



2024 ANNUAL CONFERENCE

Minnesota Family Support & Recovery Council
in partnership with Minnesota County Attorney's Association



Legislative Update 2024

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Bills That Passed

DCYF Technical Bill

- Department of Children, Youth and Families
- Renumbering
 - Minn. Stat. §256.741 is now §518A.81
 - Minn. Stat. §256.87 is now §518A.82
- Effective July 1, 2024





Bills That Passed

FIDM exemption – Minn. Stat. §550.37, subd. 14

- Exemptions that apply to recipients of public assistance expanded to include:

“any federal or state tax credit received by eligible low-income taxpayers, including but not limited to the earned income tax credit, the Minnesota working family credit, and renter's credit.”

- Effective August 1, 2024

[Chapter 114, SF4097](#)

Bills That Passed



Parenting Time Presumption – Minn. Stat. §518.175, subd. 1 (g)

- Effective August 1, 2024

Prior language

In the absence of other evidence, there is a rebuttable presumption that a parent is entitled to receive a minimum of 25 percent of the parenting time for the child.

- Instead of no parenting time when there is not an affirmative request, Counties should plead parenting time be reserved.
- If less than 25% is requested or ordered, presumption must be rebutted with specific facts.
- CSD Announcement – 7307 published 9/6/2024 (standard pleading language).

Current language

In the absence of other evidence, there is a rebuttable presumption that a child must receive a minimum of at least 25 percent of the parenting time with each parent.

[Chapter 101, HF3204](#)



Bills That Passed

Assisted Reproduction – new Chapter 257E

- Minn. Stat. §257.56 repealed (artificial insemination statute).
- Intended parents: an individual (married or unmarried) who intends to be a legal parent of a child conceived by assisted reproduction.
- If court determines an individual is a parent (either birth or consenting intended parent), they shall adjudicate them.
- A donor is not a parent of a child conceived by assisted reproduction.
- Effective August 1, 2024

[Chapter 101, HF3204](#)

Bills That Passed

Technical Fix to Minn. Stat. 518A.42, subd. 3

- Clarified the self-support reserve applies to obligors who are excluded from the application of minimum support obligation (GA, SSI, TANF, incarcerated)
- Effective January 1, 2025

[Chapter 115, HF5237](#)



acm.internationalscienceediting.com



Bills That Passed

“Historic” Family Law Legislation

- Parenting time
- Assisted Reproduction
- Spousal Maintenance
- Prenuptial and Postnuptial agreements



Watching Next Session



teachingjunkie.blogspot.com

Ramsey County Bills

- Repeal COLA (COLA workgroup)
- Independent Contractor Reporting Requirements
- Cost of Care technical fix
 - Allow for stopping a redirection of support when best interest met in Cost of Care statutes



Watching Next Session

Uniform Parentage Act (UPA) 2017

- Gender neutral updates to presumption, acknowledgment, genetic testing, assisted reproduction.
- Establishment of a de facto parent as a legal parent.
- Precludes establishment of paternity by perpetrator of sexual assault if it resulted in conception.
- Updates surrogacy provisions.
- Addresses rights of children born through assisted reproductive technology to access medical and identifying information regarding gamete providers.

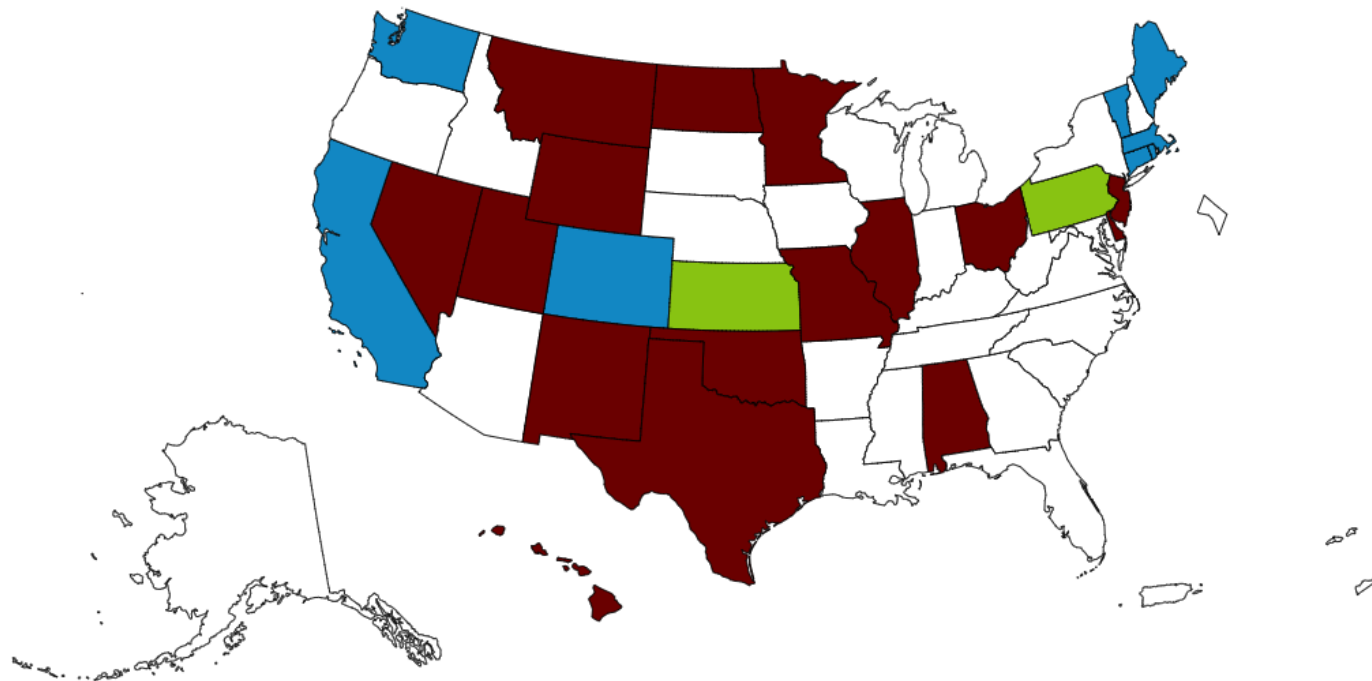
UPA Enactment Map

2017 | Parentage Act

Family Law | Probate, Trusts, & Estates



Map	Bill List	Summary	Enactment History
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Enactment Map ● Introduced ● Enacted ● Prior Version Enacted

[Parentage Act - Uniform Law Commission \(uniformlaws.org\)](http://uniformlaws.org)



Federal Legislation

Tribal Child Support Enforcement Act (S. 3154)

- Permits tribal child support agencies to access Federal Tax Refund Offset program.
- Introduced October 2023, pending in Senate Finance Committee.

Strengthening State and Tribal Child Support Enforcement Act (H.R. 7906)

- Introduced April 2024, pending in Ways and Means Committee.

Questions?



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Minnesota Family Support & Recovery Council
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Case Law Update Oct. 2023 – September 2024

Patrick M. Hest

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Human Services Legal Division

2023 ANNUAL CONFERENCE



Jundt vs. Jundt

A24-0495,

(Minn. Ct. App. Aug. 26, 2024)

Published & Precedential



Jundt vs. Jundt

- Parties' marriage dissolved in 2004. Respondent-mother obtained a judgment for unpaid child support against appellant-father in 2012
- This judgment was set to expire in September, but mother filed to renew it in July 2022
- Father filed a motion to dismiss arguing that Minn. Stat. § 548.091 subd. 3b sets the exclusive method for renewing a child-support judgment, and mother did not follow that procedure
- District court denied father's motion and granted summary judgment in mother's favor



Jundt vs. Jundt

- Holding:

- This is not a subject matter jurisdictional issue, it is a nonjurisdictional claims-processing rule issue
- It is not properly before the Court of Appeals but will be resolved as it may raise again if mother seeks to renew the judgment again
- Father's argument is the word "may" in § 548.091, subd. 3b is mandatory
 - It is not



Jundt vs. Jundt

- Minnesota law instructs that the word “may” is permissive
- The rest of the renewal process in subdivision 3b utilizes permissive language
- The legislature used mandatory language elsewhere in the same statutory scheme but did not do so in this section
- Nothing in the statute suggests there’s only one method to renewal a child-support judgment, and public policy favors the enforcement and collection of child-support judgments

2023 ANNUAL CONFERENCE



Smith vs. Young

A23-1330 - 2024 WL 1507610

(Minn. Ct. App. Apr. 8, 2024)

Nonprecedential



Smith vs. Young

- Can someone other than the Obligor bring a motion to contest a COLA?
 - No, only the Obligor
- Facts:
 - Father's support obligation would increase by 13.6% due to COLA even though his income decreased from the date of the original support order
 - Ramsey County filed a motion to stop COLA



Smith vs. Young

- Holding:
 - The plain language of Minn. Stat. § 518A.75, subd. 2a(a) requires a motion to contest a COLA be brought only by the obligor and is consistent with “the clear legislative purpose aimed at ensuring awards of child support continue to meet the child’s needs”
 - If the legislature intended for other parties to have the ability to challenge a COLA, it would have used broader language

2023 ANNUAL CONFERENCE



Lee vs. Kalis and Le Sueur

A23-0522 - 2024 WL 1154155
(Minn. Ct. App. Mar. 18, 2024)
Nonprecedential

Lee vs. Kalis



- Did the DC err when it determined the parties entered into an extrajudicial agreement to reduce father's child-support obligation?
- Is the extrajudicial agreement contractually sound?
- Did the findings show the agreement was fair and reasonable?

Lee vs. Kalis



- 2013 order set father's support amount as \$1,139.00 per month for two children
- Beginning July 2015, the parties agreed father would make support payments using Venmo
- Mother would send a request via the Venmo application, and Father would pay

Lee vs. Kalis



- From January 2016 until May 2019, Mother requested \$1,000.00 in monthly support after closing IV-D case
- from June 2019 until March 2022, she requested \$500.00 per month after the emancipation of one child
- Father stopped paying support after March 2022



Lee vs. Kalis

- In July 2022, Mother reapplied for IV-D services and filed an affidavit of arrears claiming underpayment of \$32,259
- Father filed a motion to modify prospectively and retroactively
- Father supplied email exchanges between the parties that included draft contracts to modify his support obligation as well as a history of the parties' Venmo transactions since July 2015



Lee vs. Kalis

At a hearing in December 2022, the CSM found:

- The parties' Venmo transactions established a binding agreement regarding basic support
- The parties abandoned the agreement when Father stopped paying in April 2022
- The agreement did not modify the 2013 order but did limit what Father had to pay for past support and that he must resume paying the 2013 ordered amount moving forward



Lee vs. Kalis

- The Court of Appeals affirmed that the parties' Venmo transactions do constitute a binding agreement to reduce Father's child-support obligation
- Extrajudicial agreements are contractual in nature and not required to be memorialized if the terms are definite



Lee vs. Kalis

- Father made 41 consecutive payments of \$1,000 and 33 consecutive payments of \$500 which supports the DC's determination the parties agreed to reduce Father's child support amount
- The Venmo transactions also show Father paid Mother for medical expenses when requested



Lee vs. Kalis

- Did the agreement include adequate consideration? Yes
 - Use of Venmo was to lower Father's support amount so that he could see the children more often
 - Also establishes parties wanted an arrangement to avoid county involvement, which prevented further expenses and litigation
 - Thus, Father received a reduced support obligation while Mother received more free time when father increased his visits
 - Both parties received benefit of no county involvement



Lee vs. Kalis, More to Come?

- While the DC should have made specific findings as outlined in *Kielley V. Kielley*, 674 N.W.2d 770, 776-777 (Minn. App. 2004), the record supports that the agreement was fair and reasonable and that the DC would have made the necessary findings if they were aware of them
- Supreme Court review granted June 26, 2024
 - MCAA and others submitted amicus briefs

2023 ANNUAL CONFERENCE



Keim vs. Keim

A23-1256 - 2024 WL 2885586

(Minn. Ct. App. Jun. 10, 2024)

Nonprecedential



Keim vs. Keim

- Facts:
 - Respondent-mother and Appellant-father married in 2008 and Mother petitioned for divorce in 2021
 - Stipulated agreement settled all issues except child support
 - Parties brought separate motions to establish child support and disagreed on Father's monthly income as a self-employed farmer
 - Following a May 2023 hearing, the CSM calculated Father's income as \$34,118.90 and determined father's support obligation as \$1,250.00 using the 2022 child-support guidelines



Keim vs. Keim

- Father appeals:
 - Did the CSM correctly calculate Father's monthly income? *Not exactly*
 - Did the CSM apply the right child-support guidelines?
No



Keim vs. Keim

- Self-employment income is “gross receipts minus costs of goods sold minus ordinary and necessary expenses required for...business operation.” Minn. Stat. § 518A.30
- The CSM correctly excluded some of father’s self-employment expenses, but incorrectly identified father’s reported net operating losses as income to the farm operation, which is inconsistent with 518A.30
 - There is no evidence in the record that the net operating losses were a business expense for father’s farm operation
 - Nor are they a gross receipt of the farm operation
 - Removing them from the calculation reduces father’s income by \$29,292 per month



Keim vs. Keim

- CSM estimated this based on the increase in father's net worth and his monthly expenses
- Much of that increase is due to the passive appreciation of one farm property rather than acquisition of new assets
- This is a clear error



Keim vs. Keim

- The CSM used the wrong guidelines when calculating father's support amount when they used the 2022 support guidelines
- The action started in 2021, but the hearing took place in 2023 and the order came out that same year
- The 2023 guidelines took effective 1/1/2023
- Thus the 2023 should have been used, not the 2022 guidelines

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Arensberg v. Arensberg

A22-1608 - 2024 WL 74433

(Minn. Ct. App. Jan. 8, 2024)

Nonprecedential



Arensberg v. Arensberg

- Parties have one joint child born in 2015
- They married in 2018, separated in 2019, and Mother petitioned for dissolution in 2021
 - Mother's petition requested joint legal custody, sole physical custody, and child support including past support
 - Father sought joint legal custody and joint physical custody
- DC's 10/3/2022 order granted the parties joint legal and joint physical custody, set parenting time, and resolved property division



Arensberg v. Arensberg

- Mother Appeals:

- Award of joint physical custody
- DC erred in its calculation of support

- Court of Appeals says:

- DC did not abuse its discretion by awarding joint physical custody
- DC did incorrectly calculate support



Arensberg v. Arensberg

- Court of Appeals finds that DC analyzed the best interests of the child under Minn. Stat. § 518.17, subd. 1 (2022).
 - Eight factors favored joint custody and four were neutral
 - Mother did not challenge the neutral factors or the court's determination on factors 9, 11, and 12 which favored joint custody
 - DC did not abuse its discretion in finding factors 1, 6, 7, 8, and 10 favored joint custody
 - "In sum...no factors favor awarding mother sole physical custody, and the record supports the DC's findings of fact, we conclude that the DC did not abuse its discretion in awarding joint physical custody."



Arensberg v. Arensberg

- DC made several errors when calculating support
 - Mother argues four errors:
 - 1) Wrongly calculating Father's gross income,
 - 2) Improperly requiring Mother to pay Father for the healthcare insurance,
 - 3) Wrongly determining father's share of childcare expenses, and
 - 4) Improperly declining to award retroactive child support
- Court of Appeals agrees with arguments 1, 2, and 3, but not 4



Arensberg v. Arensberg

- Father's income:
 - DC found his monthly income to be \$4,503.00
 - DC failed to apply *Derosier v. Derosier*, 551 N.W.2d 507, 509 (Minn. App. 1996) when considering the **regular** bonuses Father receives which would increase his income share from 54% to 59%
- Healthcare insurance cost:
 - Father pays to cover a NJC as well, and there is no per child cost
 - Therefore, ordering Mother to pay Father for health insurance was an abuse of discretion. Minn. Stat. § 518A.41, subd. 5(d)



Arensberg v. Arensberg

- Childcare Expenses:
 - DC found expenses to be \$98/month while Mother testified they were \$300/month. Receipts submitted as evidence totaled \$1,240 over 10 months
 - DC placed greater weight on the documentary evidence
 - While the Court of Appeals doesn't reweigh evidence, the record doesn't support the conclusion of \$98/month because the receipts show \$124/month
- Retroactive support.
 - DC concluded it "was not presented with enough evidence to comfortably establish [retroactive] child support..." This was not an abuse of discretion



Rasmussen vs. Rasmussen

A23-0087 - 2024 WL 77560

(Minn. Ct. App. Jan. 8, 2024)

Nonprecedential



Rasmussen vs. Rasmussen

- Father filed a motion to modify support arguing:
 - His income, Mother's income and imputed income, NJC deduction, and newly available healthcare coverage
- The CSM found that under the current guidelines, Father's support amount of \$758/month does not meet the 20% and \$75 per month less than his current support order of \$835/month
- The DC affirmed the CSM



Rasmussen vs. Rasmussen

- Father appealed the DC's affirming the CSM's order with three arguments:
 1. Wrong to grant a NJC deduction to Mother
 2. Wrong to designate mother as the party responsible for the joint child's healthcare coverage,
 3. Wrong to deny his motion to modify



Rasmussen vs. Rasmussen

- Court of Appeals:
 - Yes, DC and CSM erred by granting a NJC deduction to Mother as she was pregnant, but the child was not yet born
 - Yes, DC and CSM were wrong to designate Mother as the party responsible for healthcare coverage without sufficient findings under Minn. Stat. § 518A.41, subds. 3, 4(a) (2022)



Rasmussen vs. Rasmussen

- Court of Appeals finds that a proper determination of Father's first two challenges affect a determination of whether he met his burden of proof
- Reversed and remanded



Larson vs. Larson

- Facts:
 - Parties' stipulated J&D from May 2017 obligated Father to pay Mother \$200 per month in basic support
 - December 2019 stipulated order added a \$100 per month obligation for Father to pay for "Child Care Support"
 - Father moved to modify:
 - DC's opinion:
 - Increased Father's basic support obligation to \$348 per month
 - Reduced "Child Care Support" to \$50 per month
 - Denied Father's request for Attorney's Fees

2023 ANNUAL CONFERENCE



Larson vs. Larson

A23-1369 - 2024 WL 2130757

(Minn. Ct. App. May 13, 2024)

Nonprecedential

Larson vs. Larson



- Father appealed:
 - DC incorrectly calculated his monthly income
 - DC failed to apply Minn. Stat. § 518A.40 and eliminate “Child Care Support”
 - DC should have found Mother contributed to the length of the proceedings
- Court of Appeals rules:
 - DC incorrectly calculated Father’s monthly income
 - Minn. Stat. § 518A.40 does not apply to this case and thus DC did not err by not eliminating “Child Care Support”
 - Father did not file a motion for attorney fees on this basis, thus the Court of Appeals did not consider it



Larson vs. Larson

- Father is co-owner of an “closely held subchapter S corporation”
 - He is paid a salary of \$38,618, and his share of the company’s profits is \$43,034, making his total income \$81,652 per year (\$6,804 per month)
- The DC incorrectly included shareholder distributions as income for Father, inflating his annual income by \$47,783
 - Under Minn. Stat. § 518A.30 as analyzed in *Haefele v. Haefele*, 837 N.W.2d 703, 711 (Minn. 2013), shareholder distributions are not part of the statutory formula for calculating income from the operation of a business



Larson vs. Larson

- The DC also erred by not subtracting ordinary and necessary expenses from the corporation's gross receipts as required by...section 518A.30
 - The burden of proof was correctly shifted to Father, but he supplied evidence for his position
 - The DC adopted Mother's position on what is and what is not an "ordinary and necessary expense" which was based on "supposition or speculation"
 - This further overstated Father's monthly income by \$945 per month



Larson vs. Larson

- Father argues there should not be any childcare support as there is no childcare expense for Mother per Minn. Stat. 518A.40, subds. 1, 3(a)
- However, the language of the stipulated agreement is not for childcare services per 518A.40. They are to reimburse Mother for any month in which she “provides afterschool care for the joint minor children on [Father’s] parenting time days”



Larson vs. Larson

- The order also provides that Father “shall pay” Mother if she provides after school care. Thus, the DC did not err by not eliminating this obligation
- Father contended to DC Mother delayed in producing her income information
- DC found Mother produced her W-2 forms and paystubs and had no other sources of income



Larson vs. Larson

- Father argued to the Court of Appeals that Mother had not produced her income information timely, and that she “prolonged the proceedings by making unmeritorious arguments concerning his gross income”
- This is not a motion which Father filed with DC, thus the Court of Appeals did not consider it



Meheretia vs. Hailu

A22-1197 - 2023 WL 8713782

(Minn. Ct. App. Dec. 18, 2023)

Nonprecedential



Meheretia vs. Hailu

- Facts

- Father filed for dissolution in June 2018. While the dissolution was pending, Father moved out of the home and the children resided with Mother full time
- Mother moved for and was granted a temporary support order effective 1/1/2021
- The issue of back child support was reserved



Meheretia vs. Hailu

- Facts

- Mother requested back support and testified that Father moved out in September 2018 and did not pay any support from that time until the end of 2019
- Father's testimony was inconsistent
- The parties' testimony is the only evidence regarding the separation date



Meheretia vs. Hailu

- Father appeals the DC's calculation of his back child-support obligation
 - When did Father move out?
 - When should his back support begin?
- Did the DC abuse its discretion?
 - DC found Mother's testimony more credible than Father
 - No other evidence
 - Back support should start October 2018



Meheretia vs. Hailu

- DC did not abuse its authority
 - Testimony is evidence
 - DC found Mother more credible than Father
 - DC is not required to solicit evidence other than testimony, nor are parties required to submit nontestimonial evidence to corroborate their testimony



Meheretia vs. Hailu

- DC did not abuse its authority
 - Appellate courts defer to a DC's credibility determination
 - Father's new evidence is not properly before the Court of Appeals as it was not included in the record
 - He did not object when the referee stated she was done receiving evidence

2023 ANNUAL CONFERENCE



In re the Custody of BJL: White vs. Loesch

A22-0964 - 2023 WL 8889700

(Minn. Ct. App. Dec. 26, 2023)

Nonprecedential



White vs. Loesch

- Facts

- The current support order granted the parties joint legal and joint physical custody, set parenting time for Father on alternating weekends, and set Father's basic support obligation at \$50 per month
- Mother filed a motion to modify in February 2022 that Father opposed
- Father was then unemployed but planned to start a business and attend community college



White vs. Loesch

- Facts

- Father also submitted an affidavit executed by his mother, an RN, who stated he had ADHD and PTSD
- Father's testimony to the CSM said that he is only able to work for himself, but that he also intends to become a part-time sheriff after completing the necessary degree
- The CSM granted Mother's motion to modify



White vs. Loesch

- Father appealed:
 - The CSM's ruling that he is voluntarily unemployed and that he has potential income
 - The CSM erred by deciding an issue beyond the scope of an expedited child-support proceeding
- And that the CSM erred by requiring him to testify at the evidentiary hearing
- Did the CSM err?



White vs. Loesch

- The CSM correctly applied the law regarding Father's employment status and potential income
- Father's testimony about his employment capability was inconsistent
- Father testified he could only work for himself, but that he also planned to work part time as a Sheriff



White vs. Loesch

- The CSM imputed his potential income based on his previous five years of income (Minn. Stat. § 518A.32, subd. 2(1))
- The CSM gave Father's mother's affidavit less weight since "she likely has a natural bias or interest in favor of her own child" and not because she was an RN

White vs. Loesch



- The CSM did not decide an issue that is beyond the scope of an expedited child-support proceeding
- The CSM did make comments about the reasonableness or necessity of preschool, however these were only comments and do not constitute a ruling



White vs. Loesch

- The CSM did not require Father to testify
- The CSM asked Dakota County if they had any questions for Father
- Father was then questioned by Dakota County, his own attorney, and the CSM
- The CSM is allowed to do this - Minn. R. Gen. Prac. 364.13
- Nothing indicates the CSM became an advocate for Dakota County

2023 ANNUAL CONFERENCE



In re the Marriage of: Falavarjani vs. Tabrizi

A23-1517 - 2024 WL 1987790

(Minn. Ct. App. May 6, 2024)

Nonprecedential



Falavarjani vs. Tabrizi

- Facts

- The parties stipulated to joint physical and joint legal custody in July 2022 and a trial on the outstanding issues occurred later in 2022
- Order dissolving the marriage issued on 1/27/23 and amended on 2/3/23:
 - Set Father's child support obligation at \$1,662 per month, with 100% PICS
 - Ordered gold coins in Mother's possession be divided equally between the parties

Falavarjani vs. Tabrizi



- August 2023 order:
 - Included potential income to Mother changing the PICS to 65% Father and 35% Mother
 - Denied Mother's motions to include Father's bonuses in his income calculation
 - Denied reconsideration of the gold coin issue



Falavarjani vs. Tabrizi

- Mother appealed:
 - DC erred by excluding Father's bonuses from his income
 - DC erred by dividing the gold coins as marital property
- Did the DC get this wrong?



Falavarjani vs. Tabrizi

- Bonuses are income and can be used as income if they are a dependable source of child support. *Novak v. Novak*, 406 N.W.2d 64, 68 (Minn. App. 1987), *Haasken v. Haasken*, 396 N.W.2d 253, 261 (Minn. App. 1986)
- DC determined Father's bonuses were "not sufficiently regular and dependable"

Falavarjani vs. Tabrizi



- Bonuses during Father's employment were rare, and were based on the company's profitability, not his performance
- The gold coins are marital property because they were given to the couple six months after they married
- Mother failed to present any evidence rebutting the presumption the coins were gifted

2023 ANNUAL CONFERENCE



In re the Custody of A.W.W.: Wehrwein vs. Hascall

A23-0452 - 2024 WL 3016488

(Minn. Ct. App. Jun. 17, 2024)

Nonprecedential



Wehrwein vs. Hascall

- Facts:
 - Special needs child who is nonverbal and has PTSD
 - Father petitioned for custody in June 2020, Mother filed a counterpetition
 - October 2020 order appointed a GAL, awarded the parties temporary joint legal custody and Mother temporary sole physical custody, subject to Father's reasonable parenting time
 - GAL's recommendations were adopted by DC in 2021



Wehrwein vs. Hascall

- Father should have virtual parenting time, monitored therapeutic visits, and the parties share costs equally
- DC also required the parties secure a parenting-time supervisor
- In September and October 2022, two years after Father's initial petition, DC held a trial



Wehrwein vs. Hascall

- Final order granted parties joint legal custody and Mother sole physical custody, subject to Father's unsupervised parenting time
- Child support set at \$794 per month
- Mother appealed



Wehrwein vs. Hascall

- Mother challenges:
 - DC's factual findings and determinations regarding custody and parenting time
 - Father's income for support purposes and past support
 - Allocating tax-dependency exemptions equally to the parties in alternating years
- Did the DC abuse its discretion?



Wehrwein vs. Hascall

- The DC did not abuse its discretion by awarding joint legal custody
 - It analyzed the 12 best-interest factors from Minn. Stat. § 518.17, subd. 1 (a) and found most to be neutral, with one factor favoring Mother and at least two favoring “liberal parenting time” for Father
 - Mother also failed to present any evidence rebutting the presumption that joint legal custody is in the best interests of the child



Wehrwein vs. Hascall

- The DC did not abuse its discretion by awarding unsupervised parenting time to Father
 - There is a rebuttable presumption that a parent is entitled to receive a minimum of 25% of the parenting time for the child. Minn. Stat. § 518.175, subd. 1(a)
 - Father complied with the graduated schedule to move from supervised to unsupervised parenting time and presented evidence to his sobriety
 - The goal of custody and parenting time is to keep both parents in the child's life as much as appropriate



Wehrwein vs. Hascall

- Mother challenges the DC's calculation of Father's income but fails to identify the error
 - The DC's support calculation likewise does not deviate from the guidelines in section 518A.35
- Mother challenges the DC's denial of past support
 - Court explained its decision based on Father's paying for the bulk of the supervised and therapeutic parenting time services despite an order that those costs be split equally
- Tax Dependency:
 - Father's parenting time is not less than 10%, and this is within the court's discretion to allocate



In re the Marriage of: Petri vs. Petri

A23-1097 - 2024 WL 3405602

(Minn. Ct. App. Jul. 15, 2024)

Nonprecedential



Petri v. Petri

- Parties' marriage was dissolved in June 2020 which incorporated their stipulated marriage-termination agreement.
 - Father was awarded 71% of parenting time of the parties' four joint children
 - Mother to pay child support obligation of \$949 per month
 - However, this amount was included as an offset against Father's spousal-maintenance obligation to Mother
 - The J&D also contains language regarding enforcement and a waiver of the parties' rights to modify spousal maintenance



Petri v. Petri

- Mother subsequently obtained a temporary order of sole physical custody of two of the four children
 - Support was recalculated and Father now owed Mother \$1,848 per month as a support obligation
 - This was later recalculated to \$1,699 per month based on a math error
 - Father's spousal maintenance obligation increased from \$1,518.51 to \$2,467.51 as Mother no longer owed \$949 in support to John
 - DC deemed this "enforcement" rather than "modification" of the spousal maintenance clause



Petri v. Petri

- June 2023 order further modified the parties' child support obligation
 - Mother now owes \$1,380 per month to Father as he is still the primary custodian of the remaining minor children and based on their current incomes
 - DC also denied Father's requests to modify the spousal maintenance obligation and vacate his arrearages



Petri v. Petri

- Father appealed:
 - DC erred when setting his support obligation at \$2,467.51 in the November 2021 order
 - DC erred when it determined it didn't have jurisdiction to modify spousal maintenance
- Court of Appeals affirmed



Petri v. Petri

- Stipulated marriage-dissolution judgments are contracts for purposes of construction
 - The decree plainly states that Father's spousal maintenance amount of \$1,518.51 is the *net* amount, not his *total* amount
 - When Mother's support dropped to \$0, that amount had to be added back to the spousal maintenance amount due to the offset language



Petri v. Petri

- DC correctly determined it couldn't modify the spousal maintenance
 - Parties can usually modify, but they can preclude or limit modification through a Stipulation, otherwise known as *Karon* waivers
 - The DC determined the J&D incorporating the parties' stipulated marriage-termination agreement satisfied all four *Karon* waiver requirements and thus executed one
 - The language of the parties' stipulation clearly states: "The Court has reviewed this agreement and finds it to be supported by sufficient consideration and finds it to be fair and equitable"



Petri v. Petri

- Under Minnesota law, once a J&D is entered based on a stipulation, the stipulation ceases to exist as a separate entity as it merges into the judgment, and relief is only available under Minn. Stat. § 518.145, subd. 2
- Father acknowledged he didn't seek relief under this statute, so he can't invalidate his *Karon* waiver
- The J&D expressly authorized the DC to order a change to the amount of spousal maintenance paid when the support amount changed
- Thus the 2021 order modifying support is fully consistent with the DC otherwise not having jurisdiction to modify spousal maintenance

2023 ANNUAL CONFERENCE



Edrington vs. Sheridan, et al.

A23-1782 -2024 WL 3755937

(Minn. Ct. App. Aug. 12, 2024)

Nonprecedential



Edrington vs. Sheridan

- Facts

- Donor, a friend of married same-sex couple Julianna and Catherine Sheridan, provided sperm to allow the couple to have a child
 - Parties agreed Donor would not be anonymous and would take part in the child's life. There are no formal contracts
- The married couple used an at-home method of assisted reproduction and were successful in conceiving a child, A.J.S.
 - No Recognition of Parentage, and neither Donor nor Spouse moved to adopt A.J.S.
- In June 2022, the couple requested Donor stop referring to A.J.S. as his daughter, and later limited his contact with A.J.S.



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- Donor attempted to compel genetic testing and obtain an adjudication he is the father of A.J.S under Minn. Stat. § 257.62, subd. 1 (a)
 - Donor also alleges paternity presumption by receiving A.J.S. into his home and openly holding her out as his daughter, and that he has been providing care for her on a consistent basis
- The married couple moved to dismiss the paternity action:
 - Donor can't compel genetic testing since he is a sperm donor per Minn. Stat. § 257.62, subd. 5(c)
 - Donor failed to allege sufficient facts to obtain standing to bring his paternity action per § 257.55, subd. 1 (d)
- DC denied the motion to dismiss and ordered GT



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- Court of Appeals holds:
 - DC erred by ordering Genetic Testing
 - DC erred in determining Donor has standing under 257.55, subd. 1 (d)
 - Reversed and remanded

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- Genetic testing:
 - 257.62, subd. 5(c) clearly states that a sperm donor cannot use a positive test result to claim parentage of a child conceived through assisted reproduction
 - 257.56 and 257.62 are not inseparable, and 257.56 does not limit the reach of 257.62, subd. 5(c). “...257.56 acts as a shield for married couples who conceive through assisted reproduction...it does not act as a sword for donors to assert parentage against married couples who used at-home assisted reproduction procedures”



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- Updates to assisted reproduction and the MPA had not come into effect when the case was heard, and the Court of Appeals denied supplemental briefing and do not address the amendments
- Standing
 - Holding out a child is “flexible,” but in this case A.J.S. was not born out of wedlock and has never lived with Donor nor spent the night at his home. This is sufficiently different from *Larson v. Schmidt*, 400 N.W.2d 131 (Minn. App. 1987)



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- Further being “present in” a child’s life is not the same as being regarded as the child’s biological father
- Donor’s visits are not the same as “parenting time,” as he does not fit the categories listed in 257.541, subds. 2, 3, and thus does not fit the definition of “parenting time” in Chapter 518
- The “holding-out” presumption is not defined but Donor waited several years to assert parentage, and the child uses the surname of another person. *Pierce v. Pierce*, 374 N.W.2d 450 (Minn. App. 1985), *rev. denied* (Minn. Nov. 4, 1985)



Thanks Everyone!

Until next time!

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