1439, 2022 WL 90223 (Minn. Ct. App. 2022): The CSM had discretion to consider a party's tax returns in addition to other evidence submitted to determine a party's gross income for child support purposes.	Income, Determination of; Modification; Self-Employment Income
Larson v. Larson, A23-1369, 2024 WL 2130757 (Minn. Ct. App. 2024): The district court erred in its calculation of appellant-father's income by not properly applying Minn. Stat. § 518A.30 and ignoring *Haefele v. Haefele*, 837 N.W.2d 703, 711 (Minn. 2013), but correctly maintained the parties' "childcare" payment and correctly denied father's motion for conduct-based attorney fees.	Bonuses, Commissions, etc. as Gross Income; Calculation of Gross Income; Income Calculation/Determination of Gross Inc.; Childcare Support; Childcare Decrease
Ali v. Ali, A23-0965, 2024 WL 2266345 (Minn. Ct. App. 2024): The court properly found the parties marriage was valid in Minnesota because it was a valid marriage according to Hawaii law which where the marriage occurred. It is an error to impute self-employment income using only the gross income from father's businesses but did not subtract the costs of goods sold and necessary business expenses.	Best Interest of Child-Custody; Custody, Best Interest of Child; Custody, Joint Legal; Calculation of Gross Income; Dissolution of Marriage (Generally); Gross Income, Calculation; Imputing Potential Income; Marriage Dissolution (Generally); Potential Income-Generall; Potential Income-Methods; Self-Employment Income

Keim v. Keim, A23-1256, 2024 WL 2885586 (Minn. Ct. App. 2024): The Court of Appeals found the Child Support Magistrate erred when calculating appellant-father's monthly income not in accordance with Minn. Stat. § 518A.29 and § 518A.30, and when they used the 2022 guidelines rather than the 2023 guidelines.	Calculation of Gross Income; Deviation from Guidelines; Gross Income, Calculation; Income, Calculation/Determination of Gross Inc.; Self-Employment Income
In re the Marriage of: Cross v. Cross, A24-0477, 2024 WL 4751267 (Minn. Ct. App. Nov. 12, 2024): The district court did not err in its calculation of appellant-father's gross income by not subtracting transportation costs or by including his income above 40 hours per week. The district court did err when calculating mother's monthly income by not including her income from ownership interest in her jointly owned business.	Calculation of gross income; self-employment income; modification; Income – definition of gross income; Income – calculation/determination of gross income
Ryan Gary Sanford v. Bethany Lynn Beilby, No. A24-1334, 2025 WL 1213728 (Minn. Ct. App. Apr. 28, 2025): The Court of Appeals affirms the district court's award of sole physical custody, sole legal custody, the calculation of monthly child support obligation, and the award of the dependent tax exemptions, but modifies the district court's back support order by $100 due to an arithmetic error.	Best Interest of Child-Custody; Bonuses, Commissions, etc. as Gross Income; Calculation of Gross Income; Custody-Best Interest of Child; Custody; Gross Incoem – Definition; Gross Income, Calculation; Income Tax Exemption; Parental Income for Determining Child Support; Self-Employment Income;

II.D.5. - Non-Cash / In-Kind Income	
Minn. Stat. ' 518a.29(c) - inclusion of in-kind income received by the obligor.	
Gully v. Gully, 371 NW 2d 63 (Minn. App. 1985): Proper to include some personal items paid for by obligor's corporation in determining income of obligor.	Non-Cash Benefits
Roth v. Roth, 406 NW 2d 77 (Minn. App. 1987): Personal expenses paid by corporation should have been considered by court in determining income of father.	Expenses Paid by Employer
Peterson v. Peterson (Doreen v. Glen), (Unpub.), C3-90-1242, F & C, filed 1-29-91 (Minn. App. 1991): If a business provides an obligor with a regular and substantial secondary source of income through the payment of his personal expenses, then the amount of this benefit should be reflected in calculating his net monthly income and his corresponding child support obligation.	Payment of Personal Expenses by Business
Barnier v. Wells, 476 NW 2d 795 (Minn. App. 1991): Expected gifts are not always resources subject to child support, however, gifts which are regularly received from a reliable source may be used to determine the amount of a child support obligation.	Gifts as Income
Spilovoy v. Spilovoy, 511 NW 2d 230 (N.D. 1994): Where a non-custodial parent remarries and chooses not to work outside the home, a trial court should consider in-kind income provided by the new spouse that permits the non-custodial parent to avoid basic living expenses.	Homemaker's In-Kind Income
Franzen and County of Anoka v. Borders, 521 NW 2d 626 (Minn. App. 1994) 1994 WL 508928: The "room and board" an inmate receives while incarcerated is not in-kind income under Minn. Stat. ' 518.551, Subd. 5(b)(1) (Supp. 1993) because it is not earned in the course of employment.	In-Kind Income
Benson and Ramsey County v. Allan, (Unpub.), C4-94-2408, F & C, filed 5-9-95 (Minn. App. 1995): BAS (food allotment paid military personnel) was properly included in obligor's net income as in-kind payment. The monthly allotment for obligor's oldest child was also included as income, and apparently not contested by obligor.	Military Food Allotment as Income
Long n/k/a Blatz v. Long, (Unpub.), CX-95-43, F & C, filed 8-8-95 (Minn. App. 1995): Where landlord/obligor received rent from tenant, not in form of cash, but as offset to a debt owed by the landlord to the tenant, court properly included the non-cash rent payments as income.	Offset to Debt
Long n/k/a Blatz v. Long, (Unpub.), CX-95-43, F & C, filed 8-8-95 (Minn. App. 1995): Where obligor's mother paid his bills on a regular basis and the court found no reasonable expectation that he would reimburse his mother, the payments were gifts, not loans as obligor claimed, and properly used to determine child support. (See Barnier v. Wells.)	Loan vs. Gift
State of Minnesota, by its agent, County of Anoka o/b/o Dahl v. Gjerde, (Unpub.), C0-96-840, F & C, filed 11-19-96 (Minn. App. 1996): ALJ's findings related to value of obligor's in-kind payments, including value of home provided by his parents, upheld where obligor failed to disclose financial documentation requested by ALJ nor did he provide evidence at the hearing of the actual value of the payments.	Failure to Document In-Kind Payments
Hasskamp and Ramsey County v. Lundquist, (Unpub.), C8-97-1373, F & C, filed 2-10-98 (Minn. App. 1998): The value of employer paid health insurance premiums (minus those amounts obligor can demonstrate are attributable to coverage for himself and the child covered by the order and would be deductible from net income if paid by him) may be considered in-kind income for purposes of computing child support. Sayer v. Sayer, (Unpub.), C3-99-426, F & C, filed 11-30-99 (Minn. App. 1999): Where Subchapter S corporation paid personal expenses of obligor, such in-kind payments were to be imputed to the obligor as income.	Employer Paid Health Insurance Personal Expenses Paid by Corporation
Ramsey Co. o/b/o Pierce County, Wisconsin v. Carey, 645 NW 2d 747 (Minn. App. 2002): The value of living expenses provided to a disabled father by his parents does not constitute income, earnings, or resources for the purposes of calculating father=s child support obligation where the father was adjudicated disabled by the Social Security Administration and expenses were primarily room and board in his parent's home. Obligor did not work for his parents, so expenses were not received "in the course of employment."	No In-Kind Income to Disabled Obligor
Rooney v. Rooney, 669 NW 2d 362 (Minn. App. 2003): Value of in-kind remuneration NCP receives from a religious institution is income for child support.	Religious Organization

IRMO: Miller v. Alexander-Miller, (Unpub.), A05-287, filed 10-19-2005 (Minn. App. 2005): In a *de novo* review of child support, the district court correctly determined obligor's net income and did not abuse its discretion by including "in-kind" payments made by obligor's law firm for car expenses, credit card charges, cell phone, medical insurance, and other miscellaneous expense reimbursements.	No abuse of discretion by including "in-kind" payments by obligor's law firm
In Re the Marriage of Patrick John Nickleson vs. Kelly Jane Nickleson, A05-1725, Washington County, filed 7/18/06 (Minn. App. 2006): Patrick Nickleson challenges the court's method of calculating his child support obligation. Nickleson is self-employed. Pursuant to Minn. Stat., income is gross receipts, less ordinary and necessary expenses. However, the courts may use a cash flow method to calculate income if the obligor's reported income is not a true representation of his income. He paid his personal expenses, including his child support payments and his life insurance premiums, through his business account. He owned two restaurant franchises and claimed he earned $3,308.00 a month; whereas, in his mortgage application, he stated his gross monthly income was $9,500.00. His accountant then stated that the $9,945.00 represented advances from a line of credit and that his actual gross monthly income was $4,926.00. Due to these inconsistencies, the court properly determined that a cash flow method better captured his income. The record support the district court's calculation of Nikleson's income.	Using cash flow to calculate child support is appropriate.
In re the Marriage of Viele v. Viele, (Unpub.), A07-212, filed October 9, 2007 (Minn. App. 2007), Wright County: The trial court may impute income to an obligor based on any in-kind payments he receives that reduce living expenses and where the actual income of the obligor is difficult to calculate. However, despite evidence that showed the obligor actively tried to hide his actual income earned in order to qualify for public medical coverage and where the obligor received direct cash payments and also received payments from a family business paying his automobile insurance, gas, oil, repairs, and the monthly payments, the imputation of income will *not* stand where specific findings regarding calculation of income are not present in the order.	In-kind benefits that reduce an obligor's cost of living expenses can be considered for the purposes of imputing income, but specific findings are necessary.
Kellen v. Kellen, No. A11-1789, 2012 WL 3263788 (Minn. Ct. App. Aug. 13, 2012): Husband argued the district court's child support determination, contending the district court clearly erred by finding his rent and utilities to be in-kind payments. The district court found that the husband's sister provide him with use of a house, utilities, and gasoline once per month for his automobile. Although the husband testified that he rented the house from his sister for $200 per month, there was substantial evidence supporting the district court's factual finding that those expenses were "fictitious". The appellate court determined the district court's finding that the husband received in-kind payments that reduced his personal living expenses was not clearly erroneous.	In-kind payments that reduce personal living expenses.

Ali v. Ali, A23-0965, 2024 WL 2266345 (Minn. Ct. App. 2024): The court properly found the parties marriage was valid in Minnesota because it was a valid marriage according to Hawaii law which where the marriage occurred. It is an error to impute self-employment income using only the gross income from father's businesses but did not subtract the costs of goods sold and necessary business expenses.	Best Interest of Child-Custody; Custody, Best Interest of Child; Custody, Joint Legal; Calculation of Gross Income; Dissolution of Marriage (Generally); Gross Income, Calculation; Imputing Potential Income; Marriage Dissolution (Generally); Potential Income-Generall; Potential Income-Methods; Self-Employment Income

II.D.6. - Other Source of Income (includes overtime)	
Minn. Stat. ' 518.A39, Subd. 2 - overtime exclusion in modification cases; Minn. Stat. ' 518A.28, Subd. overtime exclusion in establishment cases.	
Margeson v. Margeson, 376 NW 2d 269 (Minn. App. 1985) *rev.den.*: Bonus and overtime pay properly considered where father failed to provide medical evidence to support claim that foot injury would decrease overtime income.	Overtime + Bonus
Stangel v. Stangel, 366 NW 2d 747 (Minn. App. 1985): Family loans received by father are not "periodic payments" as the term is used in Minn. Stat. ' 518.54, and thus should not be considered as dependable source of income for child support.	Family Loans not Income
Maxson v. Derence, 384 NW 2d 583 (Minn. App. 1986): Contract for deed payments resulting from sale of property granted under stipulated property settlement constitutes income when determining support.	Contract for Deed Payments
Maxson v. Derence, 384 NW 2d 583 (Minn. App. 1986): Trial court should consider payments from stipulated property division to calculate income, but such payments are not to be considered when determining whether there has been a substantial increase in earnings so as to allow modification under the guidelines.	Property Settlement Payments
Haasken v. Haasken, 396 NW 2d 253 (Minn. App. 1986): No error to fail to consider an annual bonus from employer as income when it may or may not be paid every year.	Annual Bonus
Cnty. of Dakota v. Ryan, No. A08-1463, 2009 WL 1444196 (Minn. Ct. App. May 26, 2009): On second appeal from an order granting child-support modification after the court found there was no substantial chanve in circumstances. Appellant argued it was an abuse of discretion to include her bonus income in determination of child support. Detailed findings of CSM support fairness and reasonableness modification, but modification cannot be made without showing change in circumstances. Court reversed finding no change in circumstances and left modification untouched.	Bonus Income
Thompson v. Newman, 383 NW 2d 713 (Minn. App. 1986): Rent payments are income from real property and are a periodic reliable source of income for purposes of determining child support under guidelines.	Rent Payments
Hoffa v. Hoffa, 382 NW 2d 522 (Minn. App. 1986): Royalty income from wholly owned business properly used in support calculation.	Royalties
O'Donnell v. O'Donnell, 412 NW 2d 394 (Minn. App. 1987): Failure to order wife to pay child support to husband who was awarded custody of child was reasonable, considering that wife's sole source of income at the time was maintenance she received from husband.	Maintenance
Novak v. Novak, 406 NW 2d 64 (Minn. App. 1987): Proper to base support on periodic bonuses.	Bonuses
Bates v. Bates, 404 NW 2d 817 (Minn. App. 1987): Car allowance properly considered as part of net income absent evidence of specific unreimbursed business expenses. Expenses to generate income may be considered under some circumstances.	Car Allowance
Erickson v. Erickson, 409 NW 2d 898 (Minn. App. 1987): Although capital gains may not constitute income for purposes of child support awards, such gains may be considered in determining whether a substantial change has occurred.	Capital Gains
In Re the Marriage of Jensen v. Jensen, 409 NW 2d 60 (Minn. App. 1987): No error to fail to award child support out of a maintenance award to mother, since this would for only increase the need for maintenance.	Maintenance for Child Support
Lynch v. Lynch, 411 NW 2d 263, 266 (Minn. App. 1987), *rev.den.* (Minn. 10-30-87): Bonus payments that provide a dependable source of income may properly be included in the court's calculation of income.	Bonuses
Hackett v. Hackett, (Unpub.), CX-90-1271, F & C, filed 12-24-90 (Minn. App. 1990): A loan made to a corporation for the obligor's benefits was included in calculating the obligor's net income even though the loan was not made to him personally. Court of appeals affirmed.	Business Loan
Gilbertson v. Graff, 477 NW 2d 771, 774 (Minn. App. 1991): Excess proceeds from student loans are "income" for child support.	Student Loans
Reynolds v. Reynolds, 498 NW 2d 266 (Minn. App. 1993): Child support may be awarded based on gross rental income less mortgage payments, taxes, and insurance.	Rental Income

Mower County Human Services, o/b/o Meyer v. Hueman, 543 NW 2d 682 (Minn. App. 1996): Where obligor receives an annuity payment every five years in a predetermined amount, it was proper for court to prorate the payment over five years, rather than including it as income only in the month actually received.	Allocation of Lump Sum Payment (Annuity)
Desrosier v. Desrosier, 551 NW 2d 507 (Minn. App. 1996): Even though bonuses were not guaranteed and in variable amounts, where they were regular and "expected" to continue, they should have been included in the calculation of child support.	Annual Bonuses
State of Minnesota, by its agent, County of Anoka o/b/o Dahl v. Gjerde, (Unpub.), C0-96-840, F & C, filed 11-19-96 (Minn. App. 1996): ALJ properly considered obligor's annual increase in interest in the family's limited partnership as income.	Annual Increase in Partnership Interest
Warren v. Ruffle, (Unpub.), C0-96-1163, F & C, filed 2-18-97 (Minn. App. 1997): Failure to include tax refund and interest and dividends income was error, as these are periodic payments includable in net income. See Dinwiddie v. Dinwiddie, 379 N.W. 2d 227, 229-230 (Minn. App. 1985).	Tax Refund, Interest and Dividends
Welsh v. Welsh, 775 N.W.2d 364 (Minn. Ct. App. 2009): A CSM issued an order finding mother was voluntarily unemployed. The CSM also found that mother's potential monthly income was $1,702 in addition to her trust income for child-support purposes to be $3,345. The Court found that 1) the trial court order imputing income to mother on the basis that mother was voluntarily unemployed was not an abuse of discretion; 2) trial court's inclusion of mother's monthly potential income, as well as the monthly income she received from trust, when determining mother's gross income was proper; 3) a court should use the statutory facts as defined in Minn. Stat. § 518A.32, subd. 5, for determining whether mother, who stayed at home to care for the parties children, was voluntarily unemployed.	Factors to consider in finding stay at home parent is voluntarily unemployed; trust income included in gross monthly income
Champlin v. Champlin, No. A12-0501, 2012 WL 6734460 Minn. Ct. App. Dec. 31, 2012): As part of their divorce, Respondent (Mother) and Appellant (Father) stipulated that their two children would resided primarily with the Respondent and all parenting time disputes would be handled by a parenting time consultant with binding authority. In 2011, the parenting time consultant added on more overnight to Appellant's schedule giving the parties equal parenting time. Father moved to have the court adopt the new schedule and modify support such that the Respondent owed him support. Respondent also moved to increase support. The district court denied both motions stating the father was voluntarily under-employed and that the change in his income did not meet the necessary statutory threshold to increase his obligation. The appellate court found the district court appropriately reviewed the parenting-time consultant's modifications for three reasons. First, the parties' stipulation incorporated language reserving the court's right to review determinations made by the parenting consultant. The appellate court found the decisions of parenting-time consultants with ostensibly "binding authority" are reviewable by the district court. Second, the court inherently has the power to make judgments as to the children's best interest. Finally, the recorded clearly demonstrated through testimony by teachers, family, and the children that the court conducted a thorough evaluation of what was in the children's best interest.	Decisions of parenting-time consultants with ostensibly "binding authority" are reviewable by the district court.
In Re the Marriage of Sloat v. O'Keefe, (Unpub.), C1-96-1608, C9-96-2053, F & C, filed 4-22-97 (Minn. App. 1997): Where employer listed a $27,471.00 item as "note forgiven" on obligor's pay stub and W-2, the item is in the nature of a bonus, and only can be included in future child support calculation if court found it provided a dependable source of income.	Note Forgiven Treated as Bonus
Rolbiecki v. Rolbiecki, (Unpub.), C2-96-2539, F & C, filed 5-20-97 (Minn. App. 1997): A bonus was not excludable under Minn. Stat. ' 518.551, Subd. 5(b) as "compensation received for employment in excess of a 40-hour work week" because it was not in the nature of additional overtime employment compensable by an hour or a fraction of an hour.	Salary Bonus not Excluded as Overtime
O'Keefe v. O'Keefe, (Unpub.), C6-97-2165, F & C, filed 4-14-98 (Minn App. 1998): When hired, obligor received an $80,000.00 sign-on-bonus structured as a loan to be forgiven in four annual installments if he remained an employee. The district court determined that the annual cancellation of debt constituted a dependable source of future income and included that amount in child support calculation upheld.	Cancellation of Debt

DuSchane v. McCanny, (Unpub.), C8-97-2247, F & C, filed 6-30-98 (Minn. App. 1998): It was proper for ALJ to exclude overtime where the criteria of Minn. Stat. § 518.64, subd. 2(c)(Supp. 1997), were met. Cases which pre-date the statute (Carver Co. v. Fritzke, Lenz v. Wergin, Strauch v. Strauch, do not apply).	Overtime Under Statute
Blaeser v. Fern, (Unpub.), C1-98-6871, F & C, filed 11-24-98 (Minn. App. 1998): It was proper for court to add an additional 15% to obligor's reported taxable income to cover unreported income in the form of tips received in the hair salon business.	Tips
Viele v. Viele, No. A09-1950, 2010 WL 2266498 (Minn. Ct. App. June 8, 2010): Gifts regularly received from a dependable source must be used to determine the amount of the party's child support obligation. When the 20% and $75 difference is shown, the presumption of substantial change is irrebuttable.	Gifts
Lof v. Lof, (Unpub.), C2-98-1430, F & C, filed 3-2-99 (Minn. App. 1999): Court did not err in including the spousal maintenance award in wife's monthly net income for purpose of determining her child support obligation. Whether spousal maintenance should be exempt from the income calculation is a question properly left for the legislature.	Maintenance Included in Net Income
Carlson v. Nelson, (Unpub.), C1-98-1841, F & C, filed 4-27-99 (Minn. App. 1999): Where obligor elected to receive his pension as a lump sum and not as a periodic payment, it was proper for the court to amortize the principal over five years, and to include the monthly amount as a resource available for child support.	Lump Sum Pension Payment
Worms v. Worms, (Unpub.), C8-99-650, F & C, filed 11-16-99 (Minn. App. 1999): Where obligor=s receipt of cash distributions from a family corporation to cover his increased income tax liability was consistent with the "pass-thru" nature of a Subchapter S corporation, it was not error for court to exclude it from the net income calculation for purpose of child support, even though the amount was listed on tax returns as "unearned income."	Corporate Distributions
Middlestedt v. Middlestedt, (Unpub.), C4-02-2164, filed 9-9-03 (Minn. App. 2003): Where NCP had an income as a school teacher, and also had income generated from a farm, overtime exemption at Minn. Stat. § 518.551(b)(2)(ii) did not apply to farm income, since the income was generated from ownership of the land, and was not income Afrom excess employment.@	Income from Asset (Farm) not Excluded as Excess Employ-ment
Middlestedt v. Middlestedt, (Unpub.), C4-02-2164, filed 9-9-03 (Minn. App. 2003): Obligor has burden to prove that income generated from a second source is income from Aexcess employment,@ and subject to the exclusion at Minn. Stat. § 518.551 (b)(2)(ii).	NCP Burden
A.M.D. and Casteel v. Davison, 78 P.3d 741(Colo.2003): Monetary inheritance may be included in gross income for purposes of calculating child support. The court must apply a two-part test when deciding how much of principal of inheritance to include. First must determine the inheritance is monetary to meet definition of A monetary gift and second if recipient uses principle as a source of income to meet existing living expenses or to increase standard of living.	Inheritance as Income
Gunter v. Gunter, (Unpub.), A03-352, filed 1-27-04, (Minn. App. 2004): Court erred in excluding overtime from the child support calculation in a child support modification case where neither the father nor the court addressed the statutory factors under Minn. Stat. ' 518.64, subd. 2.	Overtime Exclusion- Must Address Statutory Factors
Gunter v. Gunter, (Unpub.), A03-352, filed 1-27-04 (Minn. App. 2004): It was not proper for trial court to exclude overtime at modification hearing based on its finding that a formula based on base wages had been used in prior order, and prior order is Alaw of the case@ and must be applied prospectively. (1) The law of the case doctrine applies to a case where the appellate court has ruled and remanded, and is not ordinarily applied by district court to its own prior decision. (Citing Loo v. Loo, 520 NW 2d 740, 744 n.1 (Minn. 1994); (2) The prior orders did not address base pay vs. overtime or the factors for exclusion of OT under ' 518.551; (3) Even if prior order considered factors and excluded OT, party could still move for modification in subsequent proceeding, and court would have to address OT factors in ' 518.64, subd. 2. to continue to exclude OT. (Citing Allan v. Allan, 509 NW 2d 593, 596-597 (Minn. App. 1993).	OT may be Included in Income even if Excluded in Prior Order

Harms v. Harms, (Unpub.), A03-1360, filed 5-11-04 (Minn. App. 2004); Trial court order setting child support in a fixed dollar amount based on a net income that included bonus income was affirmed. Where father received bonuses three times in 10 years, the bonuses were received in the three most recent years, and it was *not* clear if bonuses would continue, the decision as to whether the bonuses were sufficiently dependable to be included in the calculation of income could be reasonably argued either way, and was within the trial court's discretion.	Future Bonuses Uncertain
Mellott v. Mellott, 93 P. 3d. 1219, (Kan. App. 2004): Tuition reimbursements from an employer, that do not exceed the actual cost of tuition, are not income for purposes of child support, as the reimbursements do not represent funds available to the support obligor. They are not in-kind remuneration since they do not reimburse living expenses.	Tuition Reimburse-ments not Income
Hall v. Hall, (Unpub.) A04-2055, filed June 28, 2005, (Minn. App.): CSM properly excluded from obligor's income an average of $170 per week deducted from his wages and escrowed by his union for vacation and sick time. The court of appeals ruled that because the vacation and sick time deduction is not actually income received by the obligor, but is escrowed into an account to supplement income only when obligor takes vacation or sick time, it should not be included as part of net income. Even though 518.551 subd. 5(b)(2004) does not specify whether such sums are deductible, the definition of income is based on money *available* to the obligor, and these sums are not available. (Citing Lenz v. Wergin, 408 NW 2d 873,876 (Minn. App. 1987) and Dinwiddie, 379 NW 2d 227,229 (Minn. App. 1985).	Money taken from obligor's pay and escrowed into an account to be used for vacation and sick leave, is not available to obligor, thus not income for child support.
In Re the Marriage of Leibold vs. Leibold, (Unpub.), A05-372, F&C, filed January 3, 2006 (Minn. App. 2006): Court found appellant was not voluntarily underemployed upon moving from Kansas to Minnesota and accepting employment earning $2.00 less per hour. However, upward deviation from guidelines was inconsistent with this finding. Furthermore, the court's findings that appellant had greater employment income available and had increased parenting time expenses did not support deviation. The court also erred by failing to consider unemployment compensation is subject to federal and state income taxes. Finally, the Court of Appeals determined that the residence was jointly owned by appellant and others and payments by others was not income to appellant but their portion of the mortgage payment. Case was remanded to the magistrate for further findings.	Insufficient findings of fact for upward deviation after finding obligor was not voluntarily underemployed.
In Re the Marriage of Giese v. Giese, (Unpub.) A05-949, filed June 20, 2006 (Minn. App. 2006): The court also found that the district court did not err in considering an employment-severance payment as income (citing Minn. Stat. § 518.54, subd. 6 (2004); Kuronen v. Kuronen, 499 N.W.2d 51, 53 (Minn. App. 1993).	Severance pay considered income.
In Re the Marriage of Matey v. Matey, (Unpub.) A05-1917, filed June 20, 2006 (Minn. App. 2006): The Court determined that a pension plan benefit is both marital property and income for the purposes of determining child support even if the original divorce decree states the parties retain all right, title, and interest in their respective pension plans.	Pension may be considered marital property and income for the purposes of determining child support.
Pennington County and Hutchinson v. Matthew, (Unpub.), A05-1467, filed May 30, 2006 (Minn. App. 2006): Appellate court found that determining an appropriate level of support by relying upon an obligor's earning capacity and earnings history (i.e., considering prior tax returns where obligor worked excess hours – approx. 90-100 hours per week) was appropriate where the court found it "impracticable" to determine obligor's actual income. The District Court did not err in refusing to accept obligor's testimony of his current self-employment earnings where obligor's supporting documentation and evidence was either lacking or "tenuous."	If "impracticable" to determine obligor's actual self-employment income, court can appropriately rely upon the obligor's earning capacity and earnings history even if average includes excess hours (above 40 per week) worked in prior years.

In re the Marriage of Bydzovsky v. Bydzovsky; Minn. Ct. App. Unpublished. (A05-1702): The appellant also asserted that the district court abused its discretion by basing permanent maintenance on inclusion of OT as well as additional income from appliance-selling out of his garage and a clearly erroneous determination of wife's income and expenses. The inclusion of OT was deemed proper where he had a consistent previous history of earning OT.	maintenance based on inclusion of OT
In re the Marriage of Jeremy James Zander v. Melinda Alice Zander; A05-2094, Filed 8/22/06 (Minn.App. 2006); rev. denied November 14, 2006: Monthly payment a tribal member receives from the Shakopee Mdewakanton Sioux Community falls within the definition of "income" in Minn.Stat. § 518.54 subd. 6 (2004) and therefore constitutes marital property for purposes of dividing marital assets.	Tribal per capita payments are income under 518.54, subd. 6.
Patricia L. Rooney v. Michael T. Rooney and Christ's Household of Faith, and Ramsey County, Intervenor, (Unpub.), A06-46, Ramsey County, filed January 16, 2007, (Minn. App. 2007): Prior to dissolution the parties and their joint children were living in Christ's Household of Faith. Any income they obtained was directly remitted to third party respondent CHOF, which paid their modest living expenses. Upon dissolution, petitioner wife and the children moved from CHOF. Spousal maintenance and child support was based on the amount respondent husband contributed to CHOF. Appeals followed; currently wife appeals the district court's findings that husband had no direct obligation to pay support; modified child support retroactively and prospectively; vacated maintenance retroactively and prospectively; and terminated income withholding and reinstated husband's drivers license. Court of Appeals affirms in part, reverses in part and remands. Court held that applying Minn. Stat. §518.61111 did not unduly impose on CHOF's right to religious freedom. (Citing Rooney v. Rooney, 669 N.W.2d 362, 369 (Minn. App. 2003). Thus, the lower court's conclusion that husbands religious freedoms are not violated if maintenance obligations are imposed is clearly erroneous. The court of appeals remands to the district court to recalculate support and maintenance arrearages and taking into account the value of husband's services to CHOF, and required under Rooney (*Id.*). Because there was never a spousal maintenance modification, CHOF is responsible for paying arrearages as calculated by the district court from August 20, 1990 to either the motion modification date or the date of the district court's order. Additionally, no timely motion was made for modification of the obligation. The court of appeals affirms the district court's termination of future maintenance and support. CHOF is obligated to pay only child support and spousal maintenance arrearages as the financial situation of wife have changed and the children have emancipated. Affirm the termination of income withholding and reinstatement of husband's drivers license. **Appealed to Supreme Court of the United States where petition for writ of certiorari to the Court of Appeals of Minnesota denied.	Child support and spousal maintenance arrearages to be paid by CHOF, as husband obligor's living expenses are provided by CHOF and any income he earns remitted to the organization as a religious practice. Support amounts to be based upon the amount of benefit CHOF receives from husband's services.
In Re the Marriage of Butt v. Schmidt, A06-1015, Filed July 24, 2007 (Minn. App. 2007): The Court of Appeals upheld the decision of the district court denying retroactive modification of Obligor's support obligation. The Court found that the Obligor failed to raise the issue before the district court and therefore, waived the issue before the Court of Appeals. *See Thiele v. Stich,* 425 N.W.2d 580, 582 *(*Minn. 1988). The court went on to note that even if the Obligor had raised the issue before the district court, he would not have been entitled to a retroactive modification because a temporary order was in effect and he did not move the court to modify the temporary order.	MODIFICATION retroactive modification will not be granted when a temporary order is in place if no motion to modify the temporary order is before the court
In re the Marriage of Carole V. Marx, petitioner, Respondent vs. Robert B. Marx, Appellant, and County of Anoka, intervenor, Respondent, (Unpub.), A06-1678, Anoka County, filed July 31, 2007 (Minn. App. 2007): Appellant argues that he is entitled to retroactive modification for the period he was incarcerated. Even where an obligor is incarcerated and may establish they have no ability to pay child support while incarcerated, a prisoner-obligor who has significant assets but no significant living expenses may continue with his same obligation while incarcerated. *(citing Kuronen v. Kuronen,* 499 N.W.2d 51, 53-54 (Minn. App. 1993)).	A prisoner-obligor who has significant assets but no significant living expenses may continue with his same obligation while incarcerated with no present ability to earn income.

Lewis, vs. Lewis, (Unpub.), A06-2236, F & C, filed September 11, 2007 (Minn. App. 2007): Respondent husband argued district court erred by including his call pay as income available for support because it is not a periodic or dependable source of income. The record shows that call pay has been regular and dependable in the past and supports the district court's decision to include average call pay as income. Court of Appeals affirmed.	On-call pay included in monthly income available for support where it has been regular and dependable.
In re the Marriage of: Erickson v Erickson, (Unpub.), A06-2061, filed 11/20/07 (Minn. App. 2007): In determining NCP's income, district court did not abuse discretion by disregarding NCP's bonus-earning potential, especially when the court required he pay a percentage of bonuses as additional support.	Omission of Bonus Potential Not Abuse of Discretion
Weiss vs. Weiss, (Unpub.), A06-2433, filed December 24, 2007 (Minn. App. 2007): The court did not err in including appellant's overtime pay in calculating child support where the court found that prior calculations included the overtime pay and appellant failed to demonstrate a statutory exception applied.	Overtime may be included where included in establishing support and no change in circumstances has been shown.
Garlick v. Garlick, No. A12-1521, 2013 WL 2925394 (Minn. Ct. App. June 17, 2013): In January 2012, Appellant moved to decrease his obligation, based on his lowered income and further requested an offset for his RSDI benefit. The CSM calculated guidelines support to be $1,566 a month, which left Appellant with a $538 obligation after the RSDI offset. Citing only Appellant's $765,000 classic car collection, the CSM and district court deviated upward to the statutory maximum of $2,727.00 per month. The Court of Appeals determined the upward deviation was not supported by the findings of the court. The CSM deviated to the statutory maximum obligation without making any findings to indicate that the Appellant's classic car collection is more analogous to a retirement asset, and should not have been included in the calculation of income.	Findings of Fact to support deviation from guidelines; collection of classic cars is akin to a retirement asset not to be included for income calculations.
Johnson v. Johnson, No. A12-1345, 2013 WL 2149899 (Minn. Ct. App. May 20, 2013):. The Appellant was a farmer and sole shareholder of his farming corporation. His income consisted of a cash salary of $12,000 plus commodities and income from rental property. Appellant also routinely borrowed money from the corporation from the corporation to help pay his personal expenses. The district court found that the "other income" reported on line 10 of Appellant's corporate tax returns reflected the personal loan he received from the corporation and therefore imputed an average of $53,590 per year as in-kind payments from the corporation. The court added this amount to the Appellant's average personal income and determined Appellant's child-support obligation from that total amount. Appellant's accountant testified that line 10 strictly indicates the farm's gross receipts, not that shareholder loan. Therefore, the court clearly erred in finding that the increase income reported on line 10 represented personal loan proceeds received by the Appellant. Thus the court overstated the amount Appellant received in share-holder loan proceeds and erroneously imputed that amount to him as income for child-support purposes. An overstatement of the amount Appellant received in shareholder-loan proceeds and subsequent imputation of that amount as income constitutes clear error, warranting a reversal on appeal.	An overstatement of the amount Appellant received in shareholder-loan proceeds and subsequent imputation of that amount as income constitutes clear error.
Hesse v. Hesse, 778 N.W.2d 98 (Minn. Ct. App. 2009):. The "percentage of parenting time" granted to a parent for the purpose of calculating a parenting-expense adjustment under Minn. Stat. § 518A.36, subd. 1(a)(2008) means the percentage of parenting time scheduled under an existing court order, regardless of whether the parent exercises the full amount of court-ordered parenting time. Also, an individual's tax refund should not be included in his gross monthly income. A party who wants to challenge the compliance with the parenting time provisions in a court order should move for a hearing to resolve the parenting time dispute.	Parenting Time and Tax Refunds.

Ferris v. Szachowicz, No. A12-2154, 2013 WL 6223406, (Minn. Ct. App. Dec. 2, 2013), review denied (Feb. 18, 2014): In a consolidated appeals of separate rulings on two post-judgment motions in a marital dissolution, the wife appealed the District Court's use of a four year average in calculating husband's income, and husband appealed the District Court's denial of modification; associated with his first motion. The court concluded the District Court has discretion in determining the annual average period when the income average is based on fluctuating income. The District Court correctly, denied husband's first motion, due to the husband's failure to establish changes in income due to his failure to provide loan information	
Hennepin Cnty. v. Dixon, No. A12-0661, 2012 WL 6652613 (Minn. Ct. App. Dec. 24, 2012): A CSM concluded that the Appellant had the ability to work full-time and earn at least $13 per hour. Appellant appealed arguing the CSM did not consider his participation in the Parent's Employment Program, years of unemployment, and felony record when determining he was reflected he was voluntarily underemployed. The Court of Appeals rejected this argument because the record reflected the CSM expressly considered each factor, and the Appellant failed to present any information to the contrary.	CSM order resolve matters in a manner that is not against logic and the facts of the case.
Jensen v. Jensen, No. A12-0762, 2012 WL 5990304 (Minn. Ct. App. Dec. 3, 2012): Appellant moved to suspend his temporary support obligation claiming he could not obtain union work, could not take non-union, and was no longer receiving unemployment benefits. The Appellant claimed the only pipeliner positions in the area were non-union work, which if he took would result in the lose of his pension benefits. The district court ask the Appellant to provide confirmation from his union regarding the adverse effect non-union work would have on his pension benefits. Consequently, the Appellant's motion to reduce his temporary support was denied. The district court determined the Appellant failed to show a substantial change in circumstances, and that he had voluntarily chosen to stay unemployed based on his unsubstantiated belief that his status as a union worker prevented him from doing so. The appellate court affirmed, holding that under Minn. Stat. § 518A.32, courts no longer required to find bad faith before considering an obligor's earning capacity. *Melius v. Melius*, 765 N.W.2d 411, 415 (Minn. App. 2009). Therefore, the district court did not err by assigning potential income to the Appellant absent a showing of bad faith. The appellate court found the district court died not err by determining the Appellant's untimely documentation, which was submitted by a questionable person with the union, was not credible. The court also determined the district court's findings sufficiently demonstrated consideration of the necessary factors when calculating the Appellant's potential income. Therefore, the district court's implicit finding of the Appellant's potential income, which was substantially less than his income as pipeliner was not clearly erroneous.	Potential income;unemployment benefits; failure to take non-union jobs; unemployed in bad faith.
Shockman v. Schockman, No. A15-1002, 2013 WL 2842866 (Minn. Ct. App. May 16, 2016): The party seeking exclusion of excess income has the burden to demonstrate and the court must find that the elements in 518A.29(b)(2) have been met. A party's failure to establish one element is fatal to an attempt to exclude excess income.	Gross Income, Overtime-In Modification.
In re the Marriage of Letsinger v. Letsigner, No. A16-1273, 2017 WL 2223987 (Minn. Ct. App. May 22, 2017): The moving party seeking to modify spousal maintenance is required to show both: (1) substantially changed circumstances and; (2) that the changed circumstances makes the existing award unreasonable and unfair. The terms of a current order are rebuttably presumed to be unreasonable and unfair if the gross income of an obligor or obligee has decreased by at least 20% through no fault or choice of the party. Bonus income which is a dependable source of income may be included in the calculation of gross income.	Gross income; Maintenance
Gomes v. Meyer, No. A16-1015 (Minn. Ct. App. Sep. 5, 2017): The satisfaction of the 20%/$75 threshold under the modification statute creates only rebuttable presumptions and the decision maker is not precluded from ruling that there is (otherwise) a substantial change in circumstances. When a MN court modifies an issuing state's child support order pursuant to the UIFSA, the court applies MN substantive law in calculating a child support obligation. The court must use the spousal maintenance ordered, instead of spousal maintenance actually received in the gross income calculation. The CSM must determine how many joint children there are so the issue of emancipation is one the CSM has to be able to determine.	20%/$75 substantial change; UIFSA, emancipation

In re Custody of J.K.L., No. A17-1067, 2018 WL 3614583 (Minn. Ct. App. Jul. 30, 2018): District court abused its discretion when it determined Father's income from overtime should be included in his income for determining child support in a modification proceeding under the general income statue (Minn. Stat. § 518A.29 (b)) rather than under the modification statue (Minn. Stat. 518A.39, subd. 2 (e)(2)).	Income from Overtime
Salad v. Hassan, No. A17-1648, 2018 WL 4055814 (Minn. Ct. App. Aug. 27, 2018): The district court appropriately included Father's potential rental income into his monthly income for determining child support.	Potential Income, Imputing Income,
In re the Marriage of: Cusick v. Cusick, A19-00224, 2020 WL 1242964 (Minn. Ct. App. 2020): Federal law does not preempt state law in family law matters absent a clear intent to do so by Congress. Overtime pay that began before the entry of the existing child support order should continue to be counted as gross income in a modification motion context.	Income, Determination of; Modification; Overtime - in modification
In re the Marriage of: Beth Marie Delzer v. Randy Edward Delzer, A19-0884, 2020 WL 2517544 (Minn Ct. App. May 18, 2020): Under Minn. Stat. § 518A.29(a), "gross income includes…spousal maintenance." Thus, spousal maintenance must be added to receiving party's income for purposes of child support.	Income; Spousal Maintenance
Winesett v. Winesett, A19-1284, 2020 WL 1910177 (Minn. Ct. App. Apr 20, 2020): The court did not err in excluding additional bonus income to calculate gross income pursuant to Minn. Stat. § 518A.29 (2018) as the additional income in the form of bonuses was a possibility but not guaranteed.	Bonuses; Gross Income; Spousal Maintenance; Modification
LaPara v. LaPara, A21-0343, 2022 WL 760777 (Minn. Ct. App. 2022): Contingent and variable incomes can be periodic and may be considered for the purpose of calculating support so long as they occur regularly.	Bonuses, commission, etc (518A.29); Gross Income; Income, Determination of
Mills v. Mills, A21-0774, 2022 WL 829365 (Minn. Ct. App. 2022): It is the burden of the person objecting to inclusion of overtime income to demonstrate it should not be included in the calculation of gross income per §518A.29(b)(2).	Gross Income; Income, Definition of; Income, Determination of; Overtime-Income Determination
Fanning v. Fanning, A21-0984, 2022 WL 3022371 (Minn. Ct. App. 2022): Appellant-father argues the CSM incorrectly calculated his basic support amount and incorrectly determined Respondent-wife's monthly income. The issue of basic support was remanded as his support amount shall be determined per § 518A.34, not § 518A.42, and the CSM's determination of Respondent's income was affirmed. When an individual does not meet the qualifications for the minimum basic support under 518A.42, the amount calculated under 518A.34 shall be ordered, even if that amount is less than the minimum support amount.	Basic Support – Table; Child Support Guidelines; Income, Determination of; Minimum Basic Support
Brandt-Rucker v. Rucker, A22-1203, 2023 WL 6206198 (Minn. Ct. App. 2023): The district court did not abuse its discretion when it denied father's motion to modify parenting time as it did analyze the relevant best-interests factors, § 518.175, subd. 5(b), § 518.17, subd. 1(a). The district court also did not err by including father's rental income even though the purchase of the rental property occurred after his motion to modify support was brought, § 518A.39, subd. 2(f), nor did it err by excluding mother's bonus income due to limited evidence, § 518A.29(a).	Bonuses, Commisions, etc. as Gross Income; Calculation of Gross Income; Gross Income, Calculation
Arensburg v. Arensburg, A22-1608, 2024 WL 74433 (Minn. Ct. App. 2024): The district court erred by not including father's monthly bonus in its child support calculation, as bonus income is income per and should be included, erred by ordering mother to pay father medical support for healthcare coverage that included a non-joint child, and erred in its determination of mother's childcare expenses. The district court's award of joint physical custody and denial of past support is affirmed.	Bonuses, Commissions, etc. as Gross Income; Gross Income-Calculation; Medical Support,

	Generally
Falavarjani v. Tabrizi, A23-1517, 2024 WL 1987790 (Minn. Ct. App. 2024): The district court correctly excluded respondent-husband's bonuses from its PICS and child support calculations as they are not sufficiently repetitive to be considered as dependable income for child support.	Bonuses, Commissions, etc. as Gross Income; Calculation of Gross Income; Income, Calculation/Determination of Gross Inc.
In re the Marriage of: Cross v. Cross, A24-0477, 2024 WL 4751267 (Minn. Ct. App. Nov. 12, 2024): The district court did not err in its calculation of appellant-father's gross income by not subtracting transportation costs or by including his income above 40 hours per week. The district court did err when calculating mother's monthly income by not including her income from ownership interest in her jointly owned business.	Calculation of gross income; self-employment income; modification; Income – definition of gross income; Income – calculation/determination of gross income
Ryan Gary Sanford v. Bethany Lynn Beilby, No. A24-1334, 2025 WL 1213728 (Minn. Ct. App. Apr. 28, 2025): The Court of Appeals affirms the district court's award of sole physical custody, sole legal custody, the calculation of monthly child support obligation, and the award of the dependent tax exemptions, but modifies the district court's back support order by $100 due to an arithmetic error.	Best Interest of Child-Custody; Bonuses, Commissions, etc. as Gross Income; Calculation of Gross Income; Custody-Best Interest of Child; Custody; Gross Incoem – Definition; Gross Income, Calculation; Income Tax Exemption; Parental Income for Determining Child Support; Self-Employment Income;

II.D.7. - Earning Capacity / Voluntary Unemployment or Under Employment / Imputation of Income (See also Part II.0.3.)	
Ed.Note: Compare cases with Minn. Stat. ' 518A.28, Sub. 5(b)(d) some cases no longer good law. Minn. Stat. ' 518A.32, Subd. 1(3) - imputed income, includes 150% default standard. Minn. Stat. ' 518A.72 Subd. 2(a)(3)- obligor presumed to be able to work full-time.	
Giesner v. Giesner, 319 NW 2d 718 (Minn. 1982): Where modification of support sought on grounds that career change has resulted in decreased earnings, court should ascertain whether obligor has made good faith effort to conform to order within his inherent but unexercised capabilities; if change made in good faith, child should share in hardship as child would have had family remained in tact.	Good Faith
Knott v. Knott, 358 NW 2d 493 (Minn. App. 1984): Non-custodial parent's ability to pay is not to be presumed.	Ability to Pay
Gabrielson v. Gabrielson, 363 NW 2d 814 (Minn. App. 1985): Not error for court to base obligor's child support on his ability to earn and/or earning capacity.	Earning Capacity
Fernandez v. Fernandez, 373 NW 2d 636 (Minn. App. 1985): No abuse of discretion to reserve child support until end of obligor's retraining period.	Reservation During Education
Ronay v. Ronay (Ronay I), 369 NW 2d 6 (Minn. App. 1985): Child support shall be based on ability of obligor to provide support based on income level, or at a higher level if the obligor has the earning capacity.	Ability Exceeds Income
Funari v. Funari, 388 NW 2d 751 (Minn. App. 1986): Not an upward deviation from guidelines for court to base support on additional amounts which the obligor has the ability to earn.	Earning Capacity
Resch v. Resch, 381 NW 2d 460 (Minn. App. 1986): A court may disregard any inability to pay that is voluntary on the part of the obligor (in this cased father chose not to work due to stress related problems), and may look to the obligor's earning capacity rather than actual earnings.	Stress Related Problems
Quick v. Quick, 381 NW 2d 5 (Minn. App. 1986): Not error to base child support on past earnings and earning potential of medical doctor.	Past Earnings and Earning Potential
Goff v. Goff, 388 NW 2d 28 (Minn. App. 1986): No abuse of discretion to deny motion to reduce when father's employment as assistant professor was terminated after he failed to improve his teaching methods and court found his job hunting efforts were not in good faith.	Job Hunting
Veit v. Veit, 413 NW 2d 601 (Minn. App. 1987): Trial court properly determined wife's earning capacity based on her prior work history, for purposes of determining child support in dissolution proceeding, based on finding of impracticability of determining her actual income.	Earning Capacity
Beede v. Law, 400 NW 2d 831 (Minn. App. 1987): Earning capacity is not an appropriate measure of income unless: (1) it is impracticable to determine an obligor's actual income; or (2) the obligor's actual income is unjustifiably self-limited. (But see Minn. Stat. ' 518.551, Subd. 5(b)d).	Earning Capacity
Ulrich v. Ulrich, 400 NW 2d 213 (Minn. App. 1987): Proper to look beyond the obligor's earnings to his proven earning capacity, and to disregard an inability to pay that is voluntary on the part of the obligor.	Earning Capacity
Spooner v. Spooner, 410 NW 2d 412 (Minn. App. 1987): Given the evidentiary difficulty in determining the net income of self-employed persons, the trial court may consider the earning capacity and earning history of a self-employed obligor.	Self-Employed - Earning Capacity
In Re the Marriage of Reif v. Reif, 426 NW 2d 227 (Minn. App. 1988): Custodial parent's motion for child support denied where he was ordered to pay maintenance to non-custodial parent who was completing a college education in an attempt to become self-supporting after a 23-year marriage.	AP Receiving Maintenance
Rohrman v. Moore, 423 NW 2d 717 (Minn. App. 1988): Child support obligor's election to terminate employment does not justify reduction of support obligation, absent reasonable efforts by obligor to find employment.	Quitting
Swick v. Swick, 467 NW 2d 328 (Minn. App. 1991): While acknowledging that conditions which might affect an obligor's ability to function and earn income are not valid reasons for a downward departure, the court of appeals upheld such a departure in this case because the obligor was 69 years old, illiterate and did not have a steady, determinable flow of income.	Downward Departure

Schneider v. Schneider, 473 NW 2d 329 (Minn. App. 1991): A trial court cannot impose a child support obligation on an unemployed parent absent a finding supported by evidence that the unemployment exists in bad faith toward the child support obligation. The obligor has the burden to prove good faith in an effort to decrease or defeat an existing child support award. However, the moving party must present proof of bad faith as a justification for creating or re-establishing an obligation. (But see Minn. Stat. ' 518.551, Subd. 5(b)d and Borders). But since ***Schneider,*** the Minnesota legislature has modified the child-support statutes, and under Minn.Stat. § 518A.32, "courts are no longer required to find bad faith before considering an obligor's earning capacity." *Melius v. Melius,* 765 N.W.2d 411, 415 (Minn.App.2009) (quotation and citations omitted). Jensen v. Jensen, No. A12-0762, 2012 WL 5990304, at *3 (Minn. Ct. App. Dec. 3, 2012)	Bad Faith
Devault v. Waller, 494 NW 2d 92, 97 (Minn. App. 1992): Obligor=s choice to do valuable work for spouse, and to decline payment for work, should not determine his support obligation.	Works for Spouse for no Pay
Francis (Tamara Lee) and County of Anoka v. Hasselius (Todd Kenyon), (Unpub.), C9-92-2190, F & C, filed 6-8-93 (Minn. App. 1993) 1993 WL 191653: In deciding a motion to modify, the trial court must refer to, or use a statutory language from Minn. Stat. ' 518.551 to determine if the obligor is voluntarily unemployed or underemployed. Minn. Stat. ' 518.551, Subd. 5(b)(c), enacted in 1991, supersedes all prior case law on the issue of voluntary underemployment.	Bad Faith / Good Faith Overruled
In Re the Marriage of Houshang S. Nazar v. Carol K. Nazar, 505 NW 2d 628 (Minn. App. 1993): Non-custodial mother attending University full time, receiving AFDC and living with her parents did not act in bad faith, and therefore the court could not consider her earning capacity. (Decision did not address Minn. Stat. ' 518.551, Subd. 5b(d)).	Full-Time Student
Koski v. Koski, (Unpub.), C0-94-929, F & C, filed 12-27-94 (Minn. App. 1994): Where obligor voluntarily accepted a promotion, which resulted in lower earnings, because of a reduction in overtime, it was proper for court to find bad faith, and to base support and maintenance on income capacity.	Promotion Results in Lower Earnings
Franzen and County of Anoka v. Borders, 521 NW 2d 626 (Minn. App. 1994) 1994 WL 508928: Imputation of income under Minn. Stat. ' 518.551, Subd. 5b(d) (Supp. 1993) is appropriate only if obligor chose to be employed or underemployed. Incarceration, even when due to a crime against the custodial parent, is not voluntary absent evidence that the absent parent sought incarceration, and child support cannot be imputed based on pre-incarceration income.	Incarceration not Voluntary Unemploy-ment
Franzen and County of Anoka v. Borders, 521 NW 2d 626 (Minn. App. 1994): When basing child support on the obligor's earning capacity, current law does not contain a "bad faith" requirement but rather, the judge must find that the parent is voluntarily unemployed under Minn. Stat. ' 518.551, Subd. 5b(d).	Voluntary Unemploy-ment vs. Bad Faith
In Re the Custody of A.S.R., 539 NW 2d 607 (Minn. App. 1995): In dicta, appellate court expresses consternation about a 1993 order (not appealed) that required a parent, attending college and earning $447.00 per month to pay child support of $394.00 per month, stating, "the reasonable needs of a child do not demand that the obligor pay for those needs when the obligor simply does not have the money." The court interpreted Minn. Stat. ' 518.551, Subd. 5b(d) as providing that "an obligor is not voluntarily under employed or unemployed if he goes to school." The record had shown that both parents were legitimately seeking higher education.	College Student not Voluntarily Under-employed
Roatch v. Puera, 534 NW 2d 560, 565 (Minn. App. 1995): If impracticable to determine actual income, a trial court may impute income by estimates and averages based on earning capacity or earning history.	Impracticable to Determine: Use Estimates and Averages
Roatch v. Puera, 534 NW 2d 560, 565 (Minn. App. 1995): An examination of the parties' lifestyle may be used to determine support obligations.	Lifestyle
Franzen and County of Anoka v. Borders, C2-95-599, F & C, filed 8-15-95 (Minn. App. 1995): Where incarcerated obligor voluntarily transfers from one prison to another resulting in a significant decrease in income, it is proper to impute income at the income earned prior to the transfer.	Voluntary Unemploy-ment in Prison

Hamlin v. Hamlin, (Unpub.), C7-95-596, F & C, filed 10-31-95 (Minn. App. 1995): Under current law, it is not necessary to show "bad faith," rather the judge must find voluntary unemployment under Minn. Stat. ' 518.551, subd, 5b(d), in order to impute income.	"Bad Faith" not Required
Gorz v. Gorz, 552 NW 2d 566 (Minn. App. 1996): Income may be imputed under Minn. Stat. ' 518.551, Subd. 5b(d) when obligor is voluntarily unemployed or underemployed or under case law (Beede v. Law), when it is "impracticable to determine income."	Statute and Caselaw as Alternative Bases for Imputations
Walker v. Walker, 553 NW 2d 90 (Minn. App. 1996): Where obligor has elected to defer pension benefits to which he is otherwise presently entitled, a district court may impute the deferred amount to him as present income for the purpose of modifying a spousal maintenance order.	Imputation of Income
County of Olmsted and Schafer-Lyke v. Kennedy, (Unpub.), C4-95-2290, F & C, filed 4-9-96 (Minn. App. 1996): It was proper for ALJ to determine that obligor's retirement at age 55 is voluntary unemployment under Minn. Stat. ' 518.551, Subd 5b(d) and to impute income at the pre-retirement earnings level.	Retirement
Taylor v. Taylor, (Unpub.), C0-95-2285, F & C, filed 5-28-96 (Minn. App. 1996): Where obligor voluntarily quit his job to move out of state it was proper for ALJ to find voluntary unemployment and impute income despite the fact that obligor conducted an extensive job search after quitting the job and had believed when he quit that his unemployment would be temporary and lead to an increase in income.	Voluntary Quit Followed by Job Search
Braatz v. Braatz, No. A09-1006, 2010 WL 772882 (Minn. Ct. App. Mar. 9, 2010): In May of 2008, the obligor was ordered to pay basic child support and child care based upon his income from the Air Force of $3,913 per month. In December 2008, the obligor voluntarily left the military to transition to a new a career. He took online classes in operations management at MN State University-Moorehead. The obligor had been unemployed while studying for his degree, so he filed a motion to modify. The CSM denied the motion to modify finding the he was voluntarily unemployed and had potential income of $3,913 per month. The Court of Appeals affirmed. A parent is not voluntarily unemployed if “the unemployment is temporary and will ultimately lead to an increase in income or the unemployment represents a bona fide career change that outweighs the adverse effect of the parent’s diminished income on the child.” No evidence was presented to show the obligor’s income would increase due to his career change. Also, the court held there was no finding of bad faith required to impute income to the obligor.	Evidence of increased income due to career change
County of Swift and Jaeger v. Jaeger, (Unpub.), C2-95-1980, F & C, filed 5-28-96 (Minn. App. 1996): Where obligor transferred his farm land to his wife for no consideration, he is voluntarily unemployed under Minn. Stat. ' 518.551, Subd. 5b(d) and imputation of income based on farm income he would have received is proper. Showing of bad faith is not necessary.	Transfer of Interest in Income Producing Property
DeCrans v. DeCrans, (Unpub.), C2-95-2457, F & C, filed 6-4-96 (Minn. App. 1996): Under the facts of this case, wife's decision to be a homemaker was not voluntary unemployment, and it was proper for judge not to impute income. Facts: (1) husband had one of parties' children, wife had six; (2) wife had history of minimal earnings, (3) wife would lose food stamps if worked part-time.	Split Custody Homemaker Wife not Vol-untary Unem-ployment
In Re the Marriage of Bailey v. Phillips, (Unpub.), C6-95-2243, CX-95-2620, F & C, filed 6-4-96 (Minn. App. 1996): Where obligor has rental income from one tenant, but formerly had such income from two tenants it was improper for court to impute the amount from the second tenant. (Note: This decision ignores Minn. Stat. ' 518.551 Subd. 5b(d), and relies on earlier case law which did not allow imputation if there were actual earnings. (Beede and Schneider.)	Imputation of Reduced Rental Income
Garthe v. Garthe, (Unpub.), C6-96-1409, F & C, filed 4-4-97 (Minn. App. 1997): Where obligor had been evasive in disclosing net monthly income, it was proper for court to determine earning capacity to be $50,000.00 based on (1) his ability to secure large unsecured personal and business loans, (2) his ability to purchase a third residence valued at $92,000,00, (3) his habit of carrying between $5,000.00 and $10,000.00 in cash, (4) the success of his new business, (5) past earnings of $75,000.00; and to set child support and maintenance on a net income of $2,590.00 per month.	Evidence of Earning Capacity

Petelin v. Petelin, No. A12-2096, 2013 WL 3779311 (Minn. Ct. App. July 22, 2013), review denied (Sept. 25, 2013): Appellant argued the district court erred by imposing a child-support obligation on him even though he was unemployed and receiving unemployment benefits at the time of the trial. The appellate court indicated that an award of child support must be based on the parties' respective gross incomes. Minn. Stat. § 518A.34(b)(1)(2101). Three months prior to the trial, Appellant was terminated from a job at which he earned approximately $6,000 per month. At the time of the trail, Appellant was receiving unemployment benefits of $2,585 per month. If a parent is receiving unemployment compensation, "the parent's income may be calculated using the actual amount of the unemployment compensation…benefit received." Minn. Stat. § 518A.32, subd. 2(2) (2012). The Court of Appeals observed the district court did exactly that when determining Appellant's income. Thus, because the district court's method of calculating the child-support award was expressly authorized by statute, the district court did not err by imposing a child-support obligation on the Appellant despite his unemployment.	Unemployment benefits are include in income calculation.
Murphy v. Murphy, 574 NW 2d 77 (Minn. App. 1998): Father lives in a religious commune, and is permitted only part-time employment outside of church. Even though the state has a compelling interest in assuring parents provide primary support for their children, imputation of income to obligor based upon an ability to work full-time at $12.00 per hour was not the least restrictive means to effectuate the state's interest where the child support obligation burdens the father's exercise of sincerely held religious beliefs. However, court may consider: (1) the value of obligor's in-kind benefits; (2) whether obligor could work additional part-time hours without interfering with church activities; (3) the value of income that flows from his services to church businesses; and (4) the standard of living established during the marriage.	Restrictions on Earnings due to Require-ments of Obligor's Religion
Pangborn v. Pangborn, (Unpub.), C9-97-1317, F & C, filed 2-10-98 (Minn App. 1998): Income may be imputed based upon income an obligor could earn outside her chosen career.	Work Outside Chosen Career
Araj v. Agha, (Unpub.), C8-98-2176, F & C, filed 4-20-99 (Minn. App. 1999): Custodial parent, who has 70% hearing loss claimed that her hearing loss and lack of experience would make it difficult to find employment, but failed to provide evidence showing what effect her hearing impairment has on her earning capacity. Her earning history indicated she is capable of being employed in entry-level clerical position paying $10.21 per hour. Trial court order imputing income at $10.21 per hour, full-time, was upheld, even though custodial parent was "physically incapacitated" under Minn. Stat. ' 518.551, subd. 5b(e)	Income Imputed to Physically Incapacitated Parent
Rasinski v. Schoepke, (Unpub.), C4-99-774, F & C, filed 1-11-2000 (Minn. App. 2000): Where father owns a service station and is self-employed as an auto mechanic, but provided ALJ with only limited financial documentation, it was proper for ALJ to calculate earning capacity based on the Minnesota Salary Survey.	Salary Survey to Impute Income
Countryman v. Countryman, (Unpub.), C9-00-1443, F & C, filed 3-13-2001 (Minn. App. 2001): The court must address the statutory factors in Minn. Stat. ' 518.551, Subd. 5(b)(d) before concluding that an obligor is voluntarily underemployed.	Findings Required
Norling, f/k/a Weldon v. Weldon, (Unpub.), C5-01-798, F & C, filed 12-4-01 (Minn. App. 2001): Income was imputed because it was impractical to determine. Court based income on claimed monthly expenses and absence of evidence that party was unable to meet these expenses.	Income Based on Expenses
Englin v. Swanson, (Unpub.), C6-01-2169, F & C, filed 6-4-02 (Minn. App. 2002): Where obligor quit his full-time job to enroll in law school, had a poor history in paying child support, failed to establish that a law degree would "lead to an increased income" so as to benefit the child, and where obligor had the option of attending law school part-time and continuing to work, CSM did not abuse her discretion in finding that obligor was voluntarily unemployed and imputing income at the same level he was making at his last full-time job.	Quit Job to Attend Law School
Renville County and Weidner v. Hanson, (Unpub.), C1-02-2090, F & C, filed 6-10-03 (Minn. App. 2003): In a split custody case, the child support officer's affidavit stated that the mother was "unemployed and receiving medical assistance." Mother argued that father should be required to pay guidelines support for the child in her care. The district court did not err when it found the CSO's affidavit insufficient to establish that mother's unemployment was not voluntary, imputed income to her under Minn. Stat. § 518.551, Subd. 5b(e) and applied the Sefkow formula to determine the father's obligation.	Income Properly Imputed to Unemployed Parent Despite CSO Affidavit Stating the Parent Rceives Medical Assistance

Barrett v. Barrett, (Unpub.), C2-02-1806, filed 7-15-03 (Minn. App. 2003): Obligor's unemployment was voluntary where he was discharged for failure to follow company policy. Courts are no longer required to determine that the misconduct was an attempt to induce termination, and thereby avoid a child-support obligation, before making a finding of voluntary unemployment.	No Requirement that NCP Attempt to be Fired
Barrett v. Barrett, (Unpub.), C2-02-1806, filed 7-15-03 (Minn. App. 2003): Where the obligor, having been fired from his job, failed to meet his burden of proving a substantial change in circumstances warranting modification, and where he failed to produce evidence of job-search efforts, court was not required to make findings of the current availability of jobs in the area paying the wage formerly earned by the obligor, before denying his motion to modify and maintaining the support obligation at the prior level.	No Finding of Current Availability of Jobs Required
Zaghloul v. Elashri, (Unpub.), A04-321, F & C, filed 8-24-04 (Minn. App. 2004): When the court "imputed" obligor's actual income to be in an amount significantly greater than income reported on tax returns, and there was no finding of voluntary unemployment or under employment, the word, "imputed" was used according to its common meeting, and not as defined at Minn. Stat. § 518.551, Subd. 5b(d). Thus, the court was not required to determine obligor's earning capacity using the factors listed in that subdivision.	Determination of Actual Income Requires Consideration of Different Factors than Determination of Earning Capacity
Ellsworth v. Bastyr, (Unpub.), A04-365, F & C, filed 1-18-05 (Minn. App. 2005): Before a court can impute income, there must be evidence of choice in the matter of underemployment. Citing Murphy, 574 NW 2d 77,82 (Minn. App. 1998).	Evidence of choice
In re: Marriage of Mackey, (Unpub.), A04-2318, filed 8-16-2005 (Minn. App. 2005): The appellate court affirmed the district court's modification (reduction) of child support and maintenance and upheld the district court's determination that the respondent (obligor) was not voluntarily underemployed for support purposes in starting a new business venture (franchise sandwich shop) after leaving a corporate executive position in insurance (which previously paid $225,000.00 annually) due to serious, industry-wide problems, and where obligor first properly investigated other business opportunities. The district court found that respondent made the career change in good faith to meet his support obligations. (The case was remanded only for computational errors in determining support.)	Obligor not voluntarily unemployed/good faith career change
In re: Marriage of Roes, (Unpub.), A04-2041, filed 8-23-2005 (Minn. App. 2005): Where an obligor, a retired lawyer (age 52), did not show a restriction on his ability to practice law, even though the choice to retire was not shown to be in bad faith, the court did not err in considering obligor "voluntarily underemployed" for support purposes and imputing income to him at the maximum guidelines amount.	Retired attorney, age 52, voluntarily underemployed
In re: Horace D. Allen v. Nikki Thompson, (Unpub.), A04-2225, filed 8-30-2005 (Minn. App. 2005): Parties agreed in their divorce decree that (1) the petitioner's (obligor's) income should increase when he completes his MBA and (2) that support would automatically increase effective July 1, 2004, unless petitioner demonstrates his income has not increased significantly despite best efforts to secure appropriate employment. Prior to the automatic increase, obligor filed a motion to keep child support at the original level (without the increase) based upon evidence of a new medical condition which limited his employment opportunities, as well as evidence that his earnings had not increased as anticipated. CSM found that obligor proved his medical condition (speech limitations), but had not proved that his income had not increased significantly based upon obligor's evidence of a single paycheck. CSM expected obligor to produce his 2003 tax return, but never requested this production. The appellate court found obligor's paycheck to be "credible evidence" that his income had not increased and found that the CSM abused her discretion in failing to grant the requested relief.	Obligor provided credible evidence of income
Hennepin County and Darchelle Norris v. Leonard Samuels, Jr., (Unpub.), A05-4, filed 10-25-2005 (Minn. App. 2005): Obligor's motion to reduce support was properly denied where the obligor failed to demonstrate a substantial change in circumstances rendering the existing order unreasonable and unfair, and failed to establish his inability to work. The court found the obligor's unsupported assertions - that he was unemployed and could not afford to pay the court-ordered support - to be insufficient proof.	Insufficient proof of inability to work

Michaels v. Michaels, (Unpub.), A05-295, filed 11-8-2005 (Minn. App. 2005): Appellate court upheld the district court (and CSM) decision finding an obligor "underemployed" and imputing income consistent with a management position where the obligor had been laid off from Greyhound, was unemployed for a period and did not pursue temporary work, and settled for a position as a reserve flight attendant working approximately 70 hours per month. The court found that obligor failed to demonstrate that his underemployment would lead to an increase in income or that his current employment was a bona fide career change.	Imputation of income affirmed
Rachele Gunter v. Steven Gunter, (Unpub.), A04-2114, filed 12-6-2005 (Minn. App. 2005: Failure to allow deduction for medical insurance premium was not error where the obligor provided evidence of the rate, but no evidence that the premium had been paid. However, the district court erred in imputing summer income (three months) to the obligor, who worked during the school year (nine months) where the record did not support the court's inference that part-time summer jobs would pay an amount comparable to what the obligor earns during the school year.	Verification of payment required before allowing medical insurance deduction. Seasonal employment must be considered when imputing off-season income
Labarre vs. Kane, (Unpub.), A05-496, F&C, filed January 3, 2006 (Minn. App. 2006): Court did not error in finding self-employed obligor's reported income was inaccurate based on lifestyle and cash flow of his bank accounts. However, the court failed to make findings on (1) children's needs and (2) appellant's total ability to pay, and failed to allocate the available resources between the two children. The magistrate further erred in its calculation by not properly deducting paid state and federal income taxes, and its failure to consider the legitimacy of business deductions and obligor's subsequent support obligation. Case remanded for recalculation of appellant's income for child support purposes.	Insufficient findings to increase support of self-employed obligor
Pence v. Pence, (Unpub.), A04-2154, F&C, filed 3-07-06 (Minn. App. 2006): Court of Appeals affirmed trial court's decision to impute income to Appellant/Obligor, an unemployed union pipe fitter who alleged he was unable to work due to disability but presented no evidence of disability other than his own testimony which the trial court found not credible. Court of Appeals found that the evidence presented supported the trial court's finding that Appellant was voluntarily unemployed in "bad faith and that he failed to prove that he was disabled." The trial court properly imputed income to the Appellant based on his demonstrated earning capacity as evidenced by his income tax returns for the years 1998-2002.	Imputed income based on earning capacity
In Re the Marriage of Giese v. Giese, (Unpub.) A05-949, filed June 20, 2006 (Minn. App. 2006): The court found that the obligor was voluntarily underemployed because he chose to work in an entirely different field than the field he'd worked in for 18 years and because an entry level position in his prior career field would pay more than the current position.	Obligor found underemployed when he voluntarily chose position in different field despite career history and earning potential.

In Re the Marriage of David John Mielke vs. Kelly Ann Solt-Mielke, A05-1670, Ramsey County, filed 7/3/06 (Minn. App. 2006): In the dissolution decree, child support was set based on the fact that the appellant informed the court that he was receiving unemployment compensation. He failed to inform the court that his unemployment benefits were being challenged and that they were ultimately denied. He was fired for cause. Had he informed the other party that he had been terminated and his benefits were in jeopardy, she would have argued that he had the ability to earn more than what he was receiving in unemployment compensation benefits and that his child support should have been based on his ability to earn. Appellant's failure to disclose either that his unemployment benefits were being challenged or that they had been denied, mislead respondent into an incorrect understanding of his income that, in turn, made the stipulated child support award unfair. The court did not err by imputing income to him based on his previous earnings at Excel Energy. Appellant brought a motion requesting that his child support be based on his current employment at Volt Temporaries where he was earning $13.00 per hour. The motion before the magistrate was denied. He then brought a motion before the district court requesting relief from the dissolution judgment based upon mistake. Respondent opposed the motion and asked that his child support obligation be recalculated based on his ability to earn his previous employment and on his previous net income.	Imputed income
Michelle T. Barker vs. Gunnar B. Barker A05-1962, Scott County, filed 7/11/06 (Minn. App. 2006): The magistrate found that Soderlind had provided no credible evidence of his current income and, therefore, it was appropriate for the magistrate to calculate his income based on past earnings. The magistrate's ability to piece together an accurate financial picture was sharply limited by Soderlind's failure to appear at the May 2005 hearing, his failure to provide his 2003 tax return, and his failure to provide other information to the magistrate. However, imputing income to him that he is no longer able to generate, given the significant depression in the computer job industry, is not appropriate either. Remanded for further calculation. The magistrate considered Soderlind's wife's income and found that the couple may be attributing excessive earnings to his wife in order to make his income appear lower than it actually is. The court also found that the 2004 income figures are not a credible reflection of Soderlind's disposable earnings. The magistrate did not violate his wife's privacy rights by disclosing her income in the order.	Imputing income
Pelinka v. Pelinka, (Unpub.), A05-372, Filed August 29, 2006 (Minn. App. 2006): An Obligor who voluntarily sold his business and retired at the age of 51 did not experience a change in circumstances warranting a modification of support. The imputation of income at the Obligor's former earning capacity was proper. Even though the trial court did not make detailed factual findings regarding obligor's income, the trial court's findings were sufficient since they demonstrated that the court considered the statutory factor(s) relevant to its conclusion.	UN/UNDER-EMPLOYED: Voluntary early retirement voluntarily underemployed/ unemployed. No basis for mod.
In re the Marriage of Branz v. Branz, (Unpub.), A05-2222. Filed Sept. 19, 2006 (Minn. App. 2006): Where parties' medical experts disagreed about wife's ability to work, district court did not err in imputing income to wife based on part-time employment.	OK to impute income where medical evidence is contradictory
Huntsman v. Huntsman, A05-2168, Minn. Ct. App. 9/26/06): The district court's finding that husband was voluntarily underemployed was not clearly erroneous. Husband has advanced degrees in chemistry and business management and is a licensed patent agent. After employer informed husband that his position was being terminated, husband quit his job early foregoing $11,0000. Husband made minimal efforts to find new employment within the areas of his specialization and eventually went back to school to obtain his paralegal certification and took a $14.00/hr job at a law firm, significantly less than the income he made at his former position.	Voluntary Underemployment

Pollard v. Pollard A06-538 (Minn. Ct. App. 2006 October 3, 2006): The district court did not abuse its discretion in imputing a net monthly income to the obligor based on the MN DEED salary survey for construction supervisors and increasing his support obligation. The court found the obligor's testimony regarding his income unreliable because: (1) obligor requested suspension of his railroad retirement benefits immediately after he was served with the obligee's motion to modify child support, and (2) obligor provided conflicting evidence to the court regarding his employment status. The imputation of income is appropriate when income is otherwise indiscernible as a result of the an obligor's incredible testimony.	Income Imputation based on salary survey
Kozel n/k/a Kurzontkowski v. Kozel, A06-30 (Minn. Ct. App. October 10, 2006): The district court did not abuse its discretion in its income imputation calculation. The findings made by the district court on remand supported the amount of income imputed. The district court made findings regarding (1) the obligor's income between 1998 and 2002; (2) her education; (3) her job skills; and (4) the availability to jobs in the community. The court considered four of the relevant statutory factors under Minn. Stat. § 518.551, subd. 5 which was sufficient as the court is not required to make specific findings related to each individual statutory factor.	Income Imputation – not necessary to make specific findings related to each individual statutory factor
In Re the Matter of Washington v. Anderson, A05-2338, filed October 24, 2006 (Minn. App. 2006): The district court did not err in finding obligor underemployed as a musician earning $1,000.00 per month, and imputing income to obligor since obligor had substantial income in the recent past; was involved with two Minnesota corporations; had considerable real estate interests; had a brokerage account of $300,000.00; drove a newer, expensive vehicle; and refused to respond to discovery requests related to his income.	Imputing income – look to assets, lifestyle, demonstrated ability to earn
In Re the Marriage of Hoppe v. Hoppe, County of Anoka, Intervenor, (Unpub.), A06-98, Filed January 30, 2007 (Minn. App. 2007): The court affirmed the district court's finding that obligor was voluntarily underemployed because he continued to operate his own business as his only means of income and the business consistently lost money. The court found that obligor's choice to become self-employed had a negative impact on his children. The district court found obligor was not credible in his testimony, that he willfully withheld information about his income, and there was little documented evidence of obligor's actual income.	MODIFICATION Voluntarily underemployed. Failing as self-employed business owner.
Waletski v. Waletski, No. A12-1080, 2013 WL 141720 (Minn. Ct. App. Jan. 14, 2013): Appellant moved to modify his support obligation based on his decreased monthly income. The district court determined that the Appellant was voluntarily underemployed and could earn the same income he received at his previous job. The district court determined, based on the Respondent's increased income and a deduction for one old non-joint child, who at time was 19 years old, and that the Appellant's child-support would increase from $352 to $363. Thus, the $11 increase did not meet the standard 20% or $5 change required under the statute.. Appellant appealed arguing he eventually would be employed full-time, and that having lifetime flying privileges as a result of early retirement would benefit the joint child. The appellate court found, the record did not reflect the Appellant's career change would lead to future full-time employment, and lifetime flying could not be quantified to compare with a loss in gross income incurred as tradeoff. The appeals court found the non-joint child deduction was an error because the child did not qualify, but determined no prejudice to Appellant result from the error.. Because there was no prejudice to the Appellant from the inclusion of the Respondent's non-joint child deduction, there was no basis for reversal.	Overcoming statutory presumption of ability to work full-time; deduction for a 19 year-old child.
In Re the Marriage of Perry v. Perry, (Unpub.), A06-1133, Filed April 24, 2007 (Minn. App. 2007): The Court of Appeals affirmed the imputation of income to a mother who held two graduate degrees; was previously employed in a director's position at a hospital; had owned her own law practice; yet, worked as a paraprofessional while studying to be a special education teacher. Even upon completion of her studies, she would earn less in this new career than she had in the past.	IMPUTING INCOME/ Voluntary Underemploy-ment: A career change that results in a substantially decreased income constitutes voluntary underemploy-ment.

Derek Dennis Ussatis v. Nikki Jo Johnson Ussatis, (Unpub.), A06-1473, Dakota County, filed June 12, 2007 (Minn. App. 2007): Parties stipulated to support of $630.00 per month in MTA. Subsequently, appellant quit his employment, started his own business and moved for reduction. Court denied, as termination at prior employment was voluntary, and imputed income to appellant based on prior employment. Court found that deviation was not appropriate, as there was no evidence this temporary loss of income would lead to a greater certainty of increased earnings later. Affirmed.	Appropriate to impute income where voluntary separation from employment caused diminished income and obligor was unable to show increased earnings likely in the future.
In re the Marriage of Linda Louise Sarvey v. Robert Hieu Sarvey, (Unpub.), A06-1525, Hennepin County, filed June 19, 2007 (Minn. App. 2007): Appellant-husband challenges the J&D, arguing district court abused its discretion in distribution of marital property, award of spousal maintenance, child support, life insurance provisions and award of attorneys fees to respondent. The court properly relied on financial documentation of the parties and found that appellant voluntarily changed employment and self limited his income. Respondent's decreased household expenses stem from appellant's failure to pay support, and therefore should not be seen as the normal level of lifestyle maintained during the marriage. Appellant is not entitled to proceeds from marital property where respondent sold property to provide for basic necessities due to appellant's nonsupport.	Bad faith is not required to impute income to an obligor.
Kawlewski v. Arvig, Wadena County, Intervenor, A06-1255, Filed June 26, 2007 (Minn. App. 2007): The Court of Appeals found that the district court erred when it imputed to Obligor $500 per month in additional income that could be earned from "rental property," when Obligor has never rented the house and when CSM did not make a finding that Obligor was underemployed or self-limiting his income warranting imputation of additional income. The Court of Appeals remanded for re-calculation of Obligor's income.	INCOME: improper to impute income without evidence of voluntary underemployment or self-limitation of income
In Re the Marriage of Butt v. Schmidt, A06-1015, Filed July 24, 2007 (Minn. App. 2007): The Court of Appeals upheld the decision of the district court refusing to impute income to the Obligee. The Court noted that the initial burden of establishing Obligee's underemployment fell on the Obligor because the Obligor made the allegation of underemployment. *See Geske v. Marcolina*, 624 N.W.2d 813, 818 (Minn. App. 2001). Because there was insufficient evidence to demonstrate the Obligee was underemployed, the burden of disputing underemployment never shifted to the Obligee.	IMPUTED INCOME: the burden of proving voluntary underemploy-ment is on the party alleging voluntary underemploy-ment
Fillion v. Fillion, No. A12-0547, 2012 WL 5188066 (Minn. Ct. App. Oct. 22, 2012) On appeal, the Appellant argued, amongst other things, that because he was eligible for unemployment benefits the district court erred in finding him voluntarily unemployed. The appellate court stated that voluntary unemployment is a question of fact, and because the appellate court was not provided a transcript, the court was unable to determine whether the district court erred in finding the Appellant was voluntarily unemployed. Nonetheless, the appeals court did find the Appellant was voluntary unemployed as a matter of law under Minn. Stat. § 518A.32 (2010). There is a rebuttable presumption that a parent can be gainfully employed full-time. If a parent receives unemployment benefits, there are specific procedures to impute income. When a person receives unemployment benefits the statute explicitly provides the person's income for child-support purpose can be imputed. An unemployment judge found the Appellant was eligible to receive unemployment benefits, and thus, the district court was, as a matter of law, within its authority to imputed income to the Appellant.	Statue expressly allows unemployment benefits to be used to impute income for child-support purposes.

In re the Marriage of Gerald Ernest Jeschke, petitioner, Appellant, vs. Kirsten Jean Libby, Respondent, (Unpub.), A06-1359, Ramsey County, filed July 31, 2007 (Minn. App. 2007): Appellant employed by company in which his wife has an ownership interest; wife testified she had sole authority to determine the payment of salaries. Appellant received two checks per month of $6,250 each until Respondent motioned for increase in child support, after which checks ceased. Upon respondent's motion, district court increased child support. Appellant argues the record does not support the imputation of income to him. The court need not determine income solely on paystubs *(citing Minn. Stat. §518.551, subd. 5b (2006)*, and may consider "employer statements", "statement of receipts and expenses if self-employed" and "other documents evidencing income received." Court cannot conclude the district court imputed or estimated appellant's income. Findings indicate the appellant was entitled to continued paychecks; he continued to be fully employed by the company and the expectation was that he would eventually receive the compensation.	The court is not required to rely solely on paychecks to determine income; may also consider employer statements, statements of receipts and expenses if self-employed, and other documents evidencing income received.
In re the Marriage of: Erickson v Erickson, (Unpub.), A06-2061, filed November 20, 2007 (Minn. App. 2007): NCP moved to Duluth, to be nearer children, after losing high-paid employment in Colorado. NCP moved district court to reduce support. District court did not abuse discretion by deeming his move a "bona fide career change" and refusing to impute higher income available in other places.	Bona Fide Career Change--Move to be Near Children
County of Nicollet o/b/o Stevenson vs. Machau, (Unpub.), A06-2345, F & C, filed March 4, 2008 (Minn. App. 2008): Appellant father challenges an order finding him to be voluntarily unemployed and requiring him to seek employment. Appellant argued at the hearing before the CSM that he was previously employed as a truck driver, but had been unemployed since his DL was suspended for non payment of child support. Since then, he had been home schooling his subsequent child and that child's half-siblings and was a full time homemaker with no income. The CSM found appellant was voluntarily unemployed, ordered appellant to do a job search, and ordered a $150 per month payback on arrears. No abuse of discretion; the evidence supports the CSM's findings.	Finding of voluntary unemployment and order to seek work
Welsh v. Welsh, 775 N.W.2d 364 (Minn. Ct. App. 2009):. The Court of Appeals held that gross income includes both potential and actual income, and potential income can be considered even if a parent has direct evidence of current income. According to Minn. Stat. §518A.32, "[i]f a parent is voluntarily unemployed, underemployed, or employed on a less than full time basis, or there is no direct evidence of any income, child support must be calculated based on a determination of potential income." The word "or" is read as disjunctive. The district court did not make sufficient findings addressing the factors to consider regarding whether a stay at home parent is voluntarily unemployed under Minn. Stat. §518A.32, subd.5	Factors to be considered in determining if a stay-at-home parent is unemployed, underemployed, or employed on a less than full-time basis.
Martin vs. Martin, (Unpub.), F & C, A07-591, filed March 25, 2008 (Minn. App. 2008): In this joint physical custody case, the district court granted appellant's motion to reduce his child support obligation based on his decreased income, but did not impute income to respondent. Respondent was working 20 hours per week and produced no evidence that she was unable to work full time; however, the district court determined that based on her receipt of medical assistance for the children, imputing income to her was not appropriate. The Court of Appeals affirmed.	No imputation of Income to Parent on MA

Wayne Alan Butt v. Eleanor Anna Schmidt, (747 NW2d 566, 2008), A06-1015, filed April 17, 2008 (Minn. S.C. 2008): The District Court, in a joint physical custody case, declined to establish any income for mother (obligee) citing there was "scant evidence" to find mother voluntarily unemployed or underemployed. Father (obligor) appeals, arguing that mother has the burden of showing her employment is not voluntary. The Supreme Court stated that lack of information was not a proper basis to decline to impute income to mother. Minn. Stat. § 518.551, subd. 5b(a) requires each party to produce their own income information. Second, Minn. Stat. § 518.551, subd. 5b(e) provides a mechanism for the court to impute income if the court lacks sufficient information. It also provides for when income shall not be imputed to a party. Absent such evidence, the statute directs the court to presume that each party is capable of full time employment, which pays at least 150% of the minimum wage. Considering these statutory provisions, and because the respondent failed to provide sufficient income information to the district court, the district court abused its discretion by not attributing income to the mother (obligee) for purposes of computing child support.	It is error to fail to impute income when there is insufficient information regarding a party's employability.
Hare, f/k/a Parker vs. Grewe, (Unpub.), A07-0850, F&C, filed 5/20/08 (Minn. App. 2008): The court did not error in setting past support by determining obligor's income using information obtained from the Minnesota State Wage Match, where no other income information for that time period was submitted to the court.	Obligor's past earning ability may be determined by using the Minnesota State Wage Match.
Staupe vs. Staupe, (Unpub.), A07-0900, filed June 10, 2008 (Minn. App. 2008): Whether to impute income to a child support obligor is discretionary with the court. The court is justified in imputing income to an obligor where the weight of the evidence showed that the impracticability of determining the obligor's actual net income because the obligor 1) failed to be forthcoming about his financial circumstances throughout the proceedings and 2) appeared to have continued earning supplemental, self-employment income.	Imputing income to self employed obligors.
Modeo-Price v. Price, No. A13-0190, 2013 WL 5777918 (Minn. Ct. App. Oct. 28, 2013): Appellant-father brought a motion to modify his support due to a medical disability. The CSM determined that the appellant was not impaired by a disability, had the ability to work full time, and should be imputed income. The District Court reviewed the issue de novo and determined that the appellant failed to verify any changes to his income and continued to have the ability to work. The Court of Appeals reversed and remanded. The Court of Appeals determined the District Court erred by finding that the appellant father has the ability to work to work full time and also erred by concluding that mother's income is irrelevant to determining a child support order. The court remanded for consideration of father's objection to mother's part-time impute status, and the effect of the earnings of both parents on the child support calculation	Diability and findings to support a person's ability to work full-time.
Brevik v. Brevik, No. A12-2242, 2013 WL 5508244 (Minn. Ct. App. Oct. 7, 2013): Obligor challenged the imputation of income to him, arguing that the court failed to consider his expenses as a disc jokey, and imputed income to high. Obligor further challenged the District Court's decision to consider obligee's contempt motion, alleging he was not on notice. The Court of Appeals affirmed, reasoning that father failed to provide any evidence of his expenses or income; and that the father had submitted a 30 page affidavit addressing the contempt issue, and listed it as an outstanding issue to be litigated at the hearing.	Evidence to support expenses and income to support imputation of income.
Thill v. Thill, No. A12-1114, 2013 WL 869894 Minn. Ct. App. Mar. 11, 2013): On appeal the Appellant argued the district court erred in imputing to him income because he was enrolled in school. Although father asserted that he only worked part-time because he is pursuing computer-related education, he did not produce evidence that his return to school will lead to increased income or represents a bona fide career change that outweighs the adverse effects of his diminished income on his children. The appellate court did find the district court clearly erred in determining that his parenting time was between 10-45%. The last order clearly stated that the parties had between 45-50% parenting time for purposes of calculating child support. The court indicate that time for purposes of determining the parenting time adjustment is based on the last order granting the parties parenting time or custody and the schedule established in that order. *See Dahl v.. Dahl,* 765 N.W.2d 118, 123 (Minn.App.2009) (concluding that the dissolution judgment, rather than a subsequent temporary order, established parties' baseline parenting-time schedule).	Parenting time adjustment based on last pred granting parties parenting time or custody.

Swenson v. Pedri, No. A15-1900 (Minn. Ct. App. September 6, 2016): The court properly denied discovery requests of party's new husband's financial information. Gross income does not include the income of the obligor's or obligee's spouse. The district court must use one of the three methods to impute income to an obligor when there is not an accurate amount of actual income.	Calculation of Gross income, Discovery re: income, imputed income
Stillwell v. Stillwell, No. A16-0114, 2016 WL 7041900 (Minn. Ct. App. Dec. 5, 2016): The statutory structure for establishing and modifying child support is in Minn. Stat. 518A.32, subd. 2; directly instructing a district court to select one of three available methods for imputing income for child support purposes. Court is required to review the parties' current circumstances at the time the motion to establish child support is made and not rely on evidence presented in prior hearings on another issue.	Imputing income; Income – determination of; Potential income.
In re the Marriage of Peterson v. Peterson, No. A16-0781, 2016 WL 7438724 (Minn. Ct. App. Dec. 27, 2016): When a party is voluntarily underemployed, the district court must calculate child support based on that parent's potential income. Minn. Stat. § 518A.32, subd. 1 (2014). It may be appropriate to impute income to self-employed obligors. A finding of bad faith does not apply in determining the obligor's child support obligation but it does apply to spousal maintenance based on obligor's earning capacity.	Imputing income; No modification; Spousal maintenance.
In re Custody of M.M.L., No. A15-1807, 2016 WL 7438705 (Minn. Ct. App. Dec. 27, 2016): The subsequent modifications made to the preexisting contempt order are appealable because the court substantively modified the child support obligation, and did not merely modify the purge conditions of an existing conditional contempt order. The district court modified the child support obligation without adequate findings in regards to the method in which the father's income was imputed, and should therefore be remanded for additional findings.	Contempt; Imputing income; Potential income.
Hennepin County v. Dawid, No. A16-1111 (Minn. Ct. App. Feb 27, 2017): It is the moving parties burden to provide sufficient proof of his current circumstances. Without sufficient evidence the CSM did not abuse her discretion in inmputing income based on recent work history.	Modification; Potential Income
Adam v. Adom, No. A17-0246, 2017 WL 5985393 (Minn. Ct. App. Dec 4, 2017): A party cannot complain about a district court's failure to rule in their favor when one of the reasons it did not do so was because they failed to provide the court with evidence that would allow them to fully address the question. The CSM has discretion to determine the obligor's ability to pay based on his/her testimony as to the potential income he/she may earn.	Gross Income
In re the Custody of M.M.L., No. A17-1240 (Minn Ct. App. Apr. 16, 2018): When the district court record does not contain sufficient information to calculate imputed income under Minn. Stat. § 518A.32, subd. 2(1), imputation of income should be based on the minimum-wage calculation in Minn. Stat. § 518A.32, subd. 2(3). A finding that the parties were before the court due to a parties failure to pay child support and to find employment is not a sufficient basis for an award of conduct based attorney's fees.	Attorney's fees, imputing income, income determination, potential income
Causton v. Causton, No. A18-0192, 2018 WL 3966382 (Minn. Ct. App. Aug. 20, 2018): The district court properly determined Father's ability to earn income by considering his probable earnings level based on employment potential, recent work history, and occupational qualifications in lights of prevailing job opportunities and earnings levels in the community.	Earning Capacity, Imputing Income
Nyhus v. Ka, No. A18-1089, 2019 WL 1007776 (Minn. Ct. App. March 4, 2019): It is appropriate to base potential income on the obligee's ability to earn minimum wage working 40 hours per week rather than unemployment benefits when the record contains evidence the oblige was denied unemployment benefits.	Potential income determination

In re the Custody of E.J.B., Perry v. Beukema, A19-0553, 2020 WL 1242985 (Minn. Ct. App. 2020): It is not an abuse of discretion to fail to consider evidence the moving party failed to provide.	Imputing Income; Income, Determination of; Modification; Potential Income
Garcia v. Garcia, A19-1204, 2020 WL 4743463 (Minn. Ct. App. Aug. 17, 2020): Imputation of potential salary is not erroneous when the party does not present evidence contradicting the amount imputed nor do they provided evidence that they are no longer qualified to hold such a job.	Earning Capacity/Voluntary Unemployment or Under Employment /Imputation of Income
Jacobs v. Fenikova, A20-0177, 2021 WL 1244412 (Minn. Ct. App. 2021): A CSM determination that a party is underemployed must be based upon the evidence available in the record. A party's assertion that imputed income was improperly calculated must be supported by actual facts indicating the improper calculation. A CSM's determination of gross monthly income supported by the facts in the record is upheld.	Determination of income; Modification; Potential Income
County of Dakota ex rel, Michelle Marie Hinz v. Bryan Arthur Rittweger, A20-1244, 2021 WL 3852264 (Minn. App. 2021): The court can consider both the actual income from a disability payment of a party and the potential income from the party's business in calculating gross support. The court has discretion to supplement statutes with equitable principles, however they are not required to do so.	Imputing Income; Determination of Income; Potential Income; Parenting Time/ Overnights
Roth v. Roth, A20-1439, 2022 WL 90223 (Minn. Ct. App. 2022): The CSM had discretion to consider a party's tax returns in addition to other evidence submitted to determine a party's gross income for child support purposes.	Income, Determination of; Modification; Self-Employment Income
Wray-Isquierdo v. Isquierdo, A21-0436, 2022 WL 2794034, (Minn. Ct. App. 2022): Appellant-father challenges the district court's ruling that he is voluntarily underemployed and the district court's adoption of Respondent-wife's proposed Judgment and Decree. The Court of Appeals found no clear error in the district court's decisions. It is not a clear error to adopt one party's entire proposed order when the court also independently examined the evidence and testimony.	Income, Determination of; Imputing Income; Voluntary Unemployment or Underemployment
Fanning v. Fanning, A21-0984, 2022 WL 3022371 (Minn. Ct. App. 2022): Appellant-father argues the CSM incorrectly calculated his basic support amount and incorrectly determined Respondent-wife's monthly income. The issue of basic support was remanded as his support amount shall be determined per § 518A.34, not § 518A.42, and the CSM's determination of Respondent's income was affirmed. When an individual does not meet the qualifications for the minimum basic support under 518A.42, the amount calculated under 518A.34 shall be ordered, even if that amount is less than the minimum support amount.	Basic Support – Table; Child Support Guidelines; Income, Determination of; Minimum Basic Support
Beland v. Beland, A21-1675, 2022 WL 3581825 (Minn. Ct. App. 2022): Appellant-father appeals CSM's finding that Respondent-mother is not voluntarily underemployed and the CSM's deductions for his non-joint children. The record supports the CSM's finding that mother is not voluntarily underemployed, but the issue of father's non-joint children deduction is remanded as the order did not include a child support guidelines worksheet which prevented appellate review.	Gross Income; Health Insurance; Imputing Income; Modification; Non-Joint Children Deduction; Unemployed or Underemployed; Voluntary Unemployment or Under Employment
Macfarlane v. Macfarlane, A21-1741, 2022 WL 6272061, (Minn. Ct. App. 2022): Appellant-wife	Marriage

makes three arguments that the district court erred in its dissolution judgment: 1) it did not consider the parties' pre-tax and post-tax incomes when awarding spousal maintenance, 2) it erred by making a finding of fact requiring the parties to submit further property disputes to binding arbitration, and 3) not specifying the source for a property equalizer payment. The Court of Appeals rules 1) failure to consider parties post-tax incomes ignores § 518.552, subd. 2 and caselaw identifying taxes a factor relevant to a maintenance award, 2) finds harmless error in the findings of fact as the conclusions of law refers to mediation and was incorporated into the judgement, Minn. R. Civ. P. 61 and 3) remands to the district court to clarify its ambiguous order.	Dissolution, Income, Maintenance
Alstrin v. Alstrin, A22-0247, 2022 WL 17086766, (Minn. Ct. App. 2022): Appellant-father challenges the District Court's support order during his severance period and its use of a "revert back" provision once his income returns to its prior level. The District Court erred as it did not apply the guidelines under § 518A.35 and § 518A.36 and did not explain its deviation under § 518A.37, subd. 2	Child-Support, Marriage Dissolution
McMullen v. McMullen, A22-0499, 2023 WL 1770124 (Minn. Ct. App. 2023): Potential income may be determined based upon recent business income even when the party no longer owns the business.	Gross Income, Calculation; Imputing Potential Income; Income, Calculation/Determination of gross income; Potential Income, methods
Rzeczkowski v. Borrero, A22-0954, 2023 WL 2762442 (Minn. Ct. App. 2023): The district court correctly recognized the parties' Columbian Dissolution and Liquidation of Marital Partnership is valid under the principal of comity, but a remand for findings regarding conscionability is required. Remand is also appropriate regarding Husband's claim for needs-based attorney fees. The district court's order denying spousal maintenance and its finding of Wife's gross monthly income are affirmed.	50/50 Custody-Support Calculation; Bonuses, Commissions, etc. as Gross Income; Child Support and Maintenance in Orders-Requirement; Dissolution of Marriage; Foreign Judgment Definition; Maintenance, Spousal
Adetifa v. Pay-Bayee, A22-1546, 2023 WL 5185629 (Minn. Ct. App. 2023): The district court did not err when it awarded mother sole physical custody as the record supports its best-interests findings, § 518.17, subd. 1. It also did not err when it set a parenting time schedule, ordered father to pay child support, used father's 2021 income to forecast his 2022 income, when it divided unreimbursed birth expenses pursuant to § 518A.41, awarded mother conduct-based and need-based attorney fees, and when it reserved the issue of tax dependency.	Past Support – Generally; Past Support – Paternity; Retro Support for Paternity;
Bednar v. Bednar, A24-0080, 2024 WL 4025789 (Minn. Ct. App. 2024): The District Court's imputation of income to husband was inconsistent with its findings that he was in poor health and physically incapacitated. It is not an error to not include spousal maintenance when calculating support purposes because it has to be actually received by the parent first.	Voluntary Unemployment/ Underemployment; Spousal Maintenance-Support Order; Income, Calculation/Determination of Gross Income

White v. Loesch, A22-0964, 2023 WL 8889700 (Minn. Ct. App. 2023): The Child Support Magistrate's finding that appellant-father was voluntarily unemployed and their calculation of his potential income for child support purposes was not an abuse of discretion. The Child Support Magistrate did not err by requiring appellant-father to testify. The County is allowed to call an adverse party to testify. The CSM does not act as an advocate when asking a party follow up questions.	Calculation of Gross Income; Gross Income, Calculation; Imputing Potential Income; Income, Calculation/Determination of Gross Inc.; Potential Income; Expedited Process;
Ali v. Ali, A23-0965, 2024 WL 2266345 (Minn. Ct. App. 2024): The court properly found the parties marriage was valid in Minnesota because it was a valid marriage according to Hawaii law which where the marriage occurred. It is an error to impute self-employment income using only the gross income from father's businesses but did not subtract the costs of goods sold and necessary business expenses.	Best Interest of Child-Custody; Custody, Best Interest of Child; Custody, Joint Legal; Calculation of Gross Income; Dissolution of Marriage (Generally); Gross Income, Calculation; Imputing Potential Income; Marriage Dissolution (Generally); Potential Income-Generall; Potential Income-Methods; Self-Employment Income
In re the Marriage of: Cross v. Cross, A24-0477, 2024 WL 4751267 (Minn. Ct. App. Nov. 12, 2024): The district court did not err in its calculation of appellant-father's gross income by not subtracting transportation costs or by including his income above 40 hours per week. The district court did err when calculating mother's monthly income by not including her income from ownership interest in her jointly owned business.	Calculation of gross income; self-employment income; modification; Income – definition of gross income; Income – calculation/determination of gross income
In re the Marriage of: Patterson v. Patterson, A24-1029, 2024 WL 5242092 (Minn. Ct. App. Dec. 30, 2024): The district court did not abuse its discretion in imputing income for appellant-wife as she has demonstrated a capacity to earn a higher income. Wife's arguments against the court's determination of husband's income are unavailing as she did not provide a transcript or cite any legal authority showing error.	Imputing potential income; Potential income: Stay at home parent; Methods, Generally; Income calculation/determination of gross income

In re the Marriage of Abdihafid Hariri Hassan Yusuf vs. Neama Omar Y Al Somali, No. A24-0880, 2025 WL 826285 (Minn. Ct. App. Mar. 17, 2025): The district court did not abuse its authority when it awarded wife sole legal and sole physical custody and husband supervised parenting time as husband did not rebut the presumption that joint custody was not in the best interests of the child due to the finding of domestic abuse between the parties, Minn. Stat. § 518.17, subd. 1(b)(9). The district court's finding that husband is voluntarily underemployed is supported by the record, and the method used to calculate his monthly income is in accordance with § 518A.32, subd. 2.	25% Parenting Time Presumption; Best Interest of Child-Custody; Calculation of Gross Income; Custody; Dissolution of Marriage (Generally); Gross Income Calculation; Imputing Potential Income; Income, Calculation/Determination of Gross Inc; Marriage Dissolution (Generally); Potential Income
In the Marriage of: Sarah Elizabeth Lavins vs. Brock Laverne Lavins, No. A24-0779, 2025 WL 1097215 (Minn. Ct. App. Apr. 14, 2025): The district court did not abuse its discretion when it determined mother is voluntarily unemployed because she failed to rebut the presumption she could work full time. It also was not an abuse of discretion to deny mother's request to apply the modification of support retroactively, Minn. Stat. § 518A.39, subd. 2(f) is discretionary rather than mandatory.	Imputing Potetntial Income; Modification-Effective Date: Retroactive support Modification-Date of Service only; Voluntary Undemployment/Underemployment

II.E. - RESOURCES OF PARENTS / CHILD	
II.E.1. - Generally	
Kirby v. Kirby, 348 NW 2d 392 (Minn. App. 1984): Difference between mother/children's expenses and mother's net income does not establish the needs of children for support.	CP's Income vs. Expenses
Kramer v. Kramer, 372 NW 2d 364 (Minn. App. 1985): Prior income from resources awarded to custodial parent has little bearing on obligor's ability to pay child support.	Prior Income of CP
Tell v. Tell, 383 NW 2d 678 (Minn. 1986): Payments from stipulated property division constitute "financial resource" under Minn. Stat. ' 518.17, Subd. 4.	Property Settlement Payments
Tell v. Tell, 383 NW 2d 678 (Minn. 1986): Periodic property settlement payments properly considered a financial resource available for child support.	Property Settlement Payments
Pitkin v. Gross, 385 NW 2d 367 (Minn. App. 1986): Income in excess of $6,000.00 is a resource available for the obligor's special needs.	Obligor's Special Needs
Quaid v. Quaid, 403 NW 2d 904 (Minn. App. 1987): Where absent parent had good prospects for securing gainful employment soon, trial court erred in denying reduction in support and unconditionally requiring father to liquidate assets of $1,400.00 per month to honor support obligation.	Liquidation of Resources
Lee v. Lee, (Unpub.), C7-91-525, F & C, filed 8-20-91 (Minn. App. 1991): Settlement proceeds may be used in determining support because resources of the parents are to be considered as well as earnings and income. Consequently, even if an obligor's income decreases, an existing child support obligation is not automatically unreasonable.	Settlement Proceeds
Kuronen v. Kuronen, 499 NW 2d 51 (Minn. App. 1993): Prisoner's motion to suspend child support while in prison denied because defendant had $20,000.00 in assets out of which to pay child support.	Incarceration and Existing Assets
Lang v. Lang, (Unpub.), CX-95-2214, F & C, filed 6-11-96 (Minn. App. 1996): A trust is an asset or resource available for support where disbursements are available from the trust upon request by the obligor.	Trust as Resource
Hosley v. Hosley, (Unpub.), C9-96-2084, F & C, filed 3-21-97 (Minn. App. 1997): Obligor's boat, purchased for $3,500.00 may be a potential source of child support; under Minn. Stat. ' 518.551, Subd. 5(c)(1) court shall consider parties personal property in determining whether to deviate from guidelines.	Boat
Carlson v. Nelson, (Unpub.), C1-98-1841, F & C, filed 4-27-99 (Minn. App. 1999): Where obligor elected to receive his pension as a lump sum and not as a periodic payment, it was proper for the court to amortize the principal over five years, and to include the monthly amount as a resource available for child support.	Lump Sum Pension Payment
Berg v. D.D.M., 603 NW 2d 361 (Minn. App. 1999): A deceased child support obligor=s joint investment account with a stock brokerage firm (in this case held jointly with his surviving spouse) is not a multiple-party account under Minn. Stat. ' 524.6-207(1998) and is therefore not available to pay a child support obligation.	Stockbrokerage Investment Account not Available for Support after Death of Obligor
In Re Marriage of Kalbakdalen vs. Kalbakdalen, (Unpub.), C5-02-455, F & C, filed 10-8-02 (Minn. App. 2002): Obligor received workers compensation settlements, of $161,900 of which $23,800 was for past lost wages, $63,000 was for future lost wages, and $70,000 for vocational rehabilitation. Obligor also repairs cars. CSM set child support at $350 per month. CSM did not err in considering the full settlement amount as a resource available for support rather than just apportioning the future lost wages portion over the remaining minority of the child.	Full Workers Compensa-tion Settlement a Resource
Edwards v. Gottsaker, (Unpub.), C1-02-615, filed 7-17-03 (Minn. App. 2003): AAA (Accumulated Adjustment Account) in a Subchapter S Corp is analogous to retained corporate earnings. Unless the party has control over how and when these earnings are distributed, they are not considered earnings. (Decision was based on a spousal maintenance award and not child support award.)	Retained Earnings in Subchapter S Corp.

Strandberg v. Strandberg, 664 NW 2d 887 (Minn. App. 2003): In determining the child support obligation for a child who receives a state adoption subsidy, the subsidy is a resource of the child and should be considered. Minn. Stat. ' 518.551, subd. 5(c)(1), (2) (2002). "We do not hold that the adoption subsidy should be treated as a mandatory offset to child support or an automatic reduction of the guideline amount. * * * Rather, the treatment of the adoption subsidy and whether the subsidy affects the support obligation depends on the needs of the child and the financial circumstances of the obligor and obligee."	State Adoption Subsidy
Fumagalli v. Duesterhoeft, No. A16-2018 (Minn. Ct. App. Aug 28, 2017): Pro se parties are held to the same standard as attorneys, and the father had the opportunity to present his job search records on his own. There is no affirmative duty on CSM's behalf to request it. The court should use the most recent order involving parenting time when applying the parenting time expense adjustment. The court should consider 401K assets when determining whether to modify child support.	Determination of Income; Parenting time

II.E.2. - Government Benefits	
In the Marriage of Haynes, 343 NW 2d 679 (Minn. App. 1984), reversed by Holmberg v. Holmberg, 578 NW 2d 817 (Minn. App. 1998), *aff'd.* 588 NW 2d 720 (Minn. 1999): Child's receipt of social security benefits from account of parent charged with support does not constitute payment from that parent and does not alter parent's support obligation absent modification.	Social Security not Child Support
Moritz v. Moritz, 368 NW 2d 337 (Minn. App. 1985): Lump sum social security benefits may not be applied to accrued child support arrears.	Social Security Lump Sum
Moritz v. Moritz, 368 NW 2d 337 (Minn. App. 1985): Social security Payments to minor child cannot be applied to arrearages for child support or maintenance.	Social Security does not Offset Back Support
Gerlich v. Gerlich, 379 NW 2d 689 (Minn. App. 1986): Child's receipt of social security benefits from the account of the parent charged with support does not constitute payment from the parent.	Social Security
In the Matter of the Welfare of J.M.F., Minor Child, 381 NW 2d 488 (Minn. App. 1986): Supplemental security income payment paid to a parent for benefit of one child may not be considered in determining the parent's ability to pay reimbursement to a county for costs of care provided to another child.	Supplemental Security Income
Green v. Green, 402 NW 2d 248 (Minn. App. 1987): Social Security benefits paid to children do not constitute support payments, but are a consideration in measuring the need for support.	Social Security
Todd v. Norman, U.S. Ct. App. 8th Cir. 3-12-88: Social Security disability benefits are not "child support payments" that may be disregarded in calculating AFDC eligibility levels.	Social Security Disability not Child Support
Missouri ex rel. DSS v. Kost, Mo. Ct. App. #54162, filed 3-10-98: Unlike a disabled parent's SSI benefits payable to a child, the SSI benefits paid by reason of the child's disability are in consideration of the additional needs of the child not contemplated by the child support guidelines and should not be an offset to a parent's support obligation.	SSI Benefits Attributable to Child's Disability
Jenkins v. Jenkins, Conn. Sup. Ct., 243 Conn. 584 (1998): Disability payments made directly to a child based upon a father=s disability are treated as part of the father's gross income and are also a credit against child support obligation.	Payments Rec'd by Child Due to NCP's Disability Part of NCP's Income
Holmberg v. Holmberg, 578 NW 2d 817 (Minn. App. 1998), *aff'd.* 588 NW 2d 720 (Minn. 1999): Obligor should be given credit against support obligation for social security payments.Caution: Susperseded by Statutes as stated in County of Grant v. Koser, 809 N.W.2d 237 (Minn. App.2012)	Credit Against Support for Social Security Payments to Child
In re Dakota Cnty., 866 N.W.2d 905, 908 (Minn. 2015): Obligor continued paying $1,977 per month in child support while oblige received a $1,748 per month derivative benefit for the children stemming from the obligor's RSDI benefit. Child support obligor brought motion to modify child support obligation, asking court to offset obligation by amount of monthly derivative Social Security benefits received by obligee on behalf of children and to give him credit for all benefits already received. A child support magistrate (CSM) granted the motion. The District Court, modified the child support magistrate's order in part, retaining the offset and clarifying that the amount of the benefits already received by the obligee could be credited against the obligor's prospective obligation. County appealed. The Court of Appeals, 2014 WL 1272165, affirmed, declining to overrule *County of Grant v. Koser*. County petitioned for review, which was granted. The Minnestoa Supreme Court reversed and remanded, holding that an obligee has a legal right to both an RSDI derivate benefit and Child Support until the obligor moves to modify child support. If an obligor wants an existing child support obligation to be reduced on account of derivative Social Security benefits paid to the obligee for a joint child, the obligor must bring a motion to modify the existing child support order. The child support obligation then must be recalculated, but any resulting modification is retroactive only to the date of service of notice of the motion to modify.	RSDI, Modification, arrears, medica expenses, support guidelines.
Carlson v. Nelson, (Unpub.), C1-98-1841, F & C, filed 4-27-99 (Minn. App. 1999): Trial court did not err when it declined to credit obligor with social security payments paid to the child for the months prior to his motion for modification.	Lump Sum Pension Payment

Casper and Winona County v. Casper, 595 NW 2d 709 (Minn. App. 1999): Obligor is entitled to retroactive forgiveness of arrears that accrued after obligor started receiving social security disability benefits, to the extent that obligor's children received social security benefits based on obligor=s disability.	Obligor Entitled to Retroactive Credit Against Arrears in the Amount of SSA Benefits were Paid to Children from his Account
Casper and Winona County v. Casper, 593 NW 2d 709 (Minn. App. 1999): To the extent an obligor paid past child support, even though the children received SSA, the Custodial parent and children are entitled to keep any child support payments received as well as the SSA, as the excess payments constitute a gratuity.	Obligor not Entitled to Refund for Excess Child Support Paid While Children Received SSA
Berg v. D.D.M., 603 NW 2d 361 (Minn. App. 1999): Social security death benefits paid as a result of obligor=s death do not bar an award of future support.	Social Security Death Benefits
Berg v. D.D.M., 603 NW 2d 361 (Minn. App. 1999): A child's receipt of social security survivor's benefits should be credited against the duty of the deceased obligor's estate to make support payments after death of the obligor.	Social Security Survivor's Benefits Credit Against Child Support
Frisch v. Solchaga, (Unpub.), C4-99-1083, F & C, filed 1-11-1999 (Minn. App. 2000): Minn. Stat. ' 518.551, Subd. 5(1)(1998) and Holmberg did not prohibit a court from ordering past child support in a paternity case, even though the child received an insurance benefit, because the time period in question was prior to the 8-1-98 effective date of the statute.	No Credit for Social Security Prior to 8-1-98
Strandberg v. Strandberg, 664 NW2d 887 (Minn App. 2003): In determining the child support obligation for a child who receives a state adoption subsidy, the subsidy is a resource of the child and should be considered. Minn. Stat. ' 518.551, subd. 5(c)(1), (2) (2002). "We do not hold that the adoption subsidy should be treated as a mandatory offset to child support or an automatic reduction of the guideline amount. * * * Rather, the treatment of the adoption subsidy and whether the subsidy affects the support obligation depends on the needs of the child and the financial circumstances of the obligor and obligee."	State Adoption Subsidy
Gillett-Netting v. Barnhart, 371 F.3d 593, 9th Cir (Ariz. June 9, 2004): Twins conceived through artificial insemination after their father's death are qualified to receive Social Security death benefits.	Children Artificially Conceived after Death of Father Qualify for SS Benefit
Gatfield v. Gatfield, 682 NW 2d 632 (Minn. App. 2004): Although the U.S. Supreme Court in Mansell v. Mansell, 490 U.S. 581 (1989) ruled that the Uniformed Services Former Spouse's Protection Act, 10 USC 1408 does not subject VA disability benefits to a property claim by a spouse, this ruling does not deprive state courts of jurisdiction to enforce provisions of a dissolution judgment that were stipulated to by the husband, making a share of those benefits available to the spouse.	Stipulation Awarding Veteran's Dis-ability Benefits in Property Settlement Enforceable
In Re the Marriage of Renard v. Renard, (Unpub.), A05-2573, Filed February 13, 2007 (Minn. App. 2007): The court found the district court erred when it issued an order requiring obligor to pay a ongoing child support plus an upward deviation of $300 for a child with special needs based on an alleged excess in obligor's income, where (1) the child received fed. benefits of $250 per month, and (2) the income of the obligor actually resulted in a deficit after subtracting child support and spousal maintenance. The court found the district court's order to be inconsistent with its findings and reversed and remanded this issue.	DEVIATION: upward deviation may be inappropriate when it would place obligor in deficit and the minor child receives federal benefits based on special needs (severe autism).

Lynch, vs. Lynch, and County of Mower, Intervenor, (Unpub.), A07-763, filed June 3, 2008 (Minn. App. 2008): Where an employee of the federal government receives a "territorial cost of living allowance" because they live in a remote area with a relatively high cost of living, such allowance should not be considered in determining that party's child support obligation. Although the territorial allowance is within the statutory definition of income, the nature of the territorial allowance requires a downward deviation from the guidelines, as the allowance does not increase the obligor's income, but merely places him in the same financial position he would occupy if he were living in Minnesota, where the cost of living is lower than in Alaska.	Territorial cost of living allowance should not be included in gross income when calculating child support.

II.E.3. - Monetary Settlements - Workers' Compensation and Others	
Lenz v. Wergin, 408 NW 2d 873 (Minn. App. 1987): Workers' compensation lump sum award must be allocated over the years from the date of the injury until obligation for support ceases.	Workers' Compensation Lump Sum
Sherburne County Social Services o/b/o Schafer v. Riedle, 481 NW 2d 111 (Minn. App. 1992): Where obligor receives lump sum payments every three years through a structured settlement, the payment is income and should be spread over the three years to determine monthly income.	Periodic Annuity Payments are Income
Lukaswicz n/k/a Davis v. Lukaswicz, 494 NW 2d 507 (Minn. App. 1993): An obligor's lump-sum workers' compensation settlement is subject to sequestration for payment of child support arrears.	Workers' Compensa-tion
Grothe v. Grothe, (Unpub.), C8-92-1998, F & C, filed 4-20-93 (Minn. App. 1993) 1993 WL 121245: The county may sequester workers compensation for payment on arrearages and the county may hold an amount to secure future support.	Workers' Compensa-tion
Fedderly v. Haus, (Unpub.), C2-94-1323, F & C, filed 11-8-94 (Minn. App. 1994) 1994 WL 614997: Workers' compensation lump sum settlement is a "resource" that can be considered in deviating from presumptive guideline amount, even though it is not periodic income (See Kuronen case). Proper for trial court to allocate settlement amount over child's minority rather than to the date obligor would retire (See Lenz v. Wergin).	Workers' Compensa-tion Settlement
State of Minnesota, by its agent, County of Anoka, o/b/o Nelson v. Johnson, (Unpub.), CX-94-1165, F & C, filed 12-13-94 (Minn. App. 1994): ALJ did not err in setting child support at $1,000.00 per month where obligor is unemployed, where he has self-limited income, and where he had ready access to monies from his father's estate, having withdrawn $780,000.00 since 1992 which he used for travel, purchases and gambling, and had access to investment income of the remaining $400,000.00.	Estate Proceeds and Investment Income
State of Minnesota, County of St. Louis v. Holmes, (Unpub.), C7-94-1401, C9-94-1402, F & C, filed 1-10-95 (Minn. App. 1995): Workers' compensation lump-sum settlement is a resource available for payment of child support, and it does not matter that the settlement is not a periodic payment and not classified as income. Therefore, it was proper for trial court to deny MTM of obligor who had received a $35,000.00 settlement.	Lump Sum Settlement as Resource
Anstine v. Pike, f/k/a Annette E. Anstine, (Unpub.), C8-94-1780, F & C, filed 3-21-95 (Minn. App. 1995): Obligor received a lump sum workers' compensation settlement of $123,000.00. The settlement represented payment for 8.5 years of benefits, computed on a weekly basis, but paid in a lump sum. The court ruled the payment was not "income" as defined at Minn. Stat. ' 518.54, Subd. 6 because it was not paid on a periodic basis, even though it was calculated on a periodic basis. However, the court could consider the net payment of $110,000.00, after payment of attorney's fees, as a "resource." Under Minn. Stat. ' 518.551, Subd. 5(c)(1), in deciding ability to pay support, court should consider obligor's future earning prospects and any income he will receive from investment of the settlement.	Workers' Compensation Settlement
Paternity of D.A.C.: Engebretson v. Carlsgaard, (Unpub.), C8-97-1793, F & C, filed 3-3-98 (Minn. App. 1998): Where part of obligor=s worker=s compensation settlement is identified as compensation for past wage loss, that amount is income for the period of time the wage loss covered, and should not be amortized over the minority of the child.	Worker's Comp Designated as Wage Loss
Schmidt v. Schmidt, (Unpub.), C8-03-346, filed 8-29-03 (Minn. App. 2003): Lump sum payment from NCP's pension of over $123,000 and another payment of over $13,000 for retroactive long-term disability benefits were resources available to NCP sufficient to rebut the 20%/$50 presumption.	Lump Sum Payments

II.F. - GUIDELINES	
II.F.1. – Generally (including constitutionality of)	
Minn. Stat. ' 518A.26, Subd. 13 - defines "obligor" and "obligee"; Minn. Stat. ' 518.28- statutory guidelines.; Minn. Stat. ' 518.26, Subd.14 - guidelines are rebuttable presumption; Minn. Stat. ' 518.551, Subd. 5(k) - adjustment of guidelines cap; Minn. Stat. ' 518.44 - offset for social security benefits received by child; Minn. Stat. ' 518.1705, Subd. 8 - parenting plan subject to requirements of child support guidelines. 45 C.F.R. ' 302.56- minimum guidelines requirements	
Scott v. Scott, 352 NW 2d 62 (Minn. App. 1984): Trial court must create an obligation per guidelines based on the actual net income of the obligor.	Generally
Moylan v. Moylan, 368 NW 2d 353 (Minn. App. 1985): No credit need be given for non-cash payments. (i.e. health insurance, rent, etc.) in setting child support.	In-Kind Payments
Derence v. Derence, 363 NW 2d 86 (Minn. App. 1985): Guidelines enacted to generally increase child support levels and to ring some uniformity of obligation and support to persons similarly situated.	Purpose: Increase Support
Moylan v. Moylan, 384 NW 2d 859 (Minn. 1986): In all cases not involving public assistance, the trial court must make specific findings of fact as to the factors it considered in formulating the award; the findings should take into account all relevant factors including (a) the financial resources and needs of the child; (b) the financial resources and needs of the custodial parent; (c) the standard of living the child would have enjoyed had the marriage not been dissolved; (d) the physical and emotional condition of the child, and his educational; needs; and (e) the financial resources and needs of the noncustodial parent. In so doing, the court must recognize that the guidelines take into account the following factors: (1) all earnings, income and resources of the obligor including real and personal property; (2) the basic living needs of the obligor; (3) the financial needs of the child or children to be supported; and (4) the amount of the AFDC grant for the child or children. Thus, the court will have to balance all of these factors before determining the appropriate amount of support. (But see Minn. Stat. ' 518.551, Subd. 5c (1996).	Findings Required
Moylan v. Moylan, 384 NW 2d 859 (Minn. 1986): Legislative history on purpose, and applicability to PA vs. NPA cases set out at fn4 and p. 862-864. § 518.551, subd. 5(1983) applied to PA cases only. § 518.17 (1983, amd. 1984) applied guidelines to all cases including NPA cases.	Legislative History
Moylan v. Moylan, 384 NW 2d 859 (Minn. 1986): Guidelines apply to modification cases.	Applies to MTMs
Moylan v. Moylan, 384 NW 2d 859 (Minn. 1986): In a concurring opinion, Justice Yetka addresses the constitutionality issue. Citing Wisconsin v. Yoder, 406 U.S. 205 (1972), he notes it would be a gross invasion of family privacy for married parents to be required a minimum dollar amount of support for their children. He argues that if legislature can't do this in the case of married parents, it also cannot do it for parents who are unmarried, divorced or separated unless their inability or refusal to support their children imposes a burden on the taxpayers. (He thus distinguishes the way guidelines can be applied in PA vs. NPA cases). He opines that Minnesota's guidelines are only constitutional because they allow a judge to deviate from the guidelines by spelling out his reasons. Yetka says the guidelines cannot be mandatory, but must be carefully and judicially applied to the facts of each case.	Yetka Concurring Opinion: Guidelines are Constitu-tional as Long as Court has Discretion to Deviat
Isanti County v. Swanson, 394 NW 2d 180 (Minn. App. 1986): Legislature intended strict application of guidelines in public assistance cases.	Public Assistance
Kujawa v. Kujawa, 397 NW 2d 445 (Minn. App. 1986): Court has discretion in whether to apply the child support guidelines when modifying a child support obligation for children between 18 and 21 years of age.	18-21 Years Old
Fudenberg v. Molstad, 390 NW 2d 19 (Minn. App. 1986): Effect of awarding the dependency exemption to noncustodial parent will be to increase the income to which the guidelines apply.	Dependency Exemption
Thomas v. Thomas, 407 NW 2d 124 (Minn. App. 1987): Trial court should have considered the most recent income figure available in calculating support pursuant to a stipulated formula.	Most Recent Figures
Merrick v. Merrick, 440 NW 2d 142, 146 (Minn. App. 1989): A trial court must use current net income figures when determining child support obligations.	Current Net Income

County of Nicollet v. Haakenson, 497 NW 2d 611 (Minn. App. 1993): It was proper for ALJ to grant guidelines child support in an amount greater than the child's share of monthly living expenses because: (1) actual expenses attributable to child is different from child's needs; (2) guidelines support establishes a rebuttable presumption of the needs of the child; and (3) child entitled to enjoy the benefits of income of both parents.	Guidelines Support Greater than Child's Current Monthly Expenses
Rouland v. Thorson, 542 NW 2d 681 (Minn. App. 1996): Obligor's old tax debt was properly classified as a debt to a "private creditor" under Minn. Stat. ' 518.551, Subd. 5(d), (f), rather than as a deduction from gross income under Minn. Stat. ' 518.551, Subd. 5(b). In this case, the administrative law judge properly determined that father failed to meet the factors necessary to support the 18-month guideline departure allowable for some debts in that (1) the right to support had been assigned under section 256.74; (2) he did not satisfy the other requirements.	Tax Debts
In Re the Marriage of Marden v. Marden, 546 NW 2d 25 (Minn. App. 1996): It was improper for the trial court to require the custodial parent seeking a child support increase to meet the requirements of Minn. Stat. ' 518.551, Subd. 5(c)(5), and Subd. 5(d), where the obligor had been required by the dissolution decrees to satisfy the debt and to hold the obligee harmless (e.g., obligee under order would not be responsible for paying debt), and because of discharging the debt in bankruptcy caused the liability for payment to fall on the obligee. The obligee did not "incur" (or bring upon herself) the debt.	Debt Incurred by Obligor but Paid by Obligee
Rolbiecki v. Rolbiecki, (Unpub.), C2-96-2539, F & C, filed 5-20-97 (Minn. App. 1997): A bonus was not excludable under Minn. Stat. ' 518.551, Subd. 5(b) as "compensation received for employment in excess of a 40-hour work week" because it was not in the nature of additional overtime employment compensable by an hour or a fraction of an hour.	Salary Bonus not Excluded as Overtime
Chaput v. Chaput, (Unpub.), CX-97-2086, F & C, filed 6-2-98 (Minn. App. 1998): Valento/Hortis Formula requires use of guidelines amount of support in calculation even where guidelines amount is less than 25% of net income, due to income cap.	Income Cap
Holmberg v. Holmberg, 578 NW 2d 817 (Minn. App. 1998), *aff=d.* 588 NW 2d 720 (Minn. 1999): A disabled child support obligor is entitled to credit for social security disability benefits paid on behalf of a child for whom the obligor has a duty to support. Overrules Haynes, 343 NW 2d 679 (Minn. App. 1984). This point is still good law despite Dakota County v. Gillespie., 866 N.W.2d 905 (Minn. 2015). Social Security benefits received by obligee on behalf of children and to give him credit for all benefits already received	Offset for Child's Benefit
Hassan v. Hassan, (Unpub.), C4-98-1140, F & C, filed 11-24-98 (Minn. App. 1998): Where the 1989 J&D required obligor=s child support obligation to be revised automatically each year so as to comport with the child support guidelines, based on annual tax returns, the maximum net income to which the guidelines would apply was the 1989 statutory limit, not the 1993 limit. This is because the language in the decree contemplated changes in income, but not changes in the guidelines.	Effect of Changes in Guidelines Statute on a Guidelines Order
Vig v. Vig, (Unpub.), C0-00-567, F & C, filed 10-10-00 (Minn. App. 2000): 1988 support order required obligor to document his income each year on January 1, and that child support be Aadjusted annually to reflect guideline child support at a rate of 25%.@ The guidelines cap in 1988 was $1,000. 1993 status increased the cap and provided for periodic future adjustments of the cap. Scott County limited adjustments to the 1991 cap level. It was error in 1999 for the court to retroactively determine arrears based on the post-1993 cap. Obligee was obliged to move for modification of the order after 1993 in order to benefit from the new cap. The 1993 amendment to the child support guidelines only applied to support orders centered or modified on or after August 1, 1993.	Pre-1993 Guidelines CAP Applies to a Pre-1993 Order that has Never Been Modified Subsequent to 1993
Higgins v. Higgins, (Unpub.), C7-02-1056, F & C, filed 2-11-03 (Minn. App. 2003): Higgins challenged ten statutes in Chapter 518, including child support guidelines, and the statute allowing the court to grant sole legal and physical custody, as being unconstitutional because they Aviolate his constitutionally protected equal right to be an equal parent.@ The court of appeals held that his equal protection argument failed, because the state=s interest in protecting the best interests of children would justify depriving parents of the right to be Aequal parents,@ if in fact parents have that fundamental right. Citing LaChapelle v. Mitten, 607 NW 2d 151, 163-65 (Minn. App. 2000), *rev.den.* (Minn. 16 May 2000.)	Constitu-tionality of Equal Protection Challenge Fails

Georgia Department of Human Services v. Sweat, 580 SE2d 206, 3 FCDR 1399 (Ga. April 29, 2003): Georgia=s child support guidelines, which require consideration of only the obligor's income in calculating child support, do not violate the equal protection provisions of either the United States or Tennessee Constitutions. Equal protection is not violated because the guidelines do not treat similarly-situated individuals differently." Guidelines distinguish only between custodial and non-custodial parents, without regard for gender. Custodial and non-custodial parents are not similarly situated.	Constitution-ality - Equal Protection
Georgia Department of Human Services v. Sweat, 580 SE2d 206, 3 FCDR 1399 (Ga. April 29, 2003): Georgia's child support guidelines, which require consideration of only the obligor=s income in calculating child support, do not violate due process provisions of either the United States or Tennessee Constitutions. Due process is not violated simply because a classification is not made with mathematical nicety or because in practice it results in some inequality." Due process is met if the classifications are relevant to the state's reasonable objective (here of providing adequate support for children whose parents are separated or divorced), and the classifications are not arbitrary (guidelines take into account and vary the amount of support to be paid based upon the NCP's income as well as 18 enumerated special circumstances in the Ga. statute).	Constitution-ality - Due Process
Georgia Department of Human Services v. Sweat, 580 SE2d 206, 3 FCDR 1399 (Ga. April 29, 2003): The Georgia child support guidelines, based solely on obligor's income, do not violate the constitutional right to privacy, as an NCP has no recognizable privacy interest in the process by which child support obligations are determined. Nor do guidelines result in an illegal taking of private property from the obligor in violation of the Ga. Constitution which provides that private property shall not be taken or damaged for public purposes without just and adequate compensation being first paid. Guidelines are not a governmental taking, nor is the taking for public purposes; rather it is to ensure that NCPs help pay the cost of supporting their children.	Other Constitutional Challenges
Georgia Department of Human Services v. Sweat, 580 SE2d 206, 3 FCDR 1399 (Ga. April 29, 2003): Where no fundamental right or suspect classification is involved, due process and equal protection challenges to legislative classification is examined under the Arational basis@ test. The court will uphold the statute if, under any conceivable set of facts, the classifications drawn in the statute bear a rational relationship to a legitimate end of government not prohibited by the Constitution.	Rational Basis Test Applies to Constitutional Challenge of Guidelines
Gallagher v. Elam, No. E2000-02719-SC-R11-CV, filed May 2, 2003 (Tenn. 2003): Tennessee's child support guidelines, enacted by rule pursuant to statute, which require consideration of only the obligor's income in calculating child support, do not violate the equal protection and due process provisions of either the United States or Tennessee Constitutions.	Constitution-ality
Gallagher v. Elam, No. E2000-02719-SC-R11-CV, filed May 2, 2003 (Tenn. 2003): Neither the strict scrutiny nor the heightened scrutiny standards apply to an examination of constitutionality of child support guidelines: Support obligors are not a suspect class or a quasi-suspect class; further, allocating a certain amount of financial support to one's children is a mandatory obligation, not a fundamental right, thus guidelines do not impermissibly interfere with a fundamental right. The rational basis test applies to both the due precess and equal protection claims. The challenged classification must have a reasonable relationship to a legitimate state interest.	Rational Basis Test Applies to Challenge of Guidelines
Kammueller v. Kammueller, 672 NW 2d 594 (Minn. App. 2003): Minn. Stat. ' 518.54, subd. 8 which provides, A person who is designated as the sole physical custodian of a child is presumed not to be an obligor for the purposes of calculating correct support...unless the court makes specific findings to overcome this presumption and the definition of physical custodian at Minn. Stat. ' 518.003 do not violate the equal protection clause of the Minnesota or U.S. Constitutions.	Distinction Between CP & NCP Not UnConstitu-tional

Kammueller v. Kammueller, 672 NW 2d 594 (Minn. App. 2003): The Rational basis test applies to equal protection challenges of the child-support statute. Because child support obligations are premised on the child's right and need to be supported by its parents, there is no fundamental right of a parent to have a child-support obligation based solely on the amount of time the parent spends with the child. (Cites Walker v. Walker, 574 NW 2d 761(Minn. App.1998))	No Fundamental Right to Base C/S on % of PT
Kammueller v. Kammueller, 672 NW 2d 594 (Minn. App. 2003): Minn. Stat. ' 518.54, subd. 8 and Minn. Stat. ' 518.003 meet the three-pronged rational basis test. (1) There is a genuine and substantial distinction between custodial and non-custodial parents, rather than an arbitrary definition. The definition meets the traditional pattern, and both statutes allow for the classifications to be overcome. (2) The classification in ' 518.54, subd. 8 is relevant to the purpose of the law, that the child receive adequate support. The presumption that the parent not living with the child should be responsible for the external contributions is rebuttable. (3) It is a legitimate interest of the government to promote the welfare of its children.	Distinction Between CP & NCP Not Unconstitutional
Ward v. McFall, 593 SE 2d 340 (Ga. 2004): Georgia Supreme Court rejected argument that Georgia's child support guidelines were invalid under the supremacy clause because they do not consider economic data on the cost of raising children required by 45 CFR ' 302.56(h). The United States Supreme Court has stated in Egelhoff v. Egelhoff, 532 US 141, 156-157 (2001) that Before a state law governing domestic relations will be overridden, it must do major damage to clear and substantial federal interests. The Georgia Supreme Court held that even if Georgia has not reviewed its guidelines in the exact manner stated in 45 CFR ' 302.56(h), it does not do major damage to the federal interest in obtaining child support orders to enforce the obligations of NCPs. Further, the court will defer to the determination of the United States Department of Health and Human Services, that by approving and certifying Georgia's state plan, has judged that Georgia has substantially complied with federal law.	Constitution-Supremacy Clause-Pre-emption
Keck v. Harris, 594 SE 2d 367 (Ga. 2004): Federal child support statutes and regulations do not pre-empt the states in areas of domestic relations. Georgia guidelines do not violate the supremacy clause of the Constitution. Cites Ward v. McFall.	State's Guidelines not Preempted by Title IV-D
Doll and Stearns County v. Barnell; Strandmark and County of Anoka v. Starr, 693 NW 2d 455 (Minn. App. 2005), rev. den. (Minn. 6-14-05): Child support guidelines do not impact parents fundamental right to control their care of their children. A parent does not have a fundamental right respecting the amount of a child support obligation, therefore the rational basis standard of review applies.	No fundamental right respecting the child support obligation
Doll and Stearns County v. Barnell; Strandmark and County of Anoka v. Starr, 693 NW 2d 455 (Minn. App. 2005),rev. den. (Minn. 6-14-05): The court of appeals rejected appellants' premise that Minnesota court mechanically apply the child support guidelines rather than looking at the particular facts of each case.	Minnesota's guidelines are not mechanically applied
Doll and Stearns County v. Barnell; Strandmark and County of Anoka v. Starr, 693 NW 2d 455 (Minn. App. 2005), rev. den. (Minn. 6-14-05): Because custodial and noncustodial parents are not similarly situated, and further, the guidelines have a rational basis, and do not involve a fundamental right or suspect classification, the argument that the child support guidelines deny equal protection fails.	Minnesota guidelines do not violate Equal protection
Doll and Stearns County v. Barnell; Strandmark and County of Anoka v. Starr, 693 NW 2d 455 (Minn. App. 2005), rev. den. (Minn. 6-14-05): There is a rational basis for Minnesota's child support guidelines: The legislature may determine to maximize child support, and to recognize the care a custodian provides, without placing a dollar value on it, in assessing a presumptive level of need for children. (In other words, the custodial parent's income does not have to be factored into the presumptive formula for the guidelines to be constitutional). Further the guidelines permit attention to the unique circumstances of each case.	Rational basis for Minnesota's child support guidelines

Doll and Stearns County v. Barnell; Strandmark and County of Anoka v. Starr, 693 NW 2d 455 (Minn. App. 2005), rev. den. (Minn. 6-14-05): Minnesota's child support guidelines do not violate the due process clause of the United States Constitution; they are not unreasonable, arbitrary or capricious, and they bear a rational relation to the public purpose they seek to promote. The legislative history of Minnesota's guidelines indicates that the Legislature has endeavored to tailor the guidelines to render fair and reasonable child-support amounts, and the cost of rearing has been part of that formula. The legislature has factored in the many variables involved in the debate as to what amount of award is "adequate" to support a child, and has allowed deviations from the guidelines, with the paramount consideration being the best interests of the child.	Minnesota's guidelines do not violate due process
Doll and Stearns County v. Barnell; Strandmark and County of Anoka v. Starr, 693 NW 2d 455 (Minn. App. 2005), rev. den. (Minn. 6-14-05): Minnesota guidelines do not violate or conflict with the mandates of federal law. The guidelines satisfy all federal child-support requirements, including a consideration of the economic data on the cost of raising children. Further, a conflict with federal law would not be significant for preemption purposes; the state would simply be ineligible for incentive payments under the federal scheme. Where there is no federal preemption of state law, there is no violation of the supremacy clause of the U.S. Constitution.	Minnesota's guidelines do not violate the supremacy clause-there is no federal preemption of state law.
Olson v. Jax, (Unpub.), A06-27, Filed December 19, 2006 (Minn. App. 2006): The court upheld the district court's award of child support based on the net income cap of the child support guidelines. The district court appropriately considered obligor's cash flow and lifestyle. The court refused to deviate downward based on obligor's allegation that the statutorily provided amt. of child support exceeds the child's needs and would subsequently benefit the obligee. The court cited State v. Hall, 418 N.W.2d 187, 190 (Minn. App. 1988), and Thompson v. Newman, 383 N.W.2d 713, 716 (Minn. App. 1986), in finding that the child is entitled to benefit from both parent's income.	GUIDELINES: Support set based on income cap. No downward deviation for "improved lifestyle" of child.
Martin vs. Martin, (Unpub.), F & C, A07-591, filed March 25, 2008 (Minn. App. 2008): Appellant argued that the court should have calculated support under the new income share guidelines. Because appellant's motion was filed before January 1, 2007, the district court was correct in using the old guidelines to calculate child support. Affirmed.	Application of old guidelines v. new guidelines
Hansen v. Todnem, 891 NW 2d 51 (Minn. App. 2017): Courts are not limited to $15,000 for monthly combined parental income for child support. District Court has discretion to consider premiums, deductibles and copays when determining the affordability of a health care policy.	Guidelines; Medical Support
Fumagalli v. Duesterhoeft, No. A16-2018 (Minn. Ct. App. Aug 28, 2017): Pro se parties are held to the same standard as attorneys, and the father had the opportunity to present his job search records on his own. There is no affirmative duty on CSM's behalf to request it. The court should use the most recent order involving parenting time when applying the parenting time expense adjustment. The court should consider 401K assets when determining whether to modify child support.	Determination of Income; Parenting time
Jayawardena v. Jayawardena, A19-0390 (Minn Ct. App. Aug. 26, 2019): Bonus payments establishing dependability should be included in gross income. Nothing precludes a finding of dependability based on only one year's receipt of bonus income if the record establishes ongoing eligibility for and likely for receipt of bonuses. Credit card debt should not have been excluded in the calculation of living expenses as it was not duplicative.	Income Determination; Bonuses; Commissions; Living Expenses.
Fanning v. Fanning, A21-0984, 2022 WL 3022371 (Minn. Ct. App. 2022): Appellant-father argues the CSM incorrectly calculated his basic support amount and incorrectly determined Respondent-wife's monthly income. The issue of basic support was remanded as his support amount shall be determined per § 518A.34, not § 518A.42, and the CSM's determination of Respondent's income was affirmed. When an individual does not meet the qualifications for the minimum basic support under 518A.42, the amount calculated under 518A.34 shall be ordered, even if that amount is less than the minimum support amount.	Basic Support – Table; Child Support Guidelines; Income, Determination of; Minimum Basic Support
Keim v. Keim, A23-1256, 2024 WL 2885586 (Minn. Ct. App. 2024): The Court of Appeals found the Child Support Magistrate erred when calculating appellant-father's monthly income not in accordance with Minn. Stat. § 518A.29 and § 518A.30, and when they used the 2022 guidelines rather than the 2023 guidelines.	Calculation of Gross Income; Deviation from Guidelines; Gross Income, Calculation;

	Income, Calculation/Determination of Gross Inc.; Self-Employment Income
Wehrwein v. Hascall, A23-0452, 2024 WL 3016488 (Minn. Ct. App. 2024): The district court did not abuse its authority when it awarded father joint legal custody and unsupervised parenting-time. The court did not abuse its authority in its child support calculation because mother could identify no error in the calculation of father's income and properly applied the guidelines. There is also no error in its refusal of past support to mother, and in its award of tax-dependency status in alternating years.	Basic Support-Guideline Table
Ryan Gary Sanford v. Bethany Lynn Beilby, No. A24-1334, 2025 WL 1213728 (Minn. Ct. App. Apr. 28, 2025): The Court of Appeals affirms the district court's award of sole physical custody, sole legal custody, the calculation of monthly child support obligation, and the award of the dependent tax exemptions, but modifies the district court's back support order by $100 due to an arithmetic error.	Best Interest of Child-Custody; Bonuses, Commissions, etc. as Gross Income; Calculation of Gross Income; Custody-Best Interest of Child; Custody; Gross Incoem – Definition; Gross Income, Calculation; Income Tax Exemption; Parental Income for Determining Child Support; Self-Employment Income;

II.F.2. - Deductions from Income	
Minn. Stat. ' 518.551(b) (i)-(viii).	
Gully v. Gully, 371 NW 2d 63 (Minn. App. 1985): Obligor's practice of deducting certain expenses for tax purposes did not preclude court from attributing items to obligor for purposes of determining income for purposes of applying guidelines.	Business Expenses
Carver County v. Fritzke, 392 NW 2d 290 (Minn. App. 1986): Exclusion of business expenses is not allowed under guidelines and any exclusion represents a deviation and requires appropriate findings.	Business Expenses
Thompson v. Newman, 383 NW 2d 713 (Minn. App. 1986): Cost of a medical insurance premium cannot be considered part of the child support obligation amount determined under guidelines, but the cost must be deducted from gross income.	Medical Insurance
Hogsven v. Hogsven, 386 NW 2d 419 (Minn. App. 1986): Calculating income by subtracting taxes from net income on tax return not reversible although guidelines recommend use of tax tables when difference was only $32.00 per month.	Tax Tables
Wollschlager v. Wollschlager, 395 NW 2d 134 (Minn. App. 1986): Previous support orders that an obligor is paying must be deducted to compute the obligor's net income; if the obligor is not currently paying the previous order, this deduction is improper.	Prior Children
Pitkin v. Gross, 385 NW 2d 367 (Minn. App. 1986): Packer (where trial court was upheld when it figured guidelines support for all children and subtracted amount of prior order to determine new order) is not authority permitting same approach when the obligor's means are unlimited.	Packer
Driscoll v. Driscoll, 414 NW 2d 441 (Minn. App. 1987): Statute dealing with determination of husband's net income for purposes of determining child support allows deductions from gross income of child support and maintenance orders, from prior marriages but does not permit deduction of contemporaneous order of maintenance from husband's net income prior to calculating child support.	No Deduction of Main-tenance
Driscoll v. Driscoll, 414 NW 2d 441 (Minn. App. 1987): Trial court's determination of husband's net income, for purposes of setting child support, was proper despite claim that court used income for year in which he claimed six exemptions whereas he would, in the future, be able to claim only one exemption.	Number of Tax Exemp-tions
Lenz v. Wergin, 408 NW 2d 873 (Minn. App. 1987): Use of a tax table is recommended by Minn. Stat. ' 518.551, Subd. 5(a) to find standard deductions. However, it is also proper to determine net income by deducting amounts withheld and adding amounts refunded during a particular year.	Tax Tables Preferred
Stevens County Social Services Department, ex rel. Banken v. Banken, 403 NW 2d 693 (Minn. App. 1987): Court not mandated to reduce income by support obligation he was presently paying for two dependent children.	Subsequent Children
Mucha v. Mucha, 411 NW 2d 245 (Minn. App. 1987): Error to provide that medical insurance premiums could be credited against support obligation rather than deducting from net income.	Medical Insurance
Beltrami County on Behalf of Norton v. Frenzel, (Unpub.), C1-89-1413, F & C, filed 1-30-90 (Minn. App. 1990), 1990 WL 5227: Parents debt to private creditors may not be considered if the right to support has been assigned to the county. However, obligor's personal expenses, not including her debts, may be considered in setting child support.	Debt to Private Creditors
Hayes v. Hayes, 473 NW 2d 364 (Minn. App. 1991): In a proceeding to modify obligor's earlier child support obligation, it is error to reduce obligor's net income by the support obligation paid to a second family.	"Support Order ...Being Paid" Under ' 518.551 does not Allow Deduction for Subsequent Family
Pautzke v. Pautzke, (Unpub.), C1-91-1783, F & C, filed 4-14-92 (Minn. App. 1992): A trial court's failure to allow a deduction for a 401(k) plan is not necessarily improper. 401(k) plans are voluntary and susceptible to manipulation of annual contribution.	401(k) Plans
Johns v. Johns, (Unpub.), C1-93-265, F & C, filed 7-20-93 (Minn. App. 1993): In light of a history of low child support payments, a court may disallow the reduction of net income of voluntary payments to a deferred compensation plan.	Pension Plan

Nordstrom v. Nordstrom, (Unpub.), CX-94-579, F & C, filed 8-23-94 (Minn. App. 1994): It was reversible error for ALJ to deduct school expenses, student loan payments and travel expenses in determining AP's net income.	Deductions from Income
In Re the Marriage of Johnson and Johnson, 533 NW 2d 859 (Minn. App. 1995): Where obligor is not self-employed, "meals and entertainment" expenses are personal expenses, not business expenses, and are not deductible from net income.	Personal Expenses
Roberts v. Roberts, (Unpub.), C2-94-1371, F & C, filed 1-24-95 (Minn. App. 1995) (Ramsey County - Kate Santelmam for petitioner, Mark Nygaard for respondent): The court of appeals rejected obligor's argument that a pension deduction of 10% of income is assumed to be reasonable because it is made. Pension deduction claimed by obligor not granted due to insufficient information provided.	Pension Deduction
Wirth v. Sievek, (Unpub.), C2-95-425, F & C, filed 7-18-95 (Minn. App. 1995): Where obligor received income solely from farming at time of judgment and subsequently obtained full-time employment elsewhere, farm income became secondary and was excludable from guidelines income calculation as in the nature of additional part-time employment.	Excess Employment Exclusion
VonFeldon v. Heloue, (Unpub.), C0-95-1170, F & C, filed 12-12-95 (Minn. App. 1995): Case remanded where trial court allowed a 16% pension deduction without determining whether the deduction, when considering the obligor's income and retirement needs and the immediate needs of the child, was reasonable.	16% Pension Deduction
Rouland v. Thorson, 542 NW 2d 681 (Minn. App. 1996): The administrative law judge did not err in calculating obligor's income when using the number of exemptions claimed by the obligor on his W-4, on which he claimed six exemptions. The dependency exemption is not, as obligor claimed, income of his spouse and stepchildren.	Tax Exemptions
DeCrans v. DeCrans, (Unpub.), C2-95-2451, F & C, filed 6-4-96 (Minn. App. 1996): Not error for trial court to reject deduction for a monthly pension deduction where obligor also had a federal retirement account and there were 7 children to support.	Pension Deduction
Gross v. Davis, (Unpub.), C5-96-638, F & C, filed 8-27-96 (Minn. App. 1996): A voluntary payment of support to another child is not deductible from an obligor's income under Minn. Stat. ' 518-551, Subd. 5(b) which only allows deduction for support made pursuant to a court order.	Voluntary Payment of Support
Boehland v. Boehland, (Unpub.), C0-96-580, F & C , filed 10-22-96 (Minn. App. 1996): Improper for trial court to simply reduce gross income by one-third to reach net income. Such a method is insufficiently specific to enable the appellate court to determine if the trial court's finding of net income has a "reasonable basis in fact" under Stauch.	Reduction of Gross by not Accepted as Calculation of Net
Gilbertson v. Graff II, (Unpub.), C5-96-428, F & C, filed 1-14-97 (Minn. App. 1997): Court should have made findings on student loan debt under Minn. Stat. ' 518.551, Subd. 5(i).	Student Loan Debt
Warren v. Ruffle, (Unpub.), C0-96-1163, F & C, filed 2-18-97 (Minn. App. 1997): A 10% of gross "savings contribution" intended to build a retirement account but which also may be used for child's college expenses was a "reasonable pension deduction" under Minn. Stat. ' 518.551, Subd. 5(b).	Pension Deduction
Hosley v. Hosley, (Unpub.), C9-96-2084, F & C, filed 3-18-97 (Minn. App. 1997): citing Mueller v. Mueller, 419 NW 2d 845, 847 (Minn. App. 1988): Pension deductions include voluntary contributions if they are reasonable. Where obligor's employer does not provide a pension plan, an IRA contribution is the functional equivalent of a pension deduction and deductible from income if reasonable in light of the parties' and children's respective needs.	IRA Contributor
Sharits v. Sharits, (Unpub.), C3-96-2016, F & C, filed 3-28-97 (Minn. App. 1997): A deduction from gross income for child support order that is currently being paid applies only to an order of support for a prior child. An order for support of a subsequent child cannot be deducted from gross income. While it cannot be factored into the guidelines obligation, the payment to the subsequent child is relevant to the trial court's decision. Proper in this case for the ALJ to order guidelines support for prior child without reduction due to order for subsequent child.	Order for Subsequent Child not Deductible
Itasca County and Anderson v. Ferweda, (Unpub.), C6-96-1569, F & C, filed 4-4-97 (Minn. App. 1997): It was proper for ALJ to allow a tax deduction at amount obligor would pay if his gross income were as ALJ imputed it, even though Appellant claims a taxable income of zero, and pays no taxes. ALJ should also have deducted the cost of insurance from imputed income, even though obligor had not previously paid the premiums.	Insurance Premium and Tax Deduction on Imputed Income

In Re the Marriage of Sloat v. O'Keefe, (Unpub.), C1-96-1608, C9-96-2053, F & C, filed 4-22-97 (Minn. App. 1997): Where in a prior order, the court calculated obligor's reasonable pension deductions to be 5% to 6%, district court's allowance of only 6%, rather than obligor's actual 8% 401(K) deduction at subsequent proceeding was not error.	6% Pension Deduction Allowed
Borcherding v. Borcherding, 566 NW 2d 90 (Minn. App. 1997): The deduction at Minn. Stat. ' 518.551, Subd. 5(b)(vii) for actual medical expenses is limited to expenses of the obligor and any child supported by the order. Actual medical expenses of obligor's new spouse and children of his subsequent marriage are not deductible.	Actual Medical Expenses of Subsequent Family no Deductible
Malzac v. Wick, (Unpub.), C1-97-1296, F & C, filed 1-20-98 (Minn. App. 1998): The $100.00 per month obligor was required to pay for ongoing medical support and medical assistance was not deductible from income for purposes of application guidelines.	Dollar Amt Med Support Not Deducted from Income
Hasskamp and Ramsey County v. Lundquist, (Unpub.), C8-97-1373, F & C, filed 2-10-98 (Minn. App. 1998): ALJ's failure to deduct FICA taxes from income was reversible error.	FICA
County of St. Louis o/b/o Rimolde v. Tinker, 601 NW 2d 468 (Minn. App. 1999), C0-99-853, F & C, filed 11-2-99: The court=s tax deduction from gross income should be based on the obligor=s filing status; an obligor who has a new wife and child should have deductions based on a filing status of M-3.	Tax Filing Status
County of St. Louis o/b/o Rimolde v. Tinker, 601 NW 2d 468 (Minn. App. 1999): Voluntary pension deductions must be excluded from net income if those deductions are reasonable under Minn. Stat. ' 518.551, subd. 5(b). The deduction may be excludable from NMI even when it is a voluntary 401K that supplements the employer's separate pension plan. Reasonableness may be established in a variety of ways, including comparing the obligor's 401K contribution to that of other employees, or comparing obligor's contribution with the employer's contribution, and examining the total of the two.	Voluntary 401K Contributions
Florey v. Florey, (Unpub.), C1-99-1249, F & C, filed 4-18-2000 (Minn. App. 2000): Where obligor had both PERA contributions from gross income of 4.75% plus an additional 3.25% for deferred comp, ALJ erred by not disallowing deferred comp. deduction without making a finding whether the deduction was reasonable.	Deferred Comp.
Fitzgerald v. Fitzgerald, 629 NW 2d 115 (Minn. App. 2001): In calculating net income, it was error for the court to deduct savings bond employee stock purchase plan contributions since these were not part of a retirement plan. It was also error to deduct life and long-term disability insurance charitable contributions and company car expense.	Don't deduct: insurance; company car expense; stock/savings plan that is not retirement
Branch n/k/a Martisko v. Branch, 632 NW 2d 261 (Minn. App. 2001): Mother brought post-dissolution proceeding for an increase in child. The District Court affirmed the magistrate's order denying an increase in support and mother appealed. The court in held that it was proper to allow for a reduction in an obligor's income by the amount he or she was required to pay inchild support arrears for another child who had reached the age of majority. Any amounts currently being paid, including post-emancipation arrearage payments, may be deducted from obligor's income prior to calculation of support obligation for a subsequent child pursuant to Minn. Stat. ' 518.551, Subd. 5(b)(viii) (2000).	C/S Order Currently Being Paid Includes Arrears
Atwater v. Anderson, (Unpub.), C4-01-744, F & C, filed 1-22-02 (Minn. App. 2002): A life insurance premium which NCP must pay pursuant to J & D is not deductible for purpose of computing net income.	Life Insurance
Svenningsen v. Svenningsen, 641 NW 2d 614 (Minn. App. 2002): A downward deviation for obligor's student loan debt is limited to 18 months under Minn. Stat. ' 518.551, Subd. 5(f) (2000). The words Afurther departure in the statute are superfluous and do not imply that obligor is entitled to more than one 18 month departure.	Student Loan Debt
Visser v. Scoles, (Unpub.), C3-01-1240, F & C, filed 5-31-02 (Minn. App. 2002): A court may calculate net income by using a tax table to compute standard deductions or may deduct amounts withheld and add amounts refunded in a given year (citing Lenz v. Wergin, 408 NW 2d 873).	Tax Tables vs. Amounts Withheld

Hennepin County and Bohn v. Peters, (Unpub.), C2-02-1921, filed 6-24-03, (Minn. App. 2003): When the court orders a party to provide medical support, the cost of the coverage must be deducted from that party's net income, in order to determine the proportionate share of the cost for each party. Minn. Stat. ' 518.551, Subd. 5(b)(vi); ' 518.171, Subd. 1(a)(2).	Deduct Cost of Medical Coverage From Net
Hennepin County and Bohn v. Peters, (Unpub.), C2-02-1921, filed 6-24-03, (Minn. App. 2003): Minn. Stat. ' 518.551, Subd. 5(b) does not allow deduction of life insurance and long term disability from defendant=s income.	Life Insurance and long Term Disability
Zaghloul v. Elashri, (Unpub.), A04-321, F & C, filed 8-24-04 (Minn. App. 2004): The court, in determining net income for the calculation of child support must deduct from gross income the taxes that would be owed on that income, whether or not the taxes have actually been paid. Citing Marx v. Marx, 409 NW 2d 526,529 (Minn. App. 1987) and Looyen v. Martinson, 390 NW 2d 465,468 (Minn. App. 1986).	Must Deduct Taxes Owed, even if not Paid
County of Pine and Page v. Edens, (Unpub.), A04-1598, F & C, filed 03-29-05 (Minn. App. 2005): A child support order that is being paid for subsequent- (later born) children is not deductible from income when computing child support for an older child. Further, additional payments owed for past-due support are not deductible from income when computing child support. In this modification case, CP of the older child agreed to partial credit for the child support owed the younger children, and based on the agreement, court upheld CSM order giving partial credit for the prior obligation.	Deduction for child support being paid does not include arrears payments or support order for younger child
Hall v. Hall, (Unpub.), A04-2055, F & C, filed 6-28-05, (Minn. App. 2005): CSM properly excluded from obligor's income an average of $170 per week deducted from his wages and escrowed by his union for vacation and sick time. The court of appeals ruled that because the vacation and sick time deduction is not actually income received by the obligor, but is escrowed into an account to supplement income only when obligor takes vacation or sick time, it should not be included as part of net income. Even though 518.551 subd. 5(b)(2004) does not specify whether such sums are deductible, the definition of income is based on money *available* to the obligor, and these sums are not available. Cites Lenz v. Wergin, 408 NW 2d 873,876 (Minn. App. 1987) and Dinwiddie, 379 NW 2d 227,229 (Minn. App. 1985).	Money taken from Obligor's Pay and Escrowed into an Account to be Used for Vacation and Sick Leave, is not Available to Obligor, thus not Income for Child Support.
In Re the Marriage of Marentic v. Marentic, (Unpub.) A05-1769, filed June 20, 2006 (Minn. App. 2006): The Court found that though the district court ordered Obligor to provide insurance coverage, the court failed to make findings regarding which parent would pay the insurance premium and remanded this issue for findings consistent with Minnesota Statutes.	Findings stating who will pay insurance premiums must be made when one party is ordered to provide insurance coverage.
In Re the Marriage of Liveringhouse v. Liveringhouse, (Unpub.), A05-2531, Filed 12/5/06 (Minn. App. 2006): The court affirmed the district court's determination of an obligor's net income despite an absence of itemized deductions. The court noted that without the record and no other evidence indicating error, it could only presume that the district court found no deductions to be appropriate. *Citing* Custom Farm Servs., Inc. v. Collins, 306 Minn 571, 572, 238 N.W.2d 608, 609 (1976) (an appellate court cannot presume error). The court noted that it is the obligor's burden to supply evidence substantiating his challenge of the district court's decision.	INCOME: Determination of net income will stand absent evidence to the contrary.
Lewis, vs. Lewis, (Unpub.), A06-2236, F & C, filed September 11, 2007 (Minn. App. 2007): Respondent husband argues district court erred in concluding his pension plan is entirely employer-funded, and denying him a deduction for his contribution to an additional 401(k) when calculating his income. The record does not support the district court's conclusion. Reversed and remanded for determination of the provisions of the retirement plan, and whether respondent's income and ability to pay support should be reduced by a reasonable pension deduction.	Respondent may be eligible for deduction in income for reasonable contribution to pension.

Weiss vs. Weiss, (Unpub.), A06-2433, filed December 24, 2007 (Minn. App. 2007): The court did not err in including appellant's overtime pay in calculating child support where the court found that prior calculations included the overtime pay and appellant failed to demonstrate a statutory exception applied.	Overtime may be included where included in establishing support and no change in circumstances has been shown.
In the Marriage of: Lynae Dana Nahring v. Curtis Norman Nahring, (Unpub.), A07-0102, filed February 19, 2008 (Minn. App. 2008): Father appeals from the lower court's decision allowing mother's 13.5% deduction for retirement savings when calculating child support and spousal maintenance. Lower court failed to address whether deduction is a contribution within the meaning of § 518.551, subd. 5(b) and if so, whether it is reasonable. Reversed and remanded for findings.	13.5% Deduction for retirement savings
Reuter vs. Reuter, (Unpub.), A07-0338, F&C, filed 5/20/08 (Minn. App. 2008): The district court's computation of net income should properly take into account depreciation deductions for dairy cows, farm buildings and farm equipment when calculating the appellant's child support obligation. A self-employed obligor's income is equal to gross receipts minus ordinary and necessary expenses. Minn. Stat. § 518A.30 (2006). This amount does not include amounts allowed by the IRS for accelerated-depreciation expenses, investment credits or other business expenses. However, total disregard of depreciation is reversible error. *Citing Stevens County Social Serv. Dep't ex rel. Banken v. Banken*, 403 N.W.2d 293, 297 (Minn. App. 1987). The court may not disregard depreciation absent evidence that the obligor has no corresponding replacement costs in his farming operation.	The court may not disregard depreciation absent evidence that the obligor has no corresponding replacement costs in his farming operation.
Lynch, vs. Lynch, and County of Mower, Intervenor, (Unpub.), A07-763, filed June 3, 2008 (Minn. App. 2008): Where an employee of the federal government receives a "territorial cost of living allowance" because they live in a remote area with a relatively high cost of living, such allowance should not be considered in determining that party's child support obligation. Although the territorial allowance is within the statutory definition of income, the nature of the territorial allowance requires a downward deviation from the guidelines, as the allowance does not increase the obligor's income, but merely places him in the same financial position he would occupy if he were living in Minnesota, where the cost of living is lower than in Alaska.	Territorial cost of living allowance should not be included in gross income when calculating child support.
Haefele v. Haefele, 837 N.W.2d 703 (Minn.2013): NCP moved to modify his support obligation arguing that certain distributions paid to CP as a shareholder of a subchapter S corporation should be included in her gross income for the prupose of calculating support. The district court granted the motion. The court of appeals reversed concluding that the distributions were not available to the CP or were designated to pay her income tax obligation and therefore were not a part of her gross income. Supreme Court reversed finding that gross income from a shareholder's interest in a closely-held subchapter S corporation must be calculated using § 518A.30 and does not depend on the amount actually distributed or available to the parent shareholder. (1) When determining child support under § 518A.30 a parent's income from self-employment or operation of a business includes the parent's income from joint ownership of a closely-held subchapter S corporation. (2) After calculating the presumptive child-support obligation, the district court must consider all of the circumstances and resources of each parent in actually setting the final obligation. The court may rely on the unavailability of funds included in gross income in departing from the presumptive obligation.	Self-Employment/ Business Expenses; Deductions of Income; Deviations
In re the Marriage of: Swenson v. Pedri, No. A17-0616 (Minn. Ct. App. Dec. 26, 2017): Unless parties agree to an alternative effective date, the modification of support can only go back to service of the motion to modify. The court may decline to consider new evidence on a motion for review when a party has not previously requested authorization to submit new evidence. When a reduction to income was used to calculate support in the original judgment and decree the district court is not required to use the reduction in its current modification, when the original judgment did not state that the reduction would be used for future calculations nor was the reduction applied when calculating income in the prior modifications. When the court is not provided with evidence necessary to apportion child care expenses, the court was within its discretion to order each parent to be responsible for his and her own child-care expenses.	Child care support, gross income, modification, effective date

In re Custody of J.K.L., No. A17-1067, 2018 WL 3614583 (Minn. Ct. App. Jul. 30, 2018): District court erred when calculating Father's child support obligation when it did not include cost-of-living-adjustments when deducting obligations for Father's non-joint children.	Deduction for Non-Joint Children, COLA
Jayawardena v. Jayawardena, A20-1383, 2021 WL 1962490 (Minn. Ct. App. 2021): Credit card debt a party is ordered to pay as part of a dissolution action should be included in a consideration of monthly expenses for the purposes of calculating spousal-maintenance and child support obligations.	Debts – When to Consider; Dissolution; Gross Income; Maintenance
Beland v. Beland, A21-1675, 2022 WL 3581825 (Minn. Ct. App. 2022): Appellant-father appeals CSM's finding that Respondent-mother is not voluntarily underemployed and the CSM's deductions for his non-joint children. The record supports the CSM's finding that mother is not voluntarily underemployed, but the issue of father's non-joint children deduction is remanded as the order did not include a child support guidelines worksheet which prevented appellate review.	Gross Income; Health Insurance; Imputing Income; Modification; Non-Joint Children Deduction; Unemployed or Underemployed; Voluntary Unemployment or Under Employment
Rasmussen v. Rasmussen, A23-0087, 2024 WL 77560 (Minn. Ct. App. 2024): A nonjoint child deduction doesn't apply when the mother is currently pregnant. Specific findings addressing statutory factors on appropriate healthcare coverage are required.	Appropriate Health Care Coverage; Non-joint Child Deduction

II.F.3. - Deviations	
Minn. Stat. ' 518A.43, Subd. 1 - factors the court must consider before deviating from guidelines; Minn. Stat. ' 518A.43, Subd. 2 - consideration of debts owed to private creditors; Minn. Stat. ' 518A.37, Subd.2(1)-(5) - findings required for deviation.	
Bjorke v. Bjorke, 354 NW 2d 107 (Minn. App. 1984): Income of custodial parent must be balanced against consideration of financial needs of children before downward departure from guidelines.	Custodian's Income
LeTourneau v. LeTourneau, 350 NW 2d 476 (Minn. App. 1984): Court cannot depart from guidelines simply because custodial parent has income and her income less expenses results in a figure lower than guidelines.	Departure
Potocnik v. Potocnik, 361 NW 2d 414 (Minn. App. 1985): Departure from guidelines cannot be based on consideration of educational loan payments when child support is assigned to welfare agency.	School Loan Payments
Hedelius v. Hedelius, 361 NW 2d 421 (Minn. App. 1985): While private debt repayment cannot justify downward deviation from guidelines, the same is not true for public debt repayment.	Public Debts
Miller v. Miller (Gloria v. Anthony), 371 NW 2d 248 (Minn. App. 1985): Set-off of arrearage obligation against right to collect child support constitutes departure from guidelines.	Set-off of Arrearages
Sudheimer v. Sudheimer, 372 NW 2d 792 (Minn. App. 1985): Where the child's needs increased and the non-custodial parent's expenses decreased, the fact that the custodial parent's income increased did not justify a downward departure from the guidelines.	Increase in CP's Income
Trebelhorn v. Uecker, 362 NW 2d 342 (Minn. App. 1985): Fact that custodial parent's income is substantial is insufficient by itself to justify downward departure from guidelines.	Substantial CP Income
Margeson v. Margeson, 376 NW 2d 269 (Minn. App. 1985), *rev.den.*: Minn. Stat. ' 518.551, Subd. 5(b) allowing departure for certain debts is not mandatory.	Debts
Martin v. Martin, 364 NW 2d 475 (Minn. App. 1985): Duplication between business expenses of self-employed obligor to reach net income figure on which guidelines based, and basic living needs, may be considered as reason for upward departure.	Business Expenses
Swalstad v. Swalstad, 394 NW 2d 856 (Minn. App. 1986): Failure to order mother to pay support not abuse of discretion where she did not have resources exceeding needs of herself and children in her custody.	No Support Ordered (Female AP)
Pitkin v. Gross, 385 NW 2d 367 (Minn. App. 1986): Departure on basis that 11-month-old child does not require $1,500.00 per month support was abuse of discretion.	11-Month-Old Child
Moylan v. Moylan, 384 NW 2d 859 (Minn. 1986): A non-cash contribution, such as homestead occupancy, is a factor to be considered in addition to guidelines because it is not listed as a factor the legislature considered in formulating the guidelines; which is not to say that the child support award must be reduced where the custodial parent is given occupancy of the family home.	Non-Cash Contributions
Henry v. Henry, 404 NW 2d 376 (Minn. App. 1987): No abuse of discretion in denying child support to custodial father whose net income was $1,500.00 per month, when mother's income was $4.50 per hour.	CP Income Higher than AP Income
Bruckman v. Kirkup, 404 NW 2d 363 (Minn. App. 1987): Obligor's debt to the IRS may justify a reduced support payment, but incurring obligations based on an erroneous understanding that obligor's support obligation was only $50.00 per month was not a proper justification for downward departure.	Tax Debts
Koury v. Koury, 410 NW 2d 31 (Minn. App. 1987): The possibility of losing a job is not a valid basis for departure in setting support.	Possibility of Losing Job
O=Donnell v. O=Donnell, 412 NW 2d 394, 397 (Minn. App. 1987): A reservation of support is a deviation from the guidelines.	Reservation
State v. Hall, 418 NW 2d 187 (Minn. App. 1988): Father's income of approximately $116,000.00 per month did not mandate an upward deviation from statutory child support guidelines under which support award was $1,000.00 per month, although father's income was considered, mother failed to establish need for amount in excess of that recommended by guidelines, and increase of award based solely on father's ability to pay more was not justified.	No Departure Upward Over Cap

State and Zablowski v. Hall, 418 NW 2d 187 (Minn. App. 1988): Court refused to deviate from $1,000.00/month "top out" point in guidelines per child when there was evidence that the father's income exceeded $100,000.00 per month.	No Upward Deviation from Cap
Swick v. Swick, 467 NW 2d 328 (Minn. App. 1991): While acknowledging that conditions which might affect an obligor's ability to function and earn income are not valid reasons for a downward departure, the court of appeals upheld such a departure in this case because the obligor was 69 years old, illiterate and did not have a steady, determinable flow of income.	Low Functioning Obligor No Upward
Fallon v. Fallon, (Unpub.), C5-92-212, F & C, filed 8-11-92 (Minn. App. 1992) 1992 WL 189331: A trial court has wide discretion to deviate upward from the guidelines amount. However, in the absence of special needs of the child(ren), a court's failure to deviate upward does not constitute an abuse of discretion.	Discretion to Deviate Upward
McNulty v. McNulty, 495 NW 2d 471 (Minn. App. 1993): Upward departure from child support guideline imposing an obligation in excess of statutory maximum is not abuse of discretion when child support award is made to continue the standard of living the child would have enjoyed had the parents' marriage not dissolved.	Upward Departure from Cap Allowed
Franzen and County of Anoka v. Borders, C2-95-599, F & C, filed 8-15-95 (Minn. App. 1995): Where obligor has no resources other than what he earns while incarcerated, reduced expenses due to incarceration are not independently sufficient to allow an above-guideline support obligation. Court of Appeals set support at $132.30 per month, guidelines for obligor's imputed income of $630.00 per month based upon prison employment he voluntarily quit. Appellate Court reversed trial court's upward deviation to $345.00 per month, rejecting trial court's determination that obligor's exceptionally low expenses due to incarceration serve as a basis for upward deviation. In support of its order, the trial court found that the needs of the children are $345.00 per month, the welfare standard for two children, the court of appeals ruled that the welfare standard cannot substitute for guidelines as a basis for support.	Reduced Expenses Due to Incarceration not Basis for Upward Deviation
In Re the Marriage of Marden v. Marden, 546 NW 2d 25 (Minn. App. 1996): Obligee's obligation to pay obligor's debt discharged in bankruptcy is a basis for an upward deviation from the guidelines.	Upward Deviation
In Re the Marriage of Marden v. Marden, 546 NW 2d 25 (Minn. App. 1996): It is not necessary to apportion the household expenses between the custodial parent and the children in order to justify a deviation from the guidelines, especially where custodial parent is not asking the court to increase the standard of living for her and the children; but merely maintain the standard of living they enjoyed before custodial parent was required to assume payments for obligor's debt discharged in bankruptcy.	Custodial Parent's Needs vs. Child's Needs
Kahn v. Tronnier, 547 NW 2d 425 (Minn. App. 1996): The guidelines cap can be exceeded where child has mental, physical or emotional disability requiring special care or training.	Deviation Above Cap
Itasca County and Anderson v. Ferweda, (Unpub.), C6-96-1569, F & C, filed 4-4-97 (Minn. App. 1997): Where obligor had substantial assets from which he could choose to pay debts, proper for ALJ not to factor in debts when establishing support. Case cites as authority Minn. Stat. ' 518.551, Subd. 5(c); Dean v. Pelton, 437 NW 2d 762, 764 (Minn. App. 1989) and Stevens County v. Banker, 403 NW 2d 693 (Minn. App. 1987).	Business and Personal Debt
County of Olmsted v. Stevens, (Unpub.), C1-97-971, F & C, filed 2-3-98 (Minn. App. 1998): District court erred in reducing child support based on parties' written agreement because the court did not make findings justifying a deviation from guidelines.	Contract Between Parties for Sub-Guidelines Support
VerKuilen v. VerKuilen, 578 NW 2d 790 (Minn. App. 1998): Hortis-Valento is an application of statutory guidelines (e.g. not a deviation), so in a joint custody case where one party receives public assistance other parent is entitled to a Minn. Stat. ' 518 calculation that takes into account the percentage of care provided by him.	Valento not a Deviation
Countryman v. Countryman, (Unpub.), C8-99-213, F & C, filed 7-27-99 (Minn. App. 1999): Where ALJ imputed net income and made a finding as to obligor's reasonable monthly expenses, the court reversed and remanded, because the obligor's "reasonable expenses" exceeded his ability to earn. (Ed. Note: This should serve as a caution to us not to make boilerplate findings as to reasonable living expenses where they exceed income, particularly in imputed income situations. No finding of expenses is necessary if child support is set in accordance with guidelines.)	Expenses Exceed Income

Jowett v. Wiles, (Unpub.), C7-99-557, F & C, filed 12-7-99 (Minn. App. 1999): District court did not err when it subtracted 25% of net income from the support of an older child living with obligor before setting support for younger child.	Older Child in Obligor's Household
Carlson v. Carlson, (Unpub.), C5-99-1285, F & C, filed 2-15-2000 (Minn. App. 2000): A downward deviation from guidelines granted on the basis of a debt under Minn. Stat. ' 518.551, Subd. 5(d) does not continue indefinitely. At a subsequent modification hearing, obligor has the burden of proving the continued propriety of the deviation for debt in order for the deviation to continue to be allowed.	Burden on Obligor to Prove Devia-tion for Debt is Still Proper
Countryman v. Countryman, (Unpub.), C9-00-1443, F & C, filed 3-13-2001 (Minn. App. 2001): Before deviating from child support guidelines, the magistrate must specifically address all the factors in Minn. Stat. ' 518.551, Subd. 5(c).	Findings on All Factors
Countryman v. Countryman, (Unpub.), C9-00-1443, F & C, filed 3-13-2001 (Minn. App. 2001): In public assistance cases, court may deviate from the guidelines only if it finds that the failure to deviate would impose an extreme hardship on the obligor. Minn. Stat. ' 518.551, Subd. 5(j). Court erred by using a standard of Aunreasonable@ hardship.	Extreme Hardship
Michon v. Blomquist, (Unpub.), C1-00-1503, F & C, filed 4-24-01 (Minn. App. 2001): Student loans may be considered private debts under Minn. Stat. ' 518.551(d) and may be considered in determining whether to deviate from the guidelines. The court must consider these debts and explain its reasoning if it deviates from the guidelines.	Student Loans
Lemtouni v. Lemtouni, (Unpub.), C6-02-2232, filed 6-10-03, (Minn. App. 2003): A stipulation in a J&D that support will be in an amount below guidelines does not require that subsequent modifications be set below guidelines. CSM was not required to state the reasons for not deviating from guidelines in the modification hearing.	Modification of Below Guidelines Order
Middlestedt v. Middlestedt, (Unpub.), C4-02-2164, filed 9-9-03 (Minn. App. 2003): Court properly ordered upward deviation from guidelines support NCP would owe based on his school teacher's salary alone, because he also had income of an undisclosed amount generated from a tree farm he owned. (Ed. Note: had obligor provided credible income data from the tree farm, court could have added that sum to his salary, and computed GL support based on the combined income, thereby not requiring a deviation. In this case, the upward deviation was a practical way to achieve a fair support order where NCP had initially failed to disclose this asset, and then denied that it produced any income.)	Upward Deviation Based on Income Producing Asset
Jarvela v. Burke, 678 NW 2d 68 (Minn. App. 2004): Since a person incapable of self-support remains a child under Minn. Stat. ' 518.54, the child support guidelines are presumptive in orders for Achildren@ over the age 18, just as for children under the age of 18.	No Deviation Required for Order for Disabled Child over Age 18
O'Donnell v. O'Donnell , 678 NW 2d 471 (Minn. App. 2004): Where parties had stipulated to a deviation from guidelines support order in J&D, making findings required by Minn. Stat. ' 518.551, subd. 5(i) to justify the deviation, and there has been no actual change of circumstances rendering the existing support obligation unreasonable and unfair since the J&D, the $50/20% presumption that the child support is unreasonable and unfair is rebutted, and the order cannot be modified to the guidelines amount.	Application of $50/20% Presumption to Mod When Order in J&D was a Deviation from G/Ls.
Gladis v. Gladis, 856 A. 2d 703 (Md. 2004) (Maryland Court of Appeals, August 24, 2004): A trial court establishing a child support obligation for a child that lives in another jurisdiction may not deviate to account for the lower cost of living in the child's jurisdiction.	Lower Cost-of-Living Where Child Lives not a Basis for Deviation
Tan v. Seeman, (Unpub.), A04-482, F & C, filed 10-12-04 (Minn. App. 2004): Court abused its discretion when it ordered below-guidelines support and suspended support during summer visitation. The lower court's findings that "the children's needs are being met" and that "it was appropriate to suspend child support during summer visitation" did not satisfy the statutory requirement of a particularized examination that would support a downward deviation. Cites Bliss v. Bliss, 493 NW 2d 583.	General Statement that the Child's Needs are Being Met not Sufficient to Justify Deviation

County of Anoka ex rel Hassan v. Roba, 690 NW 2d 322, (Minn. App. 2004) A04-168, filed 11-30-04: In a Minn. Stat. § 256.87 action against child's mother to pay support in a PA relative caretaker case, brought under Minn. Stat. § 256.87, mother had a net monthly income of $1,199, and monthly expenses of $1,075, and claimed an inability to pay child support in the guideline amount. The court of appeals stated that "ability to pay must be measured by the difference between her income and necessary monthly expenses." The court ruled that where the obligor submits evidence to show that he or she lacks the ability to pay, the fact finder must make findings to show that it has considered whether deviation is necessary. [Ed. Note: Court of appeals based its ruling on Minn. Stat. § 518.551, subd. 5(c) language that says, "In addition to the child support guidelines, the court shall take into consideration the following factors in setting or modifying child support or in determining whether to deviate from the guidelines" and on two pre-1993 cases: Becker County v. Peppel, (Minn. App. 1992) and County of Pine v. Petersen, (Minn. App. 1990). The court of appeals mentioned, but did not discuss the effect of Minn. Stat. § 518.551, subd. 5(i) enacted in 1991, requiring findings on subd. 5(c) factors only when deviating, as well as Minn. Stat. § 518.551. subd. 5(j) enacted in 1993, requiring extreme hardship for deviation in PA cases. The Peppel court did discuss 5(i), but 5(j) had not been enacted at the time of the Peppel and Peterson decisions.]	"Ability to Pay", in a § 256.87, subd. 1a Action Where the Difference Between Obligor's Income and Expenses is less than Guidelines Amount; Required Findings
In Re the Marriage of Leibold vs. Leibold, (Unpub.), A05-372, F&C, filed January 3, 2006 (Minn. App. 2006): Court found appellant was not voluntarily underemployed upon moving from Kansas to Minnesota and accepting employment earning $2.00 less per hour. However, upward deviation from guidelines was inconsistent with this finding. Furthermore, the court's findings that appellant had greater employment income available and had increased parenting time expenses did not support deviation. The court also erred by failing to consider unemployment compensation is subject to federal and state income taxes. Finally, the Court of Appeals determined that the residence was jointly owned by appellant and others and payments by others was not income to appellant but their portion of the mortgage payment. Case was remanded to the magistrate for further findings.	Insufficient findings of fact for upward deviation after finding obligor was not voluntarily underemployed.
In re the Marriage of Cannata vs. Cannata, (Unpub.), A05-445, F&C, filed January 17, 2006 (Minn. App. 2006): The record does not support the findings in which an upward deviation from the support guidelines was ordered. Specifically, the record does not support (1) the findings on the father's current income, (2) the findings that the father has the ability to pay an upward deviation from the guidelines, and (3) the finding that the father has the ability to pay need-based attorney fees. Case reversed.	Insufficient facts to support upward deviation from guidelines.
Dedefo v. Gada, (unpub.) A05-1905, filed May 16, 2006 (Minn. App. 2006). Where each party received custody of two children, but husband's income was $4,000/mo. net and wife's was $165/mo., the district court did not abuse its discretion in declining to deviate from guidelines and awarding wife full 30% of husband's net. Verbatim adoption of findings of fact and conclusion of law prepared by counsel was not reversible error *per se* when findings were supported by the record.	Not abuse of discretion to decline to deviate. Verbatim adoption of [Connie Baillie's] proposed order.
In Re the Marriage of Matey v. Matey, (Unpub.) A05-1917, filed June 20, 2006 (Minn. App. 2006): The Court held that findings are not required explaining why a court will *not* deviate from guidelines unless the Obligor submits evidence showing his inability to pay at guidelines.	Findings NOT required when court refuses to deviate from guidelines support.
In Re the Marriage of Bender v. Berhnard, (Unpub.), A05-1545, filed June 20, 2006 (Minn. App. 2006): Upheld a district court decision that ordered guidelines child support for a child with documented special needs. The Court was unwilling to reverse McNulty v. McNulty, 495 N.W.2d 471 (Minn. App. 1993), *review denied* (Minn. Apr. 12, 1993), noting that that case was a unique situation where the Ct. of Appeals affirmed a presumptively incorrect above guidelines obligation, whereas this case would require the Court to reverse a presumptively correct guidelines obligation.	No reversal of guidelines support amount on the basis that the child has special needs.

In re the Marriage of Joseph M. Kemp v. Sara N. Kemp, n/k/a Sara N. Lipetzky, (unpub.), A05-2039, (Redwood County), filed August 22, 2006 (Minn. App. 2006): Mother cites *Hassan v. Roba*, 690 N.W.2d 322 (Minn.App. 2004) stating that if obligor submits evidence to show lack of ability to pay, the fact finder must make findings to show whether a deviation is necessary. Mother did not make a showing of inability to pay triggering the fact finding required by Roba because she was employed and her income had increased.	Deviations – findings ability to pay.
Olson v. Jax, (Unpub.), A06-27, Filed December 19, 2006 (Minn. App. 2006): The court upheld the district court's award of child support based on the net income cap of the child support guidelines. The district court appropriately considered obligor's cash flow and lifestyle. The court refused to deviate downward based on obligor's allegation that the statutorily provided amt. of child support exceeds the child's needs and would subsequently benefit the obligee. The court cited State v. Hall, 418 N.W.2d 187, 190 (Minn. App. 1988), and Thompson v. Newman, 383 N.W.2d 713, 716 (Minn. App. 1986), in finding that the child is entitled to benefit from both parent's income.	GUIDELINES: Support set based on income cap. No downward deviation for "improved lifestyle" of child.
Olson v. Jax, (Unpub.), A06-27, Filed December 19, 2006 (Minn. App. 2006): District court was justified in ordering the obligor to share the costs of extracurricular activities and found that such a requirement did not constitute an upward deviation because the parties had a say in which activities in which they wished the child to participate.	NO UPWARD DEVIATION: allocation of extracurricular expenses upheld where parties involved in choosing activities
In re the Marriage of Holly Lynn Benda ReMine v. Gary Craig ReMine and Co. of Olmsted, intervenor, (Unpub.), A06-594, Olmstead County, filed January 9, 2007 (Minn. App. 2007): Appellant-mother moved to increase respondent's child support obligation. Magistrate increased the obligation but used a downward deviation from the guideline support levels with findings that the deviation was in the best interests of the children as it provided increased child support while still enabling respondent to improve his housing situation so that overnight visits with his children might occur. Record reflects adequate findings were made for a deviation based on the evidence provided to the court. Additionally, appellant failed to identify any of the children's needs that are unmet as a result of the deviation. The magistrate's exercise of deviation was sound. The magistrate also ordered appellant to carry medical and dental insurance for the children, as such insurance was available at no additional cost, with unreimbursed spilt equally between the parties. Affirmed.	Downward deviation from support based on findings that such deviation would adequately support the children while allowing respondent to provide more suitable housing for overnight visits affirmed.
In Re the Marriage of Renard v. Renard, (Unpub.), A05-2573, Filed February 13, 2007 (Minn. App. 2007): The court found the district court erred when it issued an order requiring obligor to pay a ongoing child support plus an upward deviation of $300 for a child with special needs based on an alleged excess in obligor's income, where (1) the child received fed. benefits of $250 per month, and (2) the income of the obligor actually resulted in a deficit after subtracting child support and spousal maintenance. The court found the district court's order to be inconsistent with its findings and reversed and remanded this issue.	DEVIATION: upward deviation may be inappropriate when it would place obligor in deficit and the minor child receives federal benefits based on special needs (severe autism).
In the Matter of Bohn v. Maggert, (Unpub.), A06-735, Filed April 17, 2007 (Minn. App. 2007): District court's downward deviation based on obligor's substantial student loan debt was affirmed. The appellate court noted that the children's needs are not always considered separately from the needs of the custodial parent when granting a deviation (*citing* Marden v. Marden , 546 N.W.2d 25, 29 (Minn. App. 1996). The Court of Appeals determined that the district court properly considered the financial needs of the parents and made adequate findings about such matters thereby also making sufficient findings as to the needs of the child (*citing* Marden, 546 N.W.2d at 29)	DEVIATION: Consideration of the financial situation and needs of the custodial parent encompasses the consideration of the needs of the minor child

Frank-Bretwisch vs. Ryan, (Unpub.), A06-1864, filed December 4, 2007, (Minn. App. 2007): The lower court's denial to modify support required specific findings where the order sought to be modified was the result of a stipulation with a significant downward deviation in support, and where the court noted grave concerns regarding adequacy of the support at the time of the parties' original stipulation.	Deviation from guidelines requires sufficient findings.
In re the Marriage of Brenda Lee Stifel v. Daniel Charles Stifel, (Unpub.), A07-0198, filed April 1, 2008 (Minn. App. 2008): Appellant obligor appeals order setting support at 39% of appellant's income, including his commission and annual draw. Appellant argues that, because the support award is a fixed percentage of his entire income, it is possible the award will exceed the statutory cap of $7,360 per month. The district court made no findings to support an upward deviation. Because the district failed to make findings to support an upward deviation, and obligee agreed at oral argument that a cap on the monthly income is appropriate, this court modified the child support to impose a cap at 39% of the maximum monthly income as provided in the guidelines.	Abuse of discretion where child support set at percentage of appellant's income could result in an upward deviation to the statutory cap, and no findings were made to support deviation.
Wagner vs. Mehle, III, (Unpub.), A07-0677, F&C, filed April 29, 2008 (Minn. App. 2008): The County appealed from the district court's setting of respondent-father's various child support obligations at amounts below that called for by the guidelines. Where the child support recipient has assigned her right to receive support to the public agency, the obligor's support obligation may be set below the guideline amount "only" if the court "specifically" finds that the failure to deviate downward from guidelines would impose an "extreme hardship" on the obligor, not "an undue hardship" as stated here. For the court to deviate, the court must specifically address the criteria in Minn. Stat. § 518.551, subd. 5(c) [note: this is an "old guidelines" case, filed in 2006] and how the deviation serves the best interests of the child. Here, the trial court did not make the proper findings explaining its deviation from the guideline amount either as to ongoing or past support.	Deviation from guidelines requires specific findings
David Roger Williams v. Margaret Mary Williams, (Unpub.), A06-1918, filed April 8, 2008 (Minn. App. 2008): Appellant obligor appeals from the district court's order increasing child support to a level exceeding the guidelines amount in an attempt to equalize the parties' standards of living. Although the court is directed to take into consideration the standard of living the child would have enjoyed had the marriage not been dissolved, equalizing income may not be a basis to deviate when calculating child support. Without evidence that the child requires more support from the higher-income parent, disparity in the income of the parents does not justify a deviation from the *Hortis/Valento* formula.	Equalizing income of the parties is not enough to deviate from guidelines without additional findings.
Schisel v. Schisel, 762 N.W.2d 265, 273 (Minn. Ct. App. 2009): The district court applied the child-support guidelines with a *Hortis/Valento* adjustment, saying: "[T]he Court believes the ultimate parenting time schedule will be approximately 60/40. Respondent will be with the children 40% of the time and [appellant] will be with the children the other 60% of the time." The court found that respondent's "work schedule makes a set schedule for parenting time impractical" and that respondent has not "demonstrated flexibility in his schedule during the pendency of this proceeding." The court properly found that a specific parenting-time schedule would enhance the parties' cooperation and communications, although the schedule was to be used merely as a "framework" and not, as the court expressed it, as something "set in stone." It is apparent that the parenting-time schedule the court ordered was primarily aspirational and was designed to provide the parties with reasonable flexibility. For purposes of parenting time, that approach is laudable. But for purposes of *Hortis/Valento,* the court is required to apply the formula to actual time. *In re Bender,* 671 N.W.2d 602, 608 (Minn.App.2003) (stating that under the *Hortis/Valento* formula, "separate support obligations are set for each parent, but only for the periods of time that the other parent has physical custody of the children" (citing *Schlichting,* 632 N.W.2d at 792)).	For purposes of *Hortis/Valento,* the court is required to apply the formula to actual time.

Buzzell vs. Buzzell, (Unpub.), A07-1096, filed June 10, 2008 (Minn. App. 2008): The court abused its discretion in ordering respondent to pay the cost of the children's sport activities in lieu of child support. The costs associated with the sporting activities are not fixed and requiring said payments would likely require regular, ongoing negotiations and cooperation between the parties, who have demonstrated an inability to cooperate. Additionally, the payment of support is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation. § 518.68, subd. 2.4(a) (2004).	Ordering payment of children's sporting activities in lieu of child support and abuse of discretion.
In re the Marriage of Rucker v. Rucker, No. A016-0942, 2016 WL 7439094 (Minn. Ct. App. Dec. 27, 2016): Although father listed his reasonable monthly expenses at $6,483.55 and his gross monthly income at $5,764.03, the court held that his monthly living expenses after taxes and child support do not exceed $3,000.00. The party seeking a downward deviation bears the burden of producing evidence that would warrant a deviation.	Deviation from Guidelines.
In re the Marriage of Rebecca Lynn McNeil v. Mark Aaron McNeil, No. A16-0696, 2017 WL 2535679 (Minn. Ct. App. Jun 12, 2017): The district court can address the allocation of extracurricular expenses although not specifically litigated because the issue of child support was litigated. The court can apportion the division when the net monthly support payments remains less than presumptive guidelines.	Addressing division of extracurricular activities when child support is addressed.
In re the Marriage of Curry v. Levy, No. A16-1376, 2017 WL 1548622 (Minn. Ct. App. May 1, 2017): The definition of primary residence is not limited to the home of the parent who has the majority of parenting time. Other factors of consideration are: children's religious practice, school attendance, participation in extracurricular activities. When evaluating whether or not a basis for downward deviation exists, the court should consider factors including the gross annual resources of a parent after receiving/paying the ordered child support, along with findings regarding the parent's actual expenses.	Deviation – written findings required; parenting time
Vue v. Vue, No. A17-0740, 2018 WL 1701847 (Minn. Ct. App. Apr. 9, 2018): When a district court uses its discretion to deviate from the guidelines due to a unique custody arrangement, the district court must support the deviation with sufficient findings.	Split-custody, Deviation-written findings requirement
Curry v. Levy, (Unpub.) No. A18-0074, 2018 WL 6442180 (Minn. Ct. App. Dec. 10, 2018): The party who seeks a deviation from the guidelines has the burden of demonstrating why a lower or higher support order is necessary. Here, mother failed to provide updated income and expense information to satisfy her burden under Minn. Stat. § 518A.28.	Deviation for Guidelines – Burden on party seeking deviation
Bessenbacher v. Bessenbacher, No. A18-2152, 2019 WL 3543695 (Minn. Ct. App. Aug. 5, 2019): The obligor must show a substantial change in circumstances for modification. The court did not err in determining not to deviate from guidelines when the expenses were unreasonable and/or unnecessary. A frivolous litigant motion shall not be filed with or presented to the court until the 21-day cure period has passed.	Substantial Change; Deviation from Guidelines
Pudlick v. Pudlick, No. A18-1652, 2019 WL 5690676 (Minn. Ct. App. Nov. 4, 2019): A parties' previous stipulation, which provided for an expense sharing model in lieu of guidelines support, provides a baseline from which to identify whether there has been a substantial change in circumstances in the future.	Stipulations; Deviation from Guidelines
In re the Marriage of: Kristi Rae Pawlak v. Steven Vincent Pawlak, A20-0719, 2021 WL 1245280 (Minn. Ct. App. Apr. 5, 2021): Based on *Haefele*, party can be found to have a closely held interest in a corporation even if they have no control over amounts of distributions. Gross monthly income where a party has a joint interest in a closely held corporation must be calculated according to Minn. Stat. 518A.30. Deviations can be made only after GMI is calculated and proper findings are made.	Self-Employment Income
Walker v. Walker, A20-1009, 2021 WL 2520663 (Minn. Ct. App. June 21,2021): Upward deviation was within court's discretion because it found costs for minor children which were above and beyond the basic expenses covered by the guidelines. Attorney's fees were proper because they met the three - prong test from Gully v. Gully.	Deviation for Guidelines

State of MN ex. Rel Kandiyohi County Family Services o/b/o Barber v. Koering, A20-1547, 2021 WL 4059754 (Minn. App. 2021): A pending parenting time motion for the youngest joint child does not constitute good cause to continue a motion to modify child support when the pending modification motion stemmed from the emancipation of the oldest joint child. The applicable statutory factors must be analyzed when a deviation from child support guidelines has been requested.	Modification; Deviation – Written Findings Required; Deviation from Guidelines
Milbrandt v. Milbrandt, A21-0165, 2021 WL 5550085 (Minn. App. 2021): In a request for modification of support, an upward deviation is warranted when the deviation prevented the children from living in poverty, one parent's income was almost three times that of the other and the obligor failed to adhere to other monetary obligations of the previously stipulated judgment.	Deviation from Guidelines
Floyd v. Floyd, A22-1148, 2023 WL 3443466 (Minn. Ct. App. 2023): The district court's determination that spousal maintenance was terminated pursuant to § 518A.39, subd. 3 was correct as there was no express waiver of statutory operation made by the parties. The districts upward deviation from the child support guidelines was not an abuse of discretion as the court determined the children's standard of living would be adversely affected absent a deviation and award of attorney fees to appellant-wife are affirmed.	Child Support and Maintenance Order; COLA (Cost-of-Living-Adjustment); Deviation from Guidelines-Evidence; Income Disparity Between Parties; Maintenance; Spousal Maintenance/Alimony
Russel v. Russel, A22-0390, 2023 WL 5012214 (Minn. Ct. App. 2023): The Court of Appeals affirms the district court in its adoption of a different parenting time schedule than appellant-father requested and when did not apply a downward deviation as father did not request or argue for one or request a specific amount. The district court did err in the allocation of the parties' debts and when it made no findings regarding its denial of mother's request for needs-based attorney fees.	Deviation from Guidelines-General Factors

II.F.4. - Subsequent Children	
Minn. Stat. ' 518A.38, Subd. 3(c) - subsequent children not grounds for downward modification, but must be considered in upward modification case. Findings required in order to deviate.	
Mark v. Mark, 80 NW 2d 621, 625 (Minn. 1957): A trial court=s sound discretion . . . should not be shackled by rigid rules which prevent a recognition of the needs of innocent children whether they be born of a first or second marriage. Children of a second marriage . . . are not responsible for their existence and are equally dependent upon their father for support.	Court Discretion
Prebil v. Juergens, 378 NW 2d 652 (Minn. App. 1985): Father cannot require former wife and children to share in newly assumed burdens caused by father's remarriage.	Subsequent Children
Erickson v. Erickson, 385 NW 2d 301 (Minn. 1986): Although children of a subsequent marriage are relevant to the court's decision, they are not to be factored into the guidelines.	Subsequent Children
Ellefson v. Anderson, 391 NW 2d 40 (Minn. App. 1986): Although children of a subsequent marriage are relevant to the court's decision, they are not to be factored into the guidelines.	Subsequent Children
Davis v. Davis, 394 NW 2d 519 (Minn. App. 1986): Although children of a subsequent marriage are relevant to the court's decision, they are not to be factored into the guidelines.	Subsequent Children
Isanti County v. Swanson, 394 NW 2d 180 (Minn. App. 1986): No error for trial court to fail to consider the needs of a child subsequently born to obligor where first child is being supported by AFDC, or in strictly applying the guidelines.	Subsequent Children
County of Ramsey v. Faulhaber, 399 NW 2d 617 (Minn. App. 1987): Although children of a subsequent marriage are relevant to the court's decision, they are not to be factored into the guidelines.	Subsequent Children
Huston v. Huston, 412 NW 2d 344 (Minn. App. 1987): Expenses of former husband's entire family could not be considered in determining husband's financial needs for purposes of determining husband's child support obligation but could be considered as one factor among several in setting child support.	Second Family
Huston v. Huston, 412 NW 2d 344 (Minn. App. 1987): Downward departure from child support guidelines could not be based on relative hardship to former husband's new family.	No Downward Departure
County of Ramsey v. Shir, 403 NW 2d 714 (Minn. App. 1987): Laches no defense to action for support; expenses for subsequent children are relevant, especially in view of unreasonable delay of county.	In Paternity
Scearcy v. Mercado, 410 NW 2d 43 (Minn. App. 1987): Children born of a subsequent marriage are not "factored" into the guidelines, but such obligation must be considered when determining available resources of obligor under Minn. Stat. ' 518.551, Subd. 5(b).	In Deter-mining Resources
Mancuso v. Mancuso, 417 NW 2d 668 (Minn. App. 1988): Rather than strict application of statutory support guidelines because case involved AFDC, trial court was obligated to give more intensive consideration to existing obligation of father to support his four minor children of a previous marriage residing with and totally dependent upon him. Equal treatment method re-jected but court has discretion to choose most appropriate method of calculating support amount.	Prior Children
D'Heilly v. Gunderson, 428 NW 2d 133 (Minn. App. 1988): Needs of a subsequent child may be considered, but it is error to assume a greater contribution for the subsequent child than the children of a previous marriage.	Subsequent Child
Wollschlager v. Wollschlager, 395 NW 2d 134, 135 (Minn. App. 1988): Subsequent to enactment of 1986 statutory amendment to Minn. Stat. ' 518.551 specifying a single calculation method to reflect previous support orders the obligor is paying, courts are required to use the "reduced ability" approach, and may not use the "equal treatment" method to calculate support. (Both methods described n.1 of decision).	Equal Treatment Method not Allowed
Hayes v. Hayes, 473 NW 2d 364 (Minn. App. 1991): In a modification proceeding regarding support for earlier born children, child support for a subsequent child should not exceed the award for each of the children benefitted by a prior support obligation.	First Child's Support must be at least that of Later Child

In Re the Marriage of Renae Cheryl Bock a/k/a Renae Cheryl Jeno v. Bruce William Bock, 506 NW 2d 321 (Minn. App. 1993): Later born children cannot be factored into the child support guidelines. To give a lower than guidelines award, the court must follow the standards for deviation in Minn. Stat. ' 518.551, Subd. 5(b), (h). If deviation allowed for subsequent children, guidelines thrown out and court must consider: (1) obligor's total ability to contribute to support for all children, taking into account obligor's income and expenses and taking into account contributions towards expenses of others who live in obligor's household; (2) total needs of the children, which may be the maximum obligation of the obligor; (3) findings as to needs of the children benefiting from current child support; and (4) fairly determine amount for current obligation, and contribution available for other children, using standard that current obligation should be at least equal to contribution allowed for a subsequent child.	Subsequent Children
Rupp and Rupp, (Unpub.), C5-97-4, F & C, filed 8-5-97 (Minn. App. 1997): Hayes does not apply to a modification proceeding regarding support for a later-born child. As long as net income is reduced by obligation to earlier child, the amount for the first child does not constitute a ceiling on the amount that can be ordered for the second child.	Modification of Order of Subsequent Child
Hasskamp and Ramsey County v. Lundquist, (Unpub.), C8-97-1373, F & C, filed 2-10-98 (Minn. App. 1998): ALJ can properly refuse to consider obligor's obligations to a current family where obligor fails to provide information as to this current spouse's contribution to household expenses.	New Spouse's Contribution to Current Household
State of Florida, ex rel., Ramirez v. Mulder, (Unpub.), C0-98-678, F & C, filed 12-8-98 (Minn. App. 1998): In a modification matter, case was remanded to district court for consideration of needs of subsequent children, even though the court had not determined that there was a substantial change of circumstances under the statute justifying modification. Cites Bock. Ed. Note: This case is troubling because it suggests subsequent children alone is a basis for modification, even though statutory factors for modification under Minn. Stat. ' 518.64 are not met. Ed. recommends: continuing to take position that obligor must otherwise demonstrate a substantial change of circumstances making prior obligation unreasonable and unfair as a prerequisite to the court considering the needs of subsequent children. See, for example, Appendix A, Rule III E.	Only Change is Subsequent Children
Trehus v. Trehus, (Unpub.), C6-01-1538, F & C, filed 2-5-2002 (Minn. App. 2002): Where support of first born child was not established until after birth of subsequent child, Minn. Stat. ' 518.551, Subd. 5(f)(1) does not apply. CSM properly deviated from child support guidelines due to the special needs of a subsequent child, giving reasons for the deviation and addressing how the deviation served the best interests of the child.	Support of First Child Established After Birth of Subsequent Child
Paternity of J.M.V. and Valento v. Swenson; Ramsey County and Christensen v. Swenson, 656 NW 2d 558 (Minn. App. 2003): Absent good cause to rule otherwise, for purposes of Minn. Stat. ' 518.551, subd.5f, a prior child is the older child by age, and the subsequent child is the younger child, regardless of the date the obligation for support was set for the children. The court of appeals reached this conclusion because: (1) it appears most consistent with the ordinary meaning of the word Asubsequent; (2) in most circumstances paternity is known and a race to the courthouse to gain the upper hand for support is unseemly; and (3) the mother of the younger child is likely to be aware of the older child and should accept the claim for support by the older child's mother as having priority.	Subsequent Child is Younger Child
Paternity of J.M.V. and Valento v. Swenson; Ramsey County and Christensen v. Swenson, 656 NW 2d 558 (Minn. App. 2003): In multiple family cases, presumptive guidelines child support should be determined according to the reduced ability method, reducing net income for each subsequent case in accordance with birth order of the children. However, the court has a responsibility to deal fairly with all children (citing Mark 80 NW 2d at 625), has discretion in setting child support and should and consider the factors set out in Minn. Stat. ' 518.551 subd 5(i) when setting support at an amount other than the presumptively appropriate guidelines amount.	Reduced Ability Method in Multiple Family Cases
Vredenburg v. Vredenburg, (Unpub.), C3-02-1636, filed 4-8-03 (Minn. App. 2003): When the court considers a motion to increase the support order for the obligor's second family, the court is not required to consider the financial needs of the children residing with the obligor from his first marriage. Minn. Stat. ' 518.551, Subd. 5f does not apply to this situation.	Prior Child Lives with Obligor

Widmer v. Widmer, (Unpub.), C7-02-1946, filed 6-17-03, (Minn. App. 2003): Order maintaining child support for child of first family at below guidelines amount which was less than the order for the subsequent family did not violate Bock, 506 NW 2d 321, 325, because, on a per child basis, the subsequent children were not receiving more support than the first child.	Order for Two Subsequent Children Higher Than Order for First Child
Long v. Creighton, 670 NW 2d 621 (Minn. App. 2003): Court must consider the expenses obligor incurs for supporting his biological children living with him, when setting child support for a child not in the obligor's custody but may not consider the father's new spouse's contribution to the expenses of the obligor's biological children in his custody. A stepparent has no obligation of support.	Expenses of Obligor's Biological Children in his Household
George and Ramsey County v. Geschwill, (Unpub.), A03-1745, filed 5-25-04 (Minn. App. 2004): In motion to increase proceeding, even though CSM did not make specific findings on the needs of the subsequent child living with NCP, as required by statute in order to justify a guidelines deviation, but she made significant findings about the income and expenses in the household, and ordered more support for the older child than she did for the subsequent child, deviation from guidelines was not an abuse of discretion. The formula CSM used: NCP NMI'$2199. Guidelines support $549. NMI after subtracting GL support for older child' $1,649. Applying GL to the $1,649 would result in $412.25 for the subsequent child. $2,199-$412.25 NMI of $1,786.75 x .25= $447.00 per month child support for older child,	Not all Statutory Findings made, but Deviation Upheld; CSM Formula
In re: the Marriage of Dewall, (Unpub.), A05-195, filed 10-25-2005 (Minn. App. 2005): The district court properly denied obligor's motion to decrease child support when obligor's motion requested a deduction for support paid for his subsequent child, and when the court had, just five months earlier, heard the exact same issues (*res judicata* discussion). The appellate court noted that the district court was not required to consider the obligor's subsequent child in the context of a motion to reduce support.	Same motion filed five months after denial Subsequent child not basis to modify prior obligation
Booflat v. Blooflat, A-05-1080, A05-1414 (Hennepin County): Where appellant fails to provide a transcript, review is limited to whether the court's conclusion are supported by findings. The magistrate's determination that obligor failed to show a substantial change in circumstances making the prior order unreasonable and unfair supports the conclusion that the motion to modify is unwarranted. In addition, it is not err to fail to consider a subsequent child as Minn. Stat. § 518.551, subd. 5f clearly states that the needs of subsequent children shall not be factored into a support guidelines calculation and is not grounds for a decrease of support. Court of Appeals affirmed, but remanded for magistrate's order staying the cost of living adjustment as the conclusion of increased income is not supported by the record.	Not error to fail to consider subsequent children in a decrease modification motion.
In Re the Marriage of Marentic v. Marentic, (Unpub.) A05-1769, filed June 20, 2006 (Minn. App. 2006): The Court found that the district court did not err in applying a reduced ability to pay calculation and assuming that sharing 50/50 custody of 2 children with a former wife was the constructive equivalent of a child support obligation for 1 child thus reducing Obligor's income to pay for the subsequent child by 25% (guidelines for 1 child). Court found that this formula gave Obligor a larger reduction than a *Hortis/Valento* reduction would give him and, since the error did not harm the Obligor, the 25% reduction applied. The Court rejected Obligor's request to apply 2007 Child Support Guidelines.	Reduced-ability approach affirmed to account for prior children.
Tammy Jo Arkell, n/k/a Arkell-Lund v. Richard Donald Wieber and Sterns county, Intervenor, (Unpub.), A06-1008, Stearns County, filed June 5, 2007 (Minn. App. 2007): Order increased appellant-father's child support from $368.00 to $713.00 per month. Appellant argues the magistrate failed to consider his subsequently born children and that he rebutted the presumption that the then existing child support award was unreasonable and unfair. This court affirms the lower court, holding that appellant's claim that his expenses outweighed his income did not mean he was automatically entitled to a deviation in support. Additionally, appellant failed to provide financial statements prior to the hearing and failed to attribute household expenses to his subsequently born children so that their expense could be determined.	Appellant father not entitled to deviation based on needs of subsequently born children when father failed to provide financial statements. Deviation is not automatic even though expenses may exceed income.

II.F.5. - Shared Custody / Joint Custody	
See Minn. Stat. ' 518.17, Subd. 6 - regarding guidelines in joint custody cases; Minn. Stat. ' 518.17, Subd. 6 - an award of joint legal custody not a basis for departure from guidelines.	
Berthiaume v. Berthiaume, 368 NW 2d 328 (Minn. App. 1985): No error for trial court to depart downward from guidelines because of joint legal and physical custody award.	Joint Custody
Hortis v. Hortis, 367 NW 2d 633 (Minn. App. 1985): In joint custody situation, father should pay monthly guideline support when mother has custody and visa versa.	Joint Custody
Hortis v. Hortis, 367 NW 2d 633 (Minn. App. 1985): In joint custody, absent showing that children's needs require a higher level of support from parent with higher income, guidelines should be straightforwardly applied.	No Departure
Linderman v. Linderman, 364 NW 2d 872 (Minn. App. 1985): Splits in custody are justification for lowering child support and departing from the guidelines. Also, splits in custody are disfavored by the court.	Split Custody
Berlin v. Berlin, 360 NW 2d 452 (Minn. App. 1985): Finding of split custody not sufficient basis for departing from child support guidelines.	No Departure
Esposito v. Esposito, 371 NW 2d 608 (Minn. App. 1985): Findings support a 200% upward departure from the guidelines which are figured by deducting mother's child support obligation from father's in joint custody situation.	Upward Departure
Wolter v. Wolter, 382 NW 2d 896 (Minn. App. 1986): Trial court has discretion as to how to structure support in shared custody situation.	Shared Custody
Wolter v. Wolter, 395 NW 2d 417 (Minn. App. 1986): No abuse of discretion for court to award child support 50% below guideline support determined pursuant to Valento to joint custody case in light of custodial parent's income and lack of extraordinary needs of children.	Departure
Valento v. Valento, 385 NW 2d 860 (Minn. App. 1986): Proper method of determining support in a joint custody case is to require father to pay his guidelines amount only during months when the mother has custody and vice-versa.	Calculation
Pavlasek v. Pavlasek, 415 NW 2d 42 (Minn. App. 1987): Lujan and Valento are not inconsistent: "The trial court can choose to structure a child support award using the cross-award formula or a fair contribution formula or any other kind of formula, so long as the award fairly reflects need and financial circumstances."	Split Custody
Veit v. Veit, 413 NW 2d 601 (Minn. App. 1987): Even if husband and wife were each allocated 50% of children's time in joint custody arrangement, wife was entitled to some child support from husband based on differences in parties' incomes. Court should consider wife and children's expenses.	Joint Custody
Veit v. Veit, 413 NW 2d 601 (Minn. App. 1987): Proper method of determining support in a joint custody case is to require the father to pay his guideline amount only during the months when the mother had custody and vice-versa; which method should be used in all joint custody situations unless there are specific reasons for a departure.	Joint Custody
Lujan v. Lujan, 400 NW 2d 443 (Minn. App. 1987): Moylan and 1986 guidelines amendments preclude a mechanical cross-award calculation under guidelines in joint physical custody cases.	No Mechani-cal Calculation
Broas v. Broas, 472 NW 2d 671 (Minn. App. 1991): When setting child support for joint physical custodians, the trial court must follow the guideline formula set out in Valento v. Valento, 385 NW 2d 860 (Minn. App. 1986) and must not use child support as a method of equalizing the parents' incomes.	Calculation
Broas v. Broas, 472 NW 2d 671, 673 (Minn. App. 1991): In applying the cross-award formula, the district court may offset the respective child support obligations or order each parent to pay support when the other has custody, within its discretion. (See also Valento and Hortis.)	Cross Award Formula
Mower County Human Services Assignee for Marilyn Hanson v. Stanley Rudsenske, (Unpub.), C1-93-1416, F & C, filed 12-24-93 (Minn. App. 1993): In joint custody case, where county seeks child support under Minn. Stat. ' 256.87, improper when applying Valento formula, for ALJ to treat AFDC payments as income to AFDC recipient. Also, deduction for maintenance respondent pays to petitioner improper.	AFDC not Income Available for Set-off

DeCrans v. DeCrans, (Unpub.), C2-95-2451, F & C, filed 6-4-96 (Minn. App. 1996): Under the facts of this split custody case, wife's decision to be a homemaker was not voluntary unemployment, and it was proper for judge not to impute income. Facts: (1) husband had one of parties' children, wife had six; (2) wife had history of minimal earnings, (3) wife would lose food stamps if worked part-time.	Split Custody Homemaker Wife not Voluntary Unemployment
Tweeton v. Tweeton, 560 NW 2d 746 (Minn. App. 1997), *rev.den.* (Minn. May 28, 1997): Even though Judgment and Decree provided for sole physical custody to one parent (the father), where the visitation schedule provided that the children would spend alternating weeks with each parent, the proper method to compute support is according to the Hortis/Valento formula, even if this could result in the "custodial" parent paying net support to the "noncustodial" parent. Reversed by Supreme Court Rogers v. Rogers, 622 NW 2d 813 (Minn. 2001) and by 1998 statutory amendment at Minn. Stat. ' 518.54, Subd. 8.	Sole Custody but Equal Time in Care
Dahlberg v. Shafer, (Unpub.), C4-97-1550, F & C, filed 2-24-98 (Minn. App. 1998): In a joint custody case where father cares for children 50% of time and mother receives public assistance, ALJ erred when ordering father to reimburse the county for past public assistance and to order ongoing support based on guidelines, without considering the implication of the joint custody arrangement. However, court of appeals did not require application of Valento or any other specific formula to the child support calculation.	Joint Custody in a ' 256.87 Case
Chaput v. Chaput, (Unpub.), CX-97-2086, F & C, filed 6-2-98 (Minn. App. 1998): Error in joint custody case to offset one full guideline amount by the other without first reducing each parent's obligation based on percentage of time child spends with parent. Proper application of Hortis/Valento Formula in joint custody arrangement where parents have 50/50 custody: 1. (Mom's Guidelines Amount) (.50); 2. (Dad's Guidelines Amount (.50) 3. Subtract lower amount from higher amount to reach support order	Joint Custody Calculation
VerKuilen v. VerKuilen, 578 NW 2d 790 (Minn. App. 1998): Error to excuse obligor=s child support payment in joint custody case where obligor has child 50% of the time without making findings jus-tifying a deviation from the guidelines under subd. 5(i) and finding@extreme hardship under subd. 5(j).	Error to Excuse Payment
VerKuilen v. VerKuilen, 578 NW 2d 790 (Minn. App. 1998): A party in joint custody case is not excuse from reimbursement of public assistance because the county does not seek reimbursement from the parent who receives public assistance.	Reimbursement of PA in Joint Custody Case
VerKuilen v. VerKuilen, 578 NW 2d 790 (Minn. App. 1998): Hortis-Valento is an application of statutory guidelines (e.g. not a deviation), so in a joint custody case where one party receives public assistance other parent is entitled to a Minn. Stat. ' 518 calculation that takes into account the percentage of care provided by him.	Valento not a Deviation
VerKuilen v. VerKuilen, 578 NW 2d 790 (Minn. App. 1998): Minn. Stat. ' 518.57, subd. 3(1996) (satisfaction of child support obligation), does not apply to custody arrangements duly determined in judicial proceedings. Therefore prohibition against its application in public assistance cases does not apply in the case of a judicial award of joint custody.	' 518.57, subd. 3 Not Applicable
Nylen v. Nylen, (Unpub.), C5-98-31, F & C, filed 5-19-98 (Minn. App. 1998): In a split custody case, setting each parent's guidelines obligation and offsetting the obligations according to Sefkow is an application of the child support guidelines per Broas. Ordering more than the offset amount is an upward deviation and requires findings to support.	Split Custody
Sefkow v. Sefkow, 427 NW 2d 203, 216 (Minn. 1988): If custody is split between the parties, it is proper to set each parent's obligation at the guidelines amount and offset the obligation.	Split Custody
Vokaty v. Vokaty, (Unpub.), C8-98-282, F & C, filed 9-1-98 (Minn. App. 1998): In joint physical custody case where the parties each have the child for six months, the proper Valento calculation is as follows: (Father's monthly obligation)(6)=$5,400; (Mother's monthly obligation)(6)=$2,221 $5,400-$2,221=$3,178/yr or father owes mother $264.40/month	Months Each
Tennant v. Tennant, (Unpub.), C6-98-832, F & C, filed 11-10-98 (Minn. App. 1998): In a joint custody case, in order to deviate from the Valento formula based on one party's allegation that the party pays a greater proportion of the expenses, there must be a finding on the actual cost of these expenses, and a finding that the expenses support an exception to Valento.	Exception to Valento must be Supported by Facts

Marcino v. Marcino, (Unpub.), C7-98-869, F & C, filed 11-17-98 (Minn. App. 1998): Valento applies where parties are awarded joint custody even though one party has child 70% of the time.	70%/30% Joint Custody
Dosedel v. Dosedel, (Unpub.), C1-00-27, F & C, filed 7-25-00 (Minn App. 2000): Where parties had joint physical custody with a 65%-35% split, court did not err in requiring parent who had custody 35% of time to pay more support than required by the formula; the courts' finding that strict application of the formula would be unfair and not in the best interests of the children supported the deviation.	Upward Deviation from Hortis/ Valento
Romney v. Romney, 611 NW 2d 71 (Minn. App. 2000): Hortis/Valento formula is only to be applied as a guidelines application when the parties have joint physical custody or when, although one parent has sole physical custody, the other parent provides a nearly equal amount of actual physical care. 61%-39% schedule is not a nearly equal amount. Modified by Rogers, 622 NW 2d 813 (Minn. 2001).	Tweeton not App. in 61%-39% Split
Dittel v. Dittel, (Unpub.), C8-99-1720, F & C, filed 4-25-00 (Minn. App. 2000): Parties, both represented by counsel, stipulated at the time of divorce to joint physical custody but stipulated that future requests for child support modification shall be determined as if respondent had sole custody of both children. Court properly enforced stipulation that precludes use of Hortis/Valento formula.	Stip to Base Child Support on Sole Custody Formula in Joint Custody case is Enforceable
Blonigen v. Blonigen, 621 NW 2d 276 (Minn. App. 2001): Where parties agreed to joint physical custody in their marriage termination agreement, Hortis-Valento applies, even though father only has the children 33% of the time. (See Ayers), 508 NW 2d 519-20 (Minn. 1993).	Joint Physical Custody Label Requires Hortis-Valento
Rogers v. Rogers, 622 NW 2d 813, (Minn. 2001): Where one parent has sole physical custody of a child, the percentage of time the child spends with the non-custodial parent does not, by itself, support a deviation from the guidelines. Minn. Stat. ' 518.54, Subd. 8 (enacted in 1998) provides that a person with sole physical custody is presumed not to be a child support obligor and not required to make child support payments unless the court makes specific written findings to overcome the presumption. Application of the Hortis-Valento formula in a sole custody case must be supported by the findings required by Minn. Stat. ' 518.551, Subd. 5(i) and the factors in Minn. Stat. ' 518.551, Subd. 5(c) must be addressed. Reverses Court of Appeals, Rogers v. Rogers, 606 NW 2d 724 (Minn. App. 2000).	Hortis-Valento Not Applicable in Sole Custody Case
Hill v. Carey, (Unpub.), C4-01-33, F & C, filed 7-10-01 (Minn. App. 2001): Where child spends nearly equal time with both parents, it was proper to apply Hortis-Valento formula in a case where dissolution order awarded parties joint legal custody, and awarded mother "primary" physical custody. (Ed. Note: The court of appeals treated this case as a "joint" physical custody case rather than a "sole" physical custody case. One may question if the result is consistent with Rogers.)	"Primary" Physical Custody & Joint Custody
In Re the Marriage of Schlichting v. Paulus, 632 NW 2d 790 (Minn. App. 2001): Where parties had joint legal and physical custody, but mother had primary residence of the children nine months of a year, Hortis-Valento applies. However, the district court did not err in failing to apply Hortis-Valento in this case (ordering father to pay full guidelines support), since the court made sufficient findings to deviate from the guidelines. Findings supporting a deviation in this case included the physical custody arrangement, and the disparity in the parties' incomes; mother was unemployed, was a full-time student, leading to better employment alternatives.	Deviation From Hortis-Valento Upheld
Davis v. Davis n/k/a Haux, 631 NW 2d 822 (Minn. App. 2001): Hortis-Valento formula applies in all joint physical custody cases even when children spend most of the time with one of the parents.	Joint Physical Custody/ Most Time With One Parent
Weitzel-Green v. Green, (Unpub.), C7-01-754, CX-01-1185, F & C, filed 11-6-01 (Minn. App. 2001): Where, in a joint physical custody case, obligor agreed to an upward deviation from the guidelines at the time of the J & D, paying much more than what would have been required under Hortis-Valento, and where original stipulation had a reasonable basis to bypass Hortis-Valento, in considering motion to modify, the district court is not bound by Hortis-Valento, but can consider it as a factor in setting support.	Use Application of Hortis-Valento in Modifica-tion Where not Applied in Original Order

Norling, f/k/a Weldon v. Weldon, (Unpub.), C5-01-798, F & C, filed 12-4-01 (Minn. App. 2001): When obligor only had child 41% of the time, the Hortis-Valento formula did not apply and deviation from the guidelines was not warranted.	Hortis-Valento not applicable in 41%/59% Custody Split
Nguyen and County of Washington v. Lindell, (Unpub.), C9-01-2232, F & C, filed 6-18-02 (Minn. App. 2002): Parties, in a Wisconsin J & D, stipulated to "joint physical placement." Wisconsin judge crossed out the word "joint," and replaced it with "shared." The Minnesota court found that the schedule of time the children spent with each parent was what would be considered a sole physical custody with visitation arrangement in Minnesota. The Minnesota Court of Appeals affirmed, holding that the district court's resolution of any ambiguity in favor of sole physical custody is consistent with Minnesota's historic and strong disfavor for joint physical custody. See Molto v. Molto, 64 NW 2d 154, 157 (Minn. 1954), Wopata v. Wopata, 498 NW 2d 478, 483 (Minn. App. 1993), and Minn. Stat. ' 518.17, subd. 2(2000), creating a presumption in favor of joint legal custody, but not joint physical custody.	"Shared Physical Placement" Not the Same as Joint Physical custody and Hortis/Valenti n/a; Joint Physical Custody is Disfavored
Loesch v. Loesch, (Unpub.), CX-02-15, F & C, filed 7-30-02 (Minn. App. 2002): It was proper for the district court to apply Hortis-Valento in a joint physical custody case, even though father only had the child 18% of the time under the court-ordered custody arrangement.	82%/18% Custody Split
Gese v. Rasmussen, (Unpub.), C8-02-448, F & C, filed 10-1-02 (Minn. App. 2002): Where parents have joint physical custody, and one parent has the child more often than provided in the decree, the additional time is visitation not additional custody time, and Hortis-Valento applies only to the time the parent has custody of the child, not the time the child is in the care of the parent.	Additional Visitation N/A to Hortis-Valento
Nolte v. Mehrens, 648 NW 2d 727 (Minn. App. 2002): Identifying whether the parties have joint physical custody or whether one party has sole physical custody is critical in setting the parties' support obligations. Where the court order establishing custody failed to designate sole or joint custody, granting "primary" physical custody to a parent, the later court had to determine if the custody was sole or joint before setting child support. The dispositive factor in determining if the custody arrangement is sole or joint is the district court's description of the physical custody arrangement.	Whether "Primary Physical Custody" Means Joint or Sole Custody must be Decided before Setting Support.
In re the Marriage of: Beryl Joan Waters, Respondent, and Foster Dennis Anderson, Appellant, ___ P3d ____, 2003 WL 262541 (Wash. App. Div. 1, Feb. 10, 2003) (NO. NO.49896-7): 1998 WA split custody order; income shares worksheet stating respective obligations incorporated into order, after subtracting Mom's lower obligation from Dad=s higher obligation, dad w/daughter pays mom w/son. Son emancipates first. HELD: Each parent both obligor and obligee; mom now owes dad. (Motion for reconsideration granted.)	Change in Split Custody-Income Shares
Canon v. Moy, (Unpub.), CX-02-1374, F & C, filed 3-25-03 (Minn. App. 2003): Upward deviation in a Hortis-Valento case was affirmed where (1) father's income was above the guidelines cap; (2) Application of the formula would have resulted in mother's monthly expenses not being met and children=s standard of living not being maintained; (3) father would still have a monthly surplus even after the upward deviation; and (4) the court made specific findings as to its reasons for deviation.	Upward Deviation
Kammueller v. Kammueller, 672 NW 2d 594 (Minn. App. 2003): Although parenting time is relevant to determining the amount of support to be paid, it is not relevant in deciding whether to apply Hortis-Valento. Application of Hortis-Valento is not presumptively appropriate where CP is granted sole physical custody (in this case NCP had children 67% of time).	67%

Long v. Creighton, 670 NW 2d 621 (Minn. App. 2003): Sefkow calculation in split custody case improper where only one parent has income, since requiring the employed parent to pay GL support for the children in the other parent's household would be contrary to interests of child in her custody. One acceptable calculation in such a case would be that used in Malecha v. Malecha, 386 NW 2d 292, 294 (Minn. App. 1986), allowing a credit for the children in employed parent's household as follows: Facts: Parties have three children. Two are in employed parent=s custody. One is in unemployed parent's custody. X= employed parent's child support obligation to unemployed parent a= 35% (GL for 3 children) b= 30% (GL for 2 children). c= 5% (35%-30% is the allowance for the 2 children in employed parent's custody) d= 25% (GL for 1 child living with Dad). X= (d - c) x (employed parent's net income) X= 25% - 5% x (employed parent's net income) X= 20% of employed parent's net income	Split Custody Calculation Where Only one Parent has Income
Bender v. Bender, 671 NW 2d 602 (Minn. App. 2003): Trial court reserved the parties' child support obligation in joint custody case even though Respondent earned nearly 1.5 times the income of Appellant. Court of appeals reversed trial court, because it had not included in its findings the calculation of child support under the Hortis-Valento formula, and had not made sufficient findings to justify a deviation. The court's findings contained only one finding that deviation would allow the child to know that each parent contributed to his support.	Insufficient Findings for Joint Custody Deviation
Renville County and Weidner v. Hanson, (Unpub.), C1-02-2090, F & C, filed 6-10-03 (Minn. App. 2003): In a split custody case, the child support officer's affidavit stated that the mother was "unemployed and receiving medical assistance." Mother argued that father should be required to pay guidelines support for the child in her care. The district court did not err when it found the CSO's affidavit insufficient to establish that mother's unemployment was not voluntary, imputed income to her under Minn. Stat. § 518.551, Subd. 5b(e) and applied the Sefkow formula to determine the father's obligation.	Unemployed Parent's Receipt of MA did not Prevent Imputation of Income to her and Application of Sefkow Formula.
Tadlock v. Tadlock, (Unpub.), A04-99, F & C, filed 9-7-04 (Minn. App. 2004): Where the 1996 J&D awarded the parties joint physical custody, but did not apply the Hortis-Valento formula when computing child support, and there was no evidence in the record suggesting that the obligor waived application of Hortis-Valento at the time of the J&D, it was proper for the court to apply Hortis-Valento to the parties' current incomes when it adjusted child support based on the emancipation of the oldest child 5 years after entry of the J&D.	Hortis-Valento Applies When Order is Adjusted Due to Emancipation of Oldest Child, Even Though not Applied in Original J&D.
Maschoff v. Leiding, 696 NW 2d 834 (Minn. App. 2005): In joint physical custody case, where support order provided that "the parties have agreed that based on the relatively even income of the parents and the relatively equal parenting access, neither party shall pay support to the other" the parties are not considered to have waived support, and the support is not a reservation under Aumock. Rather, the support order is deemed an application of Hortis/Valento, establishing support at $00.00.	"Neither Party Pays Support" in Joint Custody Case Interpreted as Setting Support at $00.00.

Maschoff v. Leiding, 696 NW 2d 834 (Minn. App. 2005): Whether custody is sole or joint must be addressed in court order, so that the appropriate method of calculating child support can be identified.	Court Order Must State if Custody is Joint or Sole to Calculate Child Support.
Gillet v.Gillet, (Unpub.), A04-1363, F & C filed 5-31-05 (Minn. App. 2005): Under Hortis/Valento, child support is not based on the percentage of time children are in the physical care of the parent, but on the percentage of time the parent has actual custody of a child. Citing Bender, Rogers and Valet. Thus, the time a parent is allocated with the children is custodial time for purpose of Hortis/Valento, even if the children are in school and not in the parent's physical care for a portion of that time. The parent continues to have actual custody during the school hours and is responsible for the child's care during that time.	Time in School is Custodial Time for Purpose of Hortis/Valentoeve n Though Child not in Physical Care of Parent While in School
Kleine v. Kleine , (Unpub,), A04-1664, F & C, filed 5-24-05 (Minn. App. 2005): J&D awarded parties "joint physical custody" of the children, but awarded "actual physical custody and primary parenting" of one child to one parent, and actual physical custody and primary parenting of the other child to the other parent. In subsequent modification proceeding brought when one child emancipated, lower court had to determine if this was a joint custody or sole custody situation. Decision: J&D awarded sole custody to each parent, thus, the proper child support calculation for the remaining child was guidelines based on sole custody, and not based on Hortis/Valento. Interpretation was based upon fact that child support in J&D had been based on the Sefkow formula applied in split custody cases, with no consideration of the percentage of time each child was with each parent as would have been required under Hortis/Valento.	Hortis/Valento Presumption Overcome in Modification Proceeding, Despite "Joint Physical" Designation in J&D, where Findings of the Court were Indicative of a Split Sole Custody Arrangement.
In Re the Matter of Craig Adam Cohen vs. Lora Elizabeth Vokaty, (Unpub.), A-05-631, F&C, filed 1-31-06 (Minn. App. 2006): Father challenged district court award of child support and attorney fees. Reversed and remanded as district court erred by making an assumption rather than a specific finding regarding the actual amount of income the father receives as beneficiary of trust and from interest in two family businesses. However, the court upheld the inclusion of $2000 per month in father's income as gift income he receives regularly from his father to help pay his monthly expenses. Court is to reconsider mother's student loans and grants and whether there is excess income. Also to reconsider to determine nature of social security benefits and whether they are income. If court deviates from Hortis/Valento, it needs to make necessary findings. Due to remand, attorneys fees also need to be reconsidered.	Lack of proper findings on child support award.
In Re the Marriage of Marentic v. Marentic, (Unpub.) A05-1769, filed June 20, 2006 (Minn. App. 2006): The Court found that the district court did not err in applying a reduced ability to pay calculation and assuming that sharing 50/50 custody of 2 children with a former wife was the constructive equivalent of a child support obligation for 1 child thus reducing Obligor's income to pay for the subsequent child by 25% (guidelines for 1 child). Court found that this formula gave Obligor a larger reduction than a *Hortis/Valento* reduction would give him and, since the error did not harm the Obligor, the 25% reduction applied. The Court rejected Obligor's request to apply 2007 Child Support Guidelines.	Reduced-ability approach affirmed to account for prior children.
Erickson v. Erickson, (Unpub.), A05-1785, filed June 13, 2006 (Minn. App. 2006): The district court did not err in using custody labels rather than "actual circumstances" of parenting time when applying a *Hortis/Valento* calculation, noting that parties who stipulate to a physical custody arrangement adopted by the district court are bound by the custody label. *Citing* Nolte v. Mehrens, 648 N.W.2d 727, 730 (Minn. App. 2002); Ayers v. Ayers, 508 N.W.2d 515, 520 (Minn. 1993).	Custody labels dictate how a court applies *Hortis/Valento* in determining child support.
In re the Marriage of Branz v. Branz, (Unpub.), A05-2222. Filed 9/19/006 (Minn. App. 2006): In this joint physical custody case, the appellate court found the district court's determination of parenting time percentages clearly erroneous because there was no discernable mathematical basis for the parenting time percentages and the district court appeared to adopt the parenting time assertions presented to the court by the husband without explanation.	PARENTING TIME: parenting time percentages must be based on a clear mathematical formula.

In re the Marriage of: Barbara Jean Jucick, f/k/a Barbara Jean Jucick-Kleinman vs. James Michael Kleinman, (Unpub.), A06-1209, Hennepin County, filed May 15, 2007 (Minn. App. 2007): Deviation from *Hortis/Valento* was justified where the court found, notwithstanding joint physical custody, that obligor rarely exercised parenting time.	Deviation from *Hortis/Valento* upheld.
Lubich n/k/a Miller vs. Lubich, (Unpub.), F & C, A07-1159, filed March 4, 2008 (Minn. App. 2008): Appellant non-custodial father challenges denial of his motion to require respondent/custodial parent to pay child support for parties' sole remaining minor child who resides with him. Appellant argued that the district court misapplied the law and abused its discretion by not making findings to overcome the presumption that respondent was not a child support obligor (Minn. Stat. §518A.26, subd. 14) and impose a child support obligation on her because the child lives primarily with him. The district court found that appellant owes respondent many thousands in arrears and even though appellant's support obligation had previously been reduced he had not significantly reduced his arrears. The Court of Appeals distinguished this case from both *Rumney* [sic] and *Tweeton* because neither of those cases involved an obligor with significant arrears. The district court's refusal to require respondent to pay support was affirmed.	Establishing child support against parent who has custody by court order.
Martin vs. Martin, (Unpub.), F & C, A07-591, filed March 25, 2008 (Minn. App. 2008): In this joint physical custody case, the district court granted appellant's motion to reduce his child support obligation based on his decreased income, but did not impute income to respondent. Respondent was working 20 hours per week and produced no evidence that she was unable to work full time; however, the district court determined that based on her receipt of medical assistance for the children, imputing income to her was not appropriate. The Court of Appeals affirmed.	No imputation of Income to Parent on MA
Carlene Yvonne Nistler v. Terrance Roger Nistler, (Unpub.), A07-0793, filed April 1, 2008 (Minn. App. 2008): Appellant obligor challenges the denial of his motion to decrease his support, originally set in the parties' dissolution, with parenting time 50/50. The obligor argues the court erred by failing to deem his child support satisfied while he provided a residence for the child. The Court of Appeals upheld the CSM decision noting the change in the amount of parenting time was insignificant and did not support a modification of the stipulated child support.	No change of circumstances supporting modification.
Wagner vs. Mehle, III, (Unpub.), A07-0677, F&C, filed April 29, 2008 (Minn. App. 2008): The County appealed from the district court's setting of respondent-father's various child support obligations at amounts below that called for by the guidelines. Where the child support recipient has assigned her right to receive support to the public agency, the obligor's support obligation may be set below the guideline amount "only" if the court "specifically" finds that the failure to deviate downward from guidelines would impose an "extreme hardship" on the obligor, not "an undue hardship" as stated here. For the court to deviate, the court must specifically address the criteria in Minn. Stat. § 518.551, subd. 5(c) [note: this is an "old guidelines" case, filed in 2006] and how the deviation serves the best interests of the child. Here, the trial court did not make the proper findings explaining its deviation from the guideline amount either as to ongoing or past support.	Deviation from guidelines requires specific findings
Sperling vs. Sperling, (Unpub.), A07-980, F&C, filed April 29, 2008 (Minn. App. 2008): Appellant mother challenged the district court's order reducing respondent father's child support. Respondent argued decreased income. The court reduced father's monthly obligation based solely on "finding" that father had "furnished salary information". The court failed to make findings under the guideline statute, did not consider whether a deviation from the guidelines might be appropriate in light of mother's assertions of increased need, or whether father should have anticipated and planned for the potential downturn in his earnings. Additionally, father continues to maintain his lifestyle despite the asserted decreased earnings. The record is inadequate to permit appellate review without specific findings related to the statutory factors.	Deviations from guidelines must make specific findings related to the statutory factors.

In re Custody of M.-T.L.B., No. A13-2278, 2014 WL 3801204 (Minn. Ct. App. Aug. 4, 2014): Appellant-father appealed, challenging the district court's denial of his motion to modify custody of the parties children from joint legal and joint physical custody to sole legal and sole physical custody with appellant. Appellant also challenged the district court's abused its discretion by by decreasing his parenting time from 50% to 44% rather than decreasing his child-support obligation from $1,785 to $1,294. The Court of Appeals affirmed the decision.	District Court has broad discretion to determine parenting Time and calculation of child-support.
Minnesota Statutes section 518.175, subdivision 5 (2012), provides that a district court may restrict parenting time only if "it finds that: (1) parenting time is likely to endanger the child's physical or emotional health or impair the child's emotional development; or (2) the parent has chronically and unreasonably failed to comply with the court-ordered parenting time." "Determining the legal standard applicable to a change in parenting time is a question of law and is subject to de novo review ." *Dahl v. Dahl,* 765 N.W.2d 118, 123 (Minn.App.2009). "A reduction of parenting time is not necessarily a restriction of parenting time." *Boland v. Murtha,* 800 N.W.2d 179, 182 n.1 (Minn.App.2011). Rather, a "restriction occurs when a change to parenting time is 'substantial.' " *Dahl,* 765 N.W.2d at 123 (quotation omitted). "To determine whether a reduction in parenting time constitutes a restriction or modification, the court should consider the reasons for the change as well as the amount of the reduction." *Id.* at 124 (citing *Danielson v. Danielson,* 393 N.W.2d 405, 407 (Minn.App.1986)).	Court may restrict parenting time.
Shearer v. Shearer, 891 N.W.2d 72 (Minn. Ct. App. 2017): When modifiying parenting time where there is no order restriciting parenting time of either parent, courts only need to consider the best interests of the child. When applying the parenting time adjustment to child support the court order for parenting time controls, not actual parenting time exercised.	Parenting expense adjustment, parenting plans, parenting time.
Palmquist v. Devens, 907 N.W.2d 204, (Minn. Ct. App. 2017): Minn. Stat. § 518A.35, subd. 1(c) applies only when a child is not in the custody of either parent. If a party is granted joint physical custody the child is "in custody of" the party even if the child's primary residence is not with that party. Therefore, support must be calculated under Minn. Stat. § 518A.35 subd 1(b) using the father and mother's combined parental incomes.	Custody – Relative Caregiver
Vue v. Vue, No. A17-0740, 2018 WL 1701847 (Minn. Ct. App. Apr. 9, 2018): When a district court uses its discretion to deviate from the guidelines due to a unique custody arrangement, the district court must support the deviation with sufficient findings.	Split-custody, Deviation-written findings requirement
In re Custody of B.L.F., No. A18-1852, 2019 WL 3776017 (Minn. Ct. App. Aug. 12, 2019): The Court lacks authority to modify support if the parites do not move for a modification of child support. The court did not err in addressing child support when the motion included a request for "such other relief as the Court deems just, fair, and equitable" and an evidentiary hearing was held on the issue of child support. There was no abuse of discretion for calculating parenting time differently for purposes of child support than the parenting time order as it reflected the statutory differences. The court abused its discretion by ordering a medical support contribution when the minimum support order applied and no findings were made to rebut the presumption.	Modification of Custody and Parenting Time; Medical Support; Guidelines.
Dempsey v. Loman, A22-0181, 2022 WL 17748084, (Minn. Ct. App. 2022): Appellant-mother makes numerous challenges to the district court's order modifying custody, awarding respondent-father sole legal and sole physical custody of their joint child, restricting mother's parenting time. Appellant-mother's arguments largely request the Court of Appeals to reweigh the evidence and reconcile conflicting evidence, which the court will not do, and therefore the district court's order is affirmed.	Child Custody
Knutson v. Knutson, A22-0616, 2022 WL 17748086 (Minn. Ct. App. 2022): A district court is correct to dismiss a child support action as a comparable pleading under § 518C.204(a) when an action on this issue has been initiated in another state. A district court abuses its discretion by applying the first-to-file rule in an overly strict fashion, and by awarding attorney fees when there hasn't been any unreasonable contribution to the length or expense of the proceeding, § 518.14, subd. 1.	Child Custody, Uniform Child Custody

II.F.6. - Findings Required	
Otte v. Otte, 368 NW 2d 293 (Minn. App. 1985): Trial court should make specific findings on obligor's net income to enable appellate review of whether guidelines properly applied; expert testimony should be used in computing self-employed farmer's income; taxable income is not always the same as net income.	Farmer
Graser v. Graser, 392 NW 2d 743, 744 (Minn. App. 1986): In setting child support, it is inadequate to make findings only as total household expenses where the household includes a new spouse. In such a case, findings must be made as to needs of children.	Expense Breakdown Between Child and Parent
Mueller v. Mueller, 419 NW 2d 845 (Minn. App. 1988): In refusing to increase child support payments above guidelines amounts, trial court failed to address parties needs or ability to meet them, thus requiring remand.	Parties' Needs
Grimm v. Hale, (Unpub.), CX-92-660, F & C, filed 8-25-92 (Minn. App. 1992) 1992 WL 203267: Written findings on all the factors set forth in Minn. Stat. ' 518.551, Subd. 5(b) are necessary only where the support award deviates from the guidelines. Here the trial court ordered guidelines support and therefore written findings are unnecessary. The record indicates the trial court considered the requisite factors.	Findings
Stael v. Stael, (Unpub.), CX-93-362, F & C, filed 7-20-93 (Minn. App. 1993): If the court does not deviate from the guidelines, it need only make findings on the obligor's income and any other significant evidentiary factors.	Findings
Blaser v. Fralich, (Unpub.), C2-94-592, F & C, filed 11-8-94 (Minn. App. 1994), 1994 WL 614970: The court cannot deviate downward from the guidelines, even upon agreement of the parties, without considering all the factors in Minn. Stat. ' 518.551, Subd. 5(c) and indicating how the children's best interests are served by reducing respondent's obligation (See also, McNulty, 495 NW 2d 473; Bliss, 493 NW 2d 583).	Required Findings for Downward Deviation
Rouland v. Thorson, 542 NW 2d 681 (Minn. App. 1996): Post Moylan statutory amendments including the 20 percent/$50.00 rebuttable presumption at Minn. Stat. ' 518.64, Subd. 2(a), and the provision that the court need only make findings on the obligor's income and other factors affecting the support determination (Minn. Stat. ' 518.551, Subd. 5(i)), it is only necessary to make a finding as to the child's needs if those needs affected the court's decision, or if the court departs from guidelines.	Child's Needs
Kahn v. Tronnier, 547 NW 2d 425 (Minn. App. 1996): Where district court deviated upward from guidelines based on costs associated with child's special needs, but did not make findings on those costs and where court found father's current standard of living to be indulgent, but did not make a finding as to father's reasonable monthly expenses, case was remanded for more specific findings necessary to deviate from guidelines order Minn. Stat. ' 518.551, Subd. 5(c).	Specific Findings Required for Upward Deviation from Cap
County of Washington v. Kusilek and Johnson, (Unpub.), CX-96-800, F & C, filed 1-7-97 (Minn. App. 1997): On a public assistance case, error for ALJ to deviate downward on guidelines due to a subsequent child where ALJ did not make all required statutory findings. Omitted findings include: (1) ALJ cited obligor's claimed monthly expenses but no finding on reasonable monthly expenses. (See Dean v. Pelton 437 NW 2d 762,764 (Minn. App. 1989).) (2) No finding on income and child support received by obligor's wife (Bock 506 NW 2d 325). (3) ALJ failed to address the debts claimed on obligor's financial statement - were they debts to private creditors not considerable in PA cases? Minn. Stat. ' 518.551, Subd. 5(d)(1). (4) No finding on financial benefit received by obligor from claiming child as a dependent on his tax return (Minn. Stat. ' 518.551, Subd. 5(c)(4).) (5) ALJ did not consider income tax refunds received by the obligor in previous year. (See Koury 410 NW 2d 31, 32 (Minn. App. 1987).	Omitted Findings
Gilbertson v. Graff II, (Unpub.), C5-96-428, F & C, filed 1-14-97 (Minn. App. 1997): Court should have made findings on student loan debt under Minn. Stat. ' 518.551, Subd. 5(i).	Student Loan Debt

County of St. Louis o/b/o Rimolde v. Tinker, 601 NW 2d 468 (Minn. App. 1999): The court is required to make findings on the reasonableness of the 401K deduction and the employer pension. See Mueller, 419 NW 2d 845,847 (Minn. App. 1988).	Pension/ 401K
County of Anoka ex rel Hassan v. Roba, 690 NW 2d 322, (Minn. App. 2004) A04-168, filed 11-30-04: In a Minn. Stat. § 256.87 action against child's mother to pay support in a PA relative caretaker case, brought under Minn. Stat. § 256.87, mother had a net monthly income of $1,199, and monthly expenses of $1,075, and claimed an inability to pay child support in the guideline amount. The court of appeals stated that "ability to pay must be measured by the difference between her income and necessary monthly expenses." The court ruled that where the obligor submits evidence to show that he or she lacks the ability to pay, the fact finder must make findings to show that it has considered whether deviation is necessary. [Ed. Note: Court of appeals based its ruling on Minn. Stat. § 518.551, subd. 5(c) language that says, "In addition to the child support guidelines, the court shall take into consideration the following factors in setting or modifying child support or in determining whether to deviate from the guidelines" and on two pre-1993 cases: Becker County v. Peppel, (Minn. App. 1992) and County of Pine v. Petersen, (Minn. App. 1990). The court of appeals mentioned, but did not discuss the effect of Minn. Stat. § 518.551, subd. 5(i) enacted in 1991, requiring findings on subd. 5(c) factors only when deviating, as well as Minn. Stat. § 518.551. subd. 5(j) enacted in 1993, requiring extreme hardship for deviation in PA cases. The Peppel court did discuss 5(i), but 5(j) had not been enacted at the time of the Peppel and Peterson decisions.]	"Ability to Pay", in a § 256.87, subd. 1a Action Where the Difference Between Obligor's Income and Expenses is less than Guidelines Amount; Required Findings
In re the Marriage of Sigfrid vs. Sigfrid, (Unpub.), A05-353, F&C, filed January 17, 2006 (Minn. App. 2006): Even through the court erred in calculating obligor's net income for 2002, because his net income still exceeded the max under the guidelines, the child support award was appropriate. Further because the court ordered support according to the guidelines, the court's findings concerning obligor's income were sufficient and no further findings were necessary.	Award of child support based on maximum net income under the guidelines supported by facts.
In re the Marriage of Cannata vs. Cannata, (Unpub.), A05-445, F&C, filed January 17, 2006 (Minn. App. 2006): The record does not support the findings in which an upward deviation from the support guidelines was ordered. Specifically, the record does not support (1) the findings on the father's current income, (2) the findings that the father has the ability to pay an upward deviation from the guidelines, and (3) the finding that the father has the ability to pay need-based attorney fees. Case reversed.	Insufficient facts to support upward deviation from guidelines.
In Re the Matter of Craig Adam Cohen vs. Lora Elizabeth Vokaty, (Unpub.), A-05-631, F&C, filed 1-31-06 (Minn. App. 2006): Father challenged district court award of child support and attorney fees. Reversed and remanded as district court erred by making an assumption rather than a specific finding regarding the actual amount of income the father receives as beneficiary of trust and from interest in two family businesses. However, the court upheld the inclusion of $2000 per month in father's income as gift income he receives regularly from his father to help pay his monthly expenses. Court is to reconsider mother's student loans and grants and whether there is excess income. Also to reconsider to determine nature of social security benefits and whether they are income. If court deviates from Hortis/Valento, it needs to make necessary findings. Due to remand, attorneys fees also need to be reconsidered.	Lack of proper findings on child support award.
In re the Marriage of Joseph M. Kemp v. Sara N. Kemp, n/k/a Sara N. Lipetzky, (unpub.), A05-2039, (Redwood County), filed August 22, 2006 (Minn. App. 2006): Mother argues that the court erred by failing to make a determination that the children's needs were not being met and the children's best interests would be served by a modification. Determination of child support involves an allocation of the support obligation between parents. Minn. Stat. § 518.64 does not mandate a finding that a child's needs are not being met to support modification of support.	Determination that modification is in children's best interests not required.
Pelinka v. Pelinka, (Unpub.), A05-372, Filed August 29, 2006 (Minn. App. 2006): An Obligor who voluntarily sold his business and retired at the age of 51 did not experience a change in circumstances warranting a modification of support. The imputation of income at the Obligor's former earning capacity was proper. Even though the trial court did not make detailed factual findings regarding obligor's income, the trial court's findings were sufficient since they demonstrated that the court considered the statutory factor(s) relevant to its conclusion.	UN/UNDER-EMPLOYED: Voluntary early retirement & voluntarily underemployed/ unemployed. No basis for mod.

Edmond v. Grace, No. A12-1266, 2013 WL 1395586 (Minn. Ct. App. Apr. 8, 2013): After Appellant (Husband) left his teaching career, the parties asked the CSM to establish support based on the statutory guidelines. The CSM found that the Husband was voluntarily underemployed and imputed income to him based on his potential income as a teacher. The district court vacated the CSM's order, finding that Husband's career change was in good faith and modified his child support under his actual income. The Court of Appeals found the district court did not err in determining the Husband's income or abuse its discretion in assigning the dependency exemption. The district court credited Husband's testimony and the evidence that full-time teaching positions were sparse and that layoffs in the profession were common. The evidence showed that Husband had been laid off through no fault of his own, losing two teaching positions within two years and unsuccessfully applying for numerous teaching positions before he was offered his current job. A finding of bad faith is not required to impute income under section 518A.32, *Melius v. Melius*, 765 N.W.2d 411, 415 (Minn. App. 2009). However, the Mother present no evidence that Husband made the change to reduce his child-support obligation.	The Court of Appeals found the district court may award an exemption to the noncustodial parent if it considers the relative resources of the parties and concludes that the best interests of the children would be served by doing so.
In re the Marriage of Jeffrey J. Pierson v. Janell H. Johnson and Dakota County, intervenor, (Unpub.), A06-603, Dakota County, filed January 23, 2007 (Minn. App. 2007): Appellant appeals district court's decision determining respondent owed arrears for the period from December 2002 to the date of the order, but finding arrears were not proven for the period prior to December 2002. Because the magistrate failed to make adequate findings to support its conclusion that respondent owed no support prior to December 2002, court of appeals reverses and remands.	The district court's order setting child support and arrears must contain sufficient findings to support the conclusions.
In the Matter of: Gayle Cardinal, Petitioner, Respondent, vs. Paul G. Cardinal, Appellant., (Unpub.), A06-1307, Ramsey County, filed June 5, 2007 (Minn. App. 2007): OFP against appellant issued and evidentiary hearing scheduled for issues of custody, parenting time, support and maintenance. This court finds effective review of the district court's exercise of discretion is possible only when it issues sufficiently detailed findings to demonstrate its consideration of all relevant factors. The order does not include a finding of appellant's net income or analysis of his ability to pay the amounts ordered. Reverse and remand the order as it regards child support and maintenance for additional findings.	Findings required in OFP for c/s and maintenance.
Tammy Jo Arkell, n/k/a Arkell-Lund v. Richard Donald Wieber and Sterns county, Intervenor, (Unpub.), A06-1008, Stearns County, filed June 5, 2007 (Minn. App. 2007): Order increased appellant-father's child support from $368.00 to $713.00 per month. This court affirms the lower court, holding that appellant's claim that his expenses outweighed his income did not mean he was automatically entitled to a deviation in support. Specific findings were not required.	Specific findings not required when no deviation.
In re the Marriage of Viele v. Viele, (Unpub.), A07-212, filed October 9, 2007 (Minn. App. 2007), Wright County: The trial court may impute income to an obligor based on any in-kind payments he receives that reduce living expenses and where the actual income of the obligor is difficult to calculate. However, despite evidence that showed the obligor actively tried to hide his actual income earned in order to qualify for public medical coverage and where the obligor received direct cash payments and also received payments from a family business paying his automobile insurance, gas, oil, repairs, and the monthly payments, the imputation of income will *not* stand where specific findings regarding calculation of income are not present in the order.	In-kind benefits that reduce an obligor's cost of living expenses can be considered for the purposes of imputing income, but specific findings are necessary.
Frank-Bretwisch vs. Ryan, (Unpub.), A06-1864, filed December 4, 2007, (Minn. App. 2007): The lower court's denial to modify support required specific findings where the order sought to be modified was the result of a stipulation with a significant downward deviation in support, and where the court noted grave concerns regarding adequacy of the support at the time of the parties' original stipulation.	Deviation from guidelines requires sufficient findings.
Krznarich vs Freeman, (Unpub.), A07-993, filed December 18, 2007 (Minn. App. 2007): The court appropriately considered appellant's ability to pay child support by taking into consideration her financial situation, respondent's financial situation, and Minn. Stat. §518.55 (2004).	Court considered appropriate factors in determining ability to pay.

Hare, f/k/a Parker vs. Grewe, (Unpub.), A07-0850, F&C, filed May 20, 2008 (Minn. App. 2008): Where the obligor submitted an employment verification from his current employer stating straight commission basis pay, the court may reject the statement, but must make findings. Absent findings of a failure of proof or lack of credibility, the court abuses its' discretion in imputing income where other information is available.	The court may not ignore income information and impute income without making appropriate findings.
Schirmer vs. Guidarelli, f/k/a Schirmer, (Unpub.), A07-1021, filed May 27, 2008 (Minn. App. 2008): A district court is not required to make findings where the interested party fails to meet his burden to produce evidence on the issue. *Farrar v. Farrar*, 383 N.W.2d 436, 440 (Minn. App. 1986).	No findings required where interested party doesn't meet burden.
In re the Marriage of Brenda Lee Stifel v. Daniel Charles Stifel, (Unpub.), A07-0198, filed April 1, 2008 (Minn. App. 2008): Appellant obligor appeals order setting support at 39% of appellant's income, including his commission and annual draw. Appellant argues that, because the support award is a fixed percentage of his entire income, it is possible the award will exceed the statutory cap of $7,360 per month. The district court made no findings to support an upward deviation. Because the district failed to make findings to support an upward deviation, and obligee agreed at oral argument that a cap on the monthly income is appropriate, this court modified the child support to impose a cap at 39% of the maximum monthly income as provided in the guidelines.	Abuse of discretion where child support set at percentage of appellant's income could result in an upward deviation to the statutory cap, and no findings were made to support deviation.
Martin vs. Martin, (Unpub.), A07-1295, filed June 17, 2008 (Minn. App. 2008): The reviewing court is not required to reverse merely because the district court could have provided more detail. Despite lack of explicit findings regarding appellant's income, the district court's determination was appropriate where supported by the record.	Explicit findings not required where decision is supported by the record.
Rose v. Rose, 765 N.W.2d 142 (Minn. App. 2009): Appellant brought a motion to modify child support. At the hearing, Appellant admitted he had no other basis for a modification other thatn the change in the child support law. The CSM denied his motion, ruling that the passage of the new child support guidelines are not grounds for a determination of the existence of a substantial change in circumstances. The district court affirmed the ruling of the CSM. The appellatecourt reversed and remanded, holding that: CSM's and DC's ruling erroneously deprived Appellant of the irrebuttable presumption of change of circumstances under Minn. Stat. Section 518A. 39, subd. 2(b)(1). The income-shares guidelines may be used to demonstrate substantially changed circumstances justifying modification of a child support obligaton. If a party demonstrates entitlement to the presumptions under Minn. Stat. section 518A.39, subd(b)(1), it is not necessary to first or separately show a change in circumstances listed in subd. 2(a). If a party demonstrates a deifferential of at least 20 % and $75 between the original child support order and the new child support calculation under shared income guidelines, this entitles the party to an irrebuttable presumption of substantial change in circumstances. However, the party is still required to prove that the current child support is unreasonable and unfair before a modification of child support may be granted.	If a party demonstrates a deifferential of at least 20 % and $75 between the original child support order and the new child support calculation under shared income guidelines, this entitles the party to an irrebuttable presumption of substantial change in circumstances
Haefele v. Haefele, N.W.2d 2013 WL 2320039 (Minn. May 29, 2013) "The district court's determination of net income must be based in fact and it will not be overturned unless it is clearly erroneous." *Schisel v. Schisel,* 762 N.W.2d 265, 272 (Minn.App.2009) (citing *Davis v. Davis,* 631 N.W.2d 822, 827 (Minn.App.2001) ("A district court's finding on net income for purposes of child support will be affirmed on appeal, if those findings have a reasonable basis in fact and are not clearly erroneous.")).	Net income must be based in fact.

Giuliani v. Anderson, No. A11-420, 2011 WL 5119264 (Minn. Ct. App. Oct. 31, 2011): The parties sought a dissolution and agreed that wife would have sole physical and of the minor children subject to husband's reasonable parenting time. The Father was granted 13.7% parenting time. Husband was ordered to pay $773 per month in child support based on a consideration of a one-time bonus when determining his GMI. The District Court accepted the wife's proposed order with only minor changes and no explanation why parenting time was only 13.7% or why a one-time bonus was included in husband's GMI. The Court of Appeals could not review the district court's decision because there were no findings explaining why the 25% parenting time presumption did not apply or why the one-time bonus was included in husband's GMI. Therefore, the case was reversed and remanded.	There must be findings to explain reasons the 25% parenting time presumption does not apply.
Gunsallus v. Schoeller, No. A11-418, 2011 WL 5829308 (Minn. Ct. App. Nov. 21, 2011): The Court of Appeals found it was approrpraite to not allow the depreciation expenses to be deducted from the NCP's GMI because he failed to prove that those were necessary expenses. The Court also found that the CSM erred by making a mathematical error when subtracting the NCP's proper business expenses from his gross receipts. The CSM only subtracted expenses the custodial parent had unsuccessfully challenged and did not subtract agreed upon expenses from the NCP's GMI. The NCP's GMI should have been $5,441 and not $15,168. The Court also found making the order retroactive to June 2009 was not appropriate without specific findings that the NCP's income had increased in that month or that the effective date was based on language form the original order.	Approrpraite to not allow the depreciation expenses to be deducted from the NCP's GMI because he failed to prove that those were necessary expenses.
Lindsey v. Lindsey, No. A15-2026, 2016 WL 5345648 (Minn. Ct. App. Sept. 26, 2016): The court must make written findings when addressing the rebuttable presumption that the parent with primary physical custody is not a child support obligor when the exception of equal parenting time does not apply.	Definition of obligor
Shearer v. Shearer, 891 N.W.2d 72 (Minn. Ct. App. 2017): When modifiying parenting time where there is no order restriciting parenting time of either parent, courts only need to consider the best interests of the child. When applying the parenting time adjustment to child support the court order for parenting time controls, not actual parenting time exercised.	Parenting expense adjustment, parenting plans, parenting time.
Stier v. Peterson, A17-0024, 2017 WL 4103889 (Minn. Ct. App. Sep. 18, 2017): Retained earnings from a business may be included in gross income if the party seeking to have them excluded has failed to establish the retained earnings are for a business expense that is ordinary and necessary. A party cannot complain about the district court's failure to rule in his/her favor when the reasons it did so is because the party failed to provide the district court with the evidence needed to fully address the issue.	Gross income; burden to provide evidence
In Re the Marriage of Clifton v. Clifton, A17-0477, 2018 WL 414309 (Minn. Ct. App. Jan. 16, 2018): When the court finds there to be a substantial change in circumstances, that leads to a rebuttable presumption that the order is unreasonable and unfair. As a result, if a party questions the unreasonable and unfairness of the order, the court must make findings as to whether the presumption is rebutted.	20%/$75 Substantial change
Vue v. Vue, No. A17-0740, 2018 WL 1701847 (Minn. Ct. App. Apr. 9, 2018): When a district court uses its discretion to deviate from the guidelines due to a unique custody arrangement, the district court must support the deviation with sufficient findings.	Split-custody, Deviation-written findings requirement
Hesse v. Wingrove, No. A17-1223, 2018 WL 1902456 (Minn. Ct. App. Apr. 23, 2018): A district court does not abuse its discretion to order both a minimum basic support order and an obligation to contribute to half of the transportation costs when parties live a significant distance from each other. When a district court awards less parenting time than the statutory presumption provides, the court should explicitly address the 25% parenting time presumption.	25% parenting time presumption, minimum basic support
In re the Custody of M.M.L., No. A17-1240 (Minn Ct. App. Apr. 16, 2018): When the district court record does not contain sufficient information to calculate imputed income under Minn. Stat. § 518A.32, subd. 2(1), imputation of income should be based on the minimum-wage calculation in Minn. Stat. § 518A.32, subd. 2(3). A finding that the parties were before the court due to a parties failure to pay child support and to find employment is not a sufficient basis for an award of conduct based attorney's fees.	Attorney's fees, imputing income, income determination, potential income

In re the Marriage of: Kristi Rae Pawlak v. Steven Vincent Pawlak, A20-0719, 2021 WL 1245280 (Minn. Ct. App. Apr. 5, 2021): Based on *Haefele*, party can be found to have a closely held interest in a corporation even if they have no control over amounts of distributions. Gross monthly income where a party has a joint interest in a closely held corporation must be calculated according to Minn. Stat. 518A.30. Deviations can be made only after GMI is calculated and proper findings are made.	Self-Employment Income
Floyd v. Floyd, A22-1148, 2023 WL 3443466 (Minn. Ct. App. 2023): The district court's determination that spousal maintenance was terminated pursuant to § 518A.39, subd. 3 was correct as there was no express waiver of statutory operation made by the parties. The districts upward deviation from the child support guidelines was not an abuse of discretion as the court determined the children's standard of living would be adversely affected absent a deviation and award of attorney fees to appellant-wife are affirmed.	Child Support and Maintenance Order; COLA (Cost-of-Living-Adjustment); Deviation from Guidelines-Evidence; Income Disparity Between Parties; Maintenance; Spousal Maintenance/Alimony
In re the Marriage of: Patterson v. Patterson, A24-1029, 2024 WL 5242092 (Minn. Ct. App. Dec. 30, 2024): The district court did not abuse its discretion in imputing income for appellant-wife as she has demonstrated a capacity to earn a higher income. Wife's arguments against the court's determination of husband's income are unavailing as she did not provide a transcript or cite any legal authority showing error.	Imputing potential income; Potential income: Stay at home parent; Methods, Generally; Income calculation/determination of gross income
In Re the Custody of B.G.F., A24-0832, 2025 WL 80239 (Minn. Ct. App. Jan. 13, 2025): The court of appeals affirms the district court's order modifying physical and legal custody and terminating father's child support obligation. The court of appeals also finds no judicial bias against mother.	Basic Support-Definition; Best Interest of Child-Custody; Custody-Best Interest of Child; Custody-Joint Legal Custody; Custody-Joint Physical Custody
In re the Marriage of: Towobola Abimbola Oladejo vs. Olanrewaju Muideen Oladejo, No. 23-1609, 2025 WL 440097 (Minn. Ct. App. Feb. 10, 2025): The Court of Appeals affirms the district court's rulings on the issues of joint legal and joint physical custody, the calculation of basic support, and the finding of no childcare costs. The issue of whether marital or non-marital funds were used to pay the mortgage on the marital home after the valuation date is remanded as it affects husband's equity equalizer payment to wife.	Best Interest of Child-Custody; Custody; Basic Support-Definition; Basic Support-Guideline Table; Childcare Support (Support $)-Definition; Guidelines Table for Basic Support; Modification

II.F.7. - Visitation Expenses (See also Part II.O.11.)	
Minn. Stat. ' 518A.31 - guidelines adjustment for 30+ days with obligor.	
Potocnik v. Potocnik, 361 NW 2d 414 (Minn. App. 1985): Reasonable to reduce child support below guidelines when required due to visitation costs.	Visitation Costs
Splinter v. Landsteiner, 414 NW 2d 213 (Minn. App. 1987): Trial judge's belief that custodial parents should not pay child support during extended visitation was not legal basis on which to deny support.	Extended Visitation
Compart v. Compart, 417 NW 2d 658 (Minn. App. 1988): Fact that many of custodial parent's expenses of running minor children's primary home continue unabated while children spent summer months with father should have been considered in determining adequacy of child support award.	Vacation with Father
County of Washington v. Johnson, 568 NW 2d 459 (Minn. App. 1997): Where obligor cared for children two nights per week and on alternate weekends in his home, ALJ did not abuse discretion in denying obligor=s request to deviate downward from guidelines.	Deviation Denied
Machovsky v. Machovsky., (Unpub.), C8-99-115, F & C, filed 8-17-99 (Minn. App. 1999): When NCP had child full-time for the summer months, and about 25% of the time over a period of a year, it was proper for referee to: (a) grant NCP a 50% reduction in support over the summer; (b) amortize the reduction over each year; and (c) set NCP's monthly child support obligation at sub-guidelines amount.	Summer Visitation
Kammueller v. Kammueller, 672 NW 2d 594 (Minn. App. 2003): Even though over time, NCP's parenting time had increased from 38% to 67%, a downward deviation from guidelines was not justified where there was no allegation of increased expenses by NCP, and where parties had expressly waived application of the Valento formula at earlier hearings where the division of time was equal.	Increase in Parenting Time to Over 50%
Bliss v. Bliss, 493 NW 2d 583 (Minn. App. 1992), *rev. den.* (Minn. 2/12/93): The court must make findings indicating who the child's best interests will be served by reducing child support during summer visitation. Findings should include consideration of fixed budgetary items, such as mortgage, and fluctuating expenses, such as groceries.	Example of Findings Required to Suspend Support During Summer Visitation
Nancy Mignone v. Sean Bouta, (Unpub.), A05-174, filed 12-13-2005 (Minn. App. 2005): Obligor appeals from the district court's ruling of past and prospective child support, alleging that the calculations were incorrect because the parties shared physical custody of the child. The appellate court found that the district court made sufficient finding for current child support in stating that obligor's expenses and time with the child did not exceed normal visitation costs. However, the district court made insufficient findings in calculating obligor's past support since the court discussed the time the obligor currently spends caring for his child, and did not address the time that the obligor cared for his child in the past. The case was remanded for the district court to apply Minn. Stat. § 518.57 in calculating past support (giving the option of reopening the record) to determine if the obligor has satisfied his child support obligation by providing a home, care and support for the child, or if the child was integrated into the family of the obligor with consent of the obligee and child support payments were not assigned to the public agency under Minn. Stat. §256.741.	Living arrangements of child must be considered in calculating past child support. No duration for liberal parenting time
Hesse v. Wingrove, No. A17-1223, 2018 WL 1902456 (Minn. Ct. App. Apr. 23, 2018): A district court does not abuse its discretion to order both a minimum basic support order and an obligation to contribute to half of the transportation costs when parties live a significant distance from each other. When a district court awards less parenting time than the statutory presumption provides, the court should explicitly address the 25% parenting time presumption.	25% parenting time presumption, minimum basic support
In re the Custody of: K.S.A. and G.M.A., v. Alyea, A22-0533, 983 N.W.2d 455 (Minn. Ct. App. 2022): The Court of Appeals states that the Wisconsin guardianship orders are child-custody determinations per § 518D.102(d) and § 257C.01-.08. and are enforceable in Minnesota per § 518D.303. The appellant-father's challenges also mischaracterize the order which he is appealing as his motions are still pending in district court, his parental rights were not terminated, and his requested supplements to the record are outside the scope of the order.	Child Custody
In re the Marriage of: Marlo Renee Nelson, A22-0077, 983 N.W.2d 923 (Minn. Ct. App. 2022):	Marriage Dissolution,

The Court of Appeals affirms the district court's amended order that per Minn. Stat. § 518A.36, subd. 1 child support obligations with a parenting time expense are based on the court-ordered amount of parenting time and not the actual amount of time exercised by each parent.	Modificaiton, Child Care Support, Overnights, Parenting Expense Adjustment
In the Marriage of: Elizabeth Joy Glirbas vs. Joshua Robert Glirbas, No. A24-0925, 2025 WL 893451 (Minn. Ct. App. Mar. 24, 2025): The district court erred when it applied a parenting-expense deduction when calculating father's basic support obligation as there was no operative parenting time order at the time, Minn. Stat. § 518A.34(b)(5), (6), *Nelson v. Nelson*, 983 N.W.2d 923, 925 (Minn. App. 2022).	Emancipation-Automatic Termination of "Per Child" orders; Modification-Automatic Termination of Support; Parenting Expense Adjustment

II.G. - EMANCIPATION	
II.G.1. - Change in Law	
Brugger v. Brugger, 229 NW 2d 131 (Minn. 1975): Legislative intent and policy of law changing age of majority from 21 to 18 years shows that it was to have no retroactive effect on provisions for support of children contained in decrees entered prior to its enactment.	Not Retro-active
Yeager v. Yeager, 229 NW 2d 137 (Minn. 1975): Provision for child support based on stipulation of parties and approved by court and incorporated in divorce decree prior to change in age of majority is an obligation continuing until minor child reaches age 21.	Continuing Validity
Kleinhuizen v. Kleinhuizen, 354 NW 2d 588 (Minn. App. 1984): Amendment to 518.54, Subd. 2 to provide for child support until graduation from high school cannot provide basis to extend child support payments in dissolution action commenced prior to May 17, 1983. Law applicable at time of dissolution determines at which age obligation to support child terminates.	Time of Dissolution
Fairburn v. Fairburn, 373 NW 2d 609 (Minn. App. 1985): Fact that judgments entered prior to June 1, 1973, ordering support until age 21 are to be honored, does not mean that courts must treat adult children same as minors.	Treat Differently
Iverson v. Schulte, 367 NW 2d 570 (Minn. App. 1985): Emancipation statute which tolls emancipation for individual under 20 and attending secondary school only applicable to actions commenced on or after May 18, 1983.	School
Yackel v. Yackel, 366 NW 2d 382 (Minn. App. 1985): Amendment for 518.54, Subd. 2 extending support to age 20 for a child attending secondary school only applies to child support awards in dissolution actions commenced after May 18, 1983.	School
Kujawa v. Kujawa, 397 NW 2d 445 (Minn. App. 1986): When determining the duration of child support payments, status of childhood is defined by the law in effect at the time of the decree.	Age of Majority
Anderson v. Anderson, 410 NW 2d 370 (Minn. App. 1987): 1973 amendment of 1972 decree changing "age 21" to "age of majority" did not operate to modify the meaning of the original decree providing for support until age 21.	Age of Majority
Welsh v. Welsh, 446 NW 2d 191 (Minn. App. 1989): Definition of "Child" in Minn. Stat. ' 518.54 as individual under age 20 in secondary school could be applied at time of valid order under this section to modify child support, even though dissolution preceded effective date of definition of child and former husband claimed that definition could not be retroactively applied; trial court made valid finding of changed circumstances.	Change in Emancipation Date Due to Changed Circumstance
Borich v. Borich, 450 NW 2d 645 (Minn. App. 1990): The date of dissolution, not the date of support determination is the relevant date when determining which statutory definition of "child" should be used.	Relevant Date
Whitten v. Whitten, (Unpub.), C2-93-338, F & C, filed 8-24-93 (Minn. App. 1993): Under Minn. Stat. ' 518.64, Subd. 4 and ' 518.54, Subd. 2 (1992), child is defined; this new definition is not retroactive and applies only to awards of support actions commenced on or after May 18, 1983.	"Child" Definition not Retroactive
Blumberg v. Blumberg, (Unpub.), C4-94-2540, F & C, filed 4-28-95 (Minn. App. 1995): 1986 dissolution decree provided for reduction in child support as each child "reaches legal age, dies, or is otherwise emancipated or self supporting." Even though "legal age" in 1986 was 18, court found that the language in this Judgment and Decree was ambiguous because the meaning of when "the parties' minor children reach legal age" cannot be determined without guidance from other facts or statutes. When Judgment and Decree language is ambiguous, the trial court can interpret the Judgment and Decree in accordance with facts and law. In this case, that means that the current legal definition of child under Minn. Stat. ' 518.54, Subd. 2 applies and obligor has to pay support in full amount until each child is no longer attending secondary school or reaches age 20.	Ambiguous Language in J&D
Seeman v. Seeman, (Unpub.), C2-96-2489, F & C, filed 5-20-97 (Minn. App. 1997): Where 1988 order included language extending child support until age 20 if child still in high school (marriage was dissolved in 1981 when age 18 was age of majority) and did not include supporting findings of "inability," ALJ in a 1996 modification order erred in repeating the "until age 20" language from the 1988 order, even though the parties had never contested or appealed the 1988 $ order.	Error for Subsequent Order to Repeat Imper-missibility Extension from Prior Order

Freeman v. Freeman, (Unpub.), CX-01-2000, F & C, filed 5-28-02 (Minn. App. 2002): The provision of Minn. Stat. ' 518.64, subd. 41(b) not applicable pre 8/1/95, cannot be retroactively applied to support judgments entered prior to August 1, 1995, the date of the amendment. Thus, with a pre-August 1995 judgment, a child support order for multiple children that does not set out a method of reducing support upon emancipation of each child, must nevertheless be reduced in accordance with guidelines as each child emancipates.	' 518.64, subd. 4a(b) not Retroactive
Knutson v. Knutson, A22-0616, 2022 WL 17748086 (Minn. Ct. App. 2022): A district court is correct to dismiss a child support action as a comparable pleading under § 518C.204(a) when an action on this issue has been initiated in another state. A district court abuses its discretion by applying the first-to-file rule in an overly strict fashion, and by awarding attorney fees when there hasn't been any unreasonable contribution to the length or expense of the proceeding, § 518.14, subd. 1.	Child Custody, Uniform Child Custody

II.G.2. - Effect on Support	
Minn. Stat. ' 518A.39, Subd. 5(a) - Automatic Termination of Support upon emancipation. Minn. Stat. ' 518A.60(a)-collection remedies continue after emancipation.	
Dent v. Casaga, 208 NW 2d 734 (Minn. 1973): While child support orders for minor children cannot be enforced by contempt proceedings when children are emancipated, does not preclude right of party to obtain judgment for accrued arrearage. (But see Polk County o/b/o Whitten v. Olson (Minn. App. 2002).	Arrearages
Hampton v. Hampton, 229 NW 2d 139 (Minn. 1975): Contempt proceedings not available to enforce support orders for children after age 18, even though the support obligation continues to age 21.(But see Polk County o/b/o Whitten v. Olson (Minn. App. 2002)	No Contempt After Age 18
Fairburn v. Fairburn, 373 NW 2d 609 (Minn. App. 1985): No error for trial court to increase support only to age 18, at which point it reverts back to original stipulation amount per pre-June 1, 1973 decree.	Revert to Decree at Age 18
Yackel v. Yackel, 366 NW 2d 382 (Minn. App. 1985): Unless otherwise agreed to in writing or expressly provided under the decree, provisions for support of a child are terminated by emancipation.	Terminates Support
McGleno v. McGleno, 393 NW 2d 8 (Minn. App. 1986): Trial court did not err in deviating from guidelines without findings on statutory factors where divorce decree entered prior to lowering of age of majority and child now age 18.	Emancipation Change in Law
Disrud v. Disrud, 474 NW 2d 857 (Minn. App. 1991): Emancipation of one child does not necessarily constitute decreased needs of a party.	No Reduction
Beltz v. Beltz, 466 NW 2d 765 (Minn. App. 1991): Child support award based on guidelines is automatically reduced after one of the children is emancipated absent express order or written agreement. (Beltz overruled by Minn. Stat. ' 518.64, Subd. 4a (1996).)	Automatic Reduction
Reynolds v. Reynolds, 498 NW 2d 266 (Minn. App. 1993): Trial court should prorate child support obligations to allow automatic reductions with the emancipation of each child. (Overruled by Minn. Stat. ' 518.64, Subd. 4a (1996).)	Emancipation and Reduction
Erickson v. Erickson, (Unpub.), CX-95-2519, F & C, filed 6-18-96 (Minn. App. 1996): Where automatic income withholding continued after child's emancipation, and obligee continued to cash checks, it was proper for trial court to grant judgment against the obligee in favor of obligor for the amount of the over payment.	Overpayment
Bender v. Bender, (Unpub.), C1-97-1540, F & C, filed 2-3-98 (Minn. App. 1998): If child reached age 18 before the 1995 amendment to Minn. Stat. ' 518.64, subd. 4a(a), and was no longer attending secondary school, support was automatically terminated even if there was still a duty of support for the younger child.	Reynolds applies to pre-August 1995 Cases
Bender v. Bender, (Unpub.), C1-97-1540, F & C, filed 2-3-98 (Minn. App. 1998): When ALJ found that child under age 18 was self-supporting, reduction in support should have been made retroactive to date child became self-supporting, rather than when obligor filed motion.	Reduction for Child under 18 Retroactive to Date of Self-Support
Graving v. Graving, (Unpub.), C6-99-324, F & C, filed 9-7-99 (Minn. App. 1999): Where there is a child support obligation for two or more children, and one emancipates, in order to get his support order lowered, obligor must show not only that there is a substantial change of circumstances (presumable due to the child's emancipation), he must also show that the terms of the current support order are unreasonable and unfair.	Emancipation of Older Child-Standard for Modification
Graving v. Graving, (Unpub.), C6-99-324, F & C, filed 9-7-99 (Minn. App. 1999): In this case, the trial court initially setting the order intended the current support to continue after emancipation of the oldest child, therefore, even though the 20%/$50 standard was met, the prior order was not unreasonable and unfair.	20%/$50 Presumption Overcome
Freeman v. Freeman, (Unpub.), CX-01-2000, F & C, filed 5-28-02 (Minn. App. 2002): The provision of Minn. Stat. ' 518.64, subd. 41(b) not applicable pre 8/1/95, cannot be retroactively applied to support judgments entered prior to August 1, 1995, the date of the amendment. Thus, with a pre-August 1995 judgment, a child support order for multiple children that does not set out a method of reducing support upon emancipation of each child, must nevertheless be reduced in accordance with guidelines as each child emancipates.	' 518.64, subd. 4a(b) not Retroactive

Freeman v. Freeman, (Unpub.), CX-01-2000, F & C, filed 5-28-02 (Minn. App. 2002): Reduction in child support as each child emancipates requires a calculation of NCP's income at the time of emancipation, so that the appropriate amount of support can be determined. (Ed. note: unless the parties agree to obligor's income and the new support amount, it appears the reduction would not be "automatic," but would require a court hearing.)	Reduced Support Upon Eman. of Older Child Required Current Calculation of Income
Polk County Social Services o/b/o Whitten v. Olson, (Unpub.), CX-02-421, F & C, filed 9-10-02 (Minn. App. 2002): Because contempt is a pre-emancipation collection remedy, and under Minn. Stat. ' 518.6195, pre-emancipation collection remedies are available after the child to be supported is emancipated, the district court did not lose subject matter jurisdiction to use its contempt powers to enforce NCP's obligation to pay support after the child reached 18. The 1997 enactment of 518.6195 supercedes case law.	Post-Emancipa-tion Contempt Allowed
Vallez v. Vallez and County of Dakota, (Unpub), C0 02-2050, filed 4-22-03 (Minn. App. 2003): The stipulated J&D provided: When the number of children eligible for support is reduced, child support payments then due and payable shall be reduced for the number of children then eligible. The reduced amount shall commence on the first day of the month following the change in the number of children eligible for support. The court of appeals calculated the adjusted amount of support by applying the guidelines for the reduced number of children to the obligor's income at the time of the prior order (as opposed to the time he sought the reduction), and then adding in the intervening COLA adjustment. This differs from the result in Freeman, CX-01-2000 (Minn. App. 2002), that held that the reduction at the time of each child's emancipation would be based on income at the time of the emancipation. Both cases are unpublished.	Support upon Emancipation of Older Child Based on Income at Time of Prior Order, Adjusted by COLA
Vallez v. Vallez and County of Dakota, (Unpub), C0-02-2050, filed 4-22-3 (Minn. App. 2003): Where the stipulated J&D provided for a reduction in child support at the time of each child's emancipation, the court of appeals held that because the obligor's motion merely sought to enforce an unambiguous provision@ of the J&D, the district court erred in requiring him to prove a substantial change of circumstances under Minn. Stat. ' 518.64, Subd. 2(b)(2002). The court did not state that the agency had the duty to adjust without the necessity of a hearing.	N/A to Automatic Adjustments Based on Emancipa-tion
Tadlock v. Tadlock, (Unpub.), A04-99, F & C, filed 9-7-04 (Minn. App. 2004): Where the 1996 J&D stated that *"Child support shall continue at $690.00 per month, until the occurrence of one of the following events, whichever occurs first: (a) "[A] minor child attains the age of 18 years, or graduates for high school, whichever occurs last;…"* it was proper for the court to retroactively adjust the obligation to the date of the child's graduation, even though that date pre-dated the oral motion to modify the support. The court, citing Bednarek, at 430 NW 2d 9,12 (Minn. App. 1988), held the retroactive adjustment was not a modification of the original order, rather it gave effect to the express language of the original order, and thus was not prohibited by Minn. Stat. § 518.64, Subd. 2(d).	Provision in J&D Stating Child Support Would Continue as Ordered "Until a Minor Child Attains the Age of 18 Years…" Requires Retro Adjustment to Date of Majority
Tadlock v. Tadlock, (Unpub.), A04-99, F & C, filed 9-7-04 (Minn. App. 2004): Where the 1996 J&D awarded the parties joint physical custody, but did not apply the Hortis-Valento formula when computing child support, and there was no evidence in the record suggesting that the obligor waived application of Hortis-Valento at the time of the J&D, it was proper for the court to apply Hortis-Valento to the parties' current incomes when it adjusted child support based on the emancipation of the oldest child 5 years after entry of the J&D.	Hortis-Valento Applies When Order is Adjusted Due to Emancipation of Oldest Child, Even Though not Applied in Original J&D
Powers,f/k/a Duncan,(Unpub.), A04-19, F&C, filed 10/5/04 (Minn.App. 2004): The CSM may make findings as to indicia of emancipation, but must refer the determination as to whether the child is emancipated to district court under Minn. R. Gen. Prac. 353.01, Subd. 3(b) and 353.02.	CSM must refer emancipation issue to district court.
Estate of Dahlman, (unpub.) A05-1225, filed 4-25-06 (Minn. App. 2006): Dissolution decree requiring decedent to carry life insurance "as and for additional support" did not require coverage after emancipation, so estate was not liable to children in probate.	Emancipation terminates order to insure life.

In re the Marriage of Carole V. Marx, petitioner, Respondent vs. Robert B. Marx, Appellant, and County of Anoka, intervenor, Respondent, (Unpub.), A06-1678, Anoka County, filed July 31, 2007 (Minn. App. 2007): Appellant contends he waited 8 years after his release from incarceration to move to modify because he believed his child support obligation had terminated with the emancipation of his child, and no arrears action had been brought. Emancipation does not avoid accrued child support arrearages. M.S. § 518.6195(a) provides that the same remedies to collect ongoing support are available to collect arrearages.	Emancipation does not avoid accrued child support arrearages.
Doyle v. Gianlorenzi, No. A13-0773, 2014 WL 801775 (Minn. Ct. App. Feb. 3, 2014): A District Court held that the child was emancipated and reduced the father's obligation effective August 2, 2012. The District Court's findings did not address retroactivity or the effective date. The Court of Appeals reversed stating there must be findings providing a factual basis for the effective date because: 1) The District Court commented that father should not be responsible for support unless the mother was contributing toward the child's expenses and 2) the effective date the District Court chose was substantially after the date of service of notice of the motion. The Court of Appeals held that the District Court may not exercise broad discretion in setting an effective date without factual findings supporting the choice of the date.	Must be findings providing a factual basis for effective date.
Blaeser v. Fiscus, No. A07-2048, 2008 WL 4552782 Minn. Ct. App. Oct. 14, 2008): The J&D provided that the child support amount would continue until the last child was emancipated, but also provided for a reduction consistent with Minnesota Child Support Guidelines. In April 2007, Appellant moved to modify his child support obligation based on emancipation of the oldest child. The District Court determined that the latter provision only applied if there was a modification, and the court denied Appellant's motion, based on questionable evidence. The Court of Appeals held the district court did not err in relying on the fact that the Appellant had not met his burden of demonstrating a substantial change rendering the existing order unreasonable or unfair. Because the child support ordered is a general amount and was not awarded per child, the emancipation language only applied where there had been a modification to the overall child support obligation. District court did not abuse its discretion by refusing to modify father's child-support obligation following the emancipation of his oldest child. Although emancipation of child constituted a substantial change in circumstances, father provided no credible evidence to support his claim that the previous award was unreasonable and unfair.	Party moving for modification must met the burden of demonstrating a substantial change of circumstance rendering the prior order unreasonable or unfair.
Vue v. Vue, No. A17-0740, 2018 WL 1701847 (Minn. Ct. App. Apr. 9, 2018): When a district court uses its discretion to deviate from the guidelines due to a unique custody arrangement, the district court must support the deviation with sufficient findings.	Split-custody, Deviation-written findings requirement
Grogg v. Rech, 968 N.W.2d 45 (Minn. App. 2021): Under Minn. Stat. § 518A.39, subd. 2(a), an obligor moving to reduce a child support obligation that covers multiple children, based on one of the children's emancipation, must show (1) emancipation of the child at issue, and (2) that the existing child support obligation is unreasonable and unfair.	Modification upon Emancipation; Emancipation – No Automatic Reduction

II.G.3. - Continued Disability	
McCarthy v. McCarthy, 222 NW 2d 331 (Minn. 1974): Upon showing that any of the children is either physically or mentally deficient or unable to support himself when he reaches his majority, court's authority to require support or maintenance may extend past the date on which child reaches majority.	Handicapped
Hoppenrath v. Cullen, 383 NW 2d 394 (Minn. App. 1986): Premature to grant motion to extend support obligation for Down's Syndrome child, age four, where evidence of extent of disability and employment potential not submitted.	When Available
Borich v. Borich, 450 NW 2d 645 (Minn. App. 1990): In order to extend child support payments beyond date of majority, specific findings are necessary on inability of child to be self-supporting. The requirement of inability to provide self-support is not met simply because the child is still a full-time high school student.	Extension of Support
Berns v. Berns, (Unpub.), C8-92-897, F & C, filed 11-24-92 (Minn. App. 1992) 1992 WL 340498: Even though obligee was not awarded physical custody of the parties severely retarded adult son, the court of appeals upheld a modest award of child support ($100.00). Since the son was a child within the definition of Minn. Stat. ' 518.54, Subd. 2 (1990) and the obligee had provided the son with substantial financial assistance in the past and must continue to do so.	Child Support for Retarded Adult Child when Custody not Awarded
Salzl v. Salzl, (Unpub.), C3-95-2104, F & C, filed 2-6-96 (Minn. App. 1996): Child repeated 7th grade and thus will not graduate until age 19. Age of majority at time of Judgment and Decree was 18. District Court erred in extending child support beyond 18th birthday - (1) amendment changing age of majority cannot be applied retroactively; (2) no evidence was presented that the child's current inability to support himself arises from anything other than his continued enrollment in high school, which is not a basis to find inability to be self-supporting. (See Borich, 450 NW 2d at 648.)	Continued Enrollment in High School & Inability to Support
Lakin v. Lakin, (Unpub.), C6-98-359, F & C, filed 10-6-98 (Minn. App. 1998): Where an individual is incapable of self-support by reason of mental and physical condition, custodial parent is not required to make request for continuation of the child support obligation before the date when the child attains majority.	Request for Continued Support for Disabled Child filed after Date Child Reaches Majority
Kowaliw v. Kowaliw, (Unpub.), C0-99-1145, F & C, filed 2-8-2000 (Minn. App. 2000): In 1998, court continued child support beyond age of majority due to child's mental illness. Obligor asked to have the obligation terminated based on an allegation that the custodial parent failed to obtain appropriate psychiatric care for the child. It was proper for court to deny obligor's motion because the statutes do not establish different criteria for modification of a support order of a child under age 18 and support for a child who fails to become emancipated due to a physical or mental condition.	Modification Criteria Same as for Minor Child
Schirber f/k/a Blenkush v. Blenkush, (Unpub.), A03-270, filed 12-9-03, 2003 WL 22890062 (Minn. App. 2003): A child that is disabled but is able to work and has income of $620.29 per month, but is not self-sufficient or able to live independently and meet its own needs is still considered a child for purposes of child support.	Working but not Independent
Schirber f/k/a Blenkush v. Blenkush, (Unpub.), A03-270, filed 12-9-03, 2003 WL 22890062 (Minn. App. 2003): Minn. Stat. ' 518.54, Subd. 2, in creating an obligation to support a child beyond the age of 20 if by reason of physical or mental condition is incapable of self-support, is not an equal protection violation of the Minnesota or U.S. Constitution as it applies equally to obligors that were married to the obligee and those that were not married or single.	Obligation to Support Disabled Child over the Age of 20 is Constitu-tional
Jarvela v. Burke, 678 NW 2d 68 (Minn. App. 2004) A03-1232, filed 4-20-04: A party has standing to file a motion to extend the support obligation beyond a disabled child's 18th birthday, even if the motion is not filed until after the child=s 18th birthday, since child includes in its statutory definition individuals who by reason of mental or physical condition are incapable of self-support.	Motion can be Brought after Age 18

Jarvela v. Burke, 678 NW 2d 68 (Minn. App. 2004) A03-1232, filed 4-20-04: An extension in the child support obligation beyond the normal age of majority is an increase in the support obligation under Minn. Stat. ' 518.551, subd.5f, since, by definition, increase includes something becoming greater in duration. Thus the court erred when it indefinitely extended the obligor's support obligation at its current level based upon a finding that the child was incapable of self-support due to a physical or mental condition@ without considering the needs of obligor's subsequent children	Durational Extension Requires Considera-tion of Subsequent Children
Jarvela v. Burke, 678 NW 2d 68 (Minn. App. 2004) A03-1232, filed 4-20-04: Since a person incapable of self-support remains a child under Minn. Stat. ' 518.54, the child support guidelines are presumptive in orders for children over the age 18, just as for children under the age of 18.	Guidelines Apply
Jarvela v. Burke,678 NW 2d 68 (Minn. App. 2004) A03-1232, filed 4-20-04: Extending child support indefinitely does not deny the obligor equal protection of laws governing the obligation of a married couple for a disabled adult child. Married and unmarried parents with disabled children are not similarly situated.	Constitu-tional
Jarvela v. Burke, 678 NW 2d 68 (Minn. App. 2004) A03-1232, filed 4-20-04: Even though a prior order did not extend child support beyond the child's 18th birthday, a court may later extend the duration of the order for a disabled child who is incapable of self-support. The doctrines of *res judicata* and Collateral Estoppel do not apply to modification of support orders. Citing Bjordahl v. Bjordahl, 308 NW 2d 817, 819 (Minn. 1981) and Atwood v. Atwood, 91 NW 2d 728, 734 (Minn. 1958).	Res Judicata N/A to Modification of Support Order
Maki v. Hansen, 694 NW 2d 78 (Minn. App. 2005): A request for continued child support based on disability does not have to be made before the child reaches the age of 18 (or age 20 if the child is in secondary school) since the individual is still a child under Minn. Stat. § 518.54, subd. 2 if by reason of mental or physical condition he is incapable of self-support.	Motion to extend support based on disability may be raised after age 18/20
In re the Marriage of: Barbara Jean Jucick, f/k/a Barbara Jean Jucick-Kleinman vs. James Michael Kleinman, (Unpub.), A06-1209, Hennepin County, filed May 15, 2007 (Minn. App. 2007): Under §518.54, subd. 2 (2004), District court properly found that 18-year-old child whose illness required her to use a wheelchair and depend on others for her most basic needs should be deemed a child for purposes of support.	Determination of entitlement to support based on disability upheld.
In re the Marriage of Weeks v. Weeks, (Unpub.), A06-2147, filed October 2, 2007 (Minn. App. 2007) Wright County: The court ordered that confusing language in the dissolution be amended to indicate that the obligor's support obligations for the parties' minor child with disabilities, would only terminate if the child became self-supporting.	Support terminates only when child becomes self-supporting

II.G.4. – Generally	
Minn. Stat. ' 518A.26, Subd. 5 - defines "child"; Minn. Stat. § 256D.05 - defines emancipation for child under age 18 for purpose of public assistance eligibility.	
In Re Sonnenberg, 99 NW 2d 444 (1959): Person is emancipated if able to earn wages and manage his or her own life. The concept of emancipation is not exact, and each case must be examined individually.	Able to Work and Manage own Life
In Re Fiihr 184 NW 2d 22,25 (Minn. 1971): Emancipation may occur even if child lives with parents. Focus is on parent's legal right to control the actions of the child.	Lives with Parents but Emancipated
Cummins v. Redman, 251 NW 2d 343 (Minn. 1977): Guidelines for determining whether child emancipated include consideration of whether there is evidence of relinquishment of control and authority of child or severance of the parent-child relationship.	Control
Grunseth v. Grunseth, 364 NW 2d 430 (Minn. App. 1985): Child found to not have permanently moved from mother's home when she still maintains bedroom there while living with grandparents in order to attend school.	Temporary Move
Streitz v. Streitz, 363 NW 2d 135 (Minn. App. 1985): Despite turning 18, children were ruled unemancipated because they were not out of parental control and authority.	18 - not Emancipated
Streitz v. Streitz, 363 NW 2d 135 (Minn. App. 1985): Children over age 18 are not automatically emancipated just because they have the legal power to control their own actions.	18 - not Emancipated
Coakley v. Coakley, 400 NW 2d 436 (Minn. App. 1987): The trial court's discretion to continue support until a child reaches age 20 is contemplated by the provision of the modification statute which provides that support provisions terminate by the emancipation of the child "unless otherwise expressly provided in the decree".	Age Twenty
King v. Braden, 418 NW 2d 739 (Minn. App. 1988): Minn. Rules 9500.2060, subp. 46 define emancipated minor as a person under 18 who has been married, is in armed services, or has been emancipated by a court of competent jurisdiction.	MN Rules
Peterson v. Michalski, (Unpub.), C9-90-497, F & C, filed 7-17-90 (Minn. App. 1990): Where the child was not enrolled in school at age 18, but re-enrolled in secondary school before the age of 20, she is a "child" entitled to support.	Re-Enrollment
Erickson v. Erickson, (Unpub.), CX-95-2519, F & C, filed 6-18-96 (Minn. App. 1996): Where child had lived on his own and supported himself by working, parent's support of the child after child moved back in was not fatal to the finding of emancipation.	
In Re the Marriage of Sloat v. O'Keefe, (Unpub.), C1-96-1608, C9-96-2053, F & C, filed 4-22-97 (Minn. App. 1997): The parties' daughter emancipated on her 18th birthday where: (a) she did not live with either parent, there was a severance of the parent-child relationship, and parents had relinquished control (daughter lives with the father of her infant child and his parents); (2) CP provided a few checks to the daughter after she turned 18, but no evidence of consistent support (district court considered the checks to be gifts); (3) daughter's participation in Adult Learning Center program for a total of 20 hours during the entire year, did not amount to attending secondary school.	Severance of Parent-Child Relationship
Crocker and Crocker, 971 P.2d 469 (Or. Ct. App. 1998): It was not unconstitutional for statute to authorize court to order divorced or separated parents to support children between ages 18-21, while children attend school, even though the same order cannot be made for married parents. Public interest in well-educated populace, and belief that children might not otherwise receive support from parents to attend school support the court's conclusion.	Constitutional to Require Support of Student after age 18
Marich v. Marich, (Unpub.), C1-01-1169, F & C, filed 4-23-02 (Minn. App. 2002): The court erred in extending ongoing child support beyond the child's 18th birthday in a contempt proceeding where there was not motion before the court and NCP had no opportunity to respond.	Other Issues
Schirber f/k/a Blenkush v. Blenkush, (Unpub.), A03-270, filed 12-9-03, 2003 WL 22890062 (Minn. App. 2003): Minn. Stat. ' 518.54, Subd. 2, in creating an obligation to support a child beyond the age of 20 if by reason of physical or mental condition is incapable of self-support, is not an equal protection violation of the Minnesota or U.S. Constitution as it applies equally to obligors that were married to the obligee and those that were not married or single.	Obligation to Support Disabled Child over the Age of 20 is Constitutional

Powers, f/k/a/ Duncan v. Duncan, (Unpub.), A04-19, F & C, filed 10-5-04 (Minn. App. 2004): The CSM may make findings as to indicia of emancipation, but must refer the determination as to whether the child is emancipated to district court under Minn. R. Gen. Prac. 353.01, Subd. 3(b) and 353.02.	CSM must Refer Emancipation Issue to District Court
County of Anoka ex rel Hassan v. Roba, 690 NW 2d 322, (Minn. App. 2004) A04-168, filed 11-30-04: In a Minn. Stat. § 256.87 action against child's mother to pay support in a PA relative caretaker case brought under Minn. Stat. § 256.87, the CSM included the standard "age 18, or age 20, if still in secondary school" language for the duration of the obligation. The appellate court, noting that the definition of "minor child" under Minn. Stat. § 256J.08, subd. 60 has a different standard, e.g. age 18, or up to age **19** if still in secondary school, believed it was "unclear" whether the CSM would have authority to continue child support payments beyond age 19 in a PA reimbursement action, and remanded to give the obligor the opportunity to challenge the receipt of assistance and her duty to support beyond age 19. [Ed. Note: ? if a definition in Chapter 256J should apply to Chapter 256. Also, there is some thought among some county attorneys that Minn. Stat. § 256.87, subd. 3 (continuing support after PA) should not apply if the requirements of Minn. Stat. § 256.87, subd. 5 have not been met—e.g. the "obligee" needs to either be the court-ordered custodian, or be able to prove that the child is in his/her physical custody with the consent of the legal CP].	Continuing Child Support in Question in § 256.87 PA Case, once Child is 19 and still in School and no longer a "Minor Child" Under § 256J, but is still a Minor Child Under § 518.
Feist v. Feist, (Unpub.), A04-669, F&C, filed 12-14-04 (Minn. App. 2004): In 1993, parties stipulated in MTA that child support would continue until younger child was 22, graduated from college, married or was otherwise emancipated. When younger child turned 18, NCP brought MTM and asked for support to end according to statute at age 18. District court denied motion and appeals court agreed. Even though statutory age of majority was age 18 or secondary school graduation, both at the time of the J&D and now, the MTA was enforceable. Parties can agree to bind themselves to obligations that exceed obligations the court could otherwise impose on them, and absent a change of circumstances, court will not relieve a party of the stipulated obligation. Citing Claybaugh 312 NW 2d 447, 449 (Minn. 1981) and Gatfield, 682 NW 2d 632,637 (Minn. App. 2004), *rev. den* (Minn. Sept. 29, 2004).	Stipulation to Obligation in Excess of what Court could Otherwise Order will be Enforced and not Modified w/o Substantial Change
Orendorf v. Orendorf, A05-639 (Polk County): No abuse of discretion to extend child support through the child's graduation rather than the child's 18th birthday. Obligee had the child repeat eighth grade because the child had done poorly despite an individual educational plan and was young compared to her classmates. Appellant argued that there should be no obligation to pay for this extended year because Appellant was not consulted about the decision. Court of Appeals affirmed the magistrate's decision because the orders transferring custody and establishing support are open-ended, with no specific end date (Minn. Stat. § 518.54, subd. 2 governs), and the magistrate's decision is supported by both the record facts and the law.	Child support extended past 18th birthday to graduation.
In re the Marriage of Arneson v. Meggitt, (Unpub.), A06-1437, Filed October 30, 2007 (Minn. App. 2007), Dakota County: The district court did not err when it extended the obligor's child support obligation one year beyond that which was stipulated to by the parties in their J&D when the child of the parties had fallen behind in school due to behavioral and academic issues and his graduation date was subsequently delayed one year. Stipulated child support judgments are not contracts that bind the court, and the court may reset child support because of the important public policy favoring the nonbargainable interests of the child. *See Swanson v. Swanson*, 372 N.W.2d 420, 423 (Minn. App. 1985).	Court has broad discretion to modify child support even in the face of a stipulation when modification benefits the best interests of the child.
Gilbertson vs. Graff and County of Clay, Intervenor, (Unpub.), A07-2236, filed June 24, 2008 (Minn. App. 2008): Where, as in here, the child discontinues attending school prior to reaching his 18th birthday, and reenrolls before reaching his 18th birthday, he is not emancipated upon his 18th birthday because he was still attending secondary school at the time.	Emancipation

Gilbertson vs. Graff and County of Clay, Intervenor, (Unpub.), A07-2236, filed June 24, 2008 (Minn. App. 2008): A minor may be emancipated by an instrument in writing, by verbal agreement, or by implication from the conduct of the parties. *In re Fiihr*, 184 N.W.2d 22, 25 (1971). The critical factor in emancipation is whether the parent relinquished control and authority over the child's actions and the degree of severance of the parent-child relationship. *Cummins v. Redman*, 251 N.W.2d 343, 345 (1977). Because the court did not clearly err in finding the child was not emancipated, it was not an abuse of the CSM's discretion to leave appellant's child support obligation in place.	Emancipation factors; child support
Gilbertson vs. Graff and County of Clay, Intervenor, (Unpub.), A07-2236, filed June 24, 2008 (Minn. App. 2008): Appellant asserts that someone over 18 years of age, who is capable of self-support, should be required to support himself. The child support order clearly sets forth the conditions that would terminate the child support obligation. It does not matter that the child is capable of supporting himself; child support obligations cannot be terminated on this basis.	Termination of child support not warranted solely because child able to support himself.
Gomes v. Meyer, (Unpub.) No. A16-1015 (Minn. Ct. App. Sep. 5, 2017): The satisfaction of the 20%/$75 threshold under the modification statute creates only rebuttable presumptions and the decision maker is not precluded from ruling that there is (otherwise) a substantial change in circumstances. When a MN court modifies an issuing state's child support order pursuant to the UIFSA, the court applies MN substantive law in calculating a child support obligation. The court must use the spousal maintenance ordered, instead of spousal maintenance actually received in the gross income calculation. The CSM must determine how many joint children there are so the issue of emancipation is one the CSM has to be able to determine.	20%/$75 substantial change; UIFSA, emancipation
Owens v. Owens, (Unpub.) No. A18-0026 (Minn. Ct. App. Oct. 15, 2018): The court may reject a party's motion to modify if the party fails to present supporting documentation. Because father didn't submit verification of his assets as ordered, the CSM was not able to calculate child support based on the emancipation of a child.	Emancipation

II.H. - COLA	
Minn. Stat. ' 518A.75; Minn. Stat. ' 518A.75, Subd. 2a - requires obligor to file a motion contesting the cost-of-living adjustment and serve the public authority and obligee.	
Hadrava v. Hadrava, 357 NW 2d 376 (Minn. App. 1984): Cost-of-living adjustment cannot be denied without finding that income is not subject to cost-of-living increases.	Findings for Denial
County of Isanti v. Formhals, 358 NW 2d 703 (Minn. App. 1984): No findings needed to order cost-of-living adjustment.	No Findings Required
Alvord v. Alvord, 365 NW 2d 360 (Minn. App. 1985): Fact that child support does not decrease proportionately with emancipation of each child is not step increase obviating need for cost-of-living adjustment.	Emancipa-tion
Benedict v. Benedict, 361 NW 2d 429 (Minn. App. 1985): Denial of biennial cost-of-living adjustment must be supported with express finding that clause would be inappropriate because order already provides for step increase or because obligor's occupation, income or both do not provide for cost-of-living adjustment.	Findings for Denial
Haiman v. Haiman, 363 NW 2d 335 (Minn. App. 1985): Cost-of-living adjustments are applicable to child support orders based on stipulation as well as other orders.	Stipulation
Wibbens v. Wibbens, 379 NW 2d 225 (Minn. App. 1985): Harmless error to omit cost-of-living provision in decree where due to age of child, it would either never take effect or result in a minimal additional amount.	Child Almost 18
Thielbar v. Defiel, 378 NW 2d 643 (Minn. App. 1985): Court must specify which cost-of-living index to use.	Which Index
LeTendre v. LeTendre, 388 NW 2d 412 (Minn. App. 1986): No findings necessary on need for COLA because it is mandated by statute.	Findings
Krogstad v. Krogstad, 388 NW 2d 376 (Minn. App. 1986): Fact that father's cost of living is higher in Boston insufficient reason to deny COLA; also record reflects regular pay increases (even though not cost of living increases) sufficient to subject support to COLA increase.	Father's Cost-of-Living
McClenahan v. Warner, 461 NW 2d 509, 511 (Minn. App. 1990): Obligor has burden of showing why all or part of COLA should not be ordered and the district court's discretion is limited to granting or denying the COLA.	Obligor's Burden
Braatz v. Braatz, 489 NW 2d 262 (Minn. App. 1992): On obligee's motion for COLA, lack of findings by the district court on obligor's ability to pay adjusted support and on whether the children's needs have increased does not require reversal. (No findings are required since the trial court declined to exercise its discretion to grant a waiver of COLA).	Findings
Braatz v. Braatz, 489 NW 2d 262 (Minn. App. 1992): Minn. Stat. ' 518.641, Subd. 1 (Supp. 1991) does not preclude the district court from adjusting a support obligation based on the cost-of-living increase over a period greater than two years where no prior cost-of-living adjustment has been made.	Period of Adjustment
Braatz v. Braatz, 489 NW 2d 262 (Minn. App. 1992): Because merit raise constitute "other increase in income," obligor's support obligation may be increased, even though his income is not subject to cost-of-living increases.	Merit Raises
Huizinga v. Huizinga, 529 NW 2d 512 (Minn. App. 1995): Where cost-of-living adjustment had not been implemented for the six years from the dissolution, it was error for the court to limit the adjustment to the previous two years. Court is required to determine whether obligor had an insufficient increase in income over six years, and could implement less than the full amount only if obligor meets his burden to show that he has had an insufficient increase in income to fulfill the entire COLA amount.	Adjustment Beyond Two-Year Period
Mower County Human Services, o/b/o Meyer v. Hueman, 543 NW 2d 682 (Minn. App. 1996): If an obligor's sole source of income does not provide for a COLA (in this case, annuity payments), it is an abuse of discretion for court not to waive the COLA.	COLA
Mower County Human Services o/b/o Meyer v. Hueman, 543 NW 2d 682, 685 n.l. (Minn. App. 1996): Findings required if district court waives COLA; abuse of discretion to impose COLA where obligor's only source of income lacked COLA.	Findings Required

Hagen v. Odland, (Unpub.), C6-97-1890, F & C, filed 4-28-98 (Minn. App. 1998): If obligor has not had an increase in income since the last COLA adjustment, the court is not permitted to allow the current COLA adjustment based upon obligor's ability to fulfill the adjusted obligation based on income increases that occurred prior to the last COLA adjustment.	Substantial Income Increase Prior to last COLA does not Support Current COLA
Stageberg v. Stageberg Erickson, (Unpub.), C8-97-2006, F & C, filed 5-5-98 (Minn. App. 1998): Even if obligor=s income in the most recent year (1996) was lower than his income at the time the court last reviewed his income (1992) (when the court had denied the COLA), it was proper for the court to grant a COLA in 1997 based on average earnings for the years 1992-1996, which were sufficiently greater than his 1989-1991 earnings so as to support the five-year COLA adjustment (citing Veit v. Veit).	Where Obligor=s Annual Income Fluctuates, Proper to Average Income since last COLA
Schmidt v. Schmidt, (Unpub.), C5-02-49, F & C, filed 7-2-02 (Minn. App. 2002): Where J & D required that support be paid "pursuant to guidelines" on the first $85,000.00 of obligor's net income, and also provided for COLA adjustments, a later court correctly rejected obligor's argument that a COLA should not be implemented because the guidelines formula in the J & D already provided for increases in his support as his income increased.	Formula for Automatic Adjustment in Support in J & D Does not Replace COLA
Schmidt v. Schmidt, (Unpub.), C5-02-49, F & C, filed 7-2-02 (Minn. App. 2002): Where J & D required that support be paid "pursuant to guidelines" on the first $85,000.00 of obligor's income, CSM erred by increasing the $85,000.00 salary cap by the 7.9% COLA, so that in the future the obligor would pay guidelines up to $91,715.00 in income. The more appropriate vehicle to adjust the salary cap would be a motion to modify under Minn. Stat. ' 518.64.	COLA Does Not Increase Salary Cap in J & D
In re the Marriage of Li-Kuehne v. Kuehne, (Unpub.), A05-2398, Filed 9/19/06 (Minn. App. 2006): The district court erred in denying Obligee's 2005 request for cost-of-living adjustment to maintenance, on the basis that the dissolution decree provided, "[d]uring the period of March 1, 2003 through August 31, 2009 the issue of spousal maintenance shall not be modifiable and the Court is without jurisdiction to modify spousal maintenance." The Court of Appeals reversed and remanded finding that a COLA is not a modification and as required by section 518.68, the statutory notice regarding COLAs was attached to the judgment and decree at Appendix A and states that "maintenance may be adjusted every two years based upon a change in the cost of living." The court noted that the parties had agreed to a *Karon* waiver, but stated that a *Karon* waiver cannot be read to preclude "adjustments" under section518.641, since a motion for modification is not the same as a request for a COLA. *McClenahan*, 461 N.W.2d at 511.	COLA: *Karon* waiver does not preclude COLA action.
Li-Kuehne vs. Kuehne, (Unpub.), A07-807, F & C, filed September 11, 2007 (Minn. App. 2007): Appellant argues district court abused its discretion in including a COLA to a step reduction in his maintenance obligation. The J&D of the parties provided the court was without jurisdiction to modify maintenance during the period of March 1, 2003 to August 31, 2009. (Appellant was to pay $12,500 per month from March 1, 2003 to August 31, 2006 and $10,000 per month from September 1, 2006 to August 31, 2009). This court previously reversed and remanded the issue of the application of COLA to maintenance to the district court, holding that there is nothing in the record to support the district court's denial of COLA under any of the exceptions listed in Minn. Stat. §518.641. On remand, the district court held that the Court of Appeals did not limit the COLA to the first maintenance amount, and applied COLA to the step-down amount. Appellant argues the change in maintenance acts as a step decrease that already reflects a decrease in the cost of living. The Court of Appeals held that their prior decision regarding the COLA issue is *res judicata*, precluding re-litigation of the issue.	COLA applies to spousal maintenance even where J&D provides court is without jurisdiction to modify spousal maintenance award.
Grachek vs. Grachek, (Unpub.), A07-1226, filed June 17, 2008 (Minn. App. 2008): Parties' agreement to waive the right to receive a cost of living adjustment to a spousal maintenance award must be expressed in the dissolution judgment in clear and express language. Where the waiver does not specifically express the intent of the parties to waive the COLA, an obligee has the right to seek a COLA.	COLA for spousal maintenance
Anderson v. Anderson, 897 N.W.2d 828 (Minn. App. 2017): An obligee is not entitled to a retroactive COLA to any date prior to when the statutorily required notice of the COLA adjustment was served. If a spousal maintenance award is disputed, a recipient of the disputed award can preserve any right to a biennial COLA by sending notice of the adjustment to the obligor.	COLA; Spousal Maintenance

Egwim v. Egwim, No. A19-1731, 2019 WL 5690702 (Minn. Ct. App. Nov. 4, 2019): Even if the CSM did not act pursuant to statutory authority, the CSM retains some equitable discretion in family law matters. In this case due to the unique facts, the CSM did not error by eliminating the interest accrued on the father's child support arrears.	COLA; Interest
Smith v. Young, Ramsey County Child Support, A23-1330, 2024 WL 1507610 (Minn. Ct. App. 2024): Only the obligor may bring a motion to stop a cost-of-living adjustment as the language of Minn. Stat. § 518A.75, subd. 2(a) is unambiguous.	Cost-of-Living Adjustments

II.I. - INCOME WITHHOLDING	
Minn. Stat. ' 518A.53 - Income Withholding; Minn. Stat. ' 518A.58 - stay of automatic withholding through establishment of escrow account; Minn. Stat. ' 518A.57 - a verified notice of the order may be served on payor of funds in lieu of the order; Minn. Stat. ' 268.155 - child support deducted from unemployment benefits. 42 USC 659 Annotated and Executive Order No. 12953, 2-27-01: Consent by United States to garnishment and income withholding for enforcement of child support and alimony obligations.	
Hadrava v. Hadrava, 357 NW 2d 376 (Minn. App. 1984): Error to deny obligee's request for IW provision.	IW
Moritz v. Moritz, 368 NW 2d 337 (Minn. App. 1985): Marital dissolution statute's specific provision addressing withholding from disability payments prevails over general disability exemption statute.	Pension/IW
Huckbody v. Freeburg, 388 NW 2d 385 (Minn. App. 1986): When an obligee requests the withholding language of Minn. Stat. ' 518.611, the trial court must grant the request.	IW
Biscoe v. Biscoe, 443 NW 2d 221 (Minn. App. 1989): It was error for the trial court to order outright income withholding and to reinstate the prior order if appellant failed to report changes in income or employment. The five conditions specified in Minn. Stat. ' 518.611, Subd. 2, were not met. Appellant was not 30 days in arrears and no written notice of income withholding was ever served upon him.	Income Withholding
Peterson v. Copper Sales, Inc., and CNA Ins. Co., (Unpub.), File No. 470-64-7069, filed 6-7-91 (Workers' Comp. Ct. App.): Once a workers' compensation judge has decided that an employee is entitled to periodic workers' compensation payments, any dispute over withholding of child support form those payments (pursuant to Minn. Stat. ' 518.611) must be litigated in the district court since that issue is outside the purview of the Workers' Compensation Act.	Workers' Compensation
Becker County Human Services v. Peppel, 493 NW 2d 573 (Minn. App. 1992): Supplemental Security Income (SSI), a form of public assistance unrelated to past earnings, is not subject to execution, levy, attachment, garnishment or other legal process under 42 USC '' 407(a) and 1383(d)(1).	SSI Not Subject to IW
Becker County Human Services v. Peppel, 493 NW 2d 573 (Minn. App. 1992): Disability benefits received based upon the wages earned during employment are attachable pursuant to 42 USC ' 659(a)(1988).	Wage-based Disability
Nerud v. Nerud, (Unpub.), C5-91-1558, F & C, filed 4-21-92 (Minn. App. 1992): An administrative law judge does not have discretion to order withholding for arrearages at a rate lower than 20% of the total monthly support obligation, once the statutory method of withholding is invoked.	Arrearages Lower than 20%
County of Nicollet v. Haakenson, 497 NW 2d 611 (Minn. App. 1993): A retroactive child support increase is not an arrearage, and therefore is not subject to automatic income withholding.	Automatic Withholding
State ex.rel. Blackwell v. Blackwell, 534 NW 2d 89 (IA.1995): Once judgment for reimbursement for public assistance expended and future support had been entered against father, and his child support obligations had accrued, parties' rights vested and district court, in granting dissolution and disestablishment of paternity, could not reduce or cancel accrued support retroactively. Agency could continue income withholding.	Effect of Disestablishment of Paternity on Collection of Accrued Support
Rouland v. Thorson, 542 NW 2d 681 (Minn. App. 1996): Father appealed from order of the district court increasing father's child support pbligation to $500 per month. The Court of Appeals held : (1) presumption that children's needs had increased existed; (2) old income tax debt is personal debt for purposes of child support determinations; (3) downward departure from support guidelines based on father's old income tax debt was not warranted; and (4) using tax emptions for father's new wife and stepchildren was proper when calculating father's support obligation. A party seeking departure from the guidelines has the burden of presenting evidence to support such a departure.	Burden on Person Seeking Departure
Erickson v. Erickson, (Unpub.), CX-95-2519, F & C, filed 6-18-96 (Minn. App. 1996): Where automatic income withholding continued after child's emancipation, and obligee continued to cash checks, it was proper for trial court to grant judgment against the obligee in favor of obligor for the amount of the over payment.	Overpayment

Erickson v. Erickson, (Unpub.), CX-95-2519, F & C, filed 6-18-96 (Minn. App. 1996): Minnesota courts have not adopted the general rule that the obligor does not get credit for overpayments; further, this rule may not apply to overpayments caused by income withholding. Result: depending on facts, obligor may or may not be able to get back or be credited for support he's over paid. He's more likely to get the money back if payment was through wage withholding.	Overpayment
Mikolai v. Mikolai, (Unpub.), C1-96-2001, F & C, filed 5-13-97 (Minn. App. 1997): In a proceeding for child support and maintenance arrears, district court's order refusing to enter income withholding order upheld where respondent had paid child support consistently.	Motion for I/W Denied
Campbell v. Campbell, (Unpub.), C8-96-2447, F & C, filed 6-3-97 (Minn. App. 1997): District court can order the Native American obligor to obtain a Tribal Court order for income withholding. District court can also order that child support be withheld from Native American obligor's income from the Indian tribe; the district order does not order the tribe to do anything, and the income is the obligor's money, not the tribe's money.	Employer is an Indian Tribe
Kludt v. Kludt, (Unpub.), C9-97-944, F & C, filed 12-30-97 (Minn. App. 1998): Minn. Stat. ' 518.611, subd. 2(a) does not mandate that the court establish an escrow account to facilitate payment of support where there are no arrears.	Establishment of Escrow Account
Grembowski v. Grembowski, (Unpub.), C7-97-1980, F & C, filed 5-26-98 (Minn App. 1998): A constructive trust from automobile accident proceeds was created to guarantee payment of future child support because of obligor's past failure to pay support. Lower court refused obligor's request to transfer funds from the trust to an escrow account under Minn. Stat. ' 518.614, so as to terminate income withholding. Court of appeals upheld lower court order, ruling that the purpose of the trust is to ensure child support when obligor is not working, and income withholding pays support when he has income.	Trust does not Replace IW
Goplen v. Olmsted County Support and Recovery Unit, 610 NW 2d 686 (Minn. App. 2000): In this case, child support payments continued to be made through income withholding for 18 months after the child reaching the age of majority, resulting in a $4,268.00 overpayment to the obligee. Obligor sought reimbursement from obligee and CSM ordered the county to institute income withholding against the obligee to recover the overpayment and cited Minn. Stat. '' 518.642 (1998) and 518.6195(a)(1998). Olmsted County appealed. The court of appeals ruled that neither statute cited by the CSM empowers a public authority to institute income withholding against an obligee in order to recover child support overpayments. The support statutes only provide for income withholding against an obligor, and Minn. Stat. ' 518.642 only permits recovery of overpayments from an obligee by offsetting arrearages or reducing child support payments.	Not Allowed Against CP
Rooney v. Rooney, 669 NW 2d 362 (Minn. App. 2003): A religious institution providing in-kind benefits to a church member is a payor of funds under Minn. Stat. ' 518.6111 (2002).	Church as Payor of Funds
Rooney v. Rooney, 669 NW 2d 362 (Minn. App. 2003): Where NCP performs services for a religious institution, and the religious institution provides NCP with a cash-based stipend, room and board, and other in-kind remuneration, the religious institution is subject to child-support withholding requirements as a payor of funds.	Church Providing In Kind Benefits is Subject to AIW
Rooney v. Rooney, 669 NW 2d 362 (Minn. App. 2003): Public authority may apply payor of funds AIW requirements to a religious institution without violating the Minnesota or federal constitutions.	Application to Church is Constitutional
Gerber and Gerber and County of Anoka, 694 NW 2d 573 (Minn. App. 2005): Because a court order is necessary to authorize the remedy of income withholding to collect child support and child support arrears, income withholding is a judicial remedy subject to the ten-year statute of limitations under Minn. Stat. § 541.04 (2004). The public authority is barred from collecting arrears under an expired judgment through income withholding. [Ed. Note: Petition for review to supreme court pending.]	Income Withholding is a Judicial Remedy and Subject to 10-Year Statute of Limitations
Gerber and Gerber and County of Anoka, 694 NW 2d 573 (Minn. App. 2005): Income withholding, a judicial remedy, is distinguishable from revenue recapture which is an administrative remedy. Thus, even though the 10-year statute of limitations barring collection of expired judgments does not apply to the remedy of revenue recapture, it does apply to the remedy of income withholding. [Ed. Note: Petition for review to supreme court pending]	AIW Distinguish-ed from Revenue Recapture

In Re the Marriage of Gerber v. Gerber, (Unpub.), A04-1538, filed June 1, 2006: Supreme Court of MN found that a county's attempt to collect on a child support arrearages judgment through administrative income withholding is not barred by the 10-year statute of limitations for actions on a judgment pursuant to Minn. Stat. § 541.04 (2004). The Court held that income withholding is not an "action" under the statute because it does not involve a judicial proceeding and is exclusively administrative in nature.	Income withholding is an administrative procedure not a judicial remedy. 10 year Stat. of Lim. on judgments does not bar IW.
Rooney v. Rooney, 782 N.W.2d 572 (Minn. Ct. App. 2010): Mother sued father's/ex-husband's employer for failing to withhold money from father's income to pay her child support. Employer was held liable to mother for failing to withhold, and the judgment was approximately $235,000.00 (included unpaid child support, spousal maintenance, interest, and cost of living adjustment). Mother then sought to recover attorney fees she incurred in getting the judgment. District court denied her motion for attorney fees because most of the attorney fees were incurred before the judgment against the employer was entered. Mother appealed. MN court of appeals held that Minn. Stat. § 518A.53, subd. 5(c) permits the recovery of attorney fees incurred prior to the entry of an arrearages judgment against a third-party payor of funds. Reversed and remanded for further consideration of mother's motion for attorney fees. Court said that mother could not seek to recover attorney fees incurred at prior stages of the district court activities in the case. Court expressed no opinion on whether mother was actually entitled to any attorney fees.	Judgment; Child Support; Income Withholding.
Huntsman v. Huntsman, County of Washington, Intervenor, A06-1064, Filed June 26, 2007 (Minn. App. 2007): The court rejected Obligor's argument that failure to issue a pre-withholding notice prior to implementing income withholding violated his due process rights. The court noted that the Obligor indeed was provided with notice of income withholding procedures along with his dissolution judgment. Moreover, the court found that neither state nor federal law requires an obligor be given pre-withholding notice prior to the implementation and administration of income withholding procedures because income withholding is an administrative action that the public authority may take without the necessity of obtaining an order from any judicial or administrative tribunal. The court further found that "support orders" include orders for spousal maintenance and income withholding procedures apply with equal force for spousal maintenance support orders.	INCOME WITHHOLDING Income withholding is administrative in nature

II.J. - MEDICAL SUPPORT	
Minn. Stat. ' 518A.41; 29 U.S.C. 1169(a)(7) - Qualified Medical Child Support orders; Minn. Stat. ' 518A.41 - medical support, national medical support notice.	
Swanstrom v. Swanstrom, 359 NW 2d 634 (Minn. App. 1984): Error for trial court not to consider Minn. Stat. ' 518.551, Subd. 8 and whether noncustodial parent should be required to provide medical insurance.	Must Consider Ordering
S.G.K. v. K.S.K., 374 NW 2d 525 (Minn. App. 1985): Proper to order father pay all medical expenses caused by his sexual abuse of daughter.	Medical Expenses
Fairburn v. Fairburn, 373 NW 2d 609 (Minn. App. 1985): Error not to order dependent medical coverage when it is available to obligor and there is no objection; support should be guidelines less the actual cost of dependent coverage. Deducting from support suggested, but this is not allowed after Thompson v. Newman, below.	When Available
Grunseth v. Grunseth, 364 NW 2d 430 (Minn. App. 1985): Where parties intended that husband provide group health insurance until wife remarried or husband's employment terminated, fact that group coverage terminated on husband's remarriage does not relieve husband of responsibility for continuing coverage at a cost to him.	Non-Group
Ronay v. Ronay (Ronay I), 369 NW 2d 6 (Minn. App. 1985): Proper to order self-employed obligor to maintain non-group medical insurance for benefit of children based on his greater ability to provide such coverage.	Non-Group
Weldon v. Schouviller, 369 NW 2d 308 (Minn. App. 1985): Within court discretion to increase child support on obligee's motion to hold obligor responsible for unreimbursed medical and dental expenses.	Unreimbursed Medical
Thompson v. Newman, 383 NW 2d 713 (Minn. App. 1986): Cost of a medical insurance premium cannot be considered part of the child support obligation amount determined under guidelines, but the cost must be deducted from gross income.	Deduct from Income
Novak v. Novak, 406 NW 2d 64 (Minn. App. 1987): Findings required on children's health and dental coverage in modification proceeding.	Modification
Mucha v. Mucha, 411 NW 2d 245 (Minn. App. 1987): Error to provide that medical insurance premiums could be credited against support obligation rather than deducting from net income.	Deduction from Net
Christenson v. Christensen, 490 NW 2d 447 (Minn. App. 1992): District court properly entered judgment against former husband who failed to provide health insurance premiums in violation of J&D for the estimated amount of medical insurance premiums he would have paid had he provided the medical insurance he was ordered to pay. He was not entitled to forgiveness of such arrearages, since to do so would be a retroactive modification not permitted under Minn. Stat. § 518.64, subd. 2c.	Judgment Properly Entered in Amount of Health Insurance Premiums not Paid.
Colton v. Colton, No. A12-0347, 2012 WL 5381861 (Minn. Ct. App. Nov. 5, 2012): In a dissolution judgment, the district court granted the Respondent child support arrears and medical expenses reimbursements. The district court assigned the Appellant potential income order Appellant to pay $300 per month in child support arrears and one-half of the child's past medical and dental expenses. The Appellant argued the district court abused its discretion. The appeals court rejected this argument because the district court divided the responsibility for past reimbursed medical/dental expenses in manner that mirrored the parties agreement of future expenses, and therefore, did not abuse its discretion. Further, the appeals court found, in light of the assets awarded to the Appellant, the payment of $2,953.90 for unreimbursed medical/dental expenses was not unreasonable.	
Case v. Case, 516 NW 2d 570 (Minn. App. 1994): Statutory definition of medical expenses does not include private investigators fees incurred to locate a child whose health and safety was endangered.	Definition of Medical Expenses
Nordstrom v. Nordstrom, (Unpub.), CX-94-579, F & C, filed 8-23-94 (Minn. App. 1994): It was not error for ALJ to order AP to pay $300.00 per month for children's medical insurance where children would otherwise be covered by medical assistance.	Medical Assis-tance not Health Insur-ance Coverage

State of Minnesota, by its agent, County of Anoka, o/b/o Nelson v. Johnson, (Unpub.), CX-94-1165, F & C, filed 12-13-94 (Minn. App. 1994): Minn. Stat. ' 518.171, Subd. 1(a) precludes consideration of MinnesotaCare in apportioning responsibility for health care costs. Therefore, ALJ did not err in ordering obligor to provide health and dental coverage and to pay 75% of child's uninsured medical and dental expenses where child was previously covered by MinnesotaCare.	Minnesota Care
Benson and Ramsey County v. Allan, (Unpub.), C4-94-2408, F & C, filed 5-9-95 (Minn. App. 1995): It was not improper for court to find that obligee had better medical coverage, and to require obligor to pay half, even though coverage through obligee's employment cost $34.00 per month and obligor's coverage would have been free where (1) child has special needs for ongoing medical care which has been previously provided through obligee's insurance providers; (2) child could risk loss of coverage at some point if coverage was lost under obligee's policy; and (3) obligor submitted no evidence to support his claim that his insurance provided better coverage.	Better Medical Coverage
Jackson v. Jackson, (Unpub.), C1-96-488, F & C, filed 10-15-96 (Minn. App. 1996): Judgment for medical support arrears upheld in a case where judgment and decree ordered father to reimburse mother for medical costs of child, even though mother did not seek reimbursement for three years after judgment and decree.	Laches no Bar to Medical Support Arrears
Warren v. Ruffle, (Unpub.), C0-96-1163, F & C, filed 2-18-97 (Minn. App. 1997): Error for court to not address the child's unreimbursed medical expenses under Minn. Stat. ' 518.171, Subd. 1(a) (1996).	Unreimbursed Medical
Arnette v. Babin, (Unpub.), C2-96-1990, F & C, filed 7-8-97 (Minn. App. 1997): Medical support cannot be imposed retroactively from the date the order was entered.	No Retroactive Establishment
Malzac v. Wick, (Unpub.), C1-97-1296, F & C, filed 1-20-98 (Minn. App. 1998): The $100.00 per month obligor was required to pay for ongoing medical support and medical assistance was not deductible from income for purposes of application guidelines.	Dollar Amt Med Support Not Deducted from Income
County of Dodge and Eckhoff v. Page, (Unpub.), C5-98-319, F & C, filed 10-13-98 (Minn. App. 1998): If custodial parent provides medical insurance for multiple children, not all of whom are obligor's children, obligor can only be required to reimburse obligee for that portion of the premium attributable to his children.	Portion of Premium Attributable to Obligor's Child
Rooney v. Rooney, (Unpub.), C9-98-1893, F & C, filed 5-4-99 (Minn. App. 1999): Even though NCP's medical coverage was cheaper than CP's, ALJ properly provided that CP should provide coverage, when ALJ found that NCP, based on his history of refusing coverage, could not be trusted to insure the child.	Better Medical Coverage
Casper and Winona County v. Casper, 593 NW 2d 709 (Minn. App. 1999): It was proper for ALJ to order obligor to pay $50.00 per month for ongoing medical support plus 100% reimbursement for unreimbursed expenses even though his sole source of income was SSA.	Obligor on SSA Required to Pay Medical Support
Kowaliw v. Kowaliw, (Unpub.) C1-99-5, F & C, filed 7-6-99 (Minn. App. 1999): Where custodial parent submits documentation showing what medical services were provided, that the services were provided by medical professionals, and the amount charged for each service, absent evidence to the contrary, such evidence was sufficient to prove that the medical expenses incurred by the mother for the son were reasonable and necessary.	Evidence of Reasonable and Necessary Expenses
Hawkinson v. Hawkinson, (Unpub.), C5-99-296, F & C, filed 8-3-99 (Minn. App. 1999): District court erred in refusing to enforce the court order that the parent contribute to the children's medical expenses. The parent was bound by the court order, even though the other parent told her she need not pay her share of the medical expenses. Medical support is child support and a private agreement between the parents to modify a court order for support is invalid because support is the child=s right, not the parents.	Private Agreement Between Parents to Waive Medical Support Invalid
Johnson v. Roeller, (Unpub.), C3-98-2019, F & C, filed 5-10-99 (Minn. App. 1999): Trial court ordered father to pay half of the cost of mother's health insurance. Insurance covered mother, child of the parties and mother's two other children. Court of appeals reduced father's contribution to one-fifth of total cost.	Child's Portion

Shields v. Frankenfield, (Unpub.), C4-99-1696, F & C, filed 3-28-00 (Minn. App. 2000): Minn. Stat. ' 518.171, subd. 1(b)(1998) does not permit a court to award medical support of $50.00 per month when insurance coverage is available to a party.	Order $50 only if no Insurance
Shields v. Frankenfield, (Unpub.), C4-99-1696, F & C, filed 3-28-00 (Minn. App. 2000): Court erred in failing to award reimbursement for past medical expenses incurred from the date of the motion where there was no factual dispute as to the amount claimed and where the court did not find the expenses to be unreasonable.	Past Medical Expenses
Erickson v. Fullerton and Health Partners, obo Minnesota Care, 619 NW 2d 204 (Minn. App. 2000), C8-00-607, F & C, filed 12-4-00: Minnesota Care under Minn. Stat. ' 256L is not insurance under Minn. Stat. ' 60A, nor is it a health plant under ' 62A.095, even when the state contracts with a health plan to provide services under the state program.	Minnesota Care not Insurance
In Re: the Paternity, Custody and Support of L.A.Q., (Unpub.), C7-01-1306, F & C, filed 4-9-02 (Minn. App. 2002): The court erred when it ordered the parties to split equally the cost of unreimbursed medical expenses. Minn. Stat. ' 518.171, Subd. 1(d) (2000) required the division to be proportionate to the parties= net income.	Unreim. Meds must be Proportion-ate
Thompson v. Thompson, (Unpub.), C6-01-2222, F & C, filed 6-11-02 (Minn. App. 2002): Where the dissolution decree required that mother provide health insurance for the parties' children, mother was unable to provide health insurance, and the children were insured by father's wife of his subsequent marriage, father is entitled to reimbursement by mother for the amounts paid by his spouse through payroll deductions, and the amount her salary was reduced in exchange for her employer providing family health coverage.	Provided by Obligor=s New Spouse
Hennepin County and Bohn v. Peters, (Unpub.), C2-02-1921, filed 6-24-03, (Minn. App. 2003): It was error for CSM to require both parties to maintain health coverage. Minn. Stat. ' 518.171, Subd. 1(a)(2)(2002) requires the court to determine which party has the better coverage and order that party to provide health insurance.	Determination of Better Coverage
Hennepin County and Bohn v. Peters, (Unpub.), C2-02-1921, filed 6-24-03, (Minn. App. 2003): When the court orders a party to provide medical support, the cost of the coverage must be deducted from that party's net income, in order to determine the proportionate share of the cost for each party. Minn. Stat. ' 518.551, Subd. 5(b)(vi); ' 518.171, Subd. 1(a)(2).	Deduct Cost of Medical Coverage From Net
Storm v. Siwek, (Unpub.), C4-03-280, filed 7-8-03 (Minn. App. 2003): It is in the discretion of the court whether it is just to order retroactive medical support under Minn. Stat. ' 257.66, subd. 4.	Retroactive Medical Support
Holt and County of Becker v. Holt, (Unpub.), A03-1795, filed 7-20-04 (Minn. App. 2004): In case where J&D required obligor to provide health insurance, and he failed to do so, the CSM entered judgment against him for the entire amount of MA expended as a result of his failure to provide insurance. The appellate court in Holt, distinguishing Christenson, 490 NW 2d 447 (Minn. App. 1992), held that medical assistance reimbursement may be obtained under Minn. Stat. § 256.87 (as past public assistance expended), but the amount recoverable must be based on obligor's ability to pay during that period. Court must make findings justifying ruling. Ed. Note.- If the County brought the motion for judgment under the decree, and not as a new § 256.87 action, why wouldn't Christenson have allowed the court to at least enter judgment for the amount that the obligor should have paid in premiums? § 256.87 should not limit the amount that can be reimbursed where there is a prior enforceable order.	Reimburse-ment of Medical Assistance must be Based on Ability to Pay During Recovery Period
Maples v. Maples, (Unpub.), A03-1878, F & C, filed 9-21-04 (Minn. App. 2004): Where CP requested in her motion reimbursement of insurance premiums and unpaid medical expenses, due the lapse in insurance coverage NCP had been ordered to provide, but did not provide affidavits, testimony or other evidence of the expenses, it was improper for the court to order the NCP to reimburse her expenses.	Order for Pay-ment of Past Medical Expenses Requires Evidence of the Expenses

Demaris v. Demaris, (Unpub.), A04-1627, F & C, filed 5-3-05 (Minn. App. 2005): In a MTM proceeding in which child support was increased due to increase in obligor's net income, the court should also have adjusted the % of unreimbursed meds obligor is responsible to pay, since the prior allocation would be inconsistent with the parties' current incomes.	Should Adjust Unreimbursed Meds % if Modifying Child Support due to Change in Income.
In Re the Marriage of Kim Marie Bunce vs. John Russell Bunce, A05-1722, Hennepin County, filed 7/11/06: On remand, the district court required the Appellant to pay half of the medical insurance costs for the child "K." Appellant challenged this finding because in the original judgment Kim Bunce was required to provide the insurance. The Court of Appeals held that the district court's decision is appropriate because when a child support issue is sent back for remand, all aspects of the financial package ought to be eligible for reconsideration.	Medical support; procedural issues
In re the Marriage of: Chaharsooghi v. Eftekhari; Minn. Ct. App. Unpub. (A05-2259): Joint physical custody case. Appellant-husband appealed denial of his modification motion. Dissolution required appellant to pay child support, pay all premiums for the children's medical insurance, all uninsured or unreimbursed medical and dental expenses for R.E. and ½ of O.E.'s expenses, all expenses for tutoring both children through Sylvan Learning Center, and apportion the costs for extracurricular, recreational or other activities the children participate in if the parties agree to the participation. The child R. E. ultimately was sent out of state to a boarding school. Appellant had agreed to fully bear the costs and respondent reluctantly agreed to send the child to the school. Appellant moved to reduce his support obligation and modify the decree such that the parties would be responsible of ½ of the extraordinary expenses of both minor children. The child support magistrate denied the motion finding appellant failed to proof a substantial change in circumstances, and the district court affirmed. The appellate court held that while the parties were not aware of the child's "recently diagnosed" nonverbal learning disability at the time of the dissolution, they were generally aware that the child is a special needs child and were cognizant of the financial issues concerning the child's disabilities. Special concurrence held that expenses were known to both parents at time of dissolution, and current expenses, though significant, did not constitute a change in circumstances that makes the child support obligation unreasonable or unfair.	extraordinary educational and medical expenses
In re the Marriage of Eric Thomas Amundson v. Rachel Louise Amundson, (Unpub.), A06-514, Chisago County, filed January 23, 2007 (Minn. App. 2007): The district court erred in the calculation of appellants monthly net income, the calculation of arrears, and did not make specific findings regarding the children's health insurance. The issues are remanded for reconsideration by the district court. The district court must order the party with the better dependant health-insurance coverage available on a group basis or through an employer or union to name the minor as beneficiaries. (Citing Minn. Stat. §518.171, subd. 1(a)(2) (2004).	Court must order the party with the better dependant health insurance to carry the dependants.
In re the Marriage of: Thomas Caroll Rubey v. Valerie Ann Vannett, (Unpub.), A05-310, filed May 15, 2007 (Minn. App. 2007): The district court ordered appellant to pay the child's entire medical insurance costs. Court of Appeals held even where the insurance costs are minimal, the district court must follow §518.551, subd. 5, which requires that both parties be responsible for paying the child's health care costs in proportion to their net incomes.	Even where medical costs for child minimal, court must require both parties to contribute to the costs.
Lewis vs. Lewis, (Unpub.), A06-2236, F & C, filed September 11, 2007 (Minn. App. 2007): Respondent husband challenges the district court's findings that appellant does not have the ability to contribute to any uninsured medical expenses for the minor children of the parties. Because the record supports the district's decision, the Court of Appeals affirmed.	Uninsured medical expenses contribution.
Sperling vs. Sperling, (Unpub.), A07-980, F&C, filed April 29, 2008 (Minn. App. 2008): Father ordered to provide medical in J&D. Moves for modification. Mother asserts that because of an increased medical deductible of $5000, the coverage father has obtained is not "the same or comparable" to the insurance provided during the marriage. Father is to provide insurance coverage, and the decree does not permit him to shift a significant cost of coverage to mother.	Medical insurance- new coverage requiring $5000 deductible not "comparable".
Weiss v. Griffin, No. A16-0340, 2016 WL 6141644 (Minn. Ct. App. Oct. 24, 2016): The court must order the division of unreimbursed and uninsured medical and dental expenses based on the parites' combined monthly PICS unless the parties agree to a different division.	Unreimbursed/ uninsured expenses

Hansen v. Todnem, 891 NW 2d 51 (Minn. App. 2017): Courts are not limited to $15,000 for monthly combined parental income for child support. District Court has discretion to consider premiums, deductibles and copays when determining the affordability of a health care policy.	Guidelines; Medical Support
In Re the Marriage of: Neumann vs. Neumann, No. A18-2119 (Minn. Ct. App. Sept. 16, 2019): The procedure for collecting uninsured/unreimbursed medical and dental expenses can be stipulated to, so that certain expenses that would normally be collected cannot.	Unreimbursed /Uninsured Medical and Dental Expenses
In re Custody of B.L.F., No. A18-1852, 2019 WL 3776017 (Minn. Ct. App. Aug. 12, 2019): The Court lacks authority to modify support if the parites do not move for a modification of child support. The court did not err in addressing child support when the motion included a request for "such other relief as the Court deems just, fair, and equitable" and an evidentiary hearing was held on the issue of child support. There was no abuse of discretion for calculating parenting time differently for purposes of child support than the parenting time order as it reflected the statutory differences. The court abused its discretion by ordering a medical support contribution when the minimum support order applied and no findings were made to rebut the presumption.	Modification of Custody and Parenting Time; Medical Support; Guidelines.
Rupp v. Felten, No. A19-0135, 2019 WL 5884568 (Minn. Ct. App. Nov. 12, 2019): When addressing child care costs the court must require verification of employment or school attendance. The court did not abuse its discretion by not awarding child care costs. To receive reimbursement for unreimbursed and uninsured medical expenses, the party must provide notice to the other party within the statutory time frame or time frame outlined within the judgment and decree.	Unreimbursed/ Uninsured expenses; Child Care
Dancour v. Dancour, A19-1854, 2020 WL 5624128 (Minn. Ct. App. Sep. 21, 2020): A party must present evidence of their current insurance costs in order to modify a medical support obligation. A provision that requires the parties to share in the expenses for their minor child, unless they agree otherwise; does not require the expense to be preapproved.	Medical Support
Beland v. Beland, A20-1070, 2021 WL 1081487 (Minn. Ct. App. Mar. 22, 2021): If parties agree to a child care support amount lower than the statutory PICS percentage, a party is not entitled to a retroactive modification just because the actual expenses decrease. If a party voluntarily begins providing secondary insurance, the CSM is not obligated to require the other parent to contribute to the cost of that coverage.	Child Care Support; Medical Support; Modification
In re the Marriage of: Leak v. Leak, A20-1049, 2021 WL 3478409 (Minn. App. 2021): The district court is not required to consider all 12 best interest factors in a motion for modification – only the relevant best interest factors. A party can not unilaterally decide that they are not responsible for unreimbursed/uninsured medical/dental expenses for providers that are not in their health insurance network.	Unreimbursed/ Uninsured Expenses-Collecting
Saenz and Brown County Human Services v. Horman, A20-1213, 2021 WL 4144015 (Minn. App. 2021): Court of Appeals affirms the district court decision denying mother's request for reimbursement of medical expenses because the language of the stipulation was not ambiguous- "unpaid" means a bill that has not yet been paid, and mother and her husband had paid the medical expenses for which she was seeking reimbursement.	Past Support-Paternity; Unreimbursed/ Uninsured Expenses-Ordering; Reservation
Arensburg v. Arensburg, A22-1608, 2024 WL 74433 (Minn. Ct. App. 2024): The district court erred by not including father's monthly bonus in its child support calculation, as bonus income is income per and should be included, erred by ordering mother to pay father medical support for healthcare coverage that included a non-joint child, and erred in its determination of mother's childcare expenses. The district court's award of joint physical custody and denial of past support is affirmed.	Bonuses, Commissions, etc. as Gross Income; Gross Income-Calculation; Medical Support, Generally
Rasmussen v. Rasmussen, A23-0087, 2024 WL 77560 (Minn. Ct. App. 2024): A nonjoint child deduction doesn't apply when the mother is currently pregnant. Specific findings addressing statutory factors on appropriate healthcare coverage are required.	Appropriate Health Care Coverage; Non-joint Child Deduction

In the Marriage of Pamela Huyck vs. Kevin Lee Huyck, No. A24-0613, 2025 WL 586025 (Minn. Ct. App. Feb. 24, 2025): The district court did not abuse its discretion when it modified the parties' parenting time schedule. The district court harmlessly erred in its medical support calculation and did not abuse its discretion by allocating a childcare cost to respondent-wife.	Childcare Support; Medical Support; Parenting Time; Written Findings Required in All Child Support Cases

II.K. - CHILD CARE EXPENSES	
Minn. Stat. ' 518A.40; Minn. Stat. ' 256.741, Subd. 2(c), Subd. 4 - assignment of child care support collections.	
Dulian v. Dulian, (Unpub.), C9-96-1212, F & C, filed 1-28-97 (Minn. App. 1997): Where judgment set child support but did not address the allocation of child care expenses, but court at subsequent hearing found that child care expenses were specifically contemplated by the parties at the time of the judgment, it was proper for court to treat request for child care expenses as a MTM child support rather than initial establishment, requiring "substantial change" standard.	Failure of Judgment to Address
Jones v. Jarvinen, 814 N.W.2d 45 (Minn.App.2012): Court of Appeals found that because of the plain language of § 518A.39, subd. 7, providing that child care support must be based on actual child care expenses and a court may provide a decrease in child care support based on a decrease in actual child care expenses effective as of the date of the decrease, the district court is permitted to look beyond the date of the filing of the modification motion to grant retroactive relief in circumstances where it is appropriate. Court of Appeals also found that a district court may determine parenting time either by calculating the number of overnights a child spends with a parent or by using an alternative method if the parent has significant time periods on separate days where the child is in that parent's physical custody and under their direct care. Since a court is allowed to use either method to determine parenting time, the CSM did not abuse its discretion by using the overnight method to calculate parenting time. The Court held: (1) A court may retroactively modify a child-care support obligation beyond the date of the filing of the modification motion to provide a decrease in child-care support that is effective as of the date that the expense is decreased.	Child Care Expenses.
Rolbiecki v. Rolbiecki, (Unpub.), C2-96-2539, F & C, filed 5-20-97 (Minn. App. 1997): ALJ's formula for allocating child care costs upheld.	Formula for Calculation
Klingenschmitt v. Klingenschmitt, 580 NW 2d 512 (Minn. App. 1998): Where day care costs vary due to vacations and actual day care costs, it was proper for ALJ to set an amount definite for ongoing child care contribution payments based on a monthly average under Minn. Stat. ' 518.551, subd. 5(b)(2)(ii)(E)(1996).	Variable Cost
Klingenschmitt v. Klingenschmitt, 580 NW 2d 512 (Minn. App. 1998): Once a child care obligation is terminated because a party notifies the public authority that she was no longer incurring child care, a motion is required in order to reinstate the terminated obligation. The statute allows for termination of the obligation without legal action, but does not provide that the obligation may be reinstated without legal action.	Reinstate-ment Requires a Motion
Marcino v. Marcino, (Unpub.), C7-98-869, F & C, filed 11-17-98 (Minn. App. 1998): District court order setting day care allocation in a set dollar amount rather than a percentage of costs upheld in a case where respondent alleged but did not provide evidence that costs vary on a monthly basis.	Fixed Amount
Janasz v. Janasz, (Unpub.), C4-98-960, F & C, filed 12-29-98 (Minn. App. 1998): Where custodial parent both hired a nanny and paid for extended day program at the children=s school, for the early morning hours, it was proper for ALJ to exclude nanny expense from the child care calculation. Legitimate work-related child care costs did not include both.	Exclusion of Duplicate Expense
Fitzgerald v. Fitzgerald, 629 NW 2d 115 (Minn. App. 2001): The net income cap for purpose of the child support calculation does not apply to the net income figure used for calculation of a party's child care contribution.	No Net Income Cap
Atwater v. Anderson, (Unpub.), C4-01-744, F & C, filed 1-22-02 (Minn. App. 2002): It is reasonable for NCP to be required to pay child care reimbursement for the cost of overnight supervision of teenage children whose CP works a night shift.	For Teenager
Morell v. Milota, (Unpub.), C7-01-1547, F & C, filed 4-16-02 (Minn. App. 2002): The district court erred when it did not calculate the child care contribution in accordance with Minn. Stat. ' 518.55, Subd. 5(b) (Supp. 2001) which requires consideration of both parties= net monthly income.	Calculation of ccc.
Ramsey Co. o/b/o Pierce County, Wisconsin v. Carey, 645 NW 2d 747 (Minn. App. 2002): An income below the federal poverty line renders payment of child care costs presumptively unreasonable.	Below Poverty Line

Walswick-Boutwell v. Boutwell, 663 NW 2d 20 (Minn. App. 2003): When calculating the obligor's child care contribution, the court should subtract from the obligor's net income his child support payment, his monthly marital property payment, and his monthly dependent health coverage payment.	Calculation of
Horsman v. Horsman, (Unpub.), C5-02-2254, filed 6-17-03, (Minn. App. 2003): Physical custodian has the exclusive authority to choose a daycare provider. Daycare is not education, therefore decisions regarding who should provide daycare for a child are not decisions in which a joint legal custodial has an equal right to participate.	Joint Legal Custodian Cannot Decide Daycare Placement
Nightingale v. Nightingale, (Unpub.), AO4-217, F & C, filed 8-17-04 (Minn. App. 2004): Where CP, who has frequent out-of-town trips as a flight attendant, hired a nanny to care for the parties' 14-year-old child when she was out of town, it was proper for the court to require the NCP to pay his proportionate share of the child care expenses. The nanny expenses are child care costs under Minn. Stat. § 518.551, Subd. 5(b), even though they are not "daycare expenses" and even though no tax credit is allowed for dependent-care expenses for children over the age of 13.	Expense for Nanny for 14-year-old Qualifies for Child Care Contribution by NCP
Demaris v. Demaris, (Unpub.), A04-1627, F & C, filed 5-3-05 (Minn. App. 2005): In an order where ongoing child support is modified, but the request for modification of day care expenses was denied, the court of appeals held that because the current order did not amend the allocation of child care costs in the earlier order, the allocation as set out in the earlier order remained in effect. However, because the obligor's income had changed, the allocation should have been readjusted, and the matter was remanded to district court to determine the new allocation.	Child Care Aallocation should be Readjusted when the Parties' Income Changes in a MTM Proceeding.
In Re the Marriage of Ronayne vs. Ronayne, (Unpub.), A05-547, F&C, filed December 27, 2005 (Minn. App. 2006): Obligor's child care obligation was reserved until he had completed paying spousal maintenance for 10 months. The district court made adequate findings and did not abuse its discretion when it ordered the father, the obligor, to pay mother 50% of the child care expenses retroactive to the month spousal maintenance terminated. The fact that the father was going to have to forego his cell phone, his cable TV service, and his water softener rental in order to pay half the child care was not substantially unfair.	Prospective and retroactive child care contribution justified
Husman v. Husman, No. A12-1584, 2013 WL 1943049 (Minn. Ct. App. May 13, 2013): The Respondent had applied for public assistance for the child, but was denied on two occasions. The son turned 18 on October 2011, and withdraw from high school on December 7, 2011. The son was hospitalized from January 11 through the January 16, 2012 incurring medical and dental expenses in the amount of $23, 759.75. The Respondent submitted an affividait to the district court requesting that the Appellant reimburse her 50% of those expenses. The Appellant contested his liability on the grounds the son reach 18 and was withdraw from schoolThe district motion granted the Respondent's motion because she had exhausted all options in obtaining public assistance and made diligent efforts to have the bills reduced dud the fact that they would be paid out of pocket. The appellate court found because the Appellant's was to maintain health insurance until the Appellant "is no longer entitled to continue dependent health insurance coverage under…his insurance policy." A health plan must define a "dependent" no more restrictively than defined in section 62L.02. Minn. Stat. § 62A.302, subd. 2. Pursuant to Minn. Stat. § 62L, subd. 11 (2012), defines "dependent" to include an unmarried child under the age of 25, which means the Appellant was entitled to continue dependent coverage for the son, and thus, required to maintain health-insurance for the son despite that he was an emancipated adult. The Appellant also argued he was not obligated to pay the medical expenses because the dissolution judgment stated that the mother was required to apply for both MinnestoaCare or Medical Assistance. Appellant contended the Respondent only applied for Medical Assistance and never applied for MinnesotaCare, and therefore, his obligation to obtain health insurance was never triggered. The court of appeals rejected this argument because the issue was never raised in the lower courts and was not properly before the court of appeal.	
Beckendorf v. Fox, 890 NW 2d 746 (Minn. App. 2017): Documentation of child care expenses for purposes of seeking childcare support unider Minn.Stat. § 518A.40, may include prospective child care costs.	Child Care Support

In re the Marriage of: Swenson v. Pedri, No. A17-0616 (Minn. Ct. App. Dec. 26, 2017): Unless parties agree to an alternative effective date, the modification of support can only go back to service of the motion to modify. The court may decline to consider new evidence on a motion for review when a party has not previously requested authorization to submit new evidence. When a reduction to income was used to calculate support in the original judgment and decree the district court is not required to use the reduction in its current modification, when the original judgment did not state that the reduction would be used for future calculations nor was the reduction applied when calculating income in the prior modifications. When the court is not provided with evidence necessary to apportion child care expenses, the court was within its discretion to order each parent to be responsible for his and her own child-care expenses.	Child care support, gross income, modification, effective date
In re the Marriage of: Hobday v. Hobday, No. A19-0284, 2020 WL 994746 (Minn. Ct. App. 2020): It is not an abuse of discretion to decline to make a modification of child care support retroactive to the date the child care expenses decreased when a court weighs the equities.	Modification effective date
Beland v. Beland, A20-1070, 2021 WL 1081487 (Minn. Ct. App. Mar. 22, 2021): If parties agree to a child care support amount lower than the statutory PICS percentage, a party is not entitled to a retroactive modification just because the actual expenses decrease. If a party voluntarily begins providing secondary insurance, the CSM is not obligated to require the other parent to contribute to the cost of that coverage.	Child Care Support; Medical Support; Modification
Larson v. Larson, A23-1369, 2024 WL 2130757 (Minn. Ct. App. 2024): The district court erred in its calculation of appellant-father's income by not properly applying Minn. Stat. § 518A.30 and ignoring *Haefele v. Haefele*, 837 N.W.2d 703, 711 (Minn. 2013), but correctly maintained the parties' "childcare" payment and correctly denied father's motion for conduct-based attorney fees.	Bonuses, Commissions, etc. as Gross Income; Calculation of Gross Income; Income Calculation/Determination of Gross Inc.; Childcare Support; Childcare Decrease
In re the Marriage of: Towobola Abimbola Oladejo vs. Olanrewaju Muideen Oladejo, No. 23-1609, 2025 WL 440097 (Minn. Ct. App. Feb. 10, 2025): The Court of Appeals affirms the district court's rulings on the issues of joint legal and joint physical custody, the calculation of basic support, and the finding of no childcare costs. The issue of whether marital or non-marital funds were used to pay the mortgage on the marital home after the valuation date is remanded as it affects husband's equity equalizer payment to wife.	Best Interest of Child-Custody; Custody; Basic Support-Definition; Basic Support-Guideline Table; Childcare Support (Support $)-Definition; Guidelines Table for Basic Support; Modification
In the Marriage of Pamela Huyck vs. Kevin Lee Huyck, No. A24-0613, 2025 WL 586025 (Minn. Ct. App. Feb. 24, 2025): The district court did not abuse its discretion when it modified the parties' parenting time schedule. The district court harmlessly erred in its medical support calculation and did not abuse its discretion by allocating a childcare cost to respondent-wife.	Childcare Support; Medical Support; Parenting Time; Written Findings Required in All Child Support Cases

II.L. - CONTEMPT	
Minn. Stat. ' 393.07, Subd. 9 - power to compel persons to pay child support; Minn. Stat. ' 518A.71 - states presumption that obligor has income sufficient to pay a support order, and failure to pay the order is prima facie evidence of contempt; Minn. Stat. ' 518A.72 - Contempt Proceedings for Nonpayment of Support - includes order for community service; presumption that an obligor is able to work full-time; Minn. Stat. ' 518A.73 - employer contempt; Minn. Stat. ' 588.01-588.21 (includes: ' 588.10 - punishment by fine of up to $250.00 or by imprisonment of not more than six months or both; ' 588.20 - criminal contempts); Family Court Procedure Rule 309.01 - requirement that proceedings be initiated by personal service of an Order to Show Cause, and contents of the OSC; Required contents of supportive and responsive affidavits; Rule 309.02 - hearing; Rule 309.03 - sentencing, affidavit of non-compliance, and writ of attachment. Minn. Stat. ' 518.6195 (1997)-collection remedies continue after emancipation.	
Ryerson v. Ryerson, 260 NW 530 (1935): A person found in contempt of court may not purge himself by showing that he has voluntarily placed himself in a position where he is unable to conform to the court's order, when...he has allowed the means of complying with that order to pass through his hands and out of his control.	Meeting Purge Conditions
Richardson v. Richardson, 15 NW 2d 127 (Minn. 1944): Once the terms of a temporary support order have merged in a divorce judgment and decree, the temporary order is no longer enforceable, and contempt proceedings cannot be based on the terms of the temporary order.	Based on Temporary Order
Lieder v. Staub, 230 Minn. 460, 42 NW 2d 11 (Minn. 1950): The legislature did not authorize the court to use contempt proceedings to enforce payment of accrued child support after the child reaches the age of majority. (But see Polk County o/b/o Whitten v. Olson (Minn. App. 2002).	Payment on Arrears
Hopp v. Hopp, 156 NW 2d 212 (Minn. 1968): Following required for civil contempt: 1) Jurisdiction; 2) Decree defines obligations; 3) Notice and reasonable time to comply; 4) Application to court for aid; 5) Opportunity to show compliance or reasons for failure; 6) Formal determinations; 7) Ability to perform (burden on defendant to show inability); 8) Release by compliance.	Requirements for Civil Contempt Discussed
Hampton v. Hampton, 229 NW 2d 139 (Minn. 1975): Contempt proceedings not available to enforce support orders for children after age 18, even though the support obligation continues to age 21.	Age of Majority
Cox v. Slama, 355 NW 2d 401 (Minn. 1984): Counsel must be appointed for indigent obligor facing civil contempt for failure to pay child support, only when the court reaches a point in the proceedings that incarceration is a real priority. Trial *de novo* after counsel appointed.	Free Counsel
Barth v. Barth, 356 NW 2d 743 (Minn. App. 1984): Indigent obligor charged with civil contempt entitled to court-appointed counsel at such time as court deems incarceration a real possibility. Right attaches before entry of conditional order for incarceration.	Free Counsel
Barth v. Barth, 356 NW 2d 743 (Minn. App. 1984): Court does not have to treat motions for contempt and judgment as in the alternative although it may elect to do so.	Contempt and Judgment
Tell v. Tell, 359 NW 2d 298 (Minn. App. 1984): Refusing to comply with decree constitutes disobedience of lawful judgment and therefore constitutes contempt.	Generally
Erickson v. Erickson, 367 NW 2d 685 (Minn. App. 1985): A contempt order is within the discretion of the trial court.	Court: Discretion
Henry v. Henry, 370 NW 2d 43 (Minn. App. 1985): Independent determinations regarding attorney fees and child support arrearages not affected by trial court's failure to determine indigence before proceeding with contempt hearing.	Indigence Determination not Required on Non-Con-tempt Issues
Ronay v. Ronay (Ronay II), 369 NW 2d 12 (Minn. App. 1985): Contempt order proper for obligor who voluntarily reduces his working hours to devote time to dissolution.	Voluntarily Reducing Work
Prebil v. Juergens, 378 NW 2d 652 (Minn. App. 1985): Contempt finding improper when court failed to consider appointment of counsel at contempt hearing when father said he could not afford counsel.	Appointment of Counsel
Erickson v. Erickson, 385 NW 2d 301, 304 (Minn. 1986): The district court has broad discretion to hold an individual in contempt.	Broad Discretion of Court
Keil v. Keil, 390 NW 2d 36 (Minn. App. 1986): Partial payments deemed willful failure to comply with Court order.	Partial Payments

Looyen v. Martinson, 390 NW 2d 465 (Minn. App. 1986): No abuse of discretion in failing to find willful failure to pay when obligor honored farm debts, utilities and insurance before paying child support because if obligor did not pay farm debts or buy farm supplies he would not be able to support his family or meet any child support obligation.	Farm Debts
Maher v. Maher, 393 NW 2d 190 (Minn. App. 1986): 90 day jail sentence with provision for release upon payment of support due was within court's discretion where father had greater ability to comply with order than demonstrated.	90-Day Jail Sentence
Rose v. Rose, 107 S.Ct. 2029 (1987): Tennessee statute pursuant to which veteran was ordered by state divorce court to pay child support from his veteran's disability benefits was not preempted by federal statute giving Administrator of Veteran's Affairs authority to apportion compensation on behalf of children. Can hold veteran in contempt where sole source of income is veteran's disability benefits. Disability benefits may be exempt from attachment while in VA's hands, but once delivered to veteran, they can be used to satisfy child support order.	Veteran's Benefits
Ulrich v. Ulrich, 400 NW 2d 213 (Minn. App. 1987): Lack of findings on financial circumstances of obligor to support finding of willful failure to pay required remand.	Findings
Walz v. Walz, 409 NW 2d 39 (Minn. App. 1987): An order providing for a mechanical finding of contempt with no opportunity to explain is improper.	Opportunity to Explain
Gustafson v. Gustafson, 414 NW 2d 235 (Minn. App. 1987): Trial court's order vacating stay of execution and enforcing contempt order against ex-husband for failing to pay child support maintenance and attorney fees, as directed in dissolution and post-dissolution proceedings was neither arbitrary nor unreasonable.	Contempt Requirements Met
Lee v. Lee, 405 NW 2d 496 (Minn. App. 1987): Alcoholism of father could provide basis for finding that father's nonpayment of support was not willful.	Alcoholism
Mahady v. Mahady, 448 NW 2d 888 (Minn. App. 1989): A conditional contempt order must include a finding that the contemnor is able to comply with the release conditions. The court cannot order automatic confinement upon failure to comply without giving the contemnor an opportunity to explain the failure.	Ability to Comply with Release Conditions
Warwick v. Warwick, 438 NW 2d 673 (Minn. App. 1989): State constitutional prohibition against imprisonment for indebtedness is not violated by trial court contempt order threatening father with incarceration for failure to meet obligations of maintenance and support because maintenance and support are not debt within the meaning of the constitutional prohibition.	Constitution
Videen v. Peters, 438 NW 2d 721 (Minn. App. 1989): Former husband acted in bad faith and could be held in contempt for reducing child support payments and allowing lapse of health insurance for children who had left home; decree permitted reduction of child support as each child became self-supporting, reached majority, or no longer needed support; children who had left home of former wife continued to require support; and husband did not seek judicial clarification of decree or inform wife of plan to discontinue full payments.	Children out of Home
Engelby v. Engelby, 479 NW 2d 424 (Minn. App. 1992): Trial court erred in placing burden on obligee to show obligor's willful non-compliance with support order, even after obligee established *prima facie* case by showing $11,000.00 in arrears.	Burden on Obligor to Show not Willful
Becker County Human Services v. Peppel, 493 NW 2d 573 (Minn. App. 1992): Supplemental Security Income (SSI), a form of public assistance unrelated to past earnings, is not subject to execution, levy, attachment, garnishment or other legal process under 42 USC '' 407(a) and 1383(d)(1). A threat to hold an obligor whose sole income is SSI in contempt for nonpayment of support is a prohibited legal process.	Prohibited Against SSI Recipient
In Re the Marriage of Todd v. Todd, (Unpub.), CX-93-1866, F & C, filed 3-22-94 (Minn. App. 1994): Obligor can waive evidentiary hearing and right to provide sworn testimony. Minn. R. Gen. Prac. 309.22. Court can find obligor in contempt without an evidentiary hearing.	Waiver of Evidentiary Hearing
Ross v. Ross, (Unpub.), C4-94-139, F & C, filed 11-8-94 (Minn. App. 1994): Evidence of lack of good faith to produce income including a seven year enrollment in college, failure to seek employment, failure to support children when employed (in 7 years, worked seven months, part time, and paid $600.00 through tax intercept towards $27,000.00 obligation), and practice of meeting own needs and paying debts months in advance, rather than paying support justified finding of contempt and denial of motion to modify.	Lack of Good Faith

Mower County Human Services o/b/o Swancutt v. Swancutt, 539 NW 2d 268 (Minn. App. 1995): Appellate court reversed trial court contempt order requiring obligor to meet his future support obligations until his youngest child reaches the age of majority in order to avoid jail time. Reversal was based on assumption that such a continuing contempt order would deny obligor the "first-stage" hearing where the district court must determine if obligor had the ability to pay the obligations as they became due. Reversed at 551 NW 2d 219.	Rolling Contempt
Mower County o/b/o Swancutt v. Swancutt, 551 NW 2d 219 (Minn. 1996) reversing court of appeals: Where the trial court's procedure meets Hopp requirements, the first stage procedural requirements in a contempt proceeding are in place. The second stage hearing, where the party who seeks enforcement alleges non-conformance and the obligor is given an opportunity to show compliance or reasons for failure before incarceration can happen at any time after purge conditions have been set.	Timing of Second Stage Hearing
Mower County o/b/o Swancutt v. Swancutt, 551 NW 2d 219 (Minn. 1996): The first stage con-tempt order does not have to be conditioned on the right to purge in the immediate future. The court can include the condition that the obligor continue to make court-ordered child support pay-ments and payments on arrears throughout the remainder of the child's minority as a condition of purge.	Rolling Contempt Orders Okay
Gorz v. Gorz, 552 NW 2d 566 (Minn. App. 1996): Although contempt actions must be initiated by personal service of an order to show cause, obligor waived any objection to jurisdiction based upon obligee's failure to personally serve order to show cause and contempt motion because he had already invoked the court's jurisdiction over him and the child support issue by moving for modification and by participating in the proceedings and personally appearing at the hearing.	Failure to Personally Serve Order to Show Cause
Kehoe v. Kehoe, (Unpub.), C6-95-1772, F & C, filed 4-9-96 (Minn. App. 1996): Court is not required to expunge a civil contempt record or declare a contempt purge just because obligor met conditions of stayed sentence.	Expunging Contempt
Nelson v. Nelson, (Unpub.), CX-96-280, F & C, filed 8-27-96 (Minn. App. 1996): In a contempt proceeding, it was proper for trial court to draw adverse inferences when father pled the 5th Amendment, and refused to answer county attorney's questions about his employment. Court's finding of contempt and order for incarceration upheld. (See Engelby.)	Contemnor Pled the 5th Amendment
Nelson v. Nelson, (Unpub.), CX-96-280, F & C, filed 8-27-96 (Minn. App. 1996): During pendency of child support contempt proceedings where father continued to tell children that their mother was trying to get the judge to throw him in jail after judge had warned him to discontinue making these remarks because they were harmful to the children, it was a proper sanction for the court to limit father's visitation rights.	Limitation of Visitation Due to Harmful Remarks
Frenzel and Carver County v. Frenzel, (Unpub.), C3-97-664, F & C, filed 11-10-97 (Minn. App. 1997): The district court cannot require the obligor to serve five days of a 90 day contempt sentence without the opportunity to purge during the five days.	Sentence Without Purge Ability
Walker v. Walker, 574 NW 2d 761 (Minn. App. 1998): Minn. Stat. ' 518.551, subd. 1(b)(1996), which allows the court to direct an obligor to pay child support to the county rather than directly to the obligee, even though there are no arrears is constitutional - does not violate equal protection. Obligor could be found in contempt and face incarceration for failure to adhere to the court=s order as set out in Appendix A, regarding method of payment.	Order Requiring Payment to Public Authority Constitutional
Walker v. Walker, 574 NW 2d 761 (Minn. App. 1998): Incarceration on contempt for failure to pay child support to the child support agency is not imprisonment for a debt.	Failure to Pay Public Authority
Moss v. Riverside County, Calif. Sup. Ct. #5057081 (filed 2-2-98): Obligor's refusal to seek employment warrants contempt for failure to pay child support, and does not violate constitutional protections against involuntary servitude or imprisonment for a debt.	Failure to Seek Employment
Schubel v. Schubel, 584 NW 2d 434 (Minn. App. 1998): At second stage hearing, contemnor given opportunity to show compliance or present excuse. (See also Gustafson (1987)).	Second Stage
Schubel v. Schubel, 584 NW 2d 434 (Minn. App. 1998): At second stage hearing, if court finds contemnor failed to comply without excuse, it may order immediate confinement, but must set purge condition. (Swancutt, Hopp).	Purge Condition at Second Stage

Schubel v. Schubel, 584 NW 2d 434 (Minn. App. 1998): A finding must be made that the contemnor has the ability to meet the purge condition. The finding must be related to appellant=s financial circumstances at the time of confinement, not the circumstance at the time of the initial contempt hearing.	Finding on Present Ability to Purge
State of Minnesota v. Brooks, 605 NW 2d 345 (Minn. 2000): The setting of a monetary bail amount in a pre-conviction criminal case that can be satisfied only by a cash deposit of the full amount set by the court violates Article I, Section 7 of the Minnesota Constitution. [Ed. note: Art. I, Section 7 refers to bail "before conviction"; thus this case does not necessarily apply to post-conviction bail. Also, in footnote 1, the Supreme Court indicated that the decision does not address the practice of some courts to permit an accused to make a cash deposit in an amount less than the full amount of bail set by the court, implying that this may be an acceptable alternative.]	Pre-Conviction Cash-Only Bail Uncon-stitutional
Larson v. Larson, (Unpub.), C4-99-1942, F & C, filed 6-20-00 (Minn. App. 2000): Court properly declined to find obligor in contempt of court even though payments were not made on the first day of the month, because he was not in arrears and was making a good faith effort to comply with the order.	Late Payments
Quance v. Quance, (Unpub.), C3-00-692, F & C, filed 1-16-2001 (Minn. App. 2001): Court erred by on the same day: (1) finding the obligor in contempt of court, (2) ordering the obligor to report to jail for an indeterminate sentence unless he paid $10,000.00 in child support arrearages. Two hearings are required before the obligor can be committed to jail: (1) to determine whether he was in contempt of court and setting purge conditions, and (2) to address nonperformance of the purge conditions. The time between the two hearings must include a reasonable period for compliance. (Mower Co. v. Swancutt, 551 NW 2d 219, 223-224 (Minn. 1996). Swancutt would allow a more compressed proceeding, but only if obligor is given time to comply with purge conditions, and given an opportunity to explain his noncompliance with conditions.	Second Stage Hearing on Later Day
Quance v. Quance, (Unpub.), C3-00-692, F & C, filed 1-16-2001 (Minn. App. 2001): Obligor may be found in contempt of an order based on imputed income, even if he does not have that amount in actual income.	Imputed Income
Quance v. Quance, (Unpub.), C3-00-692, F & C, filed 1-16-2001 (Minn. App. 2001): Purge conditions may be based on imputed income, but only when there exists both a current legal basis for imputation and the amount imputed is based on current factual data. The court must make findings on appellant's current ability to meet purge conditions.	Purge Conditions Based on Imputed Income
Crockarell and Ramsey County v. Crockarell, 631 NW 2d 829 (Minn. App. 2001): There is no requirement that the court determine how an obligor can access the money necessary to meet the purge conditions, only that it determine the obligor is able to meet them.	Ability to Purge
Crockarell and Ramsey County v. Crockarell, 631 NW 2d 829 (Minn. App. 2001): District court properly found that obligor could pay his obligation because he transferred his own assets to his new wife and manipulated his finances to avoid his child support obligation.	Manipulation of Assets
Crockarell and Ramsey County v. Crockarell, 631 NW 2d 829 (Minn. App. 2001): A written payment plan under Minn. Stat. ' 518.617, Subd. 1 (2000) is not a necessary prerequisite to a finding of contempt for failure to pay support.	Written Payment Plan not Pre-requisite
Crockarell and Ramsey County v. Crockarell, 631 NW 2d 829 (Minn. App. 2001): The district court may draw adverse inferences against the alleged contemnor if he invokes the fifth amendment privilege against self-incrimination and refuses to testify; obligor has the burden to demonstrate his inability to pay the child support award.	Adverse Inference if Invokes the 5th Amend-ment
Burkstrand v. Burkstrand, (Unpub.), C2-01-1200, F & C, filed 3-12-2002 (Minn. App. 2002): It was proper for court to find obligor in contempt of court even though his imputed income was less than the income on which his child support obligation was based where court found that he had substantial amounts of money available to him in addition to income, and that he had voluntarily relinquished a viable business.	Imputed Income

Burkstrand v. Burkstrand, (Unpub.), C2-01-1200, F & C, filed 3-12-2002 (Minn. App. 2002): Court properly found that husband had the ability to meet purge conditions in a case where he had a history of deceiving the court and manipulating assets, and where he voluntarily placed himself in a position where he was unable to conform with the court's order. (Citing Ryerson 1935)	Meeting Purge Conditions
Marich v. Marich, (Unpub.), C1-01-1169, F & C, filed 4-23-02 (Minn. App. 2002): In contempt action, court ordered obligor to pay support beyond his child's 18th birthday. Service of Notice of Filing on public defender who represented NCP solely on contempt was not effective to limit father's time for appeal on the support issue.	Service of Court-Appointed Counsel not Effective on Non-Contempt Issues.
Marich v. Marich, (Unpub.), C1-01-1169, F & C, filed 4-23-02 (Minn. App. 2002): The court erred in extending ongoing child support beyond the child's 18th birthday in a contempt proceeding where there was not motion before the court and NCP had no opportunity to respond.	Other Issues
Polk County Social Services o/b/o Whitten v. Olson, (Unpub.), CX-02-421, F & C, filed 9-10-02 (Minn. App. 2002): Because contempt is a pre-emancipation collection remedy, and under Minn. Stat. ' 518.6195, pre-emancipation collection remedies are available after the child to be supported is emancipated, the district court did not lose subject matter jurisdiction to use its contempt powers to enforce NCP's obligation to pay support after the child reached 18. The 1997 enactment of 518.6195 supercedes case law.	Post-Emancipation Contempt Allowed
State of Minnesota and Burkhart v. Nold, (Unpub.), C2-02-1983, filed 7-8-03 (Minn. App. 2003): At the first stage Mahady hearing, the court informed the defendant that if he denied he was in civil contempt, a trial on the issue would be scheduled and he could apply for court-appointed counsel. Defendant denied that he was in civil contempt and requested court-appointed counsel. The court directed him to complete an application, and due to his failure to appear at an earlier hearing, he was held in custody subject to posting a bond, pending the evidentiary hearing. Before an attorney was appointed and while defendant was in custody, Defendant signed a stipulation waiving counsel, and admitting the elements of contempt, and the district court incorporated the stipulation into its Finding of Fact, Conclusions of Law and Order, the Aconditional-contempt order. The court sentenced him to 60 days, but stayed the sentence if he paid support and arrears payments. He failed to make these payments, and at the second-stage hearing, he was represented by court-appointed counsel. The stay was revoked, and the defendant served his time rather than meeting purge conditions. The fact that he did not have counsel at the time he signed the stipulation did not violate his right to counsel, since he did not face a real possibility of incarceration at that point.	No Right to Counsel at First Stage
State of Minnesota and Burkhart v. Nold, (Unpub.). C2-02-1983, filed 7-8-03 (Minn. App. 2003): At same time as felony probation requires support payment, a civil contempt action is not precluded by comity in a case where the obligor is also required by another court to stay current in his child support obligation under the terms of a felony probation sentence. The criminal case and the civil case involve different parties, and different rights.	No Right to Counsel at First Stage
State of Minnesota and Burkhart v. Nold, (Unpub.), C2-02-1983, filed 7-8-03 (Minn. App. 2003): A party can be found in civil contempt even when he was in jail during much of the time covered by the conditional contempt order, where he failed to pay support even when he was not incarcerated.	In Jail Most of Time
Barrett v. Barrett,, (Unpub.), C2-02-1806 filed 7-15-03 (Minn. App. 2003): At Mahady-stage hearing, court properly rejected obligor=s argument that he was unable to comply with purge conditions, where he had not made a reasonable effort to conform with the order within his inherent but unexercised capacities.	Didn=t Try to Meet Purge Conditions
Barrett v. Barrett,, (Unpub.), C2-02-1806 filed 7-15-03 (Minn. App. 2003): The standard to apply in a contempt proceeding as to ability to pay is similar to the standard for modification relating to voluntary unemployment. Voluntary & Willful.	Voluntary= Willful
Wick v. Wick and Ridge, 670 NW 2d 599 (Minn. App. 2003): When requesting joinder of a party to a civil contempt action, who is not a payor of funds, the party sought to be joined must be served with a summons and complaint with notice of the specific cause of action that the county tends to assert against the party.	Joinder Requires Personal Service

Mower County Human Services o/b/o Henga v. Enright. (Unpub.), A03-539, filed 12-30-03 (Minn. App. 2003): Court of appeals reversed and remanded order of confinement issued at Mahady-stage hearing because trial court erroneously stated that confinement was punishment for past failure to perform, failed to consider whether confinement would aid compliance, imposed a fixed term, and failed to include purge conditions.	Defective Order of Confinement
Wahl v. Wahl, (Unpub.), A03-1738, F & C, filed 8-2-04 (Minn. App. 2004): This unpublished case cites published cases that differentiate civil vs. criminal contempt proceedings. "Whether contempt is civil or criminal is determined by the court's purpose in responding to the alleged misconduct, rather than the nature of the misconduct itself." In re Welfare of A.W, 399 NW 2d 223,225 (Minn. App. 1987). Civil contempt: (a) purpose not to punish but to compel performance, (b) indefinite duration of sentence, (c) power to shorten the sentence by performing, (d) involves disobedience of a court order, and (e) is committed outside the presence of the court. (citing Mahady, Swancutt, Minn. State Bar Ass'n v. Divorce Assistance Ass'n, Inc. 248 NW 2d 733,741. Criminal contempt: (1) misconduct directed at the court, (2) unconditional sentence or fine, (3) purpose to preserve the authority of the court by punishing misconduct. Hicks ex rel Feiock v. Feiock, 485 U.S. 624,647 (U.S. S. Ct, 1988).	Distinction Between Civil and Criminal Contempt
In Re the Marriage of Kevin T. Rains vs. Constina E. Rains, (Unpub.), A-05-37, F&C, filed : Appellant challenges finding that she was in constructive civil contempt. Appellant was repeatedly ordered to pay back or account for funds withdrawn from a joint checking account at time of parties' separation. Appellant argued that is was improper for the court to find her in contempt without a OTSC. She also argued that the contempt was essentially criminal in nature rather than civil in nature because there was no opportunity to purge and she was being punished for past wrongdoing. Held: It was proper for court to find her in contempt since court had repeatedly outlined the steps required of her and allowed her additional time in which to comply. The court affirmed the civil nature of the contempt and determined appellant was given a sufficient opportunity to purge and failed to do so; therefore appellant had her Mahady hearing and the court's decision to execute the sentence was proper.	Civil contempt. Without OTSC. 2nd stage hearing. Good synopsis of contempt elements.
Lam vs. County of Ramsey; Minn. Ct. App. Unpub. (A05-2543): The district court denied appellant's motion to enforce a settlement agreement through exercise of the district court's constructive civil contempt powers. The exercise of civil-contempt power is conditioned on the existence of an underlying order or judgment that clearly defines the acts that the court seeks to enforce. The Minnesota Supreme Court has determined that a court order that merely acknowledges with approval that parties that have settled a pending lawsuit is not a sufficient basis for the plaintiff to seek civil contempt remedies for the defendant's violation of the settlement agreement. Court of Appeals held that the specific directives that would provide a basis for a civil contempt order where not present in the case at bar because the court's order simply dismissed the litigation and did not enjoin the parties from violating the agreement.	Contempt, order defines acts that the court seeks to enforce
In re the Marriage of Craig James Beuning v. Alessandra Lizabeth Beuning, (Unpub.), A06-242, Anoka County, filed January 23, 2007 (Minn. App. 2007): Appeal is not moot, despite appellant having being released from incarceration for contempt. Court of appeals reviews a district court's decision to invoke its contempt power under an abuse of discretion standard. (Citing In re Marriage of Crockarell, 631 N.W.2d 829, 833 (Minn. App. 2001). There are two stages to a contempt proceeding. (Citing Hopp v. Hopp, 279 Minn. 170, 174, 156 N.W.2d 212, 216 (1968). In the initial proceeding, the court may find the obligor in conditional contempt and set conditions to allow the obligor to purge himself of the contempt. In the subsequent hearing, the obligor is entitled to be heard on questions of performance or excusable non-performance of purging conditions. (Citing Mahady v. Mahady, 448 N.W.2d 888, 890 (Minn. App. 1989). Respondent was effectively denied his *Mahady* rights at the subsequent hearing when the court refused to allow him to address these issues or ignored him.	Mahady requires the court to adhere to the two step process before incarcerating a delinquent obligor.

In Re the Marriage of Hoppe v. Hoppe, County of Anoka, Intervenor, (Unpub.), A06-98, Filed January 30, 2007 (Minn. App. 2007): The court affirmed the contempt action against the obligor because the information the district court had about obligor's earning potential, job skills, and available assets showed the obligor had sufficient resources to meet the purge condition of the contempt order. The obligor also failed to rebut the presumption that failure to meet his child support obligation is prima facie evidence of contempt. Failure to comply was willful as evidenced by his voluntary underemployment, concealment of financial resources and lack of evidence that he was not in contempt. Further, he showed bad faith by stating the support payments were "wasted".	CONTEMPT: Contempt action appropriate where court finds obligor untruthful/evasive about earnings and assets and able to meet purge conditions.
Thomas John Szarzynski v. Therese Elizabeth Szarzynski, A06-882, Hennepin County, filed May 22, 2007 (Minn. App. 2007): *Hopp v. Hopp* requirements apply to contempt for failure to pay spousal maintenance. Attorney fees are available to spouse who did not receive maintenance payments and resorted to contempt. "Surprise" of contemnor's attorney was cured by scheduling second day of testimony.	Contempt for non-payment of spousal maintenance.
In re the Marriage of: Steven John Stoltman, petitioner, Appellant, vs. Marilyn Jane Stoltman, Respondent., (Unpub.), A06-1829, Hennepin County, filed August 14, 2007 (Minn. App. 2007): District court supported an order of confinement for contempt determining contemnor had ability to satisfy purge conditions set at time of confinement. This determination was based on the lifestyle of husband; however, the finding was based on the income of husband's current spouse, rather than husband's income. Husband correctly argues that his current spouse is not responsible for his support obligation to respondent. There is insufficient evidence in the record to show that husband has had the ability to satisfy the financial purge condition.	Contempt purge – ability to pay
County of Anoka ex rel Alena M. Hubacher vs. Djan M. Davis, (Unpub.), A07-61, filed January 15, 2008 (Minn. App. 2008): The district court did not abuse its discretion by denying the county's motion for contempt where the court included findings indicating they did not find respondent to be deliberately and contumaciously ignoring the court's order; that the threat of confinement would not likely improve his compliance; and that the respondent may be wholly unable to perform.	No abuse in denying county's contempt motion where court found finding contempt was not likely to improve compliance, etc.
Zaldivar v. Rodriguez, 819 N.W.2d 187 (Minn.App.2012): In 2007 a court ordered NCP, who was not authorized to reside or work within the United States, to pay child support. NCP was unemployed and support was set based on NCP's work history. In 2011 NCP was found in contempt for failure to pay his child-support obligation. In March 2011 NCP sought appellate review of the district court's finding of contempt by way of a petition for discretionary review but the court of appeals denied the petition. In July 2011 the district court held a hearing concerning whether to lift the stay of NCP's 90 day sentence and found that NCP had not demonstrated an inability to pay support and that NCP's immigration status was not a dispositive factor in his inability to contribute toward child support. The district court ordered NCP to serve the 90-day term. NCP did not report to jail and a warrant was issued for his arrest. NCP appealed. The court of appeals found that while it is unlawful for an employer to employ an unauthorized alien, an unauthorized alien who works in the United States may only be subject to criminal prosecution if they knowingly use forged, counterfeit, altered, or falsely-made documents to obtain employment. Therefore, unauthorized aliens can work in the United States without risk of criminal punishment. The court of appeals found that federal immigration law does not prohibit unauthorized aliens from being held in contempt of court for failure to pay child support and affirmed. (1) a district court is not prohibited from holding an unauthorized alien in contempt of court for failure to pay child support, so long as the court does not require the unauthorized alien to take any action that would subject him or her to criminal penalties or additional civil consequences. (2) an unauthorized alien is not categorically exempt from Minnesota's child-support obligations.	Earning Capacity; Voluntary Unemployment or Under-employment; Imputaton of Income; Child Support; Contempt.

Turner v. Rogers, 131 S. Ct. 2507, 2509, 180 L. Ed. 2d 452 (U.S.S.C. 2011): Father was sentenced to 12 month's imprisonment after being held in contempt for failing to pay his child support obligation. Father appealed, claiming he was entitiled to counsel at his contempt hearing under the Federal Constitution. The South Carolina Supreme Court rejected Father's claim, finding that civil contempt does not require all the "constitutional safeguards" applicable in criminal proceedings, including the right to government-paid counsel. Father then sought certiorari by the U.S. Supreme Court. The U.S. Supreme Court held the Due Process Clause does not automatically require the provision of counsel at civil contempt proceeding to an indigent individual who is subject to a child support order, even if that individual faces incarceration for up to a year, particularly when the State provides alternative procedural safeguards equivalent to adequate notice. The second issue was whether the Father's incarceration violated the Due Process Clause. In this case the indigent Father's incarceration based on his failure to comply with his child support order violated the Due Process Clause because he neither received counsel nor the benefit of alternative procedural safeguards.	Father's incarceration based on his failure to comply with his child support order violated the Due Process Clause because he neither received counsel nor the benefit of alternative procedural safeguards.
Reed v. Baaj, No. A11-685, 2011 WL 7701440 (Minn. Ct. App. Apr. 16, 2012): The Court found the Appellant in contempt for failing to pay $128.25 in shared transportation costs, for failing to notify Mother of her right to first refusal of parenting time, and for failing to pay child support. The court imposed 10 days of confinement with no purge conditions and stayed the remaining 20 days as long as he complied with the prior order and paid the mother the $128.25 for transportation costs. The Court of Appeals found the recorded supported the district court's conclusion Mother was not in contempt. The record also supported the conclusion Father had not complied with the prior order and thus the finding of contempt was not an abuse of discretion. In regards to the 10 day confinement, the district court conflated civil and criminal contempt because the confinement without a purge condition operated as punishment for past conduct. The district court erred in ordering confinement because if criminal contempt was intended there were no procedural safeguards, and if civil contempt was intended the court should have set purge conditions to ensure a remedial purpose.	The district court erred in ordering confinement because if criminal contempt was intended there were no procedural safeguards, and if civil contempt was intended the court should have set purge conditions to ensure a remedial purpose.
In re Custody of M.M.L., No. A15-1807, 2016 WL 7438705 (Minn. Ct. App. Dec. 27, 2016): The subsequent modifications made to the preexisting contempt order are appealable because the court substantively modified the child support obligation, and did not merely modify the purge conditions of an existing conditional contempt order. The district court modified the child support obligation without adequate findings in regards to the method in which the father's income was imputed, and should therefore be remanded for additional findings.	Contempt; Imputing income; Potential income.
Weiss v. Griffin, No. A16-1632, 2017 WL 1375336 (Minn. Ct. App. Apr 17, 2017): If an individual is in default on child support payments, the county shall take steps necessary to compel compliance which may include contempt. A court may require an obligor to post security for their obligations (even before a payment is missed). The district court may not compel a person to do something he is wholly unable to do but the court is not prevented from increasing the monthly purge condition upon a showing of ability.	Constructive Contempt
In re the Marriage of Robert David Stoffey v. Mari Lou Stoffey, No. A16-1610, 2017 WL 3122337 (Minn. Ct. App. Jul 24, 2017): The determination of whether or not an award is maintenance or a property division depends on the parties' intent and the true nature of the award. Contempt is not a remedy for untimely cash payments that are considered a part of a property division.	Contempt; Spousal Maintenance
Sehlstrom v. Sehlstrom, A17-1732, 2019 WL 209631 (Minn. Ct. App. May 7, 2018): When enforcing a stipulated judgment by use of civil contempt, the contempt factor that the judgment clearly define the acts to be performed by a party is met even if it does not specify the time. In such a case the reasonable time standard applies.	Contempt

In re the Marriage of Kazeminy v. Kazeminy, NJK Holding Corp, et al., A18-0029 (Minn. Ct. App. Feb. 19, 2019): The Court properly held a business in contempt because the business had notice of the contempt motion and the business was present at the hearing by and through its attorney. The purpose of a civil contempt order is to vindicate the rights of the affected party. An award of attorney fees in a contempt action must be based on proof of actual damages, must not penalzie the contemnor and the party must actually incur the fees. An award of attorney fees against a non-party business owner does not require a finding of contempt against the nonparty, because the award obligated either the business or the business owner to pay the attorney fees.	Attorney's fees in contempt action, constructive contempt, employer contempt
Jubara v. Hamed, A20-0951, 2021 WL 856050 (Minn. Ct. App. 2021): Contempt is not an appropriate remedy for enforcing a dissolution property settlement that requires personal property be delivered to a party that is subject to execution by a court order directing a sheriff to enforce through a levy upon the property. A district court's denial of a party's motion as a whole includes an implicit denial of an award for attorneys' fees accumulated through bringing the denied motion.	Attotney's fees in contempt action; Contempt
Wivinus v. Anderson, A21-0430, 2021 WL 6110118 (Minn. App. 2021): A party's constitutional right to parent their children is protected when the court carefully considers the statutory factors and modifies custody only after concluding that the children are endangered under the existing legal-custody arrangement. The in forma pauperis statue does authorize the payment of certain expenses for qualifying low-income individuals, however the statue does not extend to the payment of custody evaluation fees. An order is not appealable when it is conditional and imposed punishment only after failure to purge oneself of contempt.	Contempt; Custody – Best Interest of Child
Traguott v. Traguott, A22-1446, 2023 WL 3701366 (Minn. Ct. App. 2023): The district court did not abuse its discretion by imposing sanctions on appellant-father under § 549.211 as the record supports the finding that father had no good-faith basis for his contempt motion, and the amount of the sanction was modest, consistent with deterrence rather than punishment.	Attorney Fees in Contempt Action; Contempt-Order to Show Cause; Good Cause

II.M. - OTHER ENFORCEMENT / COLLECTION REMEDIES	
II.M.1. - Garnishment, Levy and Execution	
Minn. Stat. ' 571.922 - limitations on garnishments; Chapter 552 - support judgment debts summary execution.	
Knapp v. Johnson, 301 NW 2d 548 (Minn. 1980): Dependent of beneficiary entitled to garnish beneficiary's interest in ERISA-regulated plan for purposes of satisfying support and alimony obligations, although any other judgment creditor generally cannot do so. NOTE: This case was superseded in 1984 by federal statutes which specifically prohibited the assignment or recognition of a right to a benefit payable to a plan participant pursuant to a family law court order unless the order is determined to be qualified domestic relations order (QDRO). See ERISA ' 206(d)(3), Internal Revenue Code ' 401(13) and Treasury Regulations ' 1.401(a)-13.	Garnishment ERISA Plan
Faus v. Faus, 319 NW 2d 408 (Minn. 1982): Dependent's claim for support or maintenance is not subject to statutory exemption of fire fighters pensions from garnishment, execution or other legal process.	Garnishment - Fire Fighters
Rose v. Rose, 107 S.Ct. 2029 (1987): Veteran's disability benefits exempt from attachment while in VA's hands, but not exempt when they reach veteran's hands.	Veteran's Disability
LaFreniere-Nietz v. Nietz, 547 NW 2d 895 (Minn. App. 1996): Trial court can limit custodial parent's garnishment of absent parent's wages on a child support judgment to an amount less than would be legally allowable under Minn. Stat. ' 571.922 which allows garnishment of up to 55% of disposable income. In family law cases, the court may supplement a statute with equitable principles.	Limit on Garnishment
Hennepin County and Strong v. Strong, (Unpub.), C8-96-2481, F & C, filed 4-29-97 (Minn. App. 1997): Facts: Children receive $621.00 in obligor's RSDI dependent benefits. Obligor receives $1199.00 per month RSDI. Obligor's ongoing child support had been suspended when children began to receive dependent benefits. Hennepin County garnished obligor's RSDI to collect on a judgment for arrears. District Court ordered Hennepin County to stop collection, and further credited the obligor with $72.00 per month (20% of $360.00 guidelines support) towards his arrears, seeing the $621.00 as a "windfall" to CP. Court of Appeals reversed: district court's order was an illegal retroactive modification of child's support under Minn. Stat. ' 518.64, Subd. 2(c) and further was barred by *res judicata* due to prior order declining to vacate a judgment for unsatisfied arrearages.	RSDI Benefits Garnished to Pay Arrears
LaFreniere-Nietz v. Nietz, 547 NW 2d, 895, 898 (Minn. App. 1996): District court may stop child support judgment creditor from garnishing judgment debtor's wages as long as debtor remained current in payments and paid additional monthly amount toward arrears.	Compliance With Child Support and Arrears Payments Blocks Garnishment
Luthen v. Longrie and Itasca County, (Unpub.), CX-02-1875; CX-02-1889, filed 6-3-03, (Minn. App. 2003): The J&D dissolving the marriage of Rick and Peggy Luthen, required Rick to transfer stock to Peggy. Linda Longrie (the mother of a child fathered by Rick) and Itasca County levied on the stock to apply towards Luthen's child support arrears due for Longrie's child. If the transfer to Peggy has occurred, the third party creditor (CP and Itasca County) could not reach the marital property. However, if Rick did not transfer the stock to Peggy, the stock remains his asset, and is reachable by creditors.	Levy on Stock That is Marital Property

Savig v. First Nat. Bank of Omaha, 781 N.W.2d 335, 336 (Minn. 2010):. A post-judgment garnishment summons was served on Mona and Midwest Bank, where she and her husband held joint checking and savings accounts. Midwest Bank withheld $2,003.78 from the accounts. The Savigs filed complaint in federal district court alleging conversion, wrongful levy, and invasion of privacy because a protion of the funds withheld belonged to Mona's husband, Robert. The MN Supreme Court stated "[A] judgment creditor may serve a garnishment summons on a garnishee, attaching funds in a joint account to satisfy the debt of an account holder, even though not all of the account holders are judgment debtors." The second issue was whether a judgment creditor or the account holders bear the burden of establishing net contribution to the account during the garnishment proceedings. The Minnesota Supreme Court determined "[T]he account holders in a joint account bear the burden of establishing net contributions to the account in the garnishment proceeding." The third issue was what presumptions regarding ownership apply in absence of proof of net contributions. The Court stated "[A] judgment debtor is initially, but rebuttably, presumed to own all of the funds in a joint account, and if the presumption is not rebutted, all of the funds in the account are subject to garnishment.	Attaching funds in joint accunt to satisfy debt;Account holders in joint account.
Rooney v. Rooney, 782 N.W.2d 572 (Minn. Ct. App. 2010): Obligor Rooney was ordered to pay child support and spousal maintenance in the dissolution. In '90 and '91, the Christ Household of Faith (CHOF) was determined to be the obligor's employer and was ordered to withhold money for child support and spousal maintenance. After 20 years of litigation, oblige Rooney obtained a judgment of approximately $235,000 against CHOF. Obligee Rooney sought to recover attorney fees she incurred in enforcing CHOF's obligation to withhold funds for her benefit. The district court denied the obligee's request for attorney's fees incurred between 2001 and 2008 in pursuing the judgment against CHOF and seeking to collect on the judgment. The Court of Appeals held a third party "payor of funds" to a child support obligor whom is held liable to the oblige for amounts the payor failed to withhold is also liable for reasonable attorney fees incurred by the oblige in enforcing the withholding liability. Additionally, the "payor of funds" is liable for attorney fees incurred before or after an arrearages judgment is entered against the payor.	Third patry payor of funds liable for amounts the payor fails to withhold.

II.M.2. - Tax Intercept	
Tax Intercept: Minn. Stat. Chapter 270A, Revenue Recapture Act; Minn. Stat. ' 518A.61, Collection, Revenue Recapture.	
Bednarek v. Bednarek, 430 NW 2d 9 (Minn. App. 1988): The ten-year-statute of limitations barring court actions on judgments does not apply to bar the administrative remedy of intercepting an obligor's tax refund to satisfy arrearages previously validly established.	Tax Intercept-Administrative Remedy
Bennett v. Bennet, (Unpub.), C3-01-461, F & C, filed 9-14-01 (Minn. App. 2001): Questions whether child support judgments over ten years old that have not been renewed can be enforced under Chapter 270A (tax-intercept) pursuant to Bednarek. Court of Appeals did not rule on this issue, but did affirm the order of the CSM refusing to vacate the more-than-ten-year-old judgments, because the Aclaimant agency, which may have the ability to pursue collection, was not a party to the litigation.	Non-Renewed Judgment
Gerber and Gerber and County of Anoka, 694 NW 2d 573 (Minn. App. 2005): Income withholding, a judicial remedy, is distinguishable from revenue recapture which is an administrative remedy. Thus, even though the 10-year statute of limitations barring collection of expired judgments does not apply to the remedy of revenue recapture, it does apply to the remedy of income withholding. [Ed. Note: Petition for review to supreme court pending]	AIW Distinguish-ed from Revenue Recapture
Christine Pomerleau vs. Jeffrey Pomerleau, (Unpub.), A-05-690, F&C, filed 2-21-06 (Minn. App. 2006): Appellant challenges post judgment order denying her motion to classify a tax refund as marital property subject to equitable division. Dissolution judgment required parties to file a joint return but did not provide for distribution of any refund or payment of any liability. Antenuptial agreement incorporated in dissolution judgment preserved S-corporation as husband's non-marital asset and wife agreed to refrain from asserting any claim to any asset or earnings of the company. Because it was undisputed that the tax refund was generated from the company, the court held the tax refund was non-marital and not subject to distribution in the martial-dissolution proceedings.	Tax refund non-marital property/part of antenuptial agreement designating husband's corporation assets non-marital.
In re the Matter of Revenue Recapture of Robert Webber, A22-0787, 2022 WL 17244583 (Minn. Ct. App. 2022): Appellant-father challenges an ALJ's summary disposition under the mootness doctrine. The Court of Appeals reversed and remanded as the debt collection controversy remains live and the county failed to provide assurance it would not utilize the revenue recapture process again.	Debts with Paybacks – Collection of, Foster Care – Cost of Care

II.M.3. - License Suspension	
Minn. Stat. ' 518A.66 - occupational license suspension; Subd. 13 - driver's license suspension; Minn. Stat. ' 518A.69 - payment agreements in license suspension cases; Minn. Stat. ' 518A.60 - limits of in re: collection of arrears and past pregnancy and confinement expenses; Rules on Lawyers Professional Responsibility, Rule 30, Administrative Suspension.	
Higgins v. Higgins, (Unpub.), C8-97-739, C0-97-945, F & C, filed 3-3-98 (Minn. App. 1998): ALJ in driver's license revocation hearing properly refused to hear motions obligor attached to his request for hearing. Scope of hearing is limited to determining whether obligor was three months in arrears, and whether he had entered into a payment plan.	Driver's License Revocation Hearing Limited in Scope
Higgins v. Higgins, (Unpub.), C8-97-739, C0-97-945, F & C, filed 3-3-98 (Minn. App. 1998): ALJ could revoke license in a default hearing because obligor's presence not required by statute. (Here obligor was removed because he was disruptive.)	Obligor not Present at Hearing
Disciplinary Action Against Francis Giberson, Attorney at Law, 581 NW 2d 351 (Minn. 1998): Lawyer indefinitely suspended. Rule 30 of the Rules of Lawyer=s Professional Responsibility provides for suspension of a lawyer's license if he is in arrears for support or maintenance and has not entered into or is not in compliance with a payment agreement. Also Minn. R. Prof. Conduct 3.4(c) and 8.4(d) were violated because lawyer's willful failure to obey court orders was prejudicial to the administration of justice.	Suspension of Attorney License
Drake v. Hultgren, (Unpub.), C6-98-1771, F & C, filed 4-13-99 (Minn. App. 1999): The stay of an order directing suspension of drivers/professional licenses cannot be lifted (revoked) unless: (1) the party fails to comply with his support order; and (2) there is a separate hearing with notices and then a specific finding that the obligor has the present ability to comply with the order but has not.	Hearing Required to Suspend License
Drake v. Hultgren, (Unpub.), C6-98-1771, F & C, filed 4-13-99 (Minn. App. 1999): A court cannot direct the Lawyers' Professional Responsibility Board to suspend an attorney's license under Minn. Stat. ' 518.551, subd. 12(a) (1998); rather it may report the matter to the LPRB for appropriate action.	Suspension of Attorney's License
Lawrence v. Ratzlaff Motor Express Inc., 785 N.W.2d 819 (Minn. Ct. App. 2010): A truck driver's license was suspended due to failure to pay child support, and Respondent-employer discharged him. MN Dept. of Employment and Economic Development (DEED) determined he was ineligible to receive unemployment benefits because he was discharged for employee misconduct. A hearing was held an unemployment law judge, who agreed that suspension of the DL due to nonpayment of child support was employee misconduct. The ULI affirmed on appeal. On appeal, the MN court of appeals affirmed, and found that the truck driver knew about the child support obligation and knew it was not getting paid, and knew he could lose his license thus engages in "intentional, negligent, or indifferent conduct that resulted in the loss of a license necessary for the performance of his job duties, and therefore engaged in employee misconduct …When an employee's child-support obligation is unpaid due to the employee's intentional, or indifferent conduct and the employee's driver's license necessary for employment is therefore suspended, the employee commits employment misconduct" and thus may be ineligible for unemployment benefits."	Driver's License Suspension; Occupational License Suspensionl Child Support.

State ex rel. Com'r of Human Services v. Buchmann, 830 N.W.2d 895 (Minn.App.2013): NCP repeatedly failed to pay his child support obligation which prompted judicial and administrative actions. NCP's driver's and commercial driver's licenses have been suspended several times and NCP had been found in contempt. NCP has never brought a motion to modify his support order. In 2010 NCP's driving privileges were again suspended for failure to pay support and follow an October 2009 payment plan. In February and September 2011 the county sought again to have NCP held in contempt. NCP moved to dismiss the contempt proceeding and to reinstate his licenses, arguing that the driver's license suspension statutes are unconstitutional. District court declined to find NCP in contempt and declared that the statute prohibiting the issuance of a limited commercial driver's license violated NCP's constitutional rights of substantive due process and equal protection. The court of appeals found that NCP's right to substantive due process was not violated by the driver's license statutes. While right to employment is a protected interest subject to rational basis review, here the driver's license statutes meet rational basis and are therefore constitutional. Court of appeals also found that the driver's license statutes did not violate NCPs right to equal protection because the law treats similarly situated persons similarly, regardless of where they live. The Court determined: (1) The driver's license suspension statutes do not violate NCP's constitutional right to substantive due process because they pass rational basis review. While NCP has a right to employment, the driver's license statutes serve a public purpose by attempting to ensure adequate and timely payment of child support, the prohibition on limited commercial licenses is not an unreasonable interference with NCP's right to employment because respondent did not show that his only employment possibilities required him to possess a commercial driver's license and respondent had the option to enter into a payment plan, and there is a rational relationship between the prohibition on limited commercial driver's licenses and the public's interest in having respondent support his children's well-being though child support payments. (2) The driver's license suspension statutes do not violate NCP's constitutional right to equal protection because NCP did not show that the laws treat similarly situated individuals differently. The statute applies equally to obligors regardless of where they live since once they are subject to license suspension, a rural obligor has the same options for license reinstatement as an urban obligor.	Child Support; License Suspension
In Re the Marriage of Ohnstad v. Ohnstad, County of Rice, Intervenor, (Unpub.), A05-2321, Filed September 12, 2006 (Minn. App. 2006): CSM erred when she suspended an Obligor's DL after the Obligor stated he could not enter into a payment agreement because he could not afford the payment amount suggested by the county and because he had medical problems inhibiting his ability to work. CSM failed to consider whether the payment agreement proposed by the county was reasonable and tailored to the Obligor's individual financial circumstances pursuant to Minn. Stat. § 518.553 (2004). Reversed and remanded.	CSM must consider whether payment plan is reasonable and tailored to obligor's financial circumstances.
In Re the Marriage of Woods v. Woods, Dakota County, Intervenor, (Unpub.), A06-480, Filed December 12, 2006 (Minn. App. 2006): The court affirmed the district court's denial of obligor's motion to reinstate DL. Obligor claimed he needed his license to work but CSM made findings indicating obligor was deeply in arrears and failed to pay child support even when he did have a valid license.	DRIVER'S LICENSE: Reinstatement discretionary.
Schneider vs. Schneider and County of Anoka, Intervenor, (Unpub.), A06-1788, F & C, filed August 28, 2007 (Minn. App. 2007): In February 2006, Respondent was served with notice of hearing and intent to suspend drivers license. At February 2006 hearing, CSM temporarily denied the county's request pending an April 2006 review hearing. At the review hearing, county indicated that contrary to the order, Respondent's license had been suspended in error. CSM imposed fine of $150 against the county to reimburse Respondent for reasonable costs incurred as a result of the county's wrongful suspension of the driver's license. District court affirmed. Court of Appeals reversed finding that "the record contains no evidence regarding costs incurred by Respondent as a result of the suspension of his driver's license and the incurrence of costs by Respondent was the stated reason for imposing the fine…" The Court did not address the county's argument that the district court did not have the inherent authority to impose the fine.	Record does not support imposing fine on county for erroneously suspending obligor's driver's license.

Askar vs. Sharif, (Unpub.), A07-897, filed June 3, 2008 (Minn. App. 2008): Under certain circumstances, as in this case, allowing the CSM to reinstate an obligor's driver's license sua sponte is consistent with the intent of § 518A.65 and with the legislative policy underlying the child support statutes.	Reinstatement of drivers license
Meeker County and Victoria Lynn Moreno, n/k/a Victoria Lynn Baalson v. Kyle Richard Greene, No. A16-1701, 2017 WL 3013234 (Minn. Ct. App. Jul 17, 2017): A violation of an individual's Free Exercise of Religion is considered using a balancing test with four prongs: (a) Whether the objector's belief is sincerely held; (b) Whether the state regulation burdens the exercise of religious beliefs; (c) Whether the state interest in the regulation is overriding or compelling; and (d) Whether the state regulation uses the least restrictive means. Minn. Stat. § 518A.68 did not violate the obligor's right to religious freedom. Minn. Stat. § 518A.68 promotes a public purpose by attempting to ensure adequate and timely payment of child support. The statute does not unreasonably burden or interfere with appellant's right to employment.	Recreational License Suspension (518A.68)
In re the Marriage of: Sandra Sue Grazzini-Rucki vs. David Victor Rucki, County of Dakota, No. A18-1721, 2019 WL 2495663 (Minn. Ct. App. Jun. 17, 2019): If a Child Support Magistrate orders reinstatement of the driver's license on the obligor's motion to reinstate the driver's license, the CSM must establish a written payment agreement under Minn. Stat. § 518A.65(e)(2). If the obligor later claims they did not consent to the payment agreement, the CSM committed harmless error by not securing the obligor's consent under the statute because had the CSM not established the payment agreement, the driver's license reinstatement motion would have been denied. When determining a party's income, the CSM may determine issues of witness credibility if the party does not provide evidence of income.	Driver's License Suspension, Payment Agreements, Potential Income

II.M.4. - Security / Sequestration / Liens / Attachments	
Minn. Stat. ' 518A.71 - allows sequestration of the obligor's personal estate and rents and profits from real estate upon failure to give security for the payment of future support, or upon failure to pay support; Minn. Stat. ' 518A.67 - motor vehicle lien; Minn. Stat. ' 518A.38 - court may make any child support order a lien on the property of the obligor; Minn. Stat. ' 518A.67, Subd. and ' 168A.05, Subd. 8 - motor vehicle liens. Minn. Stat. ' 570 - attachments of property as security for satisfaction of a judment.	
Peterson (Ruby) v. Peterson (Robert), 231 NW 2d 85 (Minn. 1975): It is within the trial court's discretion to sequester the balance in obligor's savings account ($17,500.00 which remained from a personal injury settlement of $75,000.00) to insure payment of future alimony.	Sequestra-tion of Lump Sum
Kerr v. Kerr, 243 NW 2d 313 (309 Minn. 124 1976): Where divorce judgment required husband to make child support payments and gave him lien on homestead which was in effect security for such child support payments, conditions upon which husband's lien was to be satisfied were not part of property settlement and were therefore subject to modification.	Obligor's Lien on House Subject to Modification
Thomas v. Thomas, 356 NW 2d 76 (Minn. App. 1984): Lien against homestead in favor of obligor that is security for child support and to encourage occupation of homestead by children is in nature of child support and conditions for maturity are modifiable under Minn. Stat. ' 518.64.	Lien on Homestead
Riley v. Riley, 369 NW 2d 40 (Minn. App. 1985): Statute does not compel court to order obligor to maintain life insurance as security for child support and it will be done only in exceptional circumstances.	Life Insurance as Security
Cavegn v. Cavegn, 378 NW 2d 636 (Minn. App. 1985): No error in court ordering proceeds from obligor's lien on homestead to pay support arrearages and to secure future support.	Liens on Homestead
Zagar v. Zagar, 396 NW 2d 98 (Minn. App. 1986): The trial court may require security to enforce future payment of spousal maintenance; however, this subject is almost wholly within the trial court's discretion.	Security to Enforce Future Payment
Sullivan v. Sullivan, 393 NW 2d 521 (Minn. App. 1986): No error to order sale of property awarded to obligor with proceeds placed in trust to pay child support when obligor had shown intention not to make payment and property was held as security to insure child support payments.	Security for Support
Sullivan v. Sullivan, 393 NW 2d 521 (Minn. App. 1986): Where dissolution provided real property was security for child support and contemplated sale, no error to order immediate sale and placement of proceeds in a trust account.	Sale of Property
Sandberg v. Johnson, 415 NW 2d 346 (Minn. App. 1987): Husband's child support arrearages were properly deducted from husband's share of sale proceeds under provision of divorce decree requiring wife to place homestead on market upon remarriage.	Arrears Deducted at Sale of Homestead
Ulrich v. Ulrich, 400 NW 2d 213 (Minn. App. 1987): Court may impose a lien on obligor's property to assure payment of future support; establishment of trust is viable means of assuring future child support and is not dependent on a finding of willful failure to pay, only repeated failure to pay.	Trust
Application of Jensen, 414 NW 2d 742 (Minn. App. 1987), *rev.den.* (Minn. 1-15-88): Despite the homestead exemption, trial court can sequester proceeds from the sale of an obligor's homestead to pay child support and maintenance obligations.	Sale of Homestead
Lee v. Lee, (Unpub.), C7-91-525, F & C, filed 8-20-91 (Minn. App. 1991): Upon failure to meet a child support obligation, an administrative law judge has broad discretion to create a trust to secure that obligation.	Trusts
Lukaswicz n/k/a Davis v. Lukaswicz, 494 NW 2d 507 (Minn. App. 1993): An obligor's lump-sum workers' compensation settlement is subject to sequestration for payment of child support arrears.	Workers' Compensation
Grothe v. Grothe, (Unpub.), C8-92-1998, F & C, filed 4-20-93 (Minn. App. 1993) 1993 WL 121245: The county may sequester workers' compensation for payment on arrearages and the county may hold an amount to secure future support.	Workers' Compensation

State of Minnesota, by its agent, County of Anoka, o/b/o Nelson v. Johnson, (Unpub.), CX-94-1165, F & C, filed 12-13-94 (Minn. App. 1994): Sequestration of $100,000.00 from obligor's estate as security for future support reasonable where obligor has failed to pay child support previously, has extravagant spending habits, and has attempted to secrete assets (citing Ulrich v. Ulrich, 400 NW 2d 213 (1987)).	Sequestration
Long n/k/a Blatz v. Long, (Unpub.), CX-95-43, F & C, filed 8-8-95 (Minn. App. 1995): It was proper for court to order sequestration of proceeds anticipated from the sale of obligor's property to ensure future payment of support. Obligor paid a judgment for arrearages, but has a history of non-support and no specific plan for meeting support obligation in the future.	Sequestration
Peterson v. Peterson, (Unpub.), C2-97-753, F & C, filed 1-20-98 (Minn. App. 1998): Remedies for collection of support are available for collection of attorney's fees and costs incurred in enforcing child support. Minn. Stat. ' 518.14, subd. 2(b) (Supp. 1997). Therefore, in this case, those amounts could be subtracted from obligor's lien in the homestead.	Recovery of Attorney's Fees through Lien
Carroll v. Carroll, (Unpub.), C8-97-1566, F & C, filed 3-17-98 (Minn. App. 1998): The fact that a party has in the past concealed and secreted property is a factor that can support an attachment order under Minn. Stat. '' 570.01, 570.02, and is evidence that without an order the party would conceal or dispose of the property. The risk to collectibility requirement of Minn. Stat. ' 570.026, subd. 3(1) can be demonstrated by obligor's past unwillingness to pay her child support. Court of appeals upheld district court order requiring sheriff to seize obligor's boat, motor, and trailer to satisfy child support arrears.	Attachment of Boat
Bakken v. Helgeson, 785 N.W.2d 791 (Minn. Ct. App. 2010): A June 15, 1983 judgment dissolved the parties' marriage. Bakken was awarded a lien against property in the amount of $5,000 when the property was sold. The judgment containing the lien was recorded on June 16, 1983. The property was conveyed several times. In September 2008, Bakken sought to foreclose her lien by serving all individuals who had owned the property. The District Court granted summary judgment for the defendants and dismissed Bakken's claim. Bakken's lien is a judgment lien, so she was required to collect on the lien withing 10 years of entry of the dissolution judgment. The Court of Appeals held martial liens are not judgment liens, but are a method used to distribute property in a dissolution. Marital liens may be foreclosed as a mortgage when the original judgment does not expressly state a different means of enforcement. The statute limitations for a mortgage foreclosure is 15 years. Distinguishing this case from *Dahlin*, which applied to spousal-maintenance arrearage judgments. The judgment in this case was awarded by the court as a method of property division nota money judgment. Foreclosure of a lien awarded by a dissolution judgment is subject to the 15-year statute of limitations in Minn.Stat. § 541.03, subd. 1 (2008), unless the judgment provides an alternative means of enforcement.	Foreclosure of lien award by J&D subject to 15-year statute of limitations, unless the judgment provides an alternative means of enforcement.
Grembowski v. Grembowski, (Unpub.), C7-97-1980, F & C, filed 5-26-98 (Minn App. 1998): A constructive trust from automobile accident proceeds was created to guarantee payment of future child support because of obligor's past failure to pay support. Lower court refused obligor's request to transfer funds from the trust to an escrow account under Minn. Stat. ' 518.614, so as to terminate income withholding. Court of appeals upheld lower court order, ruling that the purpose of the trust is to ensure child support when obligor is not working, and income withholding pays support when he has income.	Trust does not Replace IW
Grembowski v. Grembowski, (Unpub.), C7-97-1980, F & C, filed 5-26-98 (Minn App. 1998): Where a trust was created to assure payment of support, district court did not err in refusing to reimburse obligor in the amount the funds in the trust exceeded the present value of his future support obligation.	Trust Amt Greater than Future CS
Bowers and County of Anoka v. Vizenor, (Unpub.), C0-98-440, F & C, filed 10-6-98 (Minn. App. 1998): Proper for ALJ to sequester proceeds of obligor's personal injury lawsuit to secure payment of support under Minn. Stat. ' 518.57, subd. 1 (1996). See Peterson, 231 NW 2d 85, 87 (1975).	Sequestration of Personal Injury Proceeds

Borseth f/k/a Cotton v. Borseth, (Unpub.), C9-01-1632, F & C, filed 6-4-02 (Minn. App. 2002): When a court orders the obligor to obtain life insurance naming the children as beneficiaries to secure child support, the court should specify the amount of insurance necessary to secure the obligation and should allow the obligor the option of using insurance available through his employer or from another provider to fulfill the obligation. It is not necessary to demonstrate a past failure to pay timely child support in order for a court to require security for the payment of support under Minn. Stat. ' 518.24 (2000).	Life Insurance to Secure Support
Ellsworth v. Bastyr, (Unpub.), A04-365, F & C, filed 1-18-05 (Minn. App. 2005): It was proper for district court to apply obligor's share of the equity in the homestead to child support arrears and the remainder to be held in trust as security for future child support payments. Minn. Stat. § 518.57, subd. 1 (2002). Such trusts can be used to assure future child support where the obligor has repeatedly failed to meet his court-ordered support obligations, and where an obligor has not had sufficient funds in the past to make child-support payments, and it does not appear that he will have the funds to do so in the near future. Citing Gabrielson, 363 NW 814, 816-17 (Minn. App. 1985) and Resch, 381 NW 2d 460,4663 (Minn. App. 1986).	Use of trust from equity in the home to pay arrears and secure future support
Pence v. Pence, (Unpub.) A04-2154, F&C, filed 3-07-06 (Minn. App. 2006): Trial court awarded Respondent/Obligee the homestead subject to a $26,000 lien in favor of Appellant/Obligor but because Appellant was behind on his spousal maintenance and child support obligations the court sequestered Appellant's lien interest to ensure payment of support and further ordered that any unpaid support would be deducted from the lien interest as the support came due. Because Appellant (who was *pro se)* failed to cite any factual or legal authority to support his argument that sequestration was inappropriate, the Court of Appeals declined to address the issue, (Citing Ganguli v. Univ. of Minn., 512 NW 2d 918, 919 n.1 (Minn. App. 1994), for the maxim that the appellate court need not address issues which are unsupported by legal analysis or citation.	Sequestration of homestead lien to secure support not addressed on appeal
In Re the Matter of Washington v. Anderson, A05-2338, filed October 24, 2006 (Minn. App. 2006): The Court of Appeals cannot assume error by a district court that places a lien on the obligor's property. Minn. Stat. §§ 518.24 to 518.57, subd. 1 (2004) gives district court the discretion to secure a support obligation by sequestering or placing a lien on the obligor's property. Absent abuse of discretion by the district court, the Court of Appeals will not reverse a district court's order for lien. In light of the obligor's failure to provide relevant information, there is no clear abuse of discretion by the district court.	District court has authority to place a lien on obligor's property to secure payment of support.
In re the Marriage of Linda Louise Sarvey v. Robert Hieu Sarvey, (Unpub.), A06-1525, Hennepin County, filed June 19, 2007 (Minn. App. 2007): The district court did not abuse its discretion in requiring appellant to secure his obligations by obtaining life insurance where the record shows appellant repeatedly failed to pay his obligations.	Court has discretion to order support obligations be secured by life insurance policy
Russell's AmericInn, LLC v. Eagle Gen. Contractors, LLC, 772 N.W.2d 81, 83 (Minn. Ct. App. 2009): This is not a FIDM case. AmericInn obtained a civil judgment against Dale Werth and garnished $44,309 from Werth's IRAs and bank accounts held jointly with his son. Werth filed a claim of exemption on the IRAs and the joint bank account under Minn. Stat. § 550.37, subd. 24(a) and MN Multiparty Accounts Act. The District Court denied both claims because Werth failed to meet his burden. The Court of Appeals found that a debtor's property is subject to attachment unless a specific exemption applies. Minn. Stat. §550.31, subd. 24(a) expressly exempts IRAs regardless of whether the funds were derived from employment. Any amounts garnished from Werth's IRAs remain his property and should be returned to him. Funds in a joint account belong to the parties in proportion to their net contributions. No evidence showed the funds in the joint account were also owned by Werth's son.	Exemption of joint bank accounts.

II.M.5. - Judgments	
Minn. Stat. ' 548.09 - 10 year lien; method of renewal of child support judgment (see also ' 548.091, Subd. 3a); Minn. Stat. ' 548.091, Subd. 1a - Child Support Judgment by Operation of Law; Subd. 2a - docketing of child support judgment; Subd. 4 - hearing to vacate a judgment.	
Froats v. Froats, 415 NW 2d 445 (Minn. App. 1985): Provision in dissolution judgment and decree indicating that if ex-husband's child support arrearage obligation was not satisfied in five years, ex-wife could proceed to satisfy judgment without any further notice to husband, imposed a contingency to satisfaction of judgment and tolled 10-year statutory limitation on judgments; husband was given five-year grace period in which to voluntarily pay his arrearages, and wife's right to pursue satisfaction of judgment did not accrue until five years after judgment was entered.	Time Limit
Nazarenko v. Mader, 362 NW 2d 1 (Minn. App. 1985): Partial payments do not toll the ten year statute of limitations nor revive the judgment.	Statute of Limitations
Nazarenko v. Mader, 362 NW 2d 1 (Minn. App. 1985): Result same for debt repayment as for child support; enforcement may be sought only for those payments Limitations which accrue within ten years from date of commencement of action.	Statute of Limitations
Sheeran v. Sheeran, 481 NW 2d 578, 579 (Minn. App. 1992): Trial court administrator is required to enter judgment Aforthwith@ upon an order for the recovery of money only Aunless the court otherwise directs.@ Id. (quoting Minn. R. Civ. P. 58.01). In Re the Marriage of Colleen Schultz v. Ernest Schultz, 495 NW 2d 463 (Minn. App. 1993): Minn. Stat. ' 548.091 allows automatic docketing of child support only for routine payments. A claim for an unknown support obligation beyond a child's emancipation requires better notice than that minimally satisfying section 548.091.	Entry Upon Order for Recovery of Money Administrative Docketing
In Re the Marriage of Schoenberger v. Profant, (Unpub.), C6-92-2597, F & C, filed 5-25-93 (Minn. App. 1993): Interest accrues from the date of entry of judgment, as opposed to the time of docketing, under Minn. Stat. ' 548.091, Subd. 1a regardless of whether the judgment is entered by operation of law or by court order. this is because all judgments are to be docketed automatically under Minn. Stat. ' 598.09, Subd. 1.	Interest Accrues from Date of Entry
Dakota County v. Profant n/k/a Schoenberger, (Unpub.), C6-92-2597, F & C, filed 5-25-93 (Minn. App. 1993) 1993 WL 173864: Interest accrues on judgment for child support arrears from time judgment is entered, not docketed.	Interest on Judgments
In Re Marriage of Opp and LaBine, 516 NW 2d 193 (Minn. App. 1994): The ten-year statute of limitations for enforcement of a judgment does not bar entry and docketing of judgment more than ten years after the court orders judgment. Neither the order directing "Let Judgment be Entered Accordingly" or the CSO entering the judgment amount on its computer constitutes entry of judgment, which can only be done by the district court administrator. Either party can cause judgment to be entered.	Ten-Year Bar
Behnke v. Green-Behnke, (Unpub.), C7-99-820, F & C, filed 3-7-2000 (Minn. App. 2000): It was improper for court to include pre-judgment interest in the amount of a subsequent docketed judgment because of the potential for awarding interest on interest.	Pre-Judgment Interest
Lyon Financial Services v. Waddill, 607 NW 2d 453 (Minn. App. 2000): Although satisfaction of a judgment generally precludes a party from moving to vacate the judgment, where a money judgment has been involuntarily satisfied, the court still has jurisdiction to hear and decide a timely motion to vacate.	Effect of Involuntary Satisfac-tion of Judgment
Goldberg v. Goldberg, (Unpub.), C1-03-382, filed 8-26-03 (Minn. App. 2003): Just as the court has the power to stay entry of a judgment for child support arrears as long as the obligor remains current with his ongoing support payments and monthly payments on arrears, the court can also vacate the stay and enter judgment under its equitable powers, even if the obligor has remained current with his monthly payments. In this case, NCP had inherited $1.5 million from his father=s estate that could be used to satisfy his arrears, and he would never have been able to fully satisfy the arrears through the monthly payments. It is not clear if the requirements of Minn. Stat. ' 518.145 must be met in this situation, but even if the statute applies, Minn. Stat. ' 518.145, subd. 2(5) gives the court the authority to grant relief from the stay of entry of judgment on the ground that it is no longer equitable for the stay to have prospective application.	Vacation of Stay of Entry of Judgment

In Re the Marriage of Gerber v. Gerber, (Unpub.), A04-1538, filed June 1, 2006: Supreme Court of MN found that a county's attempt to collect on a child support arrearages judgment through administrative income withholding is not barred by the 10-year statute of limitations for actions on a judgment pursuant to Minn. Stat. § 541.04 (2004). The Court held that income withholding is not an "action" under the statute because it does not involve a judicial proceeding and is exclusively administrative in nature.	Income withholding is an administrative procedure not a judicial remedy. 10 year Stat. of Lim. on judgments does not bar IW.
Dean Preston Kennedy v. State of Minn., (Unpub.), K5-99-000440, Isanti County, filed March 20, 2007 (Minn. App. 2007): Appellant pleaded guilt to the charged crime of felony nonsupport of a child and waived his right to a pre-sentence investigation despite the court's concern with correctly determining the proper restitution amount. Subsequently, an Isanti Magistrate issued an order suspending appellant's child support obligations and staying the interest on the arrears for the time periods during which appellant was incarcerated. The result decreased the arrearage by $12,763.60. Appellant filed motion for post conviction relief seeking to have the court vacate the order for restitution. Court denied. Appellant contends the district court erred when it declined to conduct an evidentiary hearing and instead determined appellant's motion to rescind the judgment was barred by the doctrine of collateral attack. Court of Appeals reversed and remanded under an abuse of discretion standard of review. A "collateral attack" is "an attack on a judgment entered in a different proceeding". (Citing Black's Law Dictionary, 255 (7th ed. 1999). Minnesota does not permit the collateral attach on a judgment valid on its face. (Citing Nussbaumer v. Fetrow, 556 N.W.2d 595, 599 (Minn. App. 1996). Conversely, it is permissible to attack a judgment under an attempt to annul, amend, reverse or vacate or to declare it void in a proceeding instituted initially and primarily for that purpose; such as by appeal or proper motion. (Citing Strumer v. Hibbing Gen. Hosp., 242 Minn. 371, 375, 65 N.W.2d 609, 612 (1954). Court of appeals does not vacate the judgment, but holds the district court erred when it denied appellant's petition. The petition was a proper attack on the judgment and the restitution ordered in the criminal case should conform to appellant's arrearage as determined by the CSM.	Appellant's restitution ordered for felony nonsupport of a child should match the arrearage amount determine by the child support magistrate. Post conviction motion for review where arrears do not match restitution amount is not barred by the doctrine of collateral attack.
Henderson v. Henderson, No. A09-653, 2010 WL 346396 (Minn. Ct. App. Feb. 2, 2010): In May 2002, father was incarcerated, so he filed a motion to modify his child-support in July of 2003. Mill Lacs County field a responsive motion requesting a judgment be entered for outstanding arrearages. The CSM reduced father's child support obligation to $0 and entered a judgment for $7,134.05 representing outstanding arrearages at the time. In 2007 and 2008, the father filed motions to modify the arrearages by changing the effective date of the order and/or forgiving the arrearages based upon incarceration, which the CSM denied. The district court noted the father failed to cite any authority requiring the county t unilaterally determine when an obligor is incarcerated and subsequently suspend his support obligation. The Court of Appeals found the forgiveness of arrearages constitutes a retroactive modification of support, citing "[a] modification of child support may not be made retroactive beyond the date that the party seeking modification served the notice of motion on the responding party." Minn. Stat. §518A.39, subd. 2(e). The court held because the father's motions were all filed after January 1, 2007 the court had no authority to change his arrearages.	Forgiveness of arrearages constitutes a retroactive modification of support.
Christina Jensen v. David Fhima, 731 N.W.2d 876, (Minn. App. 2007): Respondent granted judgment against appellant in CA. Renewed judgment in CA, then subsequently filed the judgment in MN, where appellant resided. Appellant moved for stay of the docketing of the judgment and filed an affidavit of his attorney providing appellant intended to bring a motion to vacate on the ground the judgment was no longer enforceable in MN. Appellant argued that renewal of the judgment entered and docketed in CA only extended the period of enforceability in CA, and did not create a new judgment as under MN's 10 year statutes of limitations, the time for docketing had expired. This court held 1) the affidavit by the appellant's attorney was sufficient to satisfy the requirement to show grounds for staying enforcement of the judgment; 2) the appellant was not required to post security until the motion to stay was granted; and 3) renewal judgment was enforceable in the state against judgment debtor.	Renewed judgment entitled to full faith and credit in a different state so long as revival was within statute of limitations period of the state of rendition.

Dahlin v. Kroening, 796 N.W.2d 503 (Minn. 2011): In 1988, after obligor had not paid, obligee brought an action on the judgment and obtained a new judgment for arrearages. In 1998, the judgment continued to be unpaid so obligee brought another action for a new judgmenta and obtained a new judgment. In 2008, oblige filed an action on the 1998 judgment. The District Court denied the obligee's motion to obtain a new judgment because more than ten years had passed since the first judgment. Ex-husband argued, among other things, that the legislature intended to prohibit multiple renewals of judgments, citing Minn. Stat. 548.09. The court held that the changes the Legislature made in regards to renewal of child support judgments did not mean that the changes applied to other types of judgments. There is no Minnesota statute expressly allowing spousal maintenance judgments to be repeatedly renewed as it does for child support judgments, but there is no indication that it was the legislative intent to restrict multiple judgment renewels solely to child support judgments. Minn. Stat. §§ 541.04, 548.09, and 548.091 require judgment creditors to commence actions on judgments within ten years after the entry of each judgment, expressly allowing child support judgments to be renewed repeatedly.	ChildSupport, Judgments.
Bakken v. Helgeson, 785 N.W.2d 791 (Minn. Ct. App. 2010): The Court of Appeals held martial liens are not judgment liens, but are a method used to distribute property in a dissolution. Marital liens may be foreclosed as a mortgage when the original judgment does not expressly state a different means of enforcement. The statute limitations for a mortgage foreclosure is 15 years. Distinguishing this case from *Dahlin*, which applied to spousal-maintenance arrearage judgments. The judgment in this case was awarded by the court as a method of property division nota money judgment. Foreclosure of a lien awarded by a dissolution judgment is subject to the 15-year statute of limitations in Minn.Stat. § 541.03, subd. 1 (2008), unless the judgment provides an alternative means of enforcement.	Marital liens may be foreclosed as a mortgage when the original judgment does not expressly state a different means of enforcement.
Rooney v. Rooney, 782 N.W.2d 572 (Minn. Ct. App. 2010): Mother sued father's/ex-husband's employer for failing to withhold money from father's income to pay her child support. Employer was held liable to mother for failing to withhold, and the judgment was approximately $235,000.00 (included unpaid child support, spousal maintenance, interest, and cost of living adjustment). The Court of Appeals held that if the third-party payor of funds did not withhold money from obligor's income for the purpose of child support, and the third-party payor of funds was held liable to oblige for the amount the payor failed to withhold.	Judgments; Child Support; Income Withholding.
Cnty. of Anoka v. Storberg, No. A11-1190, 2012 WL 426609 (Minn. Ct. App. Feb. 13, 2012): In 1997 Anoka County received a judgment against Appellant in the amount of $801.50 for past public assistance in place for his child support. However, the judgment was never renewed and in 2011 Appellant brought a motion to have the judgment vacated. The Court of Appeals held that *Gerber* remains good law and that the Appellant did not distinguish his case from Gerber. Administrative remedies to secure payment of a judgment (even one beyond the statutory window for renewal) are permissible as they are not an "action" subject to the renewal requirement.	Administrative remedies to secure payment of judgments are permissible.
Krabbenhoft v. Krabbenhoft, A19-0353, 2020 WL 1129865 (Minn. Ct. App. Mar. 9, 2020): An order on equitable grounds must find that a party received child support payments illegally, unlawfully, or in a way that is morally wrong. When parties agree to the terms of an agreement, including child support calculations, as written and as read into the record, a mistake that occurs in the calculations is not a clerical error as the mistake did not have the effect of making the document say something different from that which the parties agreed too.	Judgments; Overpayments of Child Support; Retro Mod (downward) Overpayment
Holm v. Kuske, A20-0171, 2020 WL 4579029 (Minn. Ct. App. Aug. 10, 2020): An administratively renewed judgment is entered by a court administrator and is not a "judgment of the child support magistrate," regarding which Minn. R. Gen. Prac. 376.01 allows a party to bring a motion for review under the expedited process. To challenge renewed judgments under Minn. Stat. § 548.091, subd. 4, a request for a hearing must be filed.	Judgments

II.M.6. - Attorneys Fees / Costs / Service Fees	
Minn. Stat. ' 518.14 - Costs and Disbursements; Attorneys Fees; Subd. 2 - recovery of collection costs by child support obligee; Minn. Stat. ' 518A.51- allows public agency to charge obligor who is in arrears a service fee equal to the cost of providing collection services, in addition to child support in an amount not to exceed 10% of monthly child support amount. Also requires application fee of $25.00 for applicants for services except those who transfer from PA to NPA. $25.00 fee for successful tax intercept. Minn. Stat. ' 549.211, Subd. 5 - Attorney=s fees for improper pleadings; Minn. R. Civ. P. 11.03 - Attorneys fees for improper pleadings; Minn. Stat. ' 518.611, Subd. 5(c) - Payor of funds liability for attorneys fees to public authority or obligee in income withholding proceedings; Minn. Stat. ' 518.64, Subd. 2(g) - Minn. Stat. ' 518.14 applies to award of attorney=s fees in modification proceedings. Minn. Stat. ' 518C.313-Fees, costs and attorney=s fees in UIFSA cases.	
Lukanen v. Lukanen, 357 NW 2d 380 (Minn. App. 1984): Award of $250.00 in attorney fees to mother was not an abuse of discretion in support modification proceeding given discrepancy between parties' incomes, child support arrearages by father, and his lack of cooperation in submission of medical claims.	Attorney Fees in Modifi-cation Case
Ronay v. Ronay (Ronay II), 369 NW 2d 12 (Minn. App. 1985): Unconscionable to reduce child support, thereby making attorneys fees payable out of child support.	Attorney Fees
Anderson v. Honaker, 365 NW 2d 307 (Minn. App. 1985): Court did not err in taxing the losing party with expenses of videotape deposition testimony in addition to transcript costs.	Costs
Pitkin v. Gross, 385 NW 2d 367 (Minn. App. 1986): Attorney's fees under Minn. Stat. ' 518.14 can be awarded on appeal of a paternity case.	Attorney's Fees
Holder v. Holder, 403 NW 2d 269, 271 (Minn. App. 1987): Impact of a party's behavior on the costs of litigation may support an award of attorney's fees. Financial resources are not the sole rational for attorney's fees.	Behavior of Party
Nicollet County v. Larson, 421 NW 2d 717 (Minn. 1988): Attorney fee awards are not authorized in actions brought by governmental agency pursuant to Minn. Stat. ' 256.87.	Attorney's Fees
Peterson v. Michalski, (Unpub.), C9-90-497, F & C, filed 7-17-90 (Minn. App. 1990): Respondent's request for attorney's fees was denied because respondent was represented by the county attorney's office and therefore had not incurred expenses on appeal.	County Attorney
Dabrowski v. Dabrowski, 477 NW 2d 761 (Minn. App. 1991): Attorney's fees under Minn. Stat. ' 518.14 may be based on a party's behavior and costs of litigation regardless of financial resources.	Behavior of Party
Kronick n/k/a Herman v. Kronick, 482 NW 2d 533 (Minn. App. 1992): Minn. Stat. ' 518.14 mandates appropriate findings where a request for attorney's fees is need-based.	Attorneys Fees
Sheeran v. Sheeran, 481 NW 2d 578, 579 (Minn. App. 1992): Requirement under Minn. R. Civ. P. 58.01 that judgment must be entered upon an order awarding money or costs includes attorney=s fees.	Judgment Required
Eisenschenk n/k/a Weeks v. Sanford, (Unpub.), C4-97-740, C5-97-1167, F & C, filed 11-25-97 (Minn. App. 1997): ALJ's award of attorney's fees against obligor was proper where obligor failed to respond to discovery requests of obligee, causing obligee the additional expense of subpoenaing obligor's bank records and proceeding with a lengthy hearing.	ALJ Award of Attorney's Fees
Peterson v. Peterson, (Unpub.), C2-97-753, F & C, filed 1-20-98 (Minn. App. 1998): Remedies for collection of support are available for collection of attorney's fees and costs incurred in enforcing child support. Minn. Stat. ' 518.14, subd. 2(b) (Supp. 1997). Therefore, in this case, those amounts could be subtracted from obligor's lien in the homestead.	Recovery of Attorney's Fees through Lien
Cunningham and Olmsted County v. Salata, (Unpub.), C4-97-1838, F & C, filed 4-7-98 (Minn. App. 1998): (Asst. Co. Atty Julie Voigt) County attorney was denied attorneys fees on appeal because criteria of Minn. Stat. ' 518.14 (1996) were not met because appeal not frivolous or brought in bad faith. Did not rule out award of fees to county attorney in appropriate case.	Attorney Fees to County Attorney
Holmberg v. Holmberg, 588 NW 2d 720 (Minn. 1999): Attorneys fees cannot be awarded against the state under Minn. Stat. ' 518.14 because statutes do not apply to the state unless the state is specifically mentioned or "the words of the act are so plain, clear and unmistakable as to leave no doubt as to the intention of the legislature."	Attorneys Fees Against the State
Frisch v. Solchaga, (Unpub.), C4-99-1083, F & C, filed 1-11-1999 (Minn. App. 2000): Award of $12,000 attorneys fees in a private paternity case upheld.	In a Paternity Case

March v. Crockarell, (Unpub.), C1-00-1260, F & C, filed 2-6-01 (Minn. App. 2001): The provisions of Minn. Stat. ' 518.14, Subd. 2(a) 2000 requiring that "arrearages must be a docketed judgment" and that "fees and costs may not exceed 30 % of arrearages" apply only to attorney's fees attributable to costs incurred in supporting a support judgment and do not apply to fees awarded by a court under Minn. Stat. ' 518.14, Subd. 1 enabling a party to carry on proceedings or costs ordered against a party who unreasonably contributes to the length of the proceeding.	Attorney Fees under ' 518.14, Subd. 1
March v. Crockarell, (Unpub.), C1-00-1260, F & C, filed 2-6-01 (Minn. App. 2001): District court properly awarded attorney's fees to the county attorney in a contempt case, even though it also awarded fees to the attorney for the custodial parent.	Attorney Fees to County Attorney
March v. Crockarell, (Unpub.), C1-00-1260, F & C, filed 2-6-01 (Minn. App. 2001): District court abused its discretion in converting attorney's fees to an additional judgment for child support where the fees were not awarded under Minn. Stat. ' 518.14, Subd. 2.	Conversion of Attorney's Fees to Judgment
Geske f/k/a Marcolina v. Marcolina, 624 NW 2d 813 (Minn. App. 2001): When awarding attorney's fees under Minn. Stat. ' 518.14, Subd. 1, the court must indicate to what extent the award was based on need or conduct, or both, and make specific findings to support the fee award. (Conclusory findings on the statutory factors are not enough.) (See this case for a good list of relevant cases.)	Basis for Attorney's Fees Under ' 518.14
Geske f/k/a Marcolina v. Marcolina, 624 NW 2d 813 (Minn. App. 2001): Conduct fees may be awarded against a party who unreasonably contributes to the length or expense of the proceeding. A finding of bad faith is not required for an award of conduct based fees under Minn. Stat. ' 518.14, Subd. 1. Conduct based fees must be awarded for conduct occurring during litigation.	Conduct Based Fees Under ' 518.14, Subd. 1
Pike v. Mendz and Steel County Child Support Collections Unit, (Unpub.), C2-00-2157, F & C, filed 6-5-01 (Minn. App. 2001): A party seeking attorney's fees under Minn. Stat. ' 549.211 (2000) must make a motion separate from other motions or requests and specifically describe the conduct alleged to violate Subd. 2. (See Minn. Stat. ' 549.22, Sub. 4(a).)	Procedure for Claiming Fees Under ' 549.211 (2000)
Ford v. Mostaghioni, (Unpub.), C3-01-1044, F & C, filed 1-15-02 (Minn. App. 2002): It is proper to award attorney's fees against a county pursuant to Minn. Stat. ' 518.14 or ' 549.211 as a sanction against the county for having brought a support action against a man after non-paternity had been determined in the dissolution J & D.	Award Against a County
Nagle and County of Chisago v. Nagle, (Unpub.), C9-01-965, F & C, filed 2-12-2002 (Minn. App. 2002): Because father's motion to require county to repair his credit history and pay his attorney's fees was not supported by law, it was proper to sanction either father or his attorney under Minn. R. Civ. P. 11 by fining him $300.00.	Sanction Under Minn. R. Civ. P. 11.
Nagle and County of Chisago v. Nagle, (Unpub.), C9-01-965, F & C, filed 2-12-2002 (Minn. App. 2002): It was proper for the court to fine moving party $50 for failing to certify under Minn. R. Gen. Pract. 303.03(c) that it has initiated settlement efforts.	Sanction Under Minn. R. Gen. Pract. 303.03(c)
County of Hennepin v. Goeman and Coupe, (Unpub.), C7-01-1189, F & C, filed 2-19-2002 (Minn. App. 2002): Absent egregious wrongdoing by the county, it was improper for the court to order the county to pay obligee the $300.00 in support she did not receive because county delayed by one month services of obligee's pro se pleadings as ordered by the court.	Improper to Sanction County for Delay in Service
Ludwigson v. Ludwigson, 642 NW 2d 441 (Minn. App. 2002): A CSM has the authority to award need-based attorney fees under Minn. Stat. ' 518.14, Subd. 7 (2000).	CSM can Award Attorney's Fees
Sammons v. Sartwell, 642 NW 2d 450 (Minn. App. 2002): If a party moves for attorney fees under Minn. Stat. ' 518.41, Subd. 1, but fails to establish that the other party has the means to pay the fees or that the other party's actions unreasonably contributed to the length or expense of the appeal, fees will not be awarded.	Attorney's Fees under Minn. Stat. ' 518.14.
Young v. Young, (Unpub.), C9-02-104, F & C, filed 6-4-02 (Minn. App. 2002): The court of appeals reversed the district court's award of attorney's fees to the county because even though the county appeared on the support modification issue, the county did not provide representation on those issues that the court cited as being raised in bad faith.	Fees to County Attorney
Cashin v. Cashin, (Unpub.), C4-02-1984, filed 6-3-03, (Minn. App. 2003): Court cannot properly award pro se attorney fees.	Pro se Attorney Fees

Bell v. Bell, (Unpub.), AO3-2055, filed 7-13-04 (Minn. App. 2004): The district court improperly converted attorney's fees to a child support judgment under Minn. Stat. § 518.14, subd. 2(e) (2002) where the party did not provide the formal notice required by the statute Minn. Stat. § 518.14, subd. 2(c) (2002). Even if the notice provided to appellant were sufficient, the court of appeals noted that it is not clear that the district court had the authority in 2003 to convert the 1991 and 1996 fee awards to child support.	To Convert Attorney's Fees to Child Support Judgment Requires Statutory Notice
IRMO: Smoot, (Unpub.), A04-2074, filed 10-4-2005 (Minn. App. 2005): *(Non child support case, but relevant on issue of defaults)* Appellate court affirmed the district court's decision not to enter default judgment after a default hearing was conducted where the husband failed to participate in the dissolution case, did not appear in court when ordered, and only requested (in a hand-delivered letter to the court after the default hearing) that the case be continued for trial. The appellate court found that the district court's award of attorney fees for husband's lack of cooperation was an appropriate sanction. *(This case confirms the wide discretion of the trial courts in curing situations of default and in promoting justice by affording trials of causes on the merits.)*	Curing default. Attorney fees awarded where obligor failed to cooperate.
In re the Marriage of Snedeker vs. Snedeker, (Unpub.), A05-409, F&C, filed January 17, 2006 (Minn. App. 2006): Provision in dissolution decree allowed for recovery of attorney fees if a party defaulted. The district court made findings that the husband was in default of payments under the decree and awarded attorney's fees. Court of Appeals found the attorney's fees appropriate under the decree and held that Appellant's failure to appeal decree prevented him from challenging the award of attorneys fees when he defaulted.	Award of attorney's fees appropriate according to the terms of the dissolution decree.
Brown v. Brown, (Unpub.), A05-731, F&C, filed 3-14-06 (Minn. App. 2006): Court of Appeals reversed trial court's award of $12,000.00 in attorney's fees to Respondent/Wife. The trial court found that prior to the award of child support and maintenance, Appellant/Husband's expenses exceeded his income; therefore, the evidence did not support a finding that Appellant had ability to pay need-based fees under Minn. Stat. §518.14, and the trial court abused its discretion in awarding need-based fees. In addition, the trial court's findings about Appellant's conduct were not supported by the evidence and therefore the erroneous findings were not a basis for an award of conduct-based attorney's fees.	Award of attorney's fees not supported by evidence
Jewison vs. Jewison, A05-2172, Waseca County, filed 7/3/06 (Minn. App. 2006): The court may impose attorneys fees when a litigant unreasonably contributes to the lengthy expenses of the proceedings. Jewison's refusal to comply with the order to produce his complete tax returns and schedules contributed to the delay of the proceedings. Jewison's failure to abide by two oral orders and a written order to produce the documents caused the court to delay the proceedings twice. The district court was able to obtain compliance only by threat of incarceration. A showing of bad faith is not a requisite to an order for attorneys fees.	Attorneys fees
In Re the Marriage of Virginia E. Westland vs. Stanley K. Westland A05-2500, Freeborn County, filed 7/18/06: The district court's finding that the wife was entitled to need-based attorneys fees was inconsistent with its order denying attorneys fees. The court made insufficient findings of fact regarding attorneys fees and, therefore, its decision was reversed and remanded for specific findings.	Attorney fees
In Re the Marriage of Kim Marie Bunce vs. John Russell Bunce, A05-1722, Hennepin County, filed 7/11/06: The court determined that John Bunce's misrepresentations unnecessarily contributed to the length and expense of the proceedings, and therefore she was entitled to attorneys fees.	Attorney fees
In Re the Marriage of Morter v. Morter, (Unpub.), A05-2476, Filed September 19, 2006 (Minn. App. 2006): The district court erred in awarding attorney's fees without identifying specific conduct or providing findings to justify need-based fees pursuant to Minn. Stat. § 518.14, subds. 1-2.	ATTORNEY'S FEES: Award of attorneys fees based on need or conduct requires findings.

In Re the Matter of Washington v. Anderson, A05-2338, filed October 24, 2006 (Minn. App. 2006): The district court erred when it ordered attorney's fees without making specific findings as to whether the fees were conduct-based or need-based. The district court also erred when it ordered the appellant to make a donation to respondent's attorney's two favorite charities in lieu of paying attorney's fees to respondent who was being represented pro bono. The court noted that ordering a party to contribute to a nongovernmental organization unrelated to the litigation goes beyond the appropriate role of the district court. Both issues were remanded for further proceedings.	Attorneys fees – findings required to demonstrate whether fees are need-based or conduct-based. Cannot order a party to contribute to charity in lieu of paying attorney's fees to the opposing party who is being represented pro bono
Fischer v. Cottington, (Unpub.), A06-103, Filed November 28, 2006 (Minn. App. 2006): The court affirmed the district court's award of conduct based attorney's fees because the district court made conduct-based findings that the CP unnecessarily contributed to the length and expense of the proceedings.	ATTORNEY'S FEES: Conduct based attorney's fees upheld
In Re the Marriage of Liveringhouse v. Liveringhouse, (Unpub.), A05-2531, Filed 12/5/06 (Minn. App. 2006): The court affirmed the award of need-based attorney's fees, despite limited findings, since the district court had familiarity with the parties' finances.	Need based attorney's fees upheld.
Olson v. Jax, (Unpub.), A06-27, Filed December 19, 2006 (Minn. App. 2006): The Court upheld the district court's award of need-based attorney's fees but *reversed* the award of conduct-based attorney's fees. The court found that the contentious nature of proceedings and the difficulty in determining a self-employed obligor's income lengthened the proceedings and the need for expert testimony.	ATTORNEY'S FEES: Reversed award of conduct based attorney's fees noting contentious nature of proceeding.
In re the Marriage of Linda Louise Sarvey v. Robert Hieu Sarvey, (Unpub.), A06-1525, Hennepin County, filed June 19, 2007 (Minn. App. 2007): The court has discretion to award attorneys fees based both on need and conduct. Here, appellant's actions necessitated 19 hearings, much of which was in an attempt to gain financial information from the appellant.	ATTORNEY'S FEES: Need and conduct-based attorney's fees upheld due to lack of cooperation.
In re the Marriage of Gerald Ernest Jeschke, petitioner, Appellant, vs. Kirsten Jean Libby, Respondent, (Unpub.), A06-1359, Ramsey County, filed July 31, 2007 (Minn. App. 2007): District court awarded respondent attorneys fees of $3,000 based on expenses respondent incurred due to appellant's unnecessary delay in responding to discovery. Appellant argues the attorney-fee award to respondent was not supported by the record, and that undue delay by his wife could not be attributed to him. The district court specifically identified appellant had not been forthcoming with discovery and had caused undue delay. No abuse of discretion.	The court has discretion to award fees when a party unreasonably contributes to the length or expense of a proceeding.
In re the Marriage of Gerald Ernest Jeschke, petitioner, Appellant, vs. Kirsten Jean Libby, Respondent, (Unpub.), A06-1359, Ramsey County, filed July 31, 2007 (Minn. App. 2007): Respondent motioned for attorneys fees for the appeal. Although the Appellant unreasonably contributed to the expense and delay of the district court proceeding, and the instant appeal fails to raise any reasonable legal or factual argument, Respondent's motion for attorney's fees on appeal denied. The circumstances do not show any intent by appellant to harass or delay the respondent by pursuing these arguments on appeal.	Where respondent is entitled to attorneys fees for appellant's actions in the district court hearing, it does not follow that respondent is automatically entitled to attorneys fees on an appeal filed by appellant.

In re the Marriage of: Steven John Stoltman, petitioner, Appellant, vs. Marilyn Jane Stoltman, Respondent., (Unpub.), A06-1829, Hennepin County, filed August 14, 2007 (Minn. App. 2007): Appeal from district court order finding appellant in contempt for failing to pay child support and respondent's attorney fees. The district court is required to make findings regarding the basis for conduct-based fees in order to permit meaningful appellate review (*citing Kronick v. Kronick,* 482 N.W.2d 533, 536 (Minn. App. 1992) and such a record has not been provided. This court cannot infer from the record wife's need or husband's ability to pay her attorney fees, and there is no support in the record for an award of conduct-based fees at this time; therefore the district court is reversed.	Record must provide basis for need-based or conduct-based award of attorney fees.
In re the Marriage of: Loren Helen Faibisch, petitioner, Appellant, vs. Manuel Esguerra, Respondent., (Unpub.), A06-1751, Ramsey County, filed August 21, 2007 (Minn. App. 2007): Appellant motion for attorney fees denied. Appellant failed to identify whether she sought need based or conduct based fees. Respondent's inability to pay precluded award of need-based fees. An award of conduct based fees inappropriate as, although respondent's motion was unsuccessful, it was based on a legitimate argument.	Denial of attorney fees where motion was based on legitimate argument and opposing party had no ability to pay need based support.
Schneider vs. Schneider and County of Anoka, Intervenor, (Unpub.), A06-1788, F & C, filed August 28, 2007 (Minn. App. 2007): In February 2006, Respondent was served with notice of hearing and intent to suspend drivers license. At February 2006 hearing, CSM temporarily denied the county's request pending an April 2006 review hearing. At the review hearing, county indicated that contrary to the order, Respondent's license had been suspended in error. CSM imposed fine of $150 against the county to reimburse Respondent for reasonable costs incurred as a result of the county's wrongful suspension of the driver's license. District court affirmed. Court of Appeals reversed finding that "the record contains no evidence regarding costs incurred by Respondent as a result of the suspension of his driver's license and the incurrence of costs by Respondent was the stated reason for imposing the fine…" The Court did not address the county's argument that the district court did not have the inherent authority to impose the fine.	Record does not support imposing fine on county for erroneously suspending obligor's driver's license.
In re the Marriage of Viele v. Viele, (Unpub.), A07-212, filed October 9, 2007 (Minn. App. 2007), Wright County: Where the district court made specific findings that the husband and his family actively avoided disclosure of financial information and made the proceedings protracted and diffidult beyond that which is inherent in these matters, while also causing wife to incur substantial legal fees, the award of conduct-based attorney's fees will be upheld based on sufficient findings. Because the award was based on husband's conduct, consideration of wife's need was unecessary.	Conduct based attorney's fees will be upheld where specific findings are made and regardless of need.
In re the Marriage of: Debra Christine Brunette, n/k/a Debra Christine Klein vs. Scott David Brunette, (Unpub.), A07-0685, filed February 5, 2008 (Minn. App. 2008): Husband appeals district court's award of sanctions. Wife's motion did not establish facts showing appellant violated terms of settlement agreement; therefore, district court had no basis for imposing the sanctions. Sanctions award reversed.	Award of sanctions reversed – no factual basis
In re the Marriage of: Debra Christine Brunette, n/k/a Debra Christine Klein vs. Scott David Brunette, (Unpub.), A07-0685, filed February 5, 2008 (Minn. App. 2008): Husband appeals district court's award of conduct based attorney's fees as wife failed to document the amount of the fees as required by Minn. R. Gen. Pract. 119. Appellate court determined that the documentation requirement is not designed to inhibit district court's discretion but to streamline process. If court is familiar with case history and parties' financial information, it may waive the requirements of Rule 119.	Attorney Fees Rule 119 requirement to document amount is waivable

Baudhuin vs. Baudhuin, (Unpub.), F & C,A07-0156, filed March 11, 2008 (Minn. App. 2008): Appellant petitioner argues the district court erred by denying her motion for increase in maintenance, discharging alleged child support arrears, and awarding respondent attorney's fees based on appellant's conduct, among other issues. Court of Appeals finds no error; appellant effectively prevented the district court from resolving the issue of maintenance in her favor and properly addressing the Court of Appeals' instructions on a prior remand by her failure to produce properly discoverable information regarding her financial circumstances and her student (law school) status. The district court acted within its discretion in setting child support, based on the failure of both parties to timely submit evidence of financial situations for the court to properly determine child support. The court ordered each party, based on the conduct of each individually, to pay attorney's fees to the other of $10,000 each. No abuse of discretion.	No error where conduct of parties effectively prevented the court from resolving the issues of maintenance and child support.
In re the Marriage of: Burke v. Burke, No. A15-2064 (Minn. Ct. App. Mar 6, 2017): Mediated settlement agreements are binding when a child support order is issued and the parties agree to resolve the remaining issues in the case and sign a mediated settlement agreement (MSA), child support is not "reserved" because the terms of the existing temporary order were not restated in the MSA. Need based fees are appropriate whn the request is made in good faith and will not cause unnecessary delay of the proceeding, the party from whom they are sought has the means to pay them, and the party seeking them does not have the ability to pay them. Minn. Stat. § 518.14, subd. 1. Appellant must establish that the respondent has the means to pay his attorney fees.	Stipulations; Attorney's Fees
In re the Custody of M.M.L., No. A17-1240 (Minn Ct. App. Apr. 16, 2018): When the district court record does not contain sufficient information to calculate imputed income under Minn. Stat. § 518A.32, subd. 2(1), imputation of income should be based on the minimum-wage calculation in Minn. Stat. § 518A.32, subd. 2(3). A finding that the parties were before the court due to a parties failure to pay child support and to find employment is not a sufficient basis for an award of conduct based attorney's fees.	Attorney's fees, imputing income, income determination, potential income
In re the Marriage of Kazeminy v. Kazeminy, NJK Holding Corp, et al., A18-0029 (Minn. Ct. App. Feb. 19, 2019): The Court properly held a business in contempt because the business had notice of the contempt motion and the business was present at the hearing by and through its attorney. The purpose of a civil contempt order is to vindicate the rights of the affected party. An award of attorney fees in a contempt action must be based on proof of actual damages, must not penalzie the contemnor and the party must actually incur the fees. An award of attorney fees against a non-party business owner does not require a finding of contempt against the nonparty, because the award obligated either the business or the business owner to pay the attorney fees.	Attorney's fees in contempt action, constructive contempt, employer contempt
Winesett v. Winesett, A19-1284, 2020 WL 1910177 (Minn. Ct. App. Apr 20, 2020): The court did not err in excluding additional bonus income to calculate gross income pursuant to Minn. Stat. § 518A.29 (2018) as the additional income in the form of bonuses was a possibility but not guaranteed.	Bonuses; Gross Income; Spousal Maintenance; Modification
Jubara v. Hamed, A20-0951, 2021 WL 856050 (Minn. Ct. App. 2021): Contempt is not an appropriate remedy for enforcing a dissolution property settlement that requires personal property be delivered to a party that is subject to execution by a court order directing a sheriff to enforce through a levy upon the property. A district court's denial of a party's motion as a whole includes an implicit denial of an award for attorneys' fees accumulated through bringing the denied motion.	Attorney's fees in contempt action; Contempt
Walker v. Walker, A20-1009, 2021 WL 2520663 (Minn. Ct. App. June 21,2021): Upward deviation was within court's discretion because it found costs for minor children which were above and beyond the basic expenses covered by the guidelines. Attorney's fees were proper because they met the three - prong test from Gully v. Gully.	Deviation for Guidelines

Leeke v. Leeke, A21-0539, 2022 WL 996068 (Minn. App. 2022): When applying a parenting expense adjustment to a support obligation there must be explicit findings as to the approximate number of annual overnights the child will spend with the party in order to calculate the adjustment. When awarding need based attorneys fees findings should include the income of the parties and their current annual expenses to prove whether a party has the means to pay their attorney fees. When awarding both need based and conduct based attorney fees the amounts should be designated separately and not awarded as one sum.	Parenting time/overnights; attorney fees; overnights
Rzeczkowski v. Borrero, A22-0954, 2023 WL 2762442 (Minn. Ct. App. 2023): The district court correctly recognized the parties' Columbian Dissolution and Liquidation of Marital Partnership is valid under the principal of comity, but a remand for findings regarding conscionability is required. Remand is also appropriate regarding Husband's claim for needs-based attorney fees. The district court's order denying spousal maintenance and its finding of Wife's gross monthly income are affirmed.	50/50 Custody-Support Calculation; Bonuses, Commissions, etc. as Gross Income; Child Support and Maintenance in Orders-Requirement; Dissolution of Marriage; Foreign Judgment Definition; Maintenance, Spousal
Floyd v. Floyd, A22-1148, 2023 WL 3443466 (Minn. Ct. App. 2023): The district court's determination that spousal maintenance was terminated pursuant to § 518A.39, subd. 3 was correct as there was no express waiver of statutory operation made by the parties. The districts upward deviation from the child support guidelines was not an abuse of discretion as the court determined the children's standard of living would be adversely affected absent a deviation and award of attorney fees to appellant-wife are affirmed.	Child Support and Maintenance Order; COLA (Cost-of-Living-Adjustment); Deviation from Guidelines-Evidence; Income Disparity Between Parties; Maintenance; Spousal Maintenance/Alimony
Traguott v. Traguott, A22-1446, 2023 WL 3701366 (Minn. Ct. App. 2023): The district court did not abuse its discretion by imposing sanctions on appellant-father under § 549.211 as the record supports the finding that father had no good-faith basis for his contempt motion, and the amount of the sanction was modest, consistent with deterrence rather than punishment.	Attorney Fees in Contempt Action; Contempt-Order to Show Cause; Good Cause
Adetifa v. Pay-Bayee, A22-1546, 2023 WL 5185629 (Minn. Ct. App. 2023): The district court did not err when it awarded mother sole physical custody as the record supports its best-interests findings, § 518.17, subd. 1. It also did not err when it set a parenting time schedule, ordered father to pay child support, used father's 2021 income to forecast his 2022 income, when it divided unreimbursed birth expenses pursuant to § 518A.41, awarded mother conduct-based and need-based attorney fees, and when it reserved the issue of tax dependency.	Attorneys Fees; Past Support – Generally; Past Support – Paternity; Retro Support for Paternity;

II.M.7. - Generally	
Minn. Stat. ' 518A.74 - Publication of Names; Minn. Stat. ' 518A.63 - appointment of trustee to receive and remit support; Minn. Stat. ' 518A.64- seek employment orders; Minn. Stat. ' 609.375 - criminal Nonsupport of spouse or child; Minn. Stat. ' 518A.60 - Collection of Arrears; Minn. Stat. ' 518A.60 - collection of arrears and past pregnancy and confinement expenses; 18 U.S.C.A. ' 228 (1999) - Deadbeat Parents Punishment Act.	
Zablocki v. Redhail, 434 U.S. 374, 98 S.Ct. 673 (1978): Striking down Wisconsin statute that prohibited issuance of a marriage license until a party fully complied with prior support obligations. When a statutory classification significantly interferes with the right to marry, it is invalid unless there are sufficiently important state interests and it is closely tailored to effectuate those interests.	Cannot Condition Marriage License on Being Current on Support
Biscoe v. Biscoe, 443 NW 2d 221 (Minn. App. 1989): Trial court had no authority to order reinstatement of a higher level of support as a penalty for appellant's failure to report a change in employment or income.	Reinstatement of Prior Order as Penalty
State v. Iglesias, 517 NW 2d 175 (Wis. 1994): Monies posted as bail can be used to satisfy fines and costs levied against a defendant, even if the bail was posted by a third party. Citing United States v. Higgins, 987 F.2d 543 (1993) and United States v. Salerno, 481 U.S. 739 (1987).	Bail Posted by 3rd Party
Shea v. Shea, (Unpub.), C6-96-2253, F & C, filed 4-4-97 (Minn. App. 1997): The court is not limited to the statutory remedy under Minn. Stat. ' 576.01 when it appoints a receiver to manage the obligor's assets, but the appointment of a receiver is a harsh remedy and the record must justify it. Obligor's behavior during the dissolution and contempt proceedings justified appointment of a receiver in this case.	Appointment of Receiver
Drugger v. Freedy, (Unpub.), C9-98-1389, F & C, filed 12-29-98 (Minn. App. 1998): Under Minn. Stat. ' 518.6195 (Supp. 1997), if support arrears accrue before child is emancipated, methods for collecting and enforcing support continue to apply after the emancipation.	Collection after Emancipation
State of Minnesota v. Clavel, (Unpub.), C6-99-1263, F & C, filed 1-24-2000 (Minn. App. 2000): Because Holmberg has prospective application only, an order from the administrative process issued prior to Holmberg can be used as the basis for criminal prosecution post-Holmberg.	Enforcement of Pre-Holmberg Orders
In re Estate of Dahlman, (unpub.) A05-1225, filed 4-25-06 (Minn. App. 2006): Dissolution decree requiring decedent to carry life insurance "as and for additional support" did not require coverage after emancipation, so estate was not liable to children in probate.	Probate claim for insurance support blocked by emancipation
Zaldivar v. Rodriguez, 819 N.W.2d 187 (Minn.App.2012): (1) a district court is not prohibited from holding an unauthorized alien in contempt of court for failure to pay child support, so long as the court does not require the unauthorized alien to take any action that would subject him or her to criminal penalties or additional civil consequences. (2) an unauthorized alien is not categorically exempt from Minnesota's child-support obligations.	Earning Capacity; voluntary Unemployment or Under-employment
Rooney v. Rooney, 782 N.W.2d 572 (Minn. Ct. App. 2010): The Court of Appeals held a third party "payor of funds" to a child support obligor whom is held liable to the oblige for amounts the payor failed to withhold is also liable for reasonable attorney fees incurred by the oblige in enforcing the withholding liability. Additionally, the "payor of funds" is liable for attorney fees incurred before or after an arrearages judgment is entered against the payor.	A "payor of funds" is liable for attorney fees incurred before or after an arrearages judgment is entered against the payor.

II.M.8. - Criminal Non-Support	
18 U.S.C. ' 228 (Child Support Recovery Act of 1992) a/k/a Deadbeat Parents Punishment Act - Makes willful failure to support a child in another state a federal crime if arrears exceed $5,000.00 or support is unpaid for longer than a year; Minn. Stat. ' 609.375 (Non-support of Spouse or Child); Minn. Stat. ' 588.20, Subd. 2(8) misdemeanor contempt for willful nonpayment of court-ordered support.	
United States v. Crawford, 115 F.3d 1397 (8th Cir. 1997): 18 U.S.C. ' 228 (CSRA) is a valid exercise of congressional power under the Commerce Clause.	CSRA Constitutional
United States v. Russell, 186 F.3d 883 (1999) (U.S. Court of Appeals, 8th Cir.): Defendant was indicted in federal court under the Deadbeat Parents Punishment Act (DPPA), 18 U.S.C.A. ' 228 (1999) for willful failure to pay past due child support. Defendant claimed indictment based on arrears that predated enactment of DPPA violated the *ex post facto* clause. The 8th Circuit rejected his argument, because it is the willful failure to pay support that is criminalized under DPPA, not the accrual of $10,000 in arrears. The $10,000 mark is a guideline to help define "willful failure."	Federal Indictment under DPPA
United States v. Ballek, 170 F.3d 871, 873, 875 (9th Cir.) *cert. denied*, 528 U.S. 853, 120 S. Ct. 318 (1999): Absentee parent cannot avoid child-support obligation by refusing to accept gainful employment; government need not prove parent's failure to accept employment was caused by desire to withhold payments or any similar evil motive).	Need not Prove Failure to Accept Employ-ment was Caused by Desire to Avoid Payment of Support
United States v. Grigsby, 26 Fam.L.Rep. (BNA) 1220 (D.R.I. 2-24-00) held that the CSRA, 18 U.S.C. ' 228 is unconstitutional to the extent that it creates a presumption that the defendant is able to pay the child support order and it is up to the defendant to prove that he cannot.	In Criminal Case, Can't Presume Ability to Pay
United States v. Kramer, 225 F.3d 847, 851 (7th Cir. 2000): The DPPA, 18 U.S.C. § 228(a), permits a defendant in a criminal nonsupport prosecution in federal court to challenge the personal jurisdiction of the state court that issued the underlying child support order. 225 F.3d at 857.	Personal Jurisdiction Challenge in DPPA Prosecution
State v. Burg, 633 NW 2d 94 (Minn. App. 2001): Because defendant in a criminal non-support case did not explain how a psychologist=s understanding of how his reduced mental capacity affected his ability to maintain employment would differ from jurors understanding of its effects, court did not err in excluding psychologist=s testimony.	Expert Testimony Excluded
State v. Burg, 633 NW 2d 94 (Minn. App. 2001): A Alawful excuse@ for failure to pay child support is an ordinary defense for which defendant may be required to bear the burden of production (e.g., make a *prima facie* showing); the burden then shifts to the state to prove beyond a reasonable doubt the lack of a lawful excuse.	Burden of Proof in Criminal Non-Support Cases
Severs v. Severs, (Unpub.) C9-01-609, F & C, filed 10-9-01 (Minn. App. 2001): Court cannot impute income to obligor incarcerated on federal criminal charges for failure to pay child support. This differs from civil contempt (where obligor may be held responsible for support while incarcerated) because in a criminal case, obligor has no opportunity to get out of jail until his sentence is complete.	Cannot Impute Income to Obligor in Criminal Non-support Case
United States v. Molak, 276 F.3d 45, 50-51 (1st Cir. 2002): DPPA, 18 U.S.C. § 228(a), does not permit attack on the substantive lawfulness of the underlying state support obligation or permit a federal court to revise the order in any way. See also United States v. Faasse, 265 F.3d 475, 488 n.11 (6th Cir. 2001); United States v. Kramer, 225 F.3d 847, 851 (7th Cir. 2000); United States v. Craig, 181 F.3d 1124, 1128 (9th Cir. 1999); United States v. Brand, 163 F.3d 1268, 1275-76 (11th Cir. 1998); United States v. Black, 125 F.3d 454, 463 (7th Cir. 1997); United States v. Bailey, 115 F.3d 1222, 1232 (5th Cir. 1997); United States v. Bongiorno, 106 F.3d 1027, 1033-34 (1st Cir. 1997); United States v. Johnson, 114 F.3d 476, 481 (4th Cir. 1997); United States v. Sage, 92 F.3d 101, 107 (2d Cir. 1996).	DPPA does not Permit Substantive Challenge of Underlying State Order and Federal Court cannot Revise the State Order

State of Minnesota v. Jeffrey Scott Larson, (Unpub.), CX-02-1388, filed 5-20-03 (Minn. App. 2003): Where the defendant presented at trial a physician's statement that he could work with certain restrictions, the jury could have reasonably found that he had the ability to work, with certain restrictions, and that he had no lawful excuse for failing to pay the child support for six months.	Physical Limitations
State of Minnesota v. Jeffrey Scott Larson, (Unpub.), CX-02-1388, filed 5-20-03 (Minn. App. 2003): The State does not have the duty to rebut evidence presented by the defendant that he is unable to work due to physical limitations. The state only has the burden to present sufficient evidence to prove beyond a reasonable doubt that the defendant was able to provide support. The offense of criminal non-support is predicated on the ability to support.	No Duty to Rebut Evidence of Physical Limitation
State of Minnesota v. Jeffrey Scott Larson, (Unpub.), CX-02-1388, filed 5-20-03 (Minn. App. 2003): The trial court did not err when it excluded evidence of non-paternity at the criminal non-support trial, where the defendant had been adjudicated the father of the child in the dissolution decree, and did not appeal.	Evidence of Non-Paternity Excluded
State of Minnesota v. Nelson, 671 NW 2d 586 (Minn. App. 2003): A condition precedent to a criminal non-support of a child charge is an attempt by the state to obtain a court order holding the person in constructive civil contempt for failing to pay support during the time period specified in the complaint. A finding of contempt for unrelated time periods does not satisfy the statutory prerequisite.	Must First Attempt Civil Contempt for Time Period Specified in Complaint
United States v. Bigford, 365 F. 3d 859, 10th Circuit (Okla. April 13, 2004): Defendant's claim that the Oklahoma default child support judgment was rendered without personal jurisdiction over him may be raised as a defense in a Deadbeat Parents Punishment Act criminal prosecution, even if he had not challenged the default judgment within three years of entry in the state court (the state's 'absolute verity' rule) as provided by state law. Even if the federal court decides that prosecution is barred in federal court based upon 14th amendment due process considerations, that decision does not interfere with the state's ability to enforce the order under its own laws. Defendant would have to re-raise the personal jurisdiction defense in state court under state law to challenge any state enforcement action. Defendant bears the burden to prove lack of personal jurisdiction.	Defendant may Challenge Personal Jursidiction in State c/s Case as Defense to Federal Prosecu-tion under DPPA
Wahl v. Wahl, (Unpub.), A03-1738, F & C, filed 8-2-04 (Minn. App. 2004): This unpublished case cites published cases that differentiate civil vs. criminal contempt proceedings. "Whether contempt is civil or criminal is determined by the court's purpose in responding to the alleged misconduct, rather than the nature of the misconduct itself." In re Welfare of A.W, 399 NW 2d 223,225 (Minn. App. 1987). Civil contempt: (a) purpose not to punish but to compel perfor-mance, (b) indefinite duration of sentence, (c) power to shorten the sentence by performing, (d) involves disobedience of a court order, and (e) is committed outside the presence of the court. (citing Mahady, Swancutt, Minn. State Bar Ass'n v. Divorce Assistance Ass'n, Inc. 248 NW 2d 733,741. Criminal contempt: (1) misconduct directed at the court, (2) unconditional sentence or fine, (3) purpose to preserve the authority of the court by punishing misconduct. Hicks ex rel Feiock v. Feiock, 485 U.S. 624,647 (U.S. S. Ct, 1988).	Distinction Between Civil and Criminal Contempt
United States v. Card, 390 F.3d 592, 2004 U.S. App. (8th Cir., filed December 9, 2004): Even though the U.S. Sentencing Guidelines Manual § 3E1.1(a) cmt., application n. 3 (2003) provides for a reduction in a defendant's offense level if he clearly demonstrates acceptance of responsibility for his offense, a guilty plea does not entitle a defendant to the adjustment as a matter of right. The pivotal issue is whether the defendant shows a recognition and affirmative responsibility for the offense and sincere remorse. Where defendant made no post indictment child support payments, made no effort to find work or apply for disability payments, and offered no evidence that he could not work, he was not entitled sentence reduction based on acceptance of responsibility. Citing United States v. Nguyen, 339 F.3d 688, 690 (8th Cir. 2003).	Sentencing in Federal Nonsupport Cases

United States v. Rater, 99 Fed. Appx. 80, 8th Cir, filed April 30, 2004 No. 03-1449: Where obligor worked only sporadically and turned down or left jobs despite his substantial past-due support obligations; failed to seek employment commensurate with his capabilities; his only regular voluntary payments during the charged time period were *de minimis*, and were made to avoid further orders of contempt in state court; and had plotted with his girlfriend to disguise assets, evidence was sufficient to permit a reasonable trier of fact to conclude beyond a reasonable doubt that obligor acted willfully in violation of section 228(a)(3). See United States v. Robinson, 217 F.3d 560, 564 (8th Cir.) (standard of review), cert. denied, 531 U.S. 999, 148 L. Ed. 2d 468, 121 S. Ct. 497 (2000).	Turning Down and Quitting Jobs, Making Payments only to Avoid Contempt, and Hiding Assets are Sufficient Proof that Failure to pay Support is Willful in Federal Case.
Dean Preston Kennedy v. State of Minn., (Unpub.), K5-99-000440, Isanti County, filed March 20, 2007 (Minn. App. 2007): Appellant pleaded guilt to the charged crime of felony nonsupport of a child and waived his right to a pre-sentence investigation despite the court's concern with correctly determining the proper restitution amount. Subsequently, an Isanti Magistrate issued an order suspending appellant's child support obligations and staying the interest on the arrears for the time periods during which appellant was incarcerated. The result decreased the arrearage by $12,763.60. Appellant filed motion for post conviction relief seeking to have the court vacate the order for restitution. Court denied. Appellant contends the district court erred when it declined to conduct an evidentiary hearing and instead determined appellant's motion to rescind the judgment was barred by the doctrine of collateral attack. Court of Appeals reversed and remanded under an abuse of discretion standard of review. A "collateral attack" is "an attack on a judgment entered in a different proceeding". (Citing Black's Law Dictionary, 255 (7th ed. 1999). Minnesota does not permit the collateral attach on a judgment valid on its face. (Citing Nussbaumer v. Fetrow, 556 N.W.2d 595, 599 (Minn. App. 1996). Conversely, it is permissible to attack a judgment under an attempt to annul, amend, reverse or vacate or to declare it void in a proceeding instituted initially and primarily for that purpose; such as by appeal or proper motion. (Citing Strumer v. Hibbing Gen. Hosp., 242 Minn. 371, 375, 65 N.W.2d 609, 612 (1954). Court of appeals does not vacate the judgment, but holds the district court erred when it denied appellant's petition. The petition was a proper attack on the judgment and the restitution ordered in the criminal case should conform to appellant's arrearage as determined by the CSM.	Appellant's restitution ordered for felony nonsupport of a child should match the arrearage amount determine by the child support magistrate. Post conviction motion for review where arrears do not match restitution amount is not barred by the doctrine of collateral attack.
State v. Askland, 784 N.W.2d 60 (Minn. 2010): Father charged with two counts of felony failure to pay child support. Father failed to appear, and later was apprehended, but was released after he posted $10,000 bail executed by appellant Howe Bonding. Father then left the county and Howe Bonding searched for and found him eventually, but the district court refused to reinstate the bond. The court used factors from In re Shetsky, 60 N.W.2d 40, 46 (1953) to conclude that they would not reinstate the bond, because the prejudice to the government outweighed Howe Bonding's good-faith efforts to find the father, due to the fact that he court had already given the $10,000 to the county to give to the mother and it would be difficult for the county to pay the money back to the court. On appeal, the supreme court reversed on the grounds that the district court did not prove that the state was prejudiced at all, and so the district court erred in concluding that the prejudice to the state outweighed Howe Bonding's good-faith efforts to apprehend the father. In a footnote, the Supreme Court noted that the district court may have acted improperly and act against Minn. Gen. R. Prac. 702(g) by giving the bond amount to the county in the first place, since that rule requires forfeited bonds to be deposited in the state treasury. However, the appropriateness of the district court's actions was not at issue here.	Criminal Non-Support.

State v. Nelson, 842 N.W.2d 433, 435 (Minn. 2014): The District Court granted the state's motion to preclude evidence of non-monetary support at trial. The Court of Appeals determined that "care and support" referred only to monetary support, and found 1) the legislature clearly intended the stature to refer only to monetary support; 2) similar child support statutes indicate "care and support" refer exclusively to monetary obligations; 3) Accepting the Appellant's interpretation would allow obligors to avoid prosecution by merely proving they provide companionship to their children. Appellant challenged his felony conviction under Minn. Stat. § 609.375, subs. 1, 2a(1) (2012), which criminalizes a person's omission and failure "to provide care and support" to a spouse of child when legally obligated to do so. Appellant argued the record contained insufficient evidence to support his conviction because the State did not prove beyond a reasonable doubt that he omitted and failed to provide care to his children. The Minnesota Supreme Court concluded that Minn. Stat. § 609.375 (2012) ("the care-and-support statute") requires the State prove that Appellant omitted and failed to provide both care and support to his children. The found that interpreting "care" and "support" to mean only monetary support violated the cannon against surplusage. Further, the "and" required the state to prove both a failure to provide care, and failure to provide support. Finally, "care" means "watchful oversight, attentive assistance or supervision," and "support" means "monetary assistance." Thus, "Care and Support" means you must prove an absence of both monetary support and care. (Since abrogated by statute)	Child Support; Criminal Non-Support
Zaldivar v. Rodriguez, 819 N.W.2d 187 (Minn.App.2012): (1) a district court is not prohibited from holding an unauthorized alien in contempt of court for failure to pay child support, so long as the court does not require the unauthorized alien to take any action that would subject him or her to criminal penalties or additional civil consequences. (2) an unauthorized alien is not categorically exempt from Minnesota's child-support obligations.	Child Support; Criminal Non-Support
State v. Hentges, 844 N.W.2d 500, 501 (Minn. 2014), review denied (June 25, 2014): Respondent timely appealed his conviction of felony failure to pay child support with the court of appeals. After filing his notice of Appeal, Respondent failed to appear for a hearing on an alleged probation violation, and the district court issues a bench warrant for his arrest. The State moved to dismiss Respondent's appeal under the fugitive dismissal rule, which permits an appellate court to dismiss a criminal appeal when the party who brings the appeal is a fugitive. The Court of Appeals declined to dismiss the appeal noting that Minnesota had neither statutorily nor judicially endorsed the fugitive dismissal rule, and declined to dismiss the Respondent's appeal. The Minnesota Supreme Court adopted the Fugitive Dismissal Rule; gave the Respondent 10 days to surrender or face dismissal. The Court observed that the Fugitive Dismissal Rule has deep roots in American jurisprudence, back at least to 1850. The Court observed four policy justifications; 1) Enforceability of judgements; 2) Waiver based on flight; 3) Judicial efficiency; 4) Prejudice to the government.	Child Support; Criminal Non-Support, Fugitive Dismissal Rule.

Hirsch v. Antzaras, No. A08-1076, 2009 WL 1182186 (Minn. Ct. App. May 5, 2009): Respondent filed a motion for contempt, requesting payments and compliance with the court order requiring Appellant to secure a life insurance policy to guarantee support. Appellant was found in contempt and the sanctions and purge conditions required compliance. Appellant did not comply with this order and, a second time, failed meet the conditions, after an order to show cause hearing. Later, Appellant met all of the purge conditions except for payment of a portion of Respondent's attorney fees. Respondent sought a writ for Appellant's arrest. The district court declined to issue a warrant. The Court of Appeals determined that the issue was not ripe for review and non-appealable because it was a conditional order- that is, Appellant still could demonstrate compliance, or her inability to comply before any immediate incarceration. There are certain procedural requirements that Appellant is guaranteed before she can be incarcerated, and the Court could not act until those steps were undertaken. A contempt order in a child-support dispute was conditional, and the court dismissed the father's appeal. The contempt order did not directly commit the mother to incarceration if she failed to purge her contempt. The father had to obtain a writ of attachment that directed law-enforcement officers to bring the mother before the court for a hearing. Further, at the hearing the mother was provided with an opportunity to show cause why the stay of contempt sentence should not be revoked, and the mother demonstrated sufficient cause that she had complied with all of the conditions of the contempt order, and putting the father's attorney's fees in a trust account was reasonable. Minn. R. Gen. Pract. 309.03(a).	Procedural requirements that an obligor is guaranteed before they can be incarcerated, and the Court could not act until those steps were undertaken.

II.M.9. - FIDM	
Minn. Stat. ' 552.06-Summary Execution of Support Judgment Upon Funds at a Financial Institution.	
County of Dakota and Surayat Hortan v. Patricia Avinde, (Unpub.), A04-2275, filed 10-18-2005 (Minn. App. 2005): The appellate court upheld the district court's order for the release of funds to obligor, levied from obligee's account, to compensate for overpayment of child support, even though the county's levy was not authorized by statute, on the basis that the obligee failed to properly contest the levy and it was an "equitable determination."	FIDM Levy upheld based on equity even though not authorized by statute

II.N. - DEFENSES TO LIMITATIONS ON COLLECTIONS AND ENFORCEMENT	
II.N.1. - Generally	
Minn. Stat. ' 518.612 - interference with visitation not a defense to nonpayment of support. Minn. Stat. ' 518C.315-Non-parentage not a defense in UIFSA.	
Michalson v. Michalson, 116 NW 2d 545 (Minn. 1962): Where a divorced wife's conduct in taking minor children to Japan to live with her subsequent husband was not wrongful, it did not justify abatement of father's delinquent support payments or excuse father from future payments, even if he was denied right of visitation by such removal.	Custodial Parent Moving out of Country with Children
Orman, aka Gates v. Orman, 364 NW 2d 836 (Minn. App. 1985): No pre-judgment interest on arrearages where amount of arrearages uncertain or unascertainable.	Pre-Judgment Interest
Faribault-Martin-Watonwan Human Services ex rel. Jacobson v. Jacobson, 363 NW 2d 342, 346 (Minn. App. 1985): Because of the need to protect a child's right to support, equitable estoppel is not available as a defense to the collection of child support arrears.	Equitable Estoppel not a Defense
McNattin v. McNattin, 450 NW 2d 169, 172 (Minn. App. 1990): Mother induced father to change custody of child by representing that she would forego child support. Because equitable estoppel was used to enforce a promise in a sort of contract negotiation, mother was barred from seeking support, absent a change of circumstances.	Equitable Estoppel is a Defense if a Contract Existed
Barnier v. Wells, 476 NW 2d 795 (Minn. App. 1991): Voluntary overpayment of obligation should be credited to insurance, medical and dental arrearages, regardless of whether overpayment was dedicated for that purpose.	Voluntary Overpayments Arrearages
Jevning v. Cichos, 499 NW 2d 515 (Minn. App. 1993): Fact that mother of child may have committed statutory rape against minor father is not a basis to waive father's child support obligations.	Statutory Rape not a Defense
Swicker v. Ryan, 346 NW 2d 367 (Minn. App. 1984), *rev.den.* (Minn. 6-12-94): Unfamiliarity with procedural rules is not good cause to excuse an untimely action.	Lack of Knowledge
Baldwin Nelson v. Nelson, (Unpub.), C4-95-152, F & C, filed 8-22-95 (Minn. App. 1995): Respondent was previously ordered to pay $50.00 per month child support and to pay guidelines support within 30 days of being employed full-time. In 1991, respondent informed Ramsey County Support and Collections that he was employed. Ramsey County told him child support would only increase from the $50.00 if appellant filed a motion to increase. In 1994, appellant filed a motion seeking arrears under the guidelines order. Court of appeals ruled that although the county misled respondent, he did not have the right to rely on the county's representations regarding his child support obligation, and appellant could recover arrearages. (Citing Stich.)	Misled by County
Anderson and Beltrami County, Beaulieu, 555 NW 2d 537 (Minn. App. 1996): An order for child support in a paternity action is not regulatory, or like a tax, and therefore the state is not barred from imposing a child support obligation on an Indian who lives on a reservation. (Result may differ if support was ordered under Minn. Stat. ' 256.87.)	Right to Secure Sup-port From a Reservation Indian
LaFreniere-Nietz v. Nietz, 547 NW 2d, 895, 898 (Minn. App. 1996): District court may stop child support judgment creditor from garnishing judgment debtor's wages as long as debtor remained current in payments and paid additional monthly amount toward arrears.	Compliance With Child Support and Arrears Pay-ments Blocks Garnishment
Berg v. D.D.M., 603 NW 2d 361 (Minn. App. 1999): The absence of a child support order at the time of obligor=s death does not preclude the court from ordering future support or a lump-sum payment under Minn. Stat. ' 518.64, subd. 4.	Absence of Support Order at Time of Obligor's Death
Seaworth v. Pearson, (Minnesota Lawyer No. CC-85-00), U.S. Court of Appeals, 8th Circuit 99-3014, F & C, filed 3-6-2000: An employer's requirement that a job applicant provide a social security number is not religious discrimination under 420 SC 1993.	Religious Discrimination
United States v. Kramer, U.S. Court of Appeals, 7th Circuit, No. 99-2262, filed 9-5-00: A defendant in a federal child support recovery act case may raise as a defense that the state court is without jurisdiction.	State's Jurisdiction a Defense in Federal Case

State, ex rel Buckner v. Buckner, Tenn. Ct. App. No. E2000-00959-COA-R3-CV, filed 8-24-00: Father's mortgage payments made in lieu of support did not relieve father of obligation to reimburse the state for AFDC payments.	Not Satisfied by Mortgage Payment
Hicken v. Arnold Anderson and Dove, P.C.C.D., Civ. No. 00-1027 (D. Minn. April 17, 2001): The federal Fair Debt Collection Practices Act does not apply to an action to enforce the provisions of a J&D entered pursuant to the terms of a negotiated marital termination agreement.	Fair Debt Collection Practices Act
Ford v. Mostaghioni, (Unpub.), C3-01-1044, F & C, filed 1-15-02 (Minn. App. 2002): Where 1988 J & D, based on stipulation of the parties, said that husband was not the father of child born during the marriage, husband may assert the defense of non-paternity in support action brought by county 12 years later. See Reynolds, 458 NW 2d 103 (Minn. 1990).	May Assert Non-paternity as a Defense 12 Years Later
In the Matter of the Custody of N.A.K. 649 NW 2d (Minn. 2002): Upon the death of a parent who has had custody of a child under a divorce decree, the divorce decree ceases to be operative, and custody automatically goes to the other parent unless it is shown that he is unfit, that he has forfeited his custodial rights as by abandonment, or that based upon exceptional circumstances, irrespective of the surviving parent's fitness, the best interest of the child clearly requires that the surviving parent be denied custody. (Ed. Note -- the implication of this decision for child support is that the NCP's c/s obligation ceases automatically upon the death of the CP, without the necessity of court order, since, absent court order to the contrary, the NCP becomes the CP upon the other parent's death.)	Death of Custodial Parent
Luthen v. Longrie and Itasca County, (Unpub.), CX-02-1875; CX-02-1889, filed 6-3-03, (Minn. App. 2003): The J&D dissolving the marriage of Rick and Peggy Luthen, required Rick to transfer stock to Peggy. Linda Longrie (the mother of a child fathered by Rick) and Itasca County levied on the stock to apply towards Luthen's child support arrears due for Longrie's child. If the transfer to Peggy has occurred, the third party creditor (CP and Itasca County) could not reach the marital property. However, if Rick did not transfer the stock to Peggy, the stock remains his asset, and is reachable by creditors.	Levy on Stock That is Marital Property
Luthen v. Longrie and Itasca County, (Unpub.), CX-02-1875; CX-02-1889, filed 6-3-03, (Minn. App. 2003): Issue of whether a child support obligee, as a creditor of a party to a marriage dissolution, has standing to challenge a judicially approved award of property in the dissolution as being a fraudulent conveyance (to avoid payment of child support) under Minn. Stat. ' 513.44(a), is issue of first impression. However, court did not decide this issue because the issue of entitlement to obligor=s marital property was already decided in Luthen v. Luthen and Itasca County and Longrie, 596 NW 2d 278, 281 (Minn. App. 1999).	Fraudulent Conveyance to Spouse to Avoid Payment of Support
Gatfield v. Gatfield, 682 NW 2d 632 (Minn. App. 2004): Although the U.S. Supreme Court in Mansell v. Mansell, 490 U.S. 581 (1989) ruled that the Uniformed Services Former Spouse's Protection Act, 10 USC 1408 does not subject VA disability benefits to a property claim by a spouse, this ruling does not deprive state courts of jurisdiction to enforce provisions of a dissolution judgment that were stipulated to by the husband, making a share of those benefits available to the spouse.	Stipulation Awarding Veteran's Dis-ability Benefits in Property Settlement Enforceable
Ferguson v. McKiernan, No. J. A15043-04, (Pennsylvania Superior Court, July 22, 2004): An oral agreement between a man and woman that the man would donate his sperm in exchange for being released from any obligation for child support is not enforceable.	Oral Agreement with Sperm Donor to not Owe Support
Beach v. State of Minnesota and Hennepin County, (Unpub.), A04-528, F & C, filed 10-12-04 (Minn. App. 2004): Obligor claimed that 42 U.S.C. § 1301(d) of the Social Security Act prohibits IV-D services against him, since the provision prohibits a federal official or agent to "take charge of any child over the objection of either of the parents of such child." The court of appeals rejected this argument for 3 reasons: (1) the federal statute does not include state officials; (2) "taking charge" of a child does not include such actions as AIW or DL suspension; (3) The federal government requires that the states establish procedures for collecting child support. Support is set in state courts according to guidelines determined by the state legislature the federal government is not involved.	State's Provision of Child Support Services does not Violate the "Take Charge of any Child" Prohibition of 42 U.S.C.§ 1301(d)

Beach v. State of Minnesota and Hennepin County, (Unpub.), A04-528, F & C, filed 10-12-04 (Minn. App. 2004): Congress can condition states' receipts of federal funds if it does so unambiguously and enables states to exercise their choice knowingly. South Dakota v. Dole, 483 U.S. 203, 207 (1987). Minnesota has chosen to accept IV-D funds on the condition that services are provided to both PA recipients (needy families) and any family seeking child support services.	Constitutional to Provide NPA Services
Beach v. State of Minnesota and Hennepin County, (Unpub.), A04-528, F & C, filed 10-12-04 (Minn. App. 2004): Congress can employ its power to further broad policy objectives, and ensuring that parents provide for their children to the extent they are able is a well-established public policy. South Dakota v. Dole, 483 U.S. 203, 207 (1987).	V-D Law Furthers Public Policy Requiring Parents to Support Children
Beach v. State of Minnesota and Hennepin County, (Unpub.), A04-528, F & C, filed 10-12-04 (Minn. App. 2004): Minnesota's child support laws were passed and are being enforced in accordance with due-process rights as set forth in the Minnesota and federal constitutions.	Child Support Law and Enforcement Procedures Afford due Process

II.N.2. - Bankruptcy	
11 U.C.S.C. ' ' 362, 502, 507, 522, 523, 541; 42 U.S.C. ' 656(b); 11 U.S.C. ' 523(a)(5)(B)-non-dischargeability of child and spousal support.	
Vernon A. Small and Nancy A. Small Debtors; Adv. No. 4-81-487(O); Bankruptcy 4-81-1292(O) (March 15, 1982): Property and income tax refund was properly paid to county under provisions of Revenue Recapture Act and statutory lien created by Revenue Recapture Act may not be avoided as preferential.	Revenue Recapture in Bankruptcy
Triangle Refineries v. Brua, 364 NW 2d 863 (Minn. App. 1985): Discharge in bankruptcy releases bankrupt from personal liability, but it does not annul a lien which attached to property prior to bankruptcy.	Lien Prior to
Carver v. Carver, CA 11, No. 91-8481, 11th Cir. 3-6-92: Bankruptcy courts should abstain from sanctioning a creditor for violation of an automatic stay if the underlying action involves alimony, maintenance, or support, unless they can do so without becoming entangled in family law concerns.	Violation of Automatic Stay
In Re: Finlayson, Bankr. S.D.Fla., CAS No 96-15870 - BKC-RAM, March 2, 1998: Because court-based attorney=s fees and costs on the parties' respective ability to pay, the bankruptcy court determined the fees and costs were in the nature of support and non-dischargeable.	Fees and Costs not Discharge-able
Scholl v. McLain, Bankruptcy Court, (S.D.-Iowa 1999), File # 99-6060, reported in Minnesota Lawyer, 12-6-99: Where divorce stipulation provided for child support in an amount less than guidelines, because of the requirement that obligor also pay a portion of the parties' joint credit card debt and contribute to health care expenses, the debtor's obligations on the credit card debt and health care expenses were an "integral part" of the court's order "concerning child support" and were therefore non-dischargeable in bankruptcy under 110 S.C. 523(A)(5).	Credit Card Debt not Dischargeable if Integral Part of Support Order
Williams v. Kemp, 99-6045, Bankruptcy Court for Western District of Missouri (Minnesota Lawyer No. CC-495-99): Judgment in favor of mother in a paternity case is not dischargeable in bankruptcy, even though she is not the spouse of the debtor.	Paternity Judgment Non-Dischargeable
Williams v. Kemp, U.S. Dist. Ct. (Western District of Missouri), Case No. 00-1306, F & C, filed 11-22-00: ' 523(a)(5), the provision providing for non-dischargeability of a child support debt applies even where the mother of the debtor=s child was not his spouse.	Debt for Support in Paternity Case is not Dischargeable
Neal v. Neal, 03-6032, 03-6059MN; Bankruptcy Court for the District of Minnesota, 302 B.R. 275, Dec. 12, 2003: If the state court awards retroactive maintenance to the wife, that obligation would not be dischargeable in the husband's bankruptcy. Chapter 13 debtor=s debts for maintenance are not dischargeable.	Discharge-ability of Alimony
Foss v. Hall Cty. Child Support, Bankruptcy case no. 05-6001, District of Nebraska, Bankruptcy Appellate Panel: Where issues challenging child support award were pending in state court, bankruptcy court properly dismissed claim that child support obligations were dischargeable in bankruptcy proceeding. Abstention doctrine was properly applied.	Bankruptcy Court Defers to State Court on Pending Child Support Challenge.
Roberts v. Pierce, (8th Cir) 05-1095: Appealed from the Eastern District of Arkansas. Creditor failed to respond to negative notice from debtor's counsel filed in response to Proof of Claim, giving creditor 30 days to request a evidentiary hearing. Because creditor admitted receiving the notice, the court did not err in finding notice was adequate and in granting and disallowing the creditor's claim in part.	Bankruptcy, Proof of Claim.
In Re Johnny F. Harris, (05-6050) (BAP): Appealed from the Eastern District of Arkansas. Court held that debtor had sufficient notice of a hearing on relief from the automatic stay where court sent out a certificate of service advising of date. It further held that it was proper to grant the relief from stay.	Bankruptcy. Notice of hearing on relief from automatic stay.

Stimmler v. Stimmler A06-4 (Minn. Ct. App. October 3, 2006): The Court of Appeals reversed and remanded the district court's property settlement determination because the district court did not consider the effect of the wife's bankruptcy on the parties' property settlement.	Effect of Bankruptcy must be considered when determining property settlement of parties.

II.N.3. - Incarceration / Hospitalization	
Kuronen v. Kuronen, 499 NW 2d 51 (Minn. App. 1993): A 401(k) Plan must be considered for purposes of determining a motion to modify since Minn. Stat. ' 518.551, Subd. 5(b)(1) states that all resources, not just income must be considered. In this instance, although the obligor was incarcerated, his $20,000.00 401(k) Plan was deemed a sufficient resource so that his child support payments were not reduced.	401(k) Plan-Incarcerated Obligor
Franzen and County of Anoka v. Borders, 521 NW 2d 626 (Minn. App. 1994): Imputation of income under Minn. Stat. ' 518.551, Subd. 5b(d) (Supp. 1993) is appropriate only if obligor chose to be employed or underemployed. Incarceration, even when due to a crime against the custodial parent, is not voluntary absent evidence that the absent parent sought incarceration, and child support cannot be imputed based on pre-incarceration income.	Incarceration not Voluntary Unemploy-ment
Franzen and County of Anoka v. Borders, 521 NW 2d 626 (Minn. App. 1994): Where incarcerated obligor voluntarily transfers from one prison to another resulting in a significant decrease in income, it is proper to impute income at the income earned prior to the transfer.	Voluntary Unemploy-ment in Prison
Ackland v. Ackland, (Unpub.), CX-95-284, F & C, filed 8-8-95 (Minn. App. 1995): Court properly denied obligor's motion to modify his child support and maintenance obligations based on incarceration where obligor has $173.00 per month income from prison employment, and $3,300.00 in proceeds from a sale of the marital homestead. The court ordered that the entire $3,300.00 be applied to arrears, and not to attorney's fees or an account to pay obligor's expenses on release from prison, as obligor requested. The court further applied his entire $173.00 per month income to ongoing maintenance and support arrears reasoning that because all his basic needs for self-sustenance are met in prison, his support obligations take precedence over his other obligations.	Incarceration
Franzen and County of Anoka v. Borders, C2-95-599, F & C, filed 8-15-95 (Minn. App. 1995): Where obligor has no resources other than what he earns while incarcerated, reduced expenses due to incarceration are not independently sufficient to allow an above-guideline support obligation. Court of Appeals set support at $132.30 per month, guidelines for obligor's imputed income of $630.00 per month based upon prison employment he voluntarily quit. Appellate Court reversed trial court's upward deviation to $345.00 per month, rejecting trial court's determination that obligor's exceptionally low expenses due to incarceration serve as a basis for upward deviation. In support of its order, the trial court found that the needs of the children are $345.00 per month, the welfare standard for two children, the court of appeals ruled that the welfare standard cannot substitute for guidelines as a basis for support.	Reduced Expenses Due to Incarcera-tion not Basis for Upward Deviation
Severs v. Severs, (Unpub.) C9-01-609, F & C, filed 10-9-01 (Minn. App. 2001): Suspension of incarcerated obligor's child support obligation can be made retroactive to the date he initially mailed copies of the motion on the other party, even though the document was not filed by the clerk of court for several more months since he had not satisfied the clerk's filing requirements until the later date.	Suspension of Incarcerated Obligor's c/s Retro to Date of Service, not Date of Filing
County of Nicollet v. Jacquelyn Ann Pollock, n/k/a Jacquelyn Ann Miller, Jerry Joseph Duwenhoegger, (Unpub.), A06-875, Nicollet County, filed May 22, 2007 (Minn. App. 2007): Appeal from the District Court's order affirming the CSM's order requiring prisoner to pay child support while he is incarcerated. CSM found appellant was earning an income of $60 per month while in prison and could afford an obligation of $30 per month. Prison income may be used to determine child support and earning $60 per month was a substantial change in earnings from $0. (Citing Johnson v. O'Neill, 461 N.W.2d 507, 508 (Minn. App. 1990).	Prison income may be used to determine child support. Earnings of $60 per month was "substantial change" from $0.
In re the Marriage of Linda Louise Sarvey v. Robert Hieu Sarvey, (Unpub.), A06-1525, Hennepin County, filed June 19, 2007 (Minn. App. 2007): Appellant argues his child support should have been suspended while he was incarcerated. However, appellant here was incarcerated for civil contempt after failing to pay support, therefore no suspension is required.	No suspension where incarceration due to failure to pay support.

In re the Marriage of Carole V. Marx, petitioner, Respondent vs. Robert B. Marx, Appellant, and County of Anoka, intervenor, Respondent, (Unpub.), A06-1678, Anoka County, filed July 31, 2007 (Minn. App. 2007): Appellant challenges the district court's decision not to modify his child-support obligation by forgiving part of his arrearages while he was incarcerated. Appellant argues that his incarceration amounted to a physical disability preventing him from filing a motion (*citing Minn. Stat. §518.64, subd. 2(d)(1) (2004)*. Appellant has not demonstrated that incarceration otherwise precluded him from moving to modify.	Incarceration is not automatically held as a physical disability preventing the incarcerated from bringing a motion to modify, such that retroactive modification is required.
In re the Marriage of Carole V. Marx, petitioner, Respondent vs. Robert B. Marx, Appellant, and County of Anoka, intervenor, Respondent, (Unpub.), A06-1678, Anoka County, filed July 31, 2007 (Minn. App. 2007): Appellant argues that he is entitled to retroactive modification for the period he was incarcerated. Even where an obligor is incarcerated and may establish they have no ability to pay child support while incarcerated, a prisoner-obligor who has significant assets but no significant living expenses may continue with his same obligation while incarcerated. *(citing Kuronen v. Kuronen,* 499 N.W.2d 51, 53-54 (Minn. App. 1993)).	A prisoner-obligor who has significant assets but no significant living expenses may continue with his same obligation while incarcerated with no present ability to earn income.
Henderson v. Henderson, No. A09-653, 2010 WL 346396, at *1 (Minn. Ct. App. Feb. 2, 2010): The Court of Appeals found the forgiveness of arrearages constitutes a retroactive modification of support, citing "[a] modification of child support may not be made retroactive beyond the date that the party seeking modification served the notice of motion on the responding party." Minn. Stat. §518A.39, subd. 2(e). The court held because the father's motions were all filed after January 1, 2007 the court had no authority to change his arrearages.	Forgiveness of arrearages constitutes a retroactive modification of support

II.N.4. - Lack of Notice	
In Re the Marriage of Tinsley v. Tinsley, 427 NW 2d 739 (Minn. App. 1988): Notice of the dissolution decree is not a pre-requisite to the entry of judgment for child support arrearages accrued under the decree when the obligor had notice of dissolution action and failed to answer, thereby resulting in a default judgment and decree. The court noted that Minn. Stat. ' 548.091 also does not require notice of the dissolution decree as a pre-requisite to entry of judgment.	Notice not Required
Bell v. Bell, (Unpub.), AO3-2055, filed 7-13-04 (Minn. App. 2004): The district court improperly converted attorney's fees to a child support judgment under Minn. Stat. § 518.14, subd. 2(e) (2002) where the party did not provide the formal notice required by the statute Minn. Stat. § 518.14, subd. 2(c) (2002). Even if the notice provided to appellant were sufficient, the court of appeals noted that it is not clear that the district court had the authority in 2003 to convert the 1991 and 1996 fee awards to child support.	To Convert Attorney's Fees to Child Support Judgment Requires Statutory Notice
Ogg v. Ogg, (Unpub.), A04-517, F&C, filed 11-30-04 (Minn. App. 2004): Obligor requested adjustment of his arrears at an ex pro hearing. CSM directed child support office to conduct and file an account review, and serve it on the parties. Parties had 15 days to file a motion for judicial review, or the county's determination would be final. Subsequent district court decision that arrears were final, as determined by the county, because neither party had filed a motion within 15 days of the accounting, as required in CSM order, was upheld by the court of appeals.	IVD Arrears Accounting Final if Party didn't serve Motion to Contest, as Required by CSM Order.
County of Freeborn v. Walker, (Unpub.), A07-375, filed April 8, 2008 (Minn. App. 2008): The county served a person identified by a social security number and name located in California with a paternity action. That person failed to appear or answer and a paternity order was entered by default. Subsequently, the county intercepted tax refunds and began income withholding against appellant, a person with the same or similar name and social security number. Appellant objected, argued he wasn't served with any paternity action, indicated he was a victim of identity theft, and was later excluded as the biological father of the child through genetic testing. The district court order required the county to reimburse appellant for child support collected from him and distributed to obligee. The county appealed. The Court of Appeals held that the undisputed lack of proper service renders the resulting judgments void. Restitution is equitable in nature and there is no abuse of discretion to order the county to reimburse the monies. Finally, the court rejected the argument that the funds should be recouped from mother citing (1) that the funds are disbursed does not absolve the county from having to reimburse Appellant if the facts warrant repayment. (2) A series of mistakes by the county resulted in the void judgments. (3) an innocent child support payor should not sue an innocent mother on public assistance to attempt to recover funds incorrectly procured from the payor as a result of void judgments. This is not in the best interest of the child for whom the child support system was created.	County ordered to reimburse defendant past child support collected based on default adjudication, where service on defendant was defective.
Askar vs. Sharif, (Unpub.), A07-897, filed June 3, 2008 (Minn. App. 2008): Under certain circumstances, as in this case, allowing the CSM to reinstate an obligor's driver's license sua sponte is consistent with the intent of § 518A.65 and with the legislative policy underlying the child support statutes.	Reinstatement of drivers license

II.N.5. - Statute of Limitations	
Nazarenko v. Mader, 362 NW 2d 1 (Minn. App. 1985): Result same for debt repayment as for child support; enforcement may be sought only for those payments limitations which accrue within ten years from date of commencement of action.	Statute of Limitations
Bednarek v. Bednarek, 430 NW 2d 9 (Minn. App. 1988): The ten-year-statute of limitations barring court actions on judgments does not apply to bar the administrative remedy of intercepting an obligor's tax refund to satisfy arrearages previously validly established.	Tax Intercept-Administrative Remedy
Gerber and Gerber and County of Anoka, 694 NW 2d 573 (Minn. App. 2005): Because a court order is necessary to authorize the remedy of income withholding to collect child support and child support arrears, income withholding is a judicial remedy subject to the ten-year statute of limitations under Minn. Stat. § 541.04 (2004). The public authority is barred from collecting arrears under an expired judgment through income withholding. [Ed. Note: Petition for review to supreme court pending.]	Income Withholding is a Judicial Remedy and Subject to 10-Year Statute of Limitations
Gerber and Gerber and County of Anoka, 694 NW 2d 573 (Minn. App. 2005): Even though Minn. Stat. § 518.6195 provides authority for the collection of child support arrears, it does not authorize collection by means of a judicial remedy on an expired judgment. [Ed. Note: Petition for review to supreme court pending]	Minn. Stat. § 518.6195 does not Permit Collection on an Expired Judgment
Gerber and Gerber and County of Anoka, 694 NW 2d 573 (Minn. App. 2005): Income withholding, a judicial remedy, is distinguishable from revenue recapture which is an administrative remedy. Thus, even though the 10-year statute of limitations barring collection of expired judgments does not apply to the remedy of revenue recapture, it does apply to the remedy of income withholding. [Ed. Note: Petition for review to supreme court pending]	AIW Distinguish-ed from Revenue Recapture

II.N.6. - Marriage of Parties After Divorce or Paternity Judgment	
Hildebrandi v. Hildebrandi, 477 NW 2d (Neb. 1991): Remarriage terminates the former NCP's obligation to pay ongoing support after the remarriage.	Remarriage
Schaff v. Schaff, 446 NW 2d 28,31 (N.D. 1989): When the parties to a paternity adjudication later married each other, future support provisions of the paternity judgment were nullified.	Marriage after Paternity J&D
Root v. Root, 774 SW 2d 521 (Mo. App. 1989): Remarriage does not extinguish past-due child support that accrued before the remarriage.	Arrears Survive Remarriage
Ringstrom v. Ringstrom, 428 NE 2d 743 (Ill. 1981): The parties' remarriage to each other nullified even past-due and unpaid child support owed from the time of the J&D to the remarriage.	Remarriage Extinguishes Arrears
In re the Marriage of Lewis v. Frane, No. A16-1517 (Minn. Ct. App. Oct 2, 2017): A stipulation to waive your right to seek a maintenance modification as part of a dissolution judgment is considered "otherwise agreed in writing" to continue maintenance under Minn. Stat. § 518A.39, subd. 3 regardless of remarriage.	Spousal Maintenance

II.O. – MODIFICATION	
II.O.1. - Substantial Change	
Minn. Stat. ' 518A.39, Subd. 2 - sets out circumstances where prior order is rebuttably presumed to be unreasonable and unfair.	
Heaton v. Heaton, 329 NW 2d 553 (Minn. 1983): Inflation is not to be considered separate factor or circumstance in applying change of circumstances test to support modification cases. (See Minn. Stat. ' 518.64, Subd. 2 as amended in 1983.)	Inflation
Bledsoe v. Bledsoe, 344 NW 2d 892 (Minn. App. 1984): Where there have been one or more previous decisions on motions for modification, the question of change of circumstance is determined with respect to period commencing with date of most recent order and not with respect to time of original decree.	Most Recent Order
Fifield v. Fifield, 360 NW 2d 673 (Minn. App. 1985): Guidelines do not apply to modification of Judgment and Decree where no showing of material change in circumstances justifying increase in child support.	Change in Circumstances
Swanson v. Swanson (Patricia v. Roy), 372 NW 2d 420 (Minn. App. 1985): If obligee's receipt of AFDC makes terms of decree unreasonable and unfair, then guidelines apply.	AFDC
Giencke v. Haglund, 364 NW 2d 433 (Minn. App. 1985): If terms of child support are not found to be unreasonable and unfair by reason of changed circumstances, then changed circumstances alone do not support child support modification.	Unreasonable and Unfair
Watson v. Watson, 379 NW 2d 588 (Minn. App. 1985): Trial court should consider decrease in husband's income caused by apportionment of husband's disability annuity.	Property Distribution
Blomgren v. Blomgren, 386 NW 2d 378 (Minn. App. 1986): Change in circumstances is measured from time of last modification, not last review.	Time Measured From
Maxson v. Derence, 384 NW 2d 583 (Minn. App. 1986): Trial court should consider payments from stipulated property division to calculate income, but such payments are not to be considered when determining whether there has been a substantial increase in earnings so as to allow modification under the guidelines.	Property Settlement Payments
Van Dyke v. Van Dyke, 386 NW 2d 399 (Minn. App. 1986): Move from Minnesota to Maine constituted change in circumstances sufficient to justify modification.	Out-of-State Move
Looyen v. Martinson, 390 NW 2d 465 (Minn. App. 1986): Order denying motion for modification is not an order modifying child support and court must look back further to order which increased obligor's child support.	Time Measured From
Wicks v. Falkowski, 394 NW 2d 209 (Minn. App. 1986): Change in circumstances is measured from time of modification of decree permitting mother to move children out of state, when that order increased father's visitation expenses.	Time Measured From
Bennyhoff v. Bennyhoff, 406 NW 2d 92 (Minn. App. 1987): Dissolution decree making mother and father responsible for children during their respective custody terms constituted a reservation of child support; therefore, no change of circumstances is required for subsequent support setting.	Reservation of Support
Erickson v. Erickson, 409 NW 2d 898 (Minn. App. 1987): Although capital gains may not constitute income for purposes of child support awards, such gains may be considered in determining whether a substantial change has occurred.	Capital Gains
Carlton County v. Greenwood, 398 NW 2d 636 (Minn. App. 1987): Error to reduce child support order when one of two children goes into foster care and an order for foster care reimbursement is entered without finding of substantial change of circumstances.	Foster Care
Ricketson v. Ricketson, 402 NW 2d 588 (Minn. App. 1987): The substantial change in circumstances must have occurred since the last modification of the support obligation and failure to look to the last modification is reversible error.	Time Measured From
Johnson v. Fritz, 406 NW 2d 614 (Minn. App. 1987): Substantial change of circumstances is measured from time of dissolution or last modification of award, not from prior order denying modification.	Time Measured From
Tuthill v. Tuthill, 399 NW 2d 230, 232 (Minn. App. 1987): Moving party has burden to present clear proof of change of circumstances, and if party fails to do so, court need not make findings on other statutory factors.	Burden on Moving Party

Compart v. Compart, 417 NW 2d 658 (Minn. App. 1988): Change of circumstances is to be measured from last modification or entry of original decree, and not from time of last motion to modify.	Change of Circumstances – when Measured
Compart v. Compart, 417 NW 2d 658,662 (Minn. App. 1988): Less evidence of a substantial change of circumstances is necessary to support a modification of a stipulated support agreement where the support payments were less than half the guideline amount.	Modification of Stipulated Obligation
Murray v. Murray, 425 NW 2d 315, 317 (Minn. App. 1988): Standard for reviewing change of circumstances is relaxed where original stipulated child support agreement was less than guidelines.	Original Support amount stipulated
Gallwas v. Gallwas, No. A10-551, 2011 WL 206142 (Minn. Ct. App. Jan. 25, 2011): Father was awarded sole physical custody of the joint children, and mother's child support obligation was reserved. Father later moved the district court to modify the previous order and to establish a basic support obligation to be paid by Mother. The District Court determined the reservation of support under the previous order was like a $0 per month order, in which the issue of establishing ongoing basic support to be paid by Mother had already be determined. The court treated the issue as a modification of support, finding that there had not been a change in circumstances since the prior order, and therefore, denied Father's motion. The appellate court reversed and remanded, concluding that if a prior order contained only a reservation of support, a later setting of support obligation is an initial setting of support and not a modification.	Reservation of support under a prior order and later setting of support is an initial setting of support and not a modification.
McNattin v. McNattin, 450 NW 2d 169 (Minn. App. 1990): Where mother induced father to custody change by explicitly promising in writing that if custody changed, she would not seek support, and then later sought support, court held her to the modification standard, as an exception to the general rule that an establishment after a reservation is treated as an initial setting of support. Principles of contract law and equitable estoppel were applied.	Written Promise to not seek Support Resulted in Exception to General Rule that Setting Support after a Reservation Requires Showing of Changed Circumstances
Phillips v. Phillips, 472 NW 2d 677, 680 (Minn. App. 1991): Where the previous request for modification was denied, in subsequent modification proceeding, court should consider the cumulative changes in income since the last time the support was established or modified, rather than comparing the change from the time of the order of denial.	Cumulative Changes from Last Modification or Establish-ment
In Re the Marriage of Allan v. Allan, 509 NW 2d 593 (Minn. App. 1993): A child support obligation may be changed from a percentage formula to a specific dollar amount only upon a showing of a substantial change in circumstances that makes the prior order unreasonable and unfair.	Percent to Dollar Amount
Johns v. Johns, (Unpub.), C1-93-265, F&C, filed 7/20/93 (Minn. App. 1993): A court may consider inequities in prior court orders when determining whether a substantial change in circumstances has occurred. Specifically, where court orders were substantially below the appropriate amounts, a motion to modify may not be granted even when there has been a 20% plus $50.00.	Substantial Change
Franzen and County of Anoka v. Borders, 521 NW 2d 626 (Minn. App. 1994): The district court need not find a substantial change in circumstances to issue a final support obligation that exceeds an existing temporary support obligation.	Effect of Temporary Support Order on Final Child Support Obligation
Tennant v. Tennant, (Unpub.),C6-98-832, F&C, filed 11/10/98 (Minn. App. 1998): Support was established in a J&D, and subsequent to the J&D, the parties agreed to a temporary support modification while they mediated a custody modification. In a subsequent modification proceeding, the proper point from which to determine changed circumstances was from the J&D, not the temporary support order. ' 518.131, subd. 9(1996).	Comparison does not go back to Temporary Order

State of Florida, ex rel., Ramirez v. Mulder, (Unpub.), C0-98-678, F&C, filed 12/8/98 (Minn. App. 1998): In a modification matter, case was remanded to district court for consideration of needs of subsequent children, even though the court had not determined that there was a substantial change of circumstances under the statute justifying modification. Cites Bock. Ed. Note: This case is troubling because it suggests subsequent children alone is a basis for modification, even though statutory factors for modification under Minn. Stat. ' 518.64 are not met. Ed. recommends: continuing to take position that obligor must otherwise demonstrate a substantial change of circumstances making prior obligation unreasonable and unfair as a prerequisite to the court considering the needs of subsequent children. See, for example, Appendix A, Rule III E.	Only Change is Subsequent Children
Moskal v. Moskal, (Unpub.), C2-99-580, F&C, filed 12/21/99 (Minn. App. 1999): It was improper for district court to order that obligor=s support obligation would be automatically reinstated at the pre-incarceration upon obligor=s release from prison. Burden is on obligee to bring a motion following obligor=s release from prison. (Compare Anderson, 421 NW 2d 410).	Automatic Reinstate-ment Precluded
Miksche v. Miksche, (Unpub.) C5-98-2071, F&C, filed 6/29/99 (Minn. App. 1999): Fact that obligor=s reduced income would result in an order 18.5% less than the original order is not fatal to his claim that the change of circumstances makes the prior order unreasonable and unfair. The $50/20% presumption is rebuttable and the court still has the discretion to find a substantial change despite the statute.	$50/20% Presumption
Graving v. Graving, (Unpub.), C6-99-324, F & C, filed 9-7-99 (Minn. App. 1999): In this case, the trial court initially setting the order intended the current support to continue after emancipation of the oldest child, therefore, even though the 20%/$50 standard was met, the prior order was not unreasonable and unfair.	20%/$50 Presumption Overcome
Ludwigson v. Ludwigson, 642 NW 2d 441 (Minn. App. 2002): The court has discretion to modify a support order even when the 20%/$50 standard is not met.	20%/$50 Standard Not Met
Vallez v. Vallez and County of Dakota, (Unpub), C0-02-2050, filed 4-22-3 (Minn. App. 2003): Where the stipulated J&D provided for a reduction in child support at the time of each child's emancipation, the court of appeals held that because the obligor's motion merely sought to enforce an unambiguous provision@ of the J&D, the district court erred in requiring him to prove a substantial change of circumstances under Minn. Stat. ' 518.64, Subd. 2(b)(2002). The court did not state that the agency had the duty to adjust without the necessity of a hearing.	N/A to Automatic Adjustments Based on Emancipation
Renville County and Weidner v. Hanson, (Unpub.), C1-02-2090,. filed 6-10-03 (Minn. App. 2003): District court erred when it denied the party's motion to modify on the basis that she did not affirmatively establish the 20%/$50 presumption. The presumption, if established, is in the movant's favor, but even if not established the court must determine if there is a substantial change in circumstances that makes the prior order unreasonable and unfair. In this case, the 47% increase in the guidelines order did constitute the substantial change, and court should have modified the order.	Party not Required to Affirmatively Establish the 20%/$50 Presumption
Bainbridge v. Bainbridge, (Unpub), C3-02-2169, filed 6-17-03, (Minn. App. 2003): The addition of a term requiring the NCP to share visitation transportation costs did not constitute a modification of a child support obligation for purposes of establishing the base from which to measure future change in the NCP's income. Court should have looked to earlier order establishing support for comparison of circumstances. (Cites Phillips v. Phillips, 472 NW 2d 677, 680 (Minn. App. 1991).	Order to Share Visitation Expenses Not a Modficiation of Support

O'Donnell v. O'Donnell , 678 NW2d 471 (Minn. App. 2004): Where parties had stipulated to a deviation from guidelines support order in J&D, making findings required by Minn. Stat. ' 518.551, subd. 5(i) to justify the deviation, and there has been no actual change of circumstances rendering the existing support obligation unreasonable and unfair since the J&D, the $50/20% presumption that the child support is unreasonable and unfair is rebutted, and the order cannot be modified to the guidelines amount.	$50/20% Presumption Rebutted by Finding of no Actual Substantial Change
Blue Earth County vs. Richard Weinzettel, (Unpub.), A04-554, F & C, filed 2-1-05 (Minn. App. 2005): CSM properly denied motion to modify child support based on obligor's disability. Since the disability had existed at the time the obligation was established, there was no "change of circumstances" warranting a modification at the time of the modification hearing. Obligor had made only vague references of not feeling well at the establishment hearing. Then at an earlier modification hearing, he alleged a degenerative back condition, but failed to provide medical documentation when given opportunity to do so. He could not then later come in with another modification motion, accompanied with documentation of a condition that had existed all along, and use that condition as a basis for the modification.	Disability existed at time of original obligation= no change
Eustathiades v. Bowman, 695 NW 2d 395 (Minn. App. 2005): If there has been an affirmative setting of a child support obligation, including a determination that the obligation will be zero, any subsequent change is a modification.	Establishment of Support after Obligation of Zero is a Modification
Eustathiades v. Bowman, 695 NW 2d 395 (Minn. App. 2005): The parties stipulated to a change of custody to father and agreed that child support would be reserved. Father later, through the county, asked for child support to be established. The appeals court held that even though an agreement to continue the reservation of support was implicit, father did not have to meet the modification standard, and the action would be treated as an initial setting of support. McNattin, 450 NW 2d 169, was distinguished, because in McNattin there was an explicit written agreement linking a change in custody to a promise not to seek child support.	Establishment of Support after a Reservation is an Initial Establishment even if there is an Implicit Agreement not to Seek Support
Maschoff v. Leiding, 696 NW 2d 834 (Minn. App. 2005). Since a court determining whether to modify support must consider the parties' circumstances at the time the order was last set or modified in order to determine if a substantial change of circumstances has occurred that would render the obligation unreasonable or unfair, it is important for courts addressing child support, even if adopting a stipulation of the parties, to make findings of fact addressing the parties' existing circumstances, so as to facilitate future motions to modify child support.	Court Should Make Findings as to Existing Cir-cumstances in Support Orders, to Provide Neces-sary Information for Future Modifications
Hennepin County and Darchelle Norris v. Leonard Samuels, Jr., (Unpub.), A05-4, filed 10-25-2005 (Minn. App. 2005): Obligor's motion to reduce support was properly denied where the obligor failed to demonstrate a substantial change in circumstances rendering the existing order unreasonable and unfair, and failed to establish his inability to work. The court found the obligor's unsupported assertions - that he was unemployed and could not afford to pay the court-ordered support - to be insufficient proof.	Insufficient proof of inability to work
Huffman v. Jungwirth, (unpub.) A05-458, filed May 16, 2006 (Minn. App. 2006). At hearing on motion to decrease obligor told CSM not "a whole lot" had changed since previous modification hearing, when child support was reduced to reflect split custody. Ct. App. held that CSM's decision denying modification was not clearly erroneous because obligor did not show substantial change in circumstances.	Second bite at apple.

In re the Marriage of: Chaharsooghi v. Eftekhari; Minn. Ct. App. Unpub. (A05-2259): Joint physical custody case. Appellant-husband appealed denial of his modification motion. Dissolution required appellant to pay child support, pay all premiums for the children's medical insurance, all uninsured or unreimbursed medical and dental expenses for R.E. and ½ of O.E.'s expenses, all expenses for tutoring both children through Sylvan Learning Center, and apportion the costs for extracurricular, recreational or other activities the children participate in if the parties agree to the participation. The child R. E. ultimately was sent out of state to a boarding school. Appellant had agreed to fully bear the costs and respondent reluctantly agreed to send the child to the school. Appellant moved to reduce his support obligation and modify the decree such that the parties would be responsible of ½ of the extraordinary expenses of both minor children. The child support magistrate denied the motion finding appellant failed to proof a substantial change in circumstances, and the district court affirmed. The appellate court held that while the parties were not aware of the child's "recently diagnosed" nonverbal learning disability at the time of the dissolution, they were generally aware that the child is a special needs child and were cognizant of the financial issues concerning the child's disabilities. Special concurrence held that expenses were known to both parents at time of dissolution, and current expenses, though significant, did not constitute a change in circumstances that makes the child support obligation unreasonable or unfair.	Change in circumstances
Fischer v. Cottington, (Unpub.), A06-103, Filed November 28, 2006 (Minn. App. 2006): The court affirmed the district court in its finding that where the parties contemplated termination of maintenance in the original dissolution decree, said termination will not constitute changed circumstances for the purpose of modifying child support.	MODIFICATIO NNo changed circumstances upon termination of spousal maint. where such termination was contemplated.
Fischer v. Cottington, (Unpub.), A06-103, Filed November 28, 2006 (Minn. App. 2006): The court found that although the minor child of the parties had Asperger's Syndrome and required extensive medical treatment and care, the child's needs did not constitute a change in circumstances warranting modification because original decree provided for 50/50 allocation of additional medical and educational expenses that may arise.	MODIFICATIO N No changed circumstances based on pre-existing and planned for disability of child.
County of Nicollet v. Jacquelyn Ann Pollock, n/k/a Jacquelyn Ann Miller, Jerry Joseph Duwenhoegger, (Unpub.), A06-875, Nicollet County, filed May 22, 2007 (Minn. App. 2007): Appeal from the District Court's order affirming the CSM's order requiring prisoner to pay child support while he is incarcerated. CSM found appellant was earning an income of $60 per month while in prison and could afford an obligation of $30 per month. Prison income may be used to determine child support and earning $60 per month was a substantial change in earnings from $0. (Citing Johnson v. O'Neill, 461 N.W.2d 507, 508 (Minn. App. 1990).	Prison income may be used to determine child support. Earnings of $60 per month was "substantial change" from $0.
In re the Marriage of Gail P. Bender, f/k/a Gail Papermaster v. Alan Paul Bender, (Unpub.), A06-1072, Hennepin County, filed 6/19/07 (Minn. App. 2007): The court found the stipulation of the parties did not extend to the income of the parties in 2002 and 2004; therefore, father was required to support his motion with sufficient evidence of a change in circumstances, which he failed to do. Even if the change in parenting time was significant, father failed to demonstrate how this change significantly increased his monthly expenses.	A party bringing a motion to modify has the burden to demonstrate a change in circumstances that renders the existing order unreasonable or unfair.

Stevermer vs. Stevermeyer , (Unpub.), A07-594, F & C, filed September 4, 2007 (Minn. App. 2007): Dissolution of parties reserved child support from Wife to allow her to obtain additional education and establish employment. The timeframe for reservation (May 2004 to September 2008) exceeded the estimated length of time (1 year) Wife would need to complete her education and allowed time for her to establish employment. Husband argues Wife is now working, and based on the change in circumstances, child support should be established. Court of Appeals affirmed ruling that the district court properly denied Husband's motion to establish support and properly construed the agreement of the parties.	Where J&D reserved support obligation for specific unexpired period upon agreement of the parties, court did not abuse discretion in denying Husband's motion to establish support.
In Re the Marriage of Conlin v. Conlin, A06-1978 (Unpub.), Filed September 25, 2007 (Minn. Ct. App. 2007): District court abused its discretion in failing to modify child support. The district court found that the obligor had a larger increase in income than obligee and therefore the prior order was not unreasonable or unfair. The Court of Appeals concluded that the substantial change in income for both parties along with the fact that obligor had been paying guidelines child support for 10 years despite the fact that the parties had joint custody warranted the modification based on a substantial change in circumstances. Reversed and remanded.	Modification is unreasonable and unfair when income increases, subsequent children are bor and obligor had been paying guidelines support despite joint physical custody.
In re the Marriage of Weeks v. Weeks, (Unpub.), A06-2147, filed October 2, 2007 (Minn. App. 2007) Wright County: Appellant sought to modify child support after having stipulated to a child support amount lower than guidelines in the original dissolution. The court ruled the obligation was not unreasonable or unfair because, while the obligor formerly paid child support at a reduced rate due to a contribution to child care costs, the obligor currently paid TEFRA medical contribution instead of child care costs and the combined obligation was only slightly less than the guidelines support amount.	Where parties stipulate to a deviation in child support in J&D, the order must be shown to be unreasonable and unfair to modify.
Weiss vs. Weiss, (Unpub.), A06-2433, filed December 24, 2007 (Minn. App. 2007): The court did not err in including appellant's overtime pay in calculating child support where the court found that prior calculations included the overtime pay and appellant failed to demonstrate a statutory exception applied.	Overtime may be included where included in establishing support and no change in circumstances has been shown.
Samantha Jane Gemberling vs. Karl Hampton, (Unpub.), A07-0074, filed January 15, 2008 (Minn. App. 2008): A party does not meet §518.551 requirements in showing a change in circumstances simply because a temporary order is set pending a review hearing. The purpose of the review hearing was for the parties to provide financial information to clarify their financial situations.	Temporary order with review does not in itself mean the change in circumstances burden has been met.

In re the Marriage of Mark William Carroll v. Desiree Lucille Boeltl, (Unpub.), A07-1349, filed January 2, 2008 (Minn. App. 2008): Appellant mother argues that the court abused its discretion by ordering child support where there was no child support ordered under the dissolution and petitioner father has not demonstrated a change in circumstances from the dissolution. Court held that there was a change of circumstances making modification appropriate where the court changed parenting time from joint custody to sole with parenting time provisions, and appellant's income had increased by more than 20%.	Modification requirements met where prior order reserved, custody arrangement has changed, and obligor's income has increased by more than 20%.
In re the Marriage of: Leah Grace Staquet v. Paul John Staquet, (Unpub.), A07-0493, filed April 1, 2008 (Minn. App. 2008): Obligor originally brought a motion to modify before a district court judge, asserting stress from his dissolution prevented him from working as a pilot. Obligor produced no medical documentation of disability, but provided pay stubs showing the amount of disability he was receiving. The district court judge denied the modification, finding obligor did not meet his burden of proof to show he was not voluntarily unemployed or underemployed. Less than 2 months later, appellant obligor sought modification before a CSM, presenting the same documentation and testimony. The CSM reduced appellant's support. The Court of Appeals held the CSM abused discretion by effectively overruling the district court without additional evidence of obligor's disability.	CSM abuse of discretion by overruling district court's decision.
David Roger Williams v. Margaret Mary Williams, (Unpub.), A06-1918, filed April 8, 2008 (Minn. App. 2008): Appellant obligor challenges decision to modify based on termination of obligor's $1500 mortgage payment. The Court of Appeals remanded because the findings of the original decree are silent as to obligor's expenses and no basis is stated by the District Court comparing the current expenses against the prior expenses, thus the findings do not support a change in circumstances. Furthermore, the District Court never expressly found that the original support obligation is unreasonable or unfair.	Order not unreasonable or unfair if a large expense terminates, but no findings as to prior expenses compared to current expenses.
Wilder v. Wilder, No. A15-1595, (Minn. Ct. App. 2016): A party seeking a motion to modify support has the burden to demonstrate both a substantial change in circumstances and that change must make the current order unreasonable and unfair. The district court must make findings of fact supported by the record.	Substantial Change, Modification
In re the Marriage of Bourgoin v. Bourgoin, No. A16-0804 (Minn. Ct. App. Jan. 30, 2017): The district court did not consider the judgment and decree to implicitly waive appellant's right to future modifications. The district court's partial reduction of appellant's support obligation was within the district court's wide discretion to modify support orders. The district court was within its discretion to use an annual average based on the fluctuations in appellant's income.	Modification; Income Determination
In Re the Marriage of Swart v. Swart, No. A16-1405 (Minn. Ct. App. Mar 20, 2017): An agreement regarding child support may not be binding on the court when parties agree not to modify child support. Such an agreement does not prevent subsequent motions to modify but may be a factor considered when reviewing a motion to modify a stipulated agreement and evaluating a substantial change in circumstances.	Modification
In re the Marriage of Bressenbacher v. Bressenbacher, No. A17-0339 (Minn. Ct. App. Aug 21, 2017): Before the district court may modify a maintenance or support obligation the moving party must provide clear proof that since the obligation was established there has been a substantial change in circumstances. The oldest child living with the father does not show a substantial change in circumstances because the child resided with him when the support order was established. A motion to reopen a judgment and decree under Minn. Stat. 518.145, subd. 2 (2016) [basis of mistake and fraud] is not the proper method to appeal alleged judicial errors.	Modification

Gomes v. Meyer, No. A16-1015 (Minn. Ct. App. Sep. 5, 2017): The satisfaction of the 20%/$75 threshold under the modification statute creates only rebuttable presumptions and the decision maker is not precluded from ruling that there is (otherwise) a substantial change in circumstances. When a MN court modifies an issuing state's child support order pursuant to the UIFSA, the court applies MN substantive law in calculating a child support obligation. The court must use the spousal maintenance ordered, instead of spousal maintenance actually received in the gross income calculation. The CSM must determine how many joint children there are so the issue of emancipation is one the CSM has to be able to determine.	20%/$75 substantial change; UIFSA, emancipation
Olstad v. Olstad, No. A17-1074, 2018 WL 2470941 (Minn. Ct. App. Jun. 4, 2018): On appeal, an appellant must demonstrate that despite viewing the evidence in the light most favorable to the district court's findings the record established that a mistake has been made. To show a substantial change in circumstances that renders the existing award unreasonable and unfair, the party must compare the parties' circumstances at the time of dissolution to their circumstances at the time the motion to modify is brought. A conclusory statement is not enough to overcome a distict court's finding. A district court must give the plain and ordinary meaning to the unambiguous terms of the child support obligation in a stipulated judgment and decree.	Modification
Kleynhans v. Kleynhans, No. A17-1820, 2018 WL 4558170 (Minn. Ct. App. Sept. 24, 2018): The district court appropriately concluded that there was not a substantial change in circumstances when the obligor requests a modification based on income from rental properties that were equally distributed between the parties in their divorce, but were not considered gross income in the dissolution decree.	Modification, Substantial Change in Circumstance
Patraw v. Wittmer, No. A18-1647, 2019 WL 2262783 (Minn. Ct. App. May 28, 2019): A child support order that is an agreement between the parties to continue paying the child support amount that was set in a prior order is not a modification of child support. The original child support order sets the baseline to determine whether there has been a substantial change in circumstances. The court may implicitly deny a motion to compel discovery when it grants a motion to modify.	Determination of Income, Modification
In re the Matter of Dennis J. Arvig v. Trudy A. Kawleski, County of Wadena, No. A18-1440, 2019 WL 2495519 (Minn. Ct. App. Jun. 17, 2019): When the prior order does not determine a party's income, it is the burden of the movant on a motion to modify, to provide sufficient credible evidence of their current income as well as their income at the time of the prior order. Without such evidence it can not be determined whether there has been a substantial change in circumstances to warrant a modification of support.	Modification, Substantial Change Presumption $75/20%
Bessenbacher v. Bessenbacher, No. A18-2152, 2019 WL 3543695 (Minn. Ct. App. Aug. 5, 2019): The obligor must show a substantial change in circumstances for modification. The court did not err in determining not to deviate from guidelines when the expenses were unreasonable and/or unnecessary. A frivolous litigant motion shall not be filed with or presented to the court until the 21-day cure period has passed.	Substantial Change; Deviation from Guidelines
In re Custody of B.L.F., No. A18-1852, 2019 WL 3776017 (Minn. Ct. App. Aug. 12, 2019): The Court lacks authority to modify support if the parites do not move for a modification of child support. The court did not err in addressing child support when the motion included a request for "such other relief as the Court deems just, fair, and equitable" and an evidentiary hearing was held on the issue of child support. There was no abuse of discretion for calculating parenting time differently for purposes of child support than the parenting time order as it reflected the statutory differences. The court abused its discretion by ordering a medical support contribution when the minimum support order applied and no findings were made to rebut the presumption.	Modification of Custody and Parenting Time; Medical Support; Guidelines.
In re the Marriage of: Cusick v. Cusick, A19-00224, 2020 WL 1242964 (Minn. Ct. App. 2020): Federal law does not preempt state law in family law matters absent a clear intent to do so by Congress. Overtime pay that began before the entry of the existing child support order should continue to be counted as gross income in a modification motion context.	Income, Determination of; Modification; Overtime - in modification

In re the Marriage of: Warrington v. Warrington, A19-0482, 2020 WL 1501972 (Minn. Ct. App. 2020): In a modification of support motion, court is required to determine if the statutory presumptions of a substantial change in circumstances apply when a paty submits documentation of increased or decreased income.	Modification, Modification $75/20% Rule; Substantial change presumption
Nyhus v. Ka, A20-0218, 2020 WL 7491271 (Minn. Ct. App. Dec. 21, 2020): A district court must make specific findings and conclusions about whether changed circumstances constitute a substantial change in circumstances that render an existing support order unreasonable or unfair.	Substantial change findings
Beland v. Beland, A20-1070, 2021 WL 1081487 (Minn. Ct. App. Mar. 22, 2021): If parties agree to a child care support amount lower than the statutory PICS percentage, a party is not entitled to a retroactive modification just because the actual expenses decrease. If a party voluntarily begins providing secondary insurance, the CSM is not obligated to require the other parent to contribute to the cost of that coverage.	Child Care Support; Medical Support; Modification
Banerjee v. Banerjee, A20-1224, 2021 WL 1604355 (Minn. Ct. App. 2021): A district court does not abuse its discretion by determining a party failed to meet their burden of demonstrating a substantial change in circumstances when the party fails to disclose all sources of income in a modification action. Without the ability to accurately calculate a child support obligation based on both parties total actual incomes, it is not an error for the district court to decline to apply a Parenting Expense Adjustment based on court ordered Parenting Time.	Determination of Income; Definition of Modification - $75/20% Rule; Parenting Expense Adjustment; Parenting Time/ Overnights
Woldemariam v. Gulema, A20-1085, 2021 WL 1962487 (Minn. Ct. App. 2021): A motion to modify is not intended to allow a reconsideration of a earlier dissolution, and a CSM does not abuse their discretion by making any modifications retroactive only to the beginning of the month following service of a party's motion.	Modification; Retroactive Modification
Otterson v. Otterson, A21-0104, 2021 WL 4944674 (Minn. Ct. App. 2021): A downward deviation in support is justified when evidence presented shows that a party has sought employment in the field they previously work, was unable to obtain such work and the current gross income is less than the currently ordered support obligation.	Modification – Voluntary Unemployment/Underemployment
Roth v. Roth, A20-1439, 2022 WL 90223 (Minn. Ct. App. 2022): The CSM had discretion to consider a party's tax returns in addition to other evidence submitted to determine a party's gross income for child support purposes.	Income, Determination of; Modification; Self-Employment Income
Bessenbacher v. Bessenbacher, A23-0480, 2023 WL 8889526 (Minn. Ct. App. 2023): The district court did not abuse its discretion by not modifying Appellant's support amount more because it considered the appropriate modification standards.	20% and $75 Substantial Change in Circumstances for Modification; Modification; Substantial Change in Circumstances Modification Presumption $75, 20%
Allen v. Allen, A23-1665, 2024 WL 3407917 (Minn. Ct. App. 2024): The district court did not err when it denied appellant-mother's motion to modify child support as appellant did not demonstrate a change of 20% from the current obligation or demonstrate that the existing obligation was unreasonable and unfair.	Modification-Substantial Change in Circumstances; Presumpion Substantial Change in Circumstances; Modification Presumption $75, 20%

In re the Marriage of: Mackey v. Mackey, A23-1228, 2024WL 5036719 (Minn. Ct. App. Dec. 9, 2024): The district court properly factored the increased monthly expenses of Wife and decreased monthly expenses of Husband after it determined there had been a substantial change in circumstance, so it was proper to deny Husband's motion to decrease his monthly spousal maintenance obligation.	Maintenance; Spousal Maintenance/ Alimony; Modification – Substantial Change in Circumstances; Modification – Terms of Order are Unreasonable and Unfair Factors

II.O.2. - Application of Guidelines	
Kluge v. Kluge, 358 NW 2d 485 (Minn. App. 1984): Once threshold of Minn. Stat. ' 518.64 met, statutory guidelines apply to child support modification.	Threshold to Apply
Hadrava v. Hadrava, 357 NW 2d 376 (Minn. App. 1984): If substantial change in circumstances shown on any one of the grounds in Minn. Stat. ' 518.64, court must apply guidelines in determining child support.	Mandatory
Kehr v. Kehr, 375 NW 2d 88 (Minn. App. 1985): Once party proves grounds for modification, trial court must address question of whether original support terms are unreasonable and unfair; guidelines applicable unless findings made justifying deviation.	Grounds
Fifield v. Fifield, 360 NW 2d 673 (Minn. App. 1985): Court will not undermine stipulation by application of guidelines upon motion for modification where parties knowingly and voluntarily deviated from guidelines in original stipulation.	Original Order Stipulated
Fairburn v. Fairburn, 373 NW 2d 609 (Minn. App. 1985): Child support guidelines apply to age 18 in modification of a pre-June 1, 1973 decree.	Only to Age 18
Swanson v. Swanson (Patricia v. Roy), 372 NW 2d 420 (Minn. App. 1985): Guidelines apply to modification though original Judgment and Decree occurred before their effective date.	Pre-Guidelines J & D
Santoro v. Ramsey, 366 NW 2d 698 (Minn. App. 1985): Must establish substantial change in justifying modification before guidelines can be applied.	Substantial Change
Kujawa v. Kujawa, 397 NW 2d 445 (Minn. App. 1986): Use of child support guidelines to modify amount of child support for children between 18 and 21 is within the trial court's discretion.	Age of Majority
Moylan v. Moylan, 384 NW 2d 859 (Minn. 1986): The child support guidelines must be considered by the court in all modification proceedings.	Mandatory
Danielson v. Danielson, 393 NW 2d 405 (Minn. App. 1986): Increase by applying guidelines without required findings was error.	Increase - Findings
In Re the Marriage of Ruth Schmieg v. Steven Schmieg, (Unpub.), C4-93-1524, F & C, filed 3-22-94 (Minn. App. 1994): If statutory presumption (50/20%) of unfairness is not met, court must make finding of unfairness before modifying order.	50/20 not met
Weitzel-Green v. Green, (Unpub.), C7-01-754, CX-01-1185, F & C, filed 11-6-01 (Minn. App. 2001): Where, in a joint physical custody case, obligor agreed to an upward deviation from the guidelines at the time of the J & D, paying much more than what would have been required under Hortis-Valento, and where original stipulation had a reasonable basis to bypass Hortis-Valento, in considering motion to modify, the district court is not bound by Hortis-Valento, but can consider it as a factor in setting support.	Use Applica-tion of Hortis-Valento in Modification Where not Applied in Original Order
Bormann v. Bormann, 644 NW 2d 478 (Minn. App. 2002): In a joint custody case where Hortis/Valento was applied and mother sought an increase in father's support, and where the parties stipulated to a substantial increase in father's income, mother's failure to provide information as to her own income was an inadequate basis upon which to conclude that mother failed to provide that father's support obligation was unreasonable and unfair. However, mother may need to provide her income information in order to apply the Hortis formula and determine a net support amount.	In Joint Cus-tody Case, Increase in Father's Income Suffi-cient to Prove Prior Order "Unreasonable and Unfair"
In Re the Marriage of Matey v. Matey, (Unpub.) A05-1917, filed June 20, 2006 (Minn. App. 2006): The Court held that findings are not required explaining why a court will *not* deviate from guidelines unless the Obligor submits evidence showing his inability to pay at guidelines.	Findings NOT required when court refuses to deviate from guidelines support.
In Re the Marriage of Bender v. Berhnard, (Unpub.), A05-1545, filed June 20, 2006 (Minn. App. 2006): Upheld a district court decision that ordered guidelines child support for a child with documented special needs. The Court was unwilling to reverse McNulty v. McNulty, 495 N.W.2d 471 (Minn. App. 1993), *review denied* (Minn. Apr. 12, 1993), noting that that case was a unique situation where the Ct. of Appeals affirmed a presumptively incorrect above guidelines obligation, whereas this case would require the Court to reverse a presumptively correct guidelines obligation.	No reversal of guidelines support amount on the basis that the child has special needs.

Schwagel vs. Ward, (Unpub.), A06-1812, F & C, filed September 11, 2007 (Minn. App. 2007): Changes to child support laws effective January 1, 2007, do not apply in this case because the parties filed their motions before January 1, 2007.	Guideline changes do not apply to child support motions filed prior to January 1, 2007.
David Roger Williams v. Margaret Mary Williams, (Unpub.), A06-1918, filed April 8, 2008 (Minn. App. 2008): Appellant obligor appeals from the district court's order increasing child support to a level exceeding the guidelines amount in an attempt to equalize the parties' standards of living. Although the court is directed to take into consideration the standard of living the child would have enjoyed had the marriage not been dissolved, equalizing income may not be a basis to deviate when calculating child support. Without evidence that the child requires more support from the higher-income parent, disparity in the income of the parents does not justify a deviation from the *Hortis/Valento* formula.	Equalizing income of the parties is not enough to deviate from guidelines without additional findings.
County of Grant v. Koser, 809 N.W.2d 237 (Minn.App.2012): **Case Summary:** NCP father was deemed eligible for RSDI benefits and received a lump-sum RSDI payment for July 2009 – May 2010. CP mother also received, on behalf of the joint children, a lump-sum RSDI payment of $4, 752 based on NCP's eligibility for July 2009 – May 2010. Grant County moved the district court to modify NCP's support obligation. NCP owed $1,764.15 in arrearages. NCP requested a hearing contending that the lump-sum RSDI benefit made to CP should be applied as a credit toward his arrearages and that the remainder of the lump-sum should be applied toward his prospective support obligation. The CSM found a presumptive change in circumstances and modified NCP's obligation but did not address the lump-sum issue. NCP moved for the district court to review arguing that his obligation had not changed by at least 20% and $75 and reasserted his lump-sum argument. CP agreed to use the lump-sum to satisfy arrearages but not toward the prospective obligation. District court found that NCPs obligation had decreased by more than 20% and $75 and applied $1, 764.15 of the $4, 752 lump-sum RSDI benefit to satisfy the NCP's arrearages but concluded that the remainder of the lump-sum benefit could not be applied toward the NCP's prospective obligation. NCP appealed arguing that (1) the district court erroneously modified the obligation by misapplying the modification statute and (2) that the district court erred by failing to apply the lump-sum benefit as a credit toward NCP's prospective obligation. Court of Appeals found that (1) the district court did not err by calculating NCP's presumptive obligation by using the entire calculation found in § 518A.34 instead of deriving the obligation solely from § 518A.35 because the modification statute contemplates application of all adjustments made to the guidelines basic support amount in determining whether circumstances have changed and (2) the district court erred by declining to subtract the entire lump-sum RSDI payment the CP received from the NCP's obligation because the language of §§ 518A.31(c) and 518A.34(f) does not limit the application of a credit to either arrearages or prospective obligations and does not specify the manner in which the district court must subtract social security benefits from a child-support obligation. Issue is remanded for the district court to exercise its discretion in applying the remaining balance of the lump-sum benefit as a credit toward NCP's prospective obligation. **Synopsis:** (1) When determining whether a party's circumstances have changed so that a child support obligation is presumed unreasonable and unfair a court may consider application of the entire calculation found in § 518A.34, including all adjustments made to the guidelines basic support amount, and does not have to base their calculation solely from the guidelines under § 518A.35 (2) Social security disability benefits paid to a CP on behalf of joint children based on NCP's eligibility must be subtracted from NCP's child-support obligation. However, the manner in which this amount is to be credited is not specified and the statute does not limit the application of this credit to either arrearages or prospective obligations, so the District Court must exercise its discretion in applying this credit.	Arrears; Child Support; Guidelines; Lump Sum Payments; Modifications; RSDI; SSI

In re Dakota Cnty., 866 N.W.2d 905, 908 (Minn. 2015): Obligor continued paying $1,977 per month in child support while oblige received a $1,748 per month derivative benefit for the children stemming from the obligor's RSDI benefit. Child support obligor brought motion to modify child support obligation, asking court to offset obligation by amount of monthly derivative Social Security benefits received by obligee on behalf of children and to give him credit for all benefits already received. A child support magistrate (CSM) granted the motion. The District Court, modified the child support magistrate's order in part, retaining the offset and clarifying that the amount of the benefits already received by the obligee could be credited against the obligor's prospective obligation. County appealed. The Court of Appeals, 2014 WL 1272165, affirmed, declining to overrule *County of Grant v. Koser*. County petitioned for review, which was granted. The Minnestoa Supreme Court reversed and remanded, holding that an obligee has a legal right to both an RSDI derivate benefit and Child Support until the obligor moves to modify child support. If an obligor wants an existing child support obligation to be reduced on account of derivative Social Security benefits paid to the obligee for a joint child, the obligor must bring a motion to modify the existing child support order. The child support obligation then must be recalculated, but any resulting modification is retroactive only to the date of service of notice of the motion to modify.	RSDI, Modification, arrears, medica expenses, support guidelines.
In re the Marriage of: Warrington v. Warrington, A19-0482, 2020 WL 1501972 (Minn. Ct. App. 2020): In a modification of support motion, court is required to determine if the statutory presumptions of a substantial change in circumstances apply when a paty submits documentation of increased or decreased income.	Modification, Modification $75/20% Rule; Substantial change presumption
Kent v. Kent, A19-1562, 2020 WL 6013851 (Minn. Ct. App. Dec. 29, 2020): It is not an abuse of discretion for the district court to deny an upward deviation from basic support when the record does not demonstrate substantial needs for the children warranting an upward deviation. When considering a maintenance obligation, a district court should sufficiently consider the monthly income generated by the parties' property settlements without invading the principal and any other factors indicating meeting the marital standard of living for both parties. When considering awarding attorney fees, a district court should consider whether the requesting party would be required to liquidate any portion of their property settlement to pay their attorney.	Application of guidelines for upward deviation; Findings required for maintenance; findings required for attorneys fees
Beland v. Beland, A21-1675, 2022 WL 3581825 (Minn. Ct. App. 2022): Appellant-father appeals CSM's finding that Respondent-mother is not voluntarily underemployed and the CSM's deductions for his non-joint children. The record supports the CSM's finding that mother is not voluntarily underemployed, but the issue of father's non-joint children deduction is remanded as the order did not include a child support guidelines worksheet which prevented appellate review.	Gross Income; Health Insurance; Imputing Income; Modification; Non-Joint Children Deduction; Unemployed or Underemployed ; Voluntary Unemployment or Under Employment

Floyd v. Floyd, A22-1148, 2023 WL 3443466 (Minn. Ct. App. 2023): The district court's determination that spousal maintenance was terminated pursuant to § 518A.39, subd. 3 was correct as there was no express waiver of statutory operation made by the parties. The districts upward deviation from the child support guidelines was not an abuse of discretion as the court determined the children's standard of living would be adversely affected absent a deviation and award of attorney fees to appellant-wife are affirmed.	Child Support and Maintenance Order; COLA (Cost-of-Living-Adjustment); Deviation from Guidelines-Evidence; Income Disparity Between Parties; Maintenance; Spousal Maintenance/Alimony
Bessenbacher v. Bessenbacher, A23-0480, 2023 WL 8889526 (Minn. Ct. App. 2023): The district court did not abuse its discretion by not modifying Appellant's support amount more because it considered the appropriate modification standards.	20% and $75 Substantial Change in Circumstances for Modification; Modification; Substantial Change in Circumstances Modification Presumption $75, 20%
In the Marriage of: Elizabeth Joy Glirbas vs. Joshua Robert Glirbas, No. A24-0925, 2025 WL 893451 (Minn. Ct. App. Mar. 24, 2025): The district court erred when it applied a parenting-expense deduction when calculating father's basic support obligation as there was no operative parenting time order at the time, Minn. Stat. § 518A.34(b)(5), (6), *Nelson v. Nelson*, 983 N.W.2d 923, 925 (Minn. App. 2022).	Emancipation-Automatic Termination of "Per Child" orders; Modification-Automatic Termination of Support; Parenting Expense Adjustment

II.O.3. - Self-Limitation of Income / Career Changes (See also Part II.D.7.)	
Minn. Stat. ' 518A.28 - imputed income. Minn. Stat. ' 518A.72, Subd. 2(a)(3) - obligor presumed to be able to work full-time.	
Levine v. Levine, 401 NW 2d 132 (Minn. App. 1987): Lack of candor of father, failure to document income thoroughly, and voluntary partial reduction in working hours formed part of court's basis in denying reduction of support.	Lack of Candor, Poor Documentation
Rohrman v. Moore, 423 NW 2d 717 (Minn. App. 1988): Former husband's claim that he made ten apparently random calls to construction firms seeking employment after four months of unemployment did not show that he had made good-faith attempt to obtain employment and thus, finding that former husband had unjustifiably self-limited his income by leaving his employment, was not abuse of discretion in proceeding on former husband's motion for reduction in child support.	Job Search
Rohrman v. Moore, 423 NW 2d 717 (Minn. App. 1988): Child support obligor's election to terminate employment does not justify reduction of support obligation, absent reasonable efforts by obligor to find employment.	Quitting
Lee v. Lee, 459 NW 2d 365 (Minn. App. 1990): Obligor's resignation from his employment was the result of on-the-job misconduct. The ALJ denied the obligor's motion for reduction of his child support and held that his decrease in income was a bad faith, voluntary reduction. The court of appeals reversed, stating there was no evidence that the obligor's misconduct was an attempt to induce termination and thereby avoid a child support obligation. The obligor's subjective intent in leaving his job should have been considered by the ALJ.	Subject Intent Relevant
Anderson v. Anderson, 450 NW 2d 384 (Minn. App. 1990): Even if a moving party demonstrates a substantial decrease in earnings, a trial court may deny the party's motion to reduce his child support obligation if his income is unjustifiably self-limited.	Unjustifiable Self-limitation
Johnson v. O'Neill, 461 NW 2d 507 (Minn. App. 1990): The defendant's commission of an intentional criminal act, and the resulting incarceration and reduced income, does not equal an unjustifiable self-limitation of income for child support modification purposes. Earning capacity is, therefore, not an appropriate measure of income in this situation.	Criminal Act
Maranda v. Maranda, (Unpub.), C7-90-1213, F & C, filed 12-21-90 (Minn. App. 1990): Working hard at a job paying less than an obligor is otherwise able to earn is not independently sufficient to avoid use of ones earning capacity when setting child support income from a prior business owned by obligor is representative of his ability to earn income.	Incarceration
Kuronen v. Kuronen, 499 NW 2d 51 (Minn. App. 1993): Prisoner's motion to suspend child support while in prison denied because defendant had $20,000.00 in assets out of which to pay child support.	Incarceration and Existing Assets
Francis (Tamara Lee) and County of Anoka v. Hasselius (Todd Kenyon), (Unpub.), C9-92-2190, F & C, filed 6-8-93 (Minn. App. 1993) 1993 WL 191653: In deciding a motion to modify, the trial court must refer to, or use a statutory language from Minn. Stat. ' 518.551 to determine if the obligor is voluntarily unemployed or underemployed.	Determining Over / Under Employment
Mower County Human Services o/b/o Swancutt v. Swancutt, 539 NW 2d 268 (Minn. App. 1995): It was proper for trial court to impute income where respondent had history of farm losses, adamantly refused to search for employment other than farming and quit a security job.	Modification
Babekuhl v. Heiner, (Unpub.), C6-94-935, F & C, filed 1-3-95 (Minn. App. 1995): The court, applying Minn. Stat. ' 518.551, Subd. 5b(d) to a modification case, found that under current Minnesota law, a finding of bad faith is not essential to impute income. Heiner, who had a 1991 income of $70,000.00 and dissipated assets of over $330,000.00 argued that his support obligation should be eliminated while he attended law school. He did not show why attending law school precluded him from earning an income, or that it would increase his income or represent a bona fide career change that would outweigh the adverse effect on his child (the child is 16 years old, and would no longer be entitled to support when appellant finishes law school). Trial court's refusal to modify the $500.00 per month order upheld.	Finding Bad Faith not Essential to Impute Income

Ecklund v. Ecklund, (Unpub.), C1-94-2074, F & C, filed 3-10-95 (Minn. App. 1995): In a motion to modify proceeding where obligee argues against reduction in support despite obligor's reduced income, the court must address whether obligor is "voluntarily unemployed or underemployed" under Minn. Stat. ' 518.551, Subd. 5b(d). "Good faith" standard under pre-1991 law as set forth in Schneider v. Schneider, 473 NW 2d 329, 332 (Minn. App. 1991) is no longer the applicable standard.	"Good Faith" v. "Voluntary Unemploy-ment"
Schultz-Siezkarek v. Siezkarek, (Unpub.), C5-94-2207, F & C, filed 4-25-95 (Minn. App. 1995): Where obligor quit his job as a messenger to enroll full-time in real estate classes, passed exam, and obtained employment, but has no income yet, with income dependent on commissions, it was error for ALJ to find obligor was voluntarily unemployed under Minn. Stat. ' 518.551, Subd. 5b(d)(1994). Court of appeals found this to be a "bona fide" career change and reduced obligor's obligation from $350.00 per month to $106.00 per month.	Finding of "Bona Fide" Career Change
Thill v. Thill, No. A12-1114, 2013 WL 869894 Minn. Ct. App. Mar. 11, 2013): On appeal the Appellant argued the district court erred in imputing to him income because he was enrolled in school. Although father asserted that he only works part-time because he is pursuing computer-related education, he did not produce evidence that his return to school will lead to increased income or represents a bona fide career change that outweighs the adverse effects of his diminished income on his children. The appellate court did find the district court clearly erred in determining that his parenting time was between 10-45%. The last order clearly stated that the parties had between 45-50% parenting time for purposes of calculating child support. The court indicate that time for purposes of determining the parenting time adjustment is based on the last order granting the parties parenting time or custody and the schedule established in that order. *See Dahl v.. Dahl,* 765 N.W.2d 118, 123 (Minn.App.2009) (concluding that the dissolution judgment, rather than a subsequent temporary order, established parties' baseline parenting-time schedule).	Bonda fide career change, parenting time expenses adjustment.
Hallowell v. Hallowell, (Unpub.), C3-94-2383, F & C, filed 4-25-95 (Minn. App. 1995): Where obligor diminished income in order to pursue "lengthy and costly" Ph.D. program in a field that will only yield $25,000.00 to $30,000.00 per year income and obligee's monthly income is only $160.00, career change not made in good faith and obligor is voluntarily unemployed, therefore court's denial of obligor's motion to modify was proper.	Good Faith not Found
Ackland v. Ackland, (Unpub.), CX-95-284, F & C, filed 8-8-95 (Minn. App. 1995): Court properly denied obligor's motion to modify his child support and maintenance obligations based on incarceration where obligor has $173.00 per month income from prison employment, and $3,300.00 in proceeds from a sale of the marital homestead. The court ordered that the entire $3,300.00 be applied to arrears, and not to attorney's fees or an account to pay obligor's expenses on release from prison, as obligor requested. The court further applied his entire $173.00 per month income to ongoing maintenance and support arrears reasoning that because all his basic needs for self-sustenance are met in prison, his support obligations take precedence over his other obligations.	Incarceration
Kuchinski v. Kuchinski, 551 NW 2d 727 (Minn. App. 1996): Where obligor quit her job in order to move to a different state where her new husband was offered a better job, she was voluntarily unemployed under Minn. Stat. ' 518.551, Subd. 5b(d) and court was required to impute income.	Out-of-State Move due to New Spouse's Job
Kuchinski v. Kuchinski, 551 NW 2d 727 (Minn. App. 1996): "Availability of jobs within the community" under Subd. 5b(d) means jobs in her new community, in the case of obligor who has moved from one community to another. Order must be imputed based on jobs in new community.	"Availability within Community"
Smith v. Smith, (Unpub.), C5-95-2265, F & C, filed 4-16-96 (Minn. App. 1996): Where obligor (1) voluntarily quit one job and (2) limited job search to top health administration jobs and addressing cover letters "to whom it may concern," a conclusion that he chose to be unemployed (Franzen, 521 NW 2d at 629) is reasonable, and it was proper for ALJ to deny obligor's MTM.	Questionable Job Search & Voluntary Unemploy-ment

Welsh v. Welsh, 775 N.W.2d 364 (Minn. Ct. App. 2009):. The Court of Appeals held that gross income includes both potential and actual income, and potential income can be considered even if a parent has direct evidence of current income. According to Minn. Stat. §518A.32, "[i]f a parent is voluntarily unemployed, underemployed, or employed on a less than full time basis, or there is no direct evidence of any income, child support must be calculated based on a determination of potential income." The word "or" is read as disjunctive. The district court did not make sufficient findings addressing the factors to consider regarding whether a stay at home parent is voluntarily unemployed under Minn. Stat. §518A.32, subd.5	Findings required to determined whether a stay-at-home parent is voluntarily unemployed, underemployed, or employed at a less than full-time basis.
Gorz v. Gorz, 552 NW 2d 566 (Minn. App. 1996): If obligor obtains employment subsequent to entry of an imputed income order, court reviewing the obligation must set support on new earnings, even if this results in a downward modification, unless the court has made a record supporting a finding of voluntary underemployment under Minn. Stat. ' 518.551, Subd. 5b(d) or a determination of income is impracticable under Beede.	Employment Subsequent to Imputed Order
Kroupa v. Kroupa, (Unpub.), C0-95-2433, F & C, filed 5-14-96 (Minn. App. 1996): Court properly denied motion for downward modification where obligor, terminated from high paying job in the banking industry and having made only minimal effort to find another job, instead chose to work as a laborer on his wife's farm for $15,000.00 per year. To show a bona fide career change under Minn. Stat. ' 518.551, Subd. 5b(d) obligor would have to show a reasonable burden on his children, and a genuine reason for moving from one job to another.	No Bonafide Career Change
Alsaker v. Alsaker, (Unpub.), C6-95-1996, F & C, filed 7-2-96 (Minn. App. 1996): Facts: Prior support order was $200.00 a month. Current actual income is $870.00. Current imputed income was found to be three times the $870.00. Increase in father's support obligation was upheld, even though computation of current ability to pay was based solely on imputed income and not on actual income. Court found prior order of $200.00 per month presumptively unreasonable and unfair under Minn. Stat. ' 518.64, Subd. 2(a) order 20% and $50.00 standard.	Increase in Support Based on Imputed Income
Romig v. Palodichuk, (Unpub.), C8-96-1556, F & C, filed 2-18-97 (Minn. App. 1997): Court's findings that obligor (1) currently earned a minimal income and (2) his voluntary termination of his past employment to start his own business resulted in a decrease in earnings, do not constitute a finding of voluntary employment or under employment. Decrease in earnings does not, by itself, implicate the imputed income provision of Minn. Stat. ' 518.551, Subd. 5b(d).	Decrease in Income not Sufficient to Impute Income
Romig v. Palodichuk, (Unpub.), C8-96-1556, F & C, filed 2-18-97 (Minn. App. 1997): Court may not impute income when unemployment or under-employment is temporary and will lead to an increase in income or is a bona fide career change that will benefit the parties child. Market statistics supporting obligor's prediction of increased future earnings, and evidence demonstrating obligor's sincerity in undertaking the new business is evidence that these exceptions are met.	Under-employment Temporary, or will Lead to Increase in Income
Romig v. Palodichuk, (Unpub.), C8-96-1556, F & C, filed 2-18-97 (Minn. App. 1997): Court of appeals applied Kuchinski (551 NW 2d 727, 729) requirement that court take evidence on availability of jobs in obligor's new community to a case where obligor had not moved, but quit prior job two years before to start his own business. Court cannot base imputed income on prior wages without taking evidence on current availability of jobs in the community.	Current Availability of Jobs in Community
Williams v. Iversen, (Unpub.), C8-97-854, F & C, filed 12-30-97 (Minn. App. 1998): A reduction/suspension of child support for a reasonable period of time is allowed for a mother/obligor to stay at home to care for a subsequent newborn child. But after a period of time, continuing unemployment by choice beyond what is necessary requires a court to impute income under Minn. Stat. ' 518.551, subd. 5b(d). In this case, it is one year since the birth of subsequent child when court remands to determine if mother is voluntarily unemployed.	Caring for Newborn not Voluntary Unemploy-ment
Pangborn v. Pangborn, (Unpub.), C9-97-1317, F & C, filed 2-10-98 (Minn App. 1998): It is not unfair to impose retroactively an increased child support obligation based on imputed income (in this case retroactive to six years earlier when obligor quit her full-time job) where her fraud on the court and continuing failure to provide income information precluded obligee from seeking increase early.	Retroactive Imputation where there has been a Fraud on the Court

State of Minnesota v. Glowczewski, (Unpub.), C6-97-1792, F & C, filed 4-7-98 (Minn. App. 1998): (Asst. Winona Co. Atty Nancy Boxtendorp) Where obligor works eight months a year operating the family=s seasonal restaurant business, and chooses to stay home for four months with the children from his current marriage, it was proper for ALJ to find he is voluntarily unemployed during Aoff season@ and to impute income based on obligor's former earnings for that four month period.	Stay at Home Dad
Haus v. Haus, (Unpub.), C3-97-1958, F & C, filed 6-16-98 (Minn. App. 1998): Obligor obtained employment at $697.00 per month. In prior order, obligor had income imputed to him of $2,000.00 per month. His motion to modify child support was denied. His earnings had not decreased since last order, and ALJ found he continued to have the capacity to earn the $2,000.00 per month set out in the J&D.	Employment Subsequent to Imputed Order-Capacity to Earn Greater than Earnings
Dakota County and Rornig v. Palodichuk, (Unpub.), C7-98-192, F & C, filed 7-7-98 (Minn. App. 1998): When ALJ concluded in May 1997 that obligor had made a bona fide career change and set a hearing for November 1997 to review obligor's child support obligation, ALJ, in November 1997, could not then decide that the earlier career change was not a bona fide one.	Relitigation of Career Change Determination
Bowers and County of Anoka v. Vizenor, (Unpub.), C0-98-440, F & C, filed 10-6-98 (Minn. App. 1998): Where ALJ continued a final determination to a review hearing, ordering the obligor to provide medical evidence to support his claims that he is unable to work, and obligor did not produce the evidence, it was proper for ALJ to disregard obligor's claim of incapacity and to inpute income.	No Medical Evidence Provided
Behnke v. Green-Behnke, (Unpub.), C7-99-820, F & C, filed 3-7-2000 (Minn. App. 2000): Where existing child support order was based on imputed income, court erred in modification case, in continuing to impute income without making findings based on current information as to whether basis for imputing income continues to exist. (Dissent: Obligor had burden to meet standard for modification. When he failed to produce financial information as ordered, and did not meet modification standard, imputed income under prior order properly was continued and court was not required to make finding that the basis for continued imputation for income exists.)	Whether Findings Required if Court Continues to Impute Income
Itasca County and Brown v. LaFrenierre, (Unpub.), C6-99-1313, F & C, filed 4-11-2000 (Minn. App. 2000): Court erred in finding voluntary underemployment where there was no evidence that: (1) obligor was concealing information; (2) no evidence of higher paying jobs for which obligor is qualified in his geographic area; and (3) evidence about obligor's lifestyle was insufficient to show that his actual income exceeds his reported income.	Insufficient Evidence to Prove
Itasca County and Brown v. LaFrenierre, (Unpub.), C6-99-1313, F & C, filed 4-11-2000 (Minn. App. 2000): On a motion for modification brought by the county, the county has the burden of proving that the obligor is voluntarily underemployed as a basis for imputing income.	Moving Party's Burden to Prove
Atwater v. Anderson, (Unpub.), C4-01-744, F & C, filed 1-22-02 (Minn. App. 2002): Where mother quit job as nurse anaesthetist, due to carpal tunnel syndrome and then took a job as a part-time retail sales clerk, court properly found that she had not made a bona fide career change, and imputed income based on an analysis of her employability. To make a bona fide career change, person must pursue training or obtain a job in a new field.	Not a Bona Fide Career Change
Atwater v. Anderson, (Unpub.), C4-01-744, F & C, filed 1-22-02 (Minn. App. 2002): Where NCP quit job and only made ten employment applications in eight months, five of which were in the last two weeks before the evidentiary hearing, court properly found that NCP was voluntarily unemployed.	Only 10 Job Applications in 8 Months
Putz v. Putz and County of Benton, 645 NW 2d 343 (Minn. 2002): Child support magistrates decision to reduce obligor's monthly child support obligation from $400.00 to $50.00 was an abuse of discretion where obligor voluntarily terminated his full-time employment to go to college for four years, there was a danger the child=s needs would go unmet during this period, and obligor's prediction of post-employment increase in income was speculative.	Quit to go to College

Putz v. Putz and County of Benton, 645 NW 2d 343 (Minn. 2002): When evaluating a voluntary unemployment case, in addition to looking at Minn. Stat. ' 518.551, subd. 5(b), a court can look at evidence of bad faith in determining if a person is voluntarily unemployed, and should also consider the factors in Section 518.551, subd. 5(c). The Minnestoa Supreme Court upheld the power of a district to consider whether an obligor's unemployment was in bad faither towards his or her support obligation, and that it is the burden of the obligor to prove that any unemployment is temporary and will lead to an increase in income in the future or represent a bona fide career change that outweighs the adverse effect of the parent's diminished income on the child.	Consideration of Bad Faith
Putz v. Putz and County of Benton, 645 NW 2d 343 (Minn. 2002): The accumulation of arrearage during a time obligor was employed is evidence of bad faith and is a factor to consider when determining if he is now voluntarily unemployed.	Accumulation of Arrears While Employed is Evidence of Bad Faith
Putz v. Putz and County of Benton, 645 NW 2d 343 (Minn. 2002): Mere assertion in an affidavit that the obligor anticipates an increase in earnings after his education is completed from $40,000.00 to $70,000.00 was speculative, and insufficient to meet the requirement of Minn. Stat. ' 518.551, subd. 5b(d)(1). Obligor failed to produce evidence that upon his graduation there would be jobs available in his field or that those who find employment would earn more than $40,000.00.	Speculation as to Increased Earnings
Frazier v. Frazier, (Unpub.), C8-02-871, F & C, filed 12-17-02 (Minn. App. 2002): In 1998 district court ordered non-custodial parent to pay guideline child support retroactive to 1997. Non-custodial parent paid nothing. In 2001, on county's motion to modify, CSM properly: 1) set ongoing support in a set dollar amount, and 2) calculated arrears back to 1997, based upon wages while working full-time, and based on imputed income when working less than full-time.	Retroactive Imputation of Income on Guidelines Order
Reinke v. Reinke, (Unpub.), C3-02-1541, F & C, filed 2-11-03 (Minn. App. 2003): It was error to impute obligor's income based upon a 40-hour work week when obligor's employer, not the obligor, reduced the regular hours of work to 35.	Employer Reduces Hours
Shaughnessy v. Shaughnessy, (Unpub.), C7-02-831, F & C, filed 3-4-03 (Minn. App. 2003): Respondent failed to prove that returning to school to get his IT degree would lead to an increase in income where his only proof was 3 advertisements - one for a position that required five years experience, and two were for temporary/contract positions.	Future Earnings Speculative
Barrett v. Barrett, (Unpub.), C2-02-1806, filed 7-15-03 (Minn. App. 2003): Where the obligor, having been fired from his job, failed to meet his burden of proving a substantial change in circumstances warranting modification, and where he failed to produce evidence of job-search efforts, court was not required to make findings of the current availability of jobs in the area paying the wage formerly earned by the obligor, before denying his motion to modify and maintaining the support obligation at the prior level	No Finding of Current Avail-ability of Jobs Required
Barrett v. Barrett, (Unpub.), C2-02-1806, filed 7-15-03 (Minn. App. 2003): Obligor=s unemployment was voluntary where he was discharged for failure to follow company policy. Courts are no longer required to determine that the misconduct was an attempt to induce termination, and thereby avoid a child-support obligation, before making a finding of voluntary unemployment.	No Require-ment that NCP Attempt to be Fired
Ritter v. Ritter, (Unpub.), A03-1472, filed 5-25-04 (Minn. App. 2004): Where NCP quit his job because it conflicted with his parenting time schedule, stopped paying child support, and declined to mediate parenting time issues, it was proper for the court to impute an ability to pay support during his period of unemployment.	Quit Job to Accommodate Visitation Schedule
LaFond v. LaFond, (Unpub.), A04-1176, F & C, filed 3-22-05 (Minn. App. 2005): Obligor resigned at the age of 49 from his $140,000 a year job as an air traffic controller, citing health problems, and took a $72,000 job. The district court determined that the change of circumstances did not make the prior order unreasonable and unfair and denied his MTM. Court of appeals agreed, citing district court's findings that (1) the retirement was "voluntary;" (2) obligor failed to submit any evidence establishing that his retirement was caused by health issues; and (3) obligor failed to establish that he cannot, or will not, obtain another good paying job.	High income career change- Allegations of health problems. Modification denied

LaFond v. LaFond, (Unpub.), A04-1176, F & C, filed 3-22-05 (Minn. App. 2005): An order denying a motion to modify and retaining support at the level previously set at the time the obligor had a higher income, is *not* an imputation of income.	518.551-5b(d) n/a where court denies MTM, and retains prior support order
In re: Marriage of Mackey, (Unpub.), A04-2318, filed 8-16-2005 (Minn. App. 2005): The appellate court affirmed the district court's modification (reduction) of child support and maintenance and upheld the district court's determination that the respondent (obligor) was not voluntarily underemployed for support purposes in starting a new business venture (franchise sandwich shop) after leaving a corporate executive position in insurance (which previously paid $225,000.00 annually) due to serious, industry-wide problems, and where obligor first properly investigated other business opportunities. The district court found that respondent made the career change in good faith to meet his support obligations. (The case was remanded only for computational errors in determining support.)	Obligor not voluntarily unemployed/good faith career change
In re: Marriage of Roes, (Unpub.), A04-2041, filed 8-23-2005 (Minn. App. 2005): Where an obligor, a retired lawyer (age 52), did not show a restriction on his ability to practice law, even though the choice to retire was not shown to be in bad faith, the court did not err in considering obligor "voluntarily underemployed" for support purposes and imputing income to him at the maximum guidelines amount.	Retired attorney, age 52, voluntarily underemployed
In re: Horace D. Allen v. Nikki Thompson, (Unpub.), A04-2225, filed 8-30-2005 (Minn. App. 2005): Parties agreed in their divorce decree that (1) the petitioner's (obligor's) income should increase when he completes his MBA and (2) that support would automatically increase effective July 1, 2004, unless petitioner demonstrates his income has not increased significantly despite best efforts to secure appropriate employment. Prior to the automatic increase, obligor filed a motion to keep child support at the original level (without the increase) based upon evidence of a new medical condition which limited his employment opportunities, as well as evidence that his earnings had not increased as anticipated. CSM found that obligor proved his medical condition (speech limitations), but had not proved that his income had not increased significantly based upon obligor's evidence of a single paycheck. CSM expected obligor to produce his 2003 tax return, but never requested this production. The appellate court found obligor's paycheck to be "credible evidence" that his income had not increased and found that the CSM abused her discretion in failing to grant the requested relief.	Obligor provided credible evidence of income
Hennepin County and Darchelle Norris v. Leonard Samuels, Jr., (Unpub.), A05-4, filed 10-25-2005 (Minn. App. 2005): Obligor's motion to reduce support was properly denied where the obligor failed to demonstrate a substantial change in circumstances rendering the existing order unreasonable and unfair, and failed to establish his inability to work. The court found the obligor's unsupported assertions - that he was unemployed and could not afford to pay the court-ordered support - to be insufficient proof.	Insufficient proof of inability to work
Michaels v. Michaels, (Unpub.), A05-295, filed 11-8-2005 (Minn. App. 2005): Appellate court upheld the district court (and CSM) decision finding an obligor "underemployed" and imputing income consistent with a management position where the obligor had been laid off from Greyhound, was unemployed for a period and did not pursue temporary work, and settled for a position as a reserve flight attendant working approximately 70 hours per month. The court found that obligor failed to demonstrate that his underemployment would lead to an increase in income or that his current employment was a bona fide career change.	Imputation of income affirmed
In Re the Marriage of Giese v. Giese, (Unpub.) A05-949, filed June 20, 2006 (Minn. App. 2006): The court found that the obligor was voluntarily underemployed because he chose to work in an entirely different field than the field he'd worked in for 18 years and because an entry level position in his prior career field would pay more than the current position.	Obligor found underemployed when he voluntarily chose position in different field despite career history and earning potential.

In Re the Marriage of Hoppe v. Hoppe, County of Anoka, Intervenor, (Unpub.), A06-98, Filed January 30, 2007 (Minn. App. 2007): The court affirmed the district court's finding that obligor was voluntarily underemployed because he continued to operate his own business as his only means of income and the business consistently lost money. The court found that obligor's choice to become self-employed had a negative impact on his children. The district court found obligor was not credible in his testimony, that he willfully withheld information about his income, and there was little documented evidence of obligor's actual income.	MODIFICATION Voluntarily underemployed. Failing as self-employed business owner.
In re the Marriage of Linda Louise Sarvey v. Robert Hieu Sarvey, (Unpub.), A06-1525, Hennepin County, filed June 19, 2007 (Minn. App. 2007): Appellant-husband challenges the J&D, arguing district court abused its discretion in distribution of marital property, award of spousal maintenance, child support, life insurance provisions and award of attorneys fees to respondent. The court properly relied on financial documentation of the parties and found that appellant voluntarily changed employment and self limited his income. Respondent's decreased household expenses stem from appellant's failure to pay support, and therefore should not be seen as the normal level of lifestyle maintained during the marriage. Appellant is not entitled to proceeds from marital property where respondent sold property to provide for basic necessities due to appellant's nonsupport.	Change of employment and self-limited income.
Jennifer Gwen Loveland v. Francis Joseph Brosnan, (Unpub.), A07-0388, filed April 8, 2008 (Minn. App. 2008): Appellant obligor appeals from the district court's order denying his motion to modify his child support. The CSM found that appellant had failed to provide sufficient or reliable information regarding his income. Obligor's ability to maintain a lifestyle incurring over $6,000 in monthly expenses while on an unpaid medical leave for over 1 ½ years cut against his claim that his reduced earnings prevented him from making child support payments. Obligor failed to submit any information regarding his future employment prospect at his previous employer. Additionally, the documents submitted by obligor called into question his actual current income. No abuse of discretion.	Moving party has burden to demonstrate his earning capacity is diminished, his financial situation has deteriorated, or that he has made a good faith effort to seek reinstatement of re-employment.
Carlene Yvonne Nistler v. Terrance Roger Nistler, (Unpub.), A07-0793, filed April 1, 2008 (Minn. App. 2008): Appellant obligor argued for a decrease in support alleging his income substantially decreased since the dissolution. CSM denied because obligor failed to demonstrate that he is not voluntarily underemployed. Court of Appeals affirmed, citing obligor had the burden to show why he did not pursue work in the field he had experience and why he pursued another career.	Obligor has burden of demonstrating reduced income is not voluntary underemploy-ment
Hare v. Hare, No. A15-1978, (Minn. Ct. App. July 18, 2016): Whether to hold an evidentiary hearing on a motion to modify maintenance or support is discretionary. When the district court is able to calculate child support based on the record before it, it is not an abuse of discretion to decline to hold an evidentiary hearing.	Evidentiary Hearing for Modification of Support
Jacobs v. Fenikova, A20-0177, 2021 WL 1244412 (Minn. Ct. App. 2021): A CSM determination that a party is underemployed must be based upon the evidence available in the record. A party's assertion that imputed income was improperly calculated must be supported by actual facts indicating the improper calculation. A CSM's determination of gross monthly income supported by the facts in the record is upheld.	Determination of income; Modification; Potential Income
Otterson v. Otterson, A21-0104, 2021 WL 4944674 (Minn. Ct. App. 2021): A downward deviation in support is justified when evidence presented shows that a party has sought employment in the field they previously work, was unable to obtain such work and the current gross income is less than the currently ordered support obligation.	Modification – Voluntary Unemployment/ Underemploym ent
In the Marriage of: Sarah Elizabeth Lavins vs. Brock Laverne Lavins, No. A24-0779, 2025 WL 1097215 (Minn. Ct. App. Apr. 14, 2025): The district court did not abuse its discretion when it determined mother is voluntarily unemployed because she failed to rebut the presumption she could work full time. It also was not an abuse of discretion to deny mother's request to apply the modification of support retroactively, Minn. Stat. § 518A.39, subd. 2(f) is discretionary rather than mandatory.	Imputing Potetntial Income; Modification-Effective Date: Retroactive support Modification-Date of Service

	only; Voluntary Undemployment/Underemployment

II.O.3.-Self-Limitation of Income/Career Changes

II.O.4. - Increased Income	
Pogreba v. Pogreba, 367 NW 2d 677 (Minn. App. 1985): Modification denied to mother because her relative salary increase was greater than the father's.	Income Increase
Davis v. Davis, 394 NW 2d 519 (Minn. App. 1986): Support amount can be unreasonable and unfair if it does not allow the child to enjoy the benefit of the increased household income of both parents.	Standard of Living
Daily v. Daily, 433 NW 2d 152 (Minn. App. 1988): "Increase" of $2,234.00 in divorced father's income over seven year period was not "substantial" increase which would allow trial court to modify child support obligations, where rise in associated cost-of-living during same period was greater than increase in income.	Increase in Income vs. Cost-of-Living
Braatz v. Braatz, 489 NW 2d 262 (Minn. App. 1992): Because merit raise constitute "other increase in income," obligor's support obligation may be increased, even though his income is not subject to cost-of-living increases.	Merit Raises
County of Nicollet v. Jacquelyn Ann Pollock, n/k/a Jacquelyn Ann Miller, Jerry Joseph Duwenhoegger, (Unpub.), A06-875, Nicollet County, filed May 22, 2007 (Minn. App. 2007): Appeal from the District Court's order affirming the CSM's order requiring prisoner to pay child support while he is incarcerated. CSM found appellant was earning an income of $60 per month while in prison and could afford an obligation of $30 per month. Prison income may be used to determine child support and earning $60 per month was a substantial change in earnings from $0. (Citing Johnson v. O'Neill, 461 N.W.2d 507, 508 (Minn. App. 1990).	Prison income may be used to determine child support. Earnings of $60 per month was "substantial change" from $0.
Pudlick v. Pudlick, No. A18-1652, 2019 WL 5690676 (Minn. Ct. App. Nov. 4, 2019): A parties' previous stipulation, which provided for an expense sharing model in lieu of guidelines support, provides a baseline from which to identify whether there has been a substantial change in circumstances in the future.	Stipulations; Deviation from Guidelines
Larson v. Larson, A23-1369, 2024 WL 2130757 (Minn. Ct. App. 2024): The district court erred in its calculation of appellant-father's income by not properly applying Minn. Stat. § 518A.30 and ignoring *Haefele v. Haefele*, 837 N.W.2d 703, 711 (Minn. 2013), but correctly maintained the parties' "childcare" payment and correctly denied father's motion for conduct-based attorney fees.	Bonuses, Commissions, etc. as Gross Income; Calculation of Gross Income; Income Calculation/Determination of Gross Inc.; Childcare Support; Childcare Decrease
In re the Marriage of: Mackey v. Mackey, A23-1228, 2024WL 5036719 (Minn. Ct. App. Dec. 9, 2024): The district court properly factored the increased monthly expenses of Wife and decreased monthly expenses of Husband after it determined there had been a substantial change in circumstance, so it was proper to deny Husband's motion to decrease his monthly spousal maintenance obligation.	Maintenance; Spousal Maintenance/Alimony; Modification – Substantial Change in Circumstances; Modification – Terms of Order are Unreasonable and Unfair Factors

II.O.5. - Decreased Income	
Fuller v. Glover, 414 NW 2d 222 (Minn. App. 1987): Former husband's loss of income resulting from termination of employment was not substantial change in circumstances so as to justify downward modification of husband's child support obligation, where husband continued to enjoy substantial wealth and comfortable life style, particularly as compared to that of former wife and minor child.	Income Loss but Fancy Lifestyle
Romig v. Palodichuk, (Unpub.), C8-96-1556, F & C, filed 2-18-97 (Minn. App. 1997): Court's findings that obligor (1) currently earned a minimal income and (2) his voluntary termination of his past employment to start his own business resulted in a decrease in earnings, do not constitute a finding of voluntary employment or under employment. Decrease in earnings does not, by itself, implicate the imputed income provision of Minn. Stat. § 518.551, Subd. 5b(d).	Decrease in Income not Sufficient to Impute Income
Robbins vs. Robbins, n/k/a Blowers, (Unpub.), A06-2124, filed November 27, 2007 (Minn. App. 2007): The lower court did not err in relying upon credible testimony of the respondent in determining that the respondent's work hours decreased, even though respondent did not provide documentary support of that fact.	Credible testimony sufficient to establish changed circumstance
Rose v. Rose, 765 N.W.2d 142, (Minn. Ct. 2009): The parties to this action were a divorced couple. The father brought a motion to decrease his child support. The father showed that under the new guidelines his presumed child support obligation would be at least 20% and $75 lower the original order of child support. Despite proving the difference the CSM denied that father had a substantial change in his circumstances stating that he needed also to show that the prior order was unreasonable and unfair before he could prove that he had a substantial change in circumstances. The Court of appeals stated if :1) If a party demonstrates entitlement to the presumption under Minn. Stat. § 518A.39, subd. 2(b)(1), it is not necessary to first or separately show a change in circumstances listed in Minn. Stat. § 518A.39, subd. 2(a)(2008). 2) A party who demonstrates entitlement to the presumption of a substantial change of circumstances under Minn. Stat. § 518A.39, subd. 2(b)(1), must also show that the presumed change has rendered the existing order unreasonable and unfair before a modification may be granted.	Decrease in Income.
Hood v. Downing, No. A15-1515, (Minn. Ct. App. 2016): When a stipulation includes child support it is afforded less weight because child support is a non-bargainable interest of the child and is less subject to restraint by stipulation. The court was not required to use mother's income from the stipulation but rather could use her current income.	Stipulated Income
In Re the Marriage of Swart v. Swart, No. A16-1405 (Minn. Ct. App. Mar 20, 2017): An agreement regarding child support may not be binding on the court when parties agree not to modify child support. Such an agreement does not prevent subsequent motions to modify but may be a factor considered when reviewing a motion to modify a stipulated agreement and evaluating a substantial change in circumstances.	Modification
Banerjee v. Banerjee, A20-1224, 2021 WL 1604355 (Minn. Ct. App. 2021): A district court does not abuse its discretion by determining a party failed to meet their burden of demonstrating a substantial change in circumstances when the party fails to disclose all sources of income in a modification action. Without the ability to accurately calculate a child support obligation based on both parties total actual incomes, it is not an error for the district court to decline to apply a Parenting Expense Adjustment based on court ordered Parenting Time.	Determinationof Income; Definition of Modification - $75/20% Rule; Parenting Expense Adjustment; Parenting Time/ Overnights
Otterson v. Otterson, A21-0104, 2021 WL 4944674 (Minn. Ct. App. 2021): A downward deviation in support is justified when evidence presented shows that a party has sought employment in the field they previously work, was unable to obtain such work and the current gross income is less than the currently ordered support obligation.	Modification – Voluntary Unemployment/ Underemployment

II.O.6. - Needs / Resources of Child	
In the Marriage of Haynes, 343 NW 2d 679 (Minn. App. 1984), reversed by Holmberg v. Holmberg, 578 NW 2d 817 (Minn. App. 1998), *aff=d.* 588 NW 2d 720 (Minn. 1999): Receipt of social security dependency benefits is change of circumstances but it does not necessarily make terms of order unreasonable and unfair so as to warrant modification under Minn. Stat. ' 518.64.	Social Security
Weldon v. Schouviller, 369 NW 2d 308 (Minn. App. 1985): Mother granted an increase in child support to cover the medical expenses for treating her child's birth defect several years after birth.	Medical Needs
Sudheimer v. Sudheimer, 372 NW 2d 792 (Minn. App. 1985): Where the child's needs increased and the non-custodial parent's expenses decreased, the fact that the custodial parent's income increased did not justify a downward departure from the guidelines.	Increased Need
Haiman v. Haiman, 363 NW 2d 335 (Minn. App. 1985): Increased needs of the children may in itself be sufficient to increase child support.	Child's Needs Increase Alone
Moylan v. Moylan, 368 NW 2d 353 (Minn. App. 1985): Where the child has increased needs, modification of child support is proper and no credit need be given for non-cash payments.	Needs Increase
Pogreba v. Pogreba, 367 NW 2d 677 (Minn. App. 1985): Increased costs due to child's greater age not basis for increase as increasing expenses due to child's maturing foreseeable at time of dissolution.	Aging of Children
Moritz v. Moritz, 368 NW 2d 337 (Minn. App. 1985): Child's receipt of father's social security benefits and father's decrease in income are sufficient changes in circumstance to warrant modification.	Social Security Received by Child
Streitz v. Streitz, 363 NW 2d 135 (Minn. App. 1985): Downward modification of child support needs a showing of a material decrease in the father's finances or a decrease in the needs of the children, not both.	Decrease in Child's Needs
Nyholm v. Nyholm, 380 NW 2d 607 (Minn. App. 1986): Review denied. Child entitled to benefit of increased income of father although child's needs were minimal; application of guidelines not error.	Standard of Living
Katz v. Katz, 380 NW 2d 527 (Minn. App. 1986): Guidelines were properly applied to increase support although needs of children were being met in order to give children benefit of standard of living denied them due to divorce.	Standard of Living
Lujan v. Lujan, 400 NW 2d 443 (Minn. App. 1987): Minn. Stat. ' 518.64, Subd. 2 requires particular attention to the individual needs of the children; while such attention adds little to many cases, where it appears the parties have the combined ability to easily meet the child's needs, fairness and reasonable-ness of a prior award cannot be assessed without evaluating it in terms of the part of the expense each parent is to bear.	Needs of Children
Olson v. Olson, 399 NW 2d 660 (Minn. App. 1987): Failure to consider increased needs of mother and children required reversal of order of district court setting aside order of family court increasing support.	Must Consider
Erickson v. Erickson, 409 NW 2d 898 (Minn. App. 1987): It was proper to consider children's transportation expenses paid by mother's current husband in considering whether to increase support.	Expenses Paid by New Spouse
Lee v. Lee, (Unpub.), C1-92-367, F & C, filed 7-14-92 (Minn. App. 1992): Although obligor's current income is substantially less than at the time of the previous order, the prior order is not unreasonable or unfair because of the special health care needs of the children.	Special Needs Health
Buntje v. Buntje, 511 NW 2d 479 (Minn. App. 1994): Where custody changed from joint to sole custody with father, mother is responsible for guideline support despite her argument that child's standard of living has not changed, and that the child has a job. A child's nominal earnings have little relevance to a parent's support obligation.	Child's Earnings
Carlson v. Nelson, (Unpub.), C1-98-1841, F & C, filed 4-27-99 (Minn. App. 1999): Trial court did not err when it declined to credit obligor with social security payments paid to the child for the months prior to his motion for modification.	Lump Sum Pension Payment

O'Donnell v. O'Donnell, 678 NW2d 471 (Minn. App. 2004): Increased expenses that are ordinary and foreseeable at the time the parties enter into the MTA (even where the MTA included a downward deviation from guidelines) are insufficient to support an increase in support (in this case to guidelines level) 5 months after the divorce, particularly where (1) both parties were represented by counsel, (2) the parent had opportunity to assess child=s expenses before the divorce, (3) there is no fraud, mistake or duress, and (4) the best interests of the children do not necessitate a change and will not be adversely affected by a continuation of the support terms of the original judgment.	Ordinary and Foreseeable Increase in Expenses
O'Donnell v. O'Donnell, 678 NW2d 471 (Minn. App. 2004): Where J&D did not provide for expenses of an emancipated child, cost of college education was not an increased expense of obligor justifying a finding of change of circumstances and increase of child support. See Tibbetts, 398 NW 2d 16, 19 (Minn. App. 1986).	College Tuition
In re the Marriage of: Chaharsooghi v. Eftekhari; Minn. Ct. App. Unpublished. (A05-2259): Joint physical custody case. Appellant-husband appealed denial of his modification motion. Dissolution required appellant to pay child support, pay all premiums for the children's medical insurance, all uninsured or unreimbursed medical and dental expenses for R.E. and ½ of O.E.'s expenses, all expenses for tutoring both children through Sylvan Learning Center, and apportion the costs for extracurricular, recreational or other activities the children participate in if the parties agree to the participation. The child R. E. ultimately was sent out of state to a boarding school. Appellant had agreed to fully bear the costs and respondent reluctantly agreed to send the child to the school. Appellant moved to reduce his support obligation and modify the decree such that the parties would be responsible of ½ of the extraordinary expenses of both minor children. The child support magistrate denied the motion finding appellant failed to proof a substantial change in circumstances, and the district court affirmed. The appellate court held that while the parties were not aware of the child's "recently diagnosed" nonverbal learning disability at the time of the dissolution, they were generally aware that the child is a special needs child and were cognizant of the financial issues concerning the child's disabilities. Special concurrence held that expenses were known to both parents at time of dissolution, and current expenses, though significant, did not constitute a change in circumstances that makes the child support obligation unreasonable or unfair.	special needs child
Arneson v. Meggitt, (Unpub.), A06-1437, filed 10/30/07 (Minn. App. 2007): Following CSM's denial of NCP's motion to decrease, CP requested review by district court and extension of child support beyond date previously stipulated by parties, because child's high school graduation was delayed. District court approved extension and NCP appealed. Court of Appeals affirmed, holding child's best interests trump parties' prior stipulation, and citing *Tammen v. Tammen* and *Swanson v. Swanson.*	Extension of Support Contrary to Prior Stipulation
Hanratty v. Hanratty, No. A10-1346, 2011 WL 891178 (Minn. Ct. App. Mar. 15, 2011): Father was ordered to pay child support for the parties' adult disabled son, and the Mother was appointed as conservator. When the son moved to a group home father moved to terminate his obligation, contending that if there were no child support, the cost of the son's care would be entirely covered by state and federal funding. Father also argued that because son received public assistance Father's payments were actually "parental contributions" and that only parents of minor children are liable for such contributions. The district court denied Father's motion Appellant-father challenges the district court's denial of his motion to terminate his child-support obligation on the basis that his disabled adult son now resides in a group home where his care would be publicly funded if he did not receive child support. The appellate court affirmed, finding that the mere fact that the son received public assistance does not convert Father's child support obligation to a parental contribution, nor does son's move to a group home mean that his needs have decreased.	Mere fact that the son received public assistance does not convert Father's child support obligation to a parental contribution

II.O.7. - Needs / Resources of Obligor	
Quaderer v. Forrest, 387 NW 2d 453 (Minn. App. 1986): Fact that obligor incurs increased housing expense in reliance on fact that his child support payments would not increase is not a valid reason to deny a modification in support.	Obligor's Increased Housing Expenses
Stolp v. Stolp, 383 NW 2d 409 (Minn. App. 1986): Bankruptcy improved financial condition of obligor; therefore, no error in refusing to reduce support or forgive arrearages.	Bankruptcy
Huston v. Huston, 412 NW 2d 344 (Minn. App. 1987): Expenses of former husband's entire family could not be considered in determining husband's financial needs for purposes of determining husband's child support obligation but could be considered as one factor among several in setting child support.	Second Family
Kuronen v. Kuronen, 499 NW 2d 51 (Minn. App. 1993): A 401(k) Plan must be considered for purposes of determining a motion to modify since Minn. Stat. ' 518.551, Subd. 5(b)(1) states that all resources, not just income must be considered. In this instance, although the obligor was incarcerated, his $20,000.00 401(k) Plan was deemed a sufficient resource so that his child support payments were not reduced.	401(k) Plan-Incarcerated Obligor
State of Minnesota ex rel. Kandiyohi County Family Services, v. Elmahdy, (Unpub.) C3-02-2091, filed 7-29-03 (Minn. App. 2003): Where an obligor who owned his own business sought a decrease in his child support obligation based on a decline in his income, the district court properly allowed bank records into evidence demonstrating that he deposited more than $90,000 in the year he alleged decreased income, and properly considered the equity in NCP's home to support denial of MTM.	Bank Deposits
Schmidt v. Schmidt, (Unpub.), C8-03-346, filed 8-19-03 (Minn. App. 2003): Lump sum payment from NCP's pension of over $123,000 and another payment of over $13,000 for retroactive long-term disability benefits were resources available to NCP sufficient to rebut the 20%/$50 presumption.	Lump Sum Payments
O'Donnell v. O'Donnell , 678 NW2d 471 (Minn. App. 2004): Obligor's increased mortgage payment resulting from the property settlement in the J&D is not an increased expense of the obligor that can justify a finding of change of circumstances justifying an increase in child support. See Abuzzahab, 359 NW 2d 329 (Minn. App. 1984).	Increased Mortgage due to Property Settlement
In re: the Matter of K. A. Murphy v. Daniel Miller, (Unpub.), A05-151, filed 8-2-2005 (Minn. App. 2005): The district court did not err in denying obligor's motion to reduce support where the court could not readily determine obligor's self-employment income, but had evidence to conclude that obligor had "more than sufficient resources" to pay his current child support obligation, since almost all of obligor's living and household expenses were paid by his business before determining his adjusted gross monthly income.	Obligor's living and household expenses paid by business
In re the Marriage of Carole V. Marx, petitioner, Respondent vs. Robert B. Marx, Appellant, and County of Anoka, intervenor, Respondent, (Unpub.), A06-1678, Anoka County, filed July 31, 2007 (Minn. App. 2007): Appellant argues that he is entitled to retroactive modification for the period he was incarcerated. Even where an obligor is incarcerated and may establish they have no ability to pay child support while incarcerated, a prisoner-obligor who has significant assets but no significant living expenses may continue with his same obligation while incarcerated. *(citing Kuronen v. Kuronen,* 499 N.W.2d 51, 53-54 (Minn. App. 1993)).	A prisoner-obligor who has significant assets but no significant living expenses may continue with his same obligation while incarcerated with no present ability to earn income.

Hunley v. Hunley, 757 N.W.2d 898 (Minn. Ct. App. 2008): The district court must calculate child support based on the guidelines and provide express findings if a downward deviation occur. The findings will be considered inadequate if the record shows that the district court failed to consider the appropriate factors. The Appellant was the major income earner in the family, and because the district court considered the children's best interest and made other adequate findings of fact, the court did not abuse its discretion by requiring Mother to maintain her life insurance policy. The district court did not err in determining the Father did not have the ability to pay child support and to meet his living expenses for the children when he is with them.	Requirement to maintain life insurance policy.
Sonnek v. Sonnek, No. A08-0953, 2009 WL 818752 (Minn. Ct. App. Mar. 31, 2009): Based upon the income shares model for calculating child support, the court found that child support would be $1,180, which was a $75 and 20% change from the existing child support obligation. Thus, reduction was presumed to be substantial and there was a rebuttable presumption that the existing support obligation was unreasonable and unfair. However, the District Court denied Appellant's motion, finding that the existing order was neither unreasonable nor unfair and that the reduction would be harsh and unreasonable to the child and was not necessary. The Court of Appeals affirmed the district court's decision as consistent with law, logic, and limited facts on the record. Where the rebuttable presumption of unreasonableness or unfairness, it does not impose a burden of production or persuasion on either party to rebut that presumption, does not require a formal burden-shifting analysis, and does not limit the evidence that the district court can consider when addressing whether the presumption has been rebutted. Father failed to show a substantial change in circumstances rendering his child support obligation unfair and, therefore, district court did not abuse its discretion by denying father's motion to reduce his existing child-support obligation. Even though father changed employment and his earnings decreased, his monthly expenses did not increase, and he still enjoyed a significant monthly surplus. Despite the fact that father's monthly income apparently exceeded his monthly obligations and the fact his child's expenses had not decreased, father argued his monthly support contribution should have been reduced by 35%.	Child's best interests are the court's paramount consideration in addressing child-related questions.
In re the Marriage of: Mackey v. Mackey, A23-1228, 2024WL 5036719 (Minn. Ct. App. Dec. 9, 2024): The district court properly factored the increased monthly expenses of Wife and decreased monthly expenses of Husband after it determined there had been a substantial change in circumstance, so it was proper to deny Husband's motion to decrease his monthly spousal maintenance obligation.	Maintenance; Spousal Maintenance/Alimony; Modification – Substantial Change in Circumstances; Modification – Terms of Order are Unreasonable and Unfair Factors

II.O.8. - Needs / Resources of Obligee	
Bredeson v. Bredeson, 380 NW 2d 575 (Minn. App. 1986): Findings on income of present spouse of former wife required for meaningful rev. to determine if change made original decree unfair.	Subsequent Spouse Income
Coakley v. Coakley, 400 NW 2d 436 (Minn. App. 1987): Substantial change in circumstance found when obligor's bankruptcy proceeding relieved him of substantially all of his debts and caused custodial parent to suffer loss of $15,893.00 property settlement and substantially increased debt liability.	Bankruptcy
Finck v. Finck, 399 NW 2d 575 (Minn. App. 1987): Original award of support properly held to be unfair and unreasonable despite the fact that custodial parent's income exceeded her expenses.	CP Income Exceeding Expenses
In Re the Marriage of Marden v. Marden, 546 NW 2d 25 (Minn. App. 1996): Where obligor had his debts discharged in bankruptcy, thereby causing the obligee to be required to pay the debt, the obligee may seek modification of child support under Minn. Stat. ' 518.64.	Effect of Obligor's Bankruptcy on Obligee's Increased Financial Expenses
In re the Marriage of Charlotte Kay Sailors v. James Thomas Sailors, (Unpub.), Goodhue County, A06-379 (Minn. App. 2007): Respondent wife appeals the district court's decision to decrease the stipulated amount of life insurance appellant was required to carry with wife as the beneficiary. The findings and record support the district court's decision to decrease the required life insurance based on her anticipate future income from social security payments.	Anticipated social security payments as future income adequate to support a modified amount of life insurance required.
In re the Marriage of: Marlo Renee Nelson, A22-0077, 983 N.W.2d 923 (Minn. Ct. App. 2022): The Court of Appeals affirms the district court's amended order that per Minn. Stat. § 518A.36, subd. 1 child support obligations with a parenting time expense are based on the court-ordered amount of parenting time and not the actual amount of time exercised by each parent.	Marriage Dissolution, Modificaiton, Child Care Support, Overnights, Parenting Expense Adjustment
In re the Marriage of: Mackey v. Mackey, A23-1228, 2024WL 5036719 (Minn. Ct. App. Dec. 9, 2024): The district court properly factored the increased monthly expenses of Wife and decreased monthly expenses of Husband after it determined there had been a substantial change in circumstance, so it was proper to deny Husband's motion to decrease his monthly spousal maintenance obligation.	Maintenance; Spousal Maintenance/Alimony; Modification – Substantial Change in Circumstances; Modification – Terms of Order are Unreasonable and Unfair Factors
In the Marriage of: Sarah Elizabeth Lavins vs. Brock Laverne Lavins, No. A24-0779, 2025 WL 1097215 (Minn. Ct. App. Apr. 14, 2025): The district court did not abuse its discretion when it determined mother is voluntarily unemployed because she failed to rebut the presumption she could work full time. It also was not an abuse of discretion to deny mother's request to apply the modification of support retroactively, Minn. Stat. § 518A.39, subd. 2(f) is discretionary rather than mandatory.	Imputing Potetntial Income; Modification-Effective Date: Retroactive support Modification-Date of Service only; Voluntary Undemployment/Underemploy

	ment

II.O.8.-Needs/Resources of Obligee

II.O.9. - Retroactive Modification (See also Part II.P.)	
Minn. Stat. ' 518A.39, Subd. 2 - prohibits retroactive modification except in enumerated circumstances.	
Notermann v. Notermann, 355 NW 2d 504 (Minn. App. 1984): Court cannot assess retroactive support in the form of arrearages when there was no violation of previous order to pay nothing (but see Hill).	No Previous Order
Hill v. Hill, 356 NW 2d 49 (Minn. App. 1984): Court can order retroactive temporary child support after finding that its omission was an oversight.	Oversight
Notermann v. Notermann, 355 NW 2d 504 (Minn. App. 1984): No retroactive establishment of support obligation following reservation of support in decree.	Reservation - no Retroactive Establishment
Brzinski v. Fredrickson, 365 NW 2d 291 (Minn. App. 1985): Child support arrears may not be retroactively assessed against party who has not violated any previous child support order.	No Previous Order
Brzinski v. Fredrickson, 365 NW 2d 291 (Minn. App. 1985): Retroactive child support cannot be ordered against the parent upon change of custody.	Change of Custody
Alvord v. Alvord, 365 NW 2d 360 (Minn. App. 1985): Order for support made effective as of first hearing date in modification not "retroactive" under Minn. Stat. ' 518.64, Subd. 2.	Effective Date of Increase
Krogstad v. Krogstad, 388 NW 2d 376 (Minn. App. 1986): Backdating support increase to date obligor moved for continuance is not a retroactive increase in support.	Effective Date of Increase
Tuma v. Tuma, 389 NW 2d 529, 531 (Minn. App. 1986). Monetary contributions to a child's activities and household expenses do not satisfy a child support obligation.	Obligation not Satisfied by Payment of Expenses
Martin v. Martin, 401 NW 2d 107 (Minn. App. 1987): Orders made effective as of the first hearing date in a modification matter are not retroactive within the meaning of the statute.	Effective Date
Beede v. Law, 400 NW 2d 831 (Minn. App. 1987): Not permissible for court to schedule regular retroactive adjustments in support for obligor with fluctuating income; court should either require payment of a fixed percentage, or require reports of change in income.	Cannot Set in Advance
Otto v. Otto, 472 NW 2d 878 (Minn. App. 1991): Where a county has not brought action pursuant to Minn. Stat. ' 256.87 (1990), it may not receive judgment for child support arrearages in a dissolution action to which it is not a party and to which the statute limiting the obligor parent's liability is not applicable. (In this case the court of appeals referred to past child support amounts as arrearages even though there was no prior order establishing support.)	No Prior Support Order
State of Wisconsin and Weber v. Csedo, (Unpub.), C3-92-645, F & C, filed 8-18-92 (Minn. App. 1992): Retroactive modification to a date earlier than the date of service of notice of motion and motion is permissible if a material misrepresentation or fraud upon the court by one party prevented a more expeditious motion by the other party, and the affected party made the motion promptly after discovering the fraud.	Fraud upon the Court
Wolter v. Wolter, (Unpub.), C2-92-474, F & C, filed 9-22-92 (Minn. App. 1992): When there is a retroactive reduction in child support which results in an overpayment, the trial court can credit any such overpayment to future child support payments rather than applying the overpayment to pre-existing arrearages.	Overpayment of Support
Krage-Koenig v. Erdmann, (Unpub.), CX-92-917, F & C, filed 9-29-92 (Minn. App. 1992): When there is a change of custody, Karypis v. Karypis, 458 NW 2d (Minn. App. 1990), is authority for a retroactive decrease in child support; however, there is no authority for a retroactive imposition of the newly acquired child support obligation on the former custodial parent.	Change of Custody
Christenson v. Christensen, 490 NW 2d 447 (Minn. App. 1992): District court properly entered judgment against former husband who failed to provide health insurance premiums in violation of J&D for the estimated amount of medical insurance premiums he would have paid had he provided the medical insurance he was ordered to pay. He was not entitled to forgiveness of such arrearages, since to do so would be a retroactive modification not permitted under Minn. Stat. § 518.64, subd. 2c.	Judgment Properly Entered in Amount of Health Insurance Premiums not Paid.
Roberts v. Roberts, (Unpub.), C8-93-487, F & C, filed 12-14-93 (Minn. App. 1993): Obligor's submission of false financial information and obligee's prompt action to modify support when she learned of the fraud justified retroactive modification of support.	Fraud

Buntje v. Buntje, 511 NW 2d 479 (Minn. App. 1994): Retroactive modification before date of service of MTM prohibited despite argument that party's request for mandatory mediation was the functional equivalent of service of MTM, and that child support should be modified retroactive to that date.	Effect of Mediation
In Re the Marriage of Johnson and Johnson, 533 NW 2d 859 (Minn. App. 1995): Where divorce decree required obligor to produce paystubs and tax returns and he refused to do so, even after obligee's repeated oral requests, there was a basis for a finding of material misrepresentation (which includes concealing or not disclosing facts that one has a duty to disclose) and met the requirement for retroactive upward modification under Minn. Stat. ' 518.64, Subd. 2(c).	Failure to Produce Income Data Equals Material Mis-representation
Hicks v. Hicks, 533 NW 2d 885 (Minn. App. 1995): Where obligor did not pursue modification motion in 1992 and proceedings were dismissed, court could not make retroactive modification of support prior to a 1994 hearing when the modification issue was raised again.	Effect of Prior Dismissal
Wirth v. Sievek, (Unpub.), C2-95-425, F & C, filed 7-18-95 (Minn. App. 1995): Where obligor withheld income information but obligee did not bring modification motion until six months after she learned of his additional income, court did not abuse its discretion in refusing to retroactively modify support.	Prompt Service of Motion
Goodyear v. Pekarna, No. A13-0969, 2013 WL 6839911 (Minn. Ct. App. Dec. 30, 2013): Modification may be made retroactive "with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party." Minn.Stat. § 518A.39, subd. 2(e) (2012); *Leifur v. Leifur,* 820 N.W.2d 40, 43 (Minn.App.2012) (holding that district court had no authority to make maintenance modification retroactive to a date before the date that husband served notice of motion even though parties had agreed to an earlier retroactive date in mediation.	Modification retroactive to any period during which the petitioning party has a pending motion for modification.
Stutler v. Moreno, No. A13-0056, 2014 WL 349617 (Minn. Ct. App. Feb. 3, 2014):). CSM ordered retroactive support for the two months preceding a hearing to determine support. The CSM included income from bonuses in the calculation of support. The Obligor's bonuses could be included as income so long as the calculation of maintenance included those as additional income, not a part of his base income. The Court of Appeals affirmed inclusion of bonuses, but reversed retroactive support award because modification may only be made retroactive to obligee's first request that support and maintenance be set. Minn. Stat. § 518A.39, subd. 2(e) is clear, and only permits a child support award to be retroactive to the date a motion was served, here, the date wife requested the hearing. CSM correctly included the percentage of any bonuses as an additional award of spousal maintenance, not included in base maintance.	Inclusion of bonus in base income.
Weber v. Weber, (Unpub.), C7-95-744, F & C, filed 9-26-95 (Minn. App. 1995): Obligor sought retroactive modification to the date he submitted a letter to the court complaining about his order. A letter submitted to the court is not a motion due to the failure to request specific relief and stating legal grounds for the relief and modification cannot be made retroactive to the date of the letter. Pro se litigants are held to the same standard as attorneys and unfamiliarity with the rules is not cause to excuse a timely action.	Letter not Motion
Renken v. Renken, (Unpub.), C0-96-1082, F & C, filed 12-24-96 (Minn. App. 1996): The custodial parent's failure to notify absent parent that his parental rights had not been terminated was not a "misrepresentation" justifying a retroactive modification of support because absent parent had constructive notice of the outcome of the termination proceedings by virtue of the county's having contacted him regarding child support.	Question About Out-come of Termination Proceedings not a Basis for Retro Mod
Wills v. Wills, (Unpub.), C9-96-1555, F & C, filed 1-14-97 (Minn. App. 1997): The fact that the court, in a 1991 order, ordered a review of the child support obligation, but the review was not held, does not allow a retroactive modification back to 1991 on a MTM brought in 1996, where there is no evidence of disability, misrepresentation or fraud. Also, the fact that information as to past income was not determinable until 1996 (when obligor received a Social Security back sum payment for disability) was not a basis for retro modification for the time period covered by the lump sum payment.	New Informa-tion not Previously Available on Past Income not Basis for Retro Mod

Hennepin County and Strong v. Strong, (Unpub.), C8-96-2481, F & C, filed 4-29-97 (Minn. App. 1997): Facts: Children receive $621.00 in obligor's RSDI dependent benefits. Obligor receives $1199.00 per month RSDI. Obligor's ongoing child support had been suspended when children began to receive dependent benefits. Hennepin County garnished obligor's RSDI to collect on a judgment for arrears. District Court ordered Hennepin County to stop collection, and further credited the obligor with $72.00 per month (20% of $360.00 guidelines support) towards his arrears, seeing the $621.00 as a "windfall" to CP. Court of Appeals reversed: district court's order was an illegal retroactive modification of child's support under Minn. Stat. ' 518.64, Subd. 2(c) and further was barred by *res judicata* due to prior order declining to vacate a judgment for unsatisfied arrearages.	RSDI Benefits Garnished to Pay Arrears
Einfeldt v. Einfeldt, (Unpub.), C7-97-5, F & C, filed 6-24-97 (Minn. App. 1997): Retroactive modification of support is permissible following commencement of dissolution proceedings because no permanent order of support has been entered in the J&D. Here, support was made retroactive to the pre-hearing conference even though no motion was pending.	Permitted During Dissolution Proceedings
Arnette v. Babin, (Unpub.), C2-96-1990, F & C, filed 7-8-97 (Minn. App. 1997): Where J&D ordered obligor to inform obligor of increases in income and provided that when increases were reported, the child support award "shall be increased in accordance with guidelines" and obligor failed to voluntarily disclose his salary increases as ordered, ALJ could increase support retroactive to 1991.	Failure to Disclose Salary Increases
Johnson v. Johnson, (Unpub.), C4-97-74, F & C, filed 9-9-97, (Minn. App. 1997): County's knowledge of obligor's income in 1994 when it obtained a support increase is not imputed to mother because there was no attorney-client relationship between mother, a recipient of support collection services, and the county. Therefore, in 1996 mother was properly allowed a retroactive modification to 1989 when she just learned in 1996 that father got a full-time job in 1989 and he had failed to inform the county of changes in his income as required by the decree, constituting a material representation under Johnson, 533 NW 2d 859.	Retro Mod. to 1989: Service of Motion by CP Prompt in 1996, even though County Knew of Increased Income in 1994
County of Dodge and Eckhoff v. Page, (Unpub.), C5-98-319, F & C, filed 10-13-98 (Minn. App. 1998): Where county mailed a notice of administrative review on 7-8-96 and delayed sending a notice of proposed order for modification until 7-3-97, ALJ erred by setting support retroactive to August 1996; modified support obligation could only be made retroactive to date of service of proposed order under ' 518.5511, subd. 2(a) (Supp. 1997), which states that for purposes of the administrative process, service of the proposed order commences a proceeding and gives the judge jurisdiction over a contested hearing. (Ed. note: This case did not address the situation in ' 518.5511, subd. 1(c) (amended in 1998) where statute provides that order may be made retroactive to the date the written request was served if party files request for a hearing within 30 days of the public authority's notice of denial.)	Modification Retroactive to Date of Service of Proposed Order in Ad.Pro.
In Re the Marriage of Gully v. Gully, 599 NW 2d 814 (Minn. 1999), C6-97-2277, F & C: The supreme court ruled that by failing to comply with a 1991 order requiring monthly reporting and submission of check stubs and submission of tax returns on an annual basis to the child support office, obligor had made material misrepresentations of his income under Minn. Stat. ' 518.64, Subd. 2(d)(1) (1998), and allowed retroactive modification.	Failure to Report Income is "Material Misrepre-sentation"
In Re the Marriage of Gully v. Gully, 599 NW 2d 814 (Minn. 1999), C6-97-2277, F & C: A party is precluded from bringing a MTM at an earlier time when the party demonstrates to the district court that it would have been unreasonable to do so given the circumstances. In this case, the supreme court ruled that one party's failure to disclose financial information as ordered by the court can lead a court to determine that it was unreasonable for the other party to bring a MTM and to conclude that the party was precluded from bringing the motion at an earlier time. In this case, although CP suspected that NCP was hiding income earlier, she did not know he was failing to report to the county, and she did not ask the county to review her case until she had some information to substantiate her conclusions (3 judges dissenting).	"Precluded from Bringing Motion" under ' 518.64, Subd. 2(d)(1) Given Broad Definition
Guyer v. Guyer, 587 NW 2d 856 (Minn. App. 1999), *review denied* (Minn. Mar. 30, 1999). The decision to apply a modification retroactively (to the date of service of the MTM) rests within the broad discretion of the district court.	Decision to Retro Mod to Date of Service is Discretionary

Canon v. Moy, (Unpub.), CX-02-1374, F & C, filed 3-25-03 (Minn. App. 2003): Where support was modified due to a change in the custodial arrangement that had already occurred prior to the court hearing, the court had the discretion to make the support modification effective the month after the court order, and was not required to make the order retroactive to the date of the filing of the motion.	Effective Date When Custody Changes
Hawkes v. Hawkes, (Unpub.), C1-02-1666, filed 5-6-03, (Minn. App. 2003): Minn. Stat. ' 518.57 may be used to relieve an obligor of the obligation to pay arrears, but where the obligor has continued to pay support during a period the child has lived in the obligor's home, Minn. Stat. ' 518.57 cannot be used to require the obligee to reimburse the obligor for Aoverpayments@ that occurred before he brought his motion to modify his support obligation. The prohibition of retroactive modification in Minn. Stat. ' 518.64, Subd. 2(d) does not allow an exception where the child has lived in the obligor's home.	Child in NCP Home - Over-payments
Long v. Creighton, 670 NW 2d 621 (Minn. App. 2003): Obligor's receipt of public assistance is a basis for retroactive suspension of his child support obligation back to the date the obligor began receiving the assistance.	Obligor's Receipt of Public Assistance
Bunce v. Bunce, (Unpub.), A03-1030, filed 5-4-04 (Minn. App. 2004) Though it is within the discretion of the court whether to retroactively modify support to the date of filing of a motion (citing Guyer, 587 NW 2d, 859), it was improper for the district court to deny appellant retroactive child support on the basis that respondent had been providing child with some of his "general expenses," since payment of expenses does not satisfy a child support obligation. Citing Tuma, 389 NW 2d, 531.	Abuse of Discretion to Deny Retro Mod to Date of Service Based on Obligor's Payment of Expenses
Bunce v. Bunce, (Unpub.), A03-1030, filed 5-4-04 (Minn. App. 2004): When parent had been denied modification of child support when child moved into his home, based on the fact the court's finding that there was no court-ordered change in custody, and party then filed motion for change of custody and asked for "such other relief as may seem fair and equitable," the most reasonable inference is that he wanted child support reduced, and it was error for court to deny retroactive modification of support to the date of service of the custody motion on the grounds that the motion did not specifically request a modification of support.	Retro. to Date of Filing of Motion to Change Custody and for "Other Relief"
Tadlock v. Tadlock, (Unpub.), A04-99, F & C, filed 9-7-04 (Minn. App. 2004): Where the 1996 J&D stated that *"Child support shall continue at $690.00 per month, until the occurrence of one of the following events, whichever occurs first: (a) "[A] minor child attains the age of 18 years, or graduates for high school, whichever occurs last;…"* it was proper for the court to retroactively adjust the obligation to the date of the child's graduation, even though that date pre-dated the oral motion to modify the support. The court, citing Bednarek, at 430 NW 2d 9,12 (Minn. App. 1988), held the retroactive adjustment was not a modification of the original order, rather it gave effect to the express language of the original order, and thus was not prohibited by Minn. Stat. § 518.64, Subd. 2(d).	Provision in J&D Stating Child Support Would Continue as Ordered "Until a Minor Child Attains the Age of 18 Years…" Requires Retro Adjustment to Date of Majority
In re: Horak v. Horak, (Unpub.), A04-2260, filed 10-11-2005 (Minn. App. 2005): Generally, retroactive modification of a child support order is permissible as of the date that the motion to modify was served on the opposing party. However, enforcing retroactive modification of support to the date of the change in physical custody (from sole physical custody to split custody) is not an abuse of discretion when the parties stipulated to such retroactivity.	Retroactive modification allowed by stipulation when change of custody
Hill v. Hill, (unpub.) A05-781, filed May 4, 2006 (Minn. App. 2006). District court improperly granted retroactive modification prior to date of service of motion without finding of special factors under Minn. Stat. section 518.64, subd. 2(d). On remand, district court may consider whether NCP met his obligation by providing "a home, care, and support" under section 518.57, subd. 3.	Retroactive modification v. satisfaction
In Re the Marriage of Matey v. Matey, (Unpub.) A05-1917, filed June 20, 2006 (Minn. App. 2006): The Court found that the district court erred in granting a retroactive modification two years prior to the commencement of the action (in accordance with § 256.87) and indicated that the provisions of § 256.87 addressing retroactive support do not apply to modifications of existing orders.	Retroactive modification limited to time of service of motion.

In Re the Matter of Washington v. Anderson, A05-2338, filed October 24, 2006 (Minn. App. 2006): The district court erred when it retroactively increased appellant's support obligation and, simultaneously, deemed the amount due for the period covered by the retroactive increase to be unpaid arrears and awarded judgment in favor of the respondent for those "arrears." Because no amount of "past support" was contained in the support order of the parties and because it was unclear whether the court set payment terms for "past support," no "arrears" existed as defined by Minn. Stat. 518.54 subd. 13 (2004). Therefore, Court reversed the award to respondent of the judgment for "arrearages."	Arrears do not exist where a retroactive modification is granted and no "past support" is owed.
In Re the Marriage of Ray v. Ray, (Unpub.), A06-182, Filed December 5, 2006 (Minn. App. 2006): The court affirmed the district court's denial of retroactive modification of spousal support. The district court found that where the obligor had previously moved to have his child support modified retroactively due to a period of incarceration, and where the obligor's report date to prison was delayed, the obligor's inaction acts as a forfeiture of his right to modify retroactively. The court noted that the language of Minn. Stat. § 518.64, subd. 2(d) (2004) uses the word "may," thus giving the court discretion as to whether a retro mod will be granted.	MODIFICATION Motion for retro. mod. must be timely and is discretionary.
Rosenthal v. Rosenthal, No. A12-0196, 2012 WL 5289788 (Minn. Ct. App. Oct. 29, 2012): Appellant argued the district court abused its discretion by denying her motion for child support retroactive to the date the parties minor child began living with Appellant full-time. The appellant court stated that a district court can award retroactive child support in the final dissolution decree. *Korf v. Korf*,553 N.W.2d 706, 710 (Minn. App. 1996) (holding that district court may, in final decree, award retroactive child support to time parties separated but before action commenced under chapter 518). The district court, in fashioning the retroactive award, may consider any payments made since the time of the parties' separation. Here, the district denied Appellant's request for retroactive child-support on the ground that Respondent had been voluntarily paying familial support. The Court of Appeals found the district court did not abuse its discretion by characterizing the support the Respondent paid during the parties' separation and denying the Appellant's motion for retroactive child support.	Retroactive support when children reside with obligor.
Patricia L. Rooney v. Michael T. Rooney and Christ's Household of Faith, and Ramsey County, Intervenor, (Unpub.), A06-46, Ramsey County, filed January 16, 2007, (Minn. App. 2007): The court's modification of child support for any period prior to the date that an appropriate modification motion of child support was before the court constitutes and abuse of discretion.	Modification
Dean Preston Kennedy v. State of Minn., (Unpub.), K5-99-000440, Isanti County, filed March 20, 2007 (Minn. App. 2007): Appellant pleaded guilt to the charged crime of felony nonsupport of a child and waived his right to a pre-sentence investigation despite the court's concern with correctly determining the proper restitution amount. Subsequently, an Isanti Magistrate issued an order suspending appellant's child support obligations and staying the interest on the arrears for the time periods during which appellant was incarcerated. The result decreased the arrearage by $12,763.60. Appellant filed motion for post conviction relief seeking to have the court vacate the order for restitution. Court denied. Appellant contends the district court erred when it declined to conduct an evidentiary hearing and instead determined appellant's motion to rescind the judgment was barred by the doctrine of collateral attack. Court of Appeals reversed and remanded under an abuse of discretion standard of review. A "collateral attack" is "an attack on a judgment entered in a different proceeding". (Citing Black's Law Dictionary, 255 (7th ed. 1999). Minnesota does not permit the collateral attach on a judgment valid on its face. (Citing Nussbaumer v. Fetrow, 556 N.W.2d 595, 599 (Minn. App. 1996). Conversely, it is permissible to attack a judgment under an attempt to annul, amend, reverse or vacate or to declare it void in a proceeding instituted initially and primarily for that purpose; such as by appeal or proper motion. (Citing Strumer v. Hibbing Gen. Hosp., 242 Minn. 371, 375, 65 N.W.2d 609, 612 (1954). Court of appeals does not vacate the judgment, but holds the district court erred when it denied appellant's petition. The petition was a proper attack on the judgment and the restitution ordered in the criminal case should conform to appellant's arrearage as determined by the CSM.	Appellant's restitution ordered for felony nonsupport of a child should match the arrearage amount determine by the child support magistrate. Post conviction motion for review where arrears do not match restitution amount is not barred by the doctrine of collateral attack.

In re the Marriage of Gail P. Bender, f/k/a Gail Papermaster v. Alan Paul Bender, (Unpub.), A06-1072, Hennepin County, filed June 19, 2007 (Minn. App. 2007): Although normally the court does not credit parties for clothing expenditures, in this case the prior order required mother to pay for the child's clothing expenses. Her payments for clothing were not an attempt to evade her support obligation or substitute payment for clothing. Therefore, granting a credit toward her past support owed as not an abuse of the lower court's discretion.	Credit against support obligation for child's clothing expenditures not an abuse of discretion in this case.
In Re the Marriage of Butt v. Schmidt, A06-1015, Filed July 24, 2007 (Minn. App. 2007): The Court of Appeals reversed and remanded the issue of income determination and instructed the district court to re-calculate Obligee's income including spousal maintenance payments. The Court determined that since spousal maintenance payments were considered period income for the purposes of child support, the amounts should be included in Obligee's overall income. *See* Minn. Stat. §518.54, subd. 6 (2004); 26 U.S.C. § 71(a)(2004).	INCOME: spousal maintenance is income for the purposes of determining child support
In re the Marriage of Carole V. Marx, petitioner, Respondent vs. Robert B. Marx, Appellant, and County of Anoka, intervenor, Respondent, (Unpub.), A06-1678, Anoka County, filed July 31, 2007 (Minn. App. 2007): Appellant challenges the district court's decision not to modify his child-support obligation by forgiving part of his arrearages while he was incarcerated. Appellant argues that his incarceration amounted to a physical disability preventing him from filing a motion (*citing Minn. Stat. §518.64, subd. 2(d)(1) (2004)*). Appellant has not demonstrated that incarceration otherwise precluded him from moving to modify.	Incarceration is not automatically held as a physical disability preventing the incarcerated from bringing a motion to modify, such that retroactive modification is required.
In re the Marriage of Carole V. Marx, petitioner, Respondent vs. Robert B. Marx, Appellant, and County of Anoka, intervenor, Respondent, (Unpub.), A06-1678, Anoka County, filed July 31, 2007 (Minn. App. 2007): Appellant argues that he is entitled to retroactive modification for the period he was incarcerated. Even where an obligor is incarcerated and may establish they have no ability to pay child support while incarcerated, a prisoner-obligor who has significant assets but no significant living expenses may continue with his same obligation while incarcerated. *(citing Kuronen v. Kuronen,* 499 N.W.2d 51, 53-54 (Minn. App. 1993)).	A prisoner-obligor who has significant assets but no significant living expenses may continue with his same obligation while incarcerated with no present ability to earn income.
In re the Marriage of: Erickson v Erickson, (Unpub.), A06-2061, filed 11/20/07 (Minn. App. 2007): Court of Appeals remanded issue of "retroactive modification" of child support arrears to district court because $5,900 credit granted by the district court, based on NCP's payment in that amount, exceeded the amount of child support arrears owed. Further, district court's refusal to reduce spousal maintenance arrears was inconsistent with decision to reduce child support arrears. [EDITOR'S NOTE: This is clearly an issue of *satisfaction*, not retroactive modification, because it is based upon obligor's payment and discharge of obligation, not based on change in ability to pay.]	"Retroactive Modification" Inconsistent with Arrears
Robbins vs. Robbins, n/k/a Blowers, (Unpub.), A06-2124, filed November 27, 2007 (Minn. App. 2007): The district court acted within its discretion in forgiving child support arrears that accrued under a temporary order where the decision was well-reasoned, supported by facts, and intended as an offset against a reciprocal unpaid debt of the obligee. Dist. Crt. also did not err in failing to award retroactive child support back to the date of the parties' separation where the parties' situation was carefully weighed by the court, and the court made specific findings of obligor's limited means to pay retroactive support compared to obligee's stable financial situation.	Forgiveness of arrears permissible if supported by facts. Retroactive modification. (518.64 and 518A.39)

Wayne Alan Butt v. Eleanor Anna Schmidt, (747 NW 2d 566, 2008), A06-1015, filed April 17, 2008 (Minn. S.C. 2008): Appellant argues that the district court erred in failing to modify his child support obligation retroactive to the date of the parties' MTA. The Court of Appeals held that appellant waived his right to raise this issue because he failed to raise it in the district court. The Supreme Court affirmed. Additionally, the Court noted that even if it was not waived, the claim lacks merit as there was a temporary child support order in place. Appellant could have moved to amend or vacate the temporary order anytime before the court entered its final decree. However, Minn. Stat. § 518.64, subd. 2(d) (2004) limits the period of retroactive application to the period during which a motion for modification is pending. Appellant made no motions to modify any time before the final decree was issued. Therefore, the temporary order cannot be modified, as upon entry of the final decree, the temporary order was no longer in effect.	Modification of temporary child support; retroactivity
Schirmer vs. Guidarelli, f/k/a Schirmer, (Unpub.), A07-1021, filed May 27, 2008 (Minn. App. 2008): Although generally a modification may be made retroactive only to the date of service of the motion, an exception may be made when, as here, the court finds that the party seeking modification is a recipient of public assistance. Minn. Stat. §518.64, subd. 2(d)(2).	Retroactive modification where recipient of public assistance.
Leifur v. Leifur, 820 N.W.2d 40 (Minn.App.2012): Even if parties stipulate to an earlier retroactive date to modify a spousal maintenance obligation, the district court has no authority to make a maintenance modification retroactive to a date before the date that notice of the modification motion was served under Minn.Stat. § 518A.39, subd. 2(e). Modification may be made retroactive "with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party." Minn.Stat. § 518A.39, subd. 2(e) (2012); *Leifur v. Leifur,* 820 N.W.2d 40, 43 (Minn.App.2012) (holding that district court had no authority to make maintenance modification retroactive to a date before the date that husband served notice of motion even though parties had agreed to an earlier retroactive date in mediation.	Modifications; Spousal Maintenance; Stipulations
In re the Marriage of: Swenson v. Pedri, No. A17-0616 (Minn. Ct. App. Dec. 26, 2017): Unless parties agree to an alternative effective date, the modification of support can only go back to service of the motion to modify. The court may decline to consider new evidence on a motion for review when a party has not previously requested authorization to submit new evidence. When a reduction to income was used to calculate support in the original judgment and decree the district court is not required to use the reduction in its current modification, when the original judgment did not state that the reduction would be used for future calculations nor was the reduction applied when calculating income in the prior modifications. When the court is not provided with evidence necessary to apportion child care expenses, the court was within its discretion to order each parent to be responsible for his and her own child-care expenses.	Child care support, gross income, modification, effective date
Vacko v. Shults, (Unpub.) No. A-18-0242, 2018 WL 6442697 (Minn. Ct. App. Dec. 10, 2018): The district court must first make a finding of fraud (i.e. that a party unlawfully received benefits or misrepresented to the court his or her income) before imputing income to that party to calculate child support retroactively. Here, the district court found fraud in a previous order and therefore did not abuse its discretion.	Fraud/ unlawful receipt of benefits
In re the Marriage of: Fish v. Fish, A19-0560, 2020 WL 774009 (Minn. Ct. App. 2020): Parties have a duty to disclose changes in financial information that occurs after an oral stipulation but before a written order is entered by the court. A change in circumstances that occurred after the entry of an order is addressed by a modification motion and a change that existed before the entry of an order is addressed by a motion to reopen the order.	Modification
In re the Marriage of: Hobday v. Hobday, No. A19-0284, 2020 WL 994746 (Minn. Ct. App. 2020): It is not an abuse of discretion to decline to make a modification of child care support retroactive to the date the child care expenses decreased when a court weighs the equities.	Modification effective date

Love v. Love, No. A19-1673, 2020 WL 1910205 (Minn. Ct. App. Apr 20, 2020): The discretion to set an effective date other than the date the motion was served must be exercised based on the facts as found by the court. A denial of the request to collect reimbursement of unreimbursed expenses is warranted when a party does not comply with the statutory requirements for seeking unreimbursed expenses. When the magistrate withdrew its earlier order requiring the county to provide certain documentation, it became "unnecessary" for the magistrate to issue a "decision on the merits" of the county's motion for review.	Motion for Review; Effective Date; Unreimbursed/ Uninsured Expenses
Krabbenhoft v. Krabbenhoft, A19-0353, 2020 WL 1129865 (Minn. Ct. App. Mar. 9 2020): An order on equitable grounds must find that a party received child support payments illegally, unlawfully, or in a way that is morally wrong. When parties agree to the terms of an agreement, including child support calculations, as written and as read into the record, a mistake that occurs in the calculations is not a clerical error as the mistake did not have the effect of making the document say something different from that which the parties agreed too.	Judgments; Overpayments of Child Support; Retro Mod (downward) Overpayment
Kidd v. Kidd, A19-1446, 2020 WL 3957246 (Minn. Ct. App. July 13, 2020): Modification of on ongoing support obligation shall not be effective before the date of the change in circumstances that prompted the modification. If ordered to be effective prior to the change in circumstances, findings must explain the departure from the typically applicable idea that it is the change in circumstances that prompts modification of a parent's support obligation.	Retroactive Modification
Stanton v. Curran, A20-0211, 2021 WL 317227 (Minn. Ct. App. Feb. 1, 2021): When a party objects to a name change of a minor child, the requestor has the burden of providing clear and compelling evidence to support a name change so the district court can conduct a complete analysis of the relevant factors. The district court may amend its temporary order in its final dissolution order by awarding retroactive child support for the time period dating back to the parties' separation because the action is not a motion for modification.	Dissolutions; Retroactive Modification; Childs Name
Do v. Nguyen, A20-0986, 2021 WL 1604706 (Minn. Ct. App. 2021): A district court abuses its discretion by failing to address statutory factors in light of new changed circumstances presented in a motion filed similar to a prior dismissed motion. The award of conduct-based attorneys fees is an abuse of discretion when the district court failed to adequately examine the record and include findings of fact. When findings of fact include analysis of all statutory factors and the findings are supported by evidence in the record, the district court does not abuse its discretion in modifying a parties' parenting time.	Modification; Modification Effective Date; Retro Mod Overpayment
Kossack v. Kossack, A22-0636, 2023 WL 4417381 (Minn. Ct. App. 2023): The district court did not abuse its discretion when it granted respondent-husband's motion to modify spousal maintenance and then applying it retroactively pursuant to § 518A.39, subd. 2(a)(1), § 518.552, subd. 2(a)-(h), § 518A.39, subd. 2(f), & Minn. R. Gen. Prac. 303.10(a)-(b). The district court also acted within its discretion in correcting a clerical error in the parties' dissolution decree, Minn. R. Civ. P. 60.01.	Retroactive-Modification-Date of Service; Retroactive-Overpayments; Spousal Maintenance, generally; Spousal Maintenance-Support Order; Unreimbursed & Uninsured Medical/Dental Expenses-Ordering
Leslie E. Sheehy Lee vs. Travis Kalis, County of Le Sueur Intervenor, No. A23-0522, 19 N.W.3d 186, 2025 WL 1064740 (Minn. 2025): The district court and Court of Appeals erred as a matter of law by finding the parties made an extrajudicial agreement to modify father's child support obligation as only orders from the district court are enforceable support orders. Also, it was an impermissible retroactive modification to forgive the father's arrears due to an extrajudicial agreement.	Modification-Effective Date; Retroactive Support Modification-Date of Service Only
In the Marriage of: Sarah Elizabeth Lavins vs. Brock Laverne Lavins, No. A24-0779, 2025 WL 1097215 (Minn. Ct. App. Apr. 14, 2025): The district court did not abuse its discretion when it determined mother is voluntarily unemployed because she failed to rebut the presumption she could work full time. It also was not an abuse of discretion to deny mother's request to apply the modification of support retroactively, Minn. Stat. § 518A.39, subd. 2(f) is discretionary rather than mandatory.	Imputing Potetntial Income; Modification-Effective Date: Retroactive support

	Modification-Date of Service only; Voluntary Undemployment/Underemployment

II.O.9.-Retroactive Modification

II.O.10. - Failure to Produce Income Data (See also Part II.D.2.)	
Sundell v. Sundell, 396 NW 2d 89 (Minn. App. 1986): Sufficient basis in record for findings on income of obligor to justify modification although obligor failed to produce documentation or testimony disclosing number of hours worked or hourly wage.	Sufficient Basis to Modify
Levine v. Levine, 401 NW 2d 132 (Minn. App. 1987): Lack of candor of father, failure to document income thoroughly, and voluntary partial reduction in working hours formed part of court's basis in denying reduction of support.	Denial of Reduction
Tuthill v. Tuthill, 399 NW 2d 230, 232 (Minn. App. 1987): When a party seeking modification provides inadequate documentation, the court will not speculate and the party cannot complain if the court refuses to modify the decree.	Inadequate Documentation
In Re the Marriage of Johnson and Johnson, 533 NW 2d 859 (Minn. App. 1995): Where divorce decree required obligor to produce paystubs and tax returns and he refused to do so, even after obligee's repeated oral requests, there was a basis for a finding of material misrepresentation (which includes concealing or not disclosing facts that one has a duty to disclose) and met the requirement for retroactive upward modification under Minn. Stat. ' 518.64, Subd. 2(c).	Failure to Produce Income Data Equals Material Mis-representation
Pangborn v. Pangborn, (Unpub.), C9-97-1317, F & C, filed 2-10-98 (Minn App. 1998): It is not unfair to impose retroactively an increased child support obligation based on imputed income (in this case retroactive to six years earlier when obligor quit her full-time job) where her fraud on the court and continuing failure to provide income information precluded obligee from seeking increase early.	Retroactive Imputation where there has been a Fraud on the Court
Cunningham and Olmsted County v. Salata, (Unpub.), C4-97-1838, F & C, filed 4-7-98 (Minn. App. 1998): (Asst. Co. Atty Julie Voigt) Obligor refused to provide ALJ with evidence of his debts and support was initially established based on available information. Less than a year later, obligor sought to modify his support amount in district court, based in part, on debts that existed, but which he failed to disclose at time of initial order. Court of appeals ruled court may not consider debts that were due at time of ALJ hearing, but may consider debts that become due subsequent to the ALJ hearing.	Cannot Obtain Modification in Later Pro-ceeding Based on Evidence Failed to Pro-vide in Earlier Proceeding
Bowers and County of Anoka v. Vizenor, (Unpub.), C0-98-440, F & C, filed 10-6-98 (Minn. App. 1998): Where ALJ continued a final determination to a review hearing, ordering the obligor to provide medical evidence to support his claims that he is unable to work, and obligor did not produce the evidence, it was proper for ALJ to disregard obligor's claim of incapacity and to inpute income.	No Medical Evidence Provided
Eben f/n/a Brouillette vs. Brouillette, (Unpub.), A06-2181, filed December 11, 2007, (Minn. App. 2007): The CSM did not abuse it's discretion by denying modification of the amount of child support arrears owed by appellant father to respondent mother where the only evidence appellant offered was his testimony, which the CSM did not find credible.	No error in denying motion to modify where only evidence offered was testimony not found credible.
Weiss vs. Weiss, (Unpub.), A06-2433, filed December 24, 2007 (Minn. App. 2007): The district court's failure to make findings as to appellant's current net monthly income did not constitute an abuse of discretion where appellant provided the court with insufficient information and respondent provided more credible information.	No error where court relied on credible testimony of respondent, and appellant provided insufficient documentation.
Samantha Jane Gemberling vs. Karl Hampton, (Unpub.), A07-0074, filed January 15, 2008 (Minn. App. 2008): The CSM did not error in finding that appellant failed to meet his burden of proof regarding a change in his income in that the CSM found and the record demonstrates appellant provided incomplete information and his tax returns omitted pertinent schedules regarding his income.	Change in circumstances burden not met where incomplete tax returns submitted as proof of change.

Jennifer Gwen Loveland v. Francis Joseph Brosnan, (Unpub.), A07-0388, filed April 8, 2008 (Minn. App. 2008): Appellant obligor appeals from the district court's order denying his motion to modify his child support. The CSM found that appellant had failed to provide sufficient or reliable information regarding his income. Obligor's ability to maintain a lifestyle incurring over $6,000 in monthly expenses while on an unpaid medical leave for over 1 ½ years cut against his claim that his reduced earnings prevented him from making child support payments. Obligor failed to submit any information regarding his future employment prospect at his previous employer. Additionally, the documents submitted by obligor called into question his actual current income. No abuse of discretion.	Moving party has burden to demonstrate his earning capacity is diminished, his financial situation has deteriorated, or that he has made a good faith effort to seek reinstatement of re-employment.
Hennepin County v. Dawid, No. A16-1111 (Minn. Ct. App. Feb 27, 2017): It is the moving parties burden to provide sufficient proof of his current circumstances. Without sufficient evidence the CSM did not abuse her discretion in inmputing income based on recent work history.	Modification; Potential Income
Owens v. Owens, (Unpub.), No. A18-0026 (Minn. Ct. App. Oct. 15, 2018): The court may reject a party's motion to modify if the party fails to present supporting documentation. Father failed to submit verification of assets as ordered.	Failure to submit verification of assets
In re the Matter of Dennis J. Arvig v. Trudy A. Kawleski, County of Wadena, No. A18-1440, 2019 WL 2495519 (Minn. Ct. App. Jun. 17, 2019): When the prior order does not determine a party's income, it is the burden of the movant on a motion to modify, to provide sufficient credible evidence of their current income as well as their income at the time of the prior order. Without such evidence it can not be determined whether there has been a substantial change in circumstances to warrant a modification of support.	Modification, Substantial Change Presumption $75/20%
In re the Custody of E.J.B., Perry v. Beukema, A19-0553, 2020 WL 1242985 (Minn. Ct. App. 2020): It is not an abuse of discretion to fail to consider evidence the moving party failed to provide.	Imputing Income; Income, Determination of; Modification; Potential Income
Banerjee v. Banerjee, A20-1224, 2021 WL 1604355 (Minn. Ct. App. 2021): A district court does not abuse its discretion by determining a party failed to meet their burden of demonstrating a substantial change in circumstances when the party fails to disclose all sources of income in a modification action. Without the ability to accurately calculate a child support obligation based on both parties total actual incomes, it is not an error for the district court to decline to apply a Parenting Expense Adjustment based on court ordered Parenting Time.	Determinationof Income; Definition of Modification - $75/20% Rule; Parenting Expense Adjustment; Parenting Time/ Overnights
Adetifa v. Pay-Bayee, A22-1546, 2023 WL 5185629 (Minn. Ct. App. 2023): The district court did not err when it awarded mother sole physical custody as the record supports its best-interests findings, § 518.17, subd. 1. It also did not err when it set a parenting time schedule, ordered father to pay child support, used father's 2021 income to forecast his 2022 income, when it divided unreimbursed birth expenses pursuant to § 518A.41, awarded mother conduct-based and need-based attorney fees, and when it reserved the issue of tax dependency.	Attorneys Fees; Past Support – Generally; Past Support – Paternity; Retro Support for Paternity;

Ali v. Ali, A23-0965, 2024 WL 2266345 (Minn. Ct. App. 2024): The court properly found the parties marriage was valid in Minnesota because it was a valid marriage according to Hawaii law which where the marriage occurred. It is an error to impute self-employment income using only the gross income from father's businesses but did not subtract the costs of goods sold and necessary business expenses.	Best Interest of Child-Custody; Custody, Best Interest of Child; Custody, Joint Legal; Calculation of Gross Income; Dissolution of Marriage (Generally); Gross Income, Calculation; Imputing Potential Income; Marriage Dissolution (Generally); Potential Income-Generall; Potential Income-Methods; Self-Employment Income

II.O.11. - Visitation / Relocation Expenses	
Modification of custody or parenting plan based on interference with visitation, Minn. Stat. § 518.18(c).	
Michalson v. Michalson, 116 NW 2d 545 (Minn. 1962): Where a divorced wife's conduct in taking minor children to Japan to live with her subsequent husband was not wrongful, it did not justify abatement of father's delinquent support payments or excuse father from future payments, even if he was denied right of visitation by such removal.	Custodial Parent Moving out of Country with Children
Auge v. Auge, 334 NW 2d 393 (Minn. 1983): Where removal of child from state permitted, court may make appropriate adjustment in child support to spread cost of visitation in equitable manner, provided it is in best interest of child.	Removal from State
Gordon v. Gordon, 356 NW 2d 436 (Minn. App. 1984): Obligor not entitled to reimbursement of child support even though he paid expenses while children with him for 62 months, as child support is to enable custodial parent to meet long-term expenses, not just daily living expenses.	De facto Custody
Stewart v. Stewart, 373 NW 2d 856 (Minn. App. 1985): Downward departure not warranted although father would incur expenses to visit his child in Minnesota.	Visitation Expenses
Kellen v. Kellen, 367 NW 2d 648 (Minn. App. 1985): Before redistributing costs of visitation, the standards of modification (Minn. Stat. ' 518.64) must first be applied.	Visitation Costs
Potocnik v. Potocnik, 361 NW 2d 414 (Minn. App. 1985): Reasonable to reduce child support below guidelines when required due to visitation costs.	Visitation Costs
Falkowski v. Falkowski, 394 NW 2d 209 (Minn. App. 1986): Imposition of significant visitation expenses without corresponding reduction in support held to be a modification of child support.	Visitation Expenses
Danielson v. Danielson, 393 NW 2d 405 (Minn. App. 1986): Within the court's discretion whether to allow offset against child support when the obligor is ordered to pay portion of visitation expenses out-of-state.	Visitation Expenses
Bredeson v. Bredeson, 380 NW 2d 575 (Minn. App. 1986): Proper for trial court to consider father's relocation and visitation expenses that may benefit child in modification of support.	Relocation Expenses
Tell v. Tell, 383 N.W. 2d 678 (Minn. 1986): Because the custodial parent has child care expenses even while the child is temporarily absent from the home, the support obligation remains in effect during those times.	Support Continues During Absence
Ballard v. Wold f/k/a Ballard, 486 NW 2d 161 (Minn. App. 1992): When allocating new visitation transportation expenses, they must be allocated equitably, taking into account the current financial situation of the parties as well as other considerations which affect the decision.	Visitation Expenses
VonFeldon v. Heloue, (Unpub.), C0-95-1170, F & C, filed 12-12-95 (Minn. App. 1995): It was error for the trial court, in a modification proceeding, to continue the 15.6% of net income reduction for visitation expenses applied at the time of the original order without making findings required for a deviation based on the parties' current circumstances.	Visitation Offset
In Re the Marriage of Reid v. Reid, (Unpub.), C4-95-1091, F & C, filed 10-27-95 (Minn. App. 1995): Liberal visitation does not result in "de facto" joint physical custody and Valento formula does not apply with no showing of extraordinary expenses by obligor, proper for court to deny deviation.	Liberal Visitation not Basis for Deviation
Nyblom v. Cunningham, (Unpub.), C8-97-1681, F & C, filed 3-10-98 (Minn. App. 1998): Obligor is not entitled to a downward departure from the guidelines because he cares for the child while the CP is working under Minn. Stat. ' 518.551, subd. 5(b)(1996) and Minn. Stat. ' 518.175, subd. 8.	Caring for Child While CP Works
Ludwigson v. Ludwigson, 642 NW 2d 441 (Minn. App. 2002), C0-01-1616, F & C, filed 3-19-02: Where parties had stipulated that support during the summer months would be reduced by 25%, to accommodate the out-of-state NCP's increased summer visitation, and where parties now both live in Minnesota, it was proper for CSM to disregard the 25% discount in a modification proceeding.	Change in Summer Visitation
Borseth f/k/a Cotton v. Borseth, (Unpub.), C9-01-1632, F & C, filed 6-4-02 (Minn. App. 2002): The amount of visitation time a NCP spends with the children is not a basis for deviation from guidelines in a sole-physical custody situation.	Amount of Visitation Time not Basis for Deviation

Bainbridge v. Bainbridge, (Unpub), C3-02-2169, filed 6-17-03, (Minn. App. 2003): The addition of a term requiring the NCP to share visitation transportation costs did not constitute a modification of a child support obligation for purposes of establishing the base from which to measure future change in the NCP's income. Court should have looked to earlier order establishing support for comparison of circumstances. (Cites Phillips v. Phillips, 472 NW 2d 677, 680 (Minn. App. 1991).	Order to Share Visitation Expenses Not a Modficiation of Support
Kammueller v. Kammueller, 672 NW 2d 594 (Minn. App. 2003): Even though over time, NCP's parenting time had increased from 38% to 67%, a downward deviation from guidelines was not justified where there was no allegation of increased expenses by NCP, and where parties had expressly waived application of the Valento formula at earlier hearings where the division of time was equal.	Increase in Parenting Time to Over 50%
Farman v. Farman, (Unpub.), A03-1788 & A03-1813, F & C, filed 9-28-04 (Minn. App. 2004): A set-off of child support for interference with visitation (in this case caused by party's move to another state) whether based on the parties' stipulated decree, or based on Minn. Stat. § 518.175, Subd. 6(c) is prohibited, because it improperly modifies the children's nonbargainable interest. However, an equivalent outcome may be reached if NCP moves for a modification of support based on Minn. Stat. §518.18(c) (2002). The court conclude that, after making particularized findings about both the parents' and child's needs, in the best interests of the emotional welfare of the children, a downward deviation in child support will foster parenting time opportunities for NCP. Minn. Stat. § 518.551, Subd.5(c)(2).	Child Support Setoff for Interference with Visitation not Allowed, but Interference may be a Basis for Modification
In re the Marriage of: Marlo Renee Nelson, A22-0077, 983 N.W.2d 923 (Minn. Ct. App. 2022): The Court of Appeals affirms the district court's amended order that per Minn. Stat. § 518A.36, subd. 1 child support obligations with a parenting time expense are based on the court-ordered amount of parenting time and not the actual amount of time exercised by each parent.	Marriage Dissolution, Modificaiton, Child Care Support, Overnights, Parenting Expense Adjustment

II.O.12. - Findings Required	
Minn. Stat. ' 518A.39, Subd. 2(a) and ' 518A.44 - required findings before deviation for subsequent children in upward modification cases.	
Alvord v. Alvord, 365 NW 2d 360 (Minn. App. 1985): Hadrava does not require explicit findings of needs of children (overruled by Moylan, see also Tibbetts).	Findings Required
Derence v. Derence, 363 NW 2d 86 (Minn. App. 1985): In modification, court must make findings on: (1) present income of each party and spouse; (2) needs of children; and (3) whether changes since time of dissolution made original order unfair.	Findings Required
Menk v. Menk, 387 NW 2d 909 (Minn. App. 1986): Past and current income levels, mother's income, children's needs, father's expenses, and unreasonableness and Findings unfairness are among required findings.	Required Findings Listed
In Re the Marriage of Allan Rose v. Kathleen Rose n/k/a Kathleen O'Gara, (Unpub.), CX-92-1663, F & C, filed 6-15-93 (Minn. App. 1993): Under the vigorous requirements of Minn. Stat. ' 518.551, Subd. 5(b) findings explaining why a downward deviation serves the child's best interest must be made in addition to the general findings explaining the reason for the deviation.	Findings Required for Deviation
Worley v. Koval, (Unpub.), C8-97-1776, F & C, filed 4-14-98 (Minn App. 1998): Parties initially stipulated to child support well below guidelines amount. In subsequent modification proceeding, the court increased support to guidelines, without making any findings as to changed circumstances, citing statutory presumption in favor of guidelines, minimal weight given to stipulations in child support cases, and burden of obligor to rebut the presumption, appellate court upheld the modifications.	Sufficient to Find Presumption Unrebutted
Kremer v. Kremer, (Unpub.), C0-01-871, F & C, filed 12-11-01 (Minn. App. 2001): With joint physical custody and a Hortis-Valento child support determination, the court can deviate from the guidelines only if it makes appropriate findings. The court must address the relevant factors in Minn. Stat. ' 518.551, Subd. 5(c), financial resources, needs, standard of living, tax dependency, debts and receipt of public assistance.	Findings for Deviation from Hortis-Valento Formula
Borseth f/k/a Cotton v. Borseth, (Unpub.), C9-01-1632, F & C, filed 6-4-02 (Minn. App. 2002): In a modification proceeding, where guidelines support based on NCP's current income would exceed 100% of the children's monthly needs, the court erred in failing to consider whether (1) the NCP had rebutted the $50/20% statutory presumption that the current award is unreasonable and unfair and, if so, (2) whether NCP had presented sufficient evidence to justify a downward deviation from guidelines.	Where G/L Support Would Exceed Child's Monthly Needs
Gunter v. Gunter, (Unpub.), A03-352, filed 1-27-04, (Minn. App. 2004): Court erred in excluding overtime from the child support calculation in a child support modification case where neither the father nor the court addressed the statutory factors under Minn. Stat. ' 518.64, subd. 2.	Overtime Exclusion- Must Address Statutory Factors
Gunter v. Gunter, (Unpub.), A03-352, filed 1-27-04 (Minn. App. 2004): It was not proper for trial court to exclude overtime at modification hearing based on its finding that a formula based on base wages had been used in prior order, and prior order is Alaw of the case@ and must be applied prospectively. (1) The Alaw of the case@ doctrine applies to a case where the appellate court has ruled and remanded, and is not ordinarily applied by district court to its own prior decision. (Citing Loo v. Loo, 520 NW 2d 740, 744 n.1 (Minn. 1994); (2) The prior orders did not address base pay vs. overtime or the factors for exclusion of OT under ' 518.551; (3) Even if prior order considered factors and excluded OT, party could still move for modification in subsequent proceeding, and court would have to address OT factors in ' 518.64, subd. 2. to continue to exclude OT. (Citing Allan v. Allan, 509 NW 2d 593, 596-597 (Minn. App. 1993).	OT may be Included in Income even if Excluded in Prior Order

Maschoff v. Leiding, 696 NW 2d 834 (Minn. App. 2005). Since a court determining whether to modify support must consider the parties' circumstances at the time the order was last set or modified in order to determine if a substantial change of circumstances has occurred that would render the obligation unreasonable or unfair, it is important for courts addressing child support, even if adopting a stipulation of the parties, to make findings of fact addressing the parties' existing circumstances, so as to facilitate future motions to modify child support.	Court Should Make Findings as to Existing Circumstances in Support Orders, to Provide Necessary Information for Future Modifications
In Re the Marriage of Leibold vs. Leibold, (Unpub.), A05-372, F&C, filed January 3, 2006 (Minn. App. 2006): Court found appellant was not voluntarily underemployed upon moving from Kansas to Minnesota and accepting employment earning $2.00 less per hour. However, upward deviation from guidelines was inconsistent with this finding. Furthermore, the court's findings that appellant had greater employment income available and had increased parenting time expenses did not support deviation. The court also erred by failing to consider unemployment compensation is subject to federal and state income taxes. Finally, the Court of Appeals determined that the residence was jointly owned by appellant and others and payments by others was not income to appellant but their portion of the mortgage payment. Case was remanded to the magistrate for further findings.	Insufficient findings of fact for upward deviation after finding obligor was not voluntarily underemployed.
Booflat v. Blooflat, A-05-1080, A05-1414 (Hennepin County): Where appellant fails to provide a transcript, review is limited to whether the court's conclusion are supported by findings. The magistrate's determination that obligor failed to show a substantial change in circumstances making the prior order unreasonable and unfair supports the conclusion that the motion to modify is unwarranted. In addition, it is not err to fail to consider a subsequent child as Minn. Stat. § 518.551, subd. 5f clearly states that the needs of subsequent children shall not be factored into a support guidelines calculation and is not grounds for a decrease of support. Court of Appeals affirmed, but remanded for magistrate's order staying the cost of living adjustment as the conclusion of increased income is not supported by the record.	Failure to provide transcript limits appellate review to whether findings support the conclusion of law.
In re the Marriage of Charlotte Kay Sailors v. James Thomas Sailors, (Unpub.), Goodhue County, A06-379 (Minn. App. 2007): Appeals by both parties. Appellant husband appeals the court's denial of his motion to decrease a stipulated permanent spousal maintenance agreement. Appellant argues his deteriorating health and change in the financial situation of the parties requires a downward modification. District court denied, finding no substantial change in circumstances had occurred and husband failed to show the current order was unfair or unreasonable. This court will not reverse the district court's decision absent an abuse of discretion. Because the lower court left too many unaccounted for discrepancies between their findings and the record for an adequate review to occur, the court of appeals remanded for further explanation of the financial situation and the basis of the court's conclusion to occur.	Remanded to district court to provide more findings on financial situation of the parties to support the court's conclusions. Spousal maintenance.
Ilstrup v. Ilstrup, No. A08-0150, 2008 WL 5137103 (Minn. Ct. App. Dec. 9, 2008): Father sought to modify his child support obligation and provided substantial evidence of the income and receipts of the business and his share of the draw. Father also demonstrated the substantial debt the business owed. The CSM noted in the findings that the evidence of Father's income was thorough and reliable, but could not determine who was providing the services for the Father's business. CSM attempted to calculate the Father's income in multiple ways, and then decided to average those calculations. The Court of Appeals reversed and remanded finding that although the CSM found the evidence of income provided by the Father reliable, the CSM relied on conjecture to calculate his income, which was improper. Because the CSM's calculation of appellant's income is not supported by the evidence and is based on conjecture, it is clearly erroneous. The district court abused its discretion in affirming the CSM's order. The CSM committed clear error in assigning all the income of the business to the Father and none to his wife and business partner.	CSM cannot rely on conjecture to determine income.

Viele v. Viele, No. A09-1950, 2010 WL 2266498 (Minn. Ct. App. June 8, 2010): In August 2004, the obligor's child support obligation was set at $1,350 per month. At that time, the obligor challenged the child support determination and the case was remanded for more specific findings. On remand, the district court amended the order and determined obligor's net income was $4,500, but the child support remained $1,350. 5 months later the obligor filed a motion to modify his child support obligation and CSM denied his request, which the district court affirmed. The Court of Appeals stated "[f]indings of fact are clearly erroneous when manifestly contrary to the weight of the evidence and not reasonably supported by the evidence as a whole." Gifts regularly received from a dependable source must be used to determine the amount of the party's child support obligation. When the 20% and $75 difference is shown, the presumption of substantial change is irrebuttable.	Gifts regularly received from a dependable source must be used to determine the amount of the party's child support obligation.
Gunsallus v. Schoeller, No. A11-418, 2011 WL 5829308 (Minn. Ct. App. Nov. 21, 2011): The Court of Appeals found it was approrpraite to not allow the depreciation expenses to be deducted from the NCP's GMI because he failed to prove that those were necessary expenses. The Court also found that the CSM erred by making a mathematical error when subtracting the NCP's proper business expenses from his gross receipts. The CSM only subtracted expenses the custodial parent had unsuccessfully challenged and did not subtract agreed upon expenses from the NCP's GMI. The NCP's GMI should have been $5,441 and not $15,168. The Court also found making the order retroactive to June 2009 was not appropriate without specific findings that the NCP's income had increased in that month or that the effective date was based on language form the original order.	Proper business expenses to be subtract from GMI.
In re Custody of M.M.L., No. A15-1807, 2016 WL 7438705 (Minn. Ct. App. Dec. 27, 2016): The subsequent modifications made to the preexisting contempt order are appealable because the court substantively modified the child support obligation, and did not merely modify the purge conditions of an existing conditional contempt order. The district court modified the child support obligation without adequate findings in regards to the method in which the father's income was imputed, and should therefore be remanded for additional findings.	Contempt; Imputing income; Potential income.
In Re the Marriage of Clifton v. Clifton, A17-0477, 2018 WL 414309 (Minn. Ct. App. Jan. 16, 2018): When the court finds there to be a substantial change in circumstances, that leads to a rebuttable presumption that the order is unreasonable and unfair. As a result, if a party questions the unreasonable and unfairness of the order, the court must make findings as to whether the presumption is rebutted.	20%/$75 Substantial change
Olstad v. Olstad, No. A17-1074, 2018 WL 2470941 (Minn. Ct. App. Jun. 4, 2018): On appeal, an appellant must demonstrate that despite viewing the evidence in the light most favorable to the district court's findings the record established that a mistake has been made. To show a substantial change in circumstances that renders the existing award unreasonable and unfair, the party must compare the parties' circumstances at the time of dissolution to their circumstances at the time the motion to modify is brought. A conclusory statement is not enough to overcome a distict court's finding. A district court must give the plain and ordinary meaning to the unambiguous terms of the child support obligation in a stipulated judgment and decree.	Modification
In re the Marriage of: Warrington v. Warrington, A19-0482, 2020 WL 1501972 (Minn. Ct. App. 2020): In a modification of support motion, court is required to determine if the statutory presumptions of a substantial change in circumstances apply when a paty submits documentation of increased or decreased income.	Modification, Modification $75/20% Rule; Substantial change presumption
Kent v. Kent, A19-1562, 2020 WL 6013851 (Minn. Ct. App. Dec. 29, 2020): It is not an abuse of discretion for the district court to deny an upward deviation from basic support when the record does not demonstrate substantial needs for the children warranting an upward deviation. When considering a maintenance obligation, a district court should sufficiently consider the monthly income generated by the parties' property settlements without invading the principal and any other factors indicating meeting the marital standard of living for both parties. When considering awarding attorney fees, a district court should consider whether the requesting party would be required to liquidate any portion of their property settlement to pay their attorney.	Application of guidelines for upward deviation; Findings required for maintenance; findings required for attorneys fees

Wauzynski v. Wauzynski, A20-0295, 2020 WL 7019387 (Minn. Ct. App. Nov. 30, 2020): To determine whether spousal maintenance is appropriate, a district court must make detailed and specific findings of facts regarding the parties' monthly incomes and their ability to provide maintenance. A district court must include consideration of the necessary statutory factors in its findings regarding the decision to order spousal maintenance and whether to award need-based attorney fees.	Fidings required when considering spousal maintenance and need-based attorney fee
Do v. Nguyen, A20-0986, 2021 WL 1604706 (Minn. Ct. App. 2021): A district court abuses its discretion by failing to address statutory factors in light of new changed circumstances presented in a motion filed similar to a prior dismissed motion. The award of conduct-based attorneys fees is an abuse of discretion when the district court failed to adequately examine the record and include findings of fact. When findings of fact include analysis of all statutory factors and the findings are supported by evidence in the record, the district court does not abuse its discretion in modifying a parties' parenting time.	Modification; Modification Effective Date; Retro Mod Overpayment
Allen v. Allen, A23-1665, 2024 WL 3407917 (Minn. Ct. App. 2024): The district court did not err when it denied appellant-mother's motion to modify child support as appellant did not demonstrate a change of 20% from the current obligation or demonstrate that the existing obligation was unreasonable and unfair.	Modification-Substantial Change in Circumstances; Presumpion Substantial Change in Circumstances; Modification Presumption $75, 20%
In re the Marriage of: Towobola Abimbola Oladejo vs. Olanrewaju Muideen Oladejo, No. 23-1609, 2025 WL 440097 (Minn. Ct. App. Feb. 10, 2025): The Court of Appeals affirms the district court's rulings on the issues of joint legal and joint physical custody, the calculation of basic support, and the finding of no childcare costs. The issue of whether marital or non-marital funds were used to pay the mortgage on the marital home after the valuation date is remanded as it affects husband's equity equalizer payment to wife.	Best Interest of Child-Custody; Custody; Basic Support-Definition; Basic Support-Guideline Table; Childcare Support (Support $)-Definition; Guidelines Table for Basic Support; Modification
In the Marriage of Pamela Huyck vs. Kevin Lee Huyck, No. A24-0613, 2025 WL 586025 (Minn. Ct. App. Feb. 24, 2025): The district court did not abuse its discretion when it modified the parties' parenting time schedule. The district court harmlessly erred in its medical support calculation and did not abuse its discretion by allocating a childcare cost to respondent-wife.	Childcare Support; Medical Support; Parenting Time; Written Findings Required in All Child Support Cases
In the Marriage of: Sarah Elizabeth Lavins vs. Brock Laverne Lavins, No. A24-0779, 2025 WL 1097215 (Minn. Ct. App. Apr. 14, 2025): The district court did not abuse its discretion when it determined mother is voluntarily unemployed because she failed to rebut the presumption she could work full time. It also was not an abuse of discretion to deny mother's request to apply the modification of support retroactively, Minn. Stat. § 518A.39, subd. 2(f) is discretionary rather than mandatory.	Imputing Potetntial Income; Modification-Effective Date: Retroactive support Modification-Date of Service only; Voluntary Undemployment/Underemployment

II.O.13. - Other	
Tammen v. Tammen, 182 NW 2d 840 (Minn. 1970): Order fixing child support money was not *res judicata* and was subject to modification although predicated upon stipulation by parents.	Stipulation
Weinand v. Weinand, 175 NW 2d 506 (Minn. 1970): Obligor's remedy if unable to make child support payments is to apply to court which ordered support and ask for a reduction in payment.	Remedy if Cannot Afford
Tell v. Tell, 359 NW 2d 298 (Minn. App. 1984): Extra-judicial modification of Judgment and Decree without judicial approval not valid.	Extra-Judicial Modification
County of Anoka v. Richards, 345 NW 2d 263 (Minn. App. 1984): Order entered pursuant to Chapter 256.87 does not modify child support provision in paternity judgment and is not governed by modification provisions of Minn. Stat. ' 516.64.	256 Action not a Modification
Thomas v. Thomas, 356 NW 2d 76 (Minn. App. 1984): Lien against homestead in favor of obligor that is security for child support and to encourage occupation of homestead by children is in nature of child support and conditions for maturity are modifiable under Minn. Stat. ' 518.64.	Lien on Homestead
Scott v. Scott, 352 NW 2d 62 (Minn. App. 1984): Fact that obligor has structured life with assumption that child support would remain at amount originally ordered is not valid reason for denying increase in support.	Defense not Recognized
Scott v. Scott, 373 NW 2d 652 (Minn. App. 1984): Trial court has jurisdiction to modify a child support award under Minn. Stat. ' 518.64, for future or retroactively, even though no motion made, when a motion for enforcement relief on child support obligation before the court.	No Motion Required
Blomgren v. Blomgren, 367 NW 2d 918 (Minn. App. 1985): Trial court must make findings of fact on modification due to cost of living and its relation to the rate of inflation.	Cost-of-Living
Eckholm v. Eckholm, 368 NW 2d 386 (Minn. App. 1985): Cost-of-living equally affected both parties, therefore no reduction in father's support.	Cost-of-Living / Both Parties
Landa v. Landa, 369 NW 2d 330 (Minn. App. 1985): Change of custody equals a change of circumstances sufficient to warrant modification of child support.	Custody Change
Fairburn v. Fairburn, 373 NW 2d 609 (Minn. App. 1985): No error for trial court to increase support only to age 18, at which point it reverts back to original stipulation amount per pre-June 1, 1973 decree.	Revert to Decree at Age 18
Winter v. Winter, 375 NW 2d 76 (Minn. App. 1985): Court had authority to modify support obligation for children between ages of 18 and 21.	Age of Majority
Miller v. Miller (Hildegard v. Charles), 370 NW 2d 481 (Minn. App. 1985): It is not proper to consider equitable defenses for modification -- only changes in financial circumstances or needs that render the terms unreasonable and unfair.	Equitable Defenses
Saabye v. Saabye, 373 NW 2d 386 (Minn. App. 1985): Cohabitation of custodial parent not change in circumstances permitting modification of homestead lien provisions.	Obligee Cohabitation
Swanson v. Swanson (Patricia v. Roy), 372 NW 2d 420 (Minn. App. 1985): Receipt of AFDC is a change in circumstances which may make the child support terms of a decree unreasonable and unfair.	AFDC
McClelland v. McClelland, 393 NW 2d 224, 228 (Minn. App. 1986): A party seeking modification must show modification is warranted by the preponderance of the evidence standard.	Preponder-ance of the Evidence
Moylan v. Moylan, 384 NW 2d 859 (Minn. 1986): Minn. Stat. ' 518.64 requires a two-step analysis: (1) Do any of the four factors, alone or in combination, create a substantial change in circumstances warranting a modification of child support; and (2) if so, after the needs of the children and the financial situation of the parents' spouses, what modification should the court make?	Analysis
Katz v. Katz, 408 NW 2d 835 (Minn. 1987), affirming 380 NW 2d 527 (Minn. App. 1986): Although under Hampton, 229 NW 2d 139, contempt is not available to enforce support after children reach age 18, the guidelines may be applied and support may be modified upon a showing of a substantial change in circumstances which makes the original child support order unfair and unreasonable.	Age 18 - Modification

Lenz v. Wergin, 408 NW 2d 873 (Minn. App. 1987): Error to dismiss a 34% increase in consumer price index as having "an equal impact on both parties" and in failing to consider whether the increase constituted a substantial change in circumstances.	Cost-of-Living Increase
Milke v. Mamer, 405 NW 2d 7 (Minn. App. 1987): Findings must be made to demonstrate that the trial court considered legislatively required factors in modification proceedings.	Purpose
Stevens County Social Services Department, ex rel. Banken v. Banken, 403 NW 2d 693 (Minn. App. 1987): Receipt of AFDC is a substantial change in circumstances in that it highlights parent's loss of personal earnings. Order to show cause proper in modification proceeding.	AFDC - OTSC
Carlton County v. Greenwood, 398 NW 2d 636 (Minn. App. 1987): Order applying part of support toward past foster care was improper reduction of support.	Current vs. Past Support
Anderson v. Anderson, 421 NW 2d 410 (Minn. App. 1988): Six month reduction of former husband's child support obligation due to economic adversity was not "modification" within meaning of support statute, thus original obligation was automatically reinstated after period expired.	Temporary Reduction not a Modification
Stich v. Stich, 435 NW 2d 848 (Minn. App. 1989): Orders for reduced child support obtained by county officials, which are not entered as modifications of the original award, do not eliminate the greater support obligation stated in the award. The original award may be forgiven now only insofar as a retroactive downward modification of the award is by trial court findings.	County Reduction does not Modify CP's Order
Hicks v. Hicks, 533 NW 2d 885 (Minn. App. 1995): Court's decision to suspend support is an abuse of discretion where modification standard under Minn. Stat. ' 518.64 is not met.	Suspension of Support
Massman v. Massman, (Unpub.), C3-98-1243, F & C, filed 1-12-99 (Minn App. 1999): It was error for ALJ to order an automatic increase of child support obligation in 12 months without making a finding of voluntary unemployment or other explanatory finding.	Automatic Increase
Moskal v. Moskal, (Unpub.), C2-99-580, F & C, filed 12-21-99 (Minn. App. 1999): It was improper for district court to order that obligor's support obligation would be automatically reinstated at the pre-incarceration upon obligor's release from prison. Burden is on obligee to bring a motion following obligor's release from prison. (Compare Anderson, 421 NW 2d 410).	Automatic Reinstatement Precluded
Rogers v. Rogers, 622 NW 2d 813, (Minn. 2001): The district court has the authority to modify a child support obligation, on its own without a motion of either party, when the adjustment of child support is incidental to correction of a clerical error. The court may correct a clerical error at any time under Minn. R. Civ. P. 60.01. Reverses Court of Appeals, Rogers v. Rogers, 606 NW 2d 724 (Minn App. 2000).	*Sua Sponte* Adjustment of Child Support Due to Clerical Error
Gass v. Gass, (Unpub.), C3-01-539, F & C, filed 12-10-01 (Minn. App. 2001): The Hortis-Valento formula is simply one of the factors a court can look at when recalculating fair and reasonable child support when obligor's income decreases drastically. With de novo review, the court can consider the existing order to determine an equitable result. Child support cannot be used as a means to equalize income between parents who share custody.	Factors for Equitable Modification
Maschoff v. Leiding, 696 NW 2d 834 (Minn. App. 2005): *Res judicata* has limited application to family law matters, but the underlying principle that an adjudication on the merits of an issue is conclusive, and should not be relitigated, clearly apples. Loo, 520 NW 2d 740 (Minn. 1994). The issue is whether the two motions present the same legal issue. Where two motions to modify child support involve different aspects of child support (in this case one motion related to child care contribution, and the other to changes in financial circumstances), litigation of the second motion is not precluded.	Whether Second Motion to Modify is Barred by *Res Judicata* Depends on Whether the New Motion Involves Same Issues.
Demaris v. Demaris, (Unpub.), A04-1627, F & C, filed 5-3-05 (Minn. App. 2005): In a MTM proceeding in which child support was increased due to increase in obligor's net income, the court should also have adjusted the % of unreimbursed meds obligor is responsible to pay, since the prior allocation would be inconsistent with the parties' current incomes.	Should Adjust Unreimbursed Meds % if Modifying Child Support due to Change in Income.

In Re the Marriage of Wheeler v. Wheeler, (Unpub.), A06-569, Filed 9/5/06 (Minn. App. 2006): CP failed to inform CSM of boarding school expenses at the time of a hearing of motion to modify support and only weeks later attempted to move the *district* court to divide the boarding school expenses and was denied. CP later brought same motion before the CSM and CSM denied motion on res judicata grounds. CP insisted district court's ruling was "referring the matter back to the CSM." Court of Appeals upheld the decision of CSM indicating the matter was res judicata and stating "finding that a party failed to raise an issue at the appropriate time equates to a finding of waiver, not to a remand of the issue." *citing* Graham v. Itasca County Planning Comm'n, 601 N.W.2d 461, 468 (Minn. App. 1999).	EX PRO PROCEDURE: Motion to mod. that has been denied by the district ct. is res judicata before the CSM when there has been no change in circumstances.
Fischer v. Fischer, A06-1656, Filed July 24, 2007 (Minn. App. 2007): The district court erred when it suspended Obligor's spousal maintenance obligation but still allowed arrearages to accrue during the suspension period. The Court of Appeals reversed, finding that the order allowing arrearages to accrue during the time the spousal maintenance obligation is suspended is inconsistent and erroneous as a matter of law. Since a suspension of an obligation means there is no obligation to be paid, arrearages cannot accrue during a suspension.	ARREARS: arrears cannot accrue during time in which an obligation is suspended
In re the Marriage of: Loren Helen Faibisch, petitioner, Appellant, vs. Manuel Esguerra, Respondent., (Unpub.), A06-1751, Ramsey County, filed August 21, 2007 (Minn. App. 2007): Appellant argues the district court should have held an evidentiary hearing on her motion to modify. Noncontempt family motions are decided without an evidentiary hearing unless otherwise ordered by the court for good cause *(citing Minn. R. Gen. Pract. 303.03(d))*. No evidentiary hearing was requested by either party.	Noncontempt family motions are decided without an evidentiary hearing unless otherwise ordered by the court for good cause.
In re the Marriage of Arneson v. Meggitt, (Unpub.), A06-1437, Filed October 30, 2007 (Minn. App. 2007), Dakota County: The district court did not err when it extended the obligor's child support obligation one year beyond that which was stipulated to by the parties in their J&D when the child of the parties had fallen behind in school due to behavioral and academic issues and his graduation date was subsequently delayed one year. Stipulated child support judgments are not contracts that bind the court, and the court may reset child support because of the important public policy favoring the nonbargainable interests of the child. *See Swanson v. Swanson*, 372 N.W.2d 420, 423 (Minn. App. 1985).	Court has broad discretion to modify child support even in the face of a stipulation when modification benefits the best interests of the child.
Eben f/k/a Brouillette vs. Brouillette, (Unpub.), A06-2181, filed December 11, 2007, (Minn. App. 2007): The CSM did not abuse its discretion by denying modification of the amount of child support arrears owed by appellant father to respondent mother where the only evidence appellant offered was his testimony, which the CSM did not find credible.	No error in denying motion to modify where only evidence offered was testimony not found credible.
Samantha Jane Gemberling vs. Karl Hampton, (Unpub.), A07-0074, filed January 15, 2008 (Minn. App. 2008): A party does not meet §518.551 requirements in showing a change in circumstances simply because a temporary order is set pending a review hearing. The purpose of the review hearing was for the parties to provide financial information to clarify their financial situations.	Temporary order with review does not in itself mean the change in circumstances burden has been met.
In re the Marriage of Thomas Eugene Broome v. Sandra Marie Wedmann, f/k/a Sandra Marie Broome, f/k/a Sandra Marie Lambrecht, (Unpub.), A06-2368, filed January 22, 2008 (Minn. App. 2008): Appellant father argues the child support magistrate abused discretion by departing from the guidelines in opting not to apply the Hortis/Valento formula when modifying father's obligation. The CSM's deviation from the guidelines must be reversed because, except for addressing the parties' earnings, the CSM failed to make the findings required by Minn. Stat. sec. 518.551, subd. 5(i).	Deviations from guidelines require findings under Minn. Stat. sec. 518.551, subd. 5(i).

Carlene Yvonne Nistler v. Terrance Roger Nistler, (Unpub.), A07-0793, filed April 1, 2008 (Minn. App. 2008): Appellant obligor argued he was denied due process as a pro se litigant when CSM failed to sua sponte grant him a continuance or leave the record open for submission of documents. Court of Appeals held no abuse of discretion to fail to grant relief that obligor did not request, noting the obligor has the initial burden of proof and pro se litigants are held to the same standard as attorneys.	No due process violation when court fails to order something not requested by pro se litigant.
Hare v. Hare, No. A15-1978, (Minn. Ct. App. July 18, 2016): Whether to hold an evidentiary hearing on a motion to modify maintenance or support is discretionary. When the district court is able to calculate child support based on the record before it, it is not an abuse of discretion to decline to hold an evidentiary hearing.	Evidentiary Hearing for Modification of Support
Beckendorf v. Fox, 890 NW 2d 746 (Minn. App. 2017): Documentation of child care expenses for purposes of seeking childcare support unider Minn.Stat. § 518A.40, may include prospective child care costs.	Child Care Support
In re the Marriage of Bourgoin v. Bourgoin, No. A16-0804 (Minn. Ct. App. Jan. 30, 2017): The district court did not consider the judgment and decree to implicitly waive appellant's right to future modifications. The district court's partial reduction of appellant's support obligation was within the district court's wide discretion to modify support orders. The district court was within its discretion to use an annual average based on the fluctuations in appellant's income.	Modification; Income Determination
Lee v. Vacko, A16-1982 (Minn. Ct. App. Sep. 11, 2017): Child support obligations may be suspended if the obligor receives public assistance. The receipt of public assistance must be lawfully received. A conviction of fraud based on an Alford plea is admissible as evidence in a civil trial.	Modification; Suspension of support based on receipt of public assistance.
Grazzini-Rucki v. Rucki, No. A16-1970 (Minn. Ct. App. Aug 21, 2017): A child support order that sets a review hearing to further modify the obligations was temporary and therefore was not immediately appealable. CSM's may, but are not required to set effective dates retroactively to the time of filing a motion. Nunc pro tunc language may be used for correcting an omission of the district court or fixing a clerical error. The use of this language is discretionary. It is within the CSM's discretion to order suspension of support while the obligor is incarcerated and have a review hearing scheduled upon release.	Appealability of Orders; Modification Other
Winesett v. Winesett, A19-1284, 2020 WL 1910177 (Minn. Ct. App. Apr 20, 2020): The court did not err in excluding additional bonus income to calculate gross income pursuant to Minn. Stat. § 518A.29 (2018) as the additional income in the form of bonuses was a possibility but not guaranteed.	Bonuses; Gross Income; Spousal Maintenance; Modification
Bender v. Bernhard, A19-1611, 2020 WL 3409243 (Minn. Ct. App. June 22, 2020): When determining whether support should continue past the age of majority a determination of capability/incapability of self-support is based on a determination of present capability not future capability. The obligee had the burden to show the child was incapable of self-support and the circumstances had changed since the prior order.	Definition of Child; Modification
Pnewski v. Pnewski, A20-0117, 2020 WL 7689726 (Minn. Ct. App. Dec. 28, 2020): If the original order or judgment and decree required parties to come to agreements regarding additional expenses (such as travel or educational expenses) through mediation, that is the venue through which parties must first seek redress. A district court has broad discretion to determine based on the evidence presented whether a maintenance modification is appropriate because the terms of the award are unreasonable or unfair. When a moving party does not demonstrate that there has been a substantial change in circumstances rendering the prior award unreasonable or unfair, the district court does not abuse its discretion by denying a motion to modify a maintenance award.	Support for additional expenses; Substantial changes required for maintenance award modification
Leslie E. Sheehy Lee vs. Travis Kalis, County of Le Sueur Intervenor, No. A23-0522, 19 N.W.3d 186, 2025 WL 1064740 (Minn. 2025): The district court and Court of Appeals erred as a matter of law by finding the parties made an extrajudicial agreement to modify father's child support obligation as only orders from the district court are enforceable support orders. Also, it was an impermissible retroactive modification to forgive the father's arrears due to an extrajudicial agreement.	Modification-Effective Date; Retroactive Support Modification-Date of Service Only

II.P. - ARREARAGES	
Minn. Stat. ' 518A.26, Subd. 3 - Arrears defined.	
II.P.1. - Forgiveness	
Ed.Note: Due to non-retroactivity provisions of Minn. Stat. ' 518A.39, forgiveness only allowed to the extent they accumulated before June 13, 1987.	
Arora v. Arora, 351 NW 2d 668 (Minn. App. 1984): No abuse of discretion in denying motion to retroactively modify child support obligation when court found failure to make any payments was willful.	Willful
Arora v. Arora, 351 NW 2d 668 (Minn. App. 1984): No error in finding failure to pay any child support whatsoever was willful when obligor chose to honor debt obligations before child support.	Debts before Support
Bledsoe v. Bledsoe, 344 NW 2d 892 (Minn. App. 1984): When failure to pay was willful, denying forgiveness is proper.	Willful
Braun v. Braun, 350 NW 2d 492 (Minn. App. 1984): Forgiveness of past child support where interest of children are paramount should be most cautiously exercised.	Cautiously Exercised
Gabbert v. Gabbert, 358 NW 2d 163 (Minn. App. 1984): No forgiveness when failure to pay in accordance with terms of original order was willful.	Willful
Swanson v. Swanson, 352 NW 2d 508 (Minn. App. 1984): Failure to pay must be non-willful for retroactive decrease in support.	Willful
Juelfs v. Juelfs, 359 NW 2d 667 (Minn. App. 1984): No error in denying forgiveness of child support arrears and reduction in child support when obligor voluntarily terminates longtime, substantial employment.	Quitting
Eckholm v. Eckholm, 368 NW 2d 386 (Minn. App. 1985): Partial forgiveness of arrearages is appropriate where the original divorce decree provided for automatic reduction.	Automatic Reduction
Stangel v. Stangel, 366 NW 2d 747 (Minn. App. 1985): Trial court has broad discretion to grant or deny motion to forgive arrears and will not be reversed but for abuse of discretion in sense that order arbitrary or unreasonable, or without evidentiary support.	Broad Discretion
Cavegn v. Cavegn, 378 NW 2d 636 (Minn. App. 1985): Error to hold obligor liable for arrearages without evidence that he was capable of compensable labor during that time.	Earning Capacity
Miller v. Miller (Hildegard v. Charles), 370 NW 2d 481 (Minn. App. 1985): Trial court erred in forgiving support arrears solely on equitable consideration without reference to changed circumstances.	Requirements for Forgive-ness
Taflin v. Taflin, 366 NW 2d 315 (Minn. App. 1985): De facto changes in custody do not operate to relieve past child support obligations.	De facto Custody
Lindberg v. Lindberg, 379 NW 2d 575 (Minn. App. 1985), affirmed 384 NW 2d 442 (Minn. 1986): No forgiveness of arrearages despite de facto change in custody for over twelve months; the court is not free to disregard Dent when there is willful failure to make support payments. (Ed.Note: But see Minn. Stat. ' 518.57, Subd. 3.)	De facto Custody Change
Quick v. Quick, 381 NW 2d 5 (Minn. App. 1986): Where father reduced salary to invest in his office facilities for his medical practice, no error to forgive arrearages.	Business Expenses
Goff v. Goff, 388 NW 2d 28 (Minn. App. 1986): Failure to pay support was willful where no good faith effort to retain job or find alternative employment was made.	Earning Capacity
Volkman v. Volkman, 394 NW 2d 869 (Minn. App. 1986): Extraordinary circumstances or unforeseen emergencies required to warrant reducing amount of valid judgment for arrears.	Extraordinary Circumstances
Thompson v. Thompson, 392 NW 2d 661 (Minn. App. 1986): If failure to pay not willful, court considering forgiveness must consider changed circumstances and whether they made terms of decree unreasonable and unfair.	Requirements for Forgive-ness
Huckbody v. Freeburg, 388 NW 2d 385 (Minn. App. 1986): Refusal to grant judgment for arrearages where obligee paid no support for another child in physical custody of obligor for 11 years was not error.	Other Support Claims
Miller v. Miller, 409 NW 2d 870 (Minn. App. 1987): Trial court erred in refusing to forgive support arrears since physical custody changed to father where father showed inability to support due to direct expenditures for children. Requirements for forgiveness: 1) Substantial change in circumstances, and 2) None of past failures to pay were willful.	De facto Custody

Tollefson v. Tollefson, 403 NW 2d 857 (Minn. App. 1987): Even if original support order based on error, error to forgive arrearages without evidence that past failure to pay was not willful.	Error in Calculation
Anderson v. Anderson, 421 NW 2d 410 (Minn. App. 1988): Former husband was not entitled to forgiveness of child support arrearages, not withstanding his adverse employment situation, in absence of proof that is failure to pay more support than he had was not willful.	Requirements for Forgive-ness
Bruner v. Bruner, 429 NW 2d 679 (Minn. App. 1988): Forgiveness of arrears is the same thing as retroactive modification. Only arrears accrued after June 13, 1987 are not to be forgiven or retroactively modified. Arrears accrued before that date can be modified or forgiven if there was a change of circumstances justify modification and the failure to pay was not willful.	Retroactive Mod. Same Thing as Forgiveness
Stich v. Stich, 435 NW 2d 848 (Minn. App. 1989): Orders for reduced child support obtained by county officials, which are not entered as modifications of the original award, do not eliminate the greater support obligation stated in the award. The original award may be forgiven now only insofar as a retroactive downward modification of the award is by trial court findings.	Reduced Order Obtained by County
In Re the Marriage of Allan v. Allan, 509 NW 2d 593 (Minn. App. 1993): Under Minn. Stat. ' 518.64, Subd. 2(c) it is reversible error for a trial court to order forgiveness of child support arrearages that accrued before service of a motion to modify support.	Forgiveness of Arrears Accrued Before Service of MTM Prohibited.t
Ogg v. Ogg, (Unpub.), A04-517, F&C, filed 11-30-04 (Minn. App. 2004): Obligor requested adjustment of his arrears at an ex pro hearing. CSM directed child support office to conduct and file an account review, and serve it on the parties. Parties had 15 days to file a motion for judicial review, or the county's determination would be final. Subsequent district court decision that arrears were final, as determined by the county, because neither party had filed a motion within 15 days of the accounting, as required in CSM order, was upheld by the court of appeals.	IVD Arrears Accounting Final if Party didn't serve Motion to Contest, as Required by CSM Order.
Leslie E. Sheehy Lee vs. Travis Kalis, County of Le Sueur Intervenor, No. A23-0522, 19 N.W.3d 186, 2025 WL 1064740 (Minn. 2025): The district court and Court of Appeals erred as a matter of law by finding the parties made an extrajudicial agreement to modify father's child support obligation as only orders from the district court are enforceable support orders. Also, it was an impermissible retroactive modification to forgive the father's arrears due to an extrajudicial agreement.	Modification-Effective Date; Retroactive Support Modification-Date of Service Only

II.P.2. - Defenses/Set-Offs/Satisfaction by Integration Into NCP's Home	
Minn. Stat. ' 518a.38 - Satisfaction of obligation while child lived with obligor in NPA cases.	
Dent v. Casaga, 208 NW 2d 734 (Minn. 1973): Each installment of support payments shall be treated independently and separately and recovery allowed only for those payments which accrue within ten years from date of the commencement of the action.	Statute of Limitations
Young v. Young, 356 NW 2d 823 (Minn. App. 1984): No error in requiring payment of arrear-ages when seasonal unemployment did not result in substantial decrease in annual income.	Seasonal Income
Marsh v. Crockarell, 354 NW 2d 42 (Minn. App. 1984): Trial Court has right to consider child support arrearages as part of restitution claims parties have against each other, and no error in determining claims washed each other out.	Other Claims Between Parties
Streitz v. Streitz, 363 NW 2d 135 (Minn. App. 1985): Forgiveness of arrearages is proper where the father was found to have left work for medical reasons, therefore not accruing arrearages willfully.	Medical Reasons
Benedict v. Benedict, 361 NW 2d 429 (Minn. App. 1985): Equitable defenses not available in action for support arrearages within statutory limitation period.	Action for Judgment
Miller v. Miller (Hildegard v. Charles), 370 NW 2d 481 (Minn. App. 1985): Good faith reliance on the order of another state is not a defense sufficient to forgive arrearages or to modify a child support order issued in the state of origin.	Relying on Other Order
Miller v. Miller (Gloria v. Anthony), 371 NW 2d 248 (Minn. App. 1985): Set-off of arrearage obligation against right to collect child support constitutes departure from guidelines.	Set-off of Arrearages
S.G.K. v. K.S.K., 374 NW 2d 525 (Minn. App. 1985): Laches is no defense to action to collect arrearages.	Laches
Moritz v. Moritz, 368 NW 2d 337 (Minn. App. 1985): Social security Payments to minor child cannot be applied to arrearages for child support or maintenance.	Social Security does not Offset Back Support
State of Wisconsin, ex rel. Southwell v. Chamberland, 361 NW 2d 814 (Minn. 1985), reversed in part on other grounds, 349 NW 2d 309 (Minn. App. 1984): Custodial parent's removal of child from state in violation of decree, and concealment of child's location, does not relieve non-custodial parent from payment of child support arrearages.	Concealment
Thuftin v. Bush, 396 NW 2d 83 (Minn. App. 1986): Trial court should consider amount and validity of claimed offset against arrears.	Must Consider
Wicks v. Falkowski, 394 NW 2d 209 (Minn. App. 1986): No abuse of discretion to forgive arrears after finding that parties had oral agreement that father would not have to pay support while children lived with him.	Oral Agreement
State, Swift County, ex rel. Streed v. Koosmann, 397 NW 2d 422 (Minn. App. 1986): Offset of arrearages against current support for the other parent improper without adequate findings as to amount to determine whether this is a departure.	Offset of Arrears
Tuma v. Tuma, 389 NW 2d 529, 531 (Minn. App. 1986). Monetary contributions to a child's activities and household expenses do not satisfy a child support obligation.	Obligation not Satisfied by Payment of Expenses
Carlton County v. Greenwood, 398 NW 2d 636 (Minn. App. 1987): Forgiveness of arrearages justified because obligor was either "hospitalized, incarcerated and/or unemployed".	Jail/Hospital

Murray v. Murray, 405 NW 2d 922 (Minn. App. 1987): Father not entitled to credit toward arrearages for claimed overpayment toward college expense obligations when not negotiated before payment.	Overpayment-College Expenses
Stephens v. Stephens, 407 NW 2d 468 (Minn. App. 1987): It is not an abuse of discretion for the trial court to fail to allow an offset against child support arrearages for personal property not returned to him.	Offset-Personal Property
Karypis v. Karypis, 458 NW 2d 129 (Minn. App. 1990): In a post-dissolution action 3 of 4 children of parties went to live with respondent, who had a support obligation, and he stopped making payments. The appellant moved the court for a judgment against respondent for child support arrearages. The court of appeals affirmed the trial court's finding that respondent's child support obligation was satisfied for 3 of the 4 children and that he owed back support for the 4th child. The court did not retroactively forgive arrears, but rather recognized that respondent had satisfied his obligation. (See Minn. Stat. ' 518.57, Subd. 3 enacted after Karypis.)	Custody Transfer Satisfies Obligation
Renken v. Renken, (Unpub.), C0-96-1082, F & C, filed 12-24-96 (Minn. App. 1996): ALJ abused her discretion when she vacated a $27,600.00 judgment for child support arrears. Neither custodial parent's ten year delay in pursuing child support collection, nor her interference with visitation were basis to vacate the judgment.	Delay in Collection and Denial of Visitation no Basis to Va-cate Support Judgment
Mihelich v. Just, (Unpub.), C7-96-1984, F & C, filed 4-11-97 (Minn. App. 1997): Where a 1989 court order provided that in the event of an anticipated job loss by obligor, support "shall be adjusted accordingly" and court instructed parties to negotiate a new amount or return to court if agreement could not be reached and obligor discontinued payments when he lost his job and obligee's actions in and out of court were consistent with treating the 1989 support order as a reservation, court of appeals ruled that support was reserved effective with obligor's 1989 job loss and obligee is not entitled to arrears.	Treated as Reservation of Support
Mikolai v. Mikolai, (Unpub.), C1-96-2001, F & C, filed 5-13-97 (Minn. App. 1997): Error for court to bar request for retroactive child support arrears without considering the effect based on statute of limitations, Minn. Stat. ' 548.091 (1996), regarding the automatic creation of a judgment for child support arrearages, docketing of a judgment and the survival of such judgment.	Effect of Auto. Judgment Provision on 10-year S/L
Casper and Winona County v. Casper, 593 NW 2d 709 (Minn. App. 1999): Obligor is entitled to retroactive forgiveness of arrears that accrued after obligor started receiving social security disability benefits, to the extent that obligor's children received social security benefits based on obligor's disability.	Obligor Entitled to Retroactive Credit Against Arrears in the Amount of SSA Benefits were Paid to Children from his Account
Casper and Winona County v. Casper, 593 NW 2d 709 (Minn. App. 1999): To the extent an obligor paid past child support, even though the children received SSA, the Custodial parent and children are entitled to keep any child support payments received as well as the SSA, as the excess payments constitute a gratuity.	Obligor not Entitled to Refund for Excess Child Support Paid While Children Received SSA
Kowaliw v. Kowaliw, (Unpub.) C1-99-5, F & C, filed 7-6-99 (Minn. App. 1999): Custodial parent did not waive her right to claim child support arrearages by failing to make the request in earlier court proceedings. Voluntary choices, not mere negligence is the essence of a waiver. Citing Cohler v. Smith, 158 NW 2d 754, 579 (1968).	No Waiver
County of Swift v. Olson, (Unpub.), C4-01-212, F & C, filed 7-17-01 (Minn. App. 2001): Because respondent never sought modification of support during period of reconciliation with the mother, during which time he lived with mother and paid expenses while the mother received public assistance, he is not later entitled to a credit against arrears.	Living With CP in PA Case

Schreader v. Schreader, (Unpub.), C1-01-703, F & C, filed 11-20-01 (Minn. App. 2001): Whether a child is integrated into a parent's home with the consent of the other parent is a question of fact and appellate court review is the Aclearly erroneous@ standard.	Integration into Home Question of Fact
Dally n/k/a McDaniel v. Dally, (Unpub.), C0-01-1065, F & C, filed 3-19-02 (Minn. App. 2002): Where older child moved into father's home without mother's permission, and mother had made attempts to get him to return, conditions of Minn. Stat. § 518.57, Subd. 3 (2000) were not met and father=s obligation for that child was not satisfied. However, Minn. Stat. § 518.57, Subd. 3 was satisfied with respect to younger child because mother had obtained an Order For Protection against the child, excluding him from her home, and told the court at the OFP hearing that the child was living with his father, as a matter of law the mother consented to child=s integration into father=s family as of date she filed the OFP applications.	When Obligation is Satisfied by Child Living in Home
Hawkes v. Hawkes, (Unpub.), C1-02-1666, filed 5-6-03, (Minn. App. 2003): Minn. Stat. § 518.57 may be used to relieve an obligor of the obligation to pay arrears, but where the obligor has continued to pay support during a period the child has lived in the obligor=s home, Minn. Stat. ' 518.57 cannot be used to require the obligee to reimburse the obligor for Aoverpayments@ that occurred before he brought his motion to modify his support obligation. The prohibition of retroactive modification in Minn. Stat. ' 518.64, Subd. 2(d) does not allow an exception where the child has lived in the obligor=s home.	Child in NCP Home - Over-payments
In re the Marriage of: Neisen, f/k/a Thompson, f/k/a LaRowe and Thompson, (Unpub.), A03-1616, filed 6-15-04 (Minn. App. 2004): Obligor claimed that he had satisfied his support obligation because pursuant to an extra-judicial agreement between the parties, he had physical custody of the children for a longer period of time than the joint-physical-custody arrangement contemplated. Where the parties' agreement was not approved by the court, the obligor's claim can prevail only if the court makes findings that the agreement was (1) contractually sound and (2) otherwise fair and reasonable. Kielley v. Kielley, 674 NW 2d 770, 776-77 (Minn. App. 2004).	§ 518.57, subd. 3 may apply where Parties Agreed out of Court to Change from Sole to Joint Physical Custody
In re the Marriage of: Neisen, f/k/a Thompson, f/k/a LaRowe and Thompson, (Unpub.), A03-1616, filed 6-15-04 (Minn. App. 2004): *Karypis v. Karypis*, 458 NW 2d 129, 131 (Minn. App. 1990) *review denied* (Minn. Sept. 14, 1990) which applied the satisfaction of support principle only to sole custody cases was superceded by Minn. Stat. § 518.57, subd. 3 (2002), which does not limit the application to sole custody cases.	§ 518.57, subd. 3 not Limited to Sole Custody Cases.
Powers, f/k/a/ Duncan v. Duncan, (Unpub.), A04-19, F & C, filed 10-5-04 (Minn. App. 2004): CSM's finding that the child lives with friends and not with CP is an inadequate basis to absolve NCP of the obligation to pay child support. The fact that a child does not live with the person awarded physical custody does not necessarily relieve the obligor from having to pay support. See. Minn. Stat. § 518.17, Subd.3&4.	Child Lives with Friends
Tan v. Seeman, (Unpub.), A04-482, F & C, filed 10-12-04 (Minn. App. 2004): Child moved from Dad's home to Mom's home, and Dad consented to change of custody. Mom sought retroactive support to the date the child moved in with her. Minn. Stat. § 518.57, Subd. 3 does not provide a basis for a retroactive *establishment* of support where child had moved into former NCP's home. In this case, the court found that the former NCP (Mom) was not an "obligor" under Minn. Stat. § 518.57 or § 518.54, Subd. 8, since the she had not been ordered to pay support when the child was with the other parent (Dad).	Minn. Stat. § 518.57 Does not Provide a Remedy for Retroactive Establishment of Support When Child Moves into NCP's Home
In re: Horak v. Horak, (Unpub.), A04-2260, filed 10-11-2005 (Minn. App. 2005): Generally, retroactive modification of a child support order is permissible as of the date that the motion to modify was served on the opposing party. However, enforcing retroactive modification of support to the date of the change in physical custody (from sole physical custody to split custody) is not an abuse of discretion when the parties stipulated to such retroactivity.	Retroactive modification allowed by stipulation when change of custody

In re the Marriage of Carole V. Marx, petitioner, Respondent vs. Robert B. Marx, Appellant, and County of Anoka, intervenor, Respondent, (Unpub.), A06-1678, Anoka County, filed July 31, 2007 (Minn. App. 2007): J&D of the parties provided Respondent could deduct from her monthly installments owed to Appellant under a contract for deed any sum that Appellant failed to pay Respondent as child support. Appellant argues district court erred by not giving him an offset in his child-support arrearage against the payments Respondent failed to make on the installment after he executed an assignment of the contract for deed to a bank. This Court finds the terms of the J&D did not confer a mutual setoff. Additionally, Appellant maintained no interest in the payments owed by Respondent after he assigned his interest to the bank. Therefore Appellant is not entitled to an offset.	Court is not required to offset child support arrearage obligation of obligor against amounts owed by obligee under a contract for deed.
Lewis vs. Lewis, (Unpub.), A06-2236, F & C, filed September 11, 2007 (Minn. App. 2007): Respondent husband argues the district court abused its discretion by finding him in arrears by $9,915.21 for his maintenance obligation. Record reflects respondent began making full support payments, as well as paying several bills appellant failed to pay, in order to preserve the marital property. Without seeking modification of the order, respondent deducted those payments from the support obligations owed under the order. Under these facts, respondent is entitled to a credit against his arrears.	Credit against arrears.
In re the Marriage of Viele v. Viele, (Unpub.), A07-212, filed October 9, 2007 (Minn. App. 2007), Wright County: The court held that the district court was not required to apply an offset of monies paid for bills during the dissolution proceedings to support arrearages of the obligor. A calculation of an obligor's arrears includes only the amounts that the obligor has failed to pay after being court ordered to do so.	Arrears not required to be offset by bills paid prior to the support order.
Lubich n/k/a Miller vs. Lubich, (Unpub.), F & C, A07-1159, filed March 4, 2008 (Minn. App. 2008): Appellant/non-custodial parent argues expenses he incurred while children were living with him should have been offset against his support arrears. Court of Appeals held that such an offset would be tantamount to a *de facto* retroactive modification of support. Citing Minn. Stat. §518A.39(e), the Court of Appeals ruled that appellant is entitled to reduction of arrears for only the period after he served his motion to modify.	Offset to arrears only during period when motion to modify is pending.

County of Grant v. Koser, 809 N.W.2d 237 (Minn.App.2012): NCP father was deemed eligible for RSDI benefits and received a lump-sum RSDI payment for July 2009 – May 2010. CP mother also received, on behalf of the joint children, a lump-sum RSDI payment of $4, 752 based on NCP's eligibility for July 2009 – May 2010. Grant County moved the district court to modify NCP's support obligation. NCP owed $1,764.15 in arrearages. NCP requested a hearing contending that the lump-sum RSDI benefit made to CP should be applied as a credit toward his arrearages and that the remainder of the lump-sum should be applied toward his prospective support obligation. The CSM found a presumptive change in circumstances and modified NCP's obligation but did not address the lump-sum issue. NCP moved for the district court to review arguing that his obligation had not changed by at least 20% and $75 and reasserted his lump-sum argument. CP agreed to use the lump-sum to satisfy arrearages but not toward the prospective obligation. District court found that NCPs obligation had decreased by more than 20% and $75 and applied $1, 764.15 of the $4, 752 lump-sum RSDI benefit to satisfy the NCP's arrearages but concluded that the remainder of the lump-sum benefit could not be applied toward the NCP's prospective obligation. NCP appealed arguing that (1) the district court erroneously modified the obligation by misapplying the modification statute and (2) that the district court erred by failing to apply the lump-sum benefit as a credit toward NCP's prospective obligation. Court of Appeals found that (1) the district court did not err by calculating NCP's presumptive obligation by using the entire calculation found in § 518A.34 instead of deriving the obligation solely from § 518A.35 because the modification statute contemplates application of all adjustments made to the guidelines basic support amount in determining whether circumstances have changed and (2) the district court erred by declining to subtract the entire lump-sum RSDI payment the CP received from the NCP's obligation because the language of §§ 518A.31(c) and 518A.34(f) does not limit the application of a credit to either arrearages or prospective obligations and does not specify the manner in which the district court must subtract social security benefits from a child-support obligation. Issue is remanded for the district court to exercise its discretion in applying the remaining balance of the lump-sum benefit as a credit toward NCP's prospective obligation. The Court held: (1) When determining child support under § 518A.30 a parent's income from self-employment or operation of a business includes the parent's income from joint ownership of a closely-held subchapter S corporation. (2) After calculating the presumptive child-support obligation, the district court must consider all of the circumstances and resources of each parent in actually setting the final obligation. The court may rely on the unavailability of funds included in gross income in departing from the presumptive obligation.	Arrears; Child-Support; Guidelines; Lump Sum Payments; Modifications; RSDI; SSI
In re Dakota Cnty., 866 N.W.2d 905, 908 (Minn. 2015): Obligor continued paying $1,977 per month in child support while oblige received a $1,748 per month derivative benefit for the children stemming from the obligor's RSDI benefit. Child support obligor brought motion to modify child support obligation, asking court to offset obligation by amount of monthly derivative Social Security benefits received by obligee on behalf of children and to give him credit for all benefits already received. A child support magistrate (CSM) granted the motion. The District Court, modified the child support magistrate's order in part, retaining the offset and clarifying that the amount of the benefits already received by the obligee could be credited against the obligor's prospective obligation. County appealed. The Court of Appeals, 2014 WL 1272165, affirmed, declining to overrule *County of Grant v. Koser*. County petitioned for review, which was granted. The Minnestoa Supreme Court reversed and remanded, holding that an obligee has a legal right to both an RSDI derivate benefit and Child Support until the obligor moves to modify child support. If an obligor wants an existing child support obligation to be reduced on account of derivative Social Security benefits paid to the obligee for a joint child, the obligor must bring a motion to modify the existing child support order. The child support obligation then must be recalculated, but any resulting modification is retroactive only to the date of service of notice of the motion to modify.	RSDI, Modification, arrears, medica expenses, support guidelines.

In re Ochu v. Tomas, No. A09-1316, 2010 WL 1286903 (Minn. Ct. App. Apr. 6, 2010): A parent is liable to state and county agencies for public assistance provided to and on behalf of the parent's child, including amounts provided to the child's caretaker, that the parent has had the ability to pay. Minn.Stat. § 256.87, subd. 1. An agency may suspend collection of arrears so long as the parent is living with the child in the same household and the gross household income is less than 185% of the federal poverty level. The court may suspend charging of interest if a statutory condition is met.	Suspension of arrears payments when child(ren) live with obligor.

II.P.3. - Generally	
Minn. Stat. ' 518A.60 - collection of arrears and past pregnancy and confinement expenses.	
Kinsella v. Kinsella, 181 NW 2d 764 (N.D. 1970): The parties remarriage to each other does not nullify child support arrearages that accrued from the time between entry of the divorce decree and remarriage. (See also: Root v. Root, 774 SW 2d 521 (Mo. Ct. App. 1989). But see a different outcome in Ringstrom v. Ringstrom, 428 NE 2d 743 (1981).)	Remarriage Does not Extinguish Arrears
Weinand v. Weinand, 175 NW 2d 506 (Minn. 1970): In independent action brought by mother for accrued arrearages, it was immaterial whether father was able to pay in first instance and despite such inability mother was entitled to judgment for accrued payments.	In Action for Judgment, Ability Irrelevant
Barth v. Barth, 356 NW 2d 743 (Minn. App. 1984): No finding of ability to pay required for judgment for support arrears.	Action for Judgment
March v. Crockarell, (Unpub.), C1-00-1260, F & C, filed 2-6-01 (Minn. App. 2001): The provision of Minn. Stat. ' 548.091, Subd. 1a providing that interest accrues on arrears from the date the unpaid amount is due applies to all arrears, including arrears that accrued prior to the effective date of the statute. The earlier version of the statute (1992) which required a docketed judgment has no relevance to an action commenced after the effective date of the amended statute.	Calculation of Interest
In Re the Matter of Washington v. Anderson, A05-2338, filed October 24, 2006 (Minn. App. 2006): The district court erred when it retroactively increased appellant's support obligation and, simultaneously, deemed the amount due for the period covered by the retroactive increase to be unpaid arrears and awarded judgment in favor of the respondent for those "arrears." Because no amount of "past support" was contained in the support order of the parties and because it was unclear whether the court set payment terms for "past support," no "arrears" existed as defined by Minn. Stat. 518.54 subd. 13 (2004). Therefore, Court reversed the award to respondent of the judgment for "arrearages."	Arrears do not exist where a retroactive modification is granted and no "past support" is owed.
In re the Marriage of Jeffrey J. Pierson v. Janell H. Johnson and Dakota County, intervenor, (Unpub.), A06-603, Dakota County, filed January 23, 2007 (Minn. App. 2007): Extrajudicial agreements between the parties may do not necessarily relieve the obligor of the obligation to pay.	Separate agreements between the parties may not relieve the obligor of their support obligation.
Fischer v. Fischer, A06-1656, Filed July 24, 2007 (Minn. App. 2007): The district court erred in ordering automatic re-instatement of prior obligations when the Obligor lost his long-term employment and there was no evidence that he would be able to earn the same pay when returning to the workforce. The Court of Appeals found that auto-reinstatement of the child support and spousal maintenance obligations was inappropriate because the court could not know what the income of the Obligor would be when he returned to work and re-instatement with an amount inconsistent with income would not conform with Child Support Guidelines.	AUTO-REINSTATE-MENT: auto-reinstatement of a prior order is inappropriate where the prospective earning ability of the Obligor is unknown
In re the Marriage of Carole V. Marx, petitioner, Respondent vs. Robert B. Marx, Appellant, and County of Anoka, intervenor, Respondent, (Unpub.), A06-1678, Anoka County, filed July 31, 2007 (Minn. App. 2007): Appellant contends he waited 8 years after his release from incarceration to move to modify because he believed his child support obligation had terminated with the emancipation of his child, and no arrears action had been brought. Emancipation does not avoid accrued child support arrearages. M.S. § 518.6195(a) provides that the same remedies to collect ongoing support are available to collect arrearages.	Emancipation does not avoid accrued child support arrearages.

Carroll v. Boeltl, (Unpub.), A07-1349, filed 1/2/2008 (Minn. App. 2008): Appellant mother argues the court abused its discretion to order judgment for her for the amount of her overpayment of past child support. Minn. Stat. 518A.52(1) requires overpayments to first be applied to reduce any arrears, then (2) used to reduce obligor's future child support payments. The lower court abused its discretion only in that the court reduced the future child support to $0 until the overpayment was eliminated; the statute requires the reduction of future child support be limited to 20% of the obligor's child support obligation. Therefore, obligor's child support of $590 should be reduced to $472 per month until the overpayment has been fully credited.	Overpayment of child support; first apply to arrears, then reduce current obligation by no more than 20% until overpayment eliminated.
Kast vs. Kast, (Unpub.), A07-1567, F & C, filed March 4, 2008 (Minn. App. 2008): Because the district court's calculation of appellant's child support arrears is supported by sufficient evidence in the record and is authorized by Minn. Stat. §518.131, subd. 9(b), it is not an abuse of discretion. Affirmed.	Child support arrears
Bauerly v. Bauerly, 765 N.W.2d (Minn. Ct. App. 2009):. On second appeal, the appellate court reversed and remanded, determining that the district court abused its discretion by failing to correct obligation as to the date of the dissolution, and the disctrict court should address how Appellant would be compensated for verpayments. Because the father over paid in child support he sought equitable relief in the form of reduction in his future payments. The issue on appeal was whether Minn. Stat. § 518A.52, mandate equitable relief be granted. Minn. Stat. § 518A.52, which states that a public authority shall compensate an obligor for overpaid support through reducing debts and arrearages owed to the oblige and by reducing future support, constitutes a mandate only as to the public authority and does not limit a district court's inherent power to grant equitable relief. Because a district court has inherent equitable powers in marriage dissolution cases, a district court may, in its discretion, order compensation for overpaid support.	Reimbursment, Arrearages.
Gomes v. Meyer, (Unpub.) No. A17-2027, WL 5116991 (Minn. Ct. App. Oct. 22, 2018): Under Minn. Stat. § 518C.604(a)(2), the computation of arrearage and accrual of interest on the arrearages under a support order are governed by the law of the issuing state.	Arrears; UIFSA – Choice of Law
Kriesel v. Rossman, A19-0712, 2019 WL 7287079 (Minn. Ct. App. Dec. 30, 2019): Income from the joint ownership of a partnership or closely held corporation is treated as self employment income under 518A.30. Unearned income tax credits are not considered income where there is lack of evidence that they were periodically received. Expenses allowed by the IRS may not be allowed when determining income for child support. Additonally, courts need to consider all voluntary payments in the record when calculating retroactive support; the retroactive support awarded is not considered arrears until it is not paid when due.	Income Determination; Tax Return; Self-Employment

II.Q. - PERCENTAGE / GUIDELINES ORDERS VS. AMOUNT CERTAIN	
Ed.Note: Modification standard applies to change a percentage formula to a set dollar amount (Allan), but not required to change a guidelines order to a set dollar amount (Keil). Minn. Stat. ' 518A.39, Subd 2(b)(4) - percentage orders rebuttably presumed to be unreasonable and unfair.	
Cavegn v. Cavegn, 378 NW 2d 636 (Minn. App. 1985): In case where previous order required child support of one-quarter of obligor's net pay, obligor cannot avoid responsibility by voluntary unemployment, and child support arrearages must be assessed from date of employability.	Voluntary Unemploy-ment and Percentage Order
Keil v. Keil, 390 NW 2d 36 (Minn. App. 1986): Public policy favors setting child support at a specific amount. If support was previously set "pursuant to Minn. Stat. ' 518.55, Subd. 5," court shall derive specific amount on a party's request.	Specific Figure
Baumhafer v. Baumhafer, 394 NW 2d 217 (Minn. App. 1986): Setting support at $100.00 or guidelines, whichever is greater, was not a departure and was appropriate.	$100.00 or Guidelines
Herrley v. Herrley, 452 NW 2d 711 (Minn. App. 1990): The amount of ongoing reimbursement obligation under Minn. Stat. ' 256.87 must be specifically stated rather than allowing for automatic increases, according to statutory guidelines, as income increases.	Specific Calculation
In Re the Marriage of Allan v. Allan, 509 NW 2d 593 (Minn. App. 1993): A child support obligation may be changed from a percentage formula to a specific dollar amount only upon a showing of a substantial change in circumstances that makes the prior order unreasonable and unfair.	Percent to Dollar Amount
Desrosier v. Desrosier, 551 NW 2d 507 (Minn. App. 1996): The right of children to enjoy the standard of living they would have enjoyed were their parents together transcends policy favoring support in set dollar amount, and therefore annual variable bonuses should have been included in the child support computation even if it prevented the court from setting support in an amount certain.	Annual Bonuses
Hassan v. Hassan, (Unpub.), C4-98-1140, F & C, filed 11-24-98 (Minn. App. 1998): Where the 1989 J&D required obligor=s child support obligation to be revised automatically each year so as to comport with the child support guidelines, based on annual tax returns, the maximum net income to which the guidelines would apply was the 1989 statutory limit, not the 1993 limit. This is because the language in the decree contemplated changes in income, but not changes in the guidelines.	Effect of Changes in Guidelines Statute on a Guidelines Order
Spaeth v. Spaeth, (Unpub.), CA-1216-99, F & C, filed 11-23-99: Obligor had percentage order, and provided CP with pay check stubs as well as payments. Child support payments were computed on straight time, and did not include overtime and did not include tax refunds. District court erred when it determined that CP and county waived any claim for arrearages by accepting and cashing the payments. (1) There can be no waiver without an actual or implied intent to waive; (2) Any agreement between parents waiving child support is not binding on the court as child support relates to the non-bargainable interests of children (citing Aumock, 410 NW 2d at 421).	No Waiver of Arrears Where CP Accepted Payments not Knowing they were not the Full Amount Owed
Cariolano v. Cariolano, (Unpub.), C1-00-142, F & C, filed 9-19-00 (Minn. App. 2000): J&D required obligor to pay child support in the amount of 30% of his net income, with reduction of 5% upon emancipation of each child, and made no mention of the statutory cap under the child support guidelines. Court of appeals determined that the cap did not apply: (1) the order was unambiguous and therefore not subject to interpretation; (2) the order was not in accordance with the statutory guidelines; and (3) obligor waived right to any downward adjustment in support and reserved COLA; all of which are inconsistent with a Aguidelines@ order and therefore cap does not apply.	CAP did not Apply to a Non-Guidelines Order
Williams n/k/a Fischer v. Williams, 635 NW 2d 99 (Minn. App. 2001): 1993 J & D had set support at 30 percent of obligor's weekly income, and further provided that if obligor failed to meet his obligation, obligee could seeks an order in a set dollar amount. District Court found obligor was not in arrears, found no change of circumstances, and denied obligee's motion to set support in a set dollar amount. Because court did not consider the rebuttable presumption that there is a substantial change when child support is in the form of a percentage under Minn. Stat. ' 518.64, Subd. 2(b)(4), a provision which was enacted subsequent to the 1993 J & D, the case was remanded for the court to consider the effect of the statutory presumption.	Minn. Stat. ' 518.64, Subd. 2(b) (4) Applies to Modification of J & D Entered Before Statute's Effective Date

Williams n/k/a Fischer v. Williams, 635 NW 2d 99 (Minn. App. 2001): Obligor with a percentage order based on net weekly income was not required to pay a percentage of his tax refunds, where there was no allegation that he was over-withholding for the purpose of decreasing his weekly income, and thus reducing his support obligation.	Not Required to Pay % of Tax Refunds
Dally n/k/a McDaniel v. Dally, (Unpub.), C0-01-1065, F & C, filed 3-19-02 (Minn. App. 2002): Where J & D provided that father's support obligation to mother would be set at 35% of his income upon high school graduation of child in father's custody, upon motion to establish father's new obligation, CSM correctly established new support amount retroactive to the graduation date, even though that predated service of the motion. Computation of a specific sum based on a percentage order does not constitute a modification.	Retroactive Establish-ment of Dollar Amount Allowed
Frazier v. Frazier, (Unpub.), C8-02-871, F & C, filed 12-17-02 (Minn. App. 2002): In 1998 district court ordered non-custodial parent to pay guideline child support retroactive to 1997. Non-custodial parent paid nothing. In 2001, on county's motion to modify, CSM properly: 1) set ongoing support in a set dollar amount, and 2) calculated arrears back to 1997, based upon wages while working full-time, and based on imputed income when working less than full-time.	Retroactive Imputation of Income on Guidelines Order
Maverick v. Lucec, (Unpub.), AO3-36, filed 11-25-03 (Minn. App. 2003): Where court made findings regarding the anticipated increase in obligor's income and appellant's income fluctuations percentage order was justified. Must show how percentage order serves best interests of child.	Percentage Order Allowed
Harms v. Harms, (Unpub.), A03-1360; filed 5-11-04 (Minn. App. 2004): Trial court properly established child support in a fixed dollar amount based on a net income that included bonus income. Father had argued that court should set support in a fixed amount based on guaranteed income, plus a percentage of bonus income, as was done in Novak, 406 NW 2d 64, 68 (Minn. App. 1987). But set dollar amount orders are preferable to percentage orders.	Treatment of Bonus Income
Ellsworth v. Bastyr, (Unpub.), A04-365, F & C, filed 1-18-05 (Minn. App. 2005): Where court ordered obligor to pay 35% of his net monthly income for child support, and the child support office continued to charge the dollar amount based on 35% of the income obligor had had at his previous job, after he was no longer employed there, district court was ordered to re-calculate arrears during the period at 35% of either the obligor's actual net monthly income or his approximately imputed income.	Calculation of c/s obligation under a % order when obligor is unemployed or under-employed.

II.R. - INTERSTATE (See also Part I.D.5.)	
II.R.1. - UIFSA / FFCCSO	
Uniform Interstate Family Support Act, Minn. Stat. ' 518C; Full Faith and Credit for Child Support Orders Act, 28 U.S.C. ' 1738B(2000).	
V.G. v. Fredrick Bates, (Unpub.), C8-96-1654, F & C, filed 4-15-97 (Minn. App. 1997): The Full Faith and Credit for Child Support Orders Act, 28 USC ' 1738 (B) (FFCCSO Act) requires the appropriate authorities of one state to enforce the child support order of another state mode consistently with the terms of the act and may modify the order if no other state has CEJ because the state is no longer the residence of the child or any contestant and the new state has jurisdiction under ' 1738B(e).	FFCCSO Act
V.G. v. Fredrick Bates, (Unpub.), C8-96-1654, F & C, filed 4-15-97 (Minn. App. 1997): In this case, original order was California order. At time of modification, none of the parties resided in California. AP resided in Texas. CP and children resided in N.Y. When CP brought modification action in Texas, Texas court had subject matter jurisdiction under Texas law and Texas had personal jurisdiction over CP, even though she did not live in Texas, because she submitted herself to Texas jurisdiction by bringing suit in Texas Court. Creavin v. Moloney, 773 SW 2d 698, 703 (Tex. App. 1989) CEJ continued in Texas even when CP and children moved from N.Y. to Minn. because a contestant (AP) continued to live in Texas.	Personal and Subject Matter Jurisdiction over Non-Resident Petitioner; "Contestant" Defined
V.G. v. Fredrick Bates, (Unpub.), C8-96-1654, F & C, filed 4-15-97 (Minn. App. 1997): The FFCCSO Act sets guidelines by which states can determine jurisdiction to order a modify child support obligations. In so doing Congress/the Supremacy Clause are not pre-empting state law, because the substantive aspects of child support are left to the state.	28 USC ' 1738B does not Pre-empt State Law because it is Procedural not Substantive
V.G. v. Fredrick Bates, (Unpub.), C8-96-1654, F & C, filed 4-15-97 (Minn. App. 1997): ' 1738B, passed in October 1994, can be applied to an April 1994 order because Texas courts had continuing jurisdiction over the child support order at the time '1738B was passed. See Isabel M. v. Thomas M, 624 N.Y.S. 2d 356, 361 (Fam. Ct. 1995) which held that '1738B was not applied retroactively when the matter was still pending when the act was passed.	Retroactive Application of FFCCSO
V.G. v. Fredrick Bates, (Unpub.), C8-96-1654, F & C, filed 4-15-97 (Minn. App. 1997): Because Texas court had CEJ due to AP's continued residence in Texas, Minnesota court did not have jurisdiction over the case, but rather than dismissing it, should have transferred CP's petition to Texas under Minn. Stat. ' 518C.306.	Forwarding of Pleadings to Appropriate Tribunal
V.G. v. Fredrick Bates, (Unpub.), C8-96-1654, F & C, filed 4-15-97 (Minn. App. 1997): A court may, but is not required to waive petitioner's filing fees and costs in an interstate child support matter. It is also left to the court's discretion whether to assess the prevailing obligee's costs, fees, and attorney's fees against the obligor.	Costs and Filing Fees
Cooney v. Cooney, 150 Ore. App. 323, 946 P.2d 305 (1997): Duration of support under UIFSA is governed by the law of the issuing state. Obligor continues to pay support, as modified by responding state, but support terminates according to age of majority in the state where the J&D was issued.	Duration of Support Under UIFSA
Welsher v. Roger, 491 SE 2d 661 (N.C. App. 1997): Under UIFSA and FFCCSO, duration of support is governed by the issuing state. This case compares differences between UIFSA and URESA.	Duration of Support Under UIFSA
King v. State of Arkansas, Office of Child Support Enforcement, 952 SW 2d 180 (Ark. 1997): A Nevada order was registered for enforcement in Arkansas. The two states have a different statute of limitations for enforcement of arrears. The Arkansas appellate court held that pursuant to UIFSA's choice of law provision in section 604, Arkansas must apply the longer of the statute of limitations between Arkansas and Nevada.	Applicable Statute of Limitations for Enforcement of Arrears Under UIFSA
Fitzhugh v. Dupree, 1997 Va. App. Lexis 694 (1997): In this case, the Virginia court held that the applicable statute of limitations for enforcement of arrears was the S/L in the law of the issuing state (state of the J&D).	Applicable S/L for Enforce-ment of Arrears under UIFSA
Jones v. Jones (Paula v. Alphonso), (Unpub.), C3-98-593, F & C, filed 8-4-98 (Minn. App. 1998): Petitioner may choose to file suit in respondent=s state of residence without implicating UIFSA under ' 201 cmt., 9 U.L.A. 345.	Alternatives to UIFSA

Jones v.Jones (Paula v. Alphonso), (Unpub.), C3-98-593, F & C, filed 8-4-98 (Minn. App. 1998): A state does not satisfy requirements for continuing exclusive jurisdiction if its decree was void due to lack of jurisdiction.	CEJ Requires Jurisdiction
Office of Child Support Enforcement v. Cook, 60 Ark. App. 193 (filed 1-28-98): Where CP in CEJ state (Florida) registered order in NCP=s state (Arkansas) for enforcement, non-CEJ state (Arkansas) could not modify the Florida Order.	Registration in Non-CEJ State for Enforce-ment Does Not Allow Mod.
In Re Marriage of Carrier, 1998 Iowa Sup. Lexis 40 (filed 3-25-98): Where NCP resides in issuing state, and parties have not stipulated to shift jurisdiction, issuing state has CEJ, and CP must seek modification in the CEJ state.	Non-CEJ State Cannot Modify Order
Franklin v. Virginia, 497 SE 2d 881 (Va. Ct. App. 1998): Family resided in Africa. Obligor ordered family out of their home, and they returned to State of Virginia. Virginia had jurisdiction to establish child support under ' 201(5) of UIFSA, even though obligor did not command family to move to a specific geographic location.	Long Arm Jurisdiction Found as Result of Acts of Obligor
Windsor v. Windsor, 700 NE 2d 838 (Mass. App. Ct. 1998): Interpreting ' 201(5) of UIFSA, Mass. Court ruled that in order for state where mother and child live to have jurisdiction to establish child support over non-resident father, facts must show that the mother and children "fled" from the state where obligor lives. It was not enough that custodial parent filed for divorce based on cruel and abusive treatment.	Long Arm Jurisdiction Not Found as Result of Acts of Obligor
Kasdan, f/k/a Berney v. Berney, 587 NW 2d 319 (Minn App. 1999): Order - State of Virginia; CP - lives in Arizona with children; NCP - lives in Dakota County, Minnesota 3-5-98 CP requested an Auncontested administrative modification@ in Dakota County. 3-25-98 CP requested registration of Virginia Order in Dakota County Court under ' 518C.602, but made no request for enforcement or modification. 3-30-98 Dakota County notified NCP of registration under ' 518C.605. 4-22-98 NCP filed a petition for modification of child support in Arizona. 6-5-98 a) NCP petition served on CP. b) Dakota County denied CP's modification request. c) CP made a motion in Dakota County District Court for enforcement and modification of the Virginia support order. Decision: Arizona has CEJ: (1) Registration of support order in Minnesota did not confer CEJ. (2) Neither notice of registration nor an administrative request for enforcement and modification of the support order is a petition or comparable pleading under ' 518C.204. (3) NCP's motion filed in Arizona before CP's motion filed in Minnesota. (4) Because Minnesota not home state of children, no CEJ under ' 518C.204(a)(3).	Neither Request for Adm. Action or Registration of a Foreign Order Confer CEJ
Rivera v. Ramsey County, 615 NW 2d 854 (Minn. App. 2000): Where a party seeks to modify an obligor's foreign child support order under the Full Faith and Credit for Child Support Orders Act, 280 U.S.C. ' 1738B, the order must be registered first. Further, the county seeking a support order must obtain one by modifying the registered foreign order pursuant to ' 518C, and may not establish a new support under ' 256.87. By not registering the Puerto Rican order and not seeking to modify that order as provided in Chapter 518C, the county has attempted to circumvent the intent of Congress and the Minnesota Legislature and to have this state's court ignore the full faith and credit owed to judicial proceedings of another jurisdiction.	' 256.87 Action to Establish Where There is a Foreign Order Entitled to Full Faith and Credit
Grave v. Shubert and Polk County, (Unpub.), C5-00-399, F &C, filed 8-29-00 (Minn. App. 2000): Minnesota order was registered in England. English court reduced child support and forgave arrears. But because mother and child continued to live in Minnesota, Minnesota continues to have CEJ, and English law, because it permitted modification in this case, does not have a law substantially similar to Minnesota's, Minnesota did not lose CEJ, and the English modification is not effective. See ' 518C.205(a)(1) and (c) (1998), and ' 518C.612 (1998).	English Law Not Substan-tially Similar

Stone v. Stone, 636 NW 594 (Minn. 2001): Under UIFSA, a precondition for registration for enforcement of a foreign child support is that there are alleged arrearages. A precondition for modification is that the petitioner cannot be a resident of Minnesota.	Interstate UIFSA; Precond. for Registration
Clark v. Clark, (Unpub.), C4-02-141, F & C, filed 7-30-02 (Minn. App. 2002); Minnesota courts had subject matter jurisdiction to modify the child support provisions of a Minnesota J&D. Minnesota retained CEJ even though NCP moved outside Minnesota and instituted an action in another state to re-open the Minnesota J&D. Because the other state neither modified the Minnesota child support order, nor issued an intervening order, Minnesota did not lose CEJ under either 518C.205(d) or 518C.207(b).	CEJ
Gowdey v. Gowdey, (Miss.App. 2002) 2002 WL 1969854: Parties divorced in Texas, and CP moved to Mississippi. Even though NCP lived in Mississippi for a year, Texas did not lose CEJ, since NCP did not change residency (DL, voter reg.,etc.).	Residency
Marriage of Riggle, 52 P.3d 360 (Kan. App. 2002): Parties divorced in Missouri. Both parties moved to Kansas and order was registered for modification by NCP in Kansas. Missouri law controls on whether duration of support is modifiable.	Duration of Support
Walton v. State ex rel. Wood, 50 P.3d 693 (Wyo.2002): Parties divorced in Idaho in 1987. CP moved to Utah and NCP moved to Wyoming. In 1997, Utah established a child support order. By submitting written pleadings and a stipulation in the Utah case, NCP agreed for Utah to assume CEJ.	Intervening Order
Beam v. Beam, 2002 WL 1331989 (Ohio App., June 14, 2002): Kentucky divorce determined children were born of the marriage, but that it had no personal jurisdiction over NCP to establish support. Ohio, home state of NCP, allowed NCP to establish defense that Kentucky lacked personal jurisdiction to determine parentage, and get genetic tests if successful.	Challenge of Personal Jurisdiction
Porro v. Porro, (Unpub.), C3-02-647, F & C, filed 11-26-02 (Minn. App. 2002): (UIFSA) J&D in Massachusetts. Custodial parent and child move to Minnesota. Non-custodial parent moves to Nebraska. Custodial parent registers J&D in Minnesota. Court did not provide non-custodial parent notice of registration. Custodial parent filed motion to modify. Non-custodial parent filed responsive motions, requested two continuances, and took part in the hearings before a CSM. Through these acts, non-custodial parent consented to jurisdiction in Minnesota. The court had no duty to inform him of jurisdictional requirements.	Consent to Personal Jurisdiction
In Re Paternity of M.R., 778 NE 2d 861 (Ind. App. 2002): Dad filed paternity action in Indiana, and one week later, mom filed paternity action in Georgia. Geogia action trumped Indiana action because: (1) Georgia is the home state of the child (See Minn. Stat. ' 518C.204(a)(3)), and (2) action had custody/UCCJA issues over which Indiana had no subject matter jurisdiction.	Simultaneous Actions
Schroeder v. Schroeder, 658 NW 2d 909 (Minn. App. 2003): 1998 CA divorce granted Dad custody, ordered Mom to pay c/s. Child moved to MN with mother. Dad still in CA. In April 2002, mother registered the CA order in MN under UCCJEA and brought motion to modify CA order by granting her physical custody of child and terminating her support obligation. MN district court erred when it accepted jurisdiction. MN lacked jurisdiction under UIFSA, for two reasons: Dad still lives in issuing state and Mom, as the person petitioning for modification, cannot file MTM in MN. Minn. Stat. ' 518C.611(a)(1)(i)-(ii). See Rivera v. Ramsey County.	Lack of Subject Matter Jurisdiction
Schroeder v. Schroeder, 658 NW 2d 909 (Minn. App. 2003): Under the Full Faith and Credit for Child Support Orders Act, 28 U.S.C.' 1738B(2000), a party seeking to modify a support order in another state may only register the order for modification if there is no individual contestant or child residing in the issuing state.	Jurisdiction Under FFCCSO
Schroeder v. Schroeder, 658 NW 2d 909 (Minn. App. 2003): Failure to challenge registration of CA J&D did not bar subsequent challenge of subject matter jurisdiction, since lack of subject matter jurisdiction may be raised at any time, including for the first time on appeal. Minn. R. Civ. P. 12.08(c) Cochrane v. Tudor Oaks Condo. Project, 529 NW 429, 432 (Minn. App. 1995). Also, party cannot confer subject matter jurisdiction to district court either by waiver or consent. Hemmesch v. Monitor, 328 NW 2d 445, 447 (Minn. 1983).	Subject Matter Jurisdiction Cannot be Waived
Schroeder v. Schroeder, 658 NW 2d 909 (Minn. App.2003): A party cannot register a child support order for enforcement under UIFSA if there are no arrears.	Registration for Enforcement

People ex rel. A.K., 2003 WL 124400 (Colo. App., Jan. 16, 2003) (NO. 02CA0554): NCP in CO, CP in Russia. HELD: CO can establish order for applicant residing in Russia; CO guidelines may need deviation.	Russian Obligee
State, ex rel. Dept. of Economic Sec. v. Burton, 66 P3d 70, 2003 WL 1845404 (Ariz. App. Div. 1, Mar. 13, 2003) (NO. 1 CA-CV 02-0497): 1997 MN child support order; CP moved AZ, NCP moved to CA. HELD: NCP request for MOD in AZ is consent to personal jurisdiction for enforcement.	Mod State Can Enforce
McNabb, ex rel. Foshee v. McNabb, 65 P3d 1068, 2003 WL 1786825 (Kan. App., Apr. 4, 2003) (NO. 88,086): CP lives in KS; NCP lives in VA. HELD: KS does not have personal jurisdiction per UIFSA for support - one incident of physical abuse more than one year before move is NOT "act or directive."	Act or Directive
New Hanover County v. Kilbourne, 578 SE 2d 610, 2003 WL1903374 (N.C. App., Apr. 15, 2003) (NO.COA01-1521): Where there was a 1989 OR c/s order and 1992 NC URESA order, there is no controlling order since the child has emancipated; arrears under both valid pre-UIFSA/FFCCSOA orders with simultaneous accrual and credit.	No Controlling Order
Crosby & Grooms, 116 Cal. App. 4th 201, 10 Cal. Rptr. 3d 146 (Cal. App. 1 Dist. Feb. 26, 2004): Parties divorced in Idaho, and agreed Idaho law would govern. CP moved to Oregon. NCP moved to California. Mod. case brought in CA under UIFSA. Held: Choice of law agreement in J&D against public policy; CA law governs support amount in modification case; use of OR guidelines not a proper deviation.	Support Guidelines of Respond-ing State Controls
Porro v. Porro, 675 NW 2d 82 (Minn. App. 2004): Allegation of arrears sufficient for registration-evidence of actual arrears not required (citing Stone, 636 NW 2d 596).	Registration-Allegation of Arrears
Porro v. Porro, 675 NW 2d 82 (Minn. App. 2004): If the obligor fails to contest the registration in a timely manner, the registration is confirmed by operation of law, and confirmation precludes further contest of the order with respect to any matter that could have been asserted at the time of registration. Minn. Stat. ' 518C.608.	Registra-tion-no Challenge after Confirmation
Porro v. Porro, 675 NW 2d 82 (Minn. App. 2004): Where J&D was in MA, CP moved to MN and NCP moved to NE, and CP registered order in MN and filed motion for modification, court of appeals held that Minnesota lacks subject matter jurisdiction to modify a foreign child-support order when the petitioner is a MN. resident and the other parent lives elsewhere, unless the parents have filed written consents in the Minnesota courts to modify the order and assume CEJ over the order. Minn. Stat. ' 518C.205(a); Minn. Stat. ' 518C.611(a)(2) (CEJ by consent); Minn. Stat. '518C.611(a)(1)(unless both parties are residents of new state (518C.613(a)), petitioner for modification must be nonresident).	No Subject Matter Jurisdiction to Modify Foreign Order
Porro v. Porro, 675 NW 2d 82 (Minn. App. 2004): Minn. Stat. ' 484.702 does not confer jurisdiction in expedited process over UIFSA case where subject matter jurisdiction requirements of Minn. Stat. ' 518C.611 are not met.	Jurisdiction in Ex pro over UIFSA Modifica-tion
Department of Revenue v. Cuevas, 862 So. 2d 810 (Fla. App. 4 Dist. 2003): Registration is complete upon filing, and cannot be dismissed based upon defective notice. Tribunal, not child support agency, is responsible for proper service of notice and assuring it is done and documented properly.	Notice of Registration
Gladis v. Gladis, 856 A. 2d 703 (Md. 2004) (Maryland Court of Appeals, August 24, 2004): A trial court establishing a child support obligation for a child that lives in another jurisdiction may not deviate to account for the lower cost of living in the child's jurisdiction.	Lower Cost-of-Living Where Child Lives not a Basis for Deviation

Office of Child Support ex rel. Lewis v. Lewis, 882 A.2d 1128, (Vt. Dec 23, 2004) (NO. 2003-354): NCP lived in VT. Action by VT IV-D at req of IA IV-D. HELD: Absent prior proceeding in IA to establish PA debt and NCP's repayment obligation, VT lacked jurisdiction to issue VT CS order to repay debt because [1] VT law re: repay of PA only applies to VT PA, [2] VT has no assignment of CP rights, and [3] UIFSA does not confer addl jurisd. IA did not follow IA law re: recoup of PA debt. VT IV-D could not file UIFSA in VT per § 301(c) - can only initiate to another state or file direct in another state [no mention of § 307].	Responding Tribunal Cannot Order Re-payment of Initiating State's Past PA, if Initiating State has not Established the Amount of the Debt
Hines v. Hines, (Unpub.), A04-691, F&C, filed 12-28-04 (Minn. App. 2004): Parties divorced in Illinois, but both parties and the child subsequently moved to Minnesota. Appellant's prior motion in the Illinois court to transfer jurisdiction over child support to Minnesota based on *forum non conveniens* was denied by the Illinois Court. Appellant later brought a motion in the Minnesota Court asking Minnesota to assume subject matter jurisdiction for child support modification under Minn. Stat. § 518C.613(a)(2002). The lower court denied his motion based on its determination that the Minnesota court must give full faith and credit to the Illinois order denying appellant's motion to transfer jurisdiction of the child support issue. The court of appeals reversed. The court of appeals held that because Appellant never raised the issue of subject matter jurisdiction in the Illinois court, rather basing his motion on *forum non conveniens*, the Illinois Court did not consider and did not rule on whether it had subject matter jurisdiction, and thus there is no order in which Illinois determines that it continues to have subject matter jurisdiction to which the Minnesota Court must give full faith and credit. Thus, under § 518C, since both parties and the child now live in Minnesota, Minnesota properly has subject matter jurisdiction to modify the Illinois Child Support Order.	Minnesota Court that has Subject Matter Jurisdiction to Modify Child Support under 518C does not have to defer based on Full Faith and Credit to Illinois Court Order Refusing to Transfer the Case to Minnesota, since that Court did not Address Subject Matter Jurisdiction
In re Marriage of Malwitz, 99 P. 3d. 56 (Colo. 2004): The Colorado Supreme Court ruled that the Colorado court had personal jurisdiction over nonresident NCP under UIFSA. NCP's abuse of mother was the "act" that caused CP to flee Texas and move to Colorado, where her family lived. Two harassing phone calls to CP's dad in CO were sufficient "minimum contacts". NCP could have reasonably foreseen that CP would go to Colo. and apply for public assistance. (See Minn. Stat. § 518C.201(5) which confers jurisdiction if the child resides in the state due to the acts or directives of the individual.).	Domestic Abuse gives Basis for Personal Jurisdiction over Non-Resident
Cresenzi v. Cresenzi, (Unpub.) 2004 WL 2668272, 2004 LEXIS 3172 (Conn. Super. Oct. 26, 2004) (NO. 6470413): Macedonia CP attempted to register Macedonia child support order in Connecticut, where NCP lived, pursuant to UIFSA. HELD: The Connecticut court can recognize and enforce a foreign support order under principals of comity or "mutual respect," even if the county has not been recognized by the U.S. State Department or the state's attorney general, as long as the court determines that the foreign jurisdiction sufficiently meets the standard of substantially similar procedure. In order for the Connecticut court to make this determination the Registration must include a copy of Macedonia's law providing a similar procedure to UIFSA (e.g., Macedonia's law must allow an American to establish and enforce support in Macedonia.) Also, the registration would need to include Macedonia law regarding the nature, extent and duration of support in Macedonia, since the Connecticut court would have to apply Macedonia law on those issues. Registration was dismissed without prejudice since the Macedonia law was not included. [Ed. Note: This case is unpublished, but it provides and excellent discussion of ways to pursue enforcement of foreign support orders.]	Enforcement of Support Orders of Foreign Country Requires Substantially Similar Procedure in Foreign Country's Laws.

Hennepin Cnty. v. Hill, 777 N.W.2d 252 (Minn. Ct. App. 2010): Parties were married for 10 years and their marriage was dissolved by a Mississippi court order. Father was ordered to pay child support until the youngest child emancipated, which under Mississippi law was 21 years old. Mother moved to Minnesota in 1992 and Father moved to Minnesota in 2003. The Mississippi child support order was registered in Minnesota for enforcement and modification. Subsequent orders modified the father's child support obligation pursuant to Minnesota law. Father moved to terminate his support obligation when the youngest child turned 20 years old and the CSM denied his motion. The District Court applied UIFSA as codified in Minnesota, and affirmed the CSM's denial concluding Mississippi law would not allow duration of the Father's child support obligation to be modified. The Court of Appeals stated the text of Minn. Stat. §518C.611 is subject to more than one reasonable interpretation because the language is ambiguous. If the provision in a uniform law is ambiguous, the court should examine any drafters notes. The court applied the Comment to section 611 of UFISA, which states if an aspect of a child support obligation may bot be modified under the law of the state that first imposed the obligation, that aspect of the obligation may not be modified under the law of any other stat. Minn. Stat. §518C.611 does not allow modification of any aspect of a child support order issued by a court of another state if issuing state's law would not allow that aspect of the order to be modified.	Minn. Stat. §518C.611 does not allow modification of any aspect of a child support order issued by a court of another state if issuing state's law would not allow that aspect of the order to be modified.
Block v. Holmberg, (Unpub.), A04-942, F & C, filed 1-18-05 (Minn. App. 2005): Minnesota court erred in modifying a Texas child support order registered in Minnesota, where the person requesting modification lives in Minnesota and the other party is still a resident of Texas, due to lack of subject matter jurisdiction under UIFSA.	No subject matter jurisdiction
Block v. Holmberg, (Unpub.), A04-942, F & C, filed 1-18-05 (Minn. App. 2005): Court can take judicial notice that the other state has enacted UIFSA.	Judicial notice
Block v. Holmberg, (Unpub.), A04-942, F & C, filed 1-18-05 (Minn. App. 2005): The requirements for subject matter jurisdiction under UIFSA and UCCJEA must be analyzed separately. A court cannot confer jurisdiction under UIFSA, contrary to the UIFSA statute, on an argument that the court has ancillary subject matter jurisdiction under UIFSA because it has subject matter jurisdiction under UCCJEA. Citing Schroeder, 658 NW 2d 909, 912 (Minn. App. 2003) and Stone, 636 NW 2d 594, 596 (Minn. App. 2001).	Jurisdiction under UCCJEA does not confer juris. under UIFSA
State of Minnesota and Lara v. Castillo, (Unpub.), A04-1528, F & C, filed 6-7-05 (Minn. App. 2005): Even though the federal government has not designated Mexico as a foreign reciprocating country, the Minnesota court has subject matter jurisdiction to hear a UIFSA action initiated by a Mexican state, when the Mexico state initiating the action has enacted a law or established procedures for issuance and enforcement of support orders that are substantially similar to UIFSA. See Minn. Stat. § 518C.101(s)(2) (2004).	Minnesota Court can hear Petition from a Mexican State that has Child Support Law Substantially Similar to UIFSA
State of Minnesota and Lara v. Castillo, (Unpub.), A04-1528, F & C, filed 6-7-05 (Minn. App. 2005): Even if Minnesota has subject matter jurisdiction under UIFSA over a case, in situations involving simultaneous proceedings, in order to exercise jurisdiction, the court must determine whether Minn. Stat. § 518C.204 (a) or (b) applies. See Hamilton v. Foster, 620 NW 2d 103, 114 (Neb. 2000). The home state of the child is significantly in determining whether Minnesota will exercise jurisdiction. Kasdan, 587 NW 2d at 322,324.	Simultan-eous Proceedings and Exercise of Jurisdiction
Hill v. Hill, (unpub.) A05-781, filed May 4, 2006 (Minn. App. 2006). Per parties' 1990 Mississippi divorce stipulation and order, Mississippi law "shall continue to control" child support. By 2002, both parties and their one remaining minor child lived in Minnesota and Hennepin County effected income withholding. The order was never registered. [Ed. Note: per UIFSA withholding without registration is permissible.] Father moved to modify. Trial court ordered, without objection, that the Mississippi order "is hereby registered." Ct. App. thinks that's a bad way to proceed but no one objected. Per Ct. App. (1) Minn. acquired *continuing exclusive jurisdiction* because both parties and child(ren) resided in Minn. and (2) Minn. retains CEJ so long as a party or child remains in Minn. Further, Minn. law became proper law to apply in those circumstances, notwithstanding Mississippi order as to controlling law.	Choice of Law

Itasca County Health and Human Services, Lynn Florian, nka Lynn Castro vs. Robert W. Cadotte (Unpub.), A05-1569, Itasca County, filed 6/27/06: Under UIFSA, a child support enforcement agency may administratively enforce a support order from another state without registering the order in the enforcing state if the obligor does not contest it. If the obligor contests the enforcement by providing notice to the support enforcement agency, the employer and the person designated to receive the income, then the support agency shall register the order for enforcement. Once the order has been registered, the contesting party may challenge the validity or the enforcement of the order. Itasca County Health and Human Services failed to follow the statutory procedures. In this case, Cadotte properly followed the procedures to contest the administrative enforcement. Itasca County should have registered the order and did not do so. The county must register the order before it can implement income withholding.	UIFSA registration
In Re the Marriage of Mary Kay Clifford vs. Wayne Howard Clifford A05-1465, Hennepin County, filed 6/27/06: The district court erred when it determined that the State of Minnesota lacked exclusive jurisdiction to hear the motion to modify spousal support in the state of Minnesota. The State of Minnesota issued the dissolution order in 1983 and in that order awarded the wife permanent spousal maintenance. The State of Minnesota has retained continuing exclusive jurisdiction, although the State of Indiana and the State of Michigan have taken action to enforce the order. Neither the State of Michigan nor the State of Indiana has continuing exclusive jurisdiction under the UIFSA to modify the original Minnesota spousal support order. The issuing state, the State of Minnesota, is the state with continuing exclusive jurisdiction. The original order cannot be modified by another state. (A support order can be registered in another state for purposes of enforcement, but not for modification.)	UIFSA jurisdiction.
Wareham v. Wareham, 791 N.W.2d 562 (Minn. Ct. App. 2010): Parent's marriage was dissolved and child support was established while mother was living in Minnesota and father was stationed overseas. Mother was receiving then and has, throughout this issue, received IV-D services through the county. Subsequently, mother moved to Kentucky, so neither parent nor any children were living in Minnesota. In 2010, mother moved to modify the existing child support order. At the hearing, the child support magistrate concluded that under UIFSA, Minnesota no longer had continuing, exclusive jurisdiction to modify the CS order, because neither party nor the minor children resided in Minnesota. Mother appealed. MN court of appeals held that according to Minn. Stat. § 518C.205 (a)(2), even though nobody resided in Minnesota, MN still had continuing, exclusive jurisdiction, because the parties never filed written consents with the MN tribunal transferring jurisdiction to another state. "The plain language of Minn. Stat. § 518C.205(a)(2) provides that an issuing Minnesota tribunal retains continuing, exclusive jurisdiction over its child-support order even if none of the parties or their children remain state residents unless all of the individual parties file consents for another state to assume jurisdiction.	Interstate/UIFSA; Child support; Jurisdiction; Modifications
Moyne v. Moyne, No. A13-2077, 2014 WL 1875905 (Minn. Ct. App. May 12, 2014): The parties lived in Minnesota with their two minor children, until the husband, a French citizen, relocated to France. The minor children later moved to France with their father in 2011. The mother filed for a dissolution action in Minnesota in 2011 when the children were with her in Minnesota. Husband challenged the District Court's subject matter jurisdiction, asserting that the wife had not resided in Minnesota for the requisite 180 days before filing a dissolution proceeding. The Court of Appeals affirmed and found that the husband had failed to present sufficient evidence that wife intended to leave Minnesota during the 180 day period before the filing of the dissolution.	Child custody; modification, jurisdiction.

Meikle v. Meikle, No. A10-1816, 2011 WL 1833141 (Minn. Ct. App. May 16, 2011): After the parties separate, mother moved to New Mexico where she gave birth to the joint child. Minnesota district court initially ordered temporary custody and child-support in and order dated 2004 after the parties marriage was dissolved in Minnestoa. Subsequently, in 2007, a New Mexico district court issued a temporary child-support order when Mother filed a petition to establish New Mexico's jurisdiction over custody issues. A Minnesota district court declared that, under UIFSA, Minnesota has continuing, exclusive jurisdication over child support based on the 2004 order. The Court of Appeals affirmed finding that even though the October 2004 Minnesota order was for temporary support, both parties were preset, thus Minnesota obtained continuing, exclusive jurisdiction in 2004. New Mexico thereafter, did not have jurisdiction to establish child support or modify the Minnesota child-support order.	Temporary Support, exclusive jurisdiction.
Moon v. Moon, No. A16-0173, 2016 WL 7337086 (Minn. Ct. App. Dec. 19, 2016): The district court did not err in interpreting a child support order from Massachusetts. The district court did not modify the Massachusetts order but rather interpreted an ambiguous provision in order to enforce the order. Further, the district court did not violate the Fair Faith and Credit for Child Support Act (FFCCSOA) or the Uniform Interstate Family Support Act (UIFSA) by interpreting the meaning of the Massachuetts decision.	UIFSA; Interpretering foreign judgments.
Gomes v. Meyer, No. A16-1015 (Minn. Ct. App. Sep. 5, 2017): The satisfaction of the 20%/$75 threshold under the modification statute creates only rebuttable presumptions and the decision maker is not precluded from ruling that there is (otherwise) a substantial change in circumstances. When a MN court modifies an issuing state's child support order pursuant to the UIFSA, the court applies MN substantive law in calculating a child support obligation. The court must use the spousal maintenance ordered, instead of spousal maintenance actually received in the gross income calculation. The CSM must determine how many joint children there are so the issue of emancipation is one the CSM has to be able to determine.	20%/$75 substantial change; UIFSA, emancipation
Bush v. Link, A23-1027, 2024 WL 2131448 (Minn. Ct. App. 2024): The district court properly declined jurisdiction as an inconvenient forum pursuan to its analysis of Minn. Stat. § 518D.207(b) (2022).	Dissolution of Marriage; Jurisdiction

II.R.2. - URESA / RURESA	
England v. England, 337 NW 2d 681 (Minn. 1983): Submission by plaintiff to jurisdiction of MN court for purposes of recovering child support does not automatically make her subject to custody or visitation claim in MN.	Submission to Jurisdiction
England v. England, 337 NW 2d 681 (Minn. 1983): URESA may be used to determine duty of support even though no prior or pending action affecting marriage, child support, visitation or custody.	No Prior Order
England v. England, 337 NW 2d 681 (Minn. 1983): Deprivation of custody of visitation not proper factor in determining or enforcing interstate support obligation under URESA.	Deprivation of Custody
Matson v. Matson (Matson II), 333 NW 2d 862 (Minn. 1983): Absent petition seeking modification of support obligations imposed by foreign divorce decree and judgment, URESA order in MN court does not modify those obligations.	Modification
McDonnell v. McCutcheon, 337 NW 2d 645 (Minn. 1983): In standard action under URESA, responding court not required to conform support order to the provisions of decree of foreign state, but instead makes independent award based on MN law ...although foreign order may be used as evidence that obligor owes duty of support.	Independent Award
McDonnell v. McCutcheon, 337 NW 2d 645 (Minn. 1983): Where support order has not been registered, it is not properly before the court for either enforcement or modification (prospectively or retroactively).	Registration of Foreign Decree
McDonnell v. McCutcheon, 337 NW 2d 645 (Minn. 1983): Trial court can, in standard URESA action, order payment of past due support to the extent plaintiff can prove the actual amount she had reasonably expended in support of child, but responding court need not grant an award of accrued arrearages arising under foreign order in standard action.	Arrearages
Arora v. Arora, 351 NW 2d 668 (Minn. App. 1984): Full faith and credit clause does not preclude MN from modifying future child support installments required by Wisconsin decree.	URESA
Rudolf v. Rudolf, 348 NW 2d 740 (Minn. 1984): In changed circumstances, a state may modify alimony in face of a sister state's valid decree to the contrary (where parties stipulated to jurisdiction of MN court).	Alimony Modification
Kusel v. Kusel, 361 NW 2d 165 (Minn. App. 1985): Guidelines application in URESA action to establish support even though Judgment and Decree entered prior to effective date of guidelines.	Applicability
Kusel v. Kusel, 361 NW 2d 165 (Minn. App. 1985): Dissolution relevant to URESA only in that it proves duty to support.	Duty to Support
Kusel v. Kusel, 361 NW 2d 165 (Minn. App. 1985): URESA is independent action in which MN domestic law applies.	Independent Action
Faribault-Martin-Watonwan Human Services, ex rel. Jacobson v. Jacobson, 363 NW 2d 342 (Minn. App. 1985): Where URESA order did not expressly modify MN Judgment and Decree, support obligation under decree not modified and arrearages fixed by decree.	No Modifi-cation of J & D
Miller v. Miller (Hildegard v. Charles), 370 NW 2d 481 (Minn. App. 1985): Reliance on the order of another state is not a defense sufficient to forgive arrearages or to forgive arrearages or to modify child support.	Reliance - Foreign Decree
State, ex rel. Meneley v. Meneley, 398 NW 2d 28 (Minn. App. 1986): Guidelines are applicable to intrastate URESA proceedings.	URESA
State, ex rel. Meneley v. Meneley, 398 NW 2d 28 (Minn. App. 1986): Findings required by Moylan not required under URESA proceeding where obligee on public assistance and obligor had increased income.	URESA
Erlandson v. Erlandson, 380 NW 2d 578 (Minn. App. 1986): URESA order does not modify the original order absent a petition for modification; obligor has burden of proving that URESA order modified obligation under MN decree.	URESA
State, ex rel. Mart v. Mart, 380 NW 2d 604 (Minn. App. 1986): Waiver of non- paternity issue in dissolution is *res judicata* in subsequent URESA action.	Res Judicata

State of Minnesota, ex rel. Burgess v. Burgess, 396 NW 2d 690 (Minn. App. 1986): County registers Michigan support order and obligor argues that Michigan court did not have jurisdiction over him because he was not served with summons and complaint and moves to vacate the registration. Trial court confirms the registration; court of appeals reverses.	Proper Service Prerequisite for FF&C
Douglas County Child Support Enforcement Unit v. Covegn, 420 NW 2d 244 (Minn. App. 1988): Deletion of father's child support obligation from dissolution decree when he obtained legal custody of child did not deprive court of jurisdiction under URESA to enforce father's duty to support child when child moved in with mother even though mother's physical custody was in violation of court order.	Jurisdiction
Gibson v. Baxter, 434 NW 2d 486 (Minn. App. 1989): Parties were divorced in Nebraska and then both returned to live in Minnesota. Mother sought enforcement of the divorce decree requiring her husband to pay child support, under a registered RURESA proceeding. The trial court properly applied Nebraska law requiring the father to pay child support arrearages and interest and applying the Nebraska age of majority.	Choice of Laws
In Re Chelmsford Magistrate's Court, ex rel. Coxall v. Coxall, (Unpub.), C7-91-248, F & C, filed 7-23-91 (Minn. App. 1991): The court of appeals refused to grant arrearages for maintenance on a URESA petition from England. However, it appears that the court would affirm a judgment for child support arrearages owed under a foreign order in a URESA petition proceeding if the action was commenced after August 1, 1990 (the effective date of the amendment to Minn. Stat. ' 518C.03, Subd. 2).	URESA Petition / Arrearages
McSweeney v. McSweeney, 618 A.2d 1332 (Vermont 1992): Non-attorney employees of the public authority cannot prosecute RURESA cases on behalf of state=s attorneys, since the statute makes Athe prosecuting attorney@ responsible for the representation of obligees. AIn RURESA proceedings, the obligee has no say about what action to pursue and is completely dependent on state=s attorneys to identify all issues and protect their interests.@	Role of CSO in RURESA Hearings
Scott v. Scott, 492 NW 2d 831 (Minn. App. 1992): A nonresident child support obligor does not waive the defense of lack of personal jurisdiction in a modification proceeding by failing to petition to vacate the registration of the foreign support order under Minn. Stat. ' 518C.25 (1990).	Jurisdiction
Doucette v. Kraskey, 496 NW 2d 425 (Minn. App. 1993): A petition for reimbursement under URESA is an independent cause of action which is not affected by prior orders suspending child support.	Prior Orders
Country of Poland, ex rel. Ewa Bieniek v. Jan Stefan Wegrzyn, 517 NW 2d 81 (Minn. App. 1994): A responsive proceeding under RURESA may not be commenced before the responding Minnesota court receives from the initiating jurisdiction a copy of a reciprocal act in effect in the foreign jurisdiction that is substantially similar to the Minnesota Act.	Copy of Act
Country of Poland, ex rel. Bieniek v. Wegrzyn, (Unpub.), C2-95-2272, F & C, filed 4-2-96 (Minn. App. 1996): On remand from prior case at 517 NW 2d 81, court was provided a letter from a Polish judge certifying that attached excerpts from Polish law were currently in force in Poland, but did not attach entire law. Because the excerpts demonstrate that child support under Polish law is to be based on needs of the child and financial status of the obligor and that Polish law provides for reciprocity, the RURESA requirement requiring petitioner to file with the court a copy of a substantially similar reciprocal support act from the foreign jurisdiction is met. (Minn. Stat. ' 518C.12, Subd. 1a)	Attachment of Similar Law to Petition

II.R.3. - Uniform Enforcement of Foreign Judgments Act	
Minn. Stat. ' 548.26 - 548.33.	
Srichancha v. Reedstrom, (Unpub.), C5-95-130, F & C, filed 6-13-95 (Minn. App. 1995) (Srichanchao I): Because the UEFJA did not cover the judgment of the state of Pompei, Federated States of Micronesia, the judgment could not be registered and Srichancha must commence a new action in district to enforce the Pompei judgment. In Srichanchao II, the court of appeals (unpub. op. C8-97-661, F & C, filed 8-19-97) held that where appellant filed a summons and petition to enforce the Pompei judgment, the district court erred in its refusal to recognize the Pompei judgment under the principle of comity.	Enforcement of Foreign Judgment under Principle of Comity
Christina Jensen v. David Fhima, 731 N.W.2d 876, (Minn. App. 2007): Respondent granted judgment against appellant in CA. Renewed judgment in CA, then subsequently filed the judgment in MN, where appellant resided. Appellant moved for stay of the docketing of the judgment and filed an affidavit of his attorney providing appellant intended to bring a motion to vacate on the ground the judgment was no longer enforceable in MN. Appellant argued that renewal of the judgment entered and docketed in CA only extended the period of enforceability in CA, and did not create a new judgment as under MN's 10 year statutes of limitations, the time for docketing had expired. This court held 1) the affidavit by the appellant's attorney was sufficient to satisfy the requirement to show grounds for staying enforcement of the judgment; 2) the appellant was not required to post security until the motion to stay was granted; and 3) renewal judgment was enforceable in the state against judgment debtor.	Renewed judgment entitled to full faith and credit in a different state so long as revival was within statute of limitations period of the state of rendition.

II.R.4. - Generally; Independence of Orders	
28 U.S.C. ' 1738B - Full Faith and Credit for Child Support Orders Act.	
Rudolf v. Rudolf, 348 NW 2d 740 (Minn. 1984): Full faith and credit clause does not preclude MN from modifying future alimony installments in Nevada divorce decree where parties had stipulated to jurisdiction of MN courts.	Full Faith and Credit
Miller v. Miller (Hildegard v. Charles), 370 NW 2d 481 (Minn. App. 1985): Good faith reliance on the order of another state is not a defense sufficient to forgive arrearages or to modify a child support order issued in the state of origin.	Relying on Other Order
State, ex rel. Hennepin County v. Erlandsen, 380 NW 2d 578 (Minn. App. 1986): Arrearages are calculated under Minnesota order absent evidence that Indiana Order modified Minnesota Order.	Does not Modify Other Order
Ma v. Ma, 483 NW 2d 732 (Minn. App. 1992): If valid by the law of the jurisdiction where it was contracted, a marriage is valid in Minnesota unless it violates a strong policy of this state.	Validity Marriage
Hines v. Hines, (Unpub.), A04-691, F&C, filed 12-28-04 (Minn. App. 2004): Parties divorced in Illinois, but both parties and the child subsequently moved to Minnesota. Appellant's prior motion in the Illinois court to transfer jurisdiction over child support to Minnesota based on *forum non conveniens* was denied by the Illinois Court. Appellant later brought a motion in the Minnesota Court asking Minnesota to assume subject matter jurisdiction for child support modification under Minn. Stat. § 518C.613(a)(2002). The lower court denied his motion based on its determination that the Minnesota court must give full faith and credit to the Illinois order denying appellant's motion to transfer jurisdiction of the child support issue. The court of appeals reversed. The court of appeals held that because Appellant never raised the issue of subject matter jurisdiction in the Illinois court, rather basing his motion on *forum non conveniens*, the Illinois Court did not consider and did not rule on whether it had subject matter jurisdiction, and thus there is no order in which Illinois determines that it continues to have subject matter jurisdiction to which the Minnesota Court must give full faith and credit. Thus, under § 518C, since both parties and the child now live in Minnesota, Minnesota properly has subject matter jurisdiction to modify the Illinois Child Support Order.	Minnesota Court that has Subject Matter Jurisdiction to Modify Child Support under 518C does not have to defer based on Full Faith and Credit to Illinois Court Order Refusing to Transfer the Case to Minnesota, since that Court did not Address Subject Matter Jurisdiction
Ramsey Cnty. v. Yee Lee, 770 N.W.2d 572, 574 (Minn. Ct. App. 2009): The parties were Hmong refugees who fled from Laos and lived in a refugee camp in Thailand. The parties were married and later took an infant who had been cared for by his grandmother. The parties obtained a birth certificate from the Thai government, which listed "Mee Yang" and "Yer Lee" as the parents. Appellant claimed these were false names used to avoid arrest by Thai authorities. A cultural adoption ceremony was held where the parties culturally adopted the child. Lee stated he did not agree with the adoption. In 2002, the parties divorced. Neither the adoption nor the divorce decree were registered with Thai officials. Lee remarried and adopted his new wife's children. Lee moved to MN in 2004. Yang later moved to Wisconsin with the child. Yang began to receive public assistance for her and the child in WI. Ramsey County instituted an action to establish support. The CSM set child support and ordered Lee to pay a judgment for past support. The CSM stated that there was sufficient evidence to support that a parent-child relationship was established, which was sufficient to create a duty to support. The District Court reversed the CSM's determination and Ramsey County appealed. The Court of Appeals held that if an adoption is not valid under the laws of the nation in which it occurred, it will not be recognized as valid in Minnesota for the purposes of determining a child support obligation. There was no dispute as to the validity of the cultural adoption, but the court determined that Thai adoption laws applied, and there was no adoption decree by the Thai government. Therefore, If an adoption is not valid under the laws of the nation in which it occurred, it will not be recognized as valid in Minnesota for the purpose of determining a child-support obligation. Further, the doctrine of equitable adoption applies when only determining inheritance rights. The court declined to extend this doctrine to child-support, stating that was the role of the legislature or the Supreme Court of Minnesota.	Validity of adoption in Foreign Country

II.S. - Reservation of Child Support	
Notermann v. Notermann, 355 NW 2d 504 (Minn. App. 1984): No retroactive establishment of support obligation following reservation of support in decree.	Reservation - No Retroactive Establishment
Mulroy v. Mulroy, 354 NW 2d 66 (Minn. App. 1984): Provisions of Minn. Stat. ' 518.64 which require change of circumstances before child support may be modified do not apply to the establishment of child support award pursuant to reservation of child support on decree.	Modification N/A
Covington v. Markes, 366 NW 2d 692 (Minn. App. 1985): Although court anticipated increased income in dissolution decree, where it did not rely on this fact to reserve support, it may later award support based on the substantial increase in income.	Modification Standard N/A
Fernandez v. Fernandez, 373 NW 2d 636 (Minn. App. 1985): No abuse of discretion to reserve child support until end of obligor's retraining period.	Reservation During Education
Warner v. Warner, 391 NW 2d 870 (Minn. App. 1986): Child support reserved but medical support established: Requiring a parent to pay medical insurance does not establish child support and when a motion is brought to establish monetary child support, it is not necessary to show a change of circumstances.	Modification Standard not Required
Bennyhoff v. Bennyhoff, 406 NW 2d 92 (Minn. App. 1987): Dissolution decree making mother and father responsible for children during their respective custody terms constituted a reservation of child support; therefore, no change of circumstances is required for subsequent support setting.	If not Addressed - Reserved
Aumock v. Aumock, 410 NW 2d 420 (Minn. App. 1987): Child support relates to non-bargainable interest of the children. Inasmuch as decree permanently waiving child support is against public policy and unenforceable and child support is to be deemed reserved in the dissolution decress, the trial court must establish a subsequent child support award based on its determination of facts and circumstances existing at the time of the application of support. Setting support after a reservation of support is not a "modification" and Minn. Stat. ' 518.64, Subd. 2 does not apply.	Establishing Support After Reservation
McNattin v. McNattin, 450 NW 2d 169 (Minn. App. 1990): Where mother induced father to custody change by explicitly promising in writing that if custody changed, she would not seek support, and then later sought support, court held her to the modification standard, as an exception to the general rule that an establishment after a reservation is treated as an initial setting of support. Principles of contract law and equitable estoppel were applied.	Written Promise to not seek Support Resulted in Ex-ception to General Rule that Setting Support after a Reservation Requires Showing of Changed Circumstances
Anderson and County of Beltrami v. Anderson, 470 NW 2d 719 (Minn. App. 1991): A prior reservation of child support does not preclude a parent's liability for public assistance furnished during the two years preceding the commencement of a reimbursement action under Minn. Stat. ' 256.87, Subd. 1 (1990). (Crippen, concurring specially: Regardless of the prior decree, the statute permits reimbursement for support during the prior two years, limited only by the amount of assistance furnished and the obligor's ability to repay. This reimbursement right is independent of the expanded ten-year reimbursement period.)	Reservation does not Preclude ' 256.87 Action
Gruenes v. Eisenschenk, 668 NW 2d 235 (Minn. App. 2003): Where order changed custody from mom to dad and suspended dad=s c/s obligation, did not establish mom=s obligation, made any payment of child support by mom contingent on dad seeking support from her in Ex Pro, and order did not contemplate immediate support, the order functionally reserved mom=s support obligation, and child support could not be made retroactive to the date custody changed in the subsequent ex pro proceeding. Cites Davis v. Davis, 631 NW 2d 822, 887 (Minn. App. 2001) for the general rule that child support cannot have retroactive effect.	No Retroactive Establishment
Eustathiades v. Bowman, 695 NW 2d 395 (Minn. App. 2005): If there has been an affirmative setting of a child support obligation, including a determination that the obligation will be zero, any subsequent change is a modification.	Establishment of Support after Obligation of Zero is a Modification

Eustathiades v. Bowman, 695 NW 2d 395 (Minn. App. 2005): The parties stipulated to a change of custody to father and agreed that child support would be reserved. Father later, through the county, asked for child support to be established. The appeals court held that even though an agreement to continue the reservation of support was implicit, father did not have to meet the modification standard, and the action would be treated as an initial setting of support. McNattin, 450 NW 2d 169, was distinguished, because in McNattin there was an explicit written agreement linking a change in custody to a promise not to seek child support.	Establishment of Support after a Reservation is an Initial Establishment even if there is an Implicit Agreement not to Seek Support
Maschoff v. Leiding, 696 NW 2d 834 (Minn. App. 2005): In joint physical custody case, where support order provided that "the parties have agreed that based on the relatively even income of the parents and the relatively equal parenting access, neither party shall pay support to the other" the parties are not considered to have waived support, and the support is not a reservation under Aumock. Rather, the support order is deemed an application of Hortis/Valento, establishing support at $00.00.	"Neither Party Pays Support" in Joint Custody Case Inter-preted as Setting Support at $00.00.
McSherry v. Schmidt, (unpub.) A05-1229, A05-1562, filed May 16, 2006 (Minn. App. 2006). On 3-29-02 CSM ordered NCP to maintain insurance or pay $50/m. medical child support to reimburse MA, and reserved issues of ongoing and past child support. CP/respdt. filed for dissolution on 5-6-03. Trial court awarded CP child support retroactive to March 2002. Ct. App. held that in dissolution child support can be retroactive only to commencement of proceeding and changed effective date to May 2003.	In dissolution child support can be retroactive only to commence-ment of action. Prior reservation in 256.87 action not considered.
In Re the Marriage of Morter v. Morter, (Unpub.), A05-2476, Filed September 19, 2006 (Minn. App. 2006): The district court did not err when it imputed income to a self-employed Obligor based on a previous (in 2000) determination of his income of $11,922 per month that the Obligor did not contest, when the court found the Obligor lacked credibility and failed to supply credible evidence of earnings. The Obligor claimed a personal income of only $47,764 per year, but was found to be concealing his true income by running his corporation in his current wife's name. Because this proceeding was an establishment of support subsequent to a reservation of support after a change in custody, the modification statute requiring change in circumstances does not apply.	INCOME: a previously stipulated income may be considered the current income of a self-employed Obligor when the Obligor's evidence of current income is not credible.
Stevermer vs. Stevermeyer , (Unpub.), A07-594, F & C, filed September 4, 2007 (Minn. App. 2007): Dissolution of parties reserved child support from Wife to allow her to obtain additional education and establish employment. The timeframe for reservation (May 2004 to September 2008) exceeded the estimated length of time (1 year) Wife would need to complete her education and allowed time for her to establish employment. Husband argues Wife is now working, and based on the change in circumstances, child support should be established. Court of Appeals affirmed ruling that the district court properly denied Husband's motion to establish support and properly construed the agreement of the parties.	Where J&D reserved support obligation for specific unexpired period upon agreement of the parties, court did not abuse discretion in denying Husband's motion to establish support.
Buzzell vs. Buzzell, (Unpub.), A07-1096, filed June 10, 2008 (Minn. App. 2008): Appellant argues that the district court abused its discretion by reserving the issue of child support. The appellant's gross yearly income averaged $463,893.88 while the respondent obligor's yearly gross income averaged $82,858. Based on this and other factors, the court concluded it was in the best interests of the children to reserve support at this time. The findings of the court are supported by the record and its decision to reserve child support is reasonable under the circumstances.	Child support reservation appropriate where in the best interests of the children.

II.T. - Establishment of Support in J&D	
Davis v. Davis, 631 NW 2d 822 (Minn. App. 2001): Where support is reserved in the original decree, it is generally improper to give a support order established in a subsequent Minn. Stat. ' 256.87 action retroactive effect.	No Retroactivity
Tarlan v. Sorenson, (Unpub.), C5-02-1945, filed 7-22-03 (Minn. App. 2003): Child support reserved in 1999 J&D. CP brought motion to establish support in July 2001. Hearing took place in June 2002, and court established support retroactive to August 2001, month following the date the CP brought the motion. Citing Davis v. Davis, 631 NW 2d 822 (Minn. App. 2001), the appellate court ruled that establishment order could not be made retroactive. CP argued unsuccessfully that Davis did not apply because Davis involved a retroactive establishment of support to a period three years before the motion to establish was brought.	No Retro-activity to Date of Motion in Establish-ment Actions
Tan v. Seeman, (Unpub.), A04-482, F & C, filed 10-12-04 (Minn. App. 2004): Child moved from Dad's home to Mom's home, and Dad consented to change of custody. Mom sought retroactive support to the date the child moved in with her. Minn. Stat. § 518.57, Subd. 3 does not provide a basis for a retroactive *establishment* of support where child had moved into former NCP's home. In this case, the court found that the former NCP (Mom) was not an "obligor" under Minn. Stat. § 518.57 or § 518.54, Subd. 8, since the she had not been ordered to pay support when the child was with the other parent (Dad).	Minn. Stat. § 518.57 Does not Provide a Remedy for Retroactive Establishment of Support When Child Moves into NCP's Home
Eustathiades v. Bowman, 695 NW 2d 395 (Minn. App. 2005): If there has been an affirmative setting of a child support obligation, including a determination that the obligation will be zero, any subsequent change is a modification.	Establishment of Support after Obligation of Zero is a Modification
Eustathiades v. Bowman, 695 NW 2d 395 (Minn. App. 2005): The parties stipulated to a change of custody to father and agreed that child support would be reserved. Father later, through the county, asked for child support to be established. The appeals court held that even though an agreement to continue the reservation of support was implicit, father did not have to meet the modification standard, and the action would be treated as an initial setting of support. McNattin, 450 NW 2d 169, was distinguished, because in McNattin there was an explicit written agreement linking a change in custody to a promise not to seek child support.	Establishment of Support after a Reservation is an Initial Establishment even if there is an Implicit Agreement not to Seek Support
McSherry v. Schmidt, (unpub.) A05-1229, A05-1562, filed May 16, 2006 (Minn. App. 2006). On 3-29-02 CSM ordered NCP to maintain insurance or pay $50/m. medical child support to reimburse MA, and reserved issues of ongoing and past child support. CP/respdt. filed for dissolution on 5-6-03. Trial court awarded CP child support retroactive to March 2002. Ct. App. held that in dissolution child support can be retroactive only to commencement of proceeding and changed effective date to May 2003.	In dissolution child support can be retroactive only to commence-ment of action. Prior reservation in 256.87 action not considered.
In re the Marriage of Adams v. Adams, No. A17-1526, A17-1687 (Minn. Ct. App. Sept. 4, 2018): District Court did not err in calculating a party's wages at their full-time salary when the party earned less than their salary due to absences and the party presents no evidence of how absences will affect their future wages.	Determnation of Income
Stanton v. Curran, A20-0211, 2021 WL 317227 (Minn. Ct. App. Feb. 1, 2021): When a party objects to a name change of a minor child, the requestor has the burden of providing clear and compelling evidence to support a name change so the district court can conduct a complete analysis of the relevant factors. The district court may amend its temporary order in its final dissolution order by awarding retroactive child support for the time period dating back to the parties' separation because the action is not a motion for modification.	Dissolutions; Retroactive Modification; Childs Name

Banerjee v. Banerjee, A20-1224, 2021 WL 1604355 (Minn. Ct. App. 2021): A district court does not abuse its discretion by determining a party failed to meet their burden of demonstrating a substantial change in circumstances when the party fails to disclose all sources of income in a modification action. Without the ability to accurately calculate a child support obligation based on both parties total actual incomes, it is not an error for the district court to decline to apply a Parenting Expense Adjustment based on court ordered Parenting Time.	Determinationof Income; Definition of Modification - $75/20% Rule; Parenting Expense Adjustment; Parenting Time/ Overnights

PART III - PATERNITY III.A. - PRESUMPTIONS	
III.A.1. - Marriage	
Minn. Stat. ' 257.55, Subd.1: 1(a)-marriage; 1(b) attempted marriage; 1(c) legitimation (marriage after child's birth plus affidavit, etc.).	
State v. Soyka, 181 Minn. 533, 233 NW 300 (1930): Presumption of legitimacy of child conceived during wedlock sufficiently overcome by testimony of husband and wife as to nonaccess.	Rebutting
State v. E.A.H., 246 Minn. 299, 75 NW 2d 195 (1956): Conception during wedlock is not essential for presumption of legitimacy which arises from birth occurring in wedlock to come into play.	Time of Conception
State v. E.A.H., 246 Minn. 299, 75 NW 2d 195 (1956): Absent exclusion of at least all reasonable probability of husband's parenthood of child born during wedlock, presumption of paternity is conclusive.	Conclusive-ness
Mund v. Mund, 252 Minn. 442, 90 NW 2d 309 (1958): Presumption of legitimacy of child born during marriage not destroyed by court's finding "that there are no living issue of said marriage" where fact of child's existence withheld from consideration by the court.	Court Findings
Curry v. Felix, 276 Minn. 125, 149 NW 2d 92 (1967): Presumption of legitimacy of child conceived during wedlock, while strong, is not conclusive.	Conclusive-ness
Golden v. Golden, 282 NW 2d 887 (Minn. 1979): No error in viewing presumption of legitimacy of child conceived during wedlock as not conclusive where defendant introduces strong evidence which if believed would exclude all reasonable probability of paternity.	Rebutting
Wessels v. Swanson, 289 NW 2d 469 (1979): Presumption of legitimacy of child conceived during period in which husband and wife were occupying same dwelling and were alone except for minor children as conclusive, absent proof of miscegenation, impotency or negative results of reliable blood tests.	Conclusive-ness
Ma v. Ma, 483 NW 2d 732 (Minn. App. 1992): Competent evidence of marriage includes admission of that fact by the party objecting to the marriage, cohabitation as married persons, and any other circumstantial or presumptive evidence from which the fact of marriage may be inferred.	Evidence of Marriage
In re: Freeman v. Kobany, (Unpub.), C1-01-1317, F & C, filed 4-23-02 (Minn. App. 2002): Signing of legitimation affidavit after marriage to mother creates a presumption of paternity which can be rebutted in subsequent paternity proceeding.	Legitimation
Jean Ann Dorman, n/k/a Jean Ann Hammes, Douglas County v. James Clifford Steffen v. David LaVern Dorman, 666 NW2d 409 (Minn. App. 2003): The existence of a presumed father by marriage does not preclude the public authority from commencing an action to establish paternity of someone other than the presumed father.	Does Not Bar Action by Public Authority Against Alleged Father
Edwards v. Edwards, (Unpub.), A04-889, F & C, filed 1-18-05 (Minn. App. 2005): Father signed ROP at time of birth of child, and later married mother. In dissolution he moved for genetic tests, alleging that he is uncertain if he is the child's father and that he has been told by a number of sources that there is a strong possibility that he is not the child's father. Because the father's affidavit failed to set forth any facts that establish the "reasonable possibility that there was not the requisite sexual contact" between him and the mother as required by Minn. Stat. § 257.62, subd. 1(a)(2002), the district court did not err by denying his motion requesting paternity testing.	Man who signed ROP and later married must allege no sexual contact to support motion for GTs in dissolution
Edwards v. Edwards, (Unpub.), A04-889, F & C, filed 1-18-05 (Minn. App. 2005): Where mother petitions for a determination that father is the father of her child in the marriage dissolution, father is not barred from contesting paternity by Minn. Stat. § 257.57, subd. 1(b) barring a husband from bringing an action to declare non-paternity after 3 years; he is not bringing action to declare non-paternity; rather he is responding to the issue of paternity raised in the petition. A party may join an action to declare paternity or non-paternity within the dissolution. Paternity is an issue in every dissolution action. Citing Warhol, 464 NW 2d 574,577 (Minn. App. 1990).	3-year S/L for actions to declare non-paternity does not prevent husband from contesting mother's assertion in divorce petition that he is the father

County of Dakota v. Blackwell, 809 N.W.2d 226 (Minn. Ct. App. 2011): Mother and Husband were married when the minor child of this action was born. Mother and Husband divorced and shared joint legal and physical custody of the child. The county served Father with a motion for child support and paternity testing, among other things. Through genetic testing, Father, not Husband, was found to the biological father of the child. County moved for summary judgement, but Father opposed it, and moved to have Husband be joined as a party, due to the competing paternity presumptions. District court did not join Husband, and the Father appealed. The issue was whether the district court erred by denying appellant's motion to join Husband as a party. Appellate court held that because the Husband was the presumptive Father of the child, he was required to be a party to any paternity action, according to Minn. Stat. 257.60. "Because Minn. Stat. § 257.60 requires all presumptive fathers and alleged biological fathers to be joined as parties and because there is no valid reason to ignore the plain language of the statute, we conclude that the district court erred when it denied appellant's [Father's] motion to add husband as a party.	Summary Judgment; paternity, Presumptive fathers.
Limberg v. Mitchell, 834 N.W.2d 211 (Minn. Ct. App. 2013): Hennepin County filed uniform support petition on behalf of Arizona to establish paternity and child support. In addition, County filed an accompanying motion to adjudicate appellant as the father or submit to genetic testing. Appellant denied the County's petition and claimed he "could not recall" having sexual intercourse during the time the child could have been conceived and that he was unable to father a child during that time due to medication he was taking for depression. Two genetic tests showed there was a 99.99% likelihood that Appellant was the father. Court of Appeals affirmed finding that the District Court correctly applied the clear and convincing evidence standard. In determining whether a presumed father's evidence is sufficient to withstand a summary judgment motion in a paternity action.	Paternity; Summary Judgment
Wray-Isquierdo v. Isquierdo, A21-0436, 2022 WL 2794034, (Minn. Ct. App. 2022): Appellant-father challenges the district court's ruling that he is voluntarily underemployed and the district court's adoption of Respondent-wife's proposed Judgment and Decree. The Court of Appeals found no clear error in the district court's decisions. It is not a clear error to adopt one party's entire proposed order when the court also independently examined the evidence and testimony.	Income, Determination of; Imputing Income; Voluntary Unemployment or Underemployment

III.A.2. - Declaration	
Minn. Stat. ' 257.55, Subd. 1(e); ' 257.34.	
Wilson and County of Olmsted v. Speer, 499 NW 2d 850 (Minn. App. 1993): Where the presumption of paternity arises from a declaration of parentage (Minn. Stat. '' 257.34 and 257.55 1(e)), the presumed father has a duty to support the child by paying support in accordance with the guidelines established in Minn. Stat. ' 518.551, Subd. 5. Furthermore, the presumption of paternity under Minn. Stat. ' 257.55 1(e) is not distinguishable from a man presumed the father of a child born during the marriage under Minn. Stat. ' 257.55 1(a). Consequently, the child, mother, or county is not compelled to bring an action to adjudicate paternity before the court may order a presumed father to pay guideline child support and reimburse AFDC.	Declaration of Parentage Creates Duty of Support
In the Matter of the Welfare of A.M.P., 507 NW 2d 616 (Minn. App. 1993): Submission of declaration of parentage to the county for filing within time period set out in Minn. Stat. ' 259.26, even though not filed with vital statistics within required time period, served to entitle father to notice of adoption/termination proceedings.	Notice of Adoption Proceeding
State of Minnesota v. Niska, 514 NW 2d 260 (Minn. 1994) Affirmed in part, reversed in part Court of Appeals: In the paternity statute (Minn. Stat. ' 257.67) the word "parent" includes not only a person who is adjudicated the father, but also a person who has signed a declaration of parentage.	Definition of "Parent" in Parentage Act
In the Matter of the Welfare of C.M.G., 516 NW 2d 555 (Minn. App. 1994): A declaration is invalidated only when at the time of the declaration there is an existing presumption of another man's paternity.	Validity of Declaration when Competing Presumption

III.A.3. - Recognition	
See Minn. Stat. ' 257.75 - on Recognitions of Parentage. Also see Minn. Stat. ' 257.55, Subd. 1(g) - ROP signed and another man is also a presumed father; Subd. 1(h) - multiple ROPs signed on same child; Subd. 1(i) - ROP signed when either parent was under 18. Under these three situations, ROPs create a presumption of paternity, but are not considered as equivalent to a judicial determination of paternity.	
State of Minnesota, by its agent, County of Anoka o/b/o Dahl v. Gjerde, (Unpub.), C0-96-840, F & C, filed 11-19-96 (Minn. App. 1996): Where Recognition of Parentage has been signed, ALJ does not have the authority to order blood tests in a child support establishment and reimbursement proceeding. The request for blood tests must be brought as proof of an action to vacate a recognition in the district court.	ALJ has no Authority to Order Blood Tests after ROP
Gaus (Petition of) to Adopt N.N.G., 578 NW 2d 405 (Minn. App. 1998): Because father did not file his affidavit of paternity with the Dept. of Vital Statistics until after the deadline to entitle him to notice of adoption proceedings under Minn. Stat. ' 259.51, he was not entitled to notice, even though he had signed the document within 90 days of child's birth. A.M.P., 507 NW 2d 616 (Minn. App. 1993) distinguished because in A.M.P., father had filed the form with the county, and the county filed it late with the state.	Adoption Notice Filing Requirement
Faribault County Human Services and Peterson v. Seifert, (Unpub.), C2-98-455, F & C, filed 9-15-98 (Minn. App. 1998): A recognition of parentage, signed by minor parents, is a basis for bringing an action under Minn. Stat. '' 256.87 and 256.74 to obtain public assistance reimbursement and to establish child and medical support. (Parties here were over 18 when Minn. Stat. ' 256.87 action was brought.)	Minor ROP Basis for ' 256.87 Action
Sokolowski v. Sokolowski, (Unpub.), CX-99-1881, F & C, filed 4-18-00 (Minn App. 2000): A ROP cannot be used to establish parentage if the mother was married at the time the child was conceived or born.	N/A if Mother Married
Pike v. Mendz and Steel County Child Support Collections Unit, (Unpub.), C2-00-2157, F & C, filed 6-5-01 (Minn. App. 2001): Appellant cannot vacate a ROP based on duress, based on allegation that respondent threatened to terminate her relationship with appellant and move out if he did not sign the ROP. Duress is "coercion by means of physical force or unlawful threats which destroys the victim's free will and compels him to comply." Wise v. Midtown Motors, 42 NW 2d 404, 407 (Minn. 1950).	Duress as Basis to Vacate ROP
Pike v. Mendz and Steel County Child Support Collections Unit, (Unpub.), C2-00-2157, F & C, filed 6-5-01 (Minn. App. 2001): Appellant, who acknowledges that he knew he was not the biological father of respondent's child at the time he signed a ROP in 1995, cannot now vacate the ROP based on fraud where his allegation of fraud was that he signed the ROP based on mother's representations that she would live with him, that they would raise the child together, and that she would permanently terminate all other romantic relationships. He did not show that she did not intend to adhere to her promise at the time she made the promise; Minn. R. Civ. Prac. 9.02. Where a representation regarding a future event is alleged, the party alleging fraud must affirmatively prove that the other party had no present intention of performing. Martens v. Minnesota Mining and Manufacturing Company, 616 NW 2d 732, 747 (Minn. 2000).	Fraud as Basis to Vacate ROP
In Re: the Paternity, Custody and Support of L.A.Q., (Unpub.), C7-01-1306, F & C, filed 4-9-02 (Minn. App. 2002): Where father signs a ROP, and brings a custody action, the proceeding is treated as an initial determination of custody under Minn. Stat. ' 257.541, Subd. 3 (2000). Morey v. Peppin, 375 NW 2d 19 (Minn. 1985) does not control because it predated the effective date of Minn. Stat. ' 257.541, and because Morey involved a man who waited two years (versus two months in this case) to seek custody.	Initial Determina-tion of Custody Where ROP is Signed
Pasket v. Hale, (Unpub.), C0-02-1884, filed 6-10-03, (Minn. App. 2003): Where parties signed a ROP, but custody was contested, Minn. Stat. ' 256.87, Subd. 5 does not provide a basis for past support for the NPA obligee (mother), since she neither had physical custody of the child with the consent of a custodial parent or by order of the court. However, there is a basis for two year's past support under Minn. Stat. ' 257.75, Subd. 3 (2002) where parties have executed a ROP	NPA Past Support With a ROP

Department of Human Services v. Chisum, 85 P. 3d 860 (Okla. Civ. App. Div. 1, 2004): Oklahoma Court of Appeals ruled that the specific provisions of their statute that allows for release from the acknowledgment of paternity and any child support order if father proves material mistake in fact and court determines he is not the father controls over the moregeneral provisions of the statute that state grounds required for vacating a final order. Thus, father was not barred by *res judicata* from challenging the child support order and acknowledgment under the acknowledgment statute.	Res Judicata does not Prevent Vacation of C/S Order Based on ROP
Edwards v. Edwards, (Unpub.), A04-889, F & C, filed 1-18-05 (Minn. App. 2005): Father signed ROP at time of birth of child, and later married mother. In dissolution he moved for genetic tests, alleging that he is uncertain if he is the child's father and that he has been told by a number of sources that there is a strong possibility that he is not the child's father. Because the father's affidavit failed to set forth any facts that establish the "reasonable possibility that there was not the requisite sexual contact" between him and the mother as required by Minn. Stat. § 257.62, subd. 1(a)(2002), the district court did not err by denying his motion requesting paternity testing.	Man who signed ROP and later married must allege no sexual contact to support motion for GTs in dissolution
Williams v. Carlson, 701 NW 2d 274, (Minn. App. 2005): In an action to establish custody based on a ROP, where respondent alleged paternity and appellant admitted in her answer that respondent was the father, and only sought to "establish paternity" by requesting the tests, it was error for the court to order genetic testing when she did not provide the requisite affidavit denying paternity and setting forth facts that establish the reasonable possibility that there was not, the requisite sexual contact between the parties, as required by Minn. Stat. §257.62.	Error to order genetic tests if there is no allegation of lack of sexual conduct resulting in the conception of the child.
Williams v. Carlson, 701 NW 2d 274, (Minn. App. 2005): Once the ROP has been properly executed and filed, if there are no competing presumptions of paternity, the court may not allow further action to determine parentage- the determination of paternity is conclusive. The ROP does not involve a presumption of paternity and is different from the Declaration of Parentage (DOP) statute under §257.34.	ROP is conclusive- court cannot allow further action to determine parentage
Williams v. Carlson, 701 NW 2d 274, (Minn. App. 2005): In order to overcome the force and effect of a ROP after the 60-day revocation period, the party must, within one year after its execution, or within six months after the date of receiving the results of genetic tests, request vacation on the basis of fraud, duress, or material mistake of fact. Where appellant (mother) did not bring an action to vacate the ROP within these time frames, and where she did not allege fraud, duress or material mistake in fact, the court did not err when it declared the existence of the parent and child relationship, despite the genetic test exclusion.	Requirements for vacation of ROP
Williams v. Carlson, 701 NW 2d 274, (Minn. App. 2005): Once paternity is recognized through a ROP, pursuant to § 257.541, subd. 3, the father may petition for custody and parenting time under §518.156, and the proceeding is treated as an initial determination of custody under § 518.17. In this case, involving an initial determination of custody of a 4-year-old child, both parents had shared the care of the child since the child's birth. Where both parents share responsibility for and performance of child care in an entirely equal way, then the facts do not support a preference, for neither parent was the primary caretaker, and the court's decision to grant the father custody was justified based on the greater stability in family environment and living circumstances of the father.	Holding out father who had executed ROP awarded custody even though excluded by genetic tests.

Ramsey Cnty. v. X.L., 853 N.W.2d 813, 815 (Minn. Ct. App. 2014): Ramsey County brought two actions to establish paternity on children receiving public assistance. In both cases, the parents had previously signed a Recognition of Parentage for the children. When the ROPs were signed, the parents were minors. The CSM dismissed the paternity portion of each action concluding a ROP was conclusive determination of paternity, prohibiting further court action under Minn. Stat. § 257.75. The CSM also concluded a birth certificate naming a father was conclusive proof a father-child relationship. The issues on appeal were 1) Does Minn. Stat. § 257.75, subd. 3, prohibit a district court from adjudicating paternity when a minor signs and files a "recognition of parentage" and no competing presumptions of paternity exist; 2) When a minor parent signs a ROP, does the subsequent appearance of the father's name on a birth certificate conclusively prove the father-child relationship. The Court of Appeals reversed the CSM, finding the Parentage Act permits court action determining parentage when minors have signed a ROP. The rationale is that a ROP conclusively determines parentage with 3 exceptions, including when "one or both" parents are minors. Provisions prohibiting further court action where a ROP has been signed does not apply to ROPs executed by minors. Minors have no capacity to enter into binding contracts. Parentage Act recognizes legally incapacity of minors. A parent's name on a birth certificate is not conclusive proof when based on ROP signed by minors. Thus, minor ROPs do not preclude parentage actions.	ROPs signed by minor parents.
In re Custody of M.M.B., No. A11-1981, 2012 WL 4475713 (Minn. Ct. App. Oct. 1, 2012): The parties were never. Both parties signed a recognition of parentage in June of 2005 after the birth of their child. M.M.B. The parties resided together for the first two years of the child's life. In June of 2007, the Respondent was ordered to pay child support. In July 2010, the Respondent filed a paternity complaint and petition for custody and parenting time. The matter was eventually heard in a trial where the Respondnet testified about the development delays of the child, the child's excessive absences from school, and that he could provide a stable home environment for the child (Mother had moved six times in the previous year). The district court adjudicated that father's paternity and noted the ROP. After weighing the best interest factors, the Respondent was granted sole legal and physical custody, subject to a parenting time schedule. Appellant first argued that the district court did not have jurisdiction to hear father's paternity and custody action because the issue of paternity and custody was previously determined by the CSM's child-support order. The Court of Appeals determined there was no basis to apply the doctrine of res judicata to father's custody action. The CMS's order did not address the issue of custody. Moreover, Minn. R. Gen. Pract. 353.01, subd. 3(b) provides that proceedings and issues addressing the establishment, modification, or enforcement of custody or parenting time under Minn.Stat. ch. 518 shall not be conducted or decided in the expedited process, unless authorized by Minn. R. Gen. Pract. 353.01, subd. 2. Subdivision 2(b)(1) of this same rule provides that a CSM has the authority to establish the parent-child relationship, legal and physical custody, parenting time, and the legal name of the child when the parties agree or stipulate to all of these particular issues or the pleadings specifically address these particular issues and a party fails to serve a response or appear at the hearing. As well, a ROP is a specific basis for bringing an action to award custody or parenting time to either parent. The Court did not err in proceeding without service on the public authority. A valid ROP provides a party with a basis to bring a custody and parenting time action and does not bar such an action under the doctrine of res judicata.	ROP as a basis to bring custody and parenting time action.
In re the Petitin of K.P.W. and J.L.H. to Adopt S.Q.-B.W., No. A13-1754, 2014 WL 802557 (Minn Ct. App. Mar 3, 2014): A ROP exists only if both the mother and punitive father have signed the document and the document has been filed and accepted by the Office of Vital Records.	Recognition of Parentage (ROP)

T.G.G. v. H.E.S., 932 N.W.2d 830 (Minn. Ct. App. 2019): A temporary restraining order does not constitute a judicial hearing for purposes of Minn. Stat. § 259.52, subd. 2. Upon revocation of a ROP, a putative father does not qualify for the ROP exception under Minn. Stat. § 259.52 subd. 8 if he failed to timely register with the Minnesota Father's Adoption Registry. Without qualifiying for an exception, failure to timely register with the adoption registry bars the putative father from maintaining a paternity action even if the paternity action was filed before the adoption petition was filed under Minn. Stat. § 259.52, Subd. 8 (1).	Recognition of Parentage (ROP), Revocation of ROP
T.G.G. v. H.E.S., 946 N.W. 2d 309 (Minn. 2020): Under Minn. Stat. § 257.75, subd. 2, the term "judicial hearing" includes a court's decision on matters of fact or law. Under Minn. Stat. § 259.52, subd. 8(1) an adoption proceeding starts when an adoption petition is filed not when the child is placed with prospective adoptive parents.	Failure to Notify Public Authority; Paternity – Who can Bring Action and When; ROP-Revocation

III.A.4. - Conflicting Presumptions	
Minn. Stat. ' 257.55, Subd. 2.	
Kelly v. Cataldo, 488 NW 2d 822 (Minn. App. 1992): Where there are conflicting pre-sumptions, absent a legislative declaration of a preference for biologically based presumptions, courts must determine the weightier presumption and can consider child's best interest.	Weightier Presumption
Zentz v. Graber, 760 N.W.2d 1, (Minn. Ct. App. 2009): Competing presumptions are resolved by the district court as part of the merits of the case. A man may establish that he is a presumed father under Minn. Stat. § 257.55, subd. 1(d), by alleging that he has received a child into his home and held the child out as his biological child. These allegations need not be proven by clear and convincing evidence to establish this presumption of paternity. "The plain language of Minn. Stat. § 518.156, sub. 1(2) allows a parent to initiate child-custody proceedings by motion when a valid ROP exists."	Conflicting Presumptions.
In the Matter of the Welfare of C.M.G., 516 NW 2d 555 (Minn. App. 1994): Where a man who had signed a declaration of parentage, held himself out to be the child's father and wanted to continue to be the father despite a blood test exclusion, and a second man with a 99% likelihood of paternity based on blood tests did not want to be the father, the court found, based on the child's best interests, that the man who signed the declaration had the weightier presumption under Minn. Stat. ' 257.55, Subd. 2, and should be adjudicated that father, despite the fact that he was not the biological father.	Weightier Presumptions - Best Interests
Pierce v. Ekelund, (Unpub.), CX-95-1435, F & C, filed 1-9-96 (Minn. App. 1996): Pierce is presumed father due to marriage and openly holding child out as his. Ekelund is presumed father by blood test and openly holding child out as his. District court gave automatic preference to marriage relationship and did not weigh considerations of policy and logic and best interests of child. Remanded for court to determine paternity according to Minn. Stat. ' 257.55, Subd. 1.	Blood Test vs. Marriage
McGinnis and County of Olmsted v. Wensell and Haley, (Unpub.), C6-96-616, F & C, filed 9-10-96 (Minn. App. 1996): Wensell was presumed father of child due to marriage. Haley was presumed father due to 99% blood test. Wensell is divorced from McGinnis, and he, she and the child never lived together as a family unit. Wensell is in prison and unable to contribute to support. Haley is able to contribute to support. Under these facts, court ruled that the potential stigma of non-marital parentage does not outweigh the genetic evidence and it was proper for court to adjudicate Haley the father.	Blood Test vs. Marriage
In Re the Paternity of B.J.H. and A.J.S. v. M.T.H., 573 NW 2d 99 (Minn. App. 1998), C6-97-920, F & C, filed 1-13-98: A.J.S. was presumed father due to 99% blood test. Husband was also presumed and marriage was intact. A.J.S. commenced paternity action when mom cut off visitation. District court adjudicated A.J.S. the father and granted him visitation. Court of Appeals upheld lower court. Held C.M.J.'s reference to "best interest" factors does not direct the use of Minn. Stat. ' 518.17. Rather, the child's best interests are part of the "weightier consideration" standard under Minn. Stat. ' 257.55, subd. 2. Minn. Stat. ' 518.17 applies in determining custody where parentage is not contested. Therefore, district court could consider factors beyond those in Minn. Stat. ' 518.17. To give undue weight to the "stability" factor, would be to favor the husband's presumption over all others. There is no dominant presumption. Decision sets out factors that supported adjudication of the biological father in this case: (1) biological father; (2) will pay support; (3) wants relationship with child; (4) his family has met and accepts child; (5) GAL opinion; (6) no longer seeks relationship with mother; (7) doubts about stability of relationship with husband; (8) child will want to know identify of biological father; and (9) child at young age can develop relationship with biological father.	Weightier Consideration not same as "Best Interests" under ' 518.17 in Blood Test vs. Marriage Decision

Christianson v. Henke, 831 N.W.2d 532 (Minn. 2013): District court granted paternal grandmother grandparent visitation. Under Minn. Stat. § 257C.08, subd. 2, a court can only award grandparent visitation following the "commencement" of certain proceedings, including a proceeding for parentage. The mother appealed the District Court order granting grandparent visitation arguing that the District Court lack subject matter jurisdiction to award grandmother custody arguing that a ROP is not a proceeding for parentage. The Court of Appeals affirmed. The mother appealed. The Supreme Court affirmed finding an official document, such as a ROP, is included with the plain language meaning of the term "proceeding". A Recognition of Parentage executed and filed with the appropriate state agency under Minn. Stat. § 257.75 is a "proceeding" for purposes of determining grandparent visitation. A ROP has the full force and effect of a judgment establishing parentage.	Recognition of Parentage; Visitation
St. Louis County and Nyman v. Thomas; St. Louis County and Nyman v. Nyman, 584 NW 2d 421 (Minn. App. 1998): Where one man was the presumed father due to marriage, and the other man was presumed due to a 99% blood test, and neither man wanted to be adjudicated the father, the court did not err in adjudicating the biological father by summary judgment. Facts here: marriage was dissolved, husband maintains visitation with the child, biological father has little contact with child, but child is still young enough (six) to develop a meaningful relationship with biological father. Ct: A[Bio. Father] can choose or not choose to involve himself in the life of his child. The choice is his. But he cannot Achoose@ to get out of his obligation to support [his child] simply by arguing that some other man should do it for him.	Marriage vs. Blood Test
Witso v. Overby, 627 NW 2d 63 (Minn. 2001): Where there are two presumed fathers, for example, by marriage, and by blood tests, even though a man may establish a presumption of biological fatherhood, whether or not he should be granted custodial or visitation rights is up to the district court which is required to weigh the conflicting presumptions under Minn. Stat. ' 257.55, Subd. 2 (2000).	Marriage and Blood Tests
In re Nicholas H., 2002 WL1565186 (Cal.2002): The California Supreme Court, interpreting its statute which is identical to Minn. Stat. ' 257.55, subd. 2, concluded that where a man was a presumed father because he received the child into his home, and held himself out as the child's father, his admission that he is not the child's biological father does not necessarily rebut the presumption of paternity. The facts in this case were: (1) juvenile court had determined that the mother was unfit to care for the child, (2) the whereabouts of the alleged biological father, who had never had a relationship with the child were unknown, and (3) the man who was mother's live-in boyfriend for several years, from the time she was pregnant with the child and who had been responsible for the child's care and loved the child, sought to establish paternity	Live-in Boyfriend Trumps Biological Parentage in California
Jean Ann Dorman, n/k/a Jean Ann Hammes, Douglas County v. James Clifford Steffen v. David LaVern Dorman, 666 NW2d 409 (Minn. App. 2003): The existence of a presumed father by marriage does not preclude the public authority from commencing an action to establish paternity of someone other than the presumed father.	Does Not Bar Action by Public Authority Against Alleged Father
County of Dakota v. Blackwell, 809 N.W.2d 226 (Minn. Ct. App. 2011): Mother and Husband were married when the minor child of this action was born. Mother and Husband divorced and shared joint legal and physical custody of the child. The county served Father with a motion for child support and paternity testing, among other things. Through genetic testing, Father, not Husband, was found to the biological father of the child. County moved for summary judgement, but Father opposed it, and moved to have Husband be joined as a party, due to the competing paternity presumptions. District court did not join Husband, and the Father appealed. Appellate court held that because the Husband was the presumptive Father of the child, he was required to be a party to any paternity action, according to Minn. Stat. 257.60. "Because Minn. Stat. § 257.60 requires all presumptive fathers and alleged biological fathers to be joined as parties and because there is no valid reason to ignore the plain language of the statute, we conclude that the district court erred when it denied appellant's [Father's] motion to add husband as a party.	All presumptive fathers and alleged biological fathers to be joined as parties

In Re Jesua V.. 10 Cal Rptr 3d 205 (Cal. 2004): In a Juvenile Court child protection case, in which the child was present when her biological father assaulted and raped her mother, and in which both the biological father and the woman's husband wanted to be the legal father, the California Supreme Court held that biological father's presumption of paternity does not necessarily defeat a nonbiological father's presumption of paternity. The Court applied the holding only to cases where (1) both presumed fathers are asserting their rights as a father; and (2) the biological father has not married the mother or otherwise formalized his legal relationship with the child prior to the child's formation of a presumptive parent-child relationship with the other man. In this case, the court determined that the weightier presumption went to the mother's husband who had assumed the parental responsibilities for the young child, and treated her as his own. The child had also lived with the biological father, but the biological father was incarcerated at the time of the proceedings. California's conflicting presumption statute is identical to Minn. Stat. ' 257.55, subd. 2 and states that a presumption of paternity *may* (not shall) be rebutted in an *appropriate* action only by clear and convincing evidence. The Court found that even though the genetic test is clear and convincing evidence of paternity, the legislature would not have addressed the weighing of competing presumptions if the biological presumption necessarily controlled. There is a dissent arguing biological parentage controls.	Biological Father and Husband both Assert Rights to be Legal Father
State of Minnesota, County of St. Louis ,and T.D.C., v. D.E.A and v. J.S.C., A06-2426, Filed June 26, 2007 (Minn. App. 2007): The Court of Appeals affirmed summary judgment adjudicating paternity of the presumptive father of the minor child rather than the biological father of the minor child. The Plaintiff gave birth to the minor child of this action less than 280 days after the dissolution of Plaintiff and Third Party Defendant. Plaintiff and Third Party Defendant had 2 other children and lived with all the children together while Third Party Defendant raised the minor child as his own for 8 years. Plaintiff later sought to establish paternity of Defendant as biological father of the minor child. Genetic testing confirmed Defendant was the genetic father of the minor child. Plaintiff moved to adjudicate paternity and seek temporary support from Defendant. Defendant never took a role in the child's life and indicated he did not intend to form a relationship with the child. Third Party Defendant, who had always raised the child as his own, did wish to be adjudicated the father and intended to continue his relationship with the child. The district court adjudicated Third Party Defendant the father. Plaintiff appealed. The Court of Appeals cited *In re Welfare of C.M.G,* 516 N.W.2d 555, 560 (Minn. App. 1994) when it found that the best interests of the child should be considered as a valid policy factor in resolving a conflict between competing paternity presumptions. The Court went on to find that the best interest of the child was to maintain the relationship with Third Party Defendant. Summary judgment was affirmed and, since Defendant was not adjudicated the father of the minor child, the district court's refusal to award temporary support was not error.	PATERNITY: best interests of the child an important factor in resolving conflict between competing paternity presumptions
In re Rodewald v. Taylor, 797 N.W.2d 729 (Minn. Ct. App. 2011): Mother and father signed a ROP for joint child. Mother moved out of father's residence and initiated a child-custody and child-support action against father. Mother attempted to serve father personally multiple time. Mother, assisted by counsel, then served the father with the motion by mail. Father did not acknowledge service but told mother he would not come to the hearing. Father did not appear at hearing, and the district court proceeded by default. Father moved to vacate the default judgement, arguing that the district court lacked personal jurisdiction over him due to ineffective service process. Mother argued the motion was sufficient to commence the action, citing Minn. Stat. 518, subd. 1(2), due to the fact that there was a valid ROP. District court denied father's motion. Court of appeals affirmed, and held that the child custody, parenting time, and child-support proceedings were properly initiated by motion, because the language of Minn. Stat. 518.156, subd. 1(2) allows those proceedings to be initiated by either motion or petition when there is a valid ROP.	Personal Jurisdiction; Service; Paternity

A.L.S. ex rel. J.P. v. E.A.G., No. A10-443, 2010 WL 4181449 (Minn. Ct. App. Oct. 26, 2010): Appellant entered into a traditional surrogacy contract with respondents, who were men in a committed same-sex relationship. The surrogacy was a result of artificial insemination of appellant with respondent R.W.S's sperm. Appellant became pregnant, gave birth, and surrendered the child to the respondents but later tried to assert rights as a parent. When Respondent B.C.F later tried to pursue adoption of the child the Appellant refused to terminate her parental rights. The district court ruled that, under the Minnesota Parentage Act, Minn. Stat. §§ 257.51-74 92008), respondents are the child's biological and legal parents, that appellant is neither the child's legal nor biological mother, and that it is in the child's best interest for respondents to have sole legal and physical custody of the child. The Court of Appeals, held that under the Parentage Act, the appellant was the child's legal and biological mother and that respondent is neither the child's legal nor biological father. The Court of Appeals found it was undisputed that appellant gave birth to the child, thus the parent and child relationship existed between appellant and the child. Although Respondent B.C.F. received the child into his home and openly held the child out as his biological child, his presumption of paternity is rebutted by the district court's adjudication of respondent R.W.S as the father of the child. The district court thus erred in its interpretation of the Parentage Act.	Donors of biological material, gestational carriers.
M.J.E.B. v A.L., No. A16-0487, 2016 WL 6923694 (Minn. Ct. App. Nov. 28, 2016): When there are competing presumptions of paternity, the court will weigh the child's best interests and considerations of policy and logic in adjudicating the father, through examination of the child's blood relationships, existing relationships, and the child's best interests. Genetic Testing results are not dispositive in determining paternity in a case with competing presumptions.	Genetic Testing; Presumptions of Paternity.
In the Matter of the Application of J.M.M. o/b/o Minors for a Change of Name, A17-1730 (Minn. Ct. App. Jun. 4, 2018): A father who is presumed to be the biological father, based on holding the children out as his own but failing to take legal or financial responsibility for the children, is entitled to receive notice of the pending application for change of the children's names. Providing notice of the name change petition to the legal parent may still be practicable when the petitioning party has safety concerns regarding the respondent.	Parentage Act, Paternity Statute
In re Welfare of C.F.N., 923 N.W.2d 325 (Minn Ct. App. 2018): When there are competing presumptions of paternity, the court must examine the particular facts of the case and may consider any relevant factors. Appropriate factors include the child's best interest, the child's existing relationships with the presumed fathers, and the tradition significance of marital and blood relationships. The determination through genetic testing that the alleged father is the biological father does not preclude the adjudication of another man as the legal father under the Parentage Act.	Parentage Act; Presumptions of Paternity
In re the Matter of: M.V.K., A22-0399, 2023 WL 2638238 (Minn. Ct. App. 2023): A presumption of paternity based on genetic testing results does not automatically trump any other paternity presumptions, § 257.55, subd. 2, and a district court errors when it orders a birth certificate to be amended with the name of a party who is not the legal father and by ordering parenting time for a party who is a legal stranger.	Genetic Testing: Presumption; Parentage Act; Presumption of Paternity; Presumptions of Paternity-Evidentiary Presumption

III.A.5. - Rebuttal	
Minn. Stat. ' 257.55, Subd. 2.	
Hanson v. Hanson, 249 NW 2d 452 (Minn. 1977): Presumption of legitimacy may be rebutted by the results of reliable blood test which establish nonpaternity.	Presumption of Paternity
Golden v. Golden, 282 NW 2d 887 (Minn. 1979): No error in viewing presumption of legitimacy of child conceived during wedlock as not conclusive where defendant introduces strong evidence which if believed would exclude all reasonable probability of paternity.	Rebutting
Wessels v. Swanson, 289 NW 2d 469 (1979): Presumption of legitimacy of child conceived during period in which husband and wife were occupying same dwelling and were alone except for minor children as conclusive, absent proof of miscegenation, impotency or negative results of reliable blood tests.	Conclusive-ness
Clay v. Clay, 397 NW 2d 571 (Minn. App. 1986): Chapter 257.57, Subd. 1(b) which makes presumption of paternity conclusive in some cases three years after date of child's birth achieves a valid governmental purpose and is constitutional as applied in the instant case.	Conclusive Presumption Constitutional
In Re Baby Girl S, 140 Misc. 2d 299, 532 N.Y.S. 2d 634 (N.Y. Fam. Ct. 1988): Whether presumption of legitimacy is overcome is a question of fact which can be determined only after full hearing where court can consider all evidence, including results of HLA and related blood tests and DNA probe.	DNA Probe Overcoming Presumption of Legitimacy
State, ex rel. Blom v. Stanton, (Unpub.), C7-88-1055, F & C, filed 1-19-88 (Minn. App. 1988): Court of appeals remanded case on statute of limitations issue citing Minn. Stat. ' 257.57 which requires actions rebutting presumptions of paternity be brought no later than three years after child's birth.	Statute of Limitations
State of Georgia, ex rel. Brooks v. Braswell, 474 NW 2d 346 (Minn. 1991): Statutory presumption of paternity was no longer subject to rebuttal after paternity order became final. Minn. Stat. ' 257.55, Subd. 1(a).	Rebuttal Barred by Judgment
Itasca County Social Services and Halverson v. Pitzen, 488 NW 2d 8 (Minn. App. 1992): An accredited laboratory test showing a 99.93% probability of the alleged father's paternity creates a presumption of parentage under Minn. Stat. ' 2576.62, Subd. 5(b)(1990) that can only be rebutted by clear and convincing evidence that the alleged father is not the parent of the child. When the statutory presumption of paternity attacked, it must be rebutted by clear and convincing evidence that the alleged father is not the parent.	Presumptions Rebutted by Clear and Convincing Evidence
Williams and Pine County v. Curtis, 501 NW 2d 653 (Minn. App. 1993): Alleged father's denial of sexual intercourse in likely period of conception defeats motion for summary judgment based on 99% probability blood test result: reasonable jury might credit testimony and find it to be "clear and convincing evidence" sufficient to overcome statutory presumption of paternity.	Denial of Sexual Intercourse
In the Matter of the Welfare of C.M.G., 516 NW 2d 555 (Minn. App. 1994): Mother can bring a paternity action to declare the existence of a father-child relationship with respect to one presumed father (by blood test), even though there is also another presumed father (by declaration) whose action to declare the nonexistence of the father-child relationship would have been barred by the statute of limitations at Minn. Stat. ' 257.57, Subd. 2(2).	S/L for Non-Pat. does not Bar Mother's Action for Paternity
In the Matter of the Welfare of C.M.G., 516 NW 2d 555 (Minn. App. 1994): A blood test exclusion alone did not cancel a presumption of paternity where man executed a declaration of parentage: Legal action under Minn. Stat. ' 257.57 required to cancel a presumption.	Legal Action Required to Cancel

Turner and Ramsey County v. Suggs, 653 NW 2d 458 (Minn. App. 2002): Appellant Suggs filed a motion to vacate the paternity adjudication on the grounds that he stipulated to parternity based on the sworn statements of the mother, which were later called into question because gentic testing results excluded Appellant Suggs as the biological father of the minor child. (Minn. R. Civ. Pro. Rule 60). The Minnestoa Court of Appeals held that Appellant Suggs' motion to vacate the partenity adjudication should be remanded back to District Court to hold and evidentiary hearing on the evidence produced at the hearing. The appellate court also indicated that the district court did not err in not appointing a guardian ad litme because the motion to vacate was procedurally different than an action to declare the non-existence of the father-child relationship under Minn. Stat. § 257.57. A successful motion to vacate a paternity adjudication under Minn. R. Civ. P. 60.02 does not necessarily destroy the presumption of paternity created by Minn. Stat. ' 257.55, subd. 7, and does not preclude a subsequent paternity action.	Vacation of Adjudication Does not Rebut
Nicholas H., 28 Cal. 4th 56: A man does not lose his status as a presumed father by admitting that he is not the biological father. A presumption of paternity is not necessarily rebutted by clear and convincing evidence that the presumed parent is not the biological parent of the child. The presumed father remains the presumed father until the court, after weighing the presumptions based on the factual context before the court, either establishes that he is the legal father of the child or establishes paternity of the child by another man.	Presumptions of Parentage are not Auto-matically Rebutted by Evidence of Non-Biological Parentage
In re the Matter of: M.V.K., A22-0399, 2023 WL 2638238 (Minn. Ct. App. 2023): A presumption of paternity based on genetic testing results does not automatically trump any other paternity presumptions, § 257.55, subd. 2, and a district court errors when it orders a birth certificate to be amended with the name of a party who is not the legal father and by ordering parenting time for a party who is a legal stranger.	Genetic Testing: Presumption; Parentage Act; Presumption of Paternity; Presumptions of Paternity-Evidentiary Presumption

III.A.6. - Other	
See Minn. Stat. ' 257.55, Subd. 1 for list of all presumptions. Not included in earlier sections is Subd. 1(d) (receives child into his home and holds child out as his). Minn. Stat. ' 257.60 - requires that all presumed fathers be made parties to paternity actions.	
Larson v. Schmidt, 400 NW 2d 131 (Minn. App. 1987): Requirement that a man "receive the child into his home" in order to raise the presumption of fatherhood is satisfied when the undisputed biological father has accepted the child into his home to the extent possible under the particular circumstances of the case.	Accepted into Home
Kristine Renee H. v. Lisa Ann R. 16 Cal. Rptr. 3d 123 (Cal. App. Second District, Division 3), filed June 30, 2004, rev. granted (9/01/04): When read in a gender-neutral manner, the Uniform Parentage Act (1975) allows for the establishment of parentage by a same-sex partner who is neither the biological parent, nor the adoptive parent. By receiving the child into her home and holding the child out as her own, a lesbian partner without a biological connection to the child, who had separated from the biological mother when the child was two years old was able to obtain presumed parent status, and seek establishment of parentage under the parentage act, even over the objection of the biological mother. See also Karen C., 101 Cal. App. 4th 932. [Ed. Note: Though California's parentage statute is similar to Minnesota's, and arguments could be made for the same result in Minnesota courts, the California case might be distinguished from the Minnesota case since the California court, in applying a gender-neutral approach to the paternity statute relied on amendments to California's Family Code that recognize that domestic partners have the same rights and responsibilities as spouses for children conceived during the domestic partnership, a provision not found in Minnesota law.]	In California, a Same-Sex Partner, who is not a Biological Parent of a Child, can Qualify for the Holding out Presumption and Bring an Action to Establish Parentage of the Child.
Williams v. Carlson, 701 NW 2d 274, (Minn. App. 2005): If a man has received a child into his home and openly held out the child out as his biological child, he is the presumed father, even if genetic tests exclude him as a biological father, and where there is no other presumed father, the court is correct in declaring the parent child relationship between the man and the child.	Receiving child into home/ holding out presumption not overcome by exclusionary genetic test
In Re the Custody of: N.S.V., L.J.V., E.T.V., A18-0990, (Minn. Crt. App. Sep. 16, 2019): A woman in a relationship with the legal mother could not bring an action to establish her parentage under the holding out presumption of the Parentage Act. The Parentage Act is constitutional.	Holding Out; Parties to Paternity
E.D.M v. S.J.M., A20-0422, 2020 WL 6554653 (Minn. Ct. App. Nov. 9, 2020): Dissolution actions and parentage actions may be joined, but if they are conducted separately, a dissolution judgment does not determine parentage or preclude a parentage action by a third party not involved in the dissolution. The marital parentage presumption is gender neutral and biological mother's spouse, regardless of gender but is not conclusive.	Rebuttal of presumptions of paternity and dissolution actions

III.B. - PARTIES - WHO MAY BRING	
Minn. Stat. ' 257.57 - lists who can bring a paternity action or an action to declare non-paternity. Minn. Stat. ' 257.60 - lists required and permissive parties. Before bringing a paternity action, the practitioner should always ascertain who has the ability to bring the action, and who must be included as required parties. Required parties may be designated as either Plaintiffs or Defendants. Designation of Parties as set out at Minn. R. Family Court P. 302.04. Minn. Stat. ' 259.52, subd. 8 - barring paternity action involving a child who is the subject of a pending adoption proceeding.	
Pierce v. Pierce, 374 NW 2d 450 (Minn. App. 1985), review denied: Husband had no standing to challenge paternity of child born during previous marriage.	Husband
Markert v. Behm, 394 NW 2d 239 (Minn. App. 1986): Child is in privity with parents and is therefore barred by collateral estoppel from commencing an action to declare nonpaternity as to husband-father after entry of dissolution decree.	Child Estopped after Divorce
Markert v. Behm, 394 NW 2d 239 (Minn. App. 1986): Minn. Stat. ' 257.57, Subd. 1, which denies certain alleged fathers standing to bring paternity actions, does not violate the due process or equal protection clauses of the U.S. Constitution.	Constitu-tionality of Denying Standing
Voss v. Duerscherl, 384 NW 2d 503 (Minn. App. 1986): Persons of whom paternity blood testing is sought must be made parties to the action.	Blood Test Sought
Nicholson v. Maack, 400 NW 2d 160 (Minn. App. 1987): Fact that putative father's paternity action is time-barred is no reason to forbid appointment of guardian ad litem to bring such action for child when it is in the child's best interests.	Guardian ad Litem for Child
Michael H. v. Gerald D., 109 S.Ct. 2333 (1989): California law providing that a child born to a married woman living with her husband is presumed to be a child of the marriage and that the presumption may only be rebutted by the husband or wife is constitutional. The apparent biological father, on whom blood tests showed a strong probability of paternity, was prevented from bringing an action to establish his paternity.	Marriage Presumption - Biological Father Barred
Johnson v. Hunter, 447 NW 2d 871 (Minn. 1989): A child is entitled to bring a separate cause of action for paternity unless the child's specific interests on paternity have been addressed on the merits in a paternity action brought by the state or mother.	Separate Action by Child
Warhol v. Warhol, 464 NW 2d 574 (Minn. App. 1990), review denied 3-15-91: No guardian ad litem required to declare non-paternity where child not a party. (Note: court of appeals misquoted Minn. Stat. ' 257.60 as making joinder of child permissive and not mandatory.)	Guardian ad Litem as Party
State of Georgia, ex rel. Brooks v. Braswell, 474 NW 2d 346 (Minn. 1991): Former wife sued former husband to recover child support under Revised Uniform Reciprocal Enforcement of Support Act. The district court, Ramsey County, Mary L. Klas, J., invalidated statute extending time during which husband could challenge paternity determination and entered judgment for former wife. Former husband appealed. The court of appeals, 460 NW 2d 344, reversed and remanded. Review was granted.	Defense Use of ' 257.57 1(b)
Spaeth v. Warren, 478 NW 2d 319 (Minn. App. 1991): Court's refusal to join child in paternity action is not abuse of discretion where child does not meet statutory criteria for joinder; court's refusal to join man in paternity action is not abuse of discretion where the man is not the biological or presumed father.	Joinder of Parties
County of Dakota and Woytcke v. Hendrickson, 482 NW 2d 516 (Minn. App. 1992): Dismissal of parentage suit initiated by child's mother and county did not bar the child's independent parentage suit; county may share in the judgment where it has expended funds for the support of the child since the county's interests are not barred by *res judicata*. Absent express statutory authority, a child has a common law right enforceable in equity, to obtain support.	Child Inde-pendent Cause of Action to Obtain Sup-port from Parent
Kelly v. Cataldo, 488 NW 2d 822 (Minn. App. 1992): The child is a necessary party where the putative father asserts his parentage, the mother denies his claim and the claim conflicts with the presumed parenthood of the mother's spouse, and the putative father's standing is challenged.	Child as Necessary Party

Barber v. Olimb, (Unpub.), C1-94-566, F & C, filed 7-19-94 (Minn. App. 1994), 1994 WL 373424: District court found that Barber, an alleged father, did not have standing to bring paternity action where mother is married to another man, and denies Barber is the father. Majority for the court of appeals reversed and remanded to district court stating that because mother denies Barber is the father, the child and a guardian ad litem must be joined as parties under Minn. Stat. ' 257.60(3) before standing can be determined. In a dissent, Judge Short held Barber did not have standing because: (1) Husband is the presumed father; and (2) Barber does not meet any of the statutory presumptions, and comments of a guardian ad litem would be immaterial to the issue of standing.	Standing of Alleged Father to Bring Action where Mother Denies Paternity and Husband is Presumed Father
In re Custody of M.M.B., No. A11-1981, 2012 WL 4475713 (Minn. Ct. App. Oct. 1, 2012): The parties were never. Both parties signed a recognition of parentage in June of 2005 after the birth of their child. M.M.B. The parties resided together for the first two years of the child's life. In June of 2007, the Respondent was ordered to pay child support. In July 2010, the Respondent filed a paternity complaint and petition for custody and parenting time. After weighing the best interest factors, the Respondent was granted sole legal and physical custody, subject to a parenting time schedule.. The Court of Appeals determined there was no basis to apply the doctrine of res judicata to father's custody action. The CMS's order did not address the issue of custody. Moreover, Minn. R. Gen. Pract. 353.01, subd. 3(b) provides that proceedings and issues addressing the establishment, modification, or enforcement of custody or parenting time under Minn.Stat. ch. 518 shall not be conducted or decided in the expedited process, unless authorized by Minn. R. Gen. Pract. 353.01, subd. 2. Subdivision 2(b)(1) of this same rule provides that a CSM has the authority to establish the parent-child relationship, legal and physical custody, parenting time, and the legal name of the child when the parties agree or stipulate to all of these particular issues or the pleadings specifically address these particular issues and a party fails to serve a response or appear at the hearing. As well, a ROP is a specific basis for bringing an action to award custody or parenting time to either parent. The Court did not err in proceeding without service on the public authority. A valid ROP provides a party with a basis to bring a custody and parenting time action and does not bar such an action under the doctrine of res judicata.	A valid ROP provides a party with a basis to bring a custody and parenting time action and does not bar such an action under the doctrine of res judicata.
R.B. v. C.S., 536 NW 2d 634 (Minn. App. 1995): C.M.A. was born on October 6, 1993. C.S. signed a declaration of paternity on December 20, 1993. Paternity was adjudicated by the court on January 3, 1994. C.M.A. was not a party to the action. In 1994, C.M.A.'s mother died. R.B., a man alleging to be C.M.A.'s biological father, and the guardian for C.M.A. sought blood tests and a determination as to C.M.A.'s paternity. The Court of Appeals ruled that: R.B., the putative father, lacks standing to bring a paternity action because he is not a presumptive father. Also, his interest in the child does not rise to level of constitutional protection because even if he were the biological parent, he has failed to act as a father, or develop a parent child relationship. C.M.A. does have standing to bring a new paternity action in this case, because she was not represented in the initial adjudication of paternity and the results of the earlier adjudication are not determinative as to her. (Citing Haggerty and Johnson v. Hunter.)	Post Adjudi-cation Action to Establish by Alleged Father and Child

County of Chisago and J.J.B. v. L.J.B., T.C.G. and T.R.L., (Unpub.), C8-95-669, F & C, filed 9-5-95 (Minn. App. 1995): In 1986, L.J.B. was adjudicated father of J.J.B.'s child in action brought by county and J.J.B. L.J.B. admitted paternity at that time. In 1990, blood test excluded L.J.B. as father. In 1992, county and child sued J.J.B., L.J.B., and two other possible fathers, T.C.G. and T.R.C. to establish paternity. T.C.G. was excluded. T.R.L. claimed 1986 judgment was *res judicata*. The court ruled: 1) because child was not party to first suit and not in privity with either mother or county, child can pursue second suit; 2) ordinarily, county could not bring second suit since county was a party to the first suit; however, in this limited circumstance where if the county is not allowed to bring second suit the result could be two adjudicated fathers, the county is able to bring suit. The court noted that in Johnson v. Hunter, 447 N.W.2d 871 (1989), the Supreme Court ruled that the important policies of finality and consistency were outweighed by the child's interest in an accurate determination of paternity; and 3) T.R.L. waived the defense that the second suit was barred by the three-year statute of limitations for bringing action to establish non-paternity because he did not raise that defense in his answer.	Post Adjudication Action to Establish Paternity of a Different Man by County and Child
In the Matter of the Paternity of J.A.V., 547 NW 2d 374 (Minn. 1996) (Overruled by enactment in 1997 of Minn. Stat. ' 259.52, subd. 8 and Heidbreder v. Carton and M.J.P., 645 NW 2d 355 (Minn. 2002).): Alleged father is not barred from bringing a paternity action even though mother has placed the child with a prospective adoptive family and father failed to timely file an affidavit with the Department of Health acknowledging paternity and declaring his intention to retain parental rights pursuant to Minn. Stat. ' 259.51, Subd. 1. (Affirms 536 NW 2d 896 (Minn. App. 1995)).	Failure to Request Notice of Adoption not a Bar to Paternity Action
Patzner v. Schaefer, 551 NW 2d 736 (Minn. App. 1996): The mother of a child in a paternity action only has standing to sue while her child is a minor, unless it is determined that the adult child is incompetent to sue on his own behalf.	Adult Child
Nicholson v. Getchell, (Unpub.), C1-96-183, F & C, filed 9-17-96 (Minn. App. 1996): Where child was born during marriage, both parents held husband out as father, father wishes to continue role, Judgment and Decree names husband as father and no biological father is claiming paternity, child's mother, who was attempting to take custody from father has no privity, or commonality with child, and is barred from bringing paternity action on behalf of child. Only when child is older, and can discuss her options knowledgeably with an objective guardian ad litem outside her family, would she be in a position to decide whether to bring a paternity action (distinguishes Johnson v. Hunter, 477 NW 2d 871, 873 (Minn. 1989).)	Mother Barred from Bringing Action o/b/o Child
Wolters v. Hanson Estate, (Unpub.), C1-98-1161, F & C, filed 12-18-98 (Minn. App. 1998): Adult child of deceased alleged father had no standing to bring paternity action against his estate, because another man, to whom child's mother was married at the time child was born was the presumed father, the deceased man did not meet any of the statutory presumptions, and some statutory presumption is a prerequisite to an action to establish paternity where there is another presumptive father.	Statutory Presumption Required to Bring Action Against Another Presumed Father
Witso v. Overby, 609 NW 2d 618 (Minn. App. 2000): A man alleging himself to be the father of a child has standing to bring a paternity action without first having obtained genetic testing, even where the marital presumption of paternity already exists. This is subject to the statute of limitations at Minn. Stat. ' 257.57, subd. 1(b)(1998), which requires a challenge to a marriage presumption to be brought within two years after the person has reason to believe the presumed father is not the father of the child, but in no event went later than three years after the child's birth.	Alleged Father has Standing Despite Marriage Presumption
Witso v. Overby, 627 NW 2d 63 (Minn. 2001): A putative father who is not a presumed father, who alleges that he is the father of a child who already has a presumed father (in this case by marriage): (1) is a party to a paternity action under Minn. Stat. ' 257.57, Subd. 2(i) (2000); (2) as a party has the right to compel the mother and child to submit to blood or genetic testing, under Minn. Stat. ' 257.62, Subd. 1(a) by establishing by affidavit sufficient bases for the court to conclude that there was a reasonable possibility that sexual contact between the parties occurred sufficient for conception to occur. (In this case, mother admitted sexual contact during the possible period of conception.) (Lancaster, Blatz and Anderson dissenting.)	Putative Father can Compel Blood Tests Where There is a Presumed Father

Johnson v. Murray, (Unpub.) C7-01-480, F & C, filed 8-7-01 (Minn. App. 2001): Under Minn. Stat. ' 257.60 (3), a man bringing an action to establish paternity must only join the child as a party if the mother denies the existence of the father-child relationship.	Child as Party
Heidbreder v. Carton and M.J.P., 645 NW 2d 355 (Minn. 2002): Where father did not timely file with the Minnesota Father's Adoption Registry, he is barred from commencing a paternity action involving a child who is the subject of a pending adoption proceeding. The enactment of Minn. Stat. ' 259.52, subd. 8 (2000) in 1997 overruled the supreme court decision in In re Paternity of J.A.V., 547 NW 2d 374, 376-79 (Minn. 1996).	Effect of Failure to File with Adoption Registry
Turner and Ramsey County v. Suggs, 653 NW 2d 458 (Minn. App. 2002): Appellant Suggs filed a motion to vacate the paternity adjudication on the grounds that he stipulated to parternity based on the sworn statements of the mother, which were later called into question because gentic testing results excluded Appellant Suggs as the biological father of the minor child. (Minn. R. Civ. Pro. Rule 60). The Minnestoa Court of Appeals held that Appellant Suggs' motion to vacate the partenity adjudication should be remanded back to District Court to hold and evidentiary hearing on the evidence produced at the hearing. The appellate court also indicated that the district court did not err in not appointing a guardian ad litme because the motion to vacate was procedurally different than an action to declare the non-existence of the father-child relationship under Minn. Stat. § 257.57A motion to vacate a paternity adjudication is not the same as an action to declare the non-existence of the father-child relationship under Minn. Stat. ' 257.57 (2000) or Minn. Stat. ' 257.60(2)(2000), since an adjudicated father is no longer an alleged or "presumed" father, and cannot bring an action to declare the non-existence of the relationship unless the paternity judgment has been vacated.	An Adjudicated Father Cannot Bring Action to Declare Non-Existence of Relationship
Jean Ann Dorman, n/k/a Jean Ann Hammes, Douglas County v. James Clifford Steffen v. David LaVern Dorman, 666 NW 2d 409 (Minn. App. 2003): The existence of a presumed father by marriage does not preclude the public authority from commencing an action to establish paternity of someone other than the presumed father.	Does Not Bar Action by Public Authority Against Alleged Father
Jean Ann Dorman, n/k/a Jean Ann Hammes, Douglas County v. James Clifford Steffen v. David LaVern Dorman, 666 NW2d 409 (Minn. App. 2003): Presumed father is required party in an action to adjudicate a different alleged father.	Presumed Father
Kristine Renee H. v. Lisa Ann R. 16 Cal. Rptr. 3d 123 (Cal. App. Second District, Division 3), filed June 30, 2004, rev. granted (9/01/04): When read in a gender-neutral manner, the Uniform Parentage Act (1975) allows for the establishment of parentage by a same-sex partner who is neither the biological parent, nor the adoptive parent. By receiving the child into her home and holding the child out as her own, a lesbian partner without a biological connection to the child, who had separated from the biological mother when the child was two years old was able to obtain presumed parent status, and seek establishment of parentage under the parentage act, even over the objection of the biological mother. See also Karen C., 101 Cal. App. 4th 932. [Ed. Note: Though California's parentage statute is similar to Minnesota's, and arguments could be made for the same result in Minnesota courts, the California case might be distinguished from the Minnesota case since the California court, in applying a gender-neutral approach to the paternity statute relied on amendments to California's Family Code that recognize that domestic partners have the same rights and responsibilities as spouses for children conceived during the domestic partnership, a provision not found in Minnesota law.]	In California, a Same-Sex Partner, who is not a Biological Parent of a Child, can Qualify for the Holding out Presumption and Bring an Action to Establish Parentage of the Child
In the Matter of the Child of P. B. and S. B., (Unpub.), A05-1460, F&C, filed January 9, 2006 (Minn. App. 2006): Adopted child placed in foster care through CHIPS proceeding. Adoptive parents, who receive adoption subsidy, are not required to contribute to cost of court-ordered placement as the parental contribution exemption (Minn. Stat. §252.27) was applicable because the child was a qualifying child. The guardian ad litem had standing to bring the initial request that the parents contribute toward the cost of the child's out-of-home placement. The court ruled that the guardian ad litem is a party to the proceeding and, therefore, the guardian ad litem had the right to make that request.	Juvenile protection

In Re Petition of S.A.L.H., A05-2213 (Traverse County): Obligee challenged the court's authority over child custody issues when obligor filed a motion for custody in October 2004, prior to the court's adjudication in December 2004. The Court of Appeals determined that since paternity was never disputed, obligor's premature filing of his motion constitutes a technical defect, which does not prejudice either party and does not provide grounds for dismissal. Second, it is not error to allow further discovery to confirm obligor's income and authorize the county to recalculate support by applying the guidelines to any revised income where the court ordered monthly child support based on the evidence before it and the parties could challenge the public authority's calculation in district court. Third, the Court of Appeals held the district court lacked the authority to bind a stepparent and erred in directly ordering the stepparent to provide medical support.	Premature filing not prejudicial.
In re Custody of D.T.R., 796 N.W.2d 509 (Minn. 2011): In this appeal, Father brought action seeking joint custody and parenting time of the minor child. Mother and then-husband were named parties. Genetic testing established father as biological father of the child. District court adjudicated then-husband to be the legal father of the child in a case where there were competing presumptions of paternity. Mother appealed but the biological father did not. Court of appeals dismissed mother's appeal on the grounds that she lacked standing to appeal. Supreme Court held that the mother did have standing to appeal, since she had a direct financial interest in determination of paternity in the form of child support obligations. Since child support is based on both parents' incomes, the identity of a parent has a direct impact on the amount of support. Paternity impacts a mother's rights and responsibilities in the area of child support. In addition, paternity impacts her rights relating to care, custody, and control of child. Therefore, the mother did have standing to appeal a determination of paternity of her child. Biological mother had standing to appeal a determination of paternity, since the determination of paternity directly impacts her rights and responsibilities related to care, custody, and control of the child.	Paternity; Genetic Testing, Appeals.
Cnty. of Dakota v. Blackwell, 809 N.W.2d 226 (Minn. Ct. App. 2011): The child in this case (parents Mother and Husband) was born during the marriage of Mother and Husband, who had two joint children together. The dissolution decree and judgment of the Mother and Husband listed the two joint children, and the child in this case was listed as Mother's nonjoint child. Husband requested, and was granted, joint legal and physical custody of all three children. The County later sought to a adjudicate the biological father as the legal father of the child, based on genetic test results. County brought action against putative father, seeking, among other things, determinations as to paternity and past and ongoing child support. County moved for summary judgment, in response to which putative father moved to joint mother's husband as a party defendant. The District Court, Dakota County,entered summary judgment in County's favor and adopted its proposed order in its entirety.Father opposed the County's motion, stating that not all presumed or alleged fathers had been joined to the action and that Husband should be joined before any determination be made. The District Court granted summary judgment and adopted the proposed order of the County in its entirety. The Court of Appeals reversed and remanded, holding that mother's husband to whom she was married at time child was born should have been joined as a party defendant in paternity action against putative father.The Court of Appeals found there is was no dispute in the case that Husband was married to Mother at the time of the child's birth. Simply because one father is the biological father does not preclude another presumption from being found weightier or more consistent with logic. Thus, Husband is a presumed father of the minor child. The Parentage Act requires that all presumed or alleged fathers be joined as parties in a parentage action.	The Parentage Act requires that all presumed or alleged fathers be joined as parties in a parentage action.

Ramsey Cnty. v. X.L., 853 N.W.2d 813, 815 (Minn. Ct. App. 2014): Construing the provisions of the Minnesota Parentage Act and section 257.75 together to allow a paternity action by the county in cases involving a "recognition of parentage" signed by a minor is consistent with other laws that recognize that those under 18 may not have legal capacity to enter into legally binding contracts or may need guidance in matters of great weight. *See* Minn.Stat. § 517.02 (2012) (allowing those under the age of 18 but at least 16 to marry only with the consent of their parents or guardian and court approval).	Paternity Action by the County in Cases involving ROP signed by minors.
In re Welfare of C.F.N., 923 N.W.2d 325 (Minn. Ct. App. 2018): The existence of a ROP gives rise only to a presumption of paternity - a ROP is not conclusive if a person who is not a party to the ROP commences a paternity action. In addition, vacatur of a ROP is not a prerequisite to relief under the Parentage Act.	Recognition of Parentage; Parentage Act; Presumptions of Paternity
T.G.G. v. H.E.S., 932 N.W.2d 830 (Minn. Ct. App. 2019): A temporary restraining order does not constitute a judicial hearing for purposes of Minn. Stat. § 259.52, subd. 2. Upon revocation of a ROP, a putative father does not qualify for the ROP exception under Minn. Stat. § 259.52 subd. 8 if he failed to timely register with the Minnesota Father's Adoption Registry. Without qualifiying for an exception, failure to timely register with the adoption registry bars the putative father from maintaining a paternity action even if the paternity action was filed before the adoption petition was filed under Minn. Stat. § 259.52, Subd. 8 (1).	Recognition of Parentage (ROP), Revocation of ROP
In Re the Custody of: N.S.V., L.J.V., E.T.V., A18-0990, (Minn. Crt. App. Sep. 16, 2019): A woman in a relationship with the legal mother could not bring an action to establish her parentage under the holding out presumption of the Parentage Act. The Parentage Act is constitutional.	Holding Out; Parties to Paternity
Edrington v. Sheridan, et. al., A23-1782, 2024 WL 3755937 (Minn. Ct. App. 2024): The district court erred when it ordered Appellant-mother and the child to submit to genetic testing as Respondent did not have standing to bring a paternity action and compel genetic testing, Minn. Stat. § 257.62, subd. 5(c), § 257.56, *Larson v. Schmidt*, 400 N.W.2d 131 (Minn. App. 1987).	Presumptions of Paternity; Standing; Requisite Sexual Contact; Received the child into his home; Holding-Out

III.C. - DEFENSES TO PATERNITY	
M.A.D. v. P.R., 277 NW 2d 27 (Minn. 1979): Laches not available as defense to belatedly commenced paternity action.	Laches N/A
Nicholson v. Maack, 400 NW 2d 160 (Minn. App. 1987): Fact that putative father's paternity action is time-barred is no reason to forbid appointment of guardian ad litem to bring such action for child when it is in the child's best interests.	Father's Action Time-Barred; Child has Cause of Action
Wilde v. Dorow and Lochner, C5-91-605, F & C, filed 1-7-92 (Minn. App. 1992): Appellant's claim to estate dismissed where decedent had no will and appellant failed to bring action to establish paternity within statute of limitations period. (Minn. Stat. ' 257.58, Subd. 1); the statute of limitations is constitutional.	Statute of Limitations; Constitu-tionality
Jevning v. Cichos, 499 NW 2d 515 (Minn. App. 1993): A putative father cannot avoid the obligation to pay child support or the determination of paternity on the ground the child was conceived when the father was 15 and the mother more than 24 months older, making the father a victim of statutory rape.	Statutory Rape not Defense
DeGrande and Ramsey County v. Demby, 529 NW 2d 340 (Minn. App. 1995): Man who signed a declaration of parentage in 1989 is barred from bringing an action to vacate a 1990 paternity judgment under Minn. R. Civ. P. 60.02(f) because the three year statute of limitations under Minn. Stat. ' 257.57, Subd. 2(2) is an absolute bar to a challenge of paternity, even in the face of a subsequent blood test exclusion. [Ed.Note: This case does not overrule Reynolds which continues to allow non-paternity to be raised as a defense, after expiration of a statute of limitations, even though it cannot be raised affirmatively, as in Demby.]	Action to Vacate Judgment Barred by Three Year S/L Despite BT Exclusion
Patzner v. Schaefer, 551 NW 2d 736 (Minn. App. 1996): Mother of adult child has standing to bring action to recover her lying-in expenses, but her right to recover is barred by laches when she delayed 20 years to bring action.	Laches and Lying-in Expenses
Murphy and County of Olmsted v. John Dole Myers, 560 NW 2d 752 (Minn. App. 1997): Fraud and misrepresentation are not defenses to paternity. Mother's false representation to father that she had a tubal ligation did not bar an adjudication of paternity when sexual intercourse between the parties resulted in pregnancy and birth of a child. Berg v. D.D.M., 603 NW 2d 361 (Minn. App. 1999): An agreement between a presumed father and mother for the support of a child that has not been approved by a court does not bar an action to establish paternity and support. (Minn. Stat. ' 257.57, subd. 4, ' 257.72, subd. 1.)	Misrepresentati on by Mom not a Defense Non-Judicial Agreement not a Bar
Sundboom v. Keul, (Unpub.), C4-02-26, F & C, filed 7-23-02 (Minn. App. 2002): Because the statutory notice of mother=s intent to adopt father received was defective, court properly found that father was entitled to discretionary notice under Minn. Stat. ' 259.49, subd 2 (2000), and his time to file a paternity action was amended to be 30 days after receipt of the corrected registry notice. Minn. Stat. ' 259.49, subd. 1(b)(8)(i-iv)(Supp. 2001).	Adoption Pending
Ferguson v. McKiernan, No. J. A15043-04, (Pennsylvania Superior Court, July 22, 2004): An oral agreement between a man and woman that the man would donate his sperm in exchange for being released from any obligation for child support is not enforceable.	Oral Agreement with Sperm Donor to not Owe Suppor

III.D. - BLOOD TEST	
Minn. Stat. ' 257.62	
Hastings v. Denny, 296 NW 2d 378 (Minn. 1980): Recently developed blood tests are the most reliable means for making the determination of paternity more accurate and efficient.	Accuracy
County of Ramsey v. S.M.F., 298 NW 2d 40 (Minn. 1980): In every paternity case, party bringing action should request the court to order blood tests as early as possible in litigation.	Request Early
County of Ramsey v. S.M.F., 298 NW 2d 40 (Minn. 1980): Costs of blood tests should be charged to county when it is a party.	County Pays
Berrisford v. Berrisford, 322 NW 2d 742 (Minn. 1982): In dissolution proceeding error for trial court to deny husband's motion for blood tests (even though husband first alleged, then denied paternity).	Error to Deny in Dissolution
State on Behalf of Kremin v. Graham, 318 NW 2d 853 (Minn. 1982): Minn. Stat. ' 257.62 providing for compulsory blood tests is constitutional.	Constitutional
State v. Boyd, 331 NW 2d 480 (Minn. 1983): Statistical probability of paternity not admissible in prosecution for criminal sexual conduct. (But see Schwartz below.)	Inadmissible in Criminal Case
Little v. Streater, 452 U.S. 1, 101 S.Ct. 2202, 68 L.Ed. 2d 614 (1983): Putative father appealed from a judgment of the Appellate Session of the Connecticut Supreme Court affirming a judgment identifying him as an illegitimate child's father and ordering him to pay child support directly to the state. Supreme Court, Chief Justice Burger, held that CT statute, which provided that in paternity actions the cost of blood grouping tests is to be borne by party requesting them, denied due process when applied to deny such tests to indigent defendant. Reversed and remanded.	Blood Tests - Indigent Defendant
State of Minnesota, ex rel. Pula v. Beehler, 364 NW 2d 860 (Minn. App. 1985): Blood test only established that defendant could have been the father, not that he was the father.	Not Conclu-sive
County of Steele and Machacek v. Voss, 361 NW 2d 861 (Minn. 1985): Validity of blood tests in paternity determinations is no longer seriously questioned.	Validity of
Hennepin County on Behalf of Bartlow v. Brinkman, 364 NW 2d 458 (Minn. App. 1985): The trial court has two alternative sanctions when a defendant fails or refuses to take court-ordered blood tests: (1) issue a contempt citation to order the defendant to submit to the tests; (2) enter default judgment against the defendant (considered an extreme sanction).	Sanctions for Failure to Take Test
Voss v. Duerscherl, 384 NW 2d 503 (Minn. App. 1986): Persons of whom paternity blood testing is sought must be made parties to the action.	Parties
State v. Schwartz, 447 NW 2d 422 (Minn. 1989): In a criminal proceeding, DNA test results are admissible if performed in accordance with appropriate laboratory standards and controls. The admissibility of statistical probability evidence is limited by State v. Kim, 398 NW 2d 544 (Minn. 1987).	DNA Tests
Miller v. Casey, (Unpub.), CX-93-1821, F & C, filed 2-22-94 (Minn. App. 1994): The court does not have the discretion to consider the child's best interest before ordering blood tests in a parentage action.	Child's Best Interest N/A
Losoya and Ramsey County v. Richardson, 584 NW 2d 425 (Minn. App. 1998): Once there is a blood test exclusion, it would be bad faith and an abuse of process to hold a man as a father, making him responsible for supporting a child who is not his.	Exclusion
Todd County Social Services and Rerermann v. Koenig, (Unpub.), C8-97-2152, F & C, filed 6-2-98 (Minn. App. 1998): Court upheld blood test results obtained in paternity even though alleged father was not represented by an attorney until after a blood sample was taken. Defendant had asked for an attorney during his first appearance in district court, subsequent to administrative order for blood tests, but attorney had not been appointed before the defendant was taken to the hospital for blood draw. Court of Appeals cites Minn. Stat. ' 257.62, subd. 1(a) (Supp. 1997) and Minn. Stat. ' 518.5512, subd. 2(c)(1996) in support.	Appointment of Counsel After Return of Blood Test Results
Wolters v. Hanson Estate, (Unpub.), C1-98-1161, F & C, filed 12-18-98 (Minn. App. 1998): Minn. Stat. ' 257.62, subd. 1(c) allows blood test results based on genetic testing of a deceased father=s relatives to be used to establish the right of the child to receive government benefits, but may not be used to establish paternity, unless the relatives agree.	Limited Use of Test Results on Relatives of Deceased Alleged Father

Witso v. Overby, 609 NW 2d 618 (Minn. App. 2000): Under Minn. Stat. ' 257.62, subd. 1(a), mother or alleged father who requests genetic testing must file an affidavit alleging or denying paternity and setting forth facts establishing reasonable probability that there was or was not the requisite sexual contact between the parties.	Affidavit Required
Witso v. Overby, 627 NW 2d 63 (Minn. 2001): A putative father who is not a presumed father, who alleges that he is the father of a child who already has a presumed father (in this case by marriage): (1) is a party to a paternity action under Minn. Stat. ' 257.57, Subd. 2(i) (2000); (2) as a party has the right to compel the mother and child to submit to blood or genetic testing, under Minn. Stat. ' 257.62, Subd. 1(a) by establishing by affidavit sufficient bases for the court to conclude that there was a reasonable possibility that sexual contact between the parties occurred sufficient for conception to occur. (In this case, mother admitted sexual contact during the possible period of conception.) (Lancaster, Blatz and Anderson dissenting.)	Putative Father can Compel Blood Tests Where There is a Presumed Father
Frieson v. Pahkala, 653 NW 2d 199 (Minn. App. 2002): Where alleged father commenced paternity action and requested genetic tests, the district court erred in denying his motion to compel blood tests, even though he filed inconsistent affidavits regarding the date he had sexual intercourse with the mother, had a history of violence against the mother, was a convicted felon, mother denied sexual intercourse with the alleged father during the period of time she could have conceived the child, and the mother and another man had executed a Recognition of Parentage one week after the paternity action was commenced. Once alleged father has filed an affidavit alleging sexual contact between the parties during the period of conception under Minn. Stat. ' 257.62, subd. 1, the court cannot deny the testing because it finds that the alleged father=s affidavit is not credible or that testing is not in the child=s best interests. The court is required to assume the truth of the affidavit. Dissent: the Areasonable possibility@ language in Minn. Stat. ' 257.62, subd. 1, requires the district court to make a credibility determination, and thus the denial of alleged father=s motion for genetic tests should have been granted.	Court Must Grant Motion for Genetic Tests Even if Affidavit in Support of Motion is not Credible; Child=s Best Interests N/A.
Jean Ann Dorman, n/k/a Jean Ann Hammes, Douglas County v. James Clifford Steffen v. David LaVern Dorman, 666 NW2d 409 (Minn. App. 2003): A public authority may commence a parentage action against an alleged father prior to obtaining blood test results confirming his presumed paternity, even where there is a presumed father based on marriage.	Blood Tests not Required Before Action
Williams v. Carlson, 701 NW 2d 274, (Minn. App. 2005): In an action to establish custody based on a ROP, where respondent alleged paternity and appellant admitted in her answer that respondent was the father, and only sought to “establish paternity” by requesting the tests, it was error for the court to order genetic testing when she did not provide the requisite affidavit denying paternity and setting forth facts that establish the reasonable possibility that there was not, the requisite sexual contact between the parties, as required by Minn. Stat. §257.62.	Error to order genetic tests if there is no allegation of lack of sexual conduct resulting in the conception of the child.

III.E. - BURDEN OF PROOF	
State v. Nichols, 29 Minn. 357, 13 NW 153 (1882): Paternity proceedings not criminal and proof beyond reasonable doubt not necessary, only preponderance of evidence.	Preponder-ance
State v. Engstrom, 226 Minn. 301, 32 NW 2d 553 (1948): Conviction may be had on uncorroborated testimony of mother but her testimony must be sufficiently clear and convincing.	Clear and Convincing
State v. E.A.H., 246 Minn. 299, 75 NW 2d 195 (1956): Measure of proof is fair preponderance of evidence, but where testimony of plaintiff is uncorroborated, her testimony must be clear and convincing.	Fair Prepon-derance
Weber v. Anderson, 269 NW 2d 892 (Minn. 1978): Clear and convincing proof required to establish deceased as father of child.	Clear and Convincing
Williams and Pine County v. Curtis, 501 NW 2d 653 (Minn. App. 1993): Where there is a presumption of paternity pursuant to Minn. Stat. ' 257.62, Subd. 5(b)(1990), the alleged father is not required to rebut the presumption with clear and convincing evidence to avoid summary judgment. It is sufficient that he show the existence of a genuine issue of material fact by evidence that a jury might find clearly and convincingly rebuts the presumption.	Summary Judgment Burden of Proof
In re D.F. ex rel. K.D.F., 828 N.W.2d 138 (Minn.App.2013): Petitioner D.F. was the mother, and guardian ad litem for K.F., who was the father of the minor child of this action. At the commencement of the case a CSM appointed an attorney to represent the petitioner (mother and guardian of alleged father). At the parentage hearing the alleged father admitted parentage. Petitioner requested that the CSM extend the appointment of the attorney beyond the hearing until the resolution of the parenting-time issue. The CSM denied the request, and the court appointed attorney thenP sought a writ of mandamus compelling the CSM to extend appointment of the court-appointed attorney to parenting time proceedings. The petitioner argued that she was entitled to the respresentation of her court-appointed counsel for the parenting time phase of the case. The petitioner relied on *Latourell v. Dempsey*, 518 N.W.2d 564 (Minn. 1994), where the Minnesota Supreme Court held that attorney appointed representation extended until a judgment or order determines the accompanying issues of custody and visitation. *Id*. 566. The appeals court rejected this argument because it was premised on interpretation of a prior version of Minn. Stat. § 257.69, subd. 1. In 2012, the last clause of Minn. Stat. § 257.69, subd. 1, was amended stating "[t]he representation of appointed counsel is limited in scope to the issue of establishment of parentage." Therefore, the appeals court found *Latourell* no longer governs the scope of court-appointed counsel in parentage proceedings, and the amended statute clearly limits the scope of representation to the issue of establishment of parentage. Writ was denied because the plain language of § 257,69, subd. 1, specifies that a court-appointed attorney's representation of a putative father is "limited in scope to the issue of establishment of parentage." Minn. Stat. 257.69, subd. 1 (2012). Under § 257.69, subd. 1, the representation of appointed counsel is limited in scope to the issue of establishment of parentage.	Appointment of Counsel/Provisi on of Legal Services by the Public Authority; Paternity; Role of Appointment of Counsel; Guardian ad Litem.

III.F. - EVIDENCE	
III.F.1. - Generally	
Minn. Stat. ' 257.63.	
State v. Brathovde, 81 Minn. 501, 84 NW 340 (1900): Improper for prosecutor to call attention of jury to resemblance between child of immature age and the defendant.	Resemb-lance
State v. Cotter, 167 Minn. 263, 209 NW 4 (1926): General reputation of mother as to chastity and morality is inadmissible as affecting her credibility.	Reputation
State v. Nelson, 221 Minn. 569, 22 NW 2d 681 (1946): Where defendant denied having intercourse with plaintiff at any time and plaintiff testified to one act of intercourse and denied any other, plaintiff not entitled to have jury consider defendant's testimony concerning opportunity at different time and place.	Opportunity
State, ex rel. Dombrowski v. Moser, 334 NW 2d 878 (Wis. 1983): A paternity defendant's request for inspection of the mother's AFDC records falls within statutory exceptions to the general confidentiality of such records. However, the records will be released only if the defendant presents an affidavit stating the grounds for belief that there is information in the AFDC records which is necessary to his defense and the trial court conducts an in camera review of the records and determines that there is information necessary to the defense.	AFDC File
Vaughn v. Love, 347 NW 2d 818 (Minn. App. 1984): No abuse of discretion in refusing to allow video deposition of Dr. Polesky in unrelated case to be shown at trial.	Video Disposition
State of Minnesota, ex rel. Pula v. Beehler, 364 NW 2d 860 (Minn. App. 1985): Plaintiff waived any claim of error by failure to object to evidence at trial on basis of surprise.	Waiver
State of Minnesota, ex rel. Pula v. Beehler, 364 NW 2d 860 (Minn. App. 1985): Defendant's testimony of plaintiff's admission of her sexual intercourse not long before date of conception, if considered credible, is sufficient to support jury's verdict of non-paternity.	Relevance
Frieson v. Pahkala, 653 NW 2d 199 (Minn. App. 2002): Where child was born on October 28, 1998, conception probably occurred in mid to late January 1998. Thus, December 28, 1997, the date of sexual intercourse, was not within the possible conception period (footnote 1).	Month Before Not Within Conception Period
Eben f/k/a Brouillette vs. Brouillette, (Unpub.), A06-2181, filed December 11, 2007, (Minn. App. 2007): The CSM did not err in denying the submission of new evidence after the close of the record; the parties cannot submit new evidence after the close of the hearing unless requested by the CSM with written or oral notice to the parties.	No new evidence after close of record unless requested by CSM.
Krznarich vs Freeman, (Unpub.), A07-993, filed December 18, 2007 (Minn. App. 2007): The court did not err in denying appellant's motion to add to the record and submit new evidence in support of amended findings and a new trial. New evidence may be submitted only if it is material and could not have been found with reasonable diligence and produced at the original trial.	No new evidence after close of record unless requested by CSM.
Dempsey v. Loman, A22-0181, 2022 WL 17748084, (Minn. Ct. App. 2022): Appellant-mother makes numerous challenges to the district court's order modifying custody, awarding respondent-father sole legal and sole physical custody of their joint child, restricting mother's parenting time. Appellant-mother's arguments largely request the Court of Appeals to reweigh the evidence and reconcile conflicting evidence, which the court will not do, and therefore the district court's order is affirmed.	Child Custody

III.F.2. - Sexual Conduct	
State v. Stephon, 228 NW 335 (Minn. 1929): Where there was no evidence of continuing or renewed intimacy between the plaintiff and a man other than the defendant, and no suspicious conduct or incriminating circumstances shown at or near the time of conception, the trial court was justified in excluding evidence offered to show that at some indefinite prior time the plaintiff had sexual intercourse with the other man.	Prior Sexual Conduct
State v. Becker, 231 Minn. 174, 42 NW 2d 704 (1950): Evidence of act of intercourse between plaintiff and defendant two years prior to birth of child admissible to show intimacy and disposition of parties as bearing on probability of intercourse at times stated in complaint.	Prior Sexual Conduct
State of Minnesota, ex rel. Pula v. Beehler, 364 NW 2d 860 (Minn. App. 1985): Relevance into plaintiff's sexual affairs three months before and after alleged sexual act is not too remote.	Relevance
State of Minnesota, ex rel. Pula v. Beehler, 364 NW 2d 860 (Minn. App. 1985): Defendant's testimony of plaintiff's admission of her sexual intercourse not long before date of conception, if considered credible, is sufficient to support jury's verdict of non-paternity.	Relevance
McNeal v. Swain, 477 NW 2d 531 (Minn. App. 1991): Trial court did not abuse its discretion in excluding testimony regarding an alleged sexual relationship between plaintiff and defendant's third cousin when defendant did not offer facts showing that plaintiff had another sexual relationship during the period of conception.	Exclusion of Unsub-stantiated Allegations

III.F.3. - Blood Test Evidence	
Ortloff v. Hanson, 277 NW 2d 205 (Minn. 1979): Not improper for party to elicit evidence that the other party refused to submit to blood testing.	Refusal to Take BT
Hennepin County Welfare Board, Boyer v. Ayers, 304 NW 2d 879 (Minn. 1981): Blood test tending to confirm paternity is admissible without prejudice to defendant's right to challenge reliability of the test results and without prejudice to his right to have other tests taken on own behalf.	Admissible
State of Minnesota on Behalf of Elg v. Erickson, 363 NW 2d 859 (Minn. App. 1985): Paternity index is clearly probative, telling the jury how many other males would have to be tested in order to find one who has gene system consistent with being father of child.	Paternity Index
State of Minnesota on Behalf of Elg v. Erickson, 363 NW 2d 859 (Minn. App. 1985): Since presumption of innocence does not attach to civil paternity action, statistical evidence from blood tests will not be excluded because of danger of undermining the presumption.	No Presumption of Innocence
State of Minnesota on Behalf of Elg v. Erickson, 363 NW 2d 859 (Minn. App. 1985): Polesky need not be statistician to testify to his arrival of paternity index by inserting blood test results into accepted statistical formula called the product rule.	Polesky - Statistics
State of Minnesota on Behalf of Elg v. Erickson, 363 NW 2d 859 (Minn. App. 1985): Polesky's testimony that the gene systems are accepted as independent among experts in his field is adequate foundation for his later opinion.	Gene Systems
State of Minnesota on Behalf of Elg v. Erickson, 363 NW 2d 859 (Minn. App. 1985): Polesky's assumption for purposes of Bayes' Theorem that mother had intercourse with one other man during period of conception is a useful working hypothesis and should not be excluded for lack of foundation.	Bayes' Theorem
State of Minnesota on Behalf of Elg v. Erickson, 363 NW 2d 859 (Minn. App. 1985): Polesky qualified to give opinion on what percentage of falsely accused males are excluded by blood test.	Polesky Opinion
Itasca County Social Services v. Milatovich, 381 NW 2d 497 (Minn. App. 1986): Affidavit of person with no personal knowledge is insufficient to get blood test results into evidence and it was error to grant summary judgment of paternity.	Foundation
State v. Hagen, 382 NW 2d 556 (Minn. App. 1986): Blood test is only one factor to be considered and weighed by jury in determining paternity evidence if non- access is relevant.	Non-Access - BT Only One Factor
Burnside v. Green, 431 NW 2d 62 (Mich. 1988): A party attempting to admit blood tests must lay foundation and chain of identification must be shown. (No case law in Minnesota on whether chain of identification evidence must be admitted.)	Foundation for Admission
Gibbons and Ramsey County v. McCulloch, (Unpub.), C8-89-873, F & C, filed 1-9-90 (Minn. App. 1990) 1990 WL 473: Respondent's failure to take additional blood tests does not constitute acquiescence in the results of the court ordered tests.	Additional Blood Tests
McNeal v. Swain, 477 NW 2d 531 (Minn. App. 1991): Court of Appeals rejected defendant/appellant's argument that admission of evidence that there was a 99.99% probability of paternity invaded the province of the jury.	Admissibility of BT Results
Wolters v. Hanson Estate, (Unpub.), C1-98-1161, F & C, filed 12-18-98 (Minn. App. 1998): Minn. Stat. ' 257.62, subd. 1(c) allows blood test results based on genetic testing of a deceased father=s relatives to be used to establish the right of the child to receive government benefits, but may not be used to establish paternity, unless the relatives agree.	Limited Use of Test Results on Relatives of Deceased Alleged Father
Narveson v. Swanson, (Unpub.), C7-98-1133, F & C, filed 1-5-99 (Minn. App. 1999): The director of LabCorp. was a witness qualified to provide foundation testimony for admission of the blood test results, even though he did not personally do the testing.	Foundation for Admissibility of Blood Test Results

III.F.4. - Corroboration of Mother=s Testimony	
State v. Cotter, 167 Minn. 263, 209 NW 4 (1926): Absent statute requiring corroboration of plaintiff's testimony, jury may find accused guilty on sole testimony of mother, provided they believe her testimony to be credible.	Corroboration not Required
State v. Engstrom, 226 Minn. 301, 32 NW 2d 553 (1948): Conviction may be had on uncorroborated testimony of mother but her testimony must be sufficiently clear and convincing.	Clear and Convincing
State v. Becker, 231 Minn. 174, 42 NW 2d 704 (1950): Corroboration of plaintiff's testimony not required by statute.	Corroboration not Required
Limberg v. Mitchell, 834 N.W.2d 211 (Minn. Ct. App. 2013):. In determining whether a presumed father's evidence is sufficient to withstand a summary judgment motion in a paternity action, the court shall consider such evidence in Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.2 light of the clear and convincing evidentiary burden of proof set forth in Minn. Stat. § 257.62, subd. 5(b).	Paternity; Child Support.

III.G. - PROCEDURAL ISSUES (See also Part I.)	
III.G.1. - Generally	
State v. Brathovde, 81 Minn. 501, 84 NW 340 (1900): Fact that time and place not stated in complaint does not make it subject to objection that it does not state facts sufficient to constitute a cause of action; sufficient to state that plaintiff is pregnant with child, which if born alive will be "bastard," naming party as father.	Pleading
C.M.C. v. A.P.F., 257 NW 2d 282 (Minn. 1977): Requirement for privacy of court records in Minn. Stat. ' 257.31 does not permit district court to substitute initials for names of the parties, thereby concealing names of parties in the action.	Names not Concealed
Hennepin County on Behalf of Bartlow v. Brinkman, 364 NW 2d 458 (Minn. App. 1985): Affirmed in part, reversed in part, 378 NW 2d 790: Parentage cases are governed by rules of civil procedure; entry of judgment without a hearing is reversible error.	Procedure Hearing Required
State of Minnesota, County of St. Louis v. Marchand, 401 NW 2d 449 (Minn. App. 1987): By rule, a second voluntary dismissal is with prejudice, but where a party has previously initiated only one of two dismissed proceedings, the party may proceed in a further action.	Dismissal
County of Dakota and Woytcke v. Hendrickson, 482 NW 2d 516 (Minn. App. 1992): Dismissal of parentage suit initiated by child's mother and county did not bar the child's independent parentage suit; county may share in the judgment where it has expended funds for the support of the child since the county's interests are not barred by *res judicata*.	Child Inde-pendent Cause of Action to Obtain Sup-port from Parent
J.A.V. v. Velasco, 536 NW 2d 896 (Minn. App. 1995): Failure to timely file a notice under Minn. Stat. ' 259.26 which entitles an alleged father to notice of termination or adoption proceedings does not prevent alleged father from commencing a paternity action under Minn. Stat. ' 257.	Failure to File ' 259.26 Notice
County of Carver and Arney v. Delbow, (Unpub.), C3-96-301, F & C, filed 8-20-96 (Minn. App. 1996): District court order requiring father to pay $1,436.00 in trial costs, including the cost of bringing mother to Minnesota to testify upheld. Minn. Stat. ' 257.69, Subd. 2, does not require court to consider a party's ability to pay before ordering payment of costs.	Reimburse-ment of Trial Costs
County of Stearns v. Weber, 567 NW 2d 29 (Minn. 1997): Where complaint sought "past support for the minor child pursuant to Minn. Stat. ' 257.66," the reference to "past support" was sufficient under our system of notice pleading to include recoupment of public assistance. See Minn. R. Civ. P. 8.01, 8.05(a), and 8.06. In re: Estate of James A. Palmer, Deceased, (Unpub.), C7-02-182, F & C, filed 3-20-03 (Minn. 2003): The Parentage Act is not the exclusive means of determining parentage for purposes of intestate succession under Minn. Stat. ' 524.2-114 (2002). Parentage for purposes of intestate succession may also be established by clear and convincing evidence.	Notice Pleading Paternity Adjudica-tion Not Required for Inheritance
In Re Jesua V., 10 Cal Rptr 3d 205 (Cal. 2004): Prisoners have a due process right of access to the courts, and must be given a meaningful opportunity to be heard. How that right is achieved is to be determined by the discretion of the trial court. In this case, the Supreme Court of California held that the father received meaningful access to the courts through his appointed counsel, and his personal appearance was not constitutionally required.	Incarcerated Party's Presence at Hearings Discre-tionary
In re M.L.H., No. A19-0092, 2019 WL 6835977 (Minn. Ct. App. Dec. 16, 2019): Whether good cause is demonstrated is an issue within a district court's discretion. Evasive conduct by the party to be served does not constitute good cause for failure to commence a paternity action within 30 days of a father's adoption registry notice.	Commence-ment of Paternity Action

III.G.2. - Statute of Limitations	
Minn. Stat. ' 257.57; 257.58; 42 U.S.C. § 666(a)(5) and 45 C.F.R. 302.70 (a)(5)(i)- requiring state laws to allow establishment of paternity at least to age of 18 and to reopen cases previously dismissed due to more restrictive statutes of limitations.	
Mills v. Habluetzel, 456 U.S. 91, 102 S.Ct. 1549, 71 L.Ed. 2d 770 (1982): Texas one year statute of limitation on commencing paternity action is invalid by denying illegitimate children the equal protection of laws which grant opportunity to legitimate children to obtain support from their fathers.	Statute of Limitations
Mills v. Hableutzel, 456 U.S. 91 (1982): Striking down as unconstitutional a statute that provided that paternity action for the purpose of obtaining child support must be brought within one year of the child's birth.	Statute of Limitations Barred by Constitution
Pickett v. Brown, 462 U.S. 1, 103 S.Ct. 2199, 76 L.Ed. 2d 372 (1983): Mother brought action on behalf of illegitimate child to establish paternity and to obtain support and maintenance from father. Juvenile court granted relief and father appealed. Tennessee Supreme Court reversed. Supreme Court, Justice Brennan, held that Tennessee statute imposing two-year limitations period on paternity and child support actions on behalf of certain illegitimate children denies those children equal protection. Reversed and remanded.	Statute of Limitations Invalidated
State, ex rel. Ondracek v. Blohm, 363 NW 2d 113 (Minn. App. 1985): Action challenging paternity not available to presumed father when children more than 3 years old.	Non-Paternity Action Barred
Clay v. Clay, 397 NW 2d 571 (Minn. App. 1986): Chapter 257.57, Subd. 1(b) which makes presumption of paternity conclusive in some cases three years after date of child's birth achieves a valid governmental purpose and is constitutional as applied in the instant case.	Conclusive Presumption Constitu-tional
Nicholson v. Maack, 400 NW 2d 160 (Minn. App. 1987): Action to establish paternity brought in 1984, more than three years after child's birth by man not presumed to be the father was time-barred despite amendment to statute in 1985 eliminating statute of limitations.	Change in Statute of Limitations not Retroactive
Nicholson v. Maack, 400 NW 2d 160 (Minn. App. 1987): If a party fails to plead the statute of limitations as an affirmative defense, it is waived.	Must Plead or Waive
State of Minnesota, County of Douglas, ex rel. Ward v. Carlson, 409 NW 2d 490 (Minn. 1987): Statute limiting to three years after birth the time for bringing an action to declare the non-existence of a statutorily presumed father and child relationship is valid.	Statute of Limitations Valid
Clark v. Jeter, 486 U.S. 456 (1988): The U.S. Supreme Court concluded that Pennsylvania six-year statute of limitations on bringing an action to establish paternity was unconstitutional based on equal protection grounds. In this case, action was brought in name of mother. After commencement of the action, Pennsylvania amended its law to provide for an 18-year statute of limitations to comply with the federal child support enforcement amendments of 1984 and argued the federal statute makes the newly adopted 18-year statute of limitations in paternity cases retroactive. Supreme court did not address retroactivity issue since question of federal preemption had not been argued in lower court.	Six-year Statute of Limitations Unconstitu-tional
Clark v. Jeter, 486 U.S. 456, 108, S.Ct. 1910 (1988): Six-year statute of limitations for paternity action is unconstitutional.	Statute of Limitations Barred by Constitution
State of Minnesota v. Burns and State of Minnesota v. Bonneville, (Unpub.), C2-89-1209, F & C, filed 11-14-89 (Minn. App. 1989): Bonneville signed affidavit stating Busse's child, S.J.B. was his. Busse and Bonneville are white but S.J.B. is mulatto. When Blue Earth County sued Bonneville for child support in 1985, Bonneville had blood tests performed which revealed he was not S.J.B.'s father. The Blue Earth County Attorney's Office wrote Bonneville a letter stating the summons and complaint had not been filed and that a formal dismissal was not required. Bonneville then identified Burns as S.J.B.'s father. Blue Earth County sued Burns for child support in 1987 and a blood test revealed a 99.57% probability that he was S.J.B.'s father. After a trial, Burns was declared the father and ordered to pay child support. Burns challenges this is precluded by the statute of limitations. The non-existence of a paternity relationship established by filing an affidavit in accord with Minn. Stat. ' 257.55(e) can be rebutted "only if the action brought within three years after the date of the execution of the declaration. The trial court determined that the action against Bonneville was commenced in 1985, within three years of the affidavit (1983). The court of appeals said the trial court was correct in determining the action against Bonneville was not dismissed by the county's letter.	Statute Tolls

The statute of limitations was tolled and the paternity of S.J.B. can still be litigated in 1989.	
Reynolds v. Reynolds v. County of Nicollet v. Sullivan v. Sullivan, 458 NW 2d 103 (Minn. 1990): Corinne Reynolds alleged in a petition for marriage dissolution that there were two children born of her marriage to Michael Reynolds and that Michael had an obligation to pay child support. Michael claimed he was not the father and provided incontrovertible evidence that two brothers named Sullivan had each fathered one of the children. The county brought an action against Michael for child support. In Reynold v. Reynolds, 454 NW 2d 271 (Minn. App. 1990), the court of appeals stated, in dicta, that the statute of limitations barred Michael from claiming non-paternity. The supreme court held that the three year limitations period for bringing an action to contest a statutorily presumed parent-child relationship was inapplicable because of the general rule that a statute of limitations may be used as a shield, not as a sword, and that a statute of limitations does not bar a party from raising a pure defense. The supreme court held that it would be contrary to public policy to force husbands to bring an action to declare the non-existence of a presumed parent-child relationship or to file for marriage dissolution in cases where the married woman becomes impregnated by someone other than the husband.	Shield not Sword 6 Non-Paternity as Defense
Warhol v. Warhol, 464 NW 2d 574 (Minn. App. 1990), review denied 3-15-91: Dad can amend dissolution petition to declare non-paternity where petition brought before three year statute of limitations expired, but amendment brought after three years.	Dissolution Petition Amended
State of Georgia, ex rel. Brooks v. Braswell, 474 NW 2d 346 (Minn. 1991): As long as action for purpose of declaring non-existence of father and child relationship is not time barred, it is permissible to treat denial of paternity as assertion of action to declare non-existence of presumed father and child relationship in nature of counterclaim. Minn. Stat. '' 257.57, Subd. 1(b), 257.65.	Denial of Paternity in URESA Case Treated as Action to Declare Non-Existence
State of Georgia, ex rel. Brooks v. Braswell, 474 NW 2d 346 (Minn. 1991): Right to deny paternity defensively, whether asserted to rebut presumption of paternity or simply to defend against allegation of paternity where there is no presumed father, is not subject to time limitations and may be exercised by defendant in any action in which it is alleged that he is child's father. Minn. Stat. ' 257.51, et seq., ' 257.55, Subd. 1(a), ' 257.57, ' 257.57, Subd.1(b), ' 257.65.	Denial of Paternity as Defense not Barred by S/L
In the Matter of the Welfare of C.M.G., 516 NW 2d 555 (Minn. App. 1994): Mother can bring a paternity action to declare the existence of a father-child relationship with respect to one presumed father (by blood test), even though there is also another presumed father (by declaration) whose action to declare the nonexistence of the father-child relationship would have been barred by the statute of limitations at Minn. Stat. ' 257.57, Subd. 2(2).	S/L for Non-Paternity does not Bar Mother's Action for Paternity
County of Chisago and J.J.B. v. L.J.B., T.C.G. and T.R.L., (Unpub.), C8-95-669, F & C, filed 9-5-95 (Minn. App. 1995): In 1986, L.J.B. was adjudicated father of J.J.B.'s child in action brought by county and J.J.B. L.J.B. admitted paternity at that time. In 1990, blood test excluded L.J.B. as father. In 1992, county and child sued J.J.B., L.J.B., and two other possible fathers, T.C.G. and T.R.C. to establish paternity. T.C.G. was excluded. T.R.L. claimed 1986 judgment was *res judicata*. The court ruled: (1) because child was not party to first suit and not in privity with either mother or county, child can pursue second suit; (2) ordinarily, county could not bring second suit since county was a party to the first suit; however, in this limited circumstance where if the county is not allowed to bring second suit the result could be two adjudicated fathers, the county is able to bring suit. The court noted that in Johnson v. Hunter, 447 N.W.2d 871 (1989), the Supreme Court ruled that the important policies of finality and consistency were outweighed by the child's interest in an accurate determination of paternity; and (3) T.R.L. waived the defense that the second suit was barred by the three-year statute of limitations for bringing action to establish non-paternity because he did not raise that defense in his answer.	Post Adjudi-cation Action to Establish Paternity of a Different Man by County and Child
Ford v. Mostaghioni, (Unpub.), C3-01-1044, F & C, filed 1-15-02 (Minn. App. 2002): Where 1988 J & D, based on stipulation of the parties, said that husband was not the father of child born during the marriage, husband may assert the defense of non-paternity in support action brought by county 12 years later. See Reynolds, 458 NW 2d 103 (Minn. 1990).	May Assert Non-paternity as a Defense 12 Years Later

In re: Estate of James A. Palmer, Deceased, (Unpub.), C7-02-182, F & C, filed 3-20-03 (Minn. 2003): Even if a paternity action under Chapter 257 is barred by the statute of limitations, a person may still prove that he is a child for purposes of intestate succession under the Probate Code at Minn. Stat. ' 524.2-114(2).	Intestate Succession
Petition of T.D. to adopt N.T.K. and B.L.W. et al., 677 NW 2d 110 (Minn. App. 2004): It was proper to dismiss the putative father=s paternity action when he failed to commence the action within 30 days after he was served with a notice to registered putative father, an intent to claim parental rights form, and a consent to adoption form. Minn. Stat. '' 259.49, subd. 1(b)(8) and 259.52, subds. 9 and 10. He was notified in the form that he must bring a paternity action within 30 days if he claimed to be the father of the child. The fact that he was not informed of his right to have court-appointed counsel, and that he was not informed that his failure to file a paternity action within 30 days of the notice would result in termination of his parental rights, did not constitute good cause for failing to initiate the action within the 30-day statutory period.	Statute of Limitations in Adoption Statute
Edwards v. Edwards, (Unpub.), A04-889, F & C, filed 1-18-05 (Minn. App. 2005): Where mother petitions for a determination that father is the father of her child in the marriage dissolution, father is not barred from contesting paternity by Minn. Stat. § 257.57, subd. 1(b) barring a husband from bringing an action to declare non-paternity after 3 years; he is not bringing action to declare non-paternity; rather he is responding to the issue of paternity raised in the petition. A party may join an action to declare paternity or non-paternity within the dissolution. Paternity is an issue in every dissolution action. Citing Warhol, 464 NW 2d 574,577 (Minn. App. 1990).	3-year S/L for actions to declare non-paternity does not prevent husband from contesting mother's assertion in divorce petition that he is the father.
T.G.G. v. H.E.S., 946 N.W. 2d 309 (Minn. 2020): Under Minn. Stat. § 257.75, subd. 2, the term "judicial hearing" includes a court's decision on matters of fact or law. Under Minn. Stat. § 259.52, subd. 8(1) an adoption proceeding starts when an adoption petition is filed not when the child is placed with prospective adoptive parents.	Failure to Notify Public Authority; Paternity – Who can Bring Action and When; ROP-Revocation

III.G.3. - Role of / Appointment of Counsel / Guardian ad Litem	
See Minn. Stat. ' ' 257.69; 257.60 (on appointment of guardian ad litem); Minn. Stat. ' 257.69 - as amended in 1995 provides that the county attorney represents the public authority, not the custodial parent. Other parties (including mother), are entitled to court-appointed counsel if indigent; Minn. Stat. ' 257.69; Also see Minn. Stat. ' 257.60 - for kinds of cases in which a child, and therefore a general guardian or guardian ad litem are required parties, and restrictions as to who may be appointed GAL.	
Dandrige v. Williams, 397 U.S. 471, 485 (1970): Different treatment passes constitutional muster where the distinction in question is rationally based upon a legitimate governmental purpose. In this case, the respondent was ineligible for court-appointed counsel and paid legal counsel not because he was male, but because he was not a custodial parent.	Different Treatment
State v. Bussinger, 230 NW 2d 601 (Minn. 1975): Court rejected defendant's request to reopen paternity judgment because he was a minor when he admitted paternity and did not have a guardian ad litem. Request was denied because he was (1) represented by counsel; and (2) he waited more than 1 year to attempt to vacate the judgment.	No Guardian ad Litem
Hepfel v. Bashaw, 279 NW 2d 341 (Minn. 1976): Counsel should be provided indigent defendant who meets eligibility standards required for proceedings in forma pauperis.	Appoint Counsel
Ramsey County Public Defender v. Fleming, 294 NW 2d 275 (Minn. 1980): Where plaintiff represented by county attorney, paternity defendant must be informed of right to court-appointed counsel before he is required to admit or deny paternity.	Inform of Right to Counsel
Lizotte v. Clay County, 302 NW 2d 12 (Minn. 1981): Conflict of interest in statutory mandate that Commissioner of Welfare be appointed guardian ad litem for minor child in lump sum settlement proceedings. (But statute amended in 1983).	Lump Sum Settlements
County of Kandiyohi v. Swanson, 381 NW 2d 84 (Minn. App. 1986): Conflict of interest existed between county's interests and mother's interests where father sought to have mother, an AFDC recipient, responsible for paying part of the pregnancy and confinement expenses.	Conflict of Interest
Nicholson v. Maack, 394 NW 2d 239 (Minn. App. 1986): Trial court properly required that guardian ad litem bring an action to establish paternity in the name of the child if he determined it to be in her best interest to do so.	Guardian ad Litem
Tindell v. Rogosheske, 421 NW 2d 340 (Minn. App. 1988): Guardian ad litem for minor child who was receiving AFDC benefits was entitled to absolute immunity in mother's action in which she alleged that guardian ad litem failed to act in best interests of child when he accepted child support settlement which resolved biological father's past, present and future obligations.	Guardian ad Litem Immunity
Schmitz v. Stransky, 454 NW 2d 455 (Minn. App. 1990): The statute which permits governmental legal representation of a custodial parent in a paternity proceeding did not deny alleged father equal protection nor violate state or federal civil rights statutes.	No Equal Protection Violation
McNeal v. Swain, 477 NW 2d 531 (Minn. App. 1991): Defendant's court-appointed counsel was dismissed prior to determination of past support and the Court of Appeals noted that determination of past support is part of the paternity proceeding under Minn. Stat. ' 257.69 and therefore, if eligible, the defendant should continue to have court-appointed counsel at post-adjudication hearing to determine his past support obligation.	Parameters of PD Representation
Benson and County of Chisago v. Hackbarth, 481 NW 2d 375 (Minn. App. 1992): Mother cannot be guardian ad litem under paternity statute.	Mother as Guardian ad Litem
Latourell v. Dempsey, 518 NW 2d 564 (Minn. 1994): The Minnesota Supreme Court upholding the court of appeals specifically held that county attorneys representing indigent custodial parents in paternity proceedings must represent the client through to an award of permanent custody.	Representation on Custody by County Attorney
Todd County Social Services and Rerermann v. Koenig, (Unpub.), C8-97-2152, F & C, filed 6-2-98 (Minn. App. 1998): Court upheld blood test results obtained in paternity even though alleged father was not represented by an attorney until after a blood sample was taken. Defendant had asked for an attorney during his first appearance in district court, subsequent to administrative order for blood tests, but attorney had not been appointed before the defendant was taken to the hospital for blood draw. Court of Appeals cites Minn. Stat. ' 257.62, subd. 1(a) (Supp. 1997) and Minn. Stat. ' 518.5512, subd. 2(c)(1996) in support.	Appointment of Counsel After Return of Blood Test Results

Gramling v. Memorial Blood Center, 601 NW 2d 457 (Minn. App. 1999): Child sued St. Louis County because court did not pursue paternity in 1979 after an erroneous blood test exclusion. Court properly granted summary judgment in favor of the county because no attorney-client relationship existed between the child=s mother and the county. The assignment of support did not create an attorney-client relationship, and the mother did not seek legal advice from the county. The (1979) paternity statute did not create an affirmative duty for the county to conclusively establish paternity. A parent has no cause of action under that statute against a county that has declined to pursue the establishment of paternity.	Neither Paternity Statute nor PA Assignment Provide Basis for Child/ Parent to Hold County Liable for Failure to Establish Paternity
In re D.F. ex rel. K.D.F., 828 N.W.2d 138 (Minn.App.2013):: CSM appointed an attorney to represent the petitioner (mother and guardian of alleged father). At the parentage hearing the alleged father admitted parentage. Petitioner requested that the CSM extend the appointment of the attorney beyond the hearing until the resolution of the parenting-time issue. The CSM denied the request. Petitioner sought a writ of mandamus compelling the CSM to extend appointment of the court-appointed attorney to parenting time proceedings. Writ was denied because the plain language of § 257,69, subd. 1, specifies that a court-appointed attorney's representation of a putative father is "limited in scope to the issue of establishment of parentage." Minn. Stat. 257.69, subd. 1 (2012). Under § 257.69, subd. 1, the representation of appointed counsel is limited in scope to the issue of establishment of parentage.	Appointment of Counsel/Provision of Legal Services by the Public Authority; Paternity; Role of Appointment of Counsel; Guardian ad Litem.

III.G.4. - Deceased Parent	
Lalli v. Lalli, 439 U.S. 259 (1978): Court upheld statute conditioning inheritance by illegitimate children from their father on filiation order made during father's lifetime.	Inheritance
Weber v. Anderson, 269 NW 2d 892 (Minn. 1978): Clear and convincing proof required to establish deceased as father of child.	Clear and Convincing
Weber v. Anderson, 269 NW 2d 892 (Minn. 1978): Paternity action not barred by death of alleged father.	Death no Bar
Voss v. Duerscherl, 425 NW 2d 828 (Minn. 1988): A paternity action does not survive against family members of a deceased putative father, but only against a personal representative. When personal representative was discharged before an adjudication of paternity was made, paternity action must be dismissed. Reverses 408 NW 2d 161 (Minn. App. 1987).	Deceased Father
Wolters v. Hanson Estate, (Unpub.), C1-98-1161, F & C, filed 12-18-98 (Minn. App. 1998): Minn. Stat. ' 257.62, subd. 1(c) allows blood test results based on genetic testing of a deceased father=s relatives to be used to establish the right of the child to receive government benefits, but may not be used to establish paternity, unless the relatives agree.	Limited Use of Test Results on Relatives of Deceased Alleged Father
Rettke and Estate of Rettke v. Rettke, f/k/a Krueger, 696 NW 2d 846 (Minn. App. 2005): When a party to a pending marriage dissolution dies, the dissolution proceeding is over. Quote: "You can't divorce a dead person." Further, the court could not enter judgment enforcing a property settlement between the parties, when the settlement had never been incorporated into the MTA and approved by the court before the death of one of the parties. Surviving spouse cannot both take a share from the mediated dissolution settlement as if the dissolution had gone through, and also take a share of husband's estate as a surviving spouse.	Effect of Death of Party to Action Prior to Adjudication
In re: the Estate of L. E. Jotham, Deceased, 704 NW 2d 210 (Minn. App. 2005): *(Probate case involving paternity)* The appellate court found that the district court, in a probate proceeding, did not err by applying a presumption of paternity (under the Minnesota Parentage Act) to a person born before the effective date of the act for purposes of determining intestate succession. However, the district court did commit error in preventing evidence to be submitted to demonstrate the nonexistence of a father-child relationship even though beyond the Parentage Act's three-year limitation period. The case was reversed and remanded to allow evidence to be offered in rebuttal of presumption of the decedent's paternity.	Rebuttal evidence on deceased father's paternity must be allowed in probate proceeding

III.G.5. - Estoppel / Res Judicata (See also Part I.D.6.)	
Minn. Stat. ' 257.66, Subd. 1.	
Lizotte v. Clay County, 302 NW 2d 12 (Minn. 1981): Since child not party to original action, child not bound by judgment.	Child not Bound
State, ex rel. Ondracek v. Blohm, 363 NW 2d 113 (Minn. App. 1985): A finding of paternity in a Judgment and Decree is *res judicata* in subsequent action to enforce child support.	Res Judicata
Clay v. Clay, 397 NW 2d 571 (Minn. App. 1986): Denial of request for blood tests proper when *res judicata* prevents party from raising issue of paternity in post decree motion.	Denial Res Judicata
Clay v. Clay, 397 NW 2d 571 (Minn. App. 1986): A final divorce decree determining paternity is *res judicata* as to that issue.	Res Judicata
State, ex rel. Mart v. Mart, 380 NW 2d 604 (Minn. App. 1986): When paternity is placed in issue in the pleadings in the dissolution action and the husband chooses not to litigate the matter, he is bound by the determination of paternity made and is barred the defense of non-paternity in a subsequent action for enforcement of support.	Res Judicata
Markert v. Behm, 394 NW 2d 239 (Minn. App. 1986): Mother who was party to divorce decree is collaterally and equitably estopped from subsequently challenging ex-husband's paternity of child.	Estoppel
Johnson (State of Minnesota) v. Hunter, 435 NW 2d 82 (Minn. App. 1989): *Res Judicata* precludes a child from having a separate trial on the issue of paternity where the mother failed to pursue a prior paternity action, resulting in a dismissal with prejudice, because mother and daughter were "in privity."	Child/Mother in Privity Overruled by 447 NW 2d 871 (Minn. 1989)
State of Georgia, ex rel. Brooks v. Braswell, 474 NW 2d 346 (Minn. 1991): Action for declaration of non-existence of father and child relationship was precluded by principles of *res judicata* after order determining paternity became final, even though action for declaration of non-existence of father and child relationship was not time barred. Minn. Stat. '' 257.55, Subd. 1(a), 257.57, Subd. 1(b).	Action to Declare Non-Existence
D.L.V., an infant, by Soto v. Leier, (Unpub.), C6-92-185, F & C, filed 6-30-92 (Minn. App. 1992) 1992 WL 145325: In 1978, a mother brought suit to determine paternity in which blood tests results were 99.269%. However, mom failed to show at the hearing and the matter was dismissed with prejudice. In 1981, a subsequent suit brought by mom, the child by his guardian ad litem, and the county, was dismissed when the trial court ruled the child was a "real party in interest" in the first suit and his rights were then determined. No appeal was taken. In 1990, mom brought another action and it was barred by *res judicata*. In 1991, the child by his guardian ad litem brought a fourth paternity action which the trial court ruled barred by *res judicata*. The court of appeals upheld the ruling stating the child's interests were addressed in the second action and that the child should have appealed from that action.	Child's Action Barred by Res Judicata
County of Chisago and J.J.B. v. L.J.B., T.C.G. and T.R.L., (Unpub.), C8-95-669, F & C, filed 9-5-95 (Minn. App. 1995): In 1986, L.J.B. was adjudicated father of J.J.B.'s child in action brought by county and J.J.B. L.J.B. admitted paternity at that time. In 1990, blood test excluded L.J.B. as father. In 1992, county and child sued J.J.B., L.J.B., and two other possible fathers, T.C.G. and T.R.C. to establish paternity. T.C.G. was excluded. T.R.L. claimed 1986 judgment was *res judicata*. The court ruled: (1) because child was not party to first suit and not in privity with either mother or county, child can pursue second suit; (2) ordinarily, county could not bring second suit since county was a party to the first suit; however, in this limited circumstance where if the county is not allowed to bring second suit the result could be two adjudicated fathers, the county is able to bring suit. The court noted that in Johnson v. Hunter, 447 N.W.2d 871 (1989), the Supreme Court ruled that the important policies of finality and consistency were outweighed by the child's interest in an accurate determination of paternity; and (3) T.R.L. waived the defense that the second suit was barred by the three-year statute of limitations for bringing action to establish non-paternity because he did not raise that defense in his answer.	Post Adjudi-cation Action to Establish Paternity of a Different Man by County and Child
Lelonek v. Lelonek, (Unpub.), C0-98-1295, F & C, filed 3-2-99 (Minn. App. 1999): *Res Judicata* does not preclude the reopening of a paternity adjudication in a dissolution proceeding when that determination has been a product of fraud.	Res Judicata n/a to Fraudulent Order

Mower County Human Services o/b/o Garcia v. Graves, 611 NW 2d 386 (Minn. App. 2000): The doctrines of *res judicata* and *collateral estoppel* bar a paternity action brought on behalf of a mother following the dismissal of an earlier paternity action brought on behalf of her child against the same alleged father. The court of appeals distinguished Johnson v. Hunter, because in Johnson, it was the child=s interests that had not been previously represented. Also, Garcia was in privity with her child in the earlier action: She shared an interest in financial support, and she attended and testified at the prior trial.	Mother Bound by Judgment in Action Brought by Child
Department of Human Services v. Chisum, 85 P. 3d 860 (Okla. Civ. App. Div. 1, 2004): Oklahoma Court of Appeals ruled that the specific provisions of their statute that allows for release from the acknowledgment of paternity and any child support order if father proves material mistake in fact and court determines he is not the father controls over the more general provisions of the statute that state grounds required for vacating a final order. Thus, father was not barred by *res judicata* from challenging the child support order and acknowledgment under the acknowledgment statute.	Res Judicata and ROPs
In re Custody of M.M.B., No. A11-1981, 2012 WL 4475713 (Minn. Ct. App. Oct. 1, 2012): The parties were never. Both parties signed a recognition of parentage in June of 2005 after the birth of their child. M.M.B. The parties resided together for the first two years of the child's life. In June of 2007, the Respondent was ordered to pay child support. In July 2010, the Respondent filed a paternity complaint and petition for custody and parenting time. The Court of Appeals determined there was no basis to apply the doctrine of res judicata to father's custody action. A ROP is a specific basis for bringing an action to award custody or parenting time to either parent. The Court did not err in proceeding without service on the public authority. A valid ROP provides a party with a basis to bring a custody and parenting time action and does not bar such an action under the doctrine of res judicata.	A valid ROP provides a party with a basis to bring a custody and parenting time action and does not bar such an action under the doctrine of res judicata.
In the Matter of the Trusteeship of the Trust Created Under Trust Agreement Dated December 31, 1974, et al, 674 NW 2d 222 (Minn. App. 2004): Minn. Stat. ' 501B.16 (2002) does not authorize trustees to collaterally attack a beneficiary=s previously adjudicated parentage (in this case in the divorce decree), where no applicable parentage law give trustees standing to seek a declaration disestablishing parentage under the guise of a trust-clarification action to determine the beneficiaries of a trust.	Trustee Barred from Collateral Challenge of Parentage

III.G.6. - Default / Vacation of Default Judgment (See also Part I.B.4.)	
Minn. Stat. ' 257.651; Expedited Process Rule 371.13.	
Wessels v. Swanson, 289 NW 2d 469 (1979): Denial of motion to vacate default adjudication of paternity not abuse of discretion, but defendant given 90 days to present proof that there were blood grouping tests which were capable of establishing to a high degree of probability that he was not the father and that there were likely to substantiate his denial of paternity.	Default Judgment Vacated - Tests Ordered
Hennepin County on Behalf of Bartlow v. Brinkman, 378 NW 2d 790 (Minn. 1985): Where defendant failed to appear for court ordered blood tests three times, did not request an evidentiary hearing, and was present at hearing following entry of default judgment, defendant waived right to hearing unless he submitted blood test results disproving paternity within 90 days.	Waiver of Right to Hearing - Failure to Submit to BT
Hennepin County on Behalf of Bartlow v. Brinkman, 378 NW 2d 790 (Minn. 1985): Default adjudication of paternity should be entered only after the allegations in the complaint have been verified in open court under oath before a trial judge.	Default
Thomas v. Fey, 376 NW 2d 266 (Minn. App. 1985): Default Judgment as sanctions against defendant who repeatedly fails to comply with court orders was proper where paternity was established by overwhelming weight of evidence (99.997%).	As Sanction
Weihe v. Hendley, 389 NW 2d 754 (Minn. App. 1986): Where alleged father never filed an answer and has never denied on the record that he is the father, a default judgment is proper (not summary judgment).	No Answer - No Denial
Matheson v. Clearwater County Welfare Department, 412 NW 2d 812 (Minn. App. 1987): Respondent was entitled to restitution of child support payments he made pursuant to a default judgment of paternity which was subsequently vacated upon exclusionary blood test results.	Vacated Judgment - Child Support Returned
Hayes v. Hayes, (Unpub.), C5-92-1635, F & C, filed 3-23-93 (Minn. App. 1993): Pursuant to Minn. Rules of Fam. Ct. Proc. 5.01, moving party must notify defaulting party in writing at least ten (10) days before final hearing of intent to proceed to judgment if defendant has "appeared" - defendant's oral communications with plaintiff or plaintiff's attorney do not constitute an "appearance."	Notice of Default Hearing and oral Communications are not "Appearance"
Van Eps and County of Stevens v. Belau, (Unpub.), C8-93-2417, F & C, filed 5-3-94 (Minn. App. 1994) (Stevens Co. Atty. Bruce Klopfleisch): Defendant cannot vacate default judgment after 9 years where he was: (a) given opportunity for blood tests before summons and complaint was issued; (b) admits service and failure to answer; (c) 7 years ago CSO contacted his employer; and (d) mother and child would suffer undue hardship if underwent tests now.	Vacation of Judgment
Losoya and Ramsey County v. Richardson, 584 NW 2d 425 (Minn. App. 1998): The county waived their right to object to vacation of a paternity default judgment, entered against obligor in 1995 after he failed to appear for court-ordered blood testing, when county agreed to paternity blood tests during a contempt proceeding in 1997. By granting the motion for blood tests, the referee effectively reopened the paternity action. The court cannot now say that the motion to reopen was untimely, because it was past the one-year window provided for in Rules of Civil Procedure 60.02.	County Waived Right to Object to Vacation When it Agreed to Blood Test
Losoya and Ramsey County v. Richardson, 584 NW 2d 425 (Minn. App. 1998): There is no prejudice to either the child or the county to have the paternity judgment vacated where the man is not the child=s father. The child will receive public assistance from the county, and the county has no right to collect from a man who is not the father.	No Financial Prejudice to Child/County
County of Anoka and Holderness v. Williams, (Unpub.), C0-00-1573, F & C, filed 5-15-01 (Minn. App. 2001): Where defendant delayed for two years his action to vacate default paternity judgment based on mother's false testimony that she had not had intercourse with anyone else, and was ultimately excluded by paternity blood tests, it was proper for the judge to vacate the findings of paternity and terminate ongoing support but to continue to hold the defendant responsible for payment of past support due during the time period that is now time-barred under the two-year statute of limitations at Minn. Stat. ' 257.66, Subd. 4. County was prejudiced by defendant's delay in bringing action to vacate.	Past Support Liability After Vacation of Default Judgment
Maestas v. Koeke, (Unpub.), CX-03-123, filed 7-22-03 (Minn. App. 2003): Default judgments are to be liberally reopened to promote resolution of cases on the merits, especially in paternity cases. Cites Losoya and Ramsey County v. Richardson, 584 NW 2d 425, 429-30 (Minn. App. 1985).	Liberally Reopened

Maestas v. Koeke, (Unpub.), CX-03-123, filed 7-22-03 (Minn. App. 2003): Court did not err in denying motion to vacate default judgment brought six months after adjudication where party=s allegations of a meritorious defense and her reasons for not responding to the complaint were unsupported; however, appellate court remanded to district court to order genetic testing to be performed within 90 days, the procedure used in Wessels v. Swanson, 289 NW 2d at 470.	Genetic Tests Ordered Even Though Proper to Deny Vacation of Default Judgment
County of Los Angeles v. Navarro, Cal. Ct. App., 2nd District, Division 8, B15516, filed 6-30-04: AF in this paternity case was served by abode service in 1996, defaulted, and 5 years later filed a motion to set aside the judgment because he recently had been excluded by genetic tests. Under the Cal. Rules of Civil Procedure, six months are allowed for setting aside a judgment. He could not have the judgment vacated based on extrinsic fraud, because the mother's mere assertion that he was the father was not enough to establish extrinsic fraud. The court of appeals ruled that technically, the father could not be relieved from the judgment, particularly if the law is read with an emphasis on the public interest in the finality of judgments. However, in a scathing opinion, the court ruled that the judgment should nevertheless be vacated, because the policy of fair enforcement of support orders, enunciated by the California legislature in the Child Support Enforcement Fairness Act of 2000, declaring the need for prompt correction of errors by the support enforcement agency where the wrong obligor has been identified, is more important than the finality of judgments. In a footnote, the court noted that the doctrine of finality carries more weight in a case where there is a long-standing parental relationship, since in that case the child's psychological well being is at stake. But this AF had never had a relationship with the boys, and the dispute was over money.	Public Policy Favoring Fair Enforcement of Support Orders Overrides Policy Favoring Finality of Default Judgments (California)
Northland Temporaries vs. Anthony Turpin, et al., A06-2201, filed February 5, 2008 (Minn. App. 2008): District court denied appellant's motion to vacate a default judgment. Reversed and remanded as district court's determination of *Hinz* factors based partially on mistake of fact and error of law. Dicta indicates that a lay person's failure to answer in some circumstances may not be unreasonable. Remand is appropriate where erroneous decision below is based on factual error as it is within the province of the district court to resolve factual disputes in testimony and affidavits and to determine whether excuse is reasonable. ***Hinz* and *Finden* do not limit the district court's discretion to grant rule 60.02 relief. They limit discretion to deny relief. Satisfaction of all four *Hinz* factors is not required for district court to grant relief. Cannot deny relief if all four factors met. Must show a meritorious claim or reasonable defense on the merits.**	Rule 60.02 relief does not require all four *Hinz* factors be fully met Mistake of Fact Error of Law

III.G.7. - Summary Judgment (See also Part I.B.5.)	
Itasca County Social Services v. Milatovich, 381 NW 2d 497 (Minn. App. 1986): Court erred in granting summary judgment based on blood test report not offered or Offer Evidence admitted into evidence.	Failure to Offer Evidence
Itasca County Social Services v. Milatovich, 381 NW 2d 497 (Minn. App. 1986): Affidavit of person with no personal knowledge is insufficient to get blood test results into evidence and it was error to grant summary judgment of paternity.	Foundation
Weihe v. Hendley, 389 NW 2d 754 (Minn. App. 1986): Summary judgment in paternity action is error when neither the blood test result nor answers to interrogatories were properly before the court.	Evidence must be before Court
Nash v. Allen, 392 NW 2d 244 (Minn. App. 1986): Disparate dates of sexual intercourse by the parties sufficient factual issue to warrant denial of summary judgment.	Denial Based on Dispute as to Date of S/I
Johnson and Ramsey County v. Reischel, (Unpub.), C4-90-763, F & C, filed 9-18-90 (Minn. App. 1990): Appellant challenges summary judgment in a paternity action. Respondent submitted an affidavit stating she had an exclusive sexual relationship with appellant between 9/86 and 12/88. (The child was born in 1988). Appellant submitted in interrogatory answers that he had sexual contact with respondent during the conception period. A blood test result showed a 99.994% probability that appellant was the father. In asserting that a material issue of fact existed, the appellant submitted an affidavit of a statistician disputing the reliability of blood tests. The court of appeals affirmed the trial court. Appellant's statistician's affidavit challenged genetic conclusions where occasion for conception is only presumed. Here the appellant admitted having intercourse with the respondent during the time of conception. The appellant argues the respondent had sexual contact with six other men but discloses no effort to locate them and none submitted affidavits. The appellant further claims he was unable to father a child but produces no competent medical evidence to support this claim.	Summary Judgment Upheld
Johnson and Ramsey County v. Van Blaricom, 480 NW 2d 138 (Minn. App. 1992): When a summary judgment motion has been properly supported (in this case with defendant's admission of intercourse during the conception period and 99% blood test), a mere denial of paternity and unsubstantiated allegations that the plaintiff had intercourse with at least one other man during the conception period did not create genuine issues of material fact that would preclude entry of summary judgment.	Issue of Material Fact not Created by Mere Denial or Speculation
Williams and Pine County v. Curtis, 501 NW 2d 653 (Minn. App. 1993): Where there is a presumption of paternity pursuant to Minn. Stat. ' 257.62, Subd. 5(b)(1990), the alleged father is not required to rebut the presumption with clear and convincing evidence to avoid summary judgment. It is sufficient that he show the existence of a genuine issue of material fact by evidence that a jury might find clearly and convincingly rebuts the presumption.	Summary Judgment Burden of Proof
Williams and Pine County v. Curtis, 501 NW 2d 653 (Minn. App. 1993): Alleged father=s denial of intercourse during the likely month of conception was sufficient to overcome summary judgment despite presumption of paternity arising out of blood test results.	Summary Judgment Denied
State of Minnesota obo Washington County and Glancey v. Violette, (Unpub.), C6-95-2159, F & C, filed 4-2-96 (Minn. App. 1996): Defendant's affidavit and discovery responses in which he states that he "believes" he did not have sexual intercourse with the mother and that "to his knowledge" he did not have sexual intercourse were equivocal, and did not meet the level of a denial of sexual intercourse during the period of conception necessary to defeat a motion for summary judgment under Williams v. Curtis.	Wishy-washy Denial of Intercourse During Conception Period
Coon and Ramsey County v. Rush, (Unpub.), C2-89-1145, F & C, filed 11-14-89 (Minn. App. 1989): Defendant cannot successfully challenge a motion for summary judgment for paternity by merely denying he is the father. He must present specific facts showing there is a genuine issue as to his paternity. Here, defendant alleged that mother lived with another man during the period of conception, but mother denied sexual intercourse with that man. Without more evidence, the summary judgment was appropriate.	Mere Denial not Enough

III.G.8. - Jurisdiction and Venue (See also Part I.D.2. and 3.)	
Minn. Stat. ' 257.59; Minn. Stat. ' 543.19 - Jurisdiction over non-residents; Bases for Jurisdiction over Non-resident Minn. Stat. ' 518C.201.	
State v. Carmena, 189 NW 2d 191 (Minn. 1971): MN courts have jurisdiction in paternity suits when putative father resides in MN, notwithstanding fact that mother and child do not presently nor intend in the future to live in Minnesota.	Mother Out of State
State v. Nelson, 298 Minn. 438, 216 NW 2d 140 (1974): Long arm jurisdiction may be conditioned on complainant's making at least a minimum factual recitation of probable fatherhood, beyond a bare allegation of fatherhood.	Long Arm
Howells v. McKibben, 281 NW 2d 154 (Minn. 1979): Factors to be considered in making the "minimum contacts" determination are: (1) quantity of defendant's contacts with MN; (2) nature and quality of those contacts; (3) source and connection of the cause of action with those contacts; (4) interests of state in providing forum; and (5) convenience of the parties.	"Minimum Contacts"
Howells v. McKibben, 281 NW 2d 154 (Minn. 1979): Reasonably foreseeable by defendant that continued sexual relationship with MN resident might result in injuries suffered and that those injuries would be sustained in this state.	Foreseeable
Howells v. McKibben, 281 NW 2d 154 (Minn. 1979): Although defendant resided in Wisconsin and child conceived there, relationship that produced child developed in a significant part in Minnesota.	Minimum Contacts
Ulmar v. O'Malley, 307 NW 2d 775 (Minn. 1981): Where putative father's relationship with mother occurred entirely in SD, child conceived in SD, and mother moved to MN when seven months pregnant, and putative father's only contacts with MN were his attorney's responses to adoption agency's requests for cooperation, insufficient contacts to support exercise of personal jurisdiction under long arm.	"Minimum Contact"
State v. Harling, 360 NW 2d 439 (Minn. App. 1985): Wisconsin resident's contacts with Minnesota sufficient to support personal jurisdiction where defendant knew plaintiff was Minnesota resident and could reasonably have foreseen that she might conceive and hold him responsible for child support in Minnesota.	Foreseeable
Sherburne County Social Services, on Behalf of Pouliot v. Kennedy, 409 NW 2d 907 (Minn. App. 1987): Although Minnesota's long-arm statute would permit exercise of jurisdiction over putative father, there were insufficient contacts with Minnesota such that due process requirements will not permit exercise of said jurisdiction.	Insufficient Contacts
Sherburne County Social Services, Pouliot v. Kennedy, 426 NW 2d 977 (Minn. 1988): Minimum contacts did not exist between non-resident defendant and Minnesota sufficient to sustain state's exercise of personal jurisdiction over the defendant in a paternity action where defendant had no contacts with Minnesota after August 1, 1983, several months before conception occurred; plaintiff presented no facts alleging a continuous relationship between August 1 and November 1983, when conception allegedly occurred in Montana, and Minnesota's interest was protected in an action under URESA.	Insufficient Contacts
Peterson v. Eishen, 495 NW 2d 223 (Minn. App. 1993): Paternity adjudication vacated for lack of personal jurisdiction where defendant was not personally served and did not submit to jurisdiction by voluntarily submitting to paternity test.	Improper Service
J.A.V. v. Velasco, 536 NW 2d 896 (Minn. App. 1995): The Indian Child Welfare Act does not apply to paternity proceedings.	Indian Child Welfare Act N/A
V.H. v. Estate of Birnbaum, 543 NW 2d 649 (Minn. 1996): Under Minnesota's long-arm statute, a Minnesota court has personal jurisdiction over the non-resident personal representative of a deceased non-resident defendant, if jurisdiction would exist over the defendant if he were alive. "Minimum contacts" standard applies to contacts by deceased defendant and not by personal representative.	Over Personal Representative
Limberg v. Mitchell, 834 N.W.2d 211 (Minn. Ct. App. 2013): In determining whether a presumed father's evidence is sufficient to withstand a summary judgment motion in a paternity action, the court shall consider such evidence in R light of the clear and convincing evidentiary burden of proof set forth in Minn. Stat. § 257.62, subd. 5(b).	Paternity; Summary Judgment.

County of Freeborn v. Walker, (Unpub.), A07-375, filed April 8, 2008 (Minn. App. 2008): The county served a person identified by a social security number and name located in California with a paternity action. That person failed to appear or answer and a paternity order was entered by default. Subsequently, the county intercepted tax refunds and began income withholding against appellant, a person with the same or similar name and social security number. Appellant objected, argued he wasn't served with any paternity action, indicated he was a victim of identity theft, and was later excluded as the biological father of the child through genetic testing. The district court order required the county to reimburse appellant for child support collected from him and distributed to obligee. The county appealed. The Court of Appeals held that the undisputed lack of proper service renders the resulting judgments void. Restitution is equitable in nature and there is no abuse of discretion to order the county to reimburse the monies. Finally, the court rejected the argument that the funds should be recouped from mother citing (1) that the funds are disbursed does not absolve the county from having to reimburse Appellant if the facts warrant repayment. (2) A series of mistakes by the county resulted in the void judgments. (3) an innocent child support payor should not sue an innocent mother on public assistance to attempt to recover funds incorrectly procured from the payor as a result of void judgments. This is not in the best interest of the child for whom the child support system was created.	County ordered to reimburse defendant past child support collected based on default adjudication, where service on defendant was defective.

III.G.9. - Vacation of Judgment / JNOV / New Trial (See also Parts I.B.7. and III.G.6.)	
State v. Bussinger, 230 NW 2d 601 (Minn. 1975): Defendant not entitled to vacation of paternity adjudication on basis of newly discovered evidence where proceedings not commenced until more than a year after entry of adjudication, defendant had been in court several times in interim for contempt and did not raise the issue and defendant had been advised of right, and declined, blood tests.	Vacation of Adjudication
State of Minnesota, ex rel. Pula v. Beehler, 364 NW 2d 860 (Minn. App. 1985): New trial may be granted on basis of material evidence, newly discovered which with reasonable diligence could not have been found and produced at trial, and which will likely affect outcome of case.	New Evidence
Hennepin County Welfare Board v. Kolkind, 391 NW 2d 539 (Minn. App. 1986): A motion for relief under 60.02, if timely, is an available procedure in a paternity action, though not a dissolution action.	Rule 60.02
Matheson v. Clearwater County Welfare Department, 412 NW 2d 812 (Minn. App. 1987): Respondent was entitled to restitution of child support payments he made pursuant to a default judgment of paternity which was subsequently vacated upon exclusionary blood test results.	Default Judgment - Restitution of Child Support
State of Georgia, ex rel. Brooks v. Braswell, 474 NW 2d 346 (Minn. 1991): After appellant's motion to vacate was denied and he failed to appeal an order determining that he is a presumed father under Minn. Stat. ' 257.55, Subd. 1(a), the presumption was no longer subject to rebuttal and a subsequent action to declare non-paternity was barred.	Defense Use of ' 257.57 1(b)
State of Minnesota v. Hudson, (Unpub.), C3-91-358, F & C, filed 8-27-91 (Minn. App. 1991): To reopen a paternity adjudication under 60.02(c) and (f), appellant must show: a reasonable defense on the merits; a reasonable excuse for failure/neglect to act; due diligence after entry of judgment; and that no substantial prejudice will result to the opponent. Furthermore, relief under 60.02(f) requires reliable evidence that would furnish a reason justifying relief.	Rule 60.02
Itasca County Social Services and Halverson v. Pitzen, 488 NW 2d 8 (Minn. App. 1992): An accredited laboratory test showing a 99.93% probability of the alleged father's paternity creates a presumption of parentage under Minn. Stat. ' 257.62, Subd. 5(b) (1990) that can only be rebutted by clear and convincing evidence that the alleged father is not the parent of the child. JNOV or new trial order reversing jury finding of non-paternity upheld.	Presumption - Rebutted by Clear and Convincing Evidence
Peterson and County of Ramsey v. Eishen, 512 NW 2d 338 (Minn. 1994): Where default paternity order was entered after inadequate service (substitute service at place other than his usual place of abode), voluntary submission to a blood test without a court order or any other contact with the court does not constitute submission to jurisdiction of the court. DeGrande and Ramsey County v. Demby, 529 NW 2d 340 (Minn. App. 1995): Man who signed a declaration of parentage in 1989 is barred from bringing an action to vacate a 1990 paternity judgment under Minn. R. Civ. P. 60.02(f) because the three year statute of limitations under Minn. Stat. ' 257.57, Subd. 2(2) is an absolute bar to a challenge of paternity, even in the face of a subsequent blood test exclusion. [Ed.Note: This case does not overrule Reynolds which continues to allow non-paternity to be raised as a defense, after expiration of a statute of limitations, even though it cannot be raised affirmatively, as in Demby.]	Submission to Blood Tests not Adequate Action to Vacate Judgment Barred by Three Year S/L Despite BT Exclusion
Lelonek v. Lelonek, (Unpub.) C0-98-1295, F & C, filed 3-2-99 (Minn. App. 1999): Usual time limits for a motion to reopen because of alleged fraud are not applied if there is blood test evidence of non-paternity. (Citing Wessels v. Swanson).	Time Limits to Reopen n/a in Fraud Case
Lelonek v. Lelonek, (Unpub.), C0-98-1295, F & C, filed 3-2-99 (Minn. App. 1999): The court's finding of non-paternity under an action to declare non-paternity under Minn. Stat. ' 257.57, was proper where court could reasonably find that mother had committed fraud on the court by her failure to disclose her sexual relationship with another person prior to a 1994 dissolution.	Action to Declare Non-Paternity after Divorce Decree
Monmouth Cty. Div. of Soc. Svcs. V. R.K., N.J. Superior Ct. Ch. Div. No. FD-13-2761-95A, released 8-21-00: Father who acknowledged paternity and agreed to pay support cannot avoid duty when paternity tests later exclude him.	Must Still Pay Support Despite Blood Test Exclusion
Turner and Ramsey County v. Suggs, 653 NW 2d 458 (Minn. App. 2002): A motion to vacate a paternity judgment under Rule 60.02 does not require appointment of a guardian ad litem under Minn. Stat. ' 257.60(2)(2000), since it is not an action to establish non-paternity under Minn. Stat. ' 257.57, subd. 2.	Guardian Ad Litem not Required

Turner and Ramsey County v. Suggs, 653 NW 2d 458 (Minn. App. 2002): Appellant Suggs filed a motion to vacate the paternity adjudication on the grounds that he stipulated to parternity based on the sworn statements of the mother, which were later called into question because gentic testing results excluded Appellant Suggs as the biological father of the minor child. (Minn. R. Civ. Pro. Rule 60). The Minnestoa Court of Appeals held that Appellant Suggs' motion to vacate the partenity adjudication should be remanded back to District Court to hold and evidentiary hearing on the evidence produced at the hearing. The appellate court also indicated that the district court did not err in not appointing a guardian ad litme because the motion to vacate was procedurally different than an action to declare the non-existence of the father-child relationship under Minn. Stat. § 257.57A man adjudicated the father of a child in a paternity proceeding may bring a motion either under Minn. R. Civ. P. 60.02 or under Minn. Stat. ' 518.145, subd. 2, to vacate the adjudication.	Motion Under 60.02 or ' 518.145
Turner and Ramsey County v. Suggs, 653 NW 2d 458 (Minn. App. 2002): Where the custodial parent signed an affidavit stating that the defendant was the only possible father of her child, and testified to the same fact at the paternity hearing, and later genetic tests proved non-paternity, the fact that defendant stipulated to paternity and waived genetic testing at the time paternity was adjudicated does not prevent him from later bringing a motion to vacate the paternity adjudication under Minn. R. Civ. P. 60.02 (c) based on fraud, or under Minn. R. Civ. P. 60.02 (b) based on newly discovered evidence that "due diligence" would not have discovered in time to seek a new trial.	Vacation Following Stipulation Based on Fraud
Turner and Ramsey County v. Suggs, 653 NW 2d 458 (Minn. App. 2002): When determining whether to vacate a paternity adjudication under Minn. R. Civ. P. 60.02, the district court shall not consider the child's best interests.	Best Interests of Child N/A
County of Freeborn v. Walker, (Unpub.), A07-375, filed April 8, 2008 (Minn. App. 2008): The county served a person identified by a social security number and name located in California with a paternity action. That person failed to appear or answer and a paternity order was entered by default. Subsequently, the county intercepted tax refunds and began income withholding against appellant, a person with the same or similar name and social security number. Appellant objected, argued he wasn't served with any paternity action, indicated he was a victim of identity theft, and was later excluded as the biological father of the child through genetic testing. The district court order required the county to reimburse appellant for child support collected from him and distributed to obligee. The county appealed. The Court of Appeals held that the undisputed lack of proper service renders the resulting judgments void. Restitution is equitable in nature and there is no abuse of discretion to order the county to reimburse the monies. Finally, the court rejected the argument that the funds should be recouped from mother citing (1) that the funds are disbursed does not absolve the county from having to reimburse Appellant if the facts warrant repayment. (2) A series of mistakes by the county resulted in the void judgments. (3) an innocent child support payor should not sue an innocent mother on public assistance to attempt to recover funds incorrectly procured from the payor as a result of void judgments. This is not in the best interest of the child for whom the child support system was created.	County ordered to reimburse defendant past child support collected based on default adjudication, where service on defendant was defective.
Donovan v. Donovan, No. A07-2060, 2008 WL 4471963 (Minn. Ct. App. Oct. 7, 2008): In 1993, the parties negotiated a martial termination agreement and submitted it to the DC for approval. The parties were awarded joint legal custody and Mother was granted sole physical custody. Child support was set at $850 for the first three months, $1,000 for the following five months and $1,200 continuing onward. There was also a provision for "additional child support" or a child support bonus payment. The martial termination agreement provided a detailed and complex calculation for bonus payments. In 2005, the parties orally stipulated to the transferring of physical custody of their younger child to the maternal grandparents; Father's child support obligation was suspended. Father moved to clarify and interpret the dissolution judgment or reopen the judgment and vacate the child support bonus provision. Mother responded and requested that the Father's motion be denied and she be awarded child	

support bonus payments with interest in the amount of $237,850. The District Court ordered that the dissolution judgment be reopened to allow the court to make adequate written findings. On appeal, the Court of Appeals reversed stating that the dissolution judgment could not be reopened to supply findings, except for one of the reasons listed in Minn. Stat. section 518A.145, subd. 2 (2004). The District Court then issued an order stating that child support bonus provision was clear and unambiguous, and that Mother was entitled to a judgment of $253,816 (bonus, plus accrued interest). Father appealed. The Court of Appeals held a dissolution provision is unambiguous if its meaning can be determined without any guide other than knowledge of the facts on which the language depends for meaning. Provisions were negotiated and adopted by both parties. Equitable defenses like laches are inapplicable to child support arrearage motions because the child's right to support must be protected. Non-custodial parent cannot satisfy his child support obligation by paying sums of money directly to his children; payment of child support is to be cash and giving gifts or purchasing food/clothing does not fulfill that obligation.	

III.H. - JUDGMENT OR ORDER	
III.H.1. - Generally	
Minn. Stat. ' 257.66.	
Spaeth v. Warren, 478 NW 2d 319 (Minn. App. 1991): Paternity adjudication need not include finding of "best interests" analysis under Minn. Stat. ' 257.51-.74 (1990).	Findings on Best Interest
County of Carver and Arney v. Delbow, (Unpub.), C3-96-301, F & C, filed 8-20-96 (Minn. App. 1996): District court order requiring father to pay $1,436.00 in trial costs, including the cost of bringing mother to Minnesota to testify upheld. Minn. Stat. ' 257.69, Subd. 2, does not require court to consider a party's ability to pay before ordering payment of costs.	Reimburse-ment of Trial Costs
In re: Estate of James A. Palmer, Deceased, (Unpub.), C7-02-182, F & C, filed 3-20-03 (Minn. 2003): The Parentage Act is not the exclusive means of determining parentage for purposes of intestate succession under Minn. Stat. ' 524.2-114 (2002). Parentage for purposes of intestate succession may also be established by clear and convincing evidence.	Paternity Adjudication Not Required for Inheritance
In re the Matter of: County of Carver ex rel Lori J. Schuman vs. Daniel L. Revsbech, (Unpub.), A07-0442, filed April 22, 2008 (Minn. App. 2008): Appellant father appeals order determining medical and child care arrears existed. The Court of Appeals affirmed, stating (1) it was not an abuse of discretion to interpret language in a prior order concluding that the prior order modified only basic support arrearages, and not medical or childcare support arrearages. (2) Appellant argues that the arrearages merged into the subsequent order which recalculated appellant's basic support arrearages, but did not address medical or childcare arrearages. The court rejected the argument noting the order was not temporary as defined by Minn. Stat. § 518.131 nor is it a temporary alimony order. Finally, the issue was established after full litigation of the claim, in which Appellant had counsel and presented arguments and facts. As such, Appellant was not denied due process.	Medical and childcare arrears did not merge with district court's recalculation of basic support arrears.
Macfarlane v. Macfarlane, A21-1741, 2022 WL 6272061, (Minn. Ct. App. 2022): Appellant-wife makes three arguments that the district court erred in its dissolution judgment: 1) it did not consider the parties' pre-tax and post-tax incomes when awarding spousal maintenance, 2) it erred by making a finding of fact requiring the parties to submit further property disputes to binding arbitration, and 3) not specifying the source for a property equalizer payment. The Court of Appeals rules 1) failure to consider parties post-tax incomes ignores § 518.552, subd. 2 and caselaw identifying taxes a factor relevant to a maintenance award, 2) finds harmless error in the findings of fact as the conclusions of law refers to mediation and was incorporated into the judgement, Minn. R. Civ. P. 61 and 3) remands to the district court to clarify its ambiguous order.	Marriage Dissolution, Income, Maintenance

III.H.2. - Contents	
Minn. Stat. ' 257.66, Subd. 3.	

III.H.3. - Financial Provisions / Obligations	
Minn. Stat. ' 257.66, Subds. 3 and 4.	
Gomex v. Perez, 409 U.S. 535, 93 S.Ct. 872 (1973): Once a state establishes a judicially enforceable right to child support from a child's parents, there is no constitutionally sufficient reason to deny support to an illegitimate child.	Equal Right to Support as Legitimate Child
Forslund v. Bronson, 305 NW 2d 748 (Minn. 1981): Statute requiring father of illegitimate child to be liable for necessary support of child establishes statutory requirement which parallels common-law requirement of support by mother, thus making duty of support coextensive and does not create a gender-based classification.	Constitu-tional
Isanti County v. Swanson, 394 NW 2d 180 (Minn. App. 1986): The two year statute of limitations on past support does not run from the commencement of the paternity action when the judgment of paternity is silent on birth expenses and past and future support, and motion for support is brought after entry of the judgment. Overruled by Supreme Court in County of Stearns v. Weber.	Statute of Limitations
Rieck v. Lambert, 396 NW 2d 269 (Minn. App. 1986): Expenses "which were incurred in the two years immediately preceding the commencement of the action" includes those incurred before or after the date the action commences so long as they were not incurred more than two years before this date.	Past Support
Nash v. Allen, 392 NW 2d 244 (Minn. App. 1986): No abuse of discretion when amount of past support ordered was the amount the AFDC increased with the addition of the child.	AFDC Increment
County of Kandiyohi v. Swanson, 381 NW 2d 84 (Minn. App. 1986): Confinement expenses may be allocated among the father and mother, but where mother on AFDC there is conflict of interest for the county attorney and mother should have court- appointed counsel.	Confinement Expenses
Thompson v. Newman, 383 NW 2d 713 (Minn. App. 1986): Fact that it is a paternity matter is not a sufficient basis for a downward departure from guidelines.	Guidelines
Pitkin v. Gross, 385 NW 2d 367 (Minn. App. 1986): Statutory guidelines apply in a parentage action.	Guidelines
Hennepin County v. Geshick, 387 NW 2d 439 (Minn. App. 1986): Where the court adjudicated financial matters in paternity action, county cannot later seek past support under the paternity file, but must bring new action under Minn. Stat. ' 256.87. Overruled by Supreme Court in County of Stearns v. Weber.	Past Judg-ments Past PA Reim-bursement Disallowed
County of Ramsey v. Shir, 403 NW 2d 714 (Minn. App. 1987): Where financial hearing was held four years after paternity adjudicated, the motion for reimbursement of past AFDC in the paternity file was treated as a Minn. Stat. ' 256.87 reimbursement action and recovery allowed only for two years preceding motion, rather than two years preceding commencement of paternity action. Overruled by Supreme Court in County of Stearns v. Weber.	Two-Year S/L Commenced with Post-Adjudication Motion for Reimburse-ment
County of Redwood (o/b/o Nicole Baab) v. Tisue, (Unpub.), C1-88-1272, F & C, filed 11-15-88 (Minn. App. 1988) 1988 WL 120230: Redwood County brought an action against Tisue (father) for reimbursement of benefits paid by the county for the expenses of the births of their two children. The statute of limitations does not bar this action even though two years has past because the two-year statute of limitations is silent with respect to any time bar of an action for reimbursement of reasonable expenses of the mother's pregnancy.	Pregnancy Expenses
Schaff v. Schaff, 446 NW 2d 28 (N.D. 1989): When parents of a child born out-of-wedlock married each other, child custody and future support provisions of paternity judgment were nullified. If those parents subsequently seek a divorce, the divorce laws are then applicable to the (*de novo*) determination of custody and support.	Support Obligation under Paternity Judgment Ends Upon Marriage
Peterson v. Michalski, (Unpub.), C9-90-497, F & C, filed 7-17-90 (Minn. App. 1990): Where the trial court determined that the custodial parent was entitled to more support as reimbursement of the past expenses incurred in raising the child than she received in AFDC payments, and the AFDC assignment was only to the amount of AFDC expended, the custodial parent has the right to sue for reimbursement of expenses over that amount.	Reimbursement Over AFDC Amount

Isanti County Family Services o/b/o Noren v. Kunza, 465 NW 2d 717 (Minn. App. 1991): A parent not receiving public assistance may be awarded past child support for expenses incurred in the two years immediately preceding the commencement of the action under Minn. Stat. ' 257.66, Subd. 4 (1988).	Past Child Support
McNeal v. Swain, 477 NW 2d 531 (Minn. App. 1991): When determining past support, the trial court/ALJ must make particularized findings regarding earnings, needs, and resource of the obligor, obligee, and child. Merely applying the guidelines to obligor's past income is an abuse of discretion where there are no findings to explain why this is just.	Past Support
Franzen and County of Anoka v. Borders, 521 NW 2d 626 (Minn. App. 1994): The district court need not find a substantial change in circumstances to issue a final support obligation that exceeds an existing temporary support obligation.	Effect of Temporary Support Order on Final Child Support Obligation
Benson and Ramsey County v. Allan, (Unpub.), C4-94-2408, F & C, filed 5-9-95 (Minn. App. 1995): In a paternity financial hearing, it was not improper for the court to require obligor to pay 50% of past expenses of the child as claimed by mother where obligor failed to provide court evidence of his expenses during the relative time period.	Obligor's Share of Past Expenses
Hovda v. Anderson and County of Olmsted v. Bush, (Unpub.), C0-95-925 and C2-95-926, F & C, filed 9-26-95 (Minn. App. 1995): An obligor may be ordered to perform community work service in lieu of payment of judgments for birth expenses and AFDC reimbursement pursuant to Minn. Stat. ' 518.551, Subd. 5a (1994):	Community Service
Schaefer and County of Stearns v. Weber, 546 NW 2d 771 (Minn. App. 1996), reversed at 567 NW 2d 29 (Minn. 1997): Court of Appeals ruled that reimbursement of public assistance cannot be recouped pursuant to Minn. Stat. ' 257.66; rather a separate Minn. Stat. ' 256.87 action must be brought.	Back Support Limited to Two Years before Motion Brought
Patzner v. Schaefer, 551 NW 2d 736 (Minn. App. 1996): Mother of adult child has standing to bring action to recover her lying-in expenses, but her right to recover is barred by laches when she delayed 20 years to bring action.	Laches and Lying-in Expenses
Berberich v. Habayeb, (Unpub.), C7-95-2624, F & C, filed 7-2-96 (Minn. App. 1996), review granted: Citing court of appeals decision in Schaefer v. Weber, Ct. App. upheld ALJ decision allowing reimbursement of P.A. in a paternity case only for the two years preceding the motion, and not two years preceding commencement of the paternity action. Overruled by Supreme Court in County of Stearns v. Weber.	Back Support Limited to 2 Years before Motion
County of Stearns v. Weber, 567 NW 2d 29 (Minn. 1997): Past AFDC can be recouped in a paternity action without bringing a separate ' 256.87 action or motion. The statute of limitations is two years prior to commencement of the paternity action. In this case, the Supreme Court reverses the court of appeals in Stearns v. Weber and also overrules the court of appeals decisions in County of Ramsey v. Shir, Hennepin County v. Geshick, and Isanti County v. Swanson.	Past AFDC Recouped Under Chapter 257
In Re the Paternity of B.J.H. and A.J.S. v. M.T.H., 573 NW 2d 99 (Minn. App. 1998): Court did not abuse its discretion in denying mother's request for financial discovery during the paternity phase of the proceeding.	Financial Discovery
Hasskamp and Ramsey County v. Lundquist, (Unpub.), C8-97-1373, F & C, filed 2-10-98 (Minn. App. 1998): By specifying the circumstances under which the district court may deviate downward from the guidelines in determining a parent's liability for past support, the 1995 amendment to Minn. Stat. ' 257.66, subd. 4, implies that the amount of past support ordinarily should be determined pursuant to the guidelines.	Limit on Guidelines Deviation on Past Support
Bunge v. Zachman, 578 NW 2d 387 (Minn. App. 1998): The reasonable expenses of the mother=s pregnancy and confinement under Minn. Stat. ' 257.66, subd. 3 does not include the mother=s lost wages while on bed rest before delivery and while visiting the child in the hospital post-delivery.	Mother=s Lost Wages

Berg v. D.D.M., 603 NW 2d 361 (Minn. App. 1999): The district court has the discretion to decline to impose a past support obligation under Minn. Stat. ' 257.66, subd. 4 on a deceased parent's estate, if the imposition of the obligation is not deemed "just" in the circumstances. When an obligor dies, the trial court=s discretion to determine the amount of support is broadened by Minn. Stat. ' 518.64, subd. 4(1998) which allows the court to modify, revoke or commute to a lump sum payment a deceased parent's support obligation, to the extent just and appropriate in the circumstances.	Past Support from Deceased Parent=s Estate
Berg v. D.D.M., 603 NW 2d 361 (Minn. App. 1999): The absence of a child support order at the time of obligor's death does not preclude the court from ordering future support or a lump-sum payment under Minn. Stat. ' 518.64, subd. 4.	Absence of Support Order at Time of Obligor=s Death
Frisch v. Solchaga, (Unpub.), C4-99-1083, F & C, filed 1-11-1999 (Minn. App. 2000): Minn. Stat. ' 518.551, Subd. 5(1)(1998) and Holmberg did not prohibit a court from ordering past child support in a paternity case, even though the child received an insurance benefit, because the time period in question was prior to the 8-1-98 effective date of the statute.	No Credit for Social Security Prior to 8-1-98
Visser v. Scoles, (Unpub.), C3-01-1240, F & C, filed 5-31-02 (Minn. App. 2002): In a paternity action, the court may deviate from the guidelines in awarding back child support for a child over the age of five if the obligor first learned of the child's existence within one year of the action for child support. Minn. Stat. ' 257.66, subd. 4(1). (Note: decision does not give date the action was commenced; rather it gives the date custodial parent completed the affidavit of paternity.)	Past Support for Child Over Five
Storm v. Siwek, (Unpub.), C4-03-280, filed 7-8-03 (Minn. App. 2003): It is in the discretion of the court whether it is Ajust@ to order retroactive medical support under Minn. Stat. ' 257.66, subd. 4.	Retroactive Medical Support
Reyes v. Rivera, A05-2202, (Minn. Ct. App. September 26, 2006): The trial court did not abuse its discretion in denying father's motion to hold mother in contempt and granting mother's motion to move the parties' child out of state, with an adjustment in father's parenting time. Mother was awarded sole physical custody of the parties' child and father was awarded parenting time. Mother temporarily took the child to CA with father's permission. The child remained in phone contact with father while out of state. Mother's husband got a job in AZ and mother motioned to move the child out of state. Moving was presumed to be in the child's best interests. Father's allegations of school absences, child abuse and the mother's mental health issues were not supported by credible evidence and father ultimately failed to show that the removal of residence would endanger the health and welfare of the child or constituted an attempt by mother to interfere with father's parenting time.	Moving child out-of-state
Schizzano v. Schizzano, A006-113, (Minn. Ct. App. September 26, 2006): The district court found that father purchased a drug-masking drink for his 16 year old son who is on probation and subject to random drug testing yet the district court did not restrict parenting time. The Court of Appeals reversed and remanded because § 518.175 requires the court to restrict parenting time when the court finds the exercise of parenting time endangers the child or impairs the child's emotional development.	Restriction in parenting time mandated when endangerment is found
In re the Marriage of Mark William Carroll v. Desiree Lucille Boeltl, (Unpub.), A07-1349, filed January 2, 2008 (Minn. App. 2008): Appellant mother argues the court abused its discretion to order judgment for her for the amount of her overpayment of past child support. Minn. Stat. 518A.52(1) requires overpayments to first be applied to reduce any arrears, then (2) used to reduce obligor's future child support payments. The lower court abused its discretion only in that the court reduced the future child support to $0 until the overpayment was eliminated; the statute requires the reduction of future child support be limited to 20% of the obligor's child support obligation. Therefore, obligor's child support of $590 should be reduced to $472 per month until the overpayment has been fully credited.	Overpayment of child support; first apply to arrears, then reduce current obligation by no more than 20% until overpayment eliminated.

S.A. v. L.H., A21-0921, 2022 WL 1918963 (Minn. App. 2022): Under Minn. Stat. § 257.66, subd. 4 the District Court has the authority to address a past support award as part of a parentage proceeding not as part of a separate action filed after the fact. District Court lacks authority to award retroactive support pursuant to Minn. Stat. § 256.87, subd. 5 when a party has custody of a joint child with neither the consent of the other parent or order of the court.	Past Support – Generally; Past Support – Paternity; Retro Support for Paternity; Retro Support in Establishment - NPA

III.H.4. – Child's Name	
Robinson v. Hansel, 223 NW 2d 138, 148 (Minn. 1974): Changing a child's surname over one parent's objection should be done only when "the evidence is clear and compelling" that the substantial welfare of the child necessitates such change.	Objection of Parent
Jacobs v. Jacobs, 309 NW 2d 303 (Minn. 1981): Neither parent has superior right to determine initial surname of child and child's best interest govern.	Best Interest
In Re Saxton, 309 NW 2d 298 (Minn. 1981) *cert. denied* 455 U.S. 1034 (1982): Once surname selected for child, change should only be granted when it promotes the child's best interests; factors to be considered (1) effect of change on preservation and development of child's relationship with his parent; (2) length of time child has borne given name; (3) degree of community respect associated with present and proposed surname; (4) difficulties, harassment or embarrassment that child may experience from bearing either name.	Change only to Promote Child's Best Interests
Aitkin County v. Girard, 390 NW 2d 906 (Minn. App. 1986): Court of appeals reversed trial court which changed name of children, ages 5 and 3, in paternity proceeding over objection of mother. Relevant factors were that children always had the mother's name, the mother's preference, custody with mother, and lack of findings that it would be in children's best interest. It is not in the best interests of a minor child to change the child's surname over the objection of the custodial parent where it has not been shown that failure to change the name would be detrimental to the relationship with the noncustodial parent.	Not in Child's Best Interest to Change Name over Objection of CP
Hauge v. Asmussen, (Unpub.), C9-91-154, F & C, filed 8-13-91 (Minn. App. 1991): Child's name changed where current name was surname of mother's former husband, not child's father, and surname did not reflect the child's heritage.	Reflect Child's Heritage
In the Matter of the Welfare of C.M.G., 516 NW 2d 555 (Minn. App. 1994): When granting or denying a petition for a name change, the court must set forth clear and compelling reasons for its decisions (factors enumerated in case).	Clear and Compelling Reasons
Jowett v. Wiles, (Unpub.), C7-99-557, F & C, filed 12-7-99 (Minn. App. 1999): Father's initial denial of paternity did not preclude the court from changing a one-year-old child's surname to father's surname over mother's objection, where the court carefully analyzed the factors delineated in Robinson v. Hansel.	Name Changed in Contested Paternity Case
Kandiyohi County and Knutson v. Korsmo and Clark, (Unpub.), C4-99-1603, F & C, filed 4-25-00 (Minn. App. 2000): Where motion to change the name of a child and motion to modify grandparent visitation were brought as part of paternity proceeding, paternity procedures, including pre-trial and jury trial did not apply. No evidentiary hearing was required where party did not make a formal request for a hearing under Minn. R. Gen. Prac. 303.03(d).	Evidentiary Hrg not Required by Paternity Statute on Name Change and Visitation Motion
In the Matter of the Application of: Kadey Beth Danielson obo Samantha Marie Jameson for a Name Change to Samantha Marie Danielson, (Unpub.), A-05-186, F&C, filed 2-27-06 (Minn. App. 2006): Court considered appropriate factors under Saxton and found name change in child's best interests. Biological father objected to name change but never claimed the name change was not in the child's best interest or claimed the name change would hinder his relationship with the child. The evidence supports findings and court did not abuse its discretion in granting the mother's request for name change.	Name Change
App. Of Vick for Minor Name Change of: T.A.S., (Unpub.), A05-1010, F&C, filed 3-07-06 (Minn. App. 2006): Court of Appeals affirmed trial court's decision to grant Respondent/Mother's petition to change her 15-year old son's surname from Appellant/biological father's name (Stein) to the surname of Respondent and her husband (Vick) over the objection of Appellant. The trial court did not abuse its discretion because it conducted an evidentiary hearing, determined that the child had used his step-father's surname informally for 10 years, the child testified that he intended to change his surname when he turned 18 (if trial court denied his mother's petition) and the court found that Appellant had at best a "strained relationship" with the child and it was in the child's best interest to legally change his surname before he obtained a driver's license and established a work history.	Order granting mother's petition to change child's surname over father's objection upheld

In the Matter of the Application of J.M.M. o/b/o Minors for a Change of Name, A17-1730 (Minn. Ct. App. Jun. 4, 2018): A father who is presumed to be the biological father, based on holding the children out as his own but failing to take legal or financial responsibility for the children, is entitled to receive notice of the pending application for change of the children's names. Providing notice of the name change petition to the legal parent may still be practicable when the petitioning party has safety concerns regarding the respondent.	Parentage Act, Paternity Statute
In the Matter of the applicaton of J.M.M. o/b/o Minor for a Change of Name, 937 N.W. 2d 743 (Minn. 2020): Minn. Stat. §259.10 does not require that notice of a name-change applicaton on behalf of a minor child be given to a biological father who is neither listed on the minor's birth certificate nor an adjucitated father under the Parentage Act, and therefore is not a legal parent.	Child's Name
Stanton v. Curran, A20-0211, 2021 WL 317227 (Minn. Ct. App. Feb. 1, 2021): When a party objects to a name change of a minor child, the requestor has the burden of providing clear and compelling evidence to support a name change so the district court can conduct a complete analysis of the relevant factors. The district court may amend its temporary order in its final dissolution order by awarding retroactive child support for the time period dating back to the parties' separation because the action is not a motion for modification.	Dissolutions; Retroactive Modification; Childs Name
In re G. J. P., A20-1616, 2021 WL 3136411 (Minn. App. 2021): The best interests of the child will *may* be served by a hyphenated surname that will promote his relationship with his father and is unlikely to result in his harassment or embarrassment in part because many children now live in blended families and have different names than their siblings.	Name Change

III.H.5. - Custody and Visitation (See also Part IV.A.)	
Minn. Stat. § 257.541; Minn. Stat. § 518.17 - sets out the factors to consider in determining the "best interests of the child". Minn. Stat. § 518.17, Subd. 2 - states the rebuttable presumption that joint legal custody is in the best interests of the child, and also sets out the factors the court must consider when either joint legal or joint physical custody is sought. (Ed.Note: In may of our paternity cases, a review of the relevant factors will serve to rebut the presumption in favor of joint legal custody.); Minn. Stat. §§ 257.541; 257.75 - custody and parenting time in ROP cases.	
Lehr v. Robertson, 463 U.S. 248, 103 S.Ct. 2985 (1983): Unmarried father had not supported and had rarely seen his child. "When an unwed father demonstrates a full commitment to the responsibilities of parenthood by coming forward to participate in the rearing of his child, his interest in the personal contact with his child acquires substantial protection under the due process clause. But the mere existence of a biological link does not merit equivalent constitutional protection."	Contact with Child not Constitu-tionally Protected
Morey v. Peppin, 375 NW 2d 19 (Minn. 1985): If there has been a declaration of parentage under Chapter 257.34 and adjudication of paternity, then Minn. Stat. § 518.17 and § 518.175 apply to custody and visitation, but if there is no declaration of parentage, then an adjudicated father must commence separate custody proceeding under Minn. Stat. § 518.156, and modification standard applies. (Ed.Note: Under a ROP, father must commence separate custody proceeding under Minn. Stat. § 518.156, Subd. 1(a)(2).)	Modification Standard if no DOP
Ozenna v. Parmelee, 377 NW 2d 483 (Minn. App. 1985): Trial court in paternity action may properly consider issue of custody and visitation; factors upon which custody is to be decided in paternity action are found in Minn. Stat. § 518.17.	Factors to Consider
Knutson and Ramsey County v. Primeau, 371 NW 2d 582 (Minn. App. 1985): Minn. Stat. § 518.18 standard for modification of custody applied to father's custody motion despite absence of custody determination in paternity action concerning first child and absence of litigation to support custody determination in paternity action concerning second child.	Custody Modification Standard Applied
Itasca County Social Services, ex rel. Hall v. David, 379 NW 2d 700 (Minn. App. 1986): Minn. Stat. § 518.18 governing modification of custody orders applies to father's motion to obtain custody of child from mother, although the custody and support judgment was entered without findings based on a stipulation to paternity.	Modification
In Re the Welfare of B.E.N., Stein v. Timmons, 392 NW 2d 736 (Minn. App. 1986): Custody determination in paternity action is governed by same criteria as in dissolution action including the primary parent provisions in Pikula; award of custody to mother with past deficiencies in care for child was proper where mother has matured in her relationship with child and her present husband.	Same Criteria for Custody Decision in Paternity and Divorce
Psyck v. Wojtyskiak, 400 NW 2d (Minn. App. 1987): Common law in effect in 1974 gave mother custody at date of voluntary adjudication. Minn. Stat. § 518.18(d) standard for modification of custody applies to father's custody motion even though custody was not previously decided.	Custody Modification Standard Applied
Simone v. Simone, (Unpub.), C1-90-1482, F & C, filed 1-15-91 (Minn. App. 1991): Alleged father's attempt to intervene in a child custody case (maternal grandparents were seeking custody and alleged father wanted visitation rights) was denied because paternity had not been acknowledged or adjudicated.	Paternity not Acknow-ledged or Adjudicated
Rogge v. Rogge, 509 NW 2d 163,165 (Minn. App. 1993), *rev.den.* (Minn. 1-28-94): rebuttable presumption that joint legal or physical custody is not in the best interests of the child if domestic abuse has occurred.	Joint Custody not in Best Interest if Domestic Abuse
State of Minnesota, County of St. Louis and Hagedorn v. White, (Unpub.), C8-93-2188, F & C, filed 3-29-94 (Minn. App. 1994): Where paternity order does not address custody, and parties live continuously together for 10 years with child, in father's action for custody, custody to mother in original paternity order cannot be implied. Therefore, best interest standard rather than endangerment standard applies.	Custody to Mother not Implied

Petersen v. Gruber, (Unpub.), CX-94-2218, F & C, filed 2-28-95 (Minn. App. 1995): Placement of child with mother in connection with a child protection case did not constitute an initial award of custody under Minn. Stat. § 518.17. Therefore, action for custody by the father of a child born outside of marriage was properly determined under the "best interests" standard of Minn. Stat. § 518.17, as an initial determination rather than the "endangerment" standard under Minn. Stat. § 518.17 required for a change in custody.	Effect of Child Protection Order
Nelson v. Nelson, (Unpub.), CX-96-280, F & C, filed 8-27-96 (Minn. App. 1996): During pendency of child support contempt proceedings where father continued to tell children that their mother was trying to get the judge to throw him in jail after judge had warned him to discontinue making these remarks because they were harmful to the children, it was a proper sanction for the court to limit father's visitation rights.	Limitation of Visitation Due to Harmful Remarks
Sokolowski v. Sokolowski, (Unpub.), CX-99-1881, F & C, filed 4-18-00 (Minn App. 2000): Father of child may not bring a custody action under Minn. Stat. ' 518.156, subd. 1(a)(1998) until paternity has been legally established (by J&D, under parentage act or with a ROP).	Must First Establish Paternity
Shields v. Frankenfield, (Unpub.), C4-99-1696, F & C, filed 3-28-00 (Minn. App. 2000): Court did not err in ordering below guidelines past support in a paternity case, where obligor has subsequent children born prior to the paternity action, and there was insufficient information on the child's needs in the paternity action (child was 15 when paternity action was commenced).	Subsequent Children born prior to Paternity Action
Johnson v. Murray, (Unpub.) C7-01-480, F & C, filed 8-7-01 (Minn. App. 2001): Alleged father brought child to Minnesota and commenced paternity and custody action. Though court had jurisdiction over paternity under Chapter 257 the court did not have jurisdiction to address custody since requirements of UCCJA not met. (Ed. Note: The court of appeals did not address the issue of whether custody can be determined under the paternity statute.)	Applicability of UCCJA to Custody Jurisdiction in Paternity Case
Pederson v. Freismuth and C.J.P., (Unpub.), C1-01-801, F & C, file 11-20-01 (Minn. App. 2001): Pederson petitioned the court for an adjudication of paternity and an award of custody. He was the presumed father based on Minn. Stat. § 257.55, Subd. (1)(d) but was excluded by genetic tests. Court of appeals affirmed district court order that outright awarded custody to the mother, not analyzing Peterson's request for custody. Court of appeals ruled that Minn. Stat. § 257.541 only allows a biological parents to petition for custody in a parentage proceeding. Ed. note: This decision seems contrary to decision in Wisto v. Overby, requiring the court to weigh conflicting presumptions when determining custodial or visitation rights.	Only Biological Parent can Petition for Custody in a Parentage Proceeding
In Re: the Paternity, Custody and Support of L.A.Q., (Unpub.), C7-01-1306, F & C, filed 4-9-02 (Minn. App. 2002): Where father signs a ROP, and brings a custody action, the proceeding is treated as an ini-tial determination of custody under Minn. Stat. § 257.541, Subd. 3 (2000). Morey v. Peppin, 375 NW 2d 19 (Minn. 1985) does not control because it predated the effective date of Minn. Stat. § 257.541, and because Morey involved a man who waited two years (versus two months in this case) to seek custody.	Initial Determination of Custody Where ROP is Signed
In Re: the Paternity, Custody and Support of L.A.Q., (Unpub.), C7-01-1306, F & C, filed 4-9-02 (Minn. App. 2002): A temporary award of custody to mother and referral for a custody evaluation is not an initial determination of custody, and thus, the hearing to adjudicate permanent custody is still an initial determination and the modification standard does not apply.	Temporary Custody
Rutz v. Rutz, 644 NW 2d 489 (Minn. App. 2002): A designated "method of dispute resolution" is a necessary component of a "parenting plan" under Minn. Stat. § 518.1705 (2000), and a judgment which lacks such a method does not create a parenting plan.	Parenting Plan Must Include Method of Dispute Resolution
Horsman v. Horsman, (Unpub.), C5-02-2254, filed 6-17-03, (Minn. App. 2003): Physical custodian has the exclusive authority to choose a daycare provider. Daycare is not education, therefore decisions regarding who should provide daycare for a child are not decisions in which a joint legal custodial has an equal right to participate.	Joint Legal Custodian Cannot Decide Daycare Placement
Huft v. Huft, (Unpub.), C8-02-1986, filed 7-8-03 (Minn. App., 2003): There is not statutory basis for a conditional modified joint legal custody that changes automatically to full-joint legal custody after certain conditions are met. Joint legal means equal, so court cannot grant one party tie-breaking authority, or set conditions for one party that are not set for the other under joint legal. Court should have awarded sole legal.	Joint Legal

Maestas v. Koeke, (Unpub.), CX-03-123, filed 7-22-03 (Minn. App. 2003): Where man who had cared for child was adjudicated father by default and granted custody based on best interests of the child standard, and six months later, mother challenges the adjudication, claiming the CP is not the biological father, appellate court ordered genetic tests. If CP is not the biological father, the court would be required to re-evaluate its custody award in light of a different standard where a non-parent seeks custody, the presumption favoring biological parents must be overcome only by evidence of extraordinary circumstances of a grave and weighty nature showing that the best interest of the child is that the biological parent be denied custody.	Man Who Acts as Father but not Biological Dad Must Overcome Custody Presumption Favoring Biological Parent
Dunham v. McCollough (Unpub.), A-03-1574, filed 4-27-04 (Minn. App. 2004): Custody dispute over 7-year-old child between maternal aunt and bio. father. Child born to unmarried mother. Lived with mother and bio. father for 18 months after birth, then with mother to age of 3. From age 3 to hearing, child lived with maternal aunt, with consent of bio. mother. Little contact with bio. Dad after age 18 mos. Court properly applied standard in In re Custody of N.A.R., 649 NW 2d 166 (Minn. 2002) favoring biological parent. When custody is sought by third party, the presumption favoring bio. parent must be overcome only by evidence of extraordinary circumstances of a grave and weighty nature that it is in the best interests of the child that bio. parent be denied custody. The best-interest factors set forth in Minn. Stat. §§ 257.025 and 518.17, do not adequately protect the right of a parent to raise his or her child when the custody dispute is with a third party.	Custody Presumption to Biological Parent
Kellen v. Kellen, No. A11-1789, 2012 WL 3263788 (Minn. Ct. App. Aug. 13, 2012): Husband was award less than 25% parenting time in the district court's final judgment. The wife was awarded sole physical and sole legal custody of the children. The husband appealed, arguing that the district court erred by awarding him less than 25% of the parenting time and by awarding the wife sole legal custody. The Court of Appeals found the district court's findings failed to acknowledge and apply the 25% presumption, and failed to indicate whether the presumption was rebutted. The Court of Appeals reversed and remand for district court to: 1) determine parenting time with due regard for the 25% presumption; 2) determine whether the parenting time awarded to husband is a least 25% of the parenting time; 3) make findings supporting its determinations; and 4) if applicable, state its basis for departing from the 25% presumption.	Departing from 25%statutory presumption of parenting time.
Maschoff v. Leiding, 696 NW 2d 834 (Minn. App. 2005): Whether custody is sole or joint must be addressed in court order, so that the appropriate method of calculating child support can be identified.	Court Order Must State if Custody is Joint or Sole to Calculate Child Support.
Stanley v. Moening, (Unpub.), A04-1667. F & C, filed 5-24-05 (Minn. App. 2005): The paternity statute directs the district court to use the best-interest factors under sections 518.17 and 518.175 to determine custody and parenting time once paternity has been established. The appellate court rejected the argument that custody determinations in parentage actions, where the parties have not cohabited during their relationship, should be treated differently than other custody cases. Though a joint physical custody award is reversible when the parties are unable to cooperate and communicate, Wopata v. Wopata, 498 NW 2d 478,483 (Minn. App. 1993), the court in this case found that the parties were able to communicate.	Joint Physical Custody Upheld in Paternity Case where Parties never Resided Together, over Objection of the Mother.

Lonneman v. Lonneman, No. A12-0457, 2013 WL 141674 Minn. Ct. App. Jan. 14, 2013), review denied (Apr. 16, 2013): The parties were divorced and had two minor children during their marriage. The dissolution judgment and decree awarded the parties joint legal custody of the children, and the Appellant was awarded sole physical custody subject to the Respondent's reasonable parenting time. Respondent was ordered to pay child support. In July 2011, Respondent filed a motion to decrease his child-support obligation and the Appellant filed a motion for spousal maintenance. Following an evidentiary hearing, the district court granted the Respondent's motion to modify child-support and denied the Appellant's motion for spousal maintenance. The district court imputed both parties potential income at 150% of the current federal minimum wage. The district court applied a 12% parenting-expense adjustment when calculating the Respondent's child support obligation. Appellant appealed arguing the district court erred by applying a 12% parenting-expense adjustment because there was not a court order determining the Respondent had between 10 to 45%. The appellate court agreed and found that because the dissolution only referenced reasonable parenting time, the district court erred when it applied the 12% parenting-expense adjustment. The court cited Minn. Stat. § 518.36, subd. 2 (2010) which stated "if there is not a court order awarding parenting time, the court shall determined the child support award without consideration of the parenting time, the court shall determined the child support award without consideration of the parenting expense adjustment." The court of appeals noted the absence of a percentage of parenting time violated Minn. Stat. § 518A.36, subd. 1(a). Additionally, the decree failed to indicate whether a parenting-expense adjustment was applied when calculating the Respondent's support obligation in the decree. Therefore, the district court erred by applying the 12% parenting time adjustment when there was no court order specify the Respondent's parenting time. When there is no court order that awards specific parenting time, a court should not apply a parenting time expense adjustment when modifying child-support obligations.	When there is no court order that awards specific parenting time, a court should not apply a parenting time expense adjustment when modifying child-support obligations.
Hilliker v. Miller, (unpub.) A05-1538, filed May 9, 2006 (Minn. App. 2006). Mother and four amici (all of them agencies that serve sexual violence victims) argued that father in paternity action should not be granted liberal P.T. because conception was result of nonconsensual sexual assault. Ct. App. held that district court had adequate evidence to support its decision: both parties testified they got intoxicated at bar and neither could remember sexual contact; there was evidence that father was dedicated to welfare of child. However, the appointment of a P.T. expeditor was reversed upon bare assertion that C.P. was victim of domestic abuse at hands of other party, per plain meaning of statute.	Evidence supported parenting-time despite claim that conception was result of sexual assault. Mere claim of domestic abuse defeats appointment of Parenting-Time expeditor.
Jewison vs. Jewison, A05-2172, Waseca County, filed 7/3/06 (Minn. App. 2006): The district court did not abuse its discretion in modifying the parties' obligations for parenting time, transportation, or by requiring Jewison to pay conduct-based attorney fees. The district court did not abuse its discretion by modifying the parenting time to require Jewison to take on additional responsibility for the transportation of the children. The travel time will permit more direct parent-child interaction and encourage both parents to attend the children's activities.	Parenting time
In Re the Matter of Elijah Jesse Miller vs. Tiffany Leah Berens, A05-1791, St. Louis County, filed 7/11/06 (Minn. App. 2006): The district court did not abuse its discretion in awarding joint physical custody of the child to the parties. Berens appealed, alleging that the facts do not support an award of joint physical custody because she and Miller have great difficulty in communicating. The record supports the district court's findings on the best interests of the child and on the joint custody statutory factors. However, the court determined after listening to the guardian ad litem's testimony that the parties are able to communicate and are able to resolve their disputes. Both parents are willing to use a parenting expeditor or mediator to resolve problems and it would be detrimental to the child if only one parent were to have sole physical authority over her because she has had the benefit of both parents actively involved in her life. The record supports the district court's findings and its findings will not be reversed.	Joint physical custody award

Walsh v. Walsh, No. A12-0299, 2012 WL 5381858 (Minn. Ct. App. Nov. 5, 2012): Father appealed the district court's order denying his request for modification of parenting time and requiring father to forfeit parenting time if he is unable to take his children to any activity scheduled to occur during his parenting time. The parties' divorce decree awarded the parties joint legal custody. Mother was awarded sole physical custody of the two children subject to Father's parenting time on alternate weekends, and portions of two weekdays as agreed upon by the parties, and on alternating holidays. The schedule was modified in 2007 after Mother was found in contempt for not abiding by the scheduled parenting time and awarded Father specific time on Tuesdays from 4:30 to 7:30 p.m. Parties were encouraged not to schedule activities on Tuesday's but it was Father's responsibility to get to any activities that may be scheduled during his parenting time. The 2007 modification also granted Father 6 weeks of parenting time during the summer. After moving, Mother sought an additional modification requesting overnights on Tuesday and Sunday. The overnights where denied and the court, sua sponte, limited Father's summer parenting time to one week intervals and stated that Father was responsible for getting the children to any activities during his parenting time and his failure or inability to do so will result in the forfeiture of the parenting time. The issue on appeal was whether the district court erred in denying Father's request to modify his parenting time and requiring him to forfeit parenting time if he was not able to take the children to any activity scheduled during his parenting time. The Court of Appeals affirmed in part and reversed in part. The district courts have broad discretion to decide modification of parenting time. Here, the district court did not abuse its discretion in denying the request for additional parenting time. However, the restriction requiring Father to exercise his summer parenting time in one week intervals was reversed because the parties had agreed to two week intervals. Also, the requirement to get the children to any activity and the consequence of forfeiture of parenting time for failure to do so was reversed because the requirements were not requested by either party. District Court's have broad discretion in determining parenting time but cannot impose restrictions sua sponte, especially if they are contrary to an agreement by the parties.	District Court's have broad discretion in determining parenting time but cannot impose restrictions sua sponte, especially if they are contrary to an agreement by the parties.
In Re the Marriage of Dee Henderson vs. Gregory Duane Dittrich, A05-1696, Washington County, filed 7/11/006 (Minn. App. 2006): While the mother was incarcerated, the father was awarded sole temporary legal custody of the child. The district court's award of sole physical custody to the child's father is appropriate where the mother of the child is going to be incarcerated for a long term. The court improperly modified legal custody from the mother to the father because the father could not satisfy the requirements of Minn. Stat. § 518.18.	Sole physical and legal custody to dad where mom was incarcerated
In Re the Marriage of Dee Henderson vs. Gregory Duane Dittrich, A05-1696, Washington County, filed 7/11/06 (Minn. App. 2006): Where father was awarded sole temporary physical custody during mother's incarceration, the court ordered the child to have liberal access to his stepfather and sibling who are living in the mother's home. Visitation is discretionary with the court and is awarded to the extent it is in the child's best interests. It was appropriate for the court to award the stepfather visitation with the child even though he was not a party to the action because the child has lived with the stepfather since 1995 and has been integrated into that home.	Stepfather visitation
Daniel Frank Ostrander vs. Shannon Marie Ostrander, A05-1703, St. Louis County, filed 7/18/06 (Minn. App. 2006): The court of appeals ruled that the district court had properly changed physical custody of the parties' three children to the father because the mother had moved out of state and had allowed the three children to live with their father during the time period that she was living out of state. The children had spent the entire 2003-2004 and the 2004-2005 school years living with their father in Minnesota. A change in circumstances had occurred and it was in the children's' best interests to be in the sole physical custody of their father, given their enrollment in the Nashwauk school system for two years and given their participation in many extracurricular activities associated with their friends in Nashwauk. The district court did not abuse its discretion by not interviewing the children to ascertain their custody preferences. The decision to interview the children or not is a discretionary choice with the court.	Change in physical custody to dad OK.

Kehlenbeck v. Kehlenbeck, No. A13-2033, 2014 WL 3022303, at *1 (Minn. Ct. App. July 7, 2014), review denied (Sept. 16, 2014): Appellant-mother challenged a district court order denying her post-dissolution custody-modification and reducing her child-support obligation for her two children. Appellant alleged the district court erred and abused its discretion in declining to modify custody and in reducing, rather than eliminating, her child-support obligation. Mother argued that her child support order was satisfied when the children living with her with the father's consent. The court rejected the mother's assertion that he children lived with her because the evidence provided by the mother was inconclusive. The court also concluded that the father's flexibility with parenting time can hardly prove the children's integration into the mother's home and result in a modification of child support. The Court of Appels affirmed, concluding that the district court did not abuse its discretion in making its determination, because the mother did not establish a prima facia showing that the children were integrated into her home. Furthermore, the district court did not abuse its discretion by refusing to rule that Appellant's support obligation was satisfied by the time spent with the children.	Prima facia showing child(ren) are integrated into a party's home; support obligation may be satisfied by time spent with children.
In the Matter of the Welfare of the Child of S.B. and D.W., Parents, A05-2386, Hennepin County, filed 7/18/06 (Minn. App. 2006): The court of appeals reversed a district court decision awarding the grandmother custody of her minor grandchild. The child was a badly neglected and special needs six-year-old. The court of appeals found there is not clear and convincing evidence that permanent placement with the grandmother is appropriate. There is insufficient evidence that she has the particular parenting skills that are necessary to parent a special-needs child.	Award of physical custody to grandmother reversed.
In Re the Marriage of Katherine M. Goodyear-PeKarna vs. Matthew Dewitt PeKarna (Unpub.), A05-2366, A06-292, Carver County: The district court did not err in granting father sole legal and physical custody of the parties' children because the mother had alienated the father from the lives of the children to a level of it being emotionally harmful to the children's well-being. The children are clearly better adjusted to school since living with the father. The parties showed a complete inability to cooperate with each other in rearing the children. The district court did not abuse its discretion in failing to order an evidentiary hearing on whether the parties had made post-judgment attempts to alienated the children's affections when none of the alleged conduct constituted endangerment.	Child custody
In re the Marriage of: Hennek v. Hennek; Minn. Ct. App. Unpublished. (A05-1957): Case provides a good discussion of legal custody. Appellant father asserts findings insufficient where court simply asserted child should go to school in district where mother resides. Where court determines issue of legal custody, it must make detailed findings on the best interests factors listed at 518.17, subd. 1(a). Father alleged court impermissibly based decision on gender. Appeal court held father presented no evidence to support "this serious charge" and none in record. Appeals court declined to presume court decision based on improper bias and urged counsel to do same. Case was remanded for findings.	Legal Custody, location of child's school when parties share physical custody, appellant father alleged gender bias was basis of court's decision
Carey v. Carey, A006-440 (Minn. Ct. App. October 3, 2006): The district court did not abuse its discretion in awarding father sole physical custody of the parties' child and awarding mother limited parenting time. The district court made findings on each of the statutory best-interest factors enumerated in Minn. Stat. §518.17. Father could provide the child with more stability. During the past few years, mother had resided in four different residences. In addition, mother indicated her intent to move to Iowa in the near future. Father remained in the marital home in Duluth where the child was in school. The child had a stronger relationships with the paternal grandparents than she did with the maternal grandparents.	Award of sole physical custody to father due to stability he provided for minor child
McBride v. McBride, A05-2086 (Minn. Ct. App. 10/3/06): The district court did not abuse its discretion in awarding sole physical custody of the parties' minor child to father. The evidence supports the findings and the findings support the award of custody. Specifically, the court found that (1) the father lived in the martial home and would keep the child in her current school; (2) the best-interest factor regarding religion favored father because mother is not affiliated with a church while father attends a church; (3) mother's greater earnings and employment capacity are of limited weight in a custody decision. In addition, the district court was aware of the alleged defects in the father's custody report and was exclusively responsible for determining the report's weight and credibility–a determination the court declined to disturb.	Evidence supports the findings and findings support award of sole custody

Orsello v. Orsello A06-573, A05-2429 (Minn. Ct. App. October 3, 2006): The provision in 2003 order which made father's visitation with his teenage children contingent on the children's approval was retained in the subsequent order and was found to be an insubstantial modification of father's parenting time rather than a restriction on his parenting time. Prior to the 2003 order, father's parenting time was already supervised and father had only seen the children once in the preceding 6 years. Because it wasn't considered a restriction on parenting time, no endangerment findings were necessary. In addition, because the provision was an insubstantial modification, similar to a clarification, the district court did not need to support the provision with best-interest findings.	Insubstantial modification of parenting time v. parenting time restriction
Alissa Christine Beardsley v. Dante Antonio Garcia, Jr., A06-922, Hennepin County, filed May 22, 2007 (Minn. App. 2007): The district court has both subject matter jurisdiction and statutory authority to issue a domestic abuse OFP granting temporary supervised parenting time with the parties' child to respondent whose paternity has been acknowledged by the parties in a ROP. (Citing In re Custody of Child of Williams v. Carlson, 701 N.W.2d 274, 282 (Minn. App. 2005) holding that if ROP was never properly vacated, it continues to have the force and effect of a judgment or order that the father named in the ROP is the adjudicated father.) The OFP statute does not distinguish between adoptive, biological, adjudicated or married fathers.	Court may order temporary parenting time to ROP father in OFP proceeding
Stevermer vs. Stevermer, (Unpub.), A07-669, F & C, filed September 4, 2007 (Minn. App. 2007): Wife's motion to modify custody and parenting time denied by district court. Dissolution of parties included provision whereby parties agreed to submit custody and parenting time issues to mediation. The Court of Appeals reversed district court's denial of Wife's motions, as the district court erred by failing to require the parties to first engage in mediation before motioning the court.. In addition, the Court of Appeals ruled that OFP issued 1 ½ years prior to dissolution is not a barrier to mediation because no OFPs have been issued since, and Wife/Appellant does not claim she or the child have suffered any physical or bodily harm, or that she fears for her or the child's safety.	District court erred in not first enforcing mediation provision in J&D before ruling on motions. Prior OFP not a barrier to enforcing mediation provision in J&D.
Christianson v. Henke, 831 N.W.2d 532 (Minn. 2013): District court granted paternal grandmother grandparent visitation. Under Minn. Stat. § 257C.08, subd. 2, a court can only award grandparent visitation following the "commencement" of certain proceedings, including a proceeding for parentage. The mother appealed the District Court order granting grandparent visitation arguing that the District Court lack subject matter jurisdiction to award grandmother custody arguing that a ROP is not a proceeding for parentage. The Court of Appeals affirmed. The mother appealed. The Supreme Court affirmed finding an official document, such as a ROP, is included with the plain language meaning of the term "proceeding". A Recognition of Parentage executed and filed with the appropriate state agency under Minn. Stat. § 257.75 is a "proceeding" for purposes of determining grandparent visitation. A ROP has the full force and effect of a judgment establishing parentage.	Recognition of Parentage; Vistation
Itasca Cnty. Health & Human Servs. v. Nelson, No. A09-706, 2009 WL 4910800 (Minn. Ct. App. Dec. 22, 2009): The Court of Appeals found the CSM erred by considering a parenting expense adjustment because there was not a court order awarding parenting time. "If there is not a court order awarding parenting time, the court shall determine the child support award without consideration of the parenting expense adjustment." Minn. Stat. § 518A.36, subd. 2(1). The CSM erred by ordering mother to contribute towards the cost of dependent health care coverage because the father incurred no additional cost by insuring the child.	Error to order one party to conrtribute towards costs of health care when the other party incurred no additional cost by insuring the child.

Champlin v. Champlin, No. A12-0501, 2012 WL 6734460 Minn. Ct. App. Dec. 31, 2012): The appellate court found the decisions of parenting-time consultants with ostensibly "binding authority" are reviewable by the district court. Second, the court inherently has the power to make judgments as to the children's best interest. Finally, the recorded clearly demonstrated through testimony by teachers, family, and the children that the court conducted a thorough evaluation of what was in the children's best interest. The appellate court found the district court correctly included Appellant's parent's monetary contributions in its calculation of Appellant's gross income. The payments constituted a gift, were regular, dependable and showed no sign of ceasing. Consistent monetary payments to an obligor's debts are gifts and should be included in the calculation of gross income for child support purposes. Moreover, although the district court erred in its calculation of his potential income, the error was harmless, as it was undisputed that his total monthly income when his parents' gift was included amounted to $3,700. Where the total gross monthly income of a party will remain unchanged, an error in the method the court used to impute income is not a reversible error.	Parenting consultant decisions; monteray contributions made by obligor's parents; gifts.
Palmquist v. Devens, 907 N.W.2d 204 , (Minn. Ct. App. 2017): Minn. Stat. § 518A.35, subd. 1(c) applies only when a child is not in the custody of either parent. If a party is granted joint physical custody the child is "in custody of" the party even if the child's primary residence is not with that party. Therefore, support must be calculated under Minn. Stat. § 518A.35 subd 1(b) using the father and mother's combined parental incomes.	Custody – Relative Caregiver
In re the Custody of J.L.K.-K., No. A18-0244, 2019 WL 509950 (Minn. Ct. App. Feb 11, 2019): A child placed with a relative under a temporary custody agreement that does not address child support cannot be considered a custody consent decree. Therefore, that relative can still meet the definition of a de facto custodian.	De facto custodian
Shanley v. Shanley, A20-0009, 2020 WL 6703526 (Minn. Ct. App. Nov. 16, 2020): A non-custodial parent alleging endangerment to justify a custody modification must allege sufficient facts to make a prima facie showing of endangerment. A district court does not err by denying the motion without an evidentiary hearing when the moving party makes no such showing.	Custody modification and prima facie showing of endangerment
Wolf v. Oestreich, A20-0235, 2021 WL 668013 (Minn. Ct. App. Feb. 22, 2021): The designation of "primary residence" does not alter the rights given to both parents as joint legal custodians when deciding where the minor child will attend school, unless the court orders otherwise.	Joint Legal Custody – primary residence – school attendance.
Wivinus v. Anderson, A21-0430, 2021 WL 6110118 (Minn. App. 2021): A party's constitutional right to parent their children is protected when the court carefully considers the statutory factors and modifies custody only after concluding that the children are endangered under the existing legal-custody arrangement. The in forma pauperis statue does authorize the payment of certain expenses for qualifying low-income individuals, however the statue does not extend to the payment of custody evaluation fees. An order is not appealable when it is conditional and imposed punishment only after failure to purge oneself of contempt.	Contempt; Custody – Best Interest of Child
Leeke v. Leeke, A21-0539, 2022 WL 996068 (Minn. App. 2022): When applying a parenting expense adjustment to a support obligation there must be explicit findings as to the approximate number of annual overnights the child will spend with the party in order to calculate the adjustment. When awarding need based attorneys fees findings should include the income of the parties and their current annual expenses to prove whether a party has the means to pay their attorney fees. When awarding both need based and conduct based attorney fees the amounts should be designated separately and not awarded as one sum.	Parenting time/overnights; attorney fees; overnights
In re the Custody of C.W.P., A21-0927, 2022 WL 998388 (Minn. App. 2022): When parties have joint legal custody of a child and one party is awarded sole physical custody, the authority to make decisions about education for the child, absent an endangerment finding, shall be based on a best interest analysis.	Custody – Best Interest of the Child

MacNabb v. Kysylyczyn, A21-1133, 2002 WL 1075151 (Minn. App. 2022): Depriving a parent of more than 50 hours of parenting time including Christmas Day is considered substantial and an award compensatory parenting time is warranted.	Parenting Time/ Overnights
Gold v. Frawley, A21-1658, 2022 WL 3149075 (Minn. Ct. App. 2022): The district court failed to make the appropriate findings to support its order changing the parties' parenting time schedule and abused its authority by ordering parenting-time exchanges occur at mother's safe-at-home address. Reversed and remanded for the district court to make reviewable factual findings and to identify a new parenting-time exchange location.	Parenting Time/Overnights
Lee v. Lee, A21-1044, 2022 WL 3582241 (Minn. Ct. App. 2022): Appellant-father argues the district court abused its discretion by modifying custody based on endangerment. The Court of Appeals affirms the district court as they found no clear error in the record.	Custody – Best Interest of Child; Joint Legal Custody
Hinrichs v. Hinrichs, A22-0492, 2023 WL 2761993 (Minn. Ct. App. 2023): A district court correctly denies a motion to modify or restrict parenting time when the moving party fails to properly allege all four factors for a prima facie showing of endangerment, and it is not an error to not consider all four factors when any one has failed due to their conjunctive nature.	Custody-Best Interest of Child; Custody-Joint Legal Custody; Custody-Joint Physical Custody
Povarchuk v. Povarchuk, A23-0208, 2023 WL 6381567 (Minn. Ct. App. 2023): The district court did not abuse its discretion by granting Respondent-mother's motion as it had the authority to enforce the parties' prior stipulation regarding the children's participation in camps and activities, and the principle of *res judicata* does not apply as appellant-father could not show error. Appellant-father's separate motion was also correctly denied as time-barred.	Custody-Best Interest of Child; Custody-Joint Legal Custody; Custody-Joint Physical Custody; Parenting Time

III.H.6. - Lump Sum Settlements	
Minn. Stat. ' 257.64 - compromise settlement; ' 257.66, Subd. 4 - lump sum financial payment; the child, a GAL for the child and the Commissioner of Human Services are required parties in compromise or lump sum settlement cases pursuant to Minn. Stat. ' 257.60 (1).	
Steffes v. Minnesota Department of Public Welfare, 309 NW 2d 314 (Minn. 1981): Child eligible to receive AFDC benefits when natural father resides in home but has been discharged for liability for support by means of court approved lump sum settlement.	Lump Sum Settlements Discharged AP from C/S Obligation
State, St. Louis County on Behalf of Anderson v. Philips (Philips II), 380 NW 2d 891 (Minn. App. 1986): Evidence supported trial court finding that lump sum payment was property distribution and not consideration for reduction of child support obligation.	Lump Sum as Property Settlement
Nash v. Allen, 392 NW 2d 244 (Minn. App. 1986): Trial court properly ordered lump sum settlement over the objection of the county and DHS because the child was the real party in interest and the guardian ad litem recommended lump sum.	Order Over Objection of County and DHS
Nash v. Allen, 392 NW 2d 244 (Minn. App. 1986): Lump sum settlement as an incentive to an acknowledgement of paternity was proper.	Incentive to Admit
Nash v. Allen, 392 NW 2d 244 (Minn. App. 1986): Lump sum settlement need not comply with guidelines.	Guidelines
In Re the Matter of J.L.B. v. T.E.B., 474 NW 2d 599 (Minn. App. 1991): Where a mother, alleged father and guardian ad litem representing child unanimously agree to lump-sum settlement, the trial court does not err in approving it as being in the child's best interest even if the settlement precludes paternity adjudication, insurance benefits, subsequent modifications, etc.	Child's Best Interests
Benson and County of Chisago v. Hackbarth, 481 NW 2d 375 (Minn. App. 1992): Suit for support is barred by payment of lump sum settlement in paternity suit. Where minor child is in privity with mother; child may be a party in a paternity action.	Bars Future Support

III.I. - TRIAL	
Minn. R. Civ. P. 38-52; Minn. Stat. ' 257.65 - civil action; Minn. Stat. ' 257.70 - regarding closed hearing and confidentiality.	
State v. Longwell, 135 Minn. 65, 169 NW 189 (1916): The five-sixths jury law applies to paternity proceedings.	5/6 Law
State v. Solie, 137 Minn. 279, 163 NW 505 (1917): No error in giving instruction as to average period of gestation.	Gestation Instructions
State v. Harris, 168 Minn. 516, 209 NW 887 (1926): Instruction that to find defendant was father of child, jury must find as fact that he had intercourse with plaintiff and that child was begotten thereof, and that if jury unable to determine whether defendant father of child, he could not be found guilty held sufficient.	Jury Instructions
State v. Jeffrey, 188 Minn. 476, 247 NW 692 (1933): Party in civil action may be called by the adverse party as if under cross-examination.	Adverse Examination
State v. Thompson, 193 Minn. 364, 258 NW 527 (1935): Plaintiff's delay in disclosing that defendant was father of child held to be fact properly considered by jury in judging truth of charge against defendant.	Delay in Disclosing
State v. VanGuilder, 199 Minn. 214, 271 NW 473 (1937): Gestation period either 280 days from first day of preceding menstruation or 250 days from date of expected menstruation.	Gestation Period
State v. Stevens, 248 Minn. 309, 80 NW 2d 22 (1956): Where conflicting evidence supporting claims of respective parties the question is one of fact for jury.	Conflicting Evidence
Windschitl v. Landkammer, 299 Minn. 184, 211 NW 2d 494 (1974): Immunity granted to witness under statute authorizing the granting of immunity from prosecution who cannot otherwise be compelled to testify is granted by the court and not by the county attorney.	Immunity
C.M.C. v. A.P.F., 257 NW 2d 282 (Minn. 1977): Improper to inquire of witness whether lie detector test administered but prejudice to defendant not sufficient to warrant new trial.	Lie Detector
Smith v. Bailen, 258 NW 2d 118 (Minn. 1977): Defendant in paternity action constitutionally entitled to jury trial.	Right to Jury
Benson v. LaBatte, 288 NW 2d 684 (Minn. 1979): Although concern about credibility of testimony of plaintiff completely contradicted by her prior sworn statement to welfare that father of child was someone else, testimony that she gave fictitious name and her explanation was consistent and no evidence that she was otherwise promiscuous; held that plaintiff's testimony sufficiently clear and convincing to support determination of paternity in defendant.	Credibility of Mother
Vaughn v. Love, 347 NW 2d 818 (Minn. App. 1984): Trial court properly suppressed testimony of witnesses who were not disclosed in discovery.	Exclusion of Evidence Due to Failure to Disclose in Discovery
State of Minnesota, ex rel. Pula v. Beehler, 364 NW 2d 860 (Minn. App. 1985): New trial may be granted on basis of material evidence, newly discovered which with reasonable diligence could not have been found and produced at trial, and which will likely affect outcome of case.	New Evidence
State of Minnesota, ex rel. Pula v. Beehler, 364 NW 2d 860 (Minn. App. 1985): Defendant's testimony of plaintiff's admission of her sexual intercourse not long before date of conception, if considered credible, is sufficient to support jury's verdict of non-paternity.	Relevance
State of Minnesota on Behalf of Elg v. Erickson, 363 NW 2d 859 (Minn. App. 1985): An expert is allowed to testify by opinion or inference even though that opinion or inference may embrace the ultimate issue to be decided by trier of fact.	Ultimate Issue
Frederick v. Burke, 397 NW 2d 196 (Minn. App. 1986): Blood tests of 99.29% and undisputed evidence of sexual intercourse constitute overwhelming evidence in support of jury verdict.	Overwhelming Evidence
Rivera v. Minnich, 55 U.S. L.W. 5075, 107 S.Ct. 3001, 97 L.Ed. 2d 473 (1987): In an 8 to 1 decision, the Supreme Court upheld as constitutional the preponderance of the evidence standard in paternity proceedings.	Burden of Proof Constitutional
Itasca County Social Services and Halverson v. Pitzen, 488 NW 2d 8 (Minn. App. 1992): An accredited laboratory test showing a 99.93% probability of the alleged father's paternity creates a presumption of parentage under Minn. Stat. ' 257.62, Subd. 5(b) (1990) that can only be rebutted by clear and convincing evidence that the alleged father is not the parent of the child. JNOV or new trial order reversing jury finding of non-paternity upheld.	Presumption - Rebutted by Clear and Convincing Evidence

Hennepin County and Hayek v. Lindeman, (Unpub.), C9-92-2013, F & C, filed 6-15-93 (Minn. App. 1993): No new trial granted where moving party failed to object to misconduct during trial.	New Trial
Charlene Howie v. Mark Thomas, 514 NW 2d 822 (Minn. App. 1994): Where alleged father denied sexual intercourse, despite clear and convincing standard, and 99% blood tests, it was error for trial court to direct verdict in favor of mother. Trial court must assume all facts presented by party opposing directed verdict to be true.	Directed Verdict Overturned
Person v. Person, (Unpub.), AO3-433, filed 2-17-04 (Minn. App. 2004): Where pro se party to marriage dissolution came to court late, did not prepare for trial, did not address issues court directed him to address or provide documents court requested, court properly refused to hear more testimony. The district court is authorized and directed to exercise control over trials in order to, among other things, avoid needless consumption of time. Minn. R. Evid. 611(a), Minn. R. Civ. P. 1.	Cutting Testimony Short

III.J. - DISCOVERY (See also Part I.B.8.)	
Minn. R. Civ. P. 26-37 - cover Depositions and Discovery; Rule 37 - covers sanctions for failure to cooperate with discovery.	
County of Ramsey v. S.M.F., 298 NW 2d 40 (Minn. 1980): Interrogatories asking mother whom she had sexual intercourse with over 5 year period and whether she had a steady boyfriend 4 years after birth of child are overbroad and deal with well established zone of privacy.	Paternity Interrogatories - Overbroad
State, ex rel. Dombrowski v. Moser, 334 NW 2d 878 (Wis. 1983): A paternity defendant's request for inspection of the mother's AFDC records falls within statutory exceptions to the general confidentiality of such records. However, the records will be released only if the defendant presents an affidavit stating the grounds for belief that there is information in the AFDC records which is necessary to his defense and the trial court conducts an in camera review of the records and determines that there is information necessary to the defense.	AFDC File - in Camera Review Required
Vaughn v. Love, 347 NW 2d 818 (Minn. App. 1984): Trial court properly suppressed testimony of witnesses who were not disclosed in discovery.	Exclusion of Evidence Due to Failure to Disclose in Discovery
Love v. Love, No. A19-1673, 2020 WL 1910205 (Minn. Ct. App. Apr 20, 2020): The discretion to set an effective date other than the date the motion was served must be exercised based on the facts as found by the court. A denial of the request to collect reimbursement of unreimbursed expenses is warranted when a party does not comply with the statutory requirements for seeking unreimbursed expenses. When the magistrate withdrew its earlier order requiring the county to provide certain documentation, it became “unnecessary” for the magistrate to issue a “decision on the merits” of the county’s motion for review.	Motion for Review; Effective Date; Unreimbursed/ Uninsured Expenses

III.K. - TEMPORARY SUPPORT ORDER	
Minn. Stat. ' 257.62, Subd. 5(a).	
County of Steele and Machacek v. Voss, 361 NW 2d 861 (Minn. 1985): Minn. Stat. ' 257.62, Subd. 5 (temporary support pending paternity establishment after blood testing) is constitutional.	Constitutional
County of Steele and Machacek v. Voss, 361 NW 2d 861 (Minn. 1985): Support monies paid into court should ordinarily be deposited in interest-bearing account.	Deposits with Court
Franzen and County of Anoka v. Borders, 521 NW 2d 626 (Minn. App. 1994): The district court need not find a substantial change in circumstances to issue a final support obligation that exceeds an existing temporary support obligation.	Effect of Temporary Support Order on Final Child Support Obligation
Wayne Alan Butt v. Eleanor Anna Schmidt, (747 NW 2d 566, 2008), A06-1015, filed April 17, 2008 (Minn. S.C. 2008): Appellant argues that the district court erred in failing to modify his child support obligation retroactive to the date of the parties' MTA. The Court of Appeals held that appellant waived his right to raise this issue because he failed to raise it in the district court. The Supreme Court affirmed. Additionally, the Court noted that even if it was not waived, the claim lacks merit as there was a temporary child support order in place. Appellant could have moved to amend or vacate the temporary order anytime before the court entered its final decree. However, Minn. Stat. § 518.64, subd. 2(d) (2004) limits the period of retroactive application to the period during which a motion for modification is pending. Appellant made no motions to modify any time before the final decree was issued. Therefore, the temporary order cannot be modified, as upon entry of the final decree, the temporary order was no longer in effect.	Modification of temporary child support; retroactivity
Martin v. Martin, A21-0612, 2022 WL 351108 (Minn. Ct. App. Feb 7, 2022): If the custody and parenting time used in a temporary child support order is reversed and remanded for factual findings, the child support must also be reconsidered.	Temporary Support

PART IV - OTHER ISSUES	
IV.A. - CUSTODY AND VISITATION / EFFECT ON SUPPORT OBLIGATION (See also Part III.H.5.)	
Minn. Stat. ' 518.156 - Commencement of Custody Proceeding; Subd. 1(a)(2) - allows custody proceedings to be commenced by filing a petition or motion seeking custody or visitation where the parties have executed a ROP "by filing a petition or motion seeking custody or visitation of the child where the child resides, is present or where an earlier order for custody has been entered; Minn. Stat. ' 518.17 - sets out the factors to consider in determining the "best interests of the child."; Minn. Stat. ' 518.17, Subd. 2 - states the rebuttable presump-tion that joint legal custody is in the best interests of the child, and also sets out the factors the court must consider when either joint legal or joint physical custody is sought. (Ed.Note: In many of our paternity cases, a review of the relevant factors will serve to rebut the presumption in favor of joint legal custody); Minn. Stat. ' 518.17, Subd. 6 - an award of joint legal custody is not a basis for departure from guidelines; Minn. Stat. ' 518.175 - Visitation of Children and Noncustodial Parent; Minn. Stat. ' 518.179 - shifts the burden to a parent convicted of enumerated crimes to prove that custody or visitation is in the best interests of the child; Minn. Stat. ' 518.57, Subd. 3 - if child integrated into obligor's family with consent of obligee, court may find support obligation satisfied except in PA case; Minn. Stat. ' 518.612 - interference with visitation not a defense to nonpayment of support; initial establishment of custody - best interests factors: Minn. Stat. ' 257.025; modifi-cation of custody or parenting plan based on interference with visitation, Minn. Stat. ' 518.18(c); Rights of Visitation to unmarried persons - Minn. Stat. ' 257.022.	
England v. England, 337 NW 2d 681 (Minn. 1983): Submission by plaintiff to jurisdiction of MN court for purposes of recovering child support does not automatically make her subject to custody or visitation claim in MN.	Submission to Jurisdiction
McDonnell v. McCutcheon, 337 NW 2d 645 (Minn. 1983): Deprivation of visitation is not proper factor to consider in determining what level of support is appropriate.	Denial of Visitation - Effect on Support
Black v. Bitker, 368 NW 2d 302 (Minn. App. 1985): Suspension of child support during visitation is within the trial court's discretion.	Suspension of Child Support During Visitation
State of Wisconsin, ex rel. Southwell v. Chamberland, 361 NW 2d 814 (Minn. 1985), reversed in part on other grounds, 349 NW 2d 309 (Minn. App. 1984): Custodial parent's removal of child from state in violation of decree, and concealment of child's location, does not relieve non-custodial parent from payment of child support arrearages.	Concealment - No Effect on Support
Brzinski v. Fredrickson, 365 NW 2d 291 (Minn. App. 1985): Retroactive child support cannot be ordered against the parent upon change of custody.	Retroactive Support
Esposito v. Esposito, 371 NW 2d 608 (Minn. App. 1985): Error for trial court to order father to continue support payments when he has physical custody.	De facto Custody
Linderman v. Linderman, 364 NW 2d 872 (Minn. App. 1985): Splits in custody are justification for lowering child support and departing from the guidelines. Also, splits in custody are disfavored by the court.	Split Custody
Crow Wing County Social Services v. McDermond, 363 NW 2d 97 (Minn. App. 1985): Notwithstanding custody award to father, fact that children receiving AFDC while residing with mother means father must reimburse county under Minn. Stat. ' 256.87.	De facto Custody / 256 Action
Pikula v. Pikula, 374 NW 2d 705 (Minn. 1985): Custody must be awarded to primary caretakers absent showing that primary custodian is unfit. Primary caretaker is parent who has had primary responsibility for meals, bathing, clothing, medical care, social interaction, alternative care, bedtime discipline and education.	Custody to Primary Caretaker
Morey v. Peppin, 375 NW 2d 19 (Minn. 1985): Even when custody was not addressed in paternity adjudication, Minnesota Supreme Court imposed the Minn. Stat. ' 518.18(d) standard for modification of custody on father who sought custody 2.5 years after adjudication.	Custody Modification Standard Applied
State, ex rel. Sauer, on Behalf of Plagens v. Hellesvig, 376 NW 2d 503 (Minn. App. 1985): No authority for court to make support obligation contingent on visitation rights.	Visitation
Tubwon v. Weisberg, 394 NW 2d 601 (Minn. App. 1986): Trial court custody order granting custody of two siblings to the biological father of one, rather than the biological mother of both was proper based upon father's bond with the children and psychological unfitness of mother.	Custody to Non-Parent

Splinter v. Landsteiner, 414 NW 2d 213 (Minn. App. 1987): Trial judge's belief that custodial parents should not pay child support during extended visitation was not legal basis on which to deny support.	Extended Visitation
Durkin v. Hinick, 442 NW 2d 148 (Minn. 1989): The family court may consolidate dependency and neglect petition under Minn. Stat. ' 260 in custody petition under Minn. Stat. ' 518 into one evidentiary hearing.	Consolidation with CHIPS Allowed
County of Hennepin ex. Rel. Johnson v. Boyle, 450 NW 2d 187, 188-89, (Minn. App. 1990), *rev. den.* (Minn. Mar 16, 1990): Child support enforcement and parenting time are not inter-related	Child Support and Visitation not Interrelated
McNattin v. McNattin, 450 NW 2d 169 (Minn. App. 1990): Where mother induced father to custody change by explicitly promising in writing that if custody changed, she would not seek support, and then later sought support, court held her to the modification standard, as an exception to the general rule that an establishment after a reservation is treated as an initial setting of support. Principles of contract law and equitable estoppel were applied.	Written Promise to not seek Support Resulted in Exception to General Rule that Setting Support after a Reservation Requires Showing of Changed Circumstances
Al-Zouhayli v. Al-Zouhayli, 486 NW 2d 10 (Minn. App. 1992): Appellant must show a strong probability of abduction by a preponderance of the evidence, in order to override the importance of meaningful visitation by respondent. In this case, court's findings of defendant's integrity and good character shown at work, and the remote chance of abduction based on one expert's testimony were sufficient to warrant unsupervised visitation.	Abduction - Unsupervised Visitation
Simmons v. Simmons n/k/a Vasicheck, 486 NW 2d 788 (Minn. App. 1992): A former stepparent who was in *loco parentis* with the former stepchild, may be entitled to visitation under the common-law, even though he is ineligible to petition under Minn. Stat. ' 257.022, Subd. (2)(b). However, limited nature of defendant's visitation rights do not include rights specified in Minn. Stat. ' 518.17, Subd. (3)(b).	Stepchildren
Wallin v. Wallin, (Unpub.), C3-91-2434, F & C, filed 6-23-92 (Minn. App. 1992): Improper for trial court to weigh appellant's relationship with another man against her in a custody pro-ceeding where no evidence exists that appellant's relationship with the children is affected by it.	Relationship with Boyfriend
Anderson v. Archer, 510 NW 2d 1 (Minn. App. 1993): A restriction on visitation requires a finding that current arrangement physically or emotionally endangers the child or that NCP has chronically and unreasonably failed to comply with a court-ordered visitation schedule. See Minn. Stat. ' 518.175, Subd. 5.	Restriction on Visitation
Courey v. Courey, 524 NW 2d 469 (Minn. App. 1994): The court must make particularized findings on reasons for restricted visitation and must find the child's best interests will be served.	Restriction on Visitation
Olson v. Olson, 534 NW 2d 547 (Minn. 1995): A grandparent to a party to a dissolution proceeding may have visitation with a grandchild, despite objection from either parent, when the requirements of Minn. Stat. ' 257.022, Subd. 2 are met (i.e. visitation is in the best interests of the child and visitation would not interfere with the parent-child relationship.	Grandparent Visitation
Joel v. Wellman, 551 NW 2d 729 (Minn. App. 1996): Grandparents have standing under Minn. Stat. ' 257.022, Subd. 2a to petition for visitation if the child has lived with the grandparents for a total of 12 months. The 12 months do not have to be consecutive and "custodial residence" is not required.	Grandparent Visitation
Kuebelbeck v. Humphrey, 402 NW 2d 202 (Minn. App. 1997): *rev.den.* (Minn. 4-29-87): Court may severely restrict visitation when NCP has denounced CP and upset child during visits.	Restricted Visitation
Preuss v. Preuss, (Unpub.), C2-97-1661, F & C, filed 2-24-98 (Minn. App. 1998): Where child has moved in with non-custodial parent, but the award of custody in the J&D has not been modified, court cannot order the custodial parent (with whom the child no longer resides) to pay support to the non-custodial parent (with whom the child now resides). (In this case, the request was brought before the ALJ as a MTM in the dissolution file.)	No Child Support to De Facto Custo-dian Where Legal Custody has not been Modified in J&D

In Re the Marriage of Frauenshuh v. Giese, 599 NW 2d 153 (Minn. 1999), C8-98-444, F & C: The supreme court ruled that parties cannot stipulate to a different standard of modification of physical custody in a MTA than the standard provided by Minn. Stat. ' 518.17. *Superseded in part on other grounds by* Act of Apr. 27, 2000, ch. 444, art. 1, § 5, 2000 Minn. Laws 980, 984–85 (codified at Minn.Stat. 518.18(d)(i)), *as recognized in In re Comm'r of Pub. Safety,* 735 N.W.2d 706, 711 (Minn.2007); *Szarzynski v. Szarzynski,* 732 N.W.2d 285, 291–92 (Minn.App.2007). Goldman v. Greenwood, 748 N.W.2d 279, 284 (Minn. 2008)	Cannot Stip to Different Custody Mod Std.
LaChapelle v. Mitten, 607 NW 2d 151, 163-65 (Minn. App. 2000), *rev.den.* (Minn. 16 May 2000): Minnesota=s custody statute is not unconstitutional based on equal protection. The equal protection laws allow the government to distinguish between people if the distinction serves a legitimate government interest. The compelling state interest is the protection of the best interests of the child. Further, the best-interest standard is focused on the child, not the parents, and that therefore the standard applies equally to all parents.	Constitu-tionality of Sole Custody
Buettner v. Buettner, (Unpub.), C3-00-1504, F & C, filed 3-20-01 (Minn. App. 2001): Where child had moved full-time into father=s home, but had not Abeen integrated into father=s home with mother=s consent,@ and where there was no court order granting father sole physical custody, trial court was correct in determining that father did not have a cause of action against mother for support under Minn. Stat. ' 256.87. The appropriate mechanism for a father to receive support is to bring a motion to change the existing custody order. (Ed. Note: This was a joint physical custody case, but the same concept should apply in a sole custody case. It is not clear whether an order changing custody is necessarily required to award support to the *de facto* custodian, or if a finding that the child was integrated into the parent=s home with the other parent=s consent would be sufficient. Also, this is a NPA case; result may be different in PA case. See Crow Wing County v. McDermond, 363 NW 2d 97 (Minn. App. 1985).)	*De facto* Custody Change
Rutz v. Rutz, 644 NW 2d 489 (Minn. App. 2002): A designated "method of dispute resolution" is a necessary component of a "parenting plan" under Minn. Stat. ' 518.1705 (2000), and a judgment which lacks such a method does not create a parenting plan.	Parenting Plan Must Include Method of Dispute Resolution
In the Matter of the Custody of N.A.K. 649 NW 2d (Minn. 2002): Upon the death of a parent who has had custody of a child under a divorce decree, the divorce decree ceases to be operative, and custody automatically goes to the other parent unless it is shown that he is unfit, that he has forfeited his custodial rights as by abandonment, or that based upon exceptional circumstances, irrespective of the surviving parent's fitness, the best interest of the child clearly requires that the surviving parent be denied custody. (Ed. Note -- the implication of this decision for child support is that the NCP's c/s obligation ceases automatically upon the death of the CP, without the necessity of court order, since, absent court order to the contrary, the NCP becomes the CP upon the other parent's death.)	Death of Custodial Parent
Nolte v. Mehrens, 648 NW 2d 727 (Minn. App. 2002): Identifying whether the parties have joint physical custody or whether one party has sole physical custody is critical in setting the parties' support obligations. Where the court order establishing custody failed to designate sole or joint custody, granting "primary" physical custody to a parent, the later court had to determine if the custody was sole or joint before setting child support. The dispositive factor in determining if the custody arrangement is sole or joint is the district court's description of the physical custody arrangement.	Whether "Primary Physical Custody" Means Joint or Sole Custody must be Decided before Setting Support.
Higgins v. Higgins, (Unpub.), C7-02-1056, F & C, filed 2-11-03 (Minn. App. 2003): Higgins challenged ten statutes in Chapter 518, including child support guidelines, and the statute allowing the court to grant sole legal and physical custody, as being unconstitutional because they Aviolate his constitutionally protected equal right to be an equal parent.@ The court of appeals held that his equal protection argument failed, because the state=s interest in protecting the best interests of children would justify depriving parents of the right to be Aequal parents,@ if in fact parents have that fundamental right. Citing LaChapelle v. Mitten, 607 NW 2d 151, 163-65 (Minn. App. 2000), *rev.den*. (Minn. 16 May 2000.)	Constitu-tionality of Equal Protection Challenge Fails

Kammueller v. Kammueller, 672 NW 2d 594 (Minn. App. 2003): Even though over time, NCP=s parenting time had increased from 38% to 67%, a downward deviation from guidelines was not justified where there was no allegation of increased expenses by NCP, and where parties had expressly waived application of the Valento formula at earlier hearings where the division of time was equal.	Increase in Parenting Time to Over 50%
Kammueller v. Kammueller, 672 NW 2d 594 (Minn. App. 2003): Minn. Stat. ' 518.54, subd. 8 which provides, AA person who is designated as the sole physical custodian of a child is presumed not to be an obligor for the purposes of calculating correct support...unless the court makes specific findings to overcome this presumption@ and the definition of physical custodian at Minn. Stat. ' 518.003 do not violate the equal protection clause of the Minnesota or U.S. Constitutions.	Distinction Between CP & NCP Not UnConstitu-tional
Kammueller v. Kammueller, 672 NW 2d 594 (Minn. App. 2003): The Rational basis test applies to equal protection challenges of the child-support statute. Because child support obligations are premised on the child=s right and need to be supported by its parents, there is no fundamental right of a parent to have a child-support obligation based solely on the amount of time the parent spends with the child. (Cites Walker v. Walker, 574 NW 2d 761(Minn. App.1998))	No Fundamen-tal Right to Base C/S on % of PT
Lonneman v. Lonneman, No. A12-0457, 2013 WL 141674 Minn. Ct. App. Jan. 14, 2013), review denied (Apr. 16, 2013): The court of appeals found the absence of a percentage of parenting time violated Minn. Stat. § 518A.36, subd. 1(a). Additionally, the decree failed to indicate whether a parenting-expense adjustment was applied when calculating the Respondent's support obligation in the decree. Therefore, the district court erred by applying the 12% parenting time adjustment when there was no court order specify the Respondent's parenting time. When there is no court order that awards specific parenting time, a court should not apply a parenting time expense adjustment when modifying child-support obligations.	Parenting time adjustment not permitted without a prior order granting specified parenting time.
Kammueller v. Kammueller, 672 NW 2d 594 (Minn. App. 2003): Minn. Stat. ' 518.54, subd. 8 and Minn. Stat. ' 518.003 meet the three-pronged rational basis test. (1) There is a genuine and substantial distinction between custodial and non-custodial parents, rather than an arbitrary definition. The definition meets the traditional pattern, and both statutes allow for the classifications to be overcome. (2) The classification in ' 518.54, subd. 8 is relevant to the purpose of the law, that the child receive adequate support. The presumption that the parent not living with the child should be responsible for the Aexternal@ contributions is rebuttable. (3) It is a legitimate interest of the government to promote the welfare of its children.	Distinction Between CP & NCP Not Unconstitu-tional
Farman v. Farman, (Unpub.), A03-1788 & A03-1813, F & C, filed 9-28-04 (Minn. App. 2004): A set-off of child support for interference with visitation (in this case caused by party's move to another state) whether based on the parties' stipulated decree, or based on Minn. Stat. § 518.175, Subd. 6(c) is prohibited, because it improperly modifies the children's nonbargainable interest. However, an equivalent outcome may be reached if NCP moves for a modification of support based on Minn. Stat. §518.18(c) (2002). The court conclude that, after making particularized findings about both the parents' and child's needs, in the best interests of the emotional welfare of the children, a downward deviation in child support will foster parenting time opportunities for NCP. Minn. Stat. § 518.551, Subd.5(c)(2).	Child Support Setoff for Interference with Visitation not Allowed, but Interference may be a Basis for Modification
Eustathiades v. Bowman, 695 NW 2d 395 (Minn. App. 2005): The parties stipulated to a change of custody to father and agreed that child support would be reserved. Father later, through the county, asked for child support to be established. The appeals court held that even though an agreement to continue the reservation of support was implicit, father did not have to meet the modification standard, and the action would be treated as an initial setting of support. McNattin, 450 NW 2d 169, was distinguished, because in McNattin there was an explicit written agreement linking a change in custody to a promise not to seek child support.	Establishment of Support after a Reservation is an Initial Establishment even if there is an Implicit Agreement not to Seek Support

Maschoff v. Leiding, 696 NW 2d 834 (Minn. App. 2005): Whether custody is sole or joint must be addressed in court order, so that the appropriate method of calculating child support can be identified.	Court Order Must State if Custody is Joint or Sole to Calculate Child Support.
Kleine v. Kleine , (Unpub,), A04-1664, F & C, filed 5-24-05 (Minn. App. 2005): J&D awarded parties "joint physical custody" of the children, but awarded "actual physical custody and primary parenting" of one child to one parent, and actual physical custody and primary parenting of the other child to the other parent. In subsequent modification proceeding brought when one child emancipated, lower court had to determine if this was a joint custody or sole custody situation. Decision: J&D awarded sole custody to each parent, thus, the proper child support calculation for the remaining child was guidelines based on sole custody, and not based on Hortis/Valento. Interpretation was based upon fact that child support in J&D had been based on the Sefkow formula applied in split custody cases, with no consideration of the percentage of time each child was with each parent as would have been required under Hortis/Valento.	Hortis/Valento Presumption Overcome in Modification Proceeding, Despite "Joint Physical" Designation in J&D, where Findings of the Court were Indicative of a Split Sole Custody Arrangement.
Schallinger v. Schallinger, 699 NW 2d 15, (Minn. App. 2005): There is neither a statutory presumption disfavoring joint physical custody, nor is there a preference against joint physical custody if the district court finds that it is in the best interest of the child and the four joint custody factors at §518.17, subd. 2 support the determination.	No statutory preference against joint physical custody
Kellen v. Kellen, No. A11-1789, 2012 WL 3263788 (Minn. Ct. App. Aug. 13, 2012): Husband was award less than 25% parenting time in the district court's final judgment. The wife was awarded sole physical and sole legal custody of the children. The husband appealed, arguing that the district court erred by awarding him less than 25% of the parenting time and by awarding the wife sole legal custody. The Court of Appeals found the district court's findings failed to acknowledge and apply the 25% presumption, and failed to indicate whether the presumption was rebutted. The Court of Appeals reversed and remand for district court to: 1) determine parenting time with due regard for the 25% presumption; 2) determine whether the parenting time awarded to husband is a least 25% of the parenting time; 3) make findings supporting its determinations; and 4) if applicable, state its basis for departing from the 25% presumption.	Findings required to support determination of less than 25% parenting time.
Miller v. Ross, 699 NW 2d 9, (Minn. App. 2005): Mother of child born out of wedlock, on her death bed signed a note stating she wanted her sister and father of the child to have joint physical and legal custody of her children. Sister brought a petition alleging third-party-custodian status under 257C. The statute contemplates two separate stages with different evidentiary standards; At the petition stage, the person must make a prima facie showing, by asserting certain facts (relating to having a substantial relationship with the child) which, if true, would show that the petitioner meets the definition of a third party custodian as set forth in Minn. Stat. § 257C.03, subd.7(a)(1). Once a viable petition to commence third party custody proceedings is filed, the petitioner is entitled to an evidentiary hearing to prove the interested third party custody status. At the subsequent evidentiary hearing, the district court considers whether the assertions are actually true and whether the factors set forth in Minn. Stat. § 257C.03, subd.7(b) are met by clear and convincing evidence.	Third party custody-procedure
Martin v. Martin, (Unpub.), A04-1977, filed August 9, 2005, (Minn. App. 2005): Case involved joint legal custody and sole physical, and a dispute as to where the child should attend school. The court's resolution of a specific issue of custodial care, such as which school a child should attend, must be based on the child's best interests (Citing Novak, 446 NW 2d 422 (Minn. App. 1989), rev. den. (Minn. Dec. 1, 1989). However, the statutory factors at Minn. Stat. §518.17 cannot be used exclusively or applied mechanically when the issue is not which parent will be awarded custody, but rather a decision on a specific issue of care.	Dispute between joint legal custodians on an issue of custodial care-basis for court's resolution of issue

Martin v. Martin, (Unpub.), A04-1977, filed August 9, 2005, (Minn. App. 2005): The court did not err in giving more weight to the physical custodian's preference than to the non-physical parent's preference, particularly because the weight afforded the custodial parent's preference was not disproportional, and other factors were considered. Even though joint legal custodians have equal rights and responsibilities with respect to such issues as school choice, that does not mean the court must or can give each parent's preference equal weight.	Joint legal custody- court can give more weight to CP's preference than NCP's preference
In re: Custody of J. B. Williams v. Carlson, 701 NW 2d 274 (Minn. App. 2005): Appellate court affirmed the district court's award of sole physical custody to respondent-father after custody trial, where the parties signed an ROP and the ROP was never vacated or revoked, even when genetic test results (delivered post-trial) excluded the respondent as biological father of the child. The appellate court found that the district court erred in ordering the genetic testing, since petitioner admitted in her answer that respondent was the father and failed to file the requisite affidavit. However, the appellate court concluded the error was harmless, since the ROP was never vacated, there were no other presumed fathers, and both parties were allowed time to submit responses to the court regarding the genetic test results prior to entry of the judgment.	Custody to man who signed ROP later excluded by genetic tests. Genetic tests ordered in error
Lewis-Miller v. Ross, 710 NW 2d 565 (Minn. 2006): Supreme Court affirmed Court of Appeals decision to grant maternal aunt an evidentiary hearing with regard to her petition (against biological father) for custody of her deceased sister's children. Supreme Court held that a party commencing a third-party child custody proceeding by valid petition and supporting affidavits is entitled to an evidentiary hearing if the facts alleged (regarding child endangerment), if proven, would satisfy the criteria of Minn. Stat. §257C.03, subd. 7(a).	Third-party custody petition
Nelson v. Nelson, (Unpub.), A-05-1507, F&C, filed 3-07-06 (Minn. App. 2006): Court of Appeals affirmed trial court's award of split custody because although split custody is not favored, the trial court's findings were supported by the record and not clearly erroneous. The trial court did not abuse its discretion in considering how Appellant/Mother's gambling addiction affects the best interests of her children and her ability to handle the stresses associated with full-time parenting of more than one child.	Split custody award affirmed
Powers v. Powers, (Unpub.), A05-551, F&C, filed 3-14-06 (Minn. App 2006): Court of Appeals affirmed trial court's decision to award parties joint physical custody of their minor children even though the court-appointed custody evaluator had recommended that the court award Appellant/Father sole physical custody. The Court of Appeals noted that the trial court is not bound by the evaluator's recommendation and that the trial court made detailed findings on all of the best interests factors in Minn. Stat. §518.17. Specifically the trial court acknowledged that the parties were angry with each other and had differences in opinion about some important issues such as private vs. public education; however, during their lengthy separation the parties had demonstrated an ability to put aside their differences for the sake of the children and to effectively share physical custody of the children.	Award of joint physical custody contrary to evaluator's recommendation upheld
Hilliker v. Miller, (unpub.) A05-1538, filed May 9, 2006 (Minn. App. 2006). Mother and four amici (all of them agencies that serve sexual violence victims) argued that father in paternity action should not be granted liberal P.T. because conception was result of nonconsensual sexual assault. Ct. App. held that district court had adequate evidence to support its decision: both parties testified they got intoxicated at bar and neither could remember sexual contact; there was evidence that father was dedicated to welfare of child. However, the appointment of a P.T. expeditor was reversed upon bare assertion that C.P. was victim of domestic abuse at hands of other party, per plain meaning of statute.	Evidence supported parenting-time despite claim that conception was result of sexual assault. Mere claim of domestic abuse defeats appointment of Parenting-Time expeditor.

Erickson v. Erickson, (Unpub.), A05-1785, filed June 13, 2006 (Minn. App. 2006): The district court did not err in using custody labels rather than "actual circumstances" of parenting time when applying a *Hortis/Valento* calculation, noting that parties who stipulate to a physical custody arrangement adopted by the district court are bound by the custody label. *Citing* Nolte v. Mehrens, 648 N.W.2d 727, 730 (Minn. App. 2002); Ayers v. Ayers, 508 N.W.2d 515, 520 (Minn. 1993).	Custody labels dictate how a court applies *Hortis/Valento* in determining child support.
In re the Marriage of: Hennek v. Hennek; Minn. Ct. App. Unpublished. (A05-1957): Case provides a good discussion of legal custody. Appellant father asserts findings insufficient where court simply asserted child should go to school in district where mother resides. Where court determines issue of legal custody, it must make detailed findings on the best interests factors listed at 518.17, subd. 1(a). Father alleged court impermissibly based decision on gender. Appeal court held father presented no evidence to support "this serious charge" and none in record. Appeals court declined to presume court decision based on improper bias and urged counsel to do same. Case was remanded for findings.	Legal Custody, location of child's school when parties share physical custody, appellant father alleged gender bias was basis of court's decision
In re the Marriage of Branz v. Branz, (Unpub.), A05-2222. Filed 9/19/06 (Minn. App. 2006): In this joint physical custody case, the appellate court found the district court's determination of parenting time percentages clearly erroneous because there was no discernable mathematical basis for the parenting time percentages and the district court appeared to adopt the parenting time assertions presented to the court by the husband without explanation.	PARENTING TIME: parenting time percentages must be based on a clear mathematical formula.
In re the Marriage of Reed v. Albaaj, A05-1858, filed October 24, 2006 (Minn. App. 2006): The district court erred when it did not explicitly address the children's best interests when awarding custody of the children in a dissolution order. The court's findings that the father of the children was incarcerated; father was incarcerated for crime of violence; and father had ties to another country outside U.S. were insufficient to support an award of sole legal custody to the mother of the children. The custody issue was remanded for further findings.	Best interests of children must be considered in determining custody. Finding that father is incarcerated for a crime of violence and has ties to another country are not sufficient to support award of sole legal custody to mother.
Hagen v. Schirmers, 783 N.W.2d 212 (Minn.Ct.app. 2010): In 2005, the parties stipulated to paternity, mother was awarded sole physical custody, joint legal custody and father's parenting time schedule was structured and graduated. Father's parenting time was to increase after the child's 5th birthday. In November 2008, mother petitioned to relocate the child to California so she could marry her fiancée and reside in California. Mother's petition included a change of the father's parenting time to less than 10%. The District Court granted the mother's motion. The Court of Appeals found the district court did not abuse its discretion by approving the relocation to CA. The court considered the best interests of the child. The district court erred by falling to consider the 25% presumption of parenting time set forth in Minn. Stat. §518.175, sbud.1(e). Courts must "demonstrate an awareness and application of the 25% presumption when the issue is appropriately raised and the court awards less than 25% parenting time.	Statutory 25% parenting time.
In re the Marriage of Eric Thomas Amundson v. Rachel Louise Amundson, (Unpub.), A06-514, Chisago County, filed January 23, 2007 (Minn. App. 2007): Decree in 2000 awarded sole physical custody to respondent and ordered appellant to pay support. Extrajudicial agreement of the parties in April 2002, although never affirmed by the court, modified the custody to joint, with child support ceasing on May 31, 2002. Respondent brought a motion to increase support, an award of both dependency tax exemptions and an order requiring appellant to pay one half of the medical and dental expenses in October 2005. The district court held the extrajudicial custodial arrangement of the parties had been breached and abandoned when the children lived solely with appellant for a period of less than one year, then returned to respondent's home for the past 2 ½ years. A breach of an agreement occurs when one party fails to perform without legal justification a substantial part of the agreement or contract. (Citing Estate of Reidel by Mirick v. Life Care Ret. Cmtys., Inc., 505 N.W.2d 78, 81 (Minn. App. 1993). District court did not err in concluding the agreement was breached and abandoned, and therefore unenforceable.	When the court finds an extrajudicial agreement of the parties is breached or abandoned, the court is not required to enforce the terms of the agreement.

Kinley, n/k/a Peck vs. Kinley, (Unpub.), A06-865, F & C, filed September 4, 2007 (Minn. App. 2007): Appellant appeals from the district court's denial of his motion to amend a prior order. The prior order required appellant refrain from "discussing inappropriate religious stories whenever the children do not want to do so….". The object of the order is not to restrict appellant's first amendment rights, but rather intended to protect the respondent's sole legal right to determine the children's upbringing, including religious training. However, without sufficient findings in support of the restriction and by failing to place sufficient limits on the scope and duration of the restrictions, the order impermissibly burdens appellant's right to free exercise of religion. Appellant also argues the district court's injunction prohibiting him from reading Bible stories is unconstitutional, and impedes on his 1st amendment right of free speech. Protecting children from bitter disputes over religion is essential to their mental and emotional well-being and such protection has been legislatively created through Minn. Stat. 518.003, subd. 3(a). However, although the order serves a compelling interest, it is not narrowly tailored to fulfill that interest. On remand, the district court must make specific findings before placing limitations on appellant's communications with the children. The findings must indicate that appellant's conduct or speech: 1) threatens respondent's right to determine the children's upbringing; 2) poses risk of harm to the children; or 3) forces the children to take part in any religious practice that a) is intended to influence the religious thinking or beliefs of the children; b) is meant to criticize the children respondent's parenting on religious grounds, or c) is unwanted by the children. The limitations must be narrowly tailored. Reversed and remanded.	Constitutionality of restrictions on discussion of religion by parent without legal custody.
Kast vs. Kast, (Unpub.), A07-1567, F & C, filed March 4, 2008 (Minn. App. 2008): Because the record indicates that the district court performed the statutorily-mandated best-interests analysis and the district court's findings supporting its conclusions are sufficiently detailed, the Court of Appeals held that the district court was within its discretion in awarding respondent/mother sole physical custody of the parties' children. Affirmed.	Custody
Kehlenbeck v. Kehlenbeck, No. A13-2033, 2014 WL 3022303 (Minn. Ct. App. July 7, 2014), review denied (Sept. 16, 2014): Obligor challenged the District Court's failure to find her child support obligation was satisfied when the children were integrated into her home. Obligor presented only oral testimony and a handwritten calendar as evidence that her children were residing with her. The Court of Appeals ruled that the District Court was justified in discounting the evidentiary value of the calendar and that the District Court's finding that support had not been satisfied was justified.	Evidence to support satisfication of child-support obligation.
Kehlenbeck v. Kehlenbeck, No. A13-2033, 2014 WL 3022303 (Minn. Ct. App. July 7, 2014), review denied (Sept. 16, 2014): Appellant-mother challenged a district court order denying her post-dissolution custody-modification and reducing her child-support obligation for her two children. Appellant alleged the district court erred and abused its discretion in declining to modify custody and in reducing, rather than eliminating, her child-support obligation. Mother argued that her child support order was satisfied when the children living with her with the father's consent. The court rejected the mother's assertion that he children lived with her because the evidence provided by the mother was inconclusive. The court also concluded that the father's flexibility with parenting time can hardly prove the children's integration into the mother's home and result in a modification of child support. The Court of Appels affirmed, concluding that the district court did not abuse its discretion in making its determination, because the mother did not establish a prima facia showing that the children were integrated into her home. The District Court was justified in discounting the evidentiary value of the calendar. Furthermore, the district court did not abuse its discretion by refusing to rule that Appellant's support obligation was satisfied by the time spent with the children.	Post-dissolution custody-modification, evidence to support satisfication of support when children resided with obligor.

Itasca Cnty. Health & Human Servs. v. Nelson, No. A09-706, 2009 WL 4910800 (Minn. Ct. App. Dec. 22, 2009): The Court of Appeals found the CSM erred by considering a parenting expense adjustment because there was not a court order awarding parenting time. "If there is not a court order awarding parenting time, the court shall determine the child support award without consideration of the parenting expense adjustment." Minn. Stat. § 518A.36, subd. 2(1). The CSM erred by ordering mother to contribute towards the cost of dependent health care coverage because the father incurred no additional cost by insuring the child.	Error to include parenting time expense when there is no court awarded parenting time.
Walsh v. Walsh, No. A12-0299, 2012 WL 5381858 (Minn. Ct. App. Nov. 5, 2012): Father appealed the district court's order denying his request for modification of parenting time and requiring father to forfeit parenting time if he is unable to take his children to any activity scheduled to occur during his parenting time. The parties' divorce decree awarded the parties joint legal custody. Mother was awarded sole physical custody of the two children subject to Father's parenting time on alternate weekends, and portions of two weekdays as agreed upon by the parties, and on alternating holidays. The schedule was modified in 2007 after Mother was found in contempt for not abiding by the scheduled parenting time and awarded Father specific time on Tuesdays from 4:30 to 7:30 p.m. Parties were encouraged not to schedule activities on Tuesday's but it was Father's responsibility to get to any activities that may be scheduled during his parenting time. The 2007 modification also granted Father 6 weeks of parenting time during the summer. After moving, Mother sought an additional modification requesting overnights on Tuesday and Sunday. The overnights where denied and the court, sua sponte, limited Father's summer parenting time to one week intervals and stated that Father was responsible for getting the children to any activities during his parenting time and his failure or inability to do so will result in the forfeiture of the parenting time. The issue on appeal was whether the district court erred in denying Father's request to modify his parenting time and requiring him to forfeit parenting time if he was not able to take the children to any activity scheduled during his parenting time. The Court of Appeals affirmed in part and reversed in part. The district courts have broad discretion to decide modification of parenting time. Here, the district court did not abuse its discretion in denying the request for additional parenting time. However, the restriction requiring Father to exercise his summer parenting time in one week intervals was reversed because the parties had agreed to two week intervals. Also, the requirement to get the children to any activity and the consequence of forfeiture of parenting time for failure to do so was reversed because the requirements were not requested by either party. District Court's have broad discretion in determining parenting time but cannot impose restrictions sua sponte, especially if they are contrary to an agreement by the parties.	District Court's have broad discretion in determining parenting time but cannot impose restrictions sua sponte, especially if they are contrary to an agreement by the parties.
Shearer v. Shearer, 891 N.W.2d 72 (Minn. Ct. App. 2017): When modifiying parenting time where there is no order restriciting parenting time of either parent, courts only need to consider the best interests of the child. When applying the parenting time adjustment to child support the court order for parenting time controls, not actual parenting time exercised.	Parenting expense adjustment, parenting plans, parenting time.
In re the Marriage of Curry v. Levy, No. A16-1376, 2017 WL 1548622 (Minn. Ct. App. May 1, 2017): The definition of primary residence is not limited to the home of the parent who has the majority of parenting time. Other factors of consideration are: children's religious practice, school attendance, participation in extracurricular activities. When evaluating whether or not a basis for downward deviation exists, the court should consider factors including the gross annual resources of a parent after receiving/paying the ordered child support, along with findings regarding the parent's actual expenses.	Deviation – written findings required; parenting time
Crowley v. Meyer, 897 N.W.2d 288 (Minn. 2017): When modifying custody the district court must comply with the requirements of Minn. Stat. §518.18. The burden is on the party seeking modification even if awared temporary custody. A series of temporary custody orders do not become a permanent custody modification just based on the passage of time.	Child Custody
Palmquist v. Devens, 907 N.W.2d 204, (Minn. Ct. App. 2017): Minn. Stat. § 518A.35, subd. 1(c) applies only when a child is not in the custody of either parent. If a party is granted joint physical custody the child is "in custody of" the party even if the child's primary residence is not with that party. Therefore, support must be calculated under Minn. Stat. § 518A.35 subd 1(b) using the father and mother's combined parental incomes.	Custody – Relative Caregiver

Hansen v. Todnem, 908 N.W.2d 592, (Minn. 2018): District courts are required to consider only the relevant best-interest factors and are not required to make specific, detailed findings on each of the factors listed in Minn. Stat. § 518.17 subd. 1(a) (2016), when considering requests to modify parenting time under Minn. Stat. § 518.175 subd. 8 (2016). When addressing a parenting time modification the law does not distinguish between substantial and insubstantial parenting time modifications.	Custody, Parenting time
Cook v. Arimitsu, 907 N.W.2d 233 (Minn. Ct. App. Jan. 22, 2018): A child's home state under the UCCJEA, for purposes of determining a court's jurisdiction over custody, is the home state of the child or the home state of the child within six months before the commencement of the proceeding. The six-month period begins to run when the other parent has notice that the child's out of state absence will be permanent. "Substantial compliance" with the requirements for registration and confirmation of a foreign order is sufficient under the UCCJEA.	Dissolutions, Foreign Judgments, UCCJEA, Hague Convention
Olsen v. Koop, A17-1151, 2018 WL 1701901 (Minn. Ct. App. Apr. 9, 2018): Court-initiated modification of legal custody is not directly authorized or prohibited by statute. Issues that are not raised by the parties but are tried by the implied consent of the parties shall be treated as if they had been raised. Court initiated modification of legal custody modification may be proposed if both parties were notified that legal custody would be addressed and neither objected, thereby implicitly consenting to try the custody issue; the court gave notice that it could not grant appropriate relief in the best interests of the chid without hearing the custody issue; and a party did not argue any prejudice resulted from the decision to set an evidentiary hearing on custody.	Custody
In re Custody of M.J.H., 913 N.W.2d 437, A16-1056, 2018 WL 3040484 (Minn. Ct. App. Jun. 20, 2018): When determining whether a motion to modify parenting time is a de facto motion to modify physical custody for purposes of deciding whether the endangerment standard applies, a court should consider the totality of the circumstances to determine whether the proposed modification is a subtantial change that would modify the custody arrangement.	Custody, parenting time
In re the Matter of Hamida Ishmael Amarreh vs. Ishamel G. Amarreh, 913 N.W. 2d 228 (Minn. Ct. App. Aug. 13, 2018): When a moving party makes a prima facie showing of substantial interference with the parent-child relationship and inflicted emotional endagement under Minn. Stat. § 518.18 (a)(iv), the party is entitled to an evidentiary hearing.	Custody – Best Interest of Child, Joint Legal Custody
Helsene v. Helsene, No. A18-1970, 2019 WL 3070138 (Minn. Ct. App. Jul. 15, 2019): The court did not err in applying the 12% parenting expense adjustment instead of the new parenting expense adjustment when it is not possible to determine the accurate number of overnights. The magistrate did not commit reversible error by finding the parenting time order to not be specific enough to determine the number of overnights.	Parenting Expense Adjustment
In re Custody of B.L.F., No. A18-1852, 2019 WL 3776017 (Minn. Ct. App. Aug. 12, 2019): The Court lacks authority to modify support if the parites do not move for a modification of child support. The court did not err in addressing child support when the motion included a request for "such other relief as the Court deems just, fair, and equitable" and an evidentiary hearing was held on the issue of child support. There was no abuse of discretion for calculating parenting time differently for purposes of child support than the parenting time order as it reflected the statutory differences. The court abused its discretion by ordering a medical support contribution when the minimum support order applied and no findings were made to rebut the presumption.	Modification of Custody and Parenting Time; Medical Support; Guidelines.
Thorton v. Bosquez, 933 N.W. 2d. 781 (Minn. 2019): The Supreme Court found that the rebuttable presumption found in Minn. Stat. § 518.17, subd. 1(b)(9) (2018) does not operate for a particular party in a custody action, but only creates a presumption against a joint custodial arrangement. This presumption should then be taken into account when evaluating all twelve of the statutory factors, with the best interests of the child guiding the decisions.	Custody – Best interest of Child
Eastman v. Eastman, No. A19-0422, 2019 WL 6461316 (Minn. Ct. App. Dec. 2, 2019): After a juvenile court has transferred custody to a relative, the juvenile court has exclusive jurisdiction over any subsequent request to modify custody or parenting time, even if the juvenile court expressly terminated it's jurisdiction in it's prior order.	Custody; Jurisdiction

Custody of N.Y.B. v. Hedberg, A20-0283, 2020 WL 6391290 (Minn. Ct. App. Nov. 2, 2020): In a modification of parenting time motion, the district court should apply the "best interest" standard when the prior order reserved parenting time. The party seeking a parenting time modification has the burden of proof to demonstrate why the existing parenting time schedule is not in the child's best interest.	Modification of reserved parenting time
In re the Cusotdy of S.E.R.R., A20-1541, 2021 WL 1604711 (Minn. Ct. App. 2021): A district court has subject matter jurisdiction for a custody petition if the child in question is under the age of 18 at the date of commencement or if the child is under the age of 20 while still attending secondary school.	Minor Child – Definition; Uniform Child Custody Act
In re the Custody of S.K.T.S., A20-1378, 2021 WL 3478415 (Minn. App. 2021): A petition for custody can not be dismissed solely because the petitioning party is not the minor child's parent.	Third Party Custody
In re the Marriage of: Stephanie Joe Krishnan, f/k/a Beuning v. Eric James Beuning, A20-1462, 2021 WL 3852256 (Minn. App. 2021): When the court determines a motion to modify parenting time constitutes a de facto motion to modify custody, and multiple motions are in front of the court, the court must specify which motion resulted in the de facto motion to modify custody. If the court determines that a motion to modify custody must be reviewed using the endangerment standard they must analyze the question of endangerment instead of simply considering the best-interest factors under Minn. Stat. §518.17, subd. 1.	Custody-Best Interest of the Child De Facto Custody
In Re the Marriage of County of Isanti, Voss v. Garcia, A20-1577, 2021 WL 4059757 (Minn. App. 2021): A party with parenting time beginning on one day and ending the following evening is not necessarily entitled to two overnight equivalents for a parenting time expense adjustment.	Parenting Expense Adjustment; Parenting Time/ Overnights
Wivinus v. Anderson, A21-0430, 2021 WL 6110118 (Minn. App. 2021): A party's constitutional right to parent their children is protected when the court carefully considers the statutory factors and modifies custody only after concluding that the children are endangered under the existing legal-custody arrangement. The in forma pauperis statue does authorize the payment of certain expenses for qualifying low-income individuals, however the statue does not extend to the payment of custody evaluation fees. An order is not appealable when it is conditional and imposed punishment only after failure to purge oneself of contempt.	Contempt; Custody – Best Interest of Child
Martin v. Martin, A21-0612, 2022 WL 351108 (Minn. Ct. App. Feb 7, 2022): If the custody and parenting time used in a temporary child support order is reversed and remanded for factual findings, the child support must also be reconsidered.	Temporary Support
Gold v. Frawley, A21-1658, 2022 WL 3149075, (Minn. Ct. App. 2022): The district court failed to make the appropriate findings to support its order changing the parties' parenting time schedule and abused its authority by ordering parenting-time exchanges occur at mother's safe-at-home address. Reversed and remanded for the district court to make reviewable factual findings and to identify a new parenting-time exchange location.	Parenting Time/Overnights
Lee v. Lee, A21-1044, 2022 WL 3582241 (Minn. Ct. App. 2022): Appellant-father argues the district court abused its discretion by modifying custody based on endangerment. The Court of Appeals affirms the district court as they found no clear error in the record.	Custody – Best Interest of Child; Joint Legal Custody
Hinrichs v. Hinrichs, A22-0492, 2023 WL 2761993 (Minn. Ct. App. 2023): A district court correctly denies a motion to modify or restrict parenting time when the moving party fails to properly allege all four factors for a prima facie showing of endangerment, and it is not an error to not consider all four factors when any one has failed due to their conjunctive nature.	Custody-Best Interest of Child; Custody-Joint Legal Custody; Custody-Joint Physical Custody
Sun v. Yang, A22-1620, 2023 WL 8539602 (Minn. Ct. App. 2023): The district court did not abuse its authority when considering the adjudicative factors of the OFP order when determining custody because domestic abuse is included in the best interest's standards. The Court of Appeals defers to a district court's credibility determinations and cannot reweigh evidence.	Custody-Best Interest of Child

In Re the Custody of B.G.F., A24-0832, 2025 WL 80239 (Minn. Ct. App. Jan. 13, 2025): The court of appeals affirms the district court's order modifying physical and legal custody and terminating father's child support obligation. The court of appeals also finds no judicial bias against mother.	Basic Support-Definition; Best Interest of Child-Custody; Custody-Best Interest of Child; Custody-Joint Legal Custody; Custody-Joint Physical Custody
In re the Marriage of: Towobola Abimbola Oladejo vs. Olanrewaju Muideen Oladejo, No. 23-1609, 2025 WL 440097 (Minn. Ct. App. Feb. 10, 2025): The Court of Appeals affirms the district court's rulings on the issues of joint legal and joint physical custody, the calculation of basic support, and the finding of no childcare costs. The issue of whether marital or non-marital funds were used to pay the mortgage on the marital home after the valuation date is remanded as it affects husband's equity equalizer payment to wife.	Best Interest of Child-Custody; Custody; Basic Support-Definition; Basic Support-Guideline Table; Childcare Support (Support $)-Definition; Guidelines Table for Basic Support; Modification

IV.B. - MAINTENANCE	
Minn. Stat. § 518.552.	
Abbott v. Abbott, 282 NW 2d 561 (Minn. 1979): Existence of meretricious relationship does not itself constitute sufficient ground for termination of alimony, but where former spouse's need for support reduced through such a relationship, modification is appropriate.	Cohabitation Reduced Needs
DelaRosa v. DelaRosa, 309 NW 2d 755 (Minn. 1981): Former wife awarded equitable recovery of financial support she provided to husband during his education: Formula: Working spouse's financial contribution to joint living expenses and educational costs of student spouse less (working spouse's financial contribution plus student spouse's financial contribution less cost of education) equals equitable award to spouse	Interest in Professional Degree
Telma v. Telma, 474 NW 2d 322, 333 (Minn. 1981) General Rule: Unless a Judgment and Decree expressly states that spousal maintenance will continue after remarriage or unless a contrary intent is clear from the parties' agreement as a whole, a spousal maintenance obligation terminates upon the obligee's remarriage under Minn. Stat. § 518.64, Subd. 3. In this case court found obligor unequivocally waived modification, and maintenance continued after remarriage.	Maintenance Terminates upon Remarriage unless Contrary Intent is Clear
McMahon v. McMahon, 339 NW 2d 898 (Minn. 1983): When trial court reserves granting of maintenance in original decree of dissolution, upon subsequent application for maintenance the court must base its decision on facts existing at time of application and not apply the substantial change of circumstance test.	Reservation
Lynch v. Lynch, 411 NW 2d 263 (Minn. App. 1987): Bonuses which provide a dependable source of income may be included in calculation of future income for purposes of determining maintenance.	Bonuses
Eichenholz v. Eichenholz, 407 NW 2d 699 (Minn. App. 1987): Decrease of maintenance in order to receive more money from general assistance medical care would be improper and against public policy.	Better off on Welfare?
Eichenholz v. Eichenholz, 407 NW 2d 699 (Minn. App. 1987): Increased expenses and termination of public assistance were sufficient change in circumstances to justify increase in maintenance, but trial court erred in disregarding clearly established medical and housing needs of mother to determined the amount of the increase.	Medical and Housing Needs
Cisek v. Cisek, 409 NW 2d 233 (Minn. App. 1987): Over 400% increase in husband's income did not make stipulated maintenance award unfair where the stipulation provided that any increase in husband's income would not constitute grounds for modification.	400% Increase Maintenance
Gunderson v. Gunderson, 408 NW 2d 852, 853 (Minn. 1987): Where decree provided for maintenance for 42 months, and silent as to effect of remarriage before the 42 months, there is no contrary intent or express language, maintenance terminated on remarriage.	Maintenance Terminates on Remarriage if J&D Silent on Issue
In Re the Marriage of Reif v. Reif, 426 NW 2d 227 (Minn. App. 1988): Custodial parent's motion for child support denied where he was ordered to pay maintenance to non-custodial parent who was completing a college education in an attempt to become self-supporting after a 23-year marriage.	AP Receiving Maintenance
Erickson v. Erickson, 449 NW 2d 173 (Minn. 1989): Parties stipulated in marital decree that certain payments to custodial parent were maintenance, for tax purposes, when the payments were actually intended to be child support. Those payments may be modified but payments of actual maintenance terminate upon remarriage.	Maintenance vs. Child Support
Karon v. Karon, 435 NW 2d 501, 503 (Minn. 1989): Parties may stipulate to waive all maintenance at time of initial decree and courts are without authority to award in the future.	Waiver of Maintenance
Wopata v. Wopata, 498 NW 2d 478 (Minn. App. 1993): It is proper for court to reserve issue of spousal maintenance where the parties' situation is too unsettled for a sound, final judicial determination. (See Van de Loo v. Van de Loo, 346 NW 2d 173, (Minn. App. 1984).)	Maintenance Reservation

Walker v. Walker, 553 NW 2d 90 (Minn. App. 1996): Where obligor has elected to defer pension benefits to which he is otherwise presently entitled, a district court may impute the deferred amount to him as present income for the purpose of modifying a spousal maintenance order.	Imputation of Income
Gales v. Gales, 553 NW 2d 416 (Minn. 1996): Supreme Court reversed lower court decision awarding permanent maintenance to wife of 11-year marriage with no children with NMI of $1,091.00 compared to NMI of husband of $2,003.00. According to Supreme Court, to award permanent (rather than temporary), marriage requires an exceptional case such as dissolution of a: 1) long-term, 2) traditional marriage where spouse stayed at home, 3) older, dependent spouse has little likelihood of achieving self-sufficiency because of absence from labor market for a long time. Citing McClelland 359 NW 2d at 10 and Abuzzahab, 359 NW 2d at 14.	Criteria for Permanent Maintenance Award
Gales v. Gales, 553 NW 2d 416 (Minn. 1996): Minn. Stat. § 518.552, Subd. 1(f) reference to the "emotional condition of the spouse seeking maintenance" does not include consideration of stress/depression caused by the dissolution. To so consider would be to put "fault" back into divorce.	Effect of Obligee's Emotional Condition on Maintenance
Garthe v. Garthe, (Unpub.), C6-96-1409, F & C, filed 4-4-97 (Minn. App. 1997): Where obligor had been evasive in disclosing net monthly income, it was proper for court to determine earning capacity to be $50,000.00 based on (1) his ability to secure large unsecured personal and business loans, (2) his ability to purchase a third residence valued at $92,000,00, (3) his habit of carrying between $5,000.00 and $10,000.00 in cash, (4) the success of his new business, (5) past earnings of $75,000.00; and to set child support and maintenance on a net income of $2,590.00 per month.	Evidence of Earning Capacity
Santillan f/k/a Martine v. Martine, 560 NW 2d 749 (Minn. App. 1997): Pursuant to Minn. Stat. § 518.552, Subd. 5, a stipulation incorporated into a dissolution judgment and decree, purporting to divest the trial court of jurisdiction to modify maintenance is only effective if the J&D includes specific findings, is fair and equitable and supported by specified consideration, and that full financial disclosure has occurred.	Stipulation to Divest Court of Jurisdiction to Modify
In Re the Marriage of Beck, b/k/a Kaplan v. Kaplan, 566 NW 2d 723 (Minn. 1997): In this case, the supreme court ruled that even though husband's income had greatly increased in the 19 years since the marriage was dissolved and COLA had increased 278% and the parties had not waived the right to modification, the prior negotiated maintenance settlement was not unreasonable or unfair. At the time of the divorce, the obligee had sought but failed to negotiate a COLA, and could have anticipated the increase in obligor's income. "It is neither unreasonable nor unfair to hold the parties to their original negotiated agreement which at the time it was made undoubtedly balanced their compromised interests."	Substantiated Increase in Obligor's Income did not make Stipulated J&D Unreasonable or Unfair
Hecker v. Hecker, 568 NW 2d 705 (Minn. 1997): Obligor argued that obligee's willful failure to attempt retraining or rehabilitation should operate as a bar to permanent maintenance where parties had stipulated to temporary award at the time of the dissolution. The Supreme Court upheld the trial court's award of permanent maintenance, finding that the substantial change was "the frustration of the parties' expectations of self-sufficiency" and resultant increase in obligee's needs.	Willful Failure to Rehab Meets "Substantial Change" Standard
Hecker v. Hecker, 568 NW 2d 705 (Minn. 1997): When awarding permanent maintenance at the modification proceeding, Supreme Court upheld trial court's calculation of maintenance which attributed to the obligee that amount she could be earning had she made a reasonable effort at rehabilitation. The permanent award was the difference between her needs and the investment and attributed income.	Income Imputed to Obligee
Dobrin v. Dobrin, 569 NW 2d 199 (Minn. 1997): Where dissolution is of a marriage of 22 years duration, and the spouse is both trained and experienced in the labor market but made only minimal effort to seek employment, an award of permanent maintenance is not warranted. Burden is on person seeking maintenance to show need.	No Need Demonstrated
Fulmer v. Fulmer, 594 NW 2d 210 (1999): It is proper to base spousal maintenance on earning capacity when it is impractical to determine appellant's actual net income.	Based on Earning Capacity

Lof v. Lof, (Unpub.), C2-98-1430, F & C, filed 3-2-99 (Minn. App. 1999): Court did not err in including the spousal maintenance award in wife's monthly net income for purpose of determining her child support obligation. Whether spousal maintenance should be exempt from the income calculation is a question properly left for the legislature.	Maintenance Included in Net Income
Neal v. Neal, 03-6032, 03-6059MN; Bankruptcy Court for the District of Minnesota, 302 B.R. 275, Dec. 12, 2003: If the state court awards retroactive maintenance to the wife, that obligation would not be dischargeable in the husband's bankruptcy. Chapter 13 debtor's debts for maintenance are not dischargeable.	Discharge-ability of Alimony
James v. James, (Unpub.) A05-1056, F&C, filed 2-28-06 (Minn. App. 2006): Court of Appeals affirmed trial court's decision to terminate spousal maintenance in 2004 based on substantial change in circumstances making the original award unreasonable or unfair even though parties originally stipulated to maintenance through 2011.	Change in circumstances impacts duration as well as amount
Roering vs. Roering, (Unpub.), A05-74, F&C, filed January 24, 2006 (Minn. App. 2006): While the wife was receiving temporary maintenance, the parties entered into a stipulation waiving spousal maintenance and requiring each party to pay their own attorney fees. The district court interpreted the stipulation as referring only to permanent maintenance and awarded the wife temporary maintenance until she was able to sell her home. Furthermore, the court upheld the award of attorney's fees though each party had agreed to pay their own because the husband had unreasonably contributed to the length of the trial and his behavior changed the circumstances under which the attorneys' fees stipulation was reached.	Maintenance award Legal fees
Bettin vs. Bettin, (Unpub.), A05-265, F&C, filed December 27, 2005 (Minn. App. 2006): The husband made a motion to modify his maintenance obligation. He failed to show that he had incurred a substantial decrease in income, making the present spousal maintenance unreasonable and unfair. His lifestyle was incompatible with the figures that he supplied and his self-generated reports of income and expenses were devoid of any supporting documents and contained conflicting and questionable records of his purported income and expenses.	Denial of motion to reduce spousal maintenance as obligor's lifestyle did not support reduction.
Maki vs. Maki, (Unpub.), A05-1, F&C, filed January 10, 2006 (Minn. App. 2006): Parties owned and operated a farm during the 38-year marriage. Wife stopped doing physical labor on the farm in the early 1990s. The district court's award of permanent spousal maintenance to the wife, who had limited income and limited vocational skills and physical health problems, was warranted. The district court did not abuse its discretion in ordering spousal maintenance (1) because she clearly needed the spousal maintenance and (2) because he had the ability to provide the spousal maintenance.	Maintenance, farmer's wife
Nelson v. Nelson, (Unpub.), A-05-1507, F&C, filed 3-07-06 (Minn. App. 2006): Court of Appeals affirmed trial court's decision to award Appellant temporary as opposed to permanent spousal maintenance because Appellant was "unemployed in bad faith, highlighting that any inability to find employment because of her criminal background is of her own doing and cannot be a basis for awarding permanent spousal maintenance."	Obligee's criminal history not basis for permanent maintenance
McCulloch v. McCulloch, (Unpub.), A05-1058, F&C, filed 3-07-06 (Minn. App. 2006): Court of Appeals affirmed trial court's determination that Appellant/Husband failed to meet his burden of proving a substantial change in circumstances warranting a reduction or termination of his spousal maintenance obligation. Court of Appeals deferred to trial court's determination that Appellant's argument that he was depleting his assets to pay maintenance was not credible. The trial court correctly determined that Appellant's monthly income has increased and his monthly expenses, other than maintenance, have decreased. Furthermore, the trial court did not abuse its discretion in failing to consider Respondent/Wife's potential eligibility for social security benefits as Appellant provided no evidence on that issue.	Obligor failed to show change in circumstances
McConnell v. McConnell, 710 NW 2d 583 (Minn. App. 2006): Court of Appeals reversed and remanded trial court's decision to award temporary spousal maintenance holding that trial court's findings were clearly erroneous in determining whether the award of spousal maintenance should be temporary or permanent, because the trial court failed to consider undisputed evidence documenting Appellant/Husband's profoundly debilitating physical health problems and based temporary maintenance on speculative findings regarding husband's ability to become self-supporting in the future. (Among other health problems, Appellant is a diabetic double-amputee who receives social security disability benefits).	Denial of permanent maintenance to disabled husband reversed

Kleven v. Kleven, (Unpub.), A05-1281, F&C, filed 3-14-06 (Minn. App. 2006): Court of Appeals affirmed trial court's denial of Appellant/Husband's motion to modify spousal maintenance based on Appellant's failure to show a substantial change in his circumstances and finding that although Respondent/Wife's actual income has increased since the dissolution, it has only increased to the level which was imputed to her and contemplated by the trial court at the time of entry of the dissolution decree which awarded Respondent permanent maintenance.	No change in circumstances when obligee's actual income increase to amount imputed in judgment and decree
Pence v. Pence, (Unpub.) A04-2154, F&C, filed 3-07-06 (Minn. App. 2006): Court of Appeals upheld trial court's decision to award Respondent/Wife spousal maintenance where the trial "court made explicit and detailed findings regarding spousal maintenance according to the factors set forth in Minn. Stat. §518.552, subd. 2 (2004), and Appellant/Husband presented no evidence on appeal to refute the trial court's findings other than his allegation that he was unable to work due to disability, a claim which the trial had found unsupported by any evidence other than Appellant testimony which the trial court deemed not credible. Court of Appeals ruled that the trial court's findings that the Appellant was voluntarily unemployed in "bad faith" and had the ability to earn an income commensurate with the income he earned from 1998-2002, as demonstrated by his income tax returns, were supported by the evidence.	Maintenance award based on imputed income
Frillman v. Frillman, (unpub.) A05-1129, filed 5-2-06 (Minn. App. 2006): District Court did not abuse discretion when it denied motion to terminate spousal maintenance. Spousal maintenance was properly deemed permanent when no end date was recited in the stipulation and order creating the obligation. Hence, change of circumstances was required to support termination. Mere expectation at date of stipulation that party receiving maintenance would make best efforts to complete school and change careers, and failure to succeed, is not a change in circumstances requiring termination of maintenance. District court did not clearly err when it found that spouse receiving maintenance had not been able to reduce her expenses, increase her income, or achieve a higher standard of living than during marriage.	Permanent v. temporary maintenance. Failure to improve lot is not a change in circumstances. No abuse of discretion by trial court.
Blomgren v. Kraemer, (Unpub.) A05-938, filed May 30, 2006 (Minn. App. 2006): In a 19-year marriage, where respondent-wife was a medical director earning over $139,000.00 annually, the district court correctly determined that appellant-husband failed to demonstrate a "need" for spousal maintenance under §518.552 where husband received approximately $775,000.00 in cash and resources and where he had the ability to earn $36.000.00 annually in his chosen profession. The court determined respondent-wife should not be obligated after the dissolution to work excess hours to support husband's "hobby expenses" (travel, fishing, hunting). The appellate court found that the district court correctly disregarded husband's extravagant hobby expenses in evaluating his monthly budget.	Maintenance not appropriate where sufficient cash and resources awarded in settlement; "hobby expenses" should not be included in determining need for spousal maintenance.
Flaherty vs. Flaherty, A05-1606, A05-2429, Ramsey County, filed 6/27/06 (Minn. App. 2006): The Court of Appeals affirmed the district court's order imputing income to the appellant based on her failure to use reasonable efforts to rehabilitate herself and to become employed. However, the district court's findings regarding appellant's imputed investment income, her ability to be self-sufficient, and her reasonable needs are clearly erroneous. The Court of Appeals ordered the district court to determine the amount of investment income she can reasonably expect from her marital assets and to order permanent maintenance to cover the gap between her imputed income and the investment income and her reasonable needs. Statute favors permanent maintenance in cases of uncertainty, leaving it open for later modification. The lower court made a mathematical error in computing her monthly income. Her imputed income and her imputed investment income result in a monthly income of $3,917.00, whereas her reasonable monthly expenses total $5,378.00. The district court abused its discretion by failing to award permanent maintenance in an amount that would close the gap.	Spousal maintenance

In Re the Marriage of Mary Margaret Colburn vs. Richard Harlen Colburn (Unpub.), A05-2173, Anoka County, filed 6/27/06: The district court finding that the obligor, Richard Colburn, retired in bad faith is not supported by the record. His failure to notify the opposing party that he was retiring does not amount to bad faith where he was retiring at age 61 after 42 years with the post office and he had suffered from macular degeneration and was going blind. The appeals court remanded the case to the district court to set a maintenance obligation based on changed circumstances.	Spousal maintenance; change of circumstances
In Re the Marriage of Mary Kay Clifford vs. Wayne Howard Clifford A05-1465, Hennepin County, filed 6/27/06: The district court erred when it determined that the State of Minnesota lacked exclusive jurisdiction to hear the motion to modify spousal support in the state of Minnesota. The State of Minnesota issued the dissolution order in 1983 and in that order awarded the wife permanent spousal maintenance. The State of Minnesota has retained continuing exclusive jurisdiction, although the State of Indiana and the State of Michigan have taken action to enforce the order. Neither the State of Michigan nor the State of Indiana has continuing exclusive jurisdiction under the UIFSA to modify the original Minnesota spousal support order. The issuing state, the State of Minnesota, is the state with continuing exclusive jurisdiction. The original order cannot be modified by another state. (A support order can be registered in another state for purposes of enforcement, but not for modification.)	UIFSA jurisdiction.
In Re the Marriage of Virginia E. Westland vs. Stanley K. Westland A05-2500, Freeborn County, filed 7/18/06: The district court's findings that there was no substantial change in circumstances are inconsistent with its order reducing spousal maintenance. The court, however, affirmed the district court finding that although the wife's income had increased from $6,582.00 to $23,214.00, that was not a substantial increase in earnings because it did not provide the wife with a standard of living she had enjoyed during her marriage. The husband's earnings remained the same. The district court modified the maintenance award despite its findings. The reduction in the award is inconsistent with the court's finding that a reasonable budget for each party remains the same and the wife's needs have stayed the same. The district court failed to consider the factors required by Minnesota Statutes for a modification of maintenance. In addition to showing a substantial change in circumstances, a party must demonstrate that the change rendered the original order unreasonable and unfair.	Maintenance.
In Re the Marriage of Burtness vs. Burtness A05-2432, Koochiching County, filed 7/18/06: The district court did not abuse its discretion in denying husband's request that his spousal maintenance cease. Husband was required to pay $5,000.00 per month in permanent spousal maintenance and $1,200.00 per year for medical insurance. Wife filed a motion requesting that $108,000.00 spousal maintenance and $15,600.00 in unpaid health insurance premiums be reduced to judgment. Husband then filed motion requesting that his spousal maintenance obligation be terminated. Husband failed to provide evidence to support his request that spousal maintenance be terminated. He did not file any tax returns for the past seven years and provided no documentation that would substantiate his income, business expenses, profits, or losses since the dissolution. He further denied that he was employed, but yet admitted that he took draws from his business entities. Since the dissolution, he admitted that he paid $2.8 million in debts, plus $500,000.00 in spousal maintenance. The district court did not abuse its discretion in denying appellant's motion to terminate his spousal maintenance obligation.	Maintenance.

In re the Marriage of : Johnson v. Johnson; Minn. Ct. App. Unpublished. (A05-1673): Appellant-husband argued that the district court should not have imputed income to him without first finding he was underemployed in bad faith. Basic issue in determining maintenance is the financial need of the spouse receiving maintenance, and the ability to meet that need, balanced against the financial condition of the spouse providing the maintenance. If a district court finds that a maintenance obligor's income has decreased in bad faith, or as a result of voluntary underemployment, the district court may impute income and set the maintenance based on the imputation. The lack of a specific finding of bad faith is not fatal if the record clearly shows that the district court believed the income was decreased in bad faith. Here, where the court did not make a finding of bad faith and the record shows that appellant generally did not work for five months out of the year, it was error to impute income to appellant. Remanded for proper calculation.	Maintenance, income imputed annually for seasonal worker was error
In re the Marriage of Bydzovsky v. Bydzovsky; Minn. Ct. App. Unpub. (A05-1702): The matter was remanded for further findings on the issue of maintenance because the district court failed to address the reasonableness of wife's expenses.	reasonableness of obligee's expenses
In re the Marriage of: Buxton v. Buxton; Minn. Ct. App. Unpub. (A05-1961): Appellant-wife challenged the district court's order concluding that she is not entitled to one-half the value of husband's pension nor spousal maintenance after husband's death. District court had reserved jurisdiction in the original decree to equitably divide the marital portion of husband's PERA benefits upon his retirement, but the division failed upon his death before retirement. The district court correctly determined finality in the parties' property division. The court cannot later award appellant other property in lieu of the benefits. The maintenance obligation extinguished upon husband's death with the exception of the life insurance proceeds required by the decree. Appellate court affirmed and held wife is not entitled to ongoing maintenance funded with assets from husband's estate because the decree did not provide for this relief.	Maintenance, cannot fund with assets from husband's estate
Traut v. Traut; Minn. Ct. App. Unpub. (A05-1556): Appellant husband challenged district court's determination of his income and order for permanent maintenance. The court affirmed the finding on income because the husband had presented four different calculations of his self-employment income and the district court's income finding was within that range and affirmed. Also, the court affirmed findings with respect to wife's earning capacity and ability to support herself because the record showed wife lacked ability to find employment and support herself due to her long absence from the workforce. However, the court remanded to recalculate the award because the district court erroneously included as part of husband's income the repayment of principal on a debt that he received as marital property. Maintenance is an award of future income or earnings of one spouse to support another and a maintenance obligor is not generally required to liquidate assets awarded in a marital property distribution to pay maintenance. The interest on the loan would be considered as income as it is a form of periodic payment.	Maintenance. Determination of obligor's income and obligee's need. Permanent maintenance award does not require "exceptional case."
Knox v. Knox. Minn. Ct. App. Unpublished. (A05-1989): Appellant-husband argues the district court abused its discretion by modifying his spousal maintenance obligation. Spousal maintenance was set at 25% of his net income. Husband moved to modify, seeking either to terminate the award or reduce it and set it "at a specific monthly amount." The district court denied the motion. The appellate court reversed the district court's order determining there had been a substantial change in circumstances because wife's earnings increased, husband's earnings had increased and his pay structure changed to a fixed salary, and wife's needs changed because the child was emancipated. The matter was remanded for a determination of a "defined-sum maintenance award based on the parties' resources and needs." The district court ordered husband to pay maintenance of $2,000.00 per month. The appellate court affirmed. The district court did not erroneously include expenses of the parties' adult son. Because the son lived with wife only temporarily, it was not necessary to impute a rental payment from son to the wife. The district court did not need to consider wife's ability to work full time and support herself because a recipient of permanent maintenance is not obligated to rehabilitate herself. Husband had the ability to pay- his expenses were overstated and erroneously included his new wife's expenses. He cannot complain when the court failed to rule in his favor where one of the reasons it did not do so was because he failed to provide evidence that would allow the court to fully address the question.	Spousal maintenance modification.

Herman v. Herman, (Ubpub.) A05-2512, Filed 9/12/06 (Minn. App. 2006): Court found an increase in Obligor's income alone provides insufficient grounds for a modification of spousal maintenance. *citing* Lyon v. Lyon, 439 N.W.2d 18, 22 (Minn. 1989). Court also found Obligee was not entitled to a modification of maintenance absent a showing the current maintenance amount was unreasonable/unfair. *citing* Peterka v. Peterka, 675 N.W.2d 353 (Minn. App. 2004).	SPOUSAL MAINTENANCE No mod of spousal maint. when Obligee bases mod on increase in income of Obligor and Obligee does not show current maint. amt. is unreasonable/ unfair.
In re the Marriage of Branz v. Branz, (Unpub.), A05-2222. Filed Sept. 19, 2006 (Minn. App. 2006): District court's failure to award permanent maintenance was abuse of discretion because district court made no findings on wife's ability to eventually become self-supporting.	Findings on ability to become self-supporting required where permanent maintenance denied.
In re the Marriage of Branz v. Branz, (Unpub.), A05-2222. Filed Sept. 19, 2006 (Minn. App. 2006): District court has discretion in ordering obligor to maintain life insurance as security for child support and maintenance. On remand, district court was directed to reconsider this issue in connection with permanent maintenance only.	Life Insurance as security for support.
In re the Marriage of Li-Kuehne v. Kuehne, (Unpub.), A05-2398, Filed September 19, 2006 (Minn. App. 2006): The district court erred in denying Obligee's 2005 request for cost-of-living adjustment to maintenance, on the basis that the dissolution decree provided, "[d]uring the period of March 1, 2003 through August 31, 2009 the issue of spousal maintenance shall not be modifiable and the Court is without jurisdiction to modify spousal maintenance." The Court of Appeals reversed and remanded finding that a COLA is not a modification and as required by section 518.68, the statutory notice regarding COLAs was attached to the judgment and decree at Appendix A and states that "maintenance may be adjusted every two years based upon a change in the cost of living." The court noted that the parties had agreed to a *Karon* waiver, but stated that a *Karon* waiver cannot be read to preclude "adjustments" under section518.641, since a motion for modification is not the same as a request for a COLA. *McClenahan*, 461 N.W.2d at 511.	COLA: *Karon* waiver does not preclude COLA action.
Murra v. Murra, A05-2547 (Minn. Ct. App. September 26, 2006): The district court improperly imputed $20,0000/yr in employment income to wife without allowing wife any time to obtain gainful employment. Wife was 50 years old and a homemaker during the marriage. There was no evidence that she was underemployed in bad faith.	Imputation of Income
Stimmler v. Stimmler A06-4 (Minn. Ct. App. October 3, 2006): The district court did not abuse its discretion in denying wife's request for spousal maintenance. Wife is 38 years old, has a high school education, is in good physical and emotional health and is employed as a waitress and at a hockey school. In addition, wife did not contest the district court's finding that husband lacked the ability to pay maintenance.	Denial of spousal maintenance
In Re the Marriage of Ray v. Ray, (Unpub.), A06-182, Filed December 5, 2006 (Minn. App. 2006): The court affirmed the district court's denial of retroactive modification of spousal support. The district court found that where the obligor had previously moved to have his child support modified retroactively due to a period of incarceration, and where the obligor's report date to prison was delayed, the obligor's inaction acts as a forfeiture of his right to modify retroactively. The court noted that the language of Minn. Stat. § 518.64, subd. 2(d) (2004) uses the word "may," thus giving the court discretion as to whether a retro mod will be granted.	MODIFICATION Motion for retro. mod. must be timely and is discretionary.

Leifur v. Leifur, 820 N.W.2d 40 (Minn.App.2012): **Case Summary:** Under a November 2006 stipulated dissolution judgment NCP father was to pay $1,500 per month for child support, to pay for the children's health and dental insurance, to contribute $803 per month to a joint account for the children's expenses, and to pay $6,600 per month for spousal maintenance. In November 2007 NCP was laid off. Husband received severance pay until May 2008 and continued to pay spousal-maintenance and child-support until January 2009. In January 2009 NCP requested the parties begin mediation to modify the maintenance and support obligations. Parties were both represented by counsel at a May 28, 2009 mediation session when they signed a one-page document agreeing that any modification of child support and spousal support would be retroactive to June 1, 2009. In May 2010 CP filed a motion to enforce the dissolution judgment. On October 18, 2010 husband served a motion requesting that his obligation be suspended or modified retroactive to June 1, 2009 according to the parties mediated agreement. District court redIII.Ouced the maintenance obligation but made it retroactive to the date of the hearing (also the date the motion was filed) finding that Minn. Stat. § 518A.39, subd. 2(e), does not authorize the court to establish an earlier retroactive date. Court of appeals found that the district court did not have the authority to make the maintenance modification retroactive to June 1, 2009, regardless the parties agreement, because the parties cannot confer on the court authority to do something that the legislature has explicitly prohibited and under § 518A.30, subd. 2(e), the court had no authority to make the maintenance modification retroactive to a date before the date the husband served notice of his modification motion. **Synopsis:** Even if parties stipulate to an earlier retroactive date to modify a spousal maintenance obligation, the district court has no authority to make a maintenance modification retroactive to a date before the date that notice of the modification motion was served under Minn.Stat. § 518A.39, subd. 2(e).	Modification; Spousal Maintenance; Stipulations.
Patricia L. Rooney v. Michael T. Rooney and Christ's Household of Faith, and Ramsey County, Intervenor, (Unpub.), A06-46, Ramsey County, filed January 16, 2007, (Minn. App. 2007): Prior to dissolution the parties and their joint children were living in Christ's Household of Faith. Any income they obtained was directly remitted to third party respondent CHOF, which paid their modest living expenses. Upon dissolution, petitioner wife and the children moved from CHOF. Spousal maintenance and child support was based on the amount respondent husband contributed to CHOF. Appeals followed; currently wife appeals the district court's findings that husband had no direct obligation to pay support; modified child support retroactively and prospectively; vacated maintenance retroactively and prospectively; and terminated income withholding and reinstated husband's drivers license. Court of Appeals affirms in part, reverses in part and remands. Court held that applying Minn. Stat. §518.61111 did not unduly impose on CHOF's right to religious freedom. (Citing Rooney v. Rooney, 669 N.W.2d 362, 369 (Minn. App. 2003). Thus, the lower court's conclusion that husbands religious freedoms are not violated if maintenance obligations are imposed is clearly erroneous. The court of appeals remands to the district court to recalculate support and maintenance arrearages and taking into account the value of husband's services to CHOF, and required under Rooney (*Id.*). Because there was never a spousal maintenance modification, CHOF is responsible for paying arrearages as calculated by the district court from August 20, 1990 to either the motion modification date or the date of the district court's order. Additionally, no timely motion was made for modification of the obligation. The court of appeals affirms the district court's termination of future maintenance and support. CHOF is obligated to pay only child support and spousal maintenance arrearages as the financial situation of wife have changed and the children have emancipated. Affirm the termination of income withholding and reinstatement of husband's drivers license. **Appealed to Supreme Court of the United States where petition for writ of certiorari to the Court of Appeals of Minnesota denied.	Child support and spousal maintenance arrearages to be paid by CHOF, as husband obligor's living expenses are provided by CHOF and any income he earns remitted to the organization as a religious practice. Support amounts to be based upon the amount of benefit CHOF receives from husband's services.

Rooney v. Rooney, 782 N.W.2d 572 (Minn. Ct. App. 2010): The parties were married in 1964 and divorced in 1998. Obligor Rooney was ordered to pay child support and spousal maintenance in the dissolution. In '90 and '91, the Christ Household of Faith (CHOF) was determined to be the obligor's employer and was ordered to withhold money for child support and spousal maintenance. After 20 years of litigation, oblige Rooney obtained a judgment of approximately $235,000 against CHOF. Obligee Rooney sought to recover attorney fees she incurred in enforcing CHOF's obligation to withhold funds for her benefit. The district court denied the obligee's request for attorney's fees incurred between 2001 and 2008 in pursuing the judgment against CHOF and seeking to collect on the judgment. The Court of Appeals held a third party "payor of funds" to a child support obligor whom is held liable to the oblige for amounts the payor failed to withhold is also liable for reasonable attorney fees incurred by the oblige in enforcing the withholding liability. Additionally, the "payor of funds" is liable for attorney fees incurred before or after an arrearages judgment is entered against the payor.	
In Re the Marriage of Renard v. Renard, (Unpub.), A05-2573, Filed February 13, 2007 (Minn. App. 2007): Permanent maintenance award appropriate where child's condition makes it not unreasonable for mother not to be required to seek employment outside of home. Matter was also reversed and remanded to consider the federal benefits impact in setting maintenance.	SPOUSAL MAINTENANCE permanent maintenance award
In re the Marriage of Sharon Ann Kimball v. Barney Edward Kimball, (Unpub.), A06-532, Anoka County, filed February 27, 2007 (Minn. App. 2007): Appellant Barney Kimball argues the lower court erred in granting respondent's motion to increase, erred in denying his motion to decrease, and in finding he retired in bad faith, is voluntarily underemployed, and such findings are unsupported by the record and factors as described in Richards v. Richards, 472 N.W.2d 162, 165 (Minn. App. 1991). This court holds the lower court correctly applied the factors in Minn. Stat. §518.522, subd. 2 in denying appellant's motion. When an obligee raises a colorable claim of bad faith, an obligor must show by a preponderance of the evidence that a decision to retire early was not primarily influence by a specific intent to decrease or terminate maintenance. (Citing Richards at 165). Appellant presented no evidence that his retirement at the earliest possible time (age 59) was required by managerial policy or due to health problems.	Obligor must prove by preponderance of evidence early retirement was not motivated by a specific intent to decrease or terminate spousal maintenance.
In re the Marriage of: Kim Teresa Pattinson, petitioner, Respondent, vs. Daniel Keller Pattinson, Appellant., (Unpub.), A06-1300, Anoka County, filed July 31, 2007 (Minn. App. 2007): Fourth appeal related to spousal maintenance provisions of J&D. Court of Appeals remanded to district court with instructions. Subsequent district court order appealed here. Court of Appeals reverses and remands with instructions to follow prior remand instructions. District court adopted respondent's findings verbatim. These findings lacked income information and were unsupported by the record; Court of Appeals determined that they were clearly erroneous.	Re-remanded for district court to comply with prior order and instructions of court of appeals. Findings – Standard of Review.
In re the Marriage of: Essam El-Dean Hassan Ahmed, petitioner, Appellant, vs. Eman Bakry Haroun, Respondent., (Unpub.), A06-1773, Dakota County, filed July 31, 2007 (Minn. App. 2007): Oral stipulation in dissolution proceeding. Written order included a reservation of maintenance that was not included in the oral stipulation. Where the parties in a dissolution have reached a stipulation, the could cannot impose conditions to which the parties did not stipulate and thereby deprive the parties of their day in court. A decree that is silent as to spousal maintenance cannot thereafter modify the decree to award spousal maintenance. A decree that reserves spousal maintenance can be modified.	Spousal Maintenance – modification
In re the Marriage of: Loren Helen Faibisch, petitioner, Appellant, vs. Manuel Esguerra, Respondent., (Unpub.), A06-1751, Ramsey County, filed August 21, 2007 (Minn. App. 2007): J&D reserved spousal maintenance. Appellant moved for permanent spousal maintenance of $750 per month. District court ordered $150 in temporary support. Whether to modify maintenance is discretionary with the district court. Appellant argues the district court failed to fully consider her health and job-loss in addressing her ability to support herself. Appellant inadequately documented her assertions about her job loss, employment search, amount of aid she was eligible for, and the resulting decrease in her income.	Modification of maintenance is discretionary with the district court. Appellant inadequately documented her assertions as to why the court should modify and award support.

Li-Kuehne vs. Kuehne, (Unpub.), A07-807, F & C, filed September 11, 2007 (Minn. App. 2007): Appellant argues district court abused its discretion in including a COLA to a step reduction in his maintenance obligation. The J&D of the parties provided the court was without jurisdiction to modify maintenance during the period of March 1, 2003 to August 31, 2009. (Appellant was to pay $12,500 per month from March 1, 2003 to August 31, 2006 and $10,000 per month from September 1, 2006 to August 31, 2009). This court previously reversed and remanded the issue of the application of COLA to maintenance to the district court, holding that there is nothing in the record to support the district court's denial of COLA under any of the exceptions listed in Minn. Stat. §518.641. On remand, the district court held that the Court of Appeals did not limit the COLA to the first maintenance amount, and applied COLA to the step-down amount. Appellant argues the change in maintenance acts as a step decrease that already reflects a decrease in the cost of living. The Court of Appeals held that their prior decision regarding the COLA issue is *res judicata*, precluding re-litigation of the issue.	COLA applies to spousal maintenance even where J&D provides court is without jurisdiction to modify spousal maintenance award.
Lewis vs. Lewis, (Unpub.), A06-2236, F & C, filed September 11, 2007 (Minn. App. 2007): Appellant wife appeals from district court order granting her temporary spousal maintenance. Appellant argues maintenance should be permanent as it is uncertain whether she will become self-supporting, and she did not receive substantial amounts of marital property. The Court of Appeals disagreed. Although appellant was a homemaker for most of the parties' 19 year marriage, she has an undergraduate degree and teaching license, as well as experience working as a teacher. Additionally, her ability to become self-supporting by 2009 is not dependant on her receipt of substantial amounts of marital property. Appellant may move to extend the temporary award if necessary in the future.	Temporary vs permanent spousal maintenance
Lewis, vs. Lewis, (Unpub.), A06-2236, F & C, filed September 11, 2007 (Minn. App. 2007): Appellant argues that the district court abused its discretion by imposing an automatic step reduction in her spousal maintenance award and by imputing full time income to her starting in 2007. Because the parties agreed that appellant would not work full time until 2009, when youngest child graduates from high school, and the court found the parties' agreement reasonable, the district court abused its discretion. The Court of Appeals reversed the trial court's decision regarding an automatic step reduction.	Step reduction in spousal maintenance award reversed where parties' agreed appellant would not work full time until 2009.
In re the Marriage of: Erickson v Erickson, (Unpub.), A06-2061, filed 11/20/07 (Minn. App. 2007): District court did not abuse discretion when it reduced spousal maintenance based on former husband's decreased income and former wife's increased earning capacity.	Discretion to Reduce Maintenance Based on Substantial Change of Circumstances
Holmes v. Holmes, (Unpub.), A06-1897, filed December 24, 2007 (Minn. App. 2007): The court did not err in requiring appellant to keep or obtain life insurance in an amount not less than his projected future child-support and spousal-maintenance obligations even though the issues of child support and maintenance were reserved, as the policy was already in effect and the court was merely requiring appellant to maintain the status quo established during the marriage.	No error in requiring life insurance policy remain in place even where child support & maintenance issues reserved.
In the Marriage of: Lynae Dana Nahring v. Curtis Norman Nahring, (Unpub.), A07-0102, filed February 19, 2008 (Minn. App. 2008): Father appeals from the decision of the lower to court setting spousal maintenance. The lower court made insufficient findings when setting spousal maintenance without considering and balancing requisite statutory factors.	Spousal maintenance Findings required.
In re the Marriage of Brenda Lee Stifel v. Daniel Charles Stifel, (Unpub.), A07-0198, filed April 1, 2008 (Minn. App. 2008): Appellant obligor appeals the order of the district court asserting the court made erroneous findings with regard to his ability to pay and respondent's needs. Court of Appeals affirmed, noting obligor's living expenses were not credible in that it failed to quantify contributions by obligor's live-in companion. Obligor's budget was speculative and duplicative. Also, obligee was a stay-at-home parent for 19 years, has physical custody of the parties' four children, works part-time and is taking college courses, and does not have the ability to contribute more toward her monthly expenses.	No abuse of discretion to order spousal maintenance where traditional homemaker needs the maintenance and other spouse can provide.

Wayne Alan Butt v. Eleanor Anna Schmidt, (747 NW 2d 566, 2008), A06-1015, filed April 17, 2008 (Minn. S.C. 2008): The Court of Appeals erred by authorizing the district court to modify spousal maintenance on remand. The parties' Judgment and Decree contractually waived the parties' rights to modify maintenance, divested the court of jurisdiction over maintenance and affirmation of disclosure, fairness, and consideration were included in the MTA.	Court of Appeals erred in authorizing a modification of maintenance after a *Karon* waivor consistent with Minn. Stat. § 518551, subd. 5 (2006)
Miller v. Bichrt, No. A15-0672, 2016 WL 3659124 (Minn. Ct. App. July 11, 2016): When there is uncertainty as to the necessity of a permanent award the court shall order a permanent award leaving its order open for later modification.	Temporary v. Permanent Spousal Maintenance
In re the Marriage of: Ferguson v. Ferguson, No. A15-1249, 2016 WL 4065594 (Minn. Ct. App. August 1, 2016): Mere statement of "Karon Waiver" is not sufficient to divest the court of jurisdiction over maintenance.	Karon Waiver
In re the Marriage of: Johnson v. Foster, No. A15-1558, 2016 WL 3884490 (Minn. Ct. App. July 18, 2016): No reason to distinguish situations involving an order or judgment that is the result of a mediated settlement agreement reached by the parties at the appellate level from an order or judgment that is a result of an agreement reached at the district court level. When the post settlement agreement did not amend the original spousal maintenance award termination provision, the language of the original judgment and decree controls.	Spousal Maintenance
In re the Marriage of: Suljic v. Suljic, No. A16-0058, 2016 WL 4596560 (Minn. Ct. App. Sept. 6, 2016): District court has jurisdiction to render judgments with respect to property on spousal maintenance if it has jurisdiction over both parties. To establish jurisdiction over a non-resident in a dissolution proceeding the long arm statute must be satisfied and there must be minimum contacts between the non-resident and this state.	Long-arm jurisdiction
In re the Marriage of Owen and Owen, No. A16-0396, 2016 WL 6826262 (Minn. Ct. App. Nov. 21, 2016): The court erred by using the Child Support Magistrate's findings of gross income for determining income for purposes of spousal maintenance.	Spousal Maintenance
In re the Marriage of Lewis v. Frane, No. A16-1517 (Minn. Ct. App. Oct 2, 2017): A stipulation to waive your right to seek a maintenance modification as part of a dissolution judgment is considered "otherwise agreed in writing" to continue maintenance under Minn. Stat. § 518A.39, subd. 3 regardless of remarriage.	Spousal Maintenance
In re the Marriage of Peterson v. Peterson, No. A16-0781, 2016 WL 7438724 (Minn. Ct. App. Dec. 27, 2016): When a party is voluntarily underemployed, the district court must calculate child support based on that parent's potential income. Minn. Stat. § 518A.32, subd. 1 (2014). It may be appropriate to impute income to self-employed obligors. A finding of bad faith does not apply in determining the obligor's child support obligation but it does apply to spousal maintenance based on obligor's earning capacity.	Imputing income; No modification; Spousal maintenance.
Eyal v. Eyal, No. A16-1272 (Minn. Ct. App. Mar 13, 2017): The district court lacked jurisdiction to reinstate spousal maintenance, where the maintenance period had expired and the judgment did not expressly reserve jurisdiction. Absent a clear abuse of discretion, the district court decision to deny a discovery request will not be disturbed.	Maintenance
In re the Marriage of: Moran v. Jimenez, No. A16-1243 (Minn. Ct. App. Mar 6, 2017): A party requesting a decrease in maintenance must make a showing that the obligee's need substantially decreased and not only the cost of living decreased based on a move to Mexico.	Spousal Maintenance

In re the Marriage of Helms v. Helms, No. A17-0854, 2017 WL 5661591 (Minn. Ct. App. Nov. 27, 2017): When assessing whether to modify spousal maintenance due to cohabitation the court must also consider the factors listed in Minn. Stat. § 518.552 subd. 6. However, when a party has conceded that the law requires him to satisfy Minn. Stat. § 518A.39, subd. 2 before modification of spousal maintenance due to cohabitation, the argument to modify maintenance under Minn. Stat. § 518.552 subd. 6 is forfeited.	Maintenance; Modification; Spousal Maintenance
In re the Marriage of Dennis Lee Polla v. Jolene Theresa Polla n/k/a Jolene Theresa Chan, No. A16-1135, 2017 WL 2836078 (Minn. Ct. App. Jul 3, 2017): In spousal maintenance cases, the court can impute income based on a party's ability to become partially or fully self-supporting.	Spousal Maintenance
In re the Marriage of Coleal v. Coleal, A16-1502, 2017 WL 2062126 (Minn. Ct. App. May 15, 2017): When determining whether to allow an evidentiary hearing in family law matters, the court shall consider whether there is good cause. While the "good cause" standard is not specifically defined, the summary judgment standard should not be applied to determine whether there is good cause to conduct an evidentiary hearing in this context.	Maintenance; evidentiary hearings
In re the Marriage of Letsinger v. Letsigner, No. A16-1273, 2017 WL 2223987 (Minn. Ct. App. May 22, 2017): The moving party seeking to modify spousal maintenance is required to show both: (1) substantially changed circumstances and; (2) that the changed circumstances makes the existing award unreasonable and unfair. The terms of a current order are rebuttably presumed to be unreasonable and unfair if the gross income of an obligor or obligee has decreased by at least 20% through no fault or choice of the party. Bonus income which is a dependable source of income may be included in the calculation of gross income.	Gross income; Maintenance
In re the Marriage of Robert David Stoffey v. Mari Lou Stoffey, No. A16-1610, 2017 WL 3122337 (Minn. Ct. App. Jul 24, 2017): The determination of whether or not an award is maintenance or a property division depends on the parties' intent and the true nature of the award. Contempt is not a remedy for untimely cash payments that are considered a part of a property division.	Contempt; Spousal Maintenance
Anderson v. Anderson, 897 N.W.2d 828 (Minn. App. 2017): An obligee is not entitled to a retroactive COLA to any date prior to when the statutorily required notice of the COLA adjustment was served. If a spousal maintenance award is disputed, a recipient of the disputed award can preserve any right to a biennial COLA by sending notice of the adjustment to the obligor.	COLA; Spousal Maintenance
Bulen v. Bulen, No. A17-0941, 2017 WL 5985484 (Minn. Ct. App. Dec 4, 2017): When considering a modification to spousal maintenance the district court must analyze the financial needs of the obligee as well as his/her ability to meet those needs balanced against the financial conditions of the obligor. The district court did not error in ordering an incarcerated obligor to pay 50% of his earnings in spousal maintenance when no evidence was presented that shows the obligee had the ability to support themselves or their current lifestyle and no evidence was presented that shows the obligor's inability to pay for basic necessities.	Spousal Maintenance Modification
In re the Marriage of Gronvall v. Gronvall, A17-0185, 2017 WL 6273129 (Minn. Ct. App. Dec. 11, 2017): If an obligor voluntarily creates a change of circumstances, the court can look to motives. Documenting the monthly amount of retirement benefits received is not sufficient to show a change in circumstance when no additional documentation regarding income, assets or expenses are provided.	Spousal Maintenance
In re the Marriage of: Prabhakaran v. Kannan, A17-0482, 2018 WL 5577558 (Minn. Ct. App. Jan. 29, 2018): Challenging a district court evidentiary ruling requires a motion for a new trial in order to bring the error to appellate review. A district court may use its discretion to refuse to reserve spousal maintenance when the spouse seeking maintenance is able to provide adequate self-support at the standard of living established during the marriage.	Spousal Maintenance; Dissolution
In re the Marriage of Chadwick v. Chadwick, A17-0521 (Minn. Ct. App. Mar. 12, 2018): The district court can not use a person's earning capacity to determine a maintenance obligation absent a finding he was underemployed in bad faith. Failing to provide documentation that obligor applied for other jobs does not support a finding of bad faith. The district court can not find that obligor had the ability to earn the same income prior to his injury without identifying employment that would be within his strict medical restrictions.	Spousal Maintenance

Duesenberg v. Duesenberg, No. A17-1317, 2018 WL 3520536 (Minn. Ct. App. Jul. 23, 2018: District court abused its discretion when calculating spousal maintenance by including wife's expenses for debt repayments in the spousal-maintenance award and included the same debts in the initial division of marital assets and liabilities.	Inclusion of Debt, Expenses, Repayment
Hermer v. Cisek, (Unpub.) No. A18-0150, 2018 WL 6596399 (Minn. Ct. App. Dec. 17, 2018): There is no hard-and-fast timeframe for calculation of the martial standard of living – rather, determination of the relevant timeframe is left to the district court's discretion. An obligor who challenges the increase in the ongoing maintenance obligation has the burden of demonstrating that the increased amount exceeds the obligee's need; using permanent spousal maintenance as the vehicle for enforcement of the obligor's obligation to pay half of a child's private-education expenses is improper.	Spousal Maintenance; Modification
Davis v. Davis, (Unpub.) No. A18-0276, 2018 WL 6837737 (Minn. Ct. App. Dec. 31, 2018): The district court abuses its discretion when it takes into account a spouse's child-support obligation in calculating the amount of spousal maintanence to award that spouse.	
Madden v. Madden, 923 N.W.2d 688 (Minn. Ct. App. 2019): On a motion to modify permanent spousal maintenance, income may be attributed to a recipient based on the recipient's earning capacity only if there is a finding of the recipient's earning capacity at the time of the modification proceeding. Income may not be attributed to a recipient based on their lack of reasonable efforts to become partially self-supporting by increasing their earning capacity thorugh additional or vocational training, unless there had been an express obligation on the recipient to make such reasonable efforts.	Spousal Maintenance, Modification, Maintenance, Imputing Income, Marriage Dissolution
Amdal v. Moheban, A19-1687, 2020 WL 5107342 (Minn. Ct. App. Aug. 31, 2020): Percentage-based spousal maintenance awards must be modified when they no longer match the needs of the spouse receiving maintenance. The Court may consider and distribute the risk of insufficient support when a percentage-based spousal maintenance obligation is ordered.	Spousal Maintenance
Ponciano v. Murillo, A19-2013, 2020 WL 4932840 (Minn. Ct. App. Aug. 24, 2020): When making a spousal maintenance determination all income of requesting spouse must be used – including part time jobs worked in excess of a regular 40 hour per week job. The reasonableness of expenses related to the minor child in the budget of the requesting spouse must be evaluated in light of the child support also being ordered.	Spousal Maintenance
Sinda v. Sinda, 949 N.W.2d 170 (Minn. Ct. App. 2020): When modifying a spousal maintenance obligation – an obligee's cohabitation with another adult constitutes a substantial change in circumstances that justifies modifying maintenance if consideration of the four factors enumerated in Minn. Stat. § 518.552, subd. 6, indicates that cohabitation makes the existing maintenance obligation unreasonable and unfair.	Alimony/ Spousal Maintenance; Cohabitation
Ulness v. Ulness, A19-1876, 2020 WL 6554687 (Minn. Ct. App. Nov. 9, 2020): When a party receiving ordered maintenance did not seek to increase their maintenance award and the party ordered to pay maintenance seeks to reduce their maintenance payment without sufficient evidence of a substantial decrease in income, a district court does not abuse its discretion by failing to reduce the maintenance obligation for a failure to become self-sufficient less than half-way through the stipulated maintenance period.	Maintenance order and slef-sufficiency obligation
Boldon v. Hendrix, A19-1636, 2020 WL 7018339 (Minn. Ct. App. Nov. 30, 2020): A temporary maintenance award based on a stipulated agreement is not determinative when there is no waiver of the right to seek future modification. The stipulation should be the baseline under which the determine if circumstances have changed. Particularly when the agreement did not bar the obligee from seeking future spousal maintenance.	Stipulated temporary maintenance obligations and future modifications
Billett v. Billett, A19-1993, 2020 WL 7490496 (Minn. Ct. App. Dec. 21, 2020): A district court does not abuse its discretion by declining to consider potential bonuses as income when the bonuses are not regular or dependable forms of payment. This applies in either the determination of income for child support or for the award of spousal maintenance.	Income determination and potential bonus income

Pnewski v. Pnewski, A20-0117, 2020 WL 7689726 (Minn. Ct. App. Dec. 28, 2020): If the original order or judgment and decree required parties to come to agreements regarding additional expenses (such as travel or educational expenses) through mediation, that is the venue through which parties must first seek redress. A district court has broad discretion to determine based on the evidence presented whether a maintenance modification is appropriate because the terms of the award are unreasonable or unfair. When a moving party does not demonstrate that there has been a substantial change in circumstances rendering the prior award unreasonable or unfair, the district court does not abuse its discretion by denying a motion to modify a maintenance award.	Support for additional expenses; Substantial changes required for maintenance award modification
Jayawardena v. Jayawardena, A20-1383, 2021 WL 1962490 (Minn. Ct. App. 2021): Credit card debt a party is ordered to pay as part of a dissolution action should be included in a consideration of monthly expenses for the purposes of calculating spousal-maintenance and child support obligations.	Debts – When to Consider; Dissolution; Gross Income; Maintenance
Schmidt v. Schmidt, A20-0884, 2021 WL 2521138 (Minn. Ct. App. June 12, 2021): In determining whether a spouse seeking spousal maintenance is unable to provide adequate self-support through appropriate employment pursuant to Minnesota Statutes section 518.552, subdivision l(b), a district court must consider the spouse's net or after-tax income (rather than gross or pre-tax income) if there is evidence in the record of the spouse's anticipated income-tax obligations and if the difference between the spouse's gross income and net income may be determinative of the spouse's need for spousal maintenance.	Spousal Maintenance; Marriage Dissolution
In re the Marriage of: Callister v. Callister, A20-1261, 2021 WL 4259020 (Minn. App. 2021): A party has the ability to pay spousal maintenance despite contract to contract nature of work, if they have a consistent earnings history from such work. The court has the ability to assign the responsibility of a marital debt to an individual party without determining that the debt is nonmartial property.	Spousal Maintenance
In Re the Marriage of: Wingad v. Wingad, A20-0781, 2021 WL 4428909 (Minn. App. 2021): Even if the court erred in calculating the income of a party, the other party has the burden of showing that the error prejudiced them. Regular annual payments from wife's parent – even if considered a gift – can be counted as income as they were consistent and had not significantly changed from year to year.	Spousal Maintenance
LaPara v. LaPara, A21-0343, 2022 WL 760777 (Minn. Ct. App. 2022): Contingent and variable incomes can be periodic and may be considered for the purpose of calculating support so long as they occur regularly.	Bonuses, commission, etc (518A.29); Gross Income; Income, Determination of
Macfarlane v. Macfarlane, A21-1741, 2022 WL 6272061, (Minn. Ct. App. 2022): Appellant-wife makes three arguments that the district court erred in its dissolution judgment: 1) it did not consider the parties' pre-tax and post-tax incomes when awarding spousal maintenance, 2) it erred by making a finding of fact requiring the parties to submit further property disputes to binding arbitration, and 3) not specifying the source for a property equalizer payment. The Court of Appeals rules 1) failure to consider parties post-tax incomes ignores § 518.552, subd. 2 and caselaw identifying taxes a factor relevant to a maintenance award, 2) finds harmless error in the findings of fact as the conclusions of law refers to mediation and was incorporated into the judgement, Minn. R. Civ. P. 61 and 3) remands to the district court to clarify its ambiguous order.	Marriage Dissolution, Income, Maintenance

Rzeczkowski v. Borrero, A22-0954, 2023 WL 2762442 (Minn. Ct. App. 2023): The district court correctly recognized the parties' Columbian Dissolution and Liquidation of Marital Partnership is valid under the principal of comity, but a remand for findings regarding conscionability is required. Remand is also appropriate regarding Husband's claim for needs-based attorney fees. The district court's order denying spousal maintenance and its finding of Wife's gross monthly income are affirmed.	50/50 Custody-Support Calculation; Bonuses, Commissions, etc. as Gross Income; Child Support and Maintenance in Orders-Requirement; Dissolution of Marriage; Foreign Judgment Definition; Maintenance, Spousal
Floyd v. Floyd, A22-1148, 2023 WL 3443466 (Minn. Ct. App. 2023): The district court's determination that spousal maintenance was terminated pursuant to § 518A.39, subd. 3 was correct as there was no express waiver of statutory operation made by the parties. The districts upward deviation from the child support guidelines was not an abuse of discretion as the court determined the children's standard of living would be adversely affected absent a deviation and award of attorney fees to appellant-wife are affirmed.	Child Support and Maintenance Order; COLA (Cost-of-Living-Adjustment); Deviation from Guidelines-Evidence; Income Disparity Between Parties; Maintenance; Spousal Maintenance/Alimony
Berndt-Tuttle v. Tuttle, A23-0148, 2023 WL 8536454 (Minn. Ct. App. 2023): It is not an abuse of discretion to not award maintenance arrears because Husband paid Wife's bills in lieu of maintenance. This is not following the court order but did benefit the Wife.	Spousal Maintenance-Support Order; Spousal Maintenance/Alimony
Petri v. Petri, A23-1097, 2024 WL 3405602 (Minn. Ct. App. 2024): The district court did not err when it determined appellant-father's monthly spousal maintenance payment to be $2,467.51 after a reduction in mother's monthly child support obligation, and that the parties' stipulated marriage termination agreement contained a valid *Karon* waiver limiting modification of the maintenance order.	Spousal Maintenance-Support Order; Deduction of Pre-Existing Child Support or Maintenance Orders; Karon Waiver
Bednar v. Bednar, A24-0080, 2024 WL 4025789 (Minn. Ct. App. 2024): The District Court's imputation of income to husband was inconsistent with its findings that he was in poor health and physically incapacitated. It is not an error to not include spousal maintenance when calculating support purposes because it has to be actually received by the parent first.	Voluntary Unemployment/ Underemployment; Spousal Maintenance-Support Order; Income, Calculation/Determination of Gross Income

Ali v. Ali, A23-0965, 2024 WL 2266345 (Minn. Ct. App. 2024): The court properly found the parties marriage was valid in Minnesota because it was a valid marriage according to Hawaii law which where the marriage occurred. It is an error to impute self-employment income using only the gross income from father's businesses but did not subtract the costs of goods sold and necessary business expenses.	Best Interest of Child-Custody; Custody, Best Interest of Child; Custody, Joint Legal; Calculation of Gross Income; Dissolution of Marriage (Generally); Gross Income, Calculation; Imputing Potential Income; Marriage Dissolution (Generally); Potential Income-Generall; Potential Income-Methods; Self-Employment Income
In re the Marriage of: Schrock v. Kuhn, A23-1307, 2024 WL 4112954 (Minn. Ct. App. Sept. 9, 2024): The district court's determination that there was a substantial change in circumstances due to a finding that Respondent had an increase in reasonable monthly expenses was not contrary to logic or the facts on the record. A spousal maintenance obligation can be modified by showing a substantial change in circumstances. A substantial change in circumstances can be based on substantially increased or decreased need of an obligor or obligee. Affirmed. *Madden v. Madden*, 923 N.W.2d 688, 696 (Minn. App. 2019).	Maintenance; Spousal Maintenance/Alimony; Spousal Maintenance, generally; Spousal Maintenance – Support Order; Terms of Order are Unreasonable and Unfair Factors; Dissolution of Marriage
In re the Marriage of Krelitz v. Krelitz, A24-0258, 2024 WL 4113491 (Minn. Ct. App. Sept. 9, 2024): District courts may retroactively modify spousal maintenance only with respect to any period during which the petitioning party has pending a motion for modification.	Maintenance; Spousal Maintenance/Alimony; Spousal Maintenance, Generally; Spousal Maintenance – Support Order
In re the Marriage of: Mackey v. Mackey, A23-1228, 2024WL 5036719 (Minn. Ct. App. Dec. 9, 2024): The district court properly factored the increased monthly expenses of Wife and decreased monthly expenses of Husband after it determined there had been a substantial change in circumstance, so it was proper to deny Husband's motion to decrease his monthly spousal maintenance obligation.	Maintenance; Spousal Maintenance/Alimony; Modification – Substantial Change in Circumstances; Modification – Terms of Order are Unreasonable and Unfair Factors

IV.C. - TAX DEDUCTION	
Greeler v. Greeler, 368 NW 2d 2 (Minn. App. 1985): Neither Minn. Stat. § 518.64 nor IRS code prevent district court from exercising jurisdiction over allocation of dependency exemptions.	Jurisdiction of District Court
Fudenberg v. Molstad, 390 NW 2d 19 (Minn. App. 1986): State court may award the federal income tax dependency exemption to the noncustodial parent and require the custodial parent to execute a waiver of exemption, contingent on noncustodial parent's continued payment of child support.	Tax Exemption
Valento v. Valento, 385 NW 2d 860 (Minn. App. 1986): The custodial parent is automatically entitled to the dependent child tax deduction unless he/she affirmatively waives the right to claim the exemption in writing and the writing is attached to the non-custodial parent's tax returns.	Dependent Tax Deduction
Gerardy v. Gerardy, 406 NW 2d 10 (Minn. App. 1987): Child support order allowing each parent to claim child as dependent for tax deduction purposes in alternating years was in error; custodial parent entitled to deduction. The custodial parent is entitled to the income tax deduction for dependent children under the federal Tax Reform Act of 1984.	Dependent-Tax Purposes
Theroux v. Boehmler, 410 NW 2d 354 (Minn. App. 1987): The dependency tax exemption could not be allocated to the non-custodial parent, as federal law requires a clear waiver of right to exemption by the custodial parent in order to award exemption to the non-custodial parent, and there was no waiver. The court also noted that the Fudenberg decision was limited to the facts in that case because the court deemed it necessary to invoke its equitable powers to require a waiver to safeguard the economic well-being of the family.	Dependent Tax Deduction
Joneja v. Joneja, 422 NW 2d 306 (Minn. App. 1988): Trial court did not abuse its discretion in allowing child support obligee spouse to maintain tax dependency exemption where obligor's obligation had just been increased to $1,200.00 per month, plus an additional $1,200.00 per month expenses for children's private school expenses.	Tax Exemption
Biscoe v. Biscoe, 443 NW 2d 221 (Minn. App. 1989): The dependency exemptions are aligned in the child support and an allocation of the exemption to the non-custodial parent requires a clear waiver, which should be contingent upon receipt of support payments, of the exemption.	Dependency Exemption
Ley v. Ley, (Unpub.), C2-90-1121, F & C, filed 9-18-90 (Minn. App. 1990): If judgment and decree is silent as to which parent receives the dependency tax exemption(s), and consequently the obligee receives them (under federal law), for obligor to obtain them, he/she must move to modify the judgment and decree and the trial court must find that there has been a substantial change in circumstances pursuant to Minn. Stat. ' 518.64, Subd. 2 (1988) before granting the motion.	Modification Standard Required
Bartl v. Bartl, 497 NW 2d 295 (Minn. App. 1993): In 1984, Congress amended 26 USC ' 152(e) to provide that the custodial parent is automatically entitled to the dependency exemptions except in three instances: (1) a multiple support agreement is in effect; (2) a qualified pre-1985 instrument between the parties provides that the noncustodial parent shall be entitled to the exemption(s) and that parent provides at least $600.00 per child per year in support; or (3) the custodial parent signs a written declaration stating he or she will not claim the dependency exemption and the noncustodial parent attaches such written declaration to his or her tax return. None of those exceptions applied to this case and the court of appeals found that the custodial parent was therefore entitled to claim the dependency exemption.	Dependency Tax Exemption
Wopata v. Wopata, 498 NW 2d 478, 486 (Minn. App. 1993): The trial court has the discretion to award the tax dependency exemption to either parent, regardless of the IRS code.	Either Parent
Bradley v. Bradley, Case No. 598A21801, Ga. S. Ct., decision February 9, 1999: A court does not have the authority to transfer the federal dependent child tax exemption because the state does not possess the requisite taxing power.	Cannot Give Exemption to NCP
Elias and County of Olmsted v. Suhr, (Unpub.), C5-98-1745, F & C, filed 4-13-99 (Minn. App. 1999): Where county did not provide the ALJ financial information on the relative caretaker and the child, thereby "precluding the ALJ from addressing the costs of raising the child and the tax dependency questions," ALJ did not err in awarding non-custodial parent the dependency exemption and in deviating downward from the guidelines.	Burden on County to Provide Financial Info on CP and Child

County of St. Louis o/b/o Rimolde v. Tinker, 601 NW 2d 468 (Minn. App. 1999), C0-99-853, F & C, filed 11-2-99: Decision to award a dependency exemption to NCP is within the trial court's discretion. The court can order the CP to sign a waiver that would allow the NCP the exemption. Absent a waiver under 26 USCA § 152(e)(2)(A),(B)(Supp. 1999), the CP gets the exemption.	Ordering CP to Sign Waiver
Rogers v. Rogers, 622 NW 2d 813, (Minn. 2001): The district court may award a tax exemption to a non-custodial parent who does not pay support, based upon an evaluation of the relative income of the parties, and the interests of the children. Reverses Court of Appeals, 606 NW 2d 724 (Minn. App. 2000).	To NCP Who Pays No Support
Soderbeck, f/k/a Olsen v. Olsen, (Unpub.), C4-01-985, F & C, filed 12-18-01 (Minn. App. 2001): Obligor was to receive the tax exception if he had certain amounts of income and was sufficiently current in his child support. The court gave him the tax exemption as the obligee failed to provide sufficient information that he had arrearages.	Burden on Obligee to Show Arrearages to Keep Exemption.
Ludwigson v. Ludwigson, 642 NW 2d 441 (Minn. App. 2002): Where J & D provided that CP would be entitled to tax exemption when she became employed, CSM in subsequent modification proceeding did not abuse its discretion when the CSM interpreted the J & D to require CP to earn a minimum of $1,500.00 per month in order to qualify for the exemption.	CSM can Interpret Minimum Requirements for Tax Exemption
In re the Marriage of: Neisen, f/k/a Thompson, f/k/a LaRowe and Thompson, (Unpub.), A03-1616, filed 6-15-04 (Minn. App. 2004): Although modification of the allocation of the income tax dependency exemption must be modified in accordance with Minn. Stat. § 518.64 (2002). (Biscoe v. Biscoe, 443 NW 2d 221, 224 (Minn. App. 1989), there is no requirement that a party filing a motion to modify the income tax dependency exemption must also file a motion to modify child support.	§ 518.64 Applies to Mod. of IRS Dependency Exemption
Graff n/k/a Sidwell v. Graff, (Unpub.), A05-1024, F&C, filed 3-21-06 (Minn. App. 2006): The trial court's 1997 order awarded Respondent/Non-Custodial Parent the right to claim the child as a dependent for tax purposes for 1996 and all future years if Respondent was current in his support obligation. It was undisputed that Respondent remained current in his obligation. However, because the 1997 order also contained a provision that Respondent "request Appellant [Custodial Parent] 's waiver of the exemption on a yearly basis" by providing Appellant with the IRS waiver form for her signature each year, Appellant argued that this additional provision gave her the right to deny or grant the Respondent's request to claim the child as a tax dependent on an annual basis. Noting that the purpose of the IRS waiver form is simply to notify the IRS of the allocation of the dependency exemption not to determine the allocation, the Court of Appeals upheld the trial court's decision to order the Appellant to execute waiver forms for the years 1997 through 2004 and to reimburse Respondent's assessed IRS penalties for failure to file a waiver with his tax returns.	Award of dependency exemption contingent on payment of support is binding if obligor pays
In re the Marriage of: Chaignot v. Chapin; Minn. Ct. App. Unpub. (A05-1966). Respondent argues that the federal child-dependency tax exemption should have been ordered to him exclusively (rather than alternating) because the child resides with him more. Although the Internal Revenue Code provides that the primary custodial parent is entitled to claim the child for tax purposes, the code does not preclude state district courts from allocating tax exemptions to a noncustodial parent incident to a determination of custody. Affirmed in part, reversed in part, and remanded.	Tax dependency exemption.
Hall vs. Hall, (Unpub.), A07-116, filed December 18, 2007 (Minn. App. 2007): The court did not err in finding that "federal law presumptively awards the…tax exemptions to the custodial parent" and appellant "has not demonstrated…justification…to depart from the presumption". The district court's decision must be in the best interests of the child, and there is no error in this case.	Tax exemption allocation within trial court's discretion.

Buzzell vs. Buzzell, (Unpub.), A07-1096, filed 6/10/08 (Minn. App. 2008): Federal tax law presumes that, upon dissolution of a marriage, the parent with primary custody of a child is entitled to claim the child as a dependant for tax purposes. *See* 26 U.S.C. § 152(a), (c), (e) (2000). However, this presumption does not preclude courts from allocating tax dependency exemptions to a noncustodial parent if the court determines it is in the best interests of the child. The court may also consider the relative resources of the parties and the financial benefits that will accrue from such a transfer. *Crosby v. Crosby*, 587 N.W.2d 292, 298 (Minn. App. 1998).	Tax exemptions for dependents (may award to non custodial parent)
In Re the Marriage of: MacNabb v. Kysylyczyn, A20-1603, 2021 WL 4396005 (Minn. App. 2021): After analyzing all four statutory factors to be considered in allocating dependent tax exemptions, the district court did not abuse its discretion by denying the motion to modify the allocation.	Tax Exemptions
Wehrwein v. Hascall, A23-0452, 2024 WL 3016488 (Minn. Ct. App. 2024): The district court did not abuse its authority when it awarded father joint legal custody and unsupervised parenting-time. The court did not abuse its authority in its child support calculation because mother could identify no error in the calculation of father's income and properly applied the guidelines. There is also no error in its refusal of past support to mother, and in its award of tax-dependency status in alternating years.	Basic Support-Guideline Table
Ryan Gary Sanford v. Bethany Lynn Beilby, No. A24-1334, 2025 WL 1213728 (Minn. Ct. App. Apr. 28, 2025): The Court of Appeals affirms the district court's award of sole physical custody, sole legal custody, the calculation of monthly child support obligation, and the award of the dependent tax exemptions, but modifies the district court's back support order by $100 due to an arithmetic error.	Best Interest of Child-Custody; Bonuses, Commissions, etc. as Gross Income; Calculation of Gross Income; Custody-Best Interest of Child; Custody; Gross Incoem – Definition; Gross Income, Calculation; Income Tax Exemption; Parental Income for Determining Child Support; Self-Employment Income;

IV.D. - OTHER	
Young v. Young, 356 NW 2d 823 (Minn. App. 1984): Divorced parent cannot change child's name even for informal occasions without consent of other parent or resort to 259.10 - .11.	Name Change
In re: Estate of James A. Palmer, Deceased, (Unpub.), C7-02-182, F & C, filed 3-20-03 (Minn. 2003): The Parentage Act is not the exclusive means of determining parentage for purposes of intestate succession under Minn. Stat. ' 524.2-114 (2002). Parentage for purposes of intestate succession may also be established by clear and convincing evidence.	Paternity Adjudication Not Required for Inheritance
In Re the Marriage of Marissa Ethel Rosenblum vs. Kenneth Samuel Rosenblum (Unpub.), A05-1366, Dakota County, filed 6/27/06: The issue is whether the appellant's overpayments reflected on the parties' 2003 tax returns are properly characterized as refunds rather than as payments of appellant's estimated 2004 first quarter tax liabilities. If the overpayments are tax refunds, the respondent is entitled to one-half. There is no evidence that shows that the overpayments were refunds. The evidence supports the conclusion that the overpayments were payments of the estimated 2004 tax liabilities. The Court of Appeals decision reversed the lower court's decision that the funds represented a tax refund.	Tax liabilities of divorce
In Re the Marriage of Katherine M. Goodyear-PeKarna vs. Matthew Dewitt PeKarna (Unpub.), A05-2366, A06-292, Carver County: The district court did not abuse its discretion in making its property division. Awarding the custodial parent use and occupancy of the home was not an abuse of discretion. The court did not abuse its discretion in dividing the parties' Wells Fargo account nor in denying her claim for reimbursement of extraordinary expenses associated with the children.	property division issues
In re the Marriage of Jeremy James Zander v. Melinda Alice Zander ; A05-2094, Filed 8/22/06 (Minn.App. 2006); rev. denied November 14, 2006: Even though the Mdewakanton Sioux Tribal Domestic Relations Code specifically states that all per capita payments are non-marital property belonging to the tribal member, the district court concluded that Minnesota law governs the dissolution and where the Tribal Code is inconsistent with Minnesota law, the Code does not apply. This case was distinguished from *Kucera v. Kucera, 275 Minn. 252, 146 N.W. 2d 181.* Dissent would have characterized the per capita payments as akin to a "gift" and held that since issue of first impression, the tribe should have had an opportunity to make an appearance because a provision of its code was at issue in the majority opinion.	Indian Law, subject matter jurisdiction.
In re the Marriage of Branz v. Branz, (Unpub.), A05-2222. Filed Sept. 19, 2006 (Minn. App. 2006): District court has discretion in ordering obligor to maintain life insurance as security for child support and maintenance. On remand, district court was directed to reconsider this issue in connection with permanent maintenance only.	Life Insurance as security for support.
In re the Marriage of Reed v. Albaaj, A05-1858, filed October 24, 2006 (Minn. App. 2006): A member of the armed forces who is incarcerated for crimes committed while in active duty is not in "military service" for the purposes of the Servicemembers Civil Relief Act (SCRA), 50 U.S.C. app. §§ 501-596 (Supp. III 2003), and is therefore not entitled to the protection of the SCRA when a civil proceeding is initiated during the servicemember's incarceration.	Incarcerated member of the military NOT afforded protection under Service-members Civil Relief Act because NOT in "military service"
In Re the Matter of Washington v. Anderson, A05-2338, filed October 24, 2006 (Minn. App. 2006): Appellant challenged a district court order that set support retroactively despite the judge's assertion from the bench that the issue of retroactivity would not be addressed. The Court of Appeals affirmed, finding a written ruling that is inconsistent with statements made from the bench is not assumed to be a mistake. Rather, the Court assumes the district court reevaluated the suitability of its prior statements and declines to give statements from the bench any preclusive effect on the final order. However, the Court also found that statements from the bench indicating that appellant was abusing the court process by withholding information could be considered findings of fact tantamount to the conclusion that appellant was materially misrepresenting his income. *See* Minn. R. Civ. P. 52.01 (statements from the bench can be treated as findings of fact).	Statements from the bench considered findings of fact if consistent with the order but not binding if contradictory to the final order

In Re the Marriage of Liveringhouse v. Liveringhouse, (Unpub.), A05-2531, Filed December 5, 2006 (Minn. App. 2006): The court affirmed the requirement by NCP to maintain life insurance to secure his child support obligation based on Emerick ex rel. Howley v. Sanchez, 547 N.W.2d 109, 112 (Minn. App. 1996), and on the findings of the district court that specified NCP may adjust his life insurance upon the emancipation of each child.	LIFE INSURANCE: Obligor may be required to maintain life insurance to secure child support obligation.
In re the Marriage of Eric Thomas Amundson v. Rachel Louise Amundson, (Unpub.), A06-514, Chisago County, filed January 23, 2007 (Minn. App. 2007): The court was not required to enforce the dispute resolution provision in the decree because this dispute involves issues of child support and physical custody, whereas the dispute resolution provision was applicable to issues arising regarding joint legal custody.	Enforceability of dispute resolution provision in a divorce decree.
Melany Marie Gold, individually and OBO her children, petitioner, Respondent v. Justin Everett Larsen, Appellant., (Unpub.), A06-665, Freeborn County, filed 3/13/07 (Minn. App. 2007): Appellant argues the OFP lacked sufficient evidentiary support to extend the OFP for the children, as the court only found respondent Gold to have reasonable fear from him, not the children. Court held that the previous OFP relied heavy on testimony regarding appellant's physical and psychological abuse of the children, and this evidence was sufficient to extend the order for the children.	Where previously OFP issued for petition and children, subsequent may also include children even where court only makes findings as to the petitioner.
Melany Marie Gold, individually and OBO her children, petitioner, Respondent v. Justin Everett Larsen, Appellant., (Unpub.), A06-665, Freeborn County, filed 3/13/07 (Minn. App. 2007): Based on the GAL's report, it was not an abuse of discretion to deny appellant even supervised parenting time where the court had sufficient evidence to issue an OFP against appellant.	Not an abuse of discretion to deny supervised parenting time where supported by GAL's report.
State of Minnesota, Respondent v. Timothy Dale Corbin, Appellant., (Unpub.), A05-2514, Benton County, filed 3/20/07 (Minn. App. 2007): Court issued OFP barring appellant from having any contact with his ex-wife and their children. Appellant charged with one count of violating the OFP under Minn. Stat. § 518B.01, subd. 14(a)(d)(1) (2004). Tried and convicted as felony as appellant had already been convicted four times of violating OFP. Appellant argues there was insufficient evidence to support jury's verdict. Court holds that after examining the evidence in the light most favorable to the jury's verdict, find there was sufficient evidence that appellant violated the no-contact provision of the OFP. Appellant also argues due process violation. Court finds appellant did not raise this argument at district court, cites no relevant authority or factual basis to support his arguments, and the record shows appellant was given the opportunity to be heard at each stage of the OFP proceedings. Affirmed conviction.	After examining the evidence in light most favorable to the jury's verdict, finds there was sufficient evidence to support conviction. No due process violations.
State of Minnesota, Respondent, vs. David Stuart McMurlyn, Appellant., A06-1027, Nicollet County, filed August 21, 2007 (Minn. App. 2007): Appellant convicted of felony harassment. Appeals arguing the phone calls he made to victim while an OFP was in effect do not support a conviction because they did not establish harassment that was intended or likely to cause fear. Statute requires the actor exhibit conduct that he "knows or has reason to know would cause the victim…to feel terrorized or to fear bodily harm…" Intent of appellant to terrorize or cause fear not required. General intent requires that the actor engaged intentionally in specific *conduct.* Specific intent requires that the actor acted with the intent to produce a specific *result*.	Intent of appellant to terrorize or cause fear not required for conviction of felony harassment. Requires showing of general intent, not specific intent.

Li-Kuehne vs. Kuehne, (Unpub.), A07-807, F & C, filed September 11, 2007 (Minn. App. 2007): Appellant argues district court abused its discretion in requiring him to pay private school tuition for the parties' child. J&D requires appellant to be responsible for private school tuition until child completes 8th grade, and thereafter if the parties agree. J&D is silent as to what happens if parties disagree. District court found continuing private school was in the best interests of the child and appellant has the financial ability to pay the additional tuition. The Court of Appeals held that the trial court had not abused its discretion and affirmed.	Court may order Appellant to continue paying child's private school tuition where it is in the child's best interests and the Appellant is found to have the financial ability to pay.
Eben f/n/a Brouillette vs. Brouillette, (Unpub.), A06-2181, filed December 11, 2007, (Minn. App. 2007): The doctrine of laches does not apply to collection of child support.	Laches does not apply to collection of child support.
Holmes v. Holmes, (Unpub.), A06-1897, filed December 24, 2007 (Minn. App. 2007): The court did not err in requiring appellant to keep or obtain life insurance in an amount not less than his projected future child-support and spousal-maintenance obligations even though the issues of child support and maintenance were reserved, as the policy was already in effect and the court was merely requiring appellant to maintain the status quo established during the marriage.	No error in requiring life insurance policy remain in place even where child support & maintenance issues reserved.
In the Matter of: Afra Bragg obo minor children vs. Johnny Hudson, (Unpub.), A06-2431, filed December 31, 2007 (Minn. App. 2008): While it was appropriate for the court to allow respondent to invoke his 5th amendment right in an OFP where the party fears possible criminal prosecution, the district court erred in prohibiting appellant's counsel from arguing that an adverse inference could be taken from respondent invoking his 5th amendment right.	OFP
Svendsen and o/b/o M.S-S., v. Strange, (Unpub.), A07-166, F & C, filed February 26, 2008 (Minn. App. 2008): Court of Appeals affirmed issuance of an OFP because testimony in the record supported the district court's factual finding that Strange intended to cause fear in Svendsen. In addition, Minn. Stat. §578B.01, ubd. 6(a) establishes that a finding of abuse of a non-child victim [Svendsen] is sufficient to allow the district court to restrict parenting time [with M.S-S.].	OFP
Goldman f/k/a Greenwood vs. Greenwood, 748 N.W.2d 279 (Minn. 2008): Mother filed post-decree motion to remove child to New York State. The district court denied her motion without an evidentiary hearing. The court of Appeals, 725 N.W.2d 747, reversed and remanded. The Supreme Court ruled: (1) the locale restriction in the district court's initial custody order was valid; (2) in this case because of the wording of the initial custody order, the modification of child custody statute (Minn. Stat. §518.18(d)) rather than the statute pertaining to a custodial parent's removal of child to another state (Minn. Stat. §518.175, subd. 3) governed the mother's motion to move the child to New York; and, (3) the district court did not abuse its discretion in refusing to grant mother's request for an evidentiary hearing on the removal issue. The Supreme Court reversed the Court of Appeals.	Removal of Child
Rotter vs. Hansen, (Unpub.), A06-2315, F&C, filed May 20, 2008 (Minn. App. 2008): To obtain an initial OFP, the petition must allege the existence of "domestic abuse", but Minnesota law sets forth less stringent requirements for granting a second OFP after an earlier order has expired. The court may grant new order upon a showing that: 1) a prior or existing OFP has been violated; 2) the party seeking the OFP is reasonably in fear of physical harm from the opposing party; 3) the opposing party has engaged in acts of harassment or stalking; or 4) the opposing party is incarcerated and about to be released, or has recently been released from incarceration.	The requirements for granting a subsequent OFP are less stringent.
In re Disciplinary Action Against Glasser, 831 N.W.2d 644 (Minn.2013): In a disciplinary action for violating the Rules of Professional Conduct, lawyer was entitled to mitigation because she was experiencing extreme personal stress including the death of her father, raising a child with autism, single-parenting without any child support, having a former husband convicted of criminal sexual conduct, substantial financial problems, and alcoholism. A father's failure to pay child support was one of the factors contributing to an attorney's extreme personal stress that justified mitigation in a disciplinary proceeding.	Other

In re Truscott, No. A15-1767, 2016 WL 2946218 (Minn. Ct. App. May 23, 2016): Communications that are protected by the attorney client pfivilege are those in which legal advice is sought and rendered. A client can waive the privilege by testimony or putting communications "at issue."	Attorney-client privilege
In re J.M.M., 890 N.W. 2d 750 (Minn. App. 2017): Notice of a request to change a minor child's name under the Minnesota Change of Name Act is not required to the biological parent who does not have a legally reconginzed parent-child relationship under the Minnesota Parentage Act.	Name change of minor child(ren).
In re the Matter of: Fernandez v. Anariba, A16-0544 (Minn. Ct. App. Jan 30, 2017): The district court must make findings before ordering a safe at home participant to disclose his/her address.	Confidential Information; Safety Concerns
Robert Atkinson v. Minn. Dept. of Human Services, No. A16-1688, 2017 WL 2427585 (Minn. Ct. App. Jun 5, 2017): The method used by DHS in determining income to asses a parental fee for MA does not violate a party's substantive due process rights or equal protection rights. The income based formula indentifies a limited number of exceptions. The absence of additional exceptions is reasonable.	Parental Fee for MA program
In re the Marriage of Rebecca Lynn McNeil v. Mark Aaron McNeil, No. A16-0696, 2017 WL 2535679 (Minn. Ct. App. Jun 12, 2017): The district court can address the allocation of extracurricular expenses although not specifically litigated because the issue of child support was litigated. The court can apportion the division when the net monthly support payments remains less than presumptive guidelines.	Addressing division of extracurricular activities when child support is addressed.
Imme v. Imme, No. A17-0084, 2017 WL 3687506 (Minn. Ct. App. Aug 28, 2017): Obligations to a spouse resulting from separation agreements and dissolution judgments are not dischargeable in bankruptcy proceedings.	Bankruptcy
De Guardado v. Guardado Menjivar, 901 N.W. 2d 243 (Minn. App. 2017): A Minnesota District court has authority to make special-immigrant-juvenile (SIJ) findings in a dissolution proceeding involving a custody determination. An award of sole legal and sole physical custody of a child to one parent for purposes of SIJ findings, is a placement "under the custody of…..an individual….appointed by a state or juvenile court." 8 U.S.C. § 1101(a)(27)(J)(i)(2012).	Dissolution Finding – Custody – SIJ
State of Minnesota, ex rel. Matthew Mitchell Huseby v. Tom Roy, Commisioner of Corrections, 903 N.W.2d 633 (Minn. Ct. App. Oct 9, 2017): If an inmate is participating in a work relase program that beings prior to the inmate serving the minimum two-thirds of their felony sentence, the inmate is not considered "released from prison" even though they may not be housed in a correctional facility.	"released" from incarceration
Anne Marie Hall v. Carrie Reynolds, No. A17-1095, 2018 WL 700191 (Minn. Ct. App. Feb. 5, 2018): A life-insurance provision in a dissolution decree requiring the Father to name the Mother as the sole beneficiary was meant to ensure that security for children in need of support from their father existed. Therefore, the Mother is entitled to the full value without a showing of child support arrears or unpaid support. A party's disregard for the life insurance policy provision in a dissolution decree is sufficient enough basis to impose an equitable remedy on the wrongly assigned benefits even though the recipient of those beneifts did nothting wrong.	Deceased obligor, marriage dissolution
In the Matter of the Welfare of the Children of: S.E.M., J.M.K., S.M.M. and D.J.S., No. A18-0177 (Minn. Ct. App. May 29, 2018): When CHIPS and permanency matters remain pending, the family court must defer to the juvenile court's exclusive jurisdiction over the child and over the relevant issues. The juvenile protection rules provide that family court has concurrent jurisdiction over a child's name, parentage and child support only – not over custody or parenting time while a CHIPS or permanency matter is pending.	CHIPS
Bersaw v. Bersaw, A18-0708, 2019 WL 1591765 (Minn. Ct. App. Apr. 15, 2019): An incarcerated party is not denied due process when the prison only allows him to testify for one hour via telephone and when the court accepts additional affidavits and ensured counsel has time for redirect during the testimony.	Marriage Dissolution

Egwim v. Egwim, No. A19-1731, 2019 WL 5690702 (Minn. Ct. App. Nov. 4, 2019): Even if the CSM did not act pursuant to statutory authority, the CSM retains some equitable discretion in family law matters. In this case due to the unique facts, the CSM did not error by eliminating the interest accrued on the father's child support arrears.	COLA; Interest
Eastman v. Eastman, No. A19-0422, 2019 WL 6461316 (Minn. Ct. App. Dec. 2, 2019): After a juvenile court has transferred custody to a relative, the juvenile court has exclusive jurisdiction over any subsequent request to modify custody or parenting time, even if the juvenile court expressly terminated it's jurisdiction in it's prior order.	Custody; Jurisdiction
Do v. Nguyen, A20-0986, 2021 WL 1604706 (Minn. Ct. App. 2021): A district court abuses its discretion by failing to address statutory factors in light of new changed circumstances presented in a motion filed similar to a prior dismissed motion. The award of conduct-based attorneys fees is an abuse of discretion when the district court failed to adequately examine the record and include findings of fact. When findings of fact include analysis of all statutory factors and the findings are supported by evidence in the record, the district court does not abuse its discretion in modifying a parties' parenting time.	Modification; Modification Effective Date; Retro Mod Overpayment
Tishchenko v. Cmiel, A20-1379, 2021 WL 2795846 (Minn. App. 2021): The parent whose income is being calculated has the burden of proving the status of business expenses that should be deducted from income. Judgments against a party for debt that was incurred prior to the marriage are the individual's non-marital debt – even if the judgments were entered during the marriage.	Self-Employment Incom; Marriage Dissolution
State of MN ex. Rel Kandiyohi County Family Services o/b/o Barber v. Koering, A20-1547, 2021 WL 4059754 (Minn. App. 2021): A pending parenting time motion for the youngest joint child does not constitute good cause to continue a motion to modify child support when the pending modification motion stemmed from the emancipation of the oldest joint child. The applicable statutory factors must be analyzed when a deviation from child support guidelines has been requested.	Modification; Deviation – Written Findings Required; Deviation from Guidelines
Wivinus v. Anderson, A21-0430, 2021 WL 6110118 (Minn. App. 2021): A party's constitutional right to parent their children is protected when the court carefully considers the statutory factors and modifies custody only after concluding that the children are endangered under the existing legal-custody arrangement. The in forma pauperis statue does authorize the payment of certain expenses for qualifying low-income individuals, however the statue does not extend to the payment of custody evaluation fees. An order is not appealable when it is conditional and imposed punishment only after failure to purge oneself of contempt.	Contempt; Custody – Best Interest of Child
Bender v. Bernhard, A20-1234, 971 N.W.2d 257 (Minn. 2022): Post decision evidence can be "newly discovered" if it meets the 3 factor test set out by caselaw: (1) the newly discovered evidence must not have been discoverable before the proceeding by the exercise of reasonable diligence; (2) the evidence must be relevant and admissible; and (3) it must not be cumulative, contradictory, or impeaching but must be likely to affect the outcome of the case.	Post Decision Evidence
Mussehl v. Mussehl, A22-1028, 2023 WL 3710357 (Minn. Ct. App. 2023): The district court did not abuse its discretion in its division of the parties' marital property as the division does not necessarily have to an equal one, and the division "has an acceptable basis in fact and principle" pursuant to § 518.58, subd. 1.	Dissolution of Marriage; Judgments; Maritial Dissolution, Generally
Cass v. Cen, A22-0538, 2023 WL 3939488 (Minn. Ct. App. 2023): The district court did not abuse its discretion by denying appellant-wife's motion to vacate the pre-judgment stipulation as the proceedings largely complied with the optional *Tomcsak* factors, and no other abuse of discretion was observed by the Court of Appeals.	Marriage Dissolution Stipulation; Fair and Equitable Stipulation
Sheehy v. Kalis and County of LeSueur, A23-0522, 2024 WL 1154155 (Minn. Ct. App. 2024): An implied in fact contract can be demonstrated by evidence in the record that the parties agreed on material terms. Remand is not required when the record contains adequate support for the district court's findings.	None
In re the Marriage of: Kevin Eric Alstrin vs. Allison Lynn Alstrin, A24-0803, 2025 WL 249560 (Minn. Ct. App. Jan. 22, 2025): Appellant-father's challenge to the district court's order that he is responsible to reimburse respondent-mother for the parties' children's extracurricular activity fees and expenses is unavailing and the court of appeals affirms.	Basic Support-Definition

IV.D.-Other