




2024 ANNUAL CONFERENCE
 Minnesota Family Support & Recovery Council
 in partnership with Minnesota County Attorneys Association

Paternity Overview in Minnesota

Sandra Filardo Hennepin County
 Patrick Moen Stearns County

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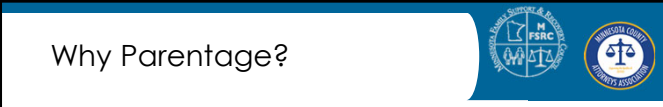


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Paternity Law and Court Process

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Why Parentage?

Establishing parentage gives the child the same legal rights as a child born to married parents; the right to inherit, social security and Veteran's benefits, health care coverage, tribal registration, workers' compensation, and inheritance rights.

Parentage gives parties and counties the right to pursue legal action for child support.

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Parentage Act. Minn. Stat. §257.51 to 257.7451 to 257.74

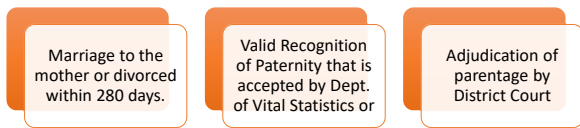


An unmarried woman who has a child has sole physical and legal custody of the child until paternity is established or until custody is determined in a separate proceeding.

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How to become the Legal Father



Marriage to the mother or divorced within 280 days.


Valid Recognition of Paternity that is accepted by Dept. of Vital Statistics or

Adjudication of parentage by District Court

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Recognition of Parentage (ROP)



- Every state has its own version
- States give full faith and credit to ROPs from other states.

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The ROP (Recognition of Parentage) Minn. Stat. 257.75

- The ROP is offered to biological parents at hospitals, at the Dept. of Vital Stats, and at county child support offices.
- The father becomes the legal father.
- It gives no custodial rights to the father but gives him standing to sue for custody and parenting time.

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Father's Name on Birth Record

- Does not create presumption of parentage in MN, but may in other states.
- U.S. Dept. Health and Human Services – Office of Child Support Services maintains an online Intergovernmental Reference Guide (IRG) – good starting point for lots of interstate issues, including the birth record one.
- Always do your due diligence – may not be accurate!

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Parentage Actions

- County may elect to initiate in expedited process or district court.
- Determination of appropriate parties
 - Mother
 - Presumed fathers
 - Alleged fathers
- Presumptions – Minn. Stat. § 257.55
- Alleged father – man not married to the mother who either alleges he's the bio dad, or is alleged to be the bio dad.

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Court Hearings are Confidential



Based on MN Stat. 257.70, hearings and records are confidential, notwithstanding any other law.

Minn.Gen.Rule.P. 371.10, Subd. 1. hearings are specifically closed to public in expedited process from commencement through adjudication.

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Right to counsel Minn. Stat. 257.69



Either parent may be represented.	There is a right to counsel for a party who is unable to pay.
Free attorney will only represent on issues of paternity. (NOT custody, parenting time or support)	The county attorney represents the public authority

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Required Parties in Parentage Actions. Minn. Stat. 257.60

- Required parties: biological mother, all presumptive and alleged fathers, and child may be joined as party.
- The child shall be made a party in certain circumstances:
- If the action is to determine non-parentage or a lump sum agreement
- If brought by a presumptive father, or if an alleged father brings the action and the mother denies he is the father.
- A guardian ad litem must be appointed by the court.

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Adjudication of Paternity in the Expedited Process

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Initial Pleadings

- May initiate parentage actions in the expedited process (Minn.Gen.R.Prac. 353.01, Subd. 2(a)).
- Shall be commenced by service of a summons, complaint, and motion. May also include supporting affidavit and request for genetic testing. Minn.Gen.R.Prac. 371.01.
- Minn.Gen.R.Prac. 371 comprehensive roadmap for parentage actions in expedited process. Addresses contents of pleadings, responses, timelines, etc.

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Complete or Partial Order


- Child support magistrate may issue order resolving parentage, legal and physical custody, parenting time, and the child's name **when parties agree**. Minn.Gen.R.Prac. 353.01, Subd. 2(b)(1).
- If no agreement by the parties, court can still enter partial order if parties agree to parentage and temporary or physical custody. Minn.Gen.R.Prac. 353.01, Subd. 2(b)(2)(A).
- If no agreements, then matter is referred to the district court. Court shall order genetic testing and may set temporary support. Minn.Gen.R.Prac. 353.01, Subd. 2(b)(3).

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District Court Follow-Up

- Does County have obligation to continue to appear at all hearings?
- Things to Consider:
 - Complexity of Paternity Itself
 - Public Assistance
 - Resources



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**Adjudication of Paternity
in District Court**

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Initial Pleadings

- Paternity actions are considered a 'Family Court Action,' Minn.Gen.R.Prac. 301.01(b)(6). Also subject to the Minnesota Rules of Civil Procedure.
- Shall be commenced by service of a summons and complaint or other means authorized by statute. See Minn.Gen.R.Prac. 314.
- Personal service – cannot be made by a party so typically a process service company or the sheriff's office. Minn.R.Civ.P. 4.
- Mail service via waiver of personal service. Minn.R.Civ.P. 4.05.

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Scheduling of Cases

- Scheduling statement / scheduling order. Setting dates for ADR, discovery deadlines, motions, pre-trials, trial. Parties have right to request jury trial in parentage actions. Minn.Gen.R.Prac. 304.
- Be aware of timelines in terms of motion hearing dates, other deadlines in scheduling order.
- Note Summary Judgment Issues.

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Genetic testing - Minn. Stat. 257.62


-  The court or public authority may, and upon request of a party shall require the child, mother, or alleged father to submit to blood or genetic tests.
-  If the test results are 99% or greater, there is an evidentiary presumption that the alleged father is the biological father and the party opposing the results has the burden of proving by clear and convincing evidence that the alleged father is not the father of the child.
-  If no objection to the genetic test results is made, the genetic test results are admissible without the need for foundation.

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Genetic Testing

- Court, party, county can request genetic testing.
- Results served via mail – party has 30 days to object. Necessarily requires 30 days between results and hearing unless parties waive time to object.
- If 92% or greater then court can order temporary support that goes into an escrow account.




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Competing Presumptions


- Determination that an alleged father is the genetic father does not preclude the adjudication of another man as the legal father.
- Presumptions listed in Minn. Stat. § 257.55 such as mother's husband or a man who has held out child as his own.
- Presumption which on the facts is founded on the weightier considerations of policy and logic.



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Judgment or Order Minn. Stat. 257.66






Required issues the court MUST address:

- Parentage
- Custody (physical and legal)
- Child's name, the social security numbers of the parties,
- Support

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Minnesota Statute section 518.175 , subdivision 1(g) Change Effective August 1, 2024

-  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."
-  Given the change, Counties must think about how to word pleadings to comply with the minimum requirement of 25 percent.
-  Stay tuned for a DHS SIR message

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Alleged Father is Out of State
518C.201

Longarm jurisdiction means that we have jurisdiction over someone who lives outside of the state of Minnesota.

There are different ways that the court in MN would have longarm jurisdiction. (i.e. the person lived in MN in the past, the child was conceived in MN.)

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Questions?

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