

Unmarried Fathers' Guide to Paternity, Custody, Parenting Time and Child Support in Minnesota



Revised January 2005
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Central Minnesota Legal Services



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About this guide

This guide has basic information about paternity, custody, child support, and parenting time for unmarried fathers in Minnesota. **Every state has different laws on family law. This guide is for Minnesota only.**

In this guide, the word “you” means the unmarried father. Even though not all biological mothers have physical custody of their children, the words “mother” and “custodial parent” mean the same thing in this guide. This is because if unmarried parents do not have a court order about custody, then the mother of a child born to unmarried parents has sole legal and physical custody. Some of the legal ideas and legal standards in this guide are like those for

divorced fathers but there are many important differences. For example, an unmarried father has to first establish himself as the legal father before he has any right to ask for court-ordered custodial or visitation (parenting time) rights. This guide explains how this is done.

If someone other than the mother has physical or legal custody of the child, different legal standards and/or different legal proceedings than those discussed in this guide may apply. Examples of people other than the mother who may have custody are the state or county through child protection proceedings in juvenile court, or a grandparent or relative through a custody action in family court.

THIS GUIDE PROVIDES GENERAL LEGAL INFORMATION.

IT IS NOT A SUBSTITUTE FOR ADVICE FROM AN ATTORNEY ABOUT YOUR PARTICULAR SITUATION.

THIS GUIDE WAS UPDATED IN **SEPTEMBER 2007** TO REFLECT CHANGES TO MINNESOTA LAWS INCLUDING CHANGES TO THE CHILD SUPPORT GUIDELINES (INCOME SHARES).

CHECK WITH AN ATTORNEY FOR ANY RECENT CHANGES IN LAW.

How this guide was made possible

This guide was first produced in 2004 by Melissa Froehle, an attorney at Central Minnesota Legal Services providing legal assistance to participants in the FATHER Project, a program serving low-income unmarried fathers. It was most recently updated in September 2007.

Support for the initial production of this guide was provided by the Berkeley Law Foundation, New York University’s Public Interest Law Foundation, Central Minnesota Legal Services, Goodwill/Easter Seals (MN) FATHER Project, Minnesota State Bar Foundation, Southside Community Health Services, Minnesota Fathers and Families Network, and the African American Men Project of Hennepin County. The author is solely responsible for the information in this guide.

This guide is available as a free download pdf file from the Minnesota Fathers & Families Network (MFFN) website at www.mnfathers.org, from the Central Minnesota Legal Services website at www.centralmnlegal.org, and is also available at www.LawHelpMN.org.



2nd Revision September 2007
Revised January 2005
First Edition, October 2004
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Common Legal Terms

Adjudicated Father – The man that a court or a Recognition of Parentage (ROP) says is the legal father of the child.

Affidavit – A written document made under oath. The person signing it is saying that these are the facts as they know them.

Best Interests of the Child – Minnesota law looks at what is best for the child when deciding about custody for the first time. This is called “Best Interests of the Child.” It is a legal standard of 13 factors. The factors are on page 14.

Legal Custody – The parent(s) with legal custody make the big decisions in the child’s life. Things like choices about the child’s school, religion, and major medical decisions.

The court likes parents to have joint legal custody. This means that they have equal rights in making decisions. But, if there has been domestic abuse or if the parents cannot get along at all, the court does not want them to have joint legal custody.

Motion – A formal request asking the court to do something.

Parenting Time – This is the time that a parent spends with the child. It does not matter who has physical custody. Mostly, “Parenting Time” is used when talking about the parent who does not have physical custody and the time they spend with the child. This used to be called “visitation” in Minnesota.

Paternity – Paternity has to do with who is the “legal father” of a child. The biological father is not always the legal father. Only the legal father has the rights and responsibilities of a father.

Paternity can be established when both the mother and father sign a Recognition of Parentage (ROP) or with a paternity action in court. You do not have to have genetic testing

(DNA testing) before deciding paternity, but is often a good idea.

Presumption of Paternity – In some cases, the court will take for granted that a certain man is the father of a child, like a husband. The man has to prove he is NOT the father if he does not agree. For more details, see page 11.

Paternity Order – A court order that says who the legal father is. The paternity order also tells you what rights the parents have. The order might say who has physical and legal custody of the child, and if parenting time is given to the noncustodial parent.

Physical Custody – The child lives with the parent who has physical custody. That parent is in charge of the child’s day-to-day care.

One parent can have sole physical custody or both parents can have joint physical custody. Mostly, the courts give sole physical custody to one parent.

One parent can have sole physical custody even if both parents have joint legal custody.

Joint Physical Custody – When the child lives part-time with one parent and part-time with another parent. Joint physical custody is not always 50/50 between the parents.

Pro Se – “for oneself.” Pro se means that you do not have an attorney and are representing yourself in court.

Recognition of Parentage (ROP) – A form that unmarried parents can sign to create the legal relationship between the father and the child.

Whereas twenty years ago almost all single-mother families were headed by a divorced or separated mother, almost half of all single-mother families today are headed by a never-married mother.



*Sorensen & Halpern,
1999*

Why would an unmarried father want to “go to court” if there are not any problems?

There are many reasons for an unmarried father to “go to court” or file a motion to set up parenting time or custody. You may want to go to court or get a court-ordered agreement even if you do not have any problems seeing the child. A court ordered agreement will make sure your rights are protected. A court order may be especially important to get if you have the child living with you but do not have a court order that says that. Here are some reasons to go to court:

- **To make sure you get to spend time with your child.** If you never set up parenting time or custody rights in a court order, you can only have the child if it is okay with the custodial parent. This is because the law gives an unmarried mother sole legal and sole physical custody of the child. Only a court order can change that. If there is no court order, the custodial parent can change her mind about letting you see the child.

- **To get notice if the mother wants to move out of state.** If you have court-ordered parenting time rights, the mother cannot move out of state with the child unless you say it is okay. Or she has to get a court order saying it is okay to move. If there is no court order giving you parenting time rights, the custodial parent can move out of state without asking.



It does not matter if you are a big part of the child’s life. If the mother asks the court for permission to move, the court must look at several things to decide if she should be allowed to move. These things include your relationship with the child and how possible it would be to continue that relationship, looking at how far the mother is planning to move and your financial situation. See page 23 for more information.

- **To get notice if the mother wants to give someone else temporary custody.** Sometimes, a mother gives temporary custody to someone else. She does not have to tell you about it or ask you if it is okay UNLESS you have court-ordered rights. There is a form called a Delegation of Parental Authority that a custodial parent can use to give another person temporary custody of the child for up to 1 year. The legal father will only get a copy of this form if he has court-ordered parenting time rights that are not supervised. There also cannot be an Order for Protection (OFP) in place against the father.

- **To get holiday time with your child.** The court can order that you get to spend time with your child on certain holidays, birthdays, etc. You can also ask for vacation time with your child. The court order is enforceable. This means that that if the other parent is not letting you get the time you are supposed to, there are ways to make them follow the rules of the order.

- **To get make-up parenting time for time that you have been denied.** If the mother is not letting you see your child or if you have had problems with your parenting time, you can ask the court for help. The court can give you extra time with your child to make up for the court-ordered parenting time that you did not get.

Question From An Unmarried Father

I signed a Recognition of Parentage but have not been to court, except for child support. My child’s mother drops my son off but is always cutting short my time with my kid. She insists that she take him right away even when she comes to get him hours early from what she told me, and sometimes I do not get to see him at all. Can she do this?

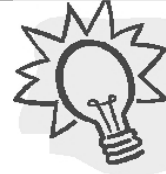
Answer: Yes. The child’s mother has sole legal and sole physical custody until a court changes this. If you want to be able to enforce the time you have with your child, you need to go to court to establish custody and parenting time. Otherwise, the mother cannot be made to let you spend time with your child.

• **To enforce your parenting time rights.** If you have ongoing and serious parenting time problems, the court can hold the other parent in contempt of court or change custody. The problems must be serious before the court will even think about these options. You must have gone to court at least once or more to try to make the other parent follow the parenting time order.



• **To qualify for the parenting expense adjustment.**

Under the new child support law in Minnesota, parents with court ordered parenting time can get a parenting expense adjustment. Your parenting time has to be between 10 and 45 percent of time with the child. The adjustment lowers the basic child support amount you have to pay by 12 percent. Only parents with court ordered parenting time are supposed to get the adjustment. See page 27.



Going to court may not always be the best choice. You have other options. See a list of options in the section about Court-Ordered Parenting Time on page 20.

Your Situation From The Beginning...

Mom and Dad are unmarried and have a child.



Mom has sole physical and sole legal custody until a court order says differently.

WHY? The mother starts out automatically with sole physical and sole legal custody. This is because there is usually no question about who the mother is since she gave birth to the child. Because a father cannot be decided in the same way, the legal system waits for a signed Recognition of Parentage (ROP) or a court order that names a legal father. Only then can the father get the rights and responsibilities that are part of being a father.

Before Paternity – The Fathers' Adoption Registry.

If you are an unmarried father, the Minnesota Fathers' Adoption Registry is a way for you to be told if a petition to adopt a child that you may have fathered may be filed in the State of Minnesota.

WHY IS IT IMPORTANT TO REGISTER?

In Minnesota when an unmarried mother wants to place a child up for adoption, she does not have to name the person she thinks is the father before an adoption can take place. But, if the father of the child has been legally recognized as the father, then he has to give his okay for the adoption. On the other hand, if the father is not legally recognized, he may not even get notice of the adoption.

The Minnesota Fathers' Adoption Registry is important because if you are properly registered with them, then you have to be given notice of the adoption. When you get notice you can start the process to become the child's father and be involved in what happens with the child, if you want to do that.

If you are not legally recognized as the child's father, registering with the Fathers' Adoption Registry may be the only way *to make sure* you get notice if a child you may have fathered is put up for adoption.

Even if you do not think the mother is going to place the child up for adoption, you should still register if you want to be absolutely sure that you can try to have a relationship with your child or play a part in any adoption process in Minnesota.

The law also says that not knowing about the pregnancy or birth is not a good enough reason for not registering. For more information, call the Fathers' Adoption Registry. **This is an area in which acting quickly is important. You may also wish to seek legal advice.**

Question From An Unmarried Father

I just learned my ex-girlfriend is pregnant and I am probably the father. I don't know where she lives or if she is still in Minnesota. Should I still register here with the Fathers' Adoption Registry, even if I don't know for sure that she is living here or when the baby is due?

Answer: Yes. Even if you don't know when or where the baby will be born, you have to register in Minnesota no later than 30 days after the child's birth to protect your rights in Minnesota to know about a potential adoption. (You may need to register with similar registries in other states to protect your rights in those states.)

In a case decided by the Minnesota Supreme Court in 2002, the court said that a potential father, who did not know that his pregnant ex-girlfriend was living in Minnesota and learned of the mother's whereabouts and registered on the 31st day after the child's birth, was not entitled to notice of the adoption because he registered past the 30 days. This meant he could not stop the adoption.

ARE THERE SITUATIONS WHEN I WILL BE TOLD ABOUT ADOPTION IF I DO NOT REGISTER?

It depends. The following are some situations when you should get notice of an adoption for a child you may have fathered:

- If you are legally established as the child's father (declared the legal father by a court order or a Recognition of Parentage) or
- If you were married to the child's mother within 325 days before the child's birth or married the mother within 10 days after the birth of the child or
- If you filed a paternity action within 30 days after the child's birth and the action is still pending or
- If your name is on the child's birth record as the father (in Minnesota, only a father who is legally the child's father can have his name on the child's birth record) or
- If you have supported the child to a large extent or
- If you were openly living with the child or the mother or both.

Note: Even in these situations, it is still a good idea to register to be sure you will be notified.

WHAT RIGHTS DO I HAVE WHEN I REGISTER?

If the child that you registered for on the registry is put up for adoption, you have the right:

- to get notified of the adoption proceeding.

Once notified, you have certain rights:

- you can deny paternity (and give up your rights to establish yourself as the child's legal father and be involved in the decisions for the child) or
- you can consent to the adoption or
- you can start on the path to claiming parental rights for the child or
- do nothing, and any parental rights that you might have had will be terminated.

If you want to claim parental rights for the child, you must get yourself legally established as the child's father. Once you get notice of the adoption proceeding, you must file a form that you intend to claim parental rights. You must also start a paternity action by having the birth mother personally served with the paternity action documents. Both of these separate actions must be done within 30 days of getting the notice of the adoption. You also have the right:

- To get a free lawyer, if you are low-income, and have filed an intent to claim parental rights with the court on time, and
- To get genetic tests.

Once you are legally established as the child's father, you have the right to be involved in what happens with the child. You can, for example:

- Ask the court for custody of the child
- Be a part of making decisions in the adoption plan
- Agree to the adoption
- Agree to the adoption but seek a contact agreement
- Contest the adoption



If you do not file the intent to claim parental rights form with the court on time, you may have given up your right to contest the adoption. In this case, you would not get any further notice of hearings and your okay to the adoption is not needed.

If a child that you fathered is adopted, being a part of the process can also help make sure that the child knows about your social and medical history.

WHEN DO I REGISTER?

You can register anytime during the pregnancy, but **NO LATER THAN 30 DAYS AFTER THE CHILD'S BIRTH**. If you do not register on time you might not be told about the adoption and can lose any rights you may have as a father in the adoption process. Registering means filling out and mailing the required forms. Your signature is required to put your name on the registry. Just calling the toll free number does not count!

HOW DO I REGISTER?

It is free to register. Contact the Fathers' Adoption Registry:

Minnesota Department of Health

85 East 7th Place, 3rd Floor

P.O. Box 64882

St. Paul, MN 55164-0882.

Voice: (651) 201-5994, toll free 1-888-345-1726.

Email: far@health.state.mn.us.

CALL THE FATHERS' ADOPTION REGISTRY OR AN ATTORNEY IF YOU HAVE ANY QUESTIONS.

“Establishing” or Deciding Paternity

When a child is born to an unmarried mother the child has no legal father until one is established by law. Establishing the father’s and child’s legal relationship is what is meant by “establishing paternity.” When a child is born to an unmarried mother, paternity can be decided in one of two ways:

(1) by both parents signing a **Recognition of Parentage (ROP)**. The ROP must be filed, and accepted by, the Minnesota Department of Health, Office of the State Registrar. An ROP does not automatically give the father the right to see the child. An ROP gives the father the right to go to court to **ask** for custody or parenting time.

(2) by court order in a paternity action (**Paternity Order**). You may be granted some custodial or parenting time rights in the paternity action.

Although parents are often asked for a copy of the birth certificate by different agencies, for example, if you apply for some type of benefits from the government, the birth certificate is NOT the official proof of your paternity needed in a court action. The official proof needed for a court action is the original or certified ROP or a certified paternity order itself. This is one reason why it is important to know how—by ROP or court order—your paternity is established.

As the chart on page 9 shows, the different ways to establish paternity have different effects on your rights.

Question From An Unmarried Father

My name is listed on the birth certificate as the father. Doesn’t that mean I’m already the legal father?

Answer: Generally yes. In Minnesota, if you are not married to the mother then your name *should* only be listed as the father on the birth certificate if your paternity has already been decided. An unmarried mother is not allowed just to put any man’s name on the birth certificate—only a legal father is supposed to be on the birth certificate. However, there are sometimes when an unmarried father’s name mistakenly appears on the birth certificate even though his paternity is not established. This may happen, for example, if the parents report they are married when the child is born, even though they are not legally married. (A husband’s name can be listed on the birth certificate because he is presumed by law to be the legal father.)

Once you sign an ROP and it is filed with the State, the State changes the child’s birth record to reflect the father’s name. To change the birth record when your paternity was established by a court order, the court order must state that the father is the legal father and that his name and other information is to be added to the child’s birth record. If the child’s last name is to be changed, the court order must also state that the child’s last name is to be changed on the birth record. There is a fee to change the birth record when there is a court order. Sometimes, if the court order establishing paternity goes to the State directly from the court of the county, the parents are not charged the fee.

How a Recognition of Parentage (ROP) differs from a Paternity Order

	The Recognition of Parentage:	A Paternity Order (court action):
Paternity	Decides who the legal father is.	Decides who the legal father is.
Do the parents have to agree on who the legal father is?	Both parents have to agree to sign an ROP.	Parents do not have to agree for the court to decide paternity. Genetic tests can help resolve conflict.
	With an ROP everything else must be done by a separate court action.	
Child Support	A child support action must be done separately in court.	Sets or reserves a child support order.
Physical and Legal Custody	Physical and legal custody stays the same as it was before the ROP was signed: The mother has sole legal and physical custody.	Decides which parent(s) have physical and legal custody.
Parenting Time	Parenting time rights are not decided. The father does not automatically have any parenting time rights.	Decides what parenting time rights the parent without physical custody has.
OTHER RIGHTS:		
Genetic Testing	No genetic testing is done. You give up the right to ask the court for it to be done later.*	Mother or alleged father can ask the court to order genetic testing.
Court-Appointed Attorney	You will not be given an attorney now or later on paternity, custody or parenting time issues.	The court must appoint an attorney to represent either parent on paternity if the parent is low income. The parent has to ask for it. This attorney also helps with custody and parenting time issues that come up in that court action.
Possible Adoption	A valid ROP helps make sure that the father finds out about any possible adoption. But it is not a guarantee because either party can cancel it within 60 days of signing.	Before the court order deciding paternity is final, the father might not get notice of adoption. Unless he is registered with the Fathers' Adoption Registry.
How long does it take?	A Recognition of Parentage can be signed in one day.	A court action takes longer (months, usually).

*You can get genetic testing BEFORE you sign an ROP. See the **options box** on page 11.

“Establishing” or Deciding Paternity, *Continued*

HOW CAN THE COURT DECIDE I’M THE LEGAL FATHER IF I WASN’T AT THE COURT HEARING?

A court can make a decision about paternity even if the father, or mother, does not show up or take part in the hearing process. These are called “default orders.” What this means is that the parent gives up his or her rights because they did not show up. In these cases the court decides paternity without genetic testing, unless the mother or another person that is part of the paternity lawsuit asks for the court to order genetic tests. The court usually decides paternity in cases without genetic testing by listening to who the mother says the father of the child is. She makes this statement under oath. That is why it is

important to go to court if you are served with court papers for a paternity case. Go to court even if you do not think you are the father. If you do not go, you may lose the right in the future to argue that you may not be the father of the child.



A court can make a decision about paternity even if the father, or mother, does not show up or participate in the hearing process.

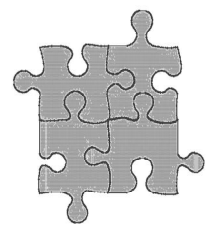
Some other important things to understand about the ROP:

Once both parents sign an ROP and it is filed with, and accepted by, the Minnesota Department of Health, it is a final decision on paternity. It is the same legally as a court order stating that you are the father. The only time the ROP is not final is if:

- (1) the mother was married during the pregnancy or at birth, **or**
- (2) another ROP is signed claiming a different man is the legal father, **or**
- (3) one or both parents are minors (under age 18).

1) If the mother was married during the pregnancy or at birth, the husband or ex-husband is thought to be the legal father. This is called a “presumption of paternity” (see below). If the husband wants to give up his presumption of paternity, he can sign a form called a Husband’s Non-Paternity Statement and file it with the State. This form must be signed within 1 year after the child’s birth. Then the man that signed the ROP can be the legal father. If the Husband’s Non-Paternity Statement is not signed within 1 year, then a court action is necessary to decide who the legal father of the child should be.

“Fathering” is a parenting style distinctive from “mothering.” Thus fathers add an important dimension to children’s intellectual and social development.



SPAN / NPNFF, 2002

2) What happens if 2 ROPs are filed for the same child? If the mother signs and files an ROP with you, and another ROP with another man, then each ROP is just a “presumption of paternity.” This is a very unusual case that would probably need a court action to figure out who is the legal father. Normally, once an ROP is filed with the Minnesota Department of Health and is accepted, a second ROP for the same child would be turned down and sent back to the people who signed it.

3) Parents under 18:

If you or the mother are under 18 years old when the ROP is signed, the ROP is only a presumption of paternity. This means that you may still need a court order to decide paternity if you want it decided while you are still younger than 18.

But, if you are under 18 years old when you sign the ROP and neither parent seeks a paternity order from court, the ROP automatically becomes final 6 months after the younger parent turns 18. Becoming final means it has the same legal effect as if you were an adult when you signed the ROP.

What is a presumption of paternity?

If a man has a “presumption of paternity,” he is considered the legal father by the court. If he does not agree he is the father, he has to prove it with clear and convincing evidence. If 2 or more men are presumed the father of a child, then the court must decide the child’s paternity. Some presumptions of paternity are listed above (when the mother was married, if 2 ROPs are signed for the same child, or if one or both of the parents are under 18).

Other presumptions of paternity happen when people are married, or try to get married, during pregnancy or after the child’s birth. If this applies to your situation, you should talk to a lawyer.

The current law in Minnesota says that a man who “receives the child into his home and openly holds out the child as his biological child” may be presumed by law to be the child’s father. But if the man is not married to the mother, he still needs a court order or ROP to be the legal father.

If you have a question about how presumptions of paternity might apply to your situation, you should talk to a lawyer. This can be a complicated area of law to understand.

What is a Declaration of Parentage?

Before the Recognition of Parentage form was created there was another form, called a Declaration of Parentage, which some parents signed for paternity purposes. This form could not be used after August 1, 1995. If you have older children, you may have signed a Declaration of Parentage and not a Recognition of Parentage.

If you signed a Declaration, you have a presumption of paternity, but you probably still need to go to court to finalize your paternity. This is especially true if you want to get custody or parenting time rights. A child support order could have been established with just a Declaration without a final court order on paternity.

Question From An Unmarried Father

I think that I am the father of a child, but paternity has not yet been decided for the child. I think I want to sign the ROP, but I would also like to have genetic tests done to make sure that I am the biological father. Do I have to wait until I’m brought to court to get genetic tests?

Answer: No. If you and the mother agree, you can schedule and pay for genetic testing yourself. If you do not have the money to pay for genetic tests, you can ask the child support office to help you. The child support office helps mothers and fathers establish paternity. They can usually help you set up genetic tests before the court process is started (unless the court process has already started). Call the county child support office to ask for this help. *See the Written Resources section at the end of this guide for the website and phone number.*

**OPTIONS WHEN
PATERNITY IS
NOT YET
ESTABLISHED**

If you ask the child support office for help in establishing paternity, they will also set up child support if the mother is getting public assistance. But, they must pursue child support in any case where the mother is receiving public assistance, even if you do not ask for help in getting genetic testing. For more information see the child support section of this guide on page 26.

You can always sign an ROP after you obtain genetic test results if the child’s paternity has not yet been established, but you cannot get the child support agency to help you get genetic tests done after you sign the ROP. The only exception to this is if you are within 60 days of signing the ROP, then you can revoke the ROP and ask for genetic tests.

You can ask for a copy of your Declaration of Parentage. You use the same form that you use to ask for a copy of your Recognition of Parentage. A copy of this form is at the back of this guide.

Canceling a Recognition of Parentage

The mother or father who signed the ROP can revoke (cancel) it within 60 days of signing it. The revocation must be in writing, notarized, and filed with the Minnesota Department of Health, Office of the State Registrar. A revocation form is available on the state office of child support's website or from any child support office. *See the Written Resources section at the end of this guide for the website and phone number.*

After 60 days, only a court can cancel the ROP. This is called "vacating." **Vacating an ROP after 60 days is hard to do. There are also time limits- so act quickly!** The person bringing the court action must ask the court to vacate the ROP. These are people that can start a court action:

- mother
- father
- child
- husband who signed a non-paternity statement or
- child support office.

The court action has to be based on a good legal reason. The legal reasons the court will accept are:

- someone lied in signing the document (fraud)
- duress, meaning you were forced to sign it, or
- material mistake of fact. This means you thought one thing and another thing is true.

This type of court action has time limits: the mother, father or husband must bring the action within 1 year of signing the ROP. Or within 6 months after getting genetic test results that show that the man named on the ROP is not the father. A child can bring an action within 6 months of getting genetic test results or before they turn 19, whichever is later. **You may need an attorney for this type of court action.**

The court forms you need to use and the legal standards that the court uses to make custody and parenting time decisions depend on whether you have a final, accepted ROP or a final Paternity Order.

Research has shown that fathers, no matter what their income or cultural background, can play a critical role in their children's education. When fathers are involved, their children learn more, perform better in school, and exhibit healthier behavior. Even when fathers do not share a home with their children, their active involvement can have a lasting and positive impact.



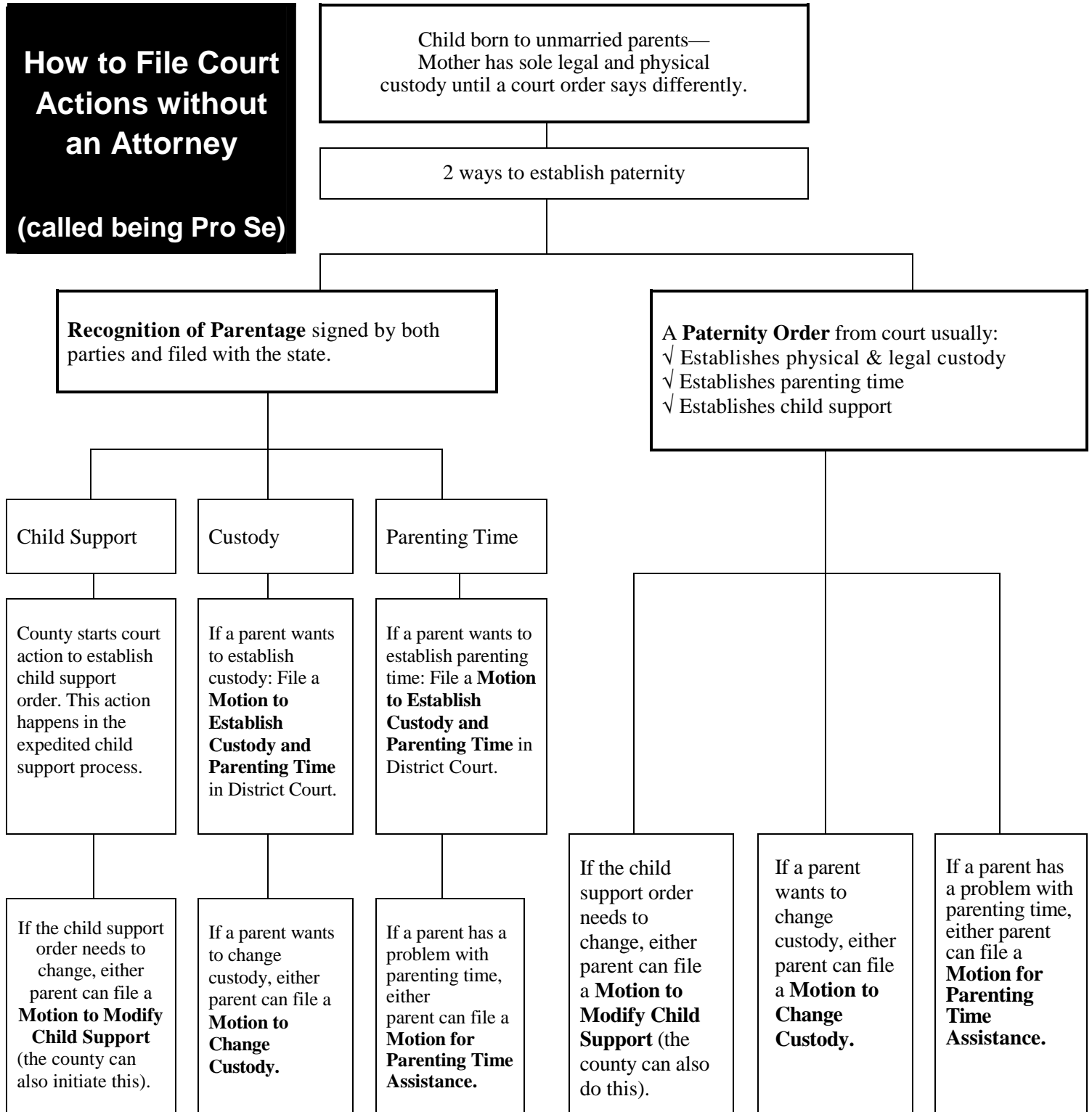
U.S. DOE

After Paternity is Decided: Understanding Family Court Actions In Minnesota For Unmarried Parents

Court forms are available on the State Court Website at www.mncourts.gov. Select “Forms” from the upper left side of the web page.

How to File Court Actions without an Attorney

(called being Pro Se)



Establishing Physical Custody: Who should the child live with?

The court looks at many different things the first time it decides custody. But the decision depends on the facts of each specific case. It is difficult to change a judge's decision about custody.

The court looks at the following 13 factors to decide what is in the best interests of the child. This is for the *very first time* the court decides custody. These factors are:

- 1) what each parent wants for custody;
- 2) what the child wants. This only counts if the child is old enough. Generally a child must be at least 10 years old before a court will ask about what they want. But the court will look at each child's situation and decide if the child is old enough or able to say what they want.
- 3) who is the child's primary caretaker;
- 4) the closeness of the relationship between each parent and the child;
- 5) the situation and relationship between the child and parents, siblings and other people who may play a big part in the child's life (like grandparents or parent's new partner);
- 6) the child's adjustment to home, school and community;
- 7) the amount of time the child has lived in a stable and good environment and the need to maintain what the child is used to;
- 8) the permanence of the proposed custodial home. For example, does the mother or father have a new boy or girl friend? If they live together, how long has it been? Is it likely to last?
- 9) the mental and physical health of everyone involved;
- 10) the ability and willingness of the parties to give the child love, affection and guidance, and to keep educating and raising the child in his/her culture or religion;
- 11) the child's cultural background;
- 12) if there is, or has been, domestic abuse by one parent against the other. How has that affected the child?
- 13) the willingness of each parent to support and allow the child to spend time with the other parent (unless there is, or has been, domestic abuse).

Custody Evaluations

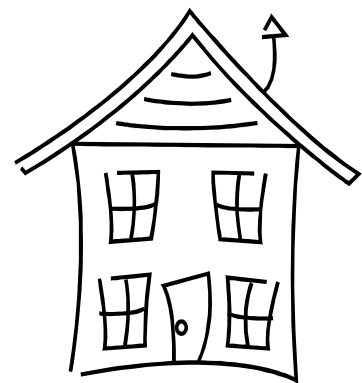
If parents do not agree about custody, the court may order an investigation. The investigator will report about what kind of custody and parenting time are in the child's best interests. These reports are usually called "custody evaluations." Judges rely heavily on "custody evaluations" in making their decisions.

Custody evaluations may be done by:

- court services, a department of the county that is assigned to complete these reports (typically in larger counties) or
- a guardian ad litem or
- a private custody evaluator.

You may have to pay for a custody evaluation. Custody evaluations usually take at least 4 months to do. They might do things like:

- interview both parents,
- make a home visit with each parent,
- observe the child with each parent,
- do a records check (criminal, child welfare, mental health, and school records of the child), or
- do a psychological evaluation or chemical dependency assessment, if needed.



After getting all the information, the evaluator makes a detailed report to the court. The evaluation will look at each of the 13 best interest factors listed. If a parent is asking for joint legal or joint physical custody, the evaluator will also look at 4 other joint custody factors. Judges take these evaluations very seriously because the evaluator has investigated and analyzed the case. If a parent does not agree with the custody evaluator's suggestions, the parent can usually ask for a trial. At the trial, the parent can have evidence and witnesses to show why they think the evaluator's suggestions should not be followed by the judge. But it can cost a lot of money and is generally hard to win custody with an evaluation that is not in your favor.

Once a court order deciding custody is final, any future court actions about custody have to be requests to change (or modify) custody. This includes a paternity order that sets custody. A request for a change in custody is harder to win than your first request for custody. See section on **Changing Physical Custody**.

Changing Physical Custody

Once the court makes the very first custody decision, it is generally very hard to change it later unless there is harm to the child or the parents agree.

To change custody, the court can only look at facts that have happened since the very first custody order was made. They can also look at facts that were not known to the court at the time of the first court order. The change of custody must be in the best interests of the child.

IMPORTANT—There are time limits on asking to change custody. The court can only consider a motion to modify custody if at least 1 year has passed since custody was first set by a court order. If you asked for a change already and had a decision from the court, then you have to wait 2 years. In emergency situations, these time limits can be waived.

If the time limits have passed, and there is a change in facts since the last order, **the court can change custody only if:**

- (1) **Agreement:** Both parents agree to the change of custody; or,
- (2) **Integration:** The custodial parent has let the child become part of the other parent's home; or,
- (3) **Harm:** There has been a big change in the child's situation, and the child's present custody harms or puts the child in danger, physically or emotionally. The benefits of changing custody have to be greater than the harm likely to be caused by a change in environment; or,



- (4) **Custodial Parent Moves Out of State, Even Though The Court Said They Could Not Move:** If the court said the primary custodial parent could not move out of state with the child, but they did anyway. See page 23.

It's not hard to BECOME a father, but it is hard to BE a father. Having a child doesn't make you a man—but taking responsibility as the father of your child will.



*Lee Fisher,
Center for Families & Children*

- (5) **Parenting Time Interference:** In some cases, denial or serious interference with parenting time may be good cause to change custody. This means that the custodial parent is not letting the other parent see the child, or is making it very hard for that parent to spend time with the child. Using this to try to change custody is often a last resort. It would be used only after trying other ways to get the custodial parent to follow a parenting time order have not worked.

Just because you file the motion to change custody does not mean that the court will okay it. It is not enough to say that you are “the better parent” in a motion to change custody.

Two-stage hearing process

There is a 2-stage process for changing custody. In the first hearing, the court will decide if what you have told them is enough for the court to change custody. “What you have told” the court means what you put down in your written affidavit of your motion to change custody. In the affidavit it is very important to tell the court everything you want them to think about in looking at your request to change custody. **Make sure you put everything in your affidavit or in supporting affidavits from witnesses. The court does not have to consider anything that you say at the hearing that is not in the affidavit.** If the court decides that your affidavit gives good reason to ask for a change in custody, there will be a second hearing. In the second hearing, you have to prove the facts that you wrote about in your affidavit. The court may order a custody evaluation to get updated information between the first and second hearing.

What if I want joint physical custody?

Joint physical custody is where the daily care, control and home of the child are shared between the parents. If no custody order has ever been decided, then the very first request for joint physical custody is decided under the **best interests of the child** standard (see page 14). In addition to the “best interests factors,” the court looks at some other factors when a parent asks for joint physical custody:

- If the parents can work together in raising their children; and,
- The ways for settling arguments with any major decision with the life of the child, and whether the parents are willing to use those ways; and,
- If it would be harmful to the child if one parent were to have all the control over the child’s life; and,
- If domestic abuse has happened between the parents.

Father-child interaction has been shown to promote a child’s physical well-being, perceptual abilities and competency for relatedness with others, even at a young age.



*Krampe and Fairweather
Journal of Family Issues*

When parents cannot agree about joint physical custody, the court will not usually order it. They will only order it in special situations. An important factor in getting the court to order joint physical custody is if the parents are able to show that they can work together. Another concern is whether the parents can easily move the child back and forth between their homes. The court looks at things like how close the parents live to one another, if they both have a car or another way to get the child around, and where the child’s school or day care is located. Courts will look at how the parents have worked together on things in the past.

If the court finds there has been domestic abuse between the parents, then the court assumes that joint physical custody is not in the best interests of the child. The parent asking for joint physical custody must prove otherwise.

Joint physical custody is **NOT easily granted** in a custody case where the parents do not agree to it.

What things may make it more possible for me to be given joint physical custody?

- You and the child's mother have already been sharing physical custody, but you have never had a court order giving you both joint physical custody;
- You and child's mother can get along well when it comes to planning and/or making decisions for your child;
- You had the child in your home for long periods of time (for example, the child's mother left the child with you while she moved out of state and then returned a year later) or you took care of the child as much as the mother did;
- You can show in other ways that it is in the best interests of your child to have joint physical custody.

Remember, you and the mother can *agree* to joint physical custody.



What happens to child support if I am granted joint physical custody?

You may still have to pay child support if you are given joint physical custody. See the section on child support, page 26.

What happens if I was given parenting time by the court but now I want joint physical custody?

Most orders that give parenting time also set physical custody. If custody has already been decided by a court order, but now you want to ask for joint physical custody, you must make a **Motion to Change Custody** of the child. For the motion to be heard by the court:

- 1) you must meet the time lines (see section on **Changing Physical Custody**),
- 2) you must be able to give facts that show good reason to change custody, and,
- 3) These facts must be ones in the list of what the court can look at. See the section on **Changing Physical Custody**.

Just because you file the motion does not mean the court will make the change. If the child's mother does not agree to joint physical custody, and the child's mother has not let your child start living with you, then a change of custody can only be done by proving that the child is "endangered" by living in the mother's home. The danger can be physical or emotional. In general, if there is a case of endangerment in the current custodial parent's home, then joint physical custody would not be right anyway. In other words, you are likely to be granted **joint** physical custody after custody has been decided in only one situation: where the mother agrees.

What is "legal custody"?

Parents are often confused by the term "legal custody." It is important to understand exactly what this term means. Legal custody is sometimes called "decision making custody." It gives you the right to decide the child's upbringing, like choosing schools, making major medical decisions, and choosing religious training. The courts often give joint legal custody, which means that you and the other parent have the same rights to make the major decisions in your child's life. Legal custody is different from the courts deciding who the child should live with (physical custody) and what time the noncustodial parent spends with the child (parenting time).

If either party asks for joint legal custody, then the court will usually give joint legal custody to both parents. This is because the court thinks that joint legal custody is the best for the child. But, the court will not order joint legal custody if either parent can prove that it is not in the best interests of the child. Also, the court usually will not order joint legal custody if there has been domestic abuse between the parents.

If the parents do not agree on sharing joint legal custody, the court must consider 4 factors to decide if joint legal custody should be ordered. These are in addition to the 13 “best interests factors” listed on page 14. These factors are:

- If the parents can work together in raising their children and,
- The ways for settling arguments with any major decision with the life of the child, and whether the parents are willing to use those ways and,
- If it would be harmful to the child if one parent were to have all the control over the child’s life and,
- If domestic abuse has happened between the parents.

If I thought I got legal custody when I signed the Recognition of Parentage (ROP)?

No. Signing the ROP does not give you any legal rights to your child – including legal custody – but it is the starting point for you to go to court to ask for legal rights. In order for you to get joint legal custody, you must file a **Motion to Establish Custody and Parenting Time.**

If I don’t have legal custody, can I still know what is going on with my child?

Yes. Even if one parent has sole legal custody, both parents have the right to be told about the child’s schooling, health care and so on. Both parents can go to school conferences, have access to the child’s medical records, and have reasonable phone contact with the child. These rights are contained in a court notice called **APPENDIX A.** APPENDIX A is supposed to be attached to all family court orders, including child support orders. A copy of APPENDIX A is in the back of this guide (page 45). This notice tells you of many rights, not just your rights to get information about your child. Every parent should read this notice carefully.

The only time the rights in APPENDIX A are not true is if the court restricts these rights in your court order.

What is “parenting time” and how is it decided?

Parenting time used to be called “visitation.” It is the time a parent spends with a child. It does not matter who is named as the custodial parent, but most people use the term parenting time to talk about the time the noncustodial parent spends with the child. The court decides parenting time according to the best interests of the child. The court cannot take away parenting time or stop you from having parenting time because you cannot pay child support.

Generally the court wants the noncustodial parent to have parenting time with the child, unless there are reasons it is a bad idea, like abuse or harm. In setting up parenting time, the court will look at things like:

- The age of the child and,
- What kind of relationship the child has had with the noncustodial parent. For example, how often has the noncustodial parent seen the child? Has the noncustodial parent’s time with the child usually included overnights?

Because the court wants to know about your past relationship with the child, it is a good idea to write things down, like the time you spend with your child. You can write it on a monthly calendar. Keep track of the dates and time that you spend with your child. Give this information to the court when you make your request for parenting time. This information can help the court when it is deciding how much parenting time to give you.

What else will the court look at when deciding parenting time?



On **January 1, 2007**, a new law started that says “in the absence of other evidence, there is a rebuttable presumption that a parent is entitled to receive **at least 25 percent** of the parenting time for the child.”

This means that the court will try to make sure that the child spends at least 25 percent of the time with each parent. The court figures out how much 25 percent is by counting the number of overnights. For example, 25 percent of the overnights in one month (4 weeks) would be 7 overnights. The court can use a different method for determining 25 percent if the parent spends a lot of time on separate days with the child but no overnights. So the 25 percent parenting time might be 7 full weekend days but no overnights. The court may also consider the age of the child. For very young children, it may not be a good idea for the noncustodial parent to have overnights right away. So the court can consider the age of the child and order some other way to get the 25 percent parenting time.

Also **new** is a **6-month review hearing option** after the court first decides custody or parenting time. See page 29 for more information.

The court will also look at:

- **Order for Protection.** If there is an Order for Protection because of domestic abuse between the mother and father or an Order preventing the father’s contact with the child, the court has to take this into account when making a decision about parenting time.
- **Serious criminal convictions.** If you have been convicted of a serious crime, you may have to prove that you should have time with your child. The serious crimes that count in this category are:
 - murder or manslaughter
 - assault in the first, second or third degree
 - kidnapping
 - deprivation of custodial or parental rights
 - prostitution charges involving a minor
 - criminal sexual conduct in the first, second or third degree
 - incest or solicitation of a child to engage in sexual conduct
 - malicious punishment or neglect of child
 - terroristic threats or felony harassment or stalking.

When both boys and girls are reared with engaged fathers they demonstrate a greater ability to take initiative and evidence self-control.



Kyle Pruett

You will have to prove that you should get time with your child if the conviction was in the last 5 years, or if you are still incarcerated, on probation, or under supervised release for the offense. You will also have to prove that you should get time with your child if the victim of your crime was a household or family member. You have to convince the court that you should have parenting time or custody rights by showing that it is in the child’s best interest to spend time with you.

If you think this section may apply to you, you may want to seek advice from a lawyer before taking any court action.

- **Guidelines on Ordering Parenting Time.** The court has “A Parental Guide to Making Child-Focused Parenting Time Decisions.” This is a document that helps judges make parenting time decisions. It takes into account the child’s age and development. For example, the Guidelines suggest shorter but more visits between a noncustodial parent and an infant. But longer visits and maybe overnights for a teenager. You can get a copy of the guide by calling the Court Services Division of the Minnesota State Court Administration at (651) 297-7587.

It is also available online at:

www.mncourts.gov/documents/0/Public/Court_Information_Office/PARENTING_TIME_PAMPHLET.pdf

- **Other issues that affect the child’s best interests.** A child who has severe medical problems or other special needs, like autism, may need a different schedule of parenting time. A parent’s parenting time may be figured out differently to fit with that child’s physical or emotional development.

How to Get Court-Ordered Parenting Time

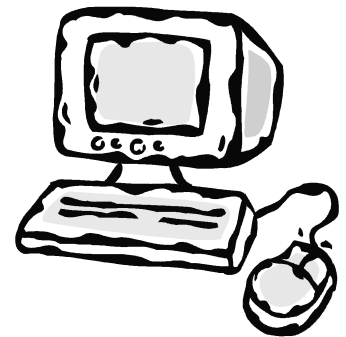
If you are pro se (without an attorney) the exact type of paperwork you need to file with the court to set parenting time depends on whether you signed a Recognition of Parentage or have a Paternity Order from court. Please note that some courts have their own forms or procedures that may be different from what is stated here or on the state court website. Check with the court where you are filing the form.

If you signed a Recognition of Parentage (ROP), and you do not have an attorney, you can ask the court for parenting time by filing a **Motion to Establish Custody and Parenting Time.** This form is available online or from any district court administrator. See the **resource** section at the end of this guide. You may need the original copy of your ROP (a yellow or green copy) or a certified copy of your ROP before you can file this court action.

How do I get a copy of my ROP?

To get a certified copy of your ROP, you must fill out a form asking for it with \$9 in a check or money order to the Minnesota Department of Health. You can find the form to ask for an ROP at the end of this guide (page 44), or online at: www.health.state.mn.us/divs/chs/osr/ropform.pdf

The Minnesota Department of Health address is on the form. It may take several weeks to get the certified copy of your ROP in the mail.



If you have a Paternity Order, the Order should tell you what your parenting time rights are. Sometimes a Paternity Order says “reasonable parenting time.” This means that the times you get to see your child are not set. You and the mother are supposed to make your own plans for your parenting time. If you disagree, the parent who has physical custody of the child makes the final decision. The only way to change this is to go to court.

To change your order from “reasonable” to a set schedule of time, you can ask the court to change your parenting time rights by filing a **Motion for Parenting Time Assistance.** You can also use this form if you

were not given any rights in the Paternity Order. You can get the form online or from any district court administrator. See the **resource** section at the end of this guide. You may need a certified copy of your paternity order before you can file paperwork in court.

How do I get a copy of my paternity order?

To get a certified copy of your paternity order, you need to go to the Family Court Division at District Court. Ask for Family Court Records for the county where the Paternity Order was done. If you live outside the metro area in a smaller county, there might not be a family court division within District Court. If this is the case, ask at District Court for a copy of your order. Because paternity cases are private files and not open to the public, you need to have a photo I.D. to see the file. Most counties charge around \$10 for a certified copy of the order.

What will the court decide if I bring an action for parenting time?

Even if you ask the court to just give you parenting time and are not asking the court to decide legal or physical custody, the court will usually decide those things anyway. This is because once the court gets involved, it must decide the other parental rights of custody along with parenting time.

What if I want to change my parenting time?

Parenting time is easier to change than custody. With parenting time, the court looks at the best interests of the child. A court will look to see if the situation of the child has changed since the most recent court order and if a new court order is needed for the child's best interest. You will have to state good reasons based on changes in the life of the child and parents since the last court order in order to get the court to change your parenting time. Or, parents can agree to change parenting time.

What if I am not getting my parenting time?

If you have a court order giving you a parenting time schedule that the custodial parent is not following, you can ask the court to help you fix your parenting time problem. If you do this without an attorney, you need to file a **Motion for Parenting Time Assistance**. You need to be able to tell the court the dates, times, and ways that the custodial parent has denied or caused you a problem with your parenting time.

You can ask the court for extra time with your child to make up for the time that you did not get. This is called "compensatory parenting time." You can ask the court to fine the other party. The money from a fine goes to the county, not you. The court has other ways to help you. They are listed in the **Motion for Parenting Time Assistance**.

If the problems you have with your parenting rights are serious, the court can hold the custodial parent in contempt of court. In some cases, the problems may be bad enough that a court gives physical custody to the non-custodial parent.

Can the court restrict my parenting time?

If the court finds that parenting time is likely to harm the child physically or emotionally, then the court can restrict parenting time or not give any time to you at all. The court is not supposed to restrict parenting time



IMPORTANT: If there is not already a child support order, the court may set a child support order when you go to court and ask for parenting time. If you are filing a court action without an attorney, it is important that you file with the court and serve on the other party all of the required forms for your court action, including the Financial Affidavit and supporting documentation described on page 28.

rights until there is a hearing on whether the restrictions are necessary. If there is an emergency or an Order for Protection, then there does not have to be a hearing before the restrictions are put in place. But there should be a hearing later, if you ask for it.

Restrictions on parenting time can be things like ordering that another adult be present during the visit, ordering that the supervised parenting time is at an agency, or ordering that the parent remain sober during the visits. It is important to follow these rules, even if you do not agree with them or like them. Often when the court orders things like this, it is doing it only until it has more information about what is needed long-term for the best interests of the child. Sometimes the rules remain in place until a new court order is made. Other times the rules might end when the temporary order containing the restrictions ends. It is the responsibility of the parent with the restrictions to follow the order and/or get a new order without restrictions if the situation changes.

The court is the only place that can establish and enforce your rights as a father.



For more information about supervised parenting time at a parenting time facility, refer to the Written Resources section at the end of this booklet.

Do I have to go to court?

No. Parents can always agree on how the child should spend time with the parents. If you make an agreement with the other parent, make sure that you do these things:

- **Write it down!** Make sure you put down the details of the agreement. Things like the dates and times of parenting time. For example, the noncustodial parent will have time with the child every other Friday from 6 pm to Sunday at 5 pm. Decide who is responsible for transportation and where the exchanges will take place. Both parents may want to sign and notarize this agreement. **This agreement is not binding by the court or law enforcement, but is evidence that you did have an agreement if you need to go to court later. This agreement will not protect you the same way that a court-ordered parenting time order will protect you.**
- **Keep written records** of the time you spend with your child. A good way to do this is to write down on a calendar all the days and nights you spend with your child.
- **Keep a written list of phone calls** made to the other parent about your agreements.
- **Remember**, even if you and the mother agree now, you may not agree in the future. If you do not have court-ordered rights in place, no one HAS to give you notice of certain decisions involving your child. Even if you get notice, you might not have a say in those decisions.



There are certain things you do NOT want to do:

- **Do not make an agreement** if there is an order from court telling you to stay away from the other parent and/or child. This order may be called an Order for Protection, Harassment Restraining Order, or may be an order from Criminal Court or an order from Juvenile Court.
- **Do not stop paying child support** because you cannot see your child. You are still legally responsible for financially supporting your child even if you are prevented from spending time with your child.
- **Do not threaten** the other parent into letting you see your child.

I've heard about mediation. How does this work?

Mediation is a way to make an agreement with outside help. Mediators do not take sides. They are trained in working with parents on disputes, and they can help you and the other parent reach an agreement, which you may want to take to court. To find a list of mediators, contact your local court, legal aid or legal services agency, or a social service agency. Remember, mediators can help you come to an agreement, but that agreement is not legal until it is made into a court order.

What are "Parenting Plans"?

Minnesota has something called a "Parenting Plan" for parents who are divorced or never married. At the very least, parenting plans must have:

- a schedule of the time that each parent spends with the child
- rules about who will make what decisions about the child and
- a way to solve disputes.



Parents can use terms other than physical and legal custody in setting out their roles and responsibilities in a parenting plan. The terms used must be defined in the parenting plan. It is important to remember that even though you may use other terms, the plan has to set legal and physical custody so that the plan can be enforced.

Parents who agree to make a parenting plan of their own free will can put other things besides custody and parenting time in the plan. Like how to decide when and if the child can be in extra-curricular activities and who would pay for those activities. Parenting plans often have more details than a typical court order about how parents are going to care for their children together. For more information, see Minnesota Statutes section 518.1705 and the Written Resources Section at the end of this booklet.

What if these options don't work?

If you are having problems with being able to see your child, you could write letters to the child's mother about your efforts and your wishes to see the child. **Do not do this if there is an Order for Protection or No Contact Order in place telling you not to contact the mother.** If you send letters, keep copies. Sometimes people send letters like this by certified mail with return receipt to prove they were sent. Parents who are not getting along sometimes find it easier to use letters or third parties to set up parenting time for the child and other parent.

If you do not have any luck with the above options, you probably need to go to court so that you can see your child. **The court is the only place that can establish and enforce your rights as a father.**

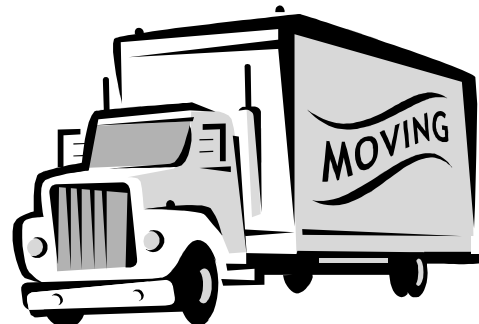
Moving the Children out of Minnesota

If the parent with physical custody of the children wants to move out of the State of Minnesota with the children and the other parent has court ordered parenting time rights, the custodial parent must get the other parent's permission to move with the children, or get permission from the court. If you don't have court ordered parenting time rights, the custodial parent does not have to get your permission or the court's permission to move with the children.

If this issue goes to court, the judge must decide whether to let the custodial parent move with the children.

Major changes were made in the law that the judge must now use in making this decision. Those changes became effective August 1, 2006. Now, if the issue goes to court, the judge must consider 8 factors in deciding whether to allow the move:

- (1) the child's relationship with each parent, siblings and other important people in the child's life;
- (2) the age and needs of the child, and how the move might affect the child;
- (3) how possible it would be to continue the relationship with the noncustodial parent, considering the logistics and financial situation of the parents;
- (4) the child's preference, taking into consideration the age and maturity of a child;
- (5) if there is a pattern of conduct of the custodial parent either encouraging or discouraging the child's relationship with the noncustodial parent;
- (6) if the move will make the custodial parent and child's life better, including financial or emotional benefit or educational opportunity;
- (7) why each parent wants or doesn't want the move;
- (8) the effect on the safety and well-being of the child, or of the parent who wants to move, if there has been domestic abuse between the parents



The custodial parent who wants to move with the children has the burden of proof to show it is in the child's best interest to move. But if the parent requesting permission to move has been a victim of domestic abuse by the other parent, the burden of proof is on the parent opposing the move.

The judge has to consider all 8 factors in making the decision. The judge is not limited to just these 8 factors. If the purpose of the move is to interfere with parenting time given to the other parent, the judge must not allow the move.

How is the child's name decided?

At birth: If the parents are not married, the mother decides the child's name.

If you have a Recognition of Parentage - If the parents are signing a Recognition of Parentage form, they can change the child's last name on the Recognition of Parentage form if they agree. If they do not agree, the child's name stays as it was before. It would take a court action to change the child's last name. See Court Actions below.

If you have a Paternity Order - If the father is named as the legal father by a court order as part of the paternity process, he can ask that the child's name be changed. He needs to do this while the paternity proceeding is going on in court. The court will decide whether or not to accept the change by using the factors described below under "Best Interests Test."

Court Actions: There are 2 ways applications for name change for minor children usually go to court:

- (1) as part of paternity proceeding, a parent might ask for the minor child's name to be changed;
- (2) as part of a separate proceeding, a parent may ask the court to change the child's name.

The 5 factors the court looks at in deciding whether to change the child's name are the same in both cases.

Application to Court for Name Change of a Minor.

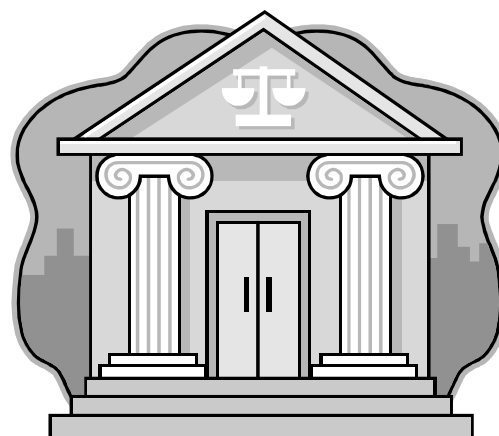
Court cases to change the name of a minor child are under Minnesota Statutes section 259.10 to 259.13, which generally governs all name changes. This law states that:

- a person, including a minor child, must have lived in the State of Minnesota for at least 6 months before the application for the name change
- the application must be made in good faith, without intent to defraud or mislead
- both parents have to know about the application to change a minor's name. If you do not know where the other parent is, you will have to prove that you tried to find them or show good reason not to.

There are state court forms that you can get to apply for a name change of a minor child. You can find them online at www.mncourts.gov. Click on "Forms," then "Name Change," then "Minor Forms." The instructions say that you have to show proof that both parents have been notified of the Application for Name Change. The instructions describe the process and proof that you need to show that the other parent has been notified, like a certified letter to the other parent if the address is known. There is a filing fee for an application to change a minor child's name.

Best Interests Test—5 factors.

If the other parent does not want the child's name to be changed, the court will make sure that the notification and other procedures were done right. The court will usually okay the name change unless they decide that it is not in the best interests of the child. However, the Minnesota Supreme Court has stated that changing a child's last name when one parent does not agree should be considered with "great caution" and only where "the evidence is clear and compelling that the substantial welfare of the child necessitates such a change." The best interests of the child is really the biggest factor in changing a child's last name.



The Minnesota Supreme Court has set up factors that the court can use to decide if changing a child's last name is in the child's best interests. But, the court is not limited to these factors. The 5 factors are:

- (1) What the child wants for his or her name;
- (2) If changing the name would affect the child's relationship with each parent;
- (3) The length of time the child has had the name;
- (4) The degree of community respect associated with the present and the proposed name;
- (5) The difficulties, harassment or embarrassment that the child may go through from the present or proposed name.

Always consult with an attorney for updated legal information.

New Child Support Laws in Minnesota

Child support laws in Minnesota have changed!

New

This information is meant to give you general information about parts of the new child support law. For more detailed information or to know how the new law applies in your case, talk to a lawyer or your county child support office.

An updated booklet on child support from the Minnesota Department of Human Services, Child Support Enforcement Division, has helpful information about child support and the new changes to the law. This booklet, called "*Understanding Child Support*," is available online at: <http://edocs.dhs.state.mn.us/lfsrserver/Legacy/DHS-3393-ENG> . You can also go to the Minnesota Department of Human Services website, www.dhs.state.mn.us. Look under Topics A-Z, pick "Child Support," then "Brochures." Find the title in the list of documents. Also, some child support offices hold general informational sessions that are open to the public. They include information about the new child support laws. Contact your local child support agency for more information.

Child Support Guidelines Calculator: How to figure out what you may pay in child support.

As part of the new child support law, the Minnesota Department of Human Services, Child Support Enforcement Division, came up with an online calculator. Parents can enter financial information and get an estimate of what their child support order might be. The calculator is at:

<http://childsupportcalculator.dhs.state.mn.us>



The website with the calculator asks you for information about jobs and benefits and costs for things like child care and doctor bills. It also has forms, worksheets, and instructions.

Remember: The calculator only gives you an estimate. It is not a guarantee of what the court will order. The court has the final decision about what amount of child support to order.

When you use the web-based calculator, keep the following in mind:

- The calculator does not save your work. Get all the information you need together before you sit down to use it. You have to print out your work after putting the information in or you will lose it.
- The estimate made by the web-based calculator is only as good as the information you put in. If you are just guessing, then the estimate of the child support amount will not be as good as when the court gets the exact information.

Children need financial support from both parents. The parent who the child lives with (the parent with physical custody) supports the child by providing a home, paying bills like lights and heat, providing transportation, clothing and school supplies, and other things. The term "child support" usually refers to the money that the other parent pays to help support the costs of the child. Child support is determined by a court order.


A child support order usually includes 3 types of support:

- basic child support (to help pay for regular expenses of the child),
- medical support, and
- child care support.

The court has to look at all 3 types of support and what may be needed. But the court will look at each situation and may “reserve,” instead of order, any or all of the 3 types depending on the situation of each case. “Reserving” part or all of a child support order means that the parent does not have to pay now for the support that is reserved, but the issue can be brought up in the future. Some examples of when child support may be reserved include: if the parent who would owe child support is getting public assistance for other children, or is completely disabled and unable to earn an income. An order for child support may also have an order or judgment for past, unpaid child support amounts, called “arrearages.”

Some highlights of the new law:

- **Income Shares – Income of Both Parents Used to Determine Child Support.** Under the old child support law, the basic child support calculation was determined only by looking at the noncustodial parent's income, unless the parents shared joint physical custody. Under the new law, the income of both parents is used to determine child support.
- **Gross Income.** Child support used to be figured out using “net income” (your take home pay). Now they use “gross income” (the amount before taxes are taken out). But, when calculating gross income for the purposes of determining child support, some things get added in and some things get subtracted. Gross income for setting child support is not the same as gross income for tax purposes – there are different rules that apply. You must look at the law to see how “gross income” for child support is determined. For more information, see the *Understanding Child Support* booklet referred to above.
- **Parenting Expense Adjustment.** This adjustment is a deduction that the parent without primary physical custody gets to subtract from the basic support they pay if they have court ordered parenting time between 10 and 45 percent. It gets figured into the child support amount in the court order.

	Obligor: The person who has to pay child support.
	Obligee: The person who gets child support.

Under the old child support law, the amount of child support was affected by the amount of parenting time the noncustodial parent had with the child **only if** the parents had joint physical custody.

Under the new law, the custody label does not matter for the purposes of child support.

- If a noncustodial parent has court ordered parenting time between 10 percent and 45 percent, they will get a 12 percent parenting expense adjustment (deduction) off the basic child support calculation. The parenting time must be stated in a court order to get the adjustment.
- If a noncustodial parent has between 45.1 percent and 50 percent parenting time, then parenting time is seen as equal for the purposes of child support and a different formula is used.
- If there is no court ordered parenting time, then no parenting expense adjustment will be included in the basic support calculation, unless the court orders parenting time in the same hearing. For example, if the parents signed a Recognition of Parentage (ROP), and there has not been an order for custody or parenting time issued, and the county brings the case to court to establish child support, no parenting expense adjustment will be included in the basic support obligation.

Again, it is the amount of parenting time that is stated in the court order that controls the parenting expense adjustment—not the label of custody!


- **Nonjoint Child Deduction.** Under the new law, parents who have nonjoint children living within their home receive a deduction when determining gross income for the purposes of child support. A nonjoint child is the legal child of one of the parents for whom child support is being determined, but not both parents. For this definition, a legal child is a child for whom the parent has a *legal* responsibility to support *and* is living primarily in the parent's home who is claiming the nonjoint child deduction.

(Parents who have child support orders for other children do not qualify for the nonjoint child deduction because these children are not living in their home. Also, they already receive a deduction in the gross income calculation for the child support orders they have for other children.)

- An example of a child that would qualify a parent for a nonjoint child deduction is if a mother is divorced and has the child from that marriage living with her, and the court is now deciding child support for a new child that the mother has with a different man. In this case, she would get a deduction for one nonjoint child for the child that lives in her home from her previous relationship.
- Children not included are: a stepchild, or a child of a significant other living with the parent for whom child support is being decided, or a child for whom the parent's rights have been terminated.
- The deduction is for up to, but no more than, 2 nonjoint children. So, for example, if a father is divorced and has four children from that marriage living with him, he can only get a deduction as if he had two nonjoint children.

- **Minimum Orders and Self Support Reserve.**

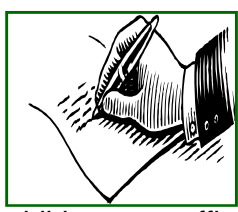
The new child support law includes a "self support reserve" for the parent who owes child support (the obligor). The self support reserve is an amount of money set aside so that the obligor has some money to pay for his basic living expenses. This reserve amount is set by law at 120 percent of federal poverty guidelines for one person. If the obligor's gross income is greater than 120 percent of the federal poverty guidelines, but not enough to pay all the child support he is calculated to pay, then the court reduces support until the support order is equal to the obligor's income available for support (leaving the obligor at 120 percent of federal poverty guidelines for his own expenses). If the obligor's gross income is less than 120 percent of federal poverty guidelines for one person, the court must order a minimum basic support order (but not medical or child care support). The minimum basic support order for 1 or 2 children (of the same parents) is \$50 a month, for 3 or 4 children (of the same parents) is \$75 a month, and for 5 or more children (of the same parents) is \$100 a month. If the court determines that a person has no income and completely lacks the ability to earn income, then the minimum support does not apply and child support may not be ordered. Also, minimum support orders do not apply to an obligor who is incarcerated, unless he has income and assets to pay support.



The minimum orders are set by law:
\$50 per month for 1 or 2 children*
\$75 per month for 3 or 4 children*
or
\$100 per month for 5 or more children*.
*(*with the same mother)*

- **Financial Affidavit.** Under the new law, parents must serve all parties with, and file with the court, a financial affidavit that discloses all sources of gross income for purposes of child support. The financial affidavit must be served and filed with the initial court papers in which child support could or will be determined. For parents who were never married, the first court papers filed that need the financial affidavit could be a custody summons and petition or a notice of motion and motion to establish custody and parenting time. Or, if custody is not part of the court action, the first court papers that need a financial affidavit could be a notice of motion and motion to establish child support or response to such a motion. The financial affidavit must include relevant supporting documents, such as three months of pay stubs. Minnesota law and the financial affidavit form tell you what to include with your financial affidavit.

The financial affidavit form is a specific form that is prepared by the Minnesota Department of Human Services and can be found at:
<http://edocs.dhs.state.mn.us/lserver/Legacy/DHS-4912-ENG>



(or go to the Minnesota Department of Human Services website, www.dhs.state.mn.us, under "Topics A-Z," "Child Support," "Forms". If the financial affidavit is not served on the other parent or parties (including the child support office if they are involved with the case) and filed with the court at the start of the court case, the court may disregard your information and base the child support order on other evidence before the court, or base an order on what an obligor could potentially earn.



Q: What do they mean by “party” in a child support case?

A: A “party” in a court case is generally someone who is part of the court case and whose rights may be affected by the outcome of the case. In child support cases, the parents are usually the “parties.” Many times the child support office is also a party to the case. The child support office is a party to the case if public assistance money (MFIP, Medical Assistance, etc.) is being spent on the child or was spent in the past on the child. The child support office is also a party if a parent has applied to the child support office for help. Other people could also be a party in a child support case, like a grandparent who has custody and wants child support from the parents.

Q: Why does it matter who is a party to the case?

A: Parties to the case must get notice of court hearings and must get served with copies of all court papers. If the child support office is a party to the case, they must get notice of the hearing and be properly served with the court papers for the hearing. Sometimes, a parent forgets to let the child support office know when that parent schedules a hearing or doesn't serve the child support office (when they are a party to the case) with the court papers asking for their child support order to change. If all parties are not notified or served properly for the hearing, the court could dismiss the request you are making to have the child support order changed. Then, you will have to start all over from the beginning and re-file and re-serve your papers and get a new hearing date. Failing to serve all the parties with the financial affidavit could also have other negative results, such as the court disregarding your information in deciding a child support order and using other information provided to it about your financial situation (see also section on financial affidavit).

- **6-month Review Option.** The new law allows for a 6-month review option. Either parent can ask for a 6-month review on child support and/or parenting time. They can ask for the review after a divorce, legal separation, or court order that first decides child custody, parenting time, or child support rights and obligations of parents. This form to ask for a review is attached to your order that decided the rights or obligations. If a parent asks for the 6-month review hearing, the court must review:
 - (1) if child support is current; and
 - (2) if both parents are following the parenting time rules of the order. This is not a hearing to change child support or parenting time, but a hearing to look at how the order is being followed.
- **Medical and Child Care Support.** There were many changes made in the new child support law that have to do with medical and child care support. Many of these changes are for low-income obligors when public assistance money is being spent for the child (such as Medical Assistance, MinnesotaCare, or a child care subsidy). The *Understanding Child Support* booklet explains these changes in detail.

Using the new law:

- **For New Child Support Orders:** The new child support law went into effect January 1, 2007. Cases to begin new child support orders that were filed in court after January 1, 2007 will be decided under the new law. Parties to a case can agree to apply the new law in other cases, such as case that was filed before January 1, 2007 but is being decided after January 1. (Normally, such a case would fall under the old law.)

- **For Existing Child Support Orders:** Generally, child support orders that existed prior to January 1, 2007, will not change until there is a new court order. To get a new court order, a parent or party must file a motion and have a legal basis that qualifies for a new court order. See next paragraph, *Modifying or Changing an Existing Child Support Order*.

However, if you have an order to pay child care costs, payment of those costs can be suspended without going to court if the county gets verification that the child care costs have stopped. The child care costs can also be restarted without going to court.

Modifying or Changing an Existing Child Support Order

The fact that there is a new child support law is not a reason to change a child support order decided under the old law. A parent must have a legal basis to change an existing child support order.

In 2008 and after, a parent has a legal basis to change an existing child support order if there are changes that make the order they have now unfair. Like any of these things:

- (1) A big increase or decrease in the income of either parent;
- (2) A big change in need (increase or decrease) of either parent or the child;
- (3) Getting public assistance;
- (4) A change in the cost of living for either parent (this is measured by the Federal Bureau of Labor Statistics);
- (5) Extraordinary medical expenses of the child that were not covered in the medical support order;
- (6) A change in availability of health coverage or a big increase or decrease in the costs of health care coverage;
- (7) New work-related or education-related child care expenses of the obligee. Or a big increase or decrease in current work-related or education-related child care expenses;
- (8) Emancipation of the child as defined in child support law.



There are some situations when the court assumes there is a big change in circumstances and that a child support order is unreasonable and unfair. For more information, see the *Understanding Child Support* booklet.

Because the child support system is going through major changes, there are limited legal reasons to change a child support order in 2007. Those reasons are:

- (1) There is at least a 20 percent change in the gross income of the obligor; or
- (2) There is a change in the number of joint children for whom the obligor is legally responsible and actually supporting; or
- (3) A parent or another caregiver of the child who is supported by the existing support order begins to receive public assistance; or
- (4) There are additional work-related or education-related child care costs of the obligee or a big increase or decrease in existing work-related or education-related child care expenses; or
- (5) There is a change in the availability of health care coverage, or a substantial increase or decrease in the cost of existing health care coverage; or
- (6) The child supported by the existing child support order becomes disabled; or
- (7) Both parents consent to modification of the existing order under the new law.

If you are changing a child support order for child care or medical support in 2007, the change applies only to that part of the order you are changing. So, in 2007, the court is not going to change your basic child support obligation using the new law if the only thing that needs to be changed is child care or medical support, but the court will consider a change to the child care or medical support part of your order.

Understanding the Child Support System

Sometimes the parent with custody gets financial help from the government, called “public assistance,” to pay some of the costs for the child. Public Assistance in Minnesota are things like MFIP (Minnesota Family Investment Program), child care assistance (day care subsidy), Medical Assistance, MinnesotaCare, and IV-E foster care.

The child support agency has to get a child support order when there is public assistance.

If a parent with physical custody of a child gets some type of public assistance, that parent must work with the child support agency to help establish paternity for the child and set a child support order. This is true unless they receive a waiver because of a situation of family violence. This means that many custodial parents do not have a choice in "getting child support on the father" because they are receiving public assistance from the government. The government is also *required* to start a child support case against the noncustodial parent when public assistance is involved.

The child support agency must establish paternity before a child support order can be set.

The first thing the county child support agency must do when starting a child support case with unmarried parents is to make sure paternity is decided. If paternity is not decided, the county must work to get paternity decided. This can be done voluntarily by both parents signing a Recognition of Parentage (ROP) or by filing a paternity action in court. If paternity is decided by an ROP and public assistance is involved, a child support proceeding will almost always be started by the child support agency. If paternity is decided in court, the court will usually set a child support order at the same time. You can ask for genetic testing before signing a ROP or when going through court to decide paternity. If you have an open child support case with the county and it is trying to establish paternity, the county must pay for the genetic test for you. Some counties won't make you pay back the cost of genetic test, or the cost they ask you to pay is much less than if you paid for a genetic test yourself.

If public assistance is not involved, the custodial parent can ask the child support agency to help them get child support from the noncustodial parent.

What about child support when it is not court ordered?

There is no law that says parents have to get a child support order through the court system, unless public assistance is involved (see above). But almost any parent can apply for help from the child support agency to get a child support order from the court. Whether public assistance money is involved or not, you can be held responsible for back child support. It can be for up to 2 years before the start of a court action or dated back to the birth of the child, whichever comes first (so, at most, 2 years). You can also be required to pay part of the costs of genetic testing and for part of the mother's birthing costs.

Don't start out with child support debt when a child support order is first set: Plan Ahead!



Sometimes fathers pay informal child support directly to the mother prior to a court-ordered child support order. Informal support paid by cash or by buying things (such as diapers, food, clothes) for the child will usually not be given credit when the court addresses what amount you should pay for back child support.

As an unmarried father, you can plan ahead to try to avoid large payments for back child support. The best option is to pay child support that is not ordered by the court (or "informal support") by check or money order directly to the custodial parent, with it clearly marked on the payment that it is child support for a specific month. You should never pay money (cash) directly to the mother or buy the child things that you intend as support, hoping that it will later count for child support. **Things, such as diapers, clothing, and food, while necessary and important, are almost always considered gifts, both before and after a child support order is set.**

You should check with your local child support agency if you plan to pay child support to the custodial parent before court-ordered child support is set to make sure that you can receive credit for your informal payments if it goes to court. Another option is for you to contact the child support agency to get a child support case open and/or to start making voluntary payments into the main child support payment center for the State of Minnesota (every county should be able to do this). **A father, just like a mother, can ask for a child support case and request that his child support be paid through the child support agency.**

If your child's mother is getting public assistance, then you should not be giving her any informal support, like the things mentioned above, and think that it counts as child support. You will probably not get credit for it later on. If you want to pay support for the child in this situation, you should contact the county child support agency. If you are living with your child's mother while she is getting public assistance, you should get on the public assistance grant with her and not pay child support to her. If you live with your child's mother while she gets public assistance but it is not reported, the public assistance may be cut off and you and the mother could be charged with fraud.

Why can't I get my parenting time or custody issues decided at child support court?

Child support hearings are usually in front of a child support magistrate who cannot decide disputes about parenting time and custody. A child support magistrate is a decision-maker, like a judge, but they *only* hear cases about child support. They do not have the power to hear and decide many kinds of disagreements. The only time a child support magistrate can decide an issue with parenting time and custody at a child support hearing is when the child support hearing is part of a hearing to establish paternity.

Then the child support magistrate can issue an order about those issues the mother and father AGREE on, like custody, parenting time, or the name of the child. If there is an action to decide paternity in front of a child support magistrate, and one side raises an issue about custody or parenting time in the papers that are served before the court hearing, and the other side FAILS TO APPEAR OR RESPOND, then the magistrate can issue an order about the things that the party raised but the other side failed to respond to. If you and the mother cannot agree on custody, parenting time, and/or the name of the child, the child support magistrate should issue an order for the issues you do agree on and may order temporary support, and refer the rest of the issues to a district court judge for another hearing. A district court judge can make decisions about custody, parenting time and the child's name, even if you and the mother do not agree.



If you had a paternity action brought against you or you plan to bring one yourself in District Court (not with a child support magistrate), then the judge may order child support at the same time. The judge may also decide parenting time and custody issues.

As a general rule, if you file a motion or have a hearing because of child support, only child support can be addressed and not parenting time or custody. However, if you have a motion in district court for parenting time and/or custody, child support issues can also be raised and decided at the same time.

What happens to my child support order if I lose my job or am making less money?

Nothing! The amount you are ordered to pay in child support stays the same UNTIL a court order says differently.

You can send a letter to the county child support office asking them to help you modify (change) your child support order. However, it may take 6 months or longer to get your order changed through the county child support agency. Sometimes the child support agency cannot help you. In any case, it is always the responsibility of the person who owes the money to ask the court to change the child support order when necessary.

If you lose your job or need to modify your order because of a **substantial change** that makes your prior order unfair, **you** have to bring a motion to modify child support. A judge or child support magistrate cannot go back in time and change past amounts of child support that you were supposed to pay but could not. They can only change the amount you are ordered to pay in the future. They can start this new amount from the date that your motion to modify your child support order was served on the other parent and the county child support office, if they are a party to the case.

This means that you **must take action right away** if your circumstances change and you think that your child support order needs to be changed. Waiting to do something will only add to your child support debt. Remember: it is your job, not the job of the mother of your child or the county, to change your child support order.

So, how do I change my child support order?

The forms to modify child support can be found at your local county administrator's office, the county law library, or on the internet at: www.mncourts.gov. Click on "Forms," then "Child Support."

But remember—if your child support order is changed by the court, the new amount you owe can only start as early as the date the motion was served on the other party (and county child support agency, if it is a party to the case).

What happens if I quit my job and can't find another one?

What happens if I want to go back to school?

You can still bring a motion to modify child support but the magistrate or judge who hears your case may not modify your order if they find that you could get a job to meet your needs and your child support order. Also, a magistrate or judge may not modify your order if they find that you are voluntarily unemployed or underemployed. You won't be considered voluntarily unemployed if:

- (1) the change will only last for a short time (it is a temporary change) and you will be making more money because of the change; or
- (2) the unemployment or underemployment represents a bona fide career change (not just a way to get out of paying child support) and that this career change is better for the child in the long term than the short term impact on the child because of a lower child support payment.

It is your burden to prove that either (1) or (2) above is true. In other words, simply quitting a job because "I don't like it" is not going to be a good enough reason to modify your order. Also, deciding to go back to school may also not be a good enough reason to modify your order, or modify it as much as you think it should be modified.

For more information on modification of child support orders under these circumstances, see the Written Resources section at the end of this booklet.

How can I get my child support debt to go away?

Once you have child support debt, called arrears, it will not go away until it is paid off or until it is "compromised" (forgiven). The debt will be there forever—even when your children are grown and have children of their own. Your child support debt does not end just because your children become adults. The only exception to this is if you get your arrears legally forgiven. You owe your child support debt to either the custodial parent or the government (or in some cases you may owe them both). If you owe child support debt to the custodial parent, the custodial



parent can agree to forgive the child support debt you owe her. The government can also forgive debt that you may owe it, *in some cases*. You should contact your county child support agency for more information about “arrears forgiveness.” Agreements to forgive child support arrears must be in writing and go through the child support agency and/or court to be effective.

How can I get the interest stopped on the child support I owe?

If you pay your full monthly child support order and any monthly back ordered amounts of child support, on time, for 12 months straight (no breaks), you can file a motion with the court or ask the county to stop the interest. They can do this for as long as you continue to pay the full amount that you owe each month. There are a few other circumstances in which the court can stop interest. Contact the child support office for more information.

What happens if I don't pay my child support order?

The child support agency has many ways to try to get parents to pay their child support orders. Some things that could happen to you if you are not paying your child support order include:

- suspension of your driver's license
- suspension of your fishing or hunting license
- suspension of your occupational license (such as realtor's license or barber's license)
- denial of your student grant application
- taking money from your bank accounts or other financial accounts (only up to the amounts you owe)
- intercepting and taking your state and federal tax refunds (only up to the amounts you owe)
- contempt of court (possible jail)
- denial of your passport application



Each of these different enforcement remedies have different rules that apply to them. For example, before they can have your driver's license suspended, you must owe at least three months of child support and not be following a payment plan. The child support office must give you notice that they intend to suspend your license before it is suspended. That notice is mailed to your last known address. This is one reason why it is very important that you notify the child support office every time that you move. Otherwise, you may not receive the important notices that they send you.

For more information about these ways that the child support office uses to enforce child support orders, read the *Understanding Child Support* booklet or contact your local child support agency.

The phone number and address for your county and state child support agency is listed in the phone book. This information is also available on the internet at: www.dhs.state.mn.us. Choose “Topics A-Z,” then pick “Child Support,” then “Applying for Child Support Services,” and then click on the link to county child support agency. **The child support agencies do not represent *either* parent but are there to *serve* both parents on behalf of the child.** The child support agencies have a lot of educational material about child support.

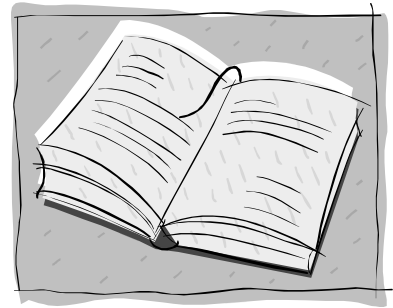
Written Resources (documents and fact sheets)

More written resources and fact sheets about family law and other legal topics are available to the public for free at www.LawHelpMN.org.

Other places to look for legal information or more written resources with family law matters are the local county law library, court administrator's office, or self help center (see below). Each county has a local law library, and some law libraries have paid staff that can assist you in finding the legal information you need. If you would like to speak to a law librarian call (651) 296-2775 during business hours to reach someone at the Minnesota State Law Library or email: askmarvin@courts.state.mn.us.

CHILD SUPPORT INFORMATION (see also www.LawHelpMN.org):

- **"Being a Legal Father"** and **"Understanding Child Support"** are very helpful. They are available in English, Spanish, Somali and Hmong for free from the website for the State Child Support Office: www.dhs.state.mn.us, click on "Child Support" on Quick Links (right side of page). The state child support general information line is (651) 296-2542.
- **"Child Support Basics,"** a booklet published by the Minnesota Legal Services Coalition, is available for a small fee by calling the Coalition office at (651) 228-9105, x 651, or for a free copy from the internet, go to www.mnlegalservices.org, click on "Booklets."
- **"Questions and Answers for Noncustodial Parents,"** about paternity establishment and child support in Minnesota, a guide published by the Center for Fathers, Families and Public Policy, is available for free on their website at www.cffpp.org. (There is also a guide for custodial parents published by this organization.)
- **"What you Need to Know about Child Support: Modification of Child Support Orders because of Unemployment or Enrollment in School,"** a two-page fact sheet, is available from Central Minnesota Legal Services by calling (612) 332-8151 or is available free from the website at www.centralmnlegal.org, click on "Library."
- **"What you Need to Know about Child Support: Driver's License Suspensions,"** a two-page fact sheet, is available from Central Minnesota Legal Services by calling (612) 332-8151 or is available free from the website at www.centralmnlegal.org, click on "Library."



CUSTODY AND PARENTING TIME INFORMATION (see also www.LawHelpMN.org):

- **"A Parental Guide to Making Child-Focused Parenting Time Decisions,"** a general guide for state court judges in deciding what type of parenting schedule to give the noncustodial parent, is available from the Minnesota State Court Administrator's Office at (651) 297-7587, or for free at http://www.mncourts.gov/documents/0/Public/Court_Information_Office/PARENTING_TIME_PAMPHLET.doc.
- **"Answers to Commonly Asked Questions about Supervised Parenting Time and Other "Visitation" Services: Responses from Teri Walker McLaughlin and Melissa Froehle,"** a four-page fact sheet from the Minnesota Fathers & Families Network, November 2006, at <http://www.mnfathers.org/documents/SupervisedParentingTime.pdf>.

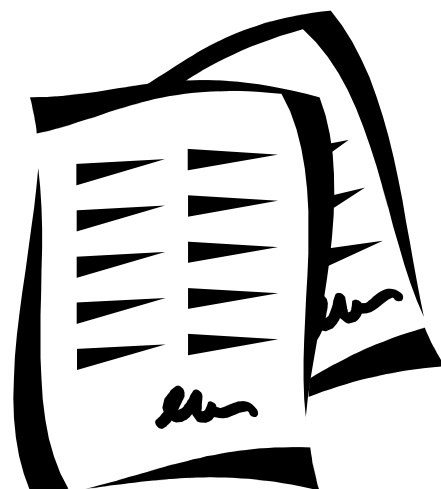
PARENTING PLANS (see page 23 of this guide)

- “We Agree: Creating a Parenting Plan,” from the University of Minnesota Extension Service, www.parenting.umn.edu, for an example of a parenting plan that can be used and resources on how to develop a plan. The parenting agreement worksheet is free; there is a small fee for the booklet which provides the guidance to fill out the form. For more information, contact Rose Allen at allen027@umn.edu.

RECOGNITION OF PARENTAGE DOCUMENTS

Many child support related forms can be found on the website for the State Child Support Office, www.dhs.state.mn.us, click on “Child Support on Quick Links” (right side of page), then click on “Publications,” then click on “Forms.”

- The form to sign a new Recognition of Parentage is found directly at <http://edocs.dhs.state.mn.us/lfserver/Legacy/DHS-3159-ENG>. This is in English; it is also available in Hmong, Somali and Spanish. You can also contact your county child support office to sign a Recognition of Parentage. It is highly recommended that you do not complete this form on your own without help from the child support office or an attorney. You want to make sure it is completed right (no mistakes on the form, mailed to the right agency) and that you fully understand what rights you are giving up in signing the form. An example of the Recognition of Parentage form is found beginning on page 40.
- The form to revoke a Recognition of Parentage (must be within 60 days of signing the original) is found directly at <http://edocs.dhs.state.mn.us/lfserver/Legacy/DHS-3159-ENG>. This is in English; it is also available in Hmong, Somali and Spanish.
- The form to get a certified copy of a Recognition of Parentage or Declaration of Parentage that has already been signed and filed with the Minnesota Department of Health, Office of the State Registrar is found directly at <http://www.health.state.mn.us/divs/chs/osr/ropform/pdf>. This form is also found on page 44.



MINNESOTA FATHERS' ADOPTION REGISTRY DOCUMENTS

More information about the Minnesota Fathers' Adoption Registry can be found on the Minnesota Department of Health's website, www.health.state.mn.us, click on “Certificates and Records,” and then click on “Fathers' Adoption Registry” (bottom, left hand side of page).

- The registration documents for the Minnesota Fathers' Adoption Registry are found directly at <http://www.health.state.mn.us/divs/chs/registry/regfrm.htm>.

Pro Se Court Forms (to file a court action without a lawyer)

The Minnesota State Court Administrator's Office has made many court forms for people to use who are "pro se," meaning not represented by a lawyer. These forms have been referenced in this Guide, for example, on the chart on page 13. These forms are available for family law and child support cases as well as other types of cases. Some counties have additional forms besides those on the Minnesota state court website. Some counties have their own version of the court forms that they would rather you use. Check with the county in which you plan to file your court action if you have questions about the appropriate form to use.

The pro se court forms are available:

- On the internet at the Minnesota State Court website at www.mncourts.gov. Click on "Forms." Make sure to download and print the instructions for each form and remember that a filing fee is required for a court action (or a waiver of the filing fee, called an In Forma Pauperis or "IFP"). Most of the motions mentioned in this guide are under "Child Custody and Parenting Time" or "Child Support." If you are unsure of which form to use, you can email the Self Help Center. Go to www.mncourts.gov, click on "Self Help Center" in the upper right corner, then click on "Contact Us @ SHC" on the left side of the Self Help Center page.
- At your local county law library or county court administrator's office.
- At your county's Family Law Self Help Center (if one exists, see below for locations).



Self Help Centers and Free Legal Clinics

Some counties in Minnesota provide "self help" resources to help people who don't have lawyers get their family law problems heard in court. These services usually consist of providing forms and assistance. Some programs are able to provide legal advice also, usually by working with volunteer attorneys. The services in each county may vary. Below is information for Hennepin and Ramsey counties only. To find resources near you, go to the Minnesota State Court website at www.mncourts.gov and click on "Self-Help Center" (upper right part of page). This page has the most up to date information statewide.

SELF HELP CENTERS

Hennepin County Family Court Self-Help Center - (612) 596-8519
110 South Fourth Street, 1st Floor (Family Justice Center)
Minneapolis, MN 55401
Open 8:00 a.m. to 3:30 p.m., Monday through Friday

Ramsey County Family Court Self-Help Service Center - (651) 266-2842
15 West Kellogg Boulevard, Room 126 (Ramsey County Courthouse)
Saint Paul, MN 55102
Open 8:00 a.m. to 4:30 p.m., Monday through Friday

LEGAL CLINICS

Legal clinics for fathers with family law issues vary by city and county. Below are some that operate in the Twin Cities Metro Area. Also see the website for the Minnesota Fathers & Families Network under Programs Serving Fathers in Minnesota (below).

Resource Center for Fathers & Families

Family Law Clinics are hosted by a facilitator and conducted by a family law attorney who advises fathers about their concerns regarding divorce, paternity, custody, child support and related issues. Offered at various locations. Call for schedule and to register: (763) 783-4938.

FathersFirst! Family Law Clinics (with co-sponsors, see below)

Call Steve Onell with FathersFIRST! for more information (612) 384-7078. Call to verify dates and times as they are subject to change.

- 1st and 4th Wednesday of each month, 6 p.m. to 8 p.m., My Home Inc., 1010 University Avenue Suite 1, St. Paul, MN 55104; (651) 659-0359, individual consultation available, \$10 donation.
- 2nd Wednesday of each month, 6 p.m. to 8 p.m., Emerge Community Development, 1101 West Broadway Avenue North, Minneapolis (612) 529-9267; individual consultation available, \$10 donation.
- 3rd Tuesday of each month, 6 p.m. to 8 p.m., PPL Learning Center, 1925 Chicago Avenue, Minneapolis, MN 55404; (612) 455-5300; individual consultation available, \$10 donation.
- Quarterly family law clinics, (January, April, July and October), co-sponsored with Dakota County Child Support at the Dakota County Child Support Information Sessions. Call (651) 554-5852 for the next date and more information.

Free or Low Cost Attorneys

There are limited resources for free or low cost legal assistance with family law matters such as custody and parenting time. Legal services programs give some family law legal help to people who meet the requirements. The contact information for each county's legal services or "legal aid" program is listed on the internet at www.LawHelpMN.org and in the phone book. If these programs cannot help you, they may know of other legal resources in your area, including attorneys who may provide pro bono (free) legal help. Below are the legal aid intake numbers for the largest counties in Minnesota.



LEGAL AID INTAKE PHONE NUMBERS:

Anoka County (763) 783-4970 or (612) 334-5970
Carver County (952) 440-1040
Dakota County (952) 431-3200 (family law) or (952) 440-1040
Hennepin County (612) 334-5970
Olmsted County (507) 287-2036
Ramsey County (651) 222-4731
Scott County (952) 440-1040
St. Louis County (North) (800) 886-3270; (South) (800) 622-7266
Stearns County (800) 622-7773 or (888) 360-2889
Washington County (651) 351-7172 or (651) 222-4731

Selected Programs for Fathers in the Twin Cities Metro Area

Center for Fathering, Urban Ventures Leadership Foundation
3041 Fourth Avenue South
Minneapolis, MN 55408
(612) 822-0802 / www.urbanventures.org

Council on Crime and Justice
822 South 3rd Street, Suite 100
Minneapolis, MN 55415
(612) 596-7622 / www.crimeandjustice.org

Employment Action Center, RESOURCE, Inc., Young Dads Program
900 20th Avenue South
Minneapolis, MN 55404 (also St. Paul location)
(612) 752-8836 / www.eac-mn.org

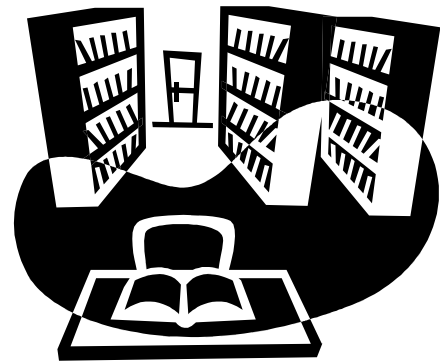
Fathers FIRST!
(612) 384-7078

The FATHER Project, a program of Goodwill/Easter Seals Minnesota
1600 East Lake Street
Minneapolis, MN 55407
(612) 724-3539 / mnges.easterseals.com

Project for Pride in Living (PPL) Young Fathers Program
East Metro
(651) 225-8084 / www.ppl-inc.org

Resource Center for Fathers and Families
Multiple locations
(763) 783-4938 / www.resourcesforfathers.org

The Men's Line (612) 379-MENS or (612) 379-6367
(24 hour – free confidential phone service)



Programs Serving Fathers in Minnesota

For information on other programs serving fathers in Minnesota, visit the Minnesota Fathers & Families Network website at www.mnfathers.org, click on the link, “Services for Fathers.” This organization and website has the most accurate and complete listing of resources for fathers in Minnesota.



Minnesota Voluntary Recognition of Parentage

Purpose:

Signing this form establishes a legal relationship between a father and child when the father is not married to the child's mother. Signing this form:

- Creates and waives certain rights and responsibilities for the mother, father and child
- Allows the father's name to be on the child's birth record.

Instructions for parents:

Signing this form is voluntary. Read all of the form and information booklet carefully or have someone read it to you. View the full videotape.

If you want to voluntarily establish the legal relationship between a father and child when the father is not married to the child's mother, fill in all the information requested on this form. Sign this form in front of a notary public and file it with:

Minnesota Department of Health
Office of the State Registrar
PO Box 64882
St. Paul, MN 55164-0882

Both parents must sign this form and have their signatures notarized. Parents may sign at different times and in front of different notary publics. If you do not understand any part of this form, ask for help.

Waiver of rights:

By signing this Minnesota Voluntary Recognition of Parentage form (DHS-3159), you give up rights listed below:

- The right to have blood or genetic testing to prove that the man is the biological father of the child.
- The right to have an attorney represent you.
- The right to a trial to determine if the man is the biological father of the child.
- The right to cross-examine witnesses at a trial.
- The right to testify about who is the biological father of the child.

Custody issues:

When a child is born to parents who are not married to each other the law gives custody of the child to the mother. If the father wants a different custody arrangement, he must go to court. If the parents cannot agree about visitation, the father will need to go to court. If you have any questions, please contact an attorney.

Attention. If you want free help translating this information, ask your worker or call the number below for your language.

ملاحظة: إذا أردت مساعدة مجانية في ترجمة هذه المعلومات، فاسأل مساعدك في مكتب الخدمة الاجتماعية أو اتصل على الرقم 1-800-358-0377.

កំណត់សំគាល់ បើអ្នកចង់បានជំនួយបកប្រែព័ត៌មាននេះដោយមិនគិតថ្លៃ សូមសួរអ្នកកាន់សំណុំរៀងរបស់អ្នក ឬ ទូរស័ព្ទទៅលេខ 1-888-468-3787 ។

Pažnja. Ako vam je potrebna besplatna pomoć za prevod ove informacije, pitajte vašeg radnika ili nazovite 1-888-234-3785.

ໂປດຊາບ ຖ້າຫາກທ່ານຕ້ອງການ ການຊ່ວຍເຫຼືອໃນການແປຂໍ້ຄວາມດັ່ງກ່າວນີ້ຟຣີ, ຈົ່ງຖາມນໍາພີກວາມຊ່ວຍວຽກ ຂອງທ່ານ ຫຼື ໂທລຫາ ຕາມເລກໂທລ 1-888-487-8251.

Ceeb toom. Yog koj xav tau kev pab txhais cov xov no rau koj dawb, nug koj tus neeg lis dej num (worker) lossis hu 1-888-486-8377.

Hubaddhu. Yoo akka odeeffannoon kun sii hiikamu gargaarsa tolaa feeta ta'e, hojjataa kee gaafaddhu ykn lakkoofsa kana bilbili 1-888-234-3798.

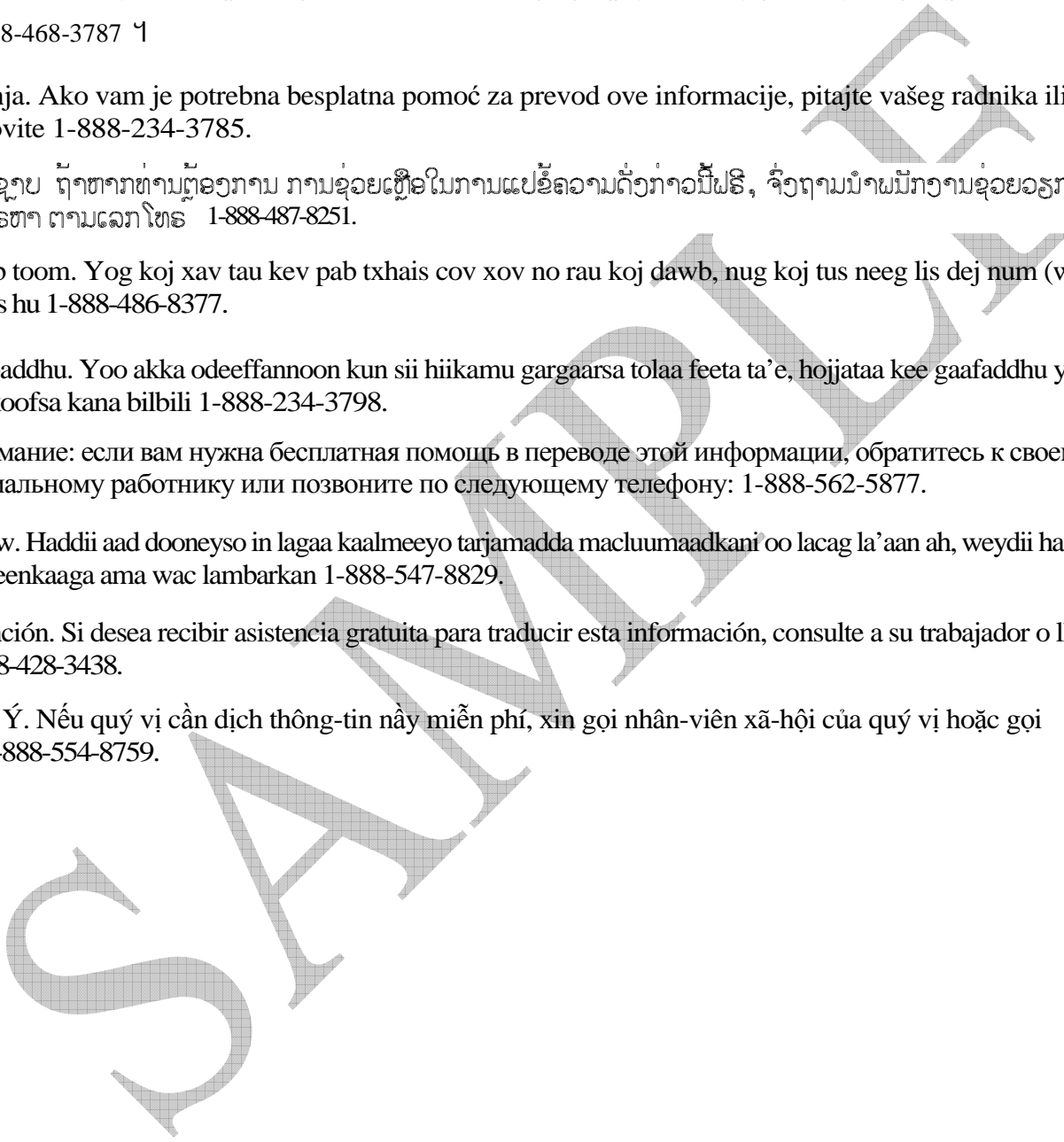
Внимание: если вам нужна бесплатная помощь в переводе этой информации, обратитесь к своему социальному работнику или позвоните по следующему телефону: 1-888-562-5877.

Ogow. Haddii aad dooneyso in lagaa kaalmeeyo tarjamadda macluumaadkani oo lacag la'aan ah, weydii hawl-wadeenkaaga ama wac lambarkan 1-888-547-8829.

Atención. Si desea recibir asistencia gratuita para traducir esta información, consulte a su trabajador o llame al 1-888-428-3438.

Chú Ý. Nếu quý vị cần dịch thông-tin này miễn phí, xin gọi nhân-viên xã-hội của quý vị hoặc gọi số 1-888-554-8759.

LB #2 (12-03)



This information is available in other forms to people with disabilities by contacting us at (651) 296-2542 or toll free at (800) 657-3954. TTY/TDD users can call the Minnesota Relay at 711 or (800) 627-3529. For the Speech-to-Speech Relay, call (877) 627-3848.

Minnesota Voluntary Recognition of Parentage

Instructions:

- Fill this out in blue or black ink. Press hard, using a ballpoint pen.
- **Do not cross out words, leave blanks or make corrections in the shaded boxes or your form will be rejected. If you make a mistake, ask for a new form.**
- Both parents must sign and both signatures must be notarized.
- Complete all requested information before signing this form.

Form Completed at:

Hospital _____

State Registrar

State Human Services Office

County Office _____

Other _____

Child's Information: Make sure name and birth information match your child's birth record.

CHILD'S FIRST NAME	MIDDLE NAME	LAST NAME
BIRTH DATE (month/day/year)		PLACE OF BIRTH (city/county/state/country)

If both parents agree, you can change your child's last name from what is on the birth record. If you do not want to change your child's last name from what appears on the birth record, write "SAME" or leave blank.

CHILD'S NEW LAST NAME

Parent's Information: Make sure name and birth information match your child's birth record.

F a t h e r	FIRST NAME	MIDDLE NAME	LAST NAME		BIRTH DATE (mmdd/yy)	
	ADDRESS				BIRTHPLACE (state/country if not born in USA)	
	CITY	STATE	ZIP CODE	UNDER 18? <input type="checkbox"/> Yes <input type="checkbox"/> No		SOCIAL SECURITY NUMBER
	EDUCATION LEVEL	HISPANIC/LATINO? (optional) <input type="checkbox"/> Yes <input type="checkbox"/> No	RACE (optional) <input type="checkbox"/> American Indian/Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> White <input type="checkbox"/> Black or African American <input type="checkbox"/> Pacific Islander/Native Hawaiian			
M o t h e r	FIRST NAME	MIDDLE NAME	LAST NAME		BIRTH DATE (mmdd/yy)	
	ADDRESS				BIRTHPLACE (state/country if not born in USA)	
	CITY	STATE	ZIP CODE	UNDER 18? <input type="checkbox"/> Yes <input type="checkbox"/> No		SOCIAL SECURITY NUMBER
	EDUCATION LEVEL	HISPANIC/LATINO? (optional) <input type="checkbox"/> Yes <input type="checkbox"/> No	RACE (optional) <input type="checkbox"/> American Indian/Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> White <input type="checkbox"/> Black or African American <input type="checkbox"/> Pacific Islander/Native Hawaiian			

Initial to indicate you have read and understand the "Parent's statement," "Waiver of rights," and "Custody issues" sections on the back of this page. Father's initials Mother's initials

I declare that I have examined this form and, to the best of my knowledge and belief, it is a true and correct statement of every material point.

Note: Both parents must sign this form and have their signatures notarized. Parents may sign at different times and in front of different notary publics.

Signature of Father

X _____

Sworn/affirmed to before me this _____ day

of _____, 20__

Notary Public Signature

X _____

My commission expires:

Signature of Mother

X _____

Sworn/affirmed to before me this _____ day

of _____, 20__

Notary Public Signature

X _____

My commission expires:

Parent's statement:

Under oath, I state that:

- I have been told about the Recognition of Parentage and understand my rights and responsibilities created and waived by signing this form.
- I have a copy of Being a Legal Father: Parentage information for mothers and fathers (DHS-3159A). I read the booklet or had someone else read it to me.
- I have received additional oral notice about my rights, responsibilities and alternatives to signing this form.
- I acknowledge that we are the biological parents of the child named in this Recognition of Parentage.
- I understand that this Recognition of Parentage does not give custody or visitation to the legal father. However, this Recognition of Parentage gives the father the right to ask the court for custody or visitation.
- I accept responsibility to provide financial support for my child. I understand that financial support can include payments for basic support, medical support and child care support starting from my child's birth until a court order for support ends.
- I understand that both parents have the right to all notices of any adoption proceedings.
- I understand that this is a legal document. If we are both age 18 or older when we sign this form, this Recognition of Parentage is the same as a court order determining the legal relationship between a father and child.
- I understand that if either of us is under age 18 when we sign this form, this Recognition of Parentage is only a presumption of paternity. I understand that this Recognition of Parentage will be the same as a court order determining the legal relationship between a father and child six months after the youngest of us turns 18. If I want to stop this Recognition of Parentage from becoming a legal document, I understand that I must take legal action before the six months ends.
- I understand that either of us can cancel this Recognition of Parentage by stating in writing that, "I am revoking the Recognition of Parentage." I understand that I must sign the revocation in front of a Notary Public and that I must file the revocation with the Office of the State Registrar within 60 days after I complete this Recognition of Parentage form. If I have not filed a revocation within 60 days and still want to cancel this Recognition of Parentage, I understand that I will need to take legal action to request a change to any of the information in this Recognition of Parentage.
- To the best of my knowledge, the information on this form is true.
- I am signing this form voluntarily. No one forced me to sign this Recognition of Parentage.

Waiver of rights:

By signing this Minnesota Voluntary Recognition of Parentage form (DHS-3159), you give up the rights listed below:

- The right to have blood or genetic testing to prove that the man is the biological father of the child.
- The right to have an attorney represent you.
- The right to a trial to determine if the man is the biological father of the child.
- The right to cross-examine witnesses at a trial.
- The right to testify about who is the biological father of the child.

Custody issues:

When a child is born to parents who are not married to each other the law gives custody of the child to the mother. If the father wants a different custody arrangement, he must go to court. If the parents cannot agree about visitation, the father will need to go to court. If you have any questions, please contact an attorney.



**REQUEST FOR A CERTIFIED COPY
OF A RECOGNITION OF PARENTAGE OR DECLARATION OF PARENTAGE OR RELATED FORM**

Part A: To receive a certified copy of the Recognition of Parentage (ROP) or Declaration of Parentage (DOP) or related form, please provide the following information as it occurs on the birth record and ROP or DOP or related form:

ROP INFORMATION	FIRST		MIDDLE		LAST (name on birth record/form)
	BIRTH MONTH	BIRTH DAY	BIRTH YEAR	SEX	CITY & COUNTY OF BIRTH
	MOTHER'S FIRST NAME		MIDDLE NAME		LAST NAME
	FATHER'S FIRST NAME		MIDDLE NAME		LAST NAME

Part B: Please provide the following information about you, the requester

Your Name: (please print)	(First)	(Middle)	(Last)
Your Address:			Daytime Phone
	(City)	(State)	(Zip)

Part C: Check the box and enclose a \$9 fee for a copy of each form requested.

- Recognition of Parentage (ROP) or Declaration of Parentage (DOP) --Please note that the Recognition of Parentage Program began in 1994. For births that occurred before August 1, 1995, parents may have completed a Declaration of Parentage form.
- Husband's Non-Paternity Statement (HNPS)
- Revocation of a Recognition or Declaration of Parentage or Husband's Non-Paternity Statement

Part D: Notarized Signature is Required.

To receive an official copy of a previously completed Recognition of Parentage (ROP), Declaration of Parentage (DOP), a Husband's Non-Paternity Statement (HNPS), or a Revocation of a ROP, DOP, or HNPS, you must check one of the following and have your signature notarized.

- I am the mother of the subject and my name appears on the birth record and ROP or DOP form;
- I am the father of the subject and my name appears on the birth record and ROP or DOP form;
- I am a representative of the Minnesota Department of Human Services and have access to the ROP or DOP form according to Minnesota Statutes, section 144.225, subdivision 2b, for child protection purposes.

Your Signature must be notarized when applying by mail or fax for a copy of ROP, DOP, HNPS, or Revocation form.

Your Signature	Date: / /
Subscribed and sworn before me this _____ day of _____, 20____	
by _____ My commission expires _____	
Notary Public	

Part E. Payment and Mailing

There is a \$9.00 fee for a each certified copy of a ROP, DOP, HNPS, or a Revocation. Make your check or money order payable to the Minnesota Department of Health. Checks returned for nonpayment will be charged a \$30.00 fee according to Minnesota Statutes, section 604.113, subdivision 2 and civil penalties may be imposed for nonpayment. Mail application and payment to: Minnesota Department of Health, Recognition of Parentage Program, Office of the State Registrar, P.O. Box 64882, St. Paul, Minnesota 55164-0882.

If using a Master Card, VISA, American Express, or Discover Card, fax the completed application to: 651-291-0101. There is an additional \$6.00 per order fee if using a credit card.

Card Number: _____

Expiration Date: _____

FORM 3. APPENDIX A

(SCAO rev. 08/01/07)

NOTICE IS HEREBY GIVEN TO THE PARTIES:

I. PAYMENTS TO PUBLIC AGENCY. According to Minnesota Statutes, section 518A.50, payments ordered for maintenance and support must be paid to the Minnesota child support payment center as long as the person entitled to receive the payments is receiving or has applied for public assistance or has applied for support and maintenance collection services. Parents mail payments to: P.O. Box 64326, St. Paul, MN 55164-0326. Employers mail payments to: P.O. Box 64306, St. Paul, MN 55164.

II. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A FELONY. A person may be charged with a felony who conceals a minor child or takes, obtains, retains, or fails to return a minor child from or to the child's parent (or person with custodial or parenting time rights), according to Minnesota Statutes, section 609.26. A copy of that section is available from any court administrator.

III. NONSUPPORT OF A SPOUSE OR CHILD – CRIMINAL PENALTIES. A person who fails to pay court-ordered child support or maintenance may be charged with a crime, which may include misdemeanor, gross misdemeanor, or felony charges, according to Minnesota Statutes, section 609.375. A copy of that section is available from any district court clerk.

IV. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME.

- A. Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.
- B. Payment of support must be made as it becomes due, and failure to secure or denial of parenting time is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.
- C. Nonpayment of support is not grounds to deny parenting time. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.
- D. The payment of support or spousal maintenance takes priority over payment of debts and other obligations.
- E. A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.
- F. Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.
- G. *A Parental Guide to Making Child-Focused Parenting-Time Decisions* is available from any court administrator.
- H. The nonpayment of support may be enforced through the denial of student grants; interception of state and federal tax refunds; suspension of driver's, recreational, and occupational licenses; referral to the department of revenue or private collection agencies; seizure of assets, including bank accounts and other assets held by financial institutions; reporting to credit bureaus; interest charging, income withholding, and contempt proceedings; and other enforcement methods allowed by law.
- I. The public authority may suspend or resume collection of the amount allocated for child care expenses if the conditions of Minnesota Statutes, section 518A.40, subdivision 4, are met.
- J. The public authority may remove or resume a medical support offset if the conditions of section 518A.41, subdivision 16, are met.

V. MODIFYING CHILD SUPPORT. If either the obligor or obligee is laid off from employment or receives a pay reduction, child support may be modified, increased, or decreased. Any modification will only take effect when it is ordered by the court, and will only relate back to the time that a motion is filed. Either the obligor or obligee may file a motion to modify child support, and may request the public agency for help. **UNTIL A MOTION IS FILED, THE CHILD SUPPORT OBLIGATION WILL CONTINUE AT THE CURRENT LEVEL. THE COURT IS NOT PERMITTED TO REDUCE SUPPORT RETROACTIVELY.**

VI. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17, SUBDIVISION 3. UNLESS OTHERWISE PROVIDED BY THE COURT:

- A. Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor children. Each party has the right of access to information regarding health or dental insurance available to the minor children. Presentation of a copy of this order to the custodian of a record or other

information about the minor children constitutes sufficient authorization for the release of the record or information to the requesting party.

B. Each party shall keep the other informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.

C. In case of an accident or serious illness of a minor child, each party shall notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.

D. Each party has the right of reasonable access and telephone contact with the minor children.

VII. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE. Child support and / or spousal maintenance may be withheld from income, with or without notice to the person obligated to pay, when the conditions of Minnesota Statutes, section 518A.53, have been met. A copy of that section is available from any court administrator.

VIII. CHANGE OF ADDRESS OR RESIDENCE. Unless otherwise ordered, each party shall notify the other party, the court, and the public authority responsible for collection, if applicable, of the following information within ten days of any change: residential and mailing address, telephone number, driver's license number, social security number, and name, address, and telephone number of the employer.

IX. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE. Basic support and / or spousal maintenance may be adjusted every two years based upon a change in the cost of living (using the U.S. Department of Labor, Bureau of Labor Statistics, consumer price index Mpls. St. Paul, for all urban consumers (CPI-U), unless otherwise specified in this order) when the conditions of Minnesota Statutes, section 518A.75, are met. Cost of living increases are compounded. A copy of Minnesota Statutes, section 518A.75, and forms necessary to request or contest a cost of living increase are available from any court administrator.

X. JUDGMENTS FOR UNPAID SUPPORT; INTEREST. ACCORDING TO MINNESOTA STATUTES, SECTION 548.091:

A. If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public agency may obtain entry and docketing of the judgment **without notice** to the person responsible to make the payment.

B. Interest begins accruing on a payment or installment of child support whenever the unpaid amount due is greater than the current support due.

XI. JUDGMENTS FOR UNPAID MAINTENANCE. A judgment for unpaid spousal maintenance may be entered and docketed when the conditions of Minnesota Statutes, section 548.091, are met. A copy of that section is available from any court administrator.

XII. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT. A judgment for attorney fees and other collection costs incurred in enforcing a child support order will be entered against the person responsible to pay support when the conditions of Minnesota Statutes, section 518A.735, are met. A copy of that section and forms necessary to request or contest these attorney fees and collection costs are available from any court administrator.

XIII. PARENTING TIME EXPEDITOR PROCESS. On request of either party or on its own motion, the court may appoint a parenting time expeditor to resolve parenting time disputes under Minnesota Statutes, section 518.1751. A copy of that section and a description of the expeditor process is available from any court administrator.

XIV. PARENTING TIME REMEDIES AND PENALTIES. Remedies and penalties for wrongful denial of parenting time are available under Minnesota Statutes, section 518.175, subdivision 6. These include compensatory parenting time; civil penalties; bond requirements; contempt; and reversal of custody. A copy of that subdivision and forms for requesting relief are available from any court administrator.