

**Legislative and Comprehensive  
Legal Vision Update**  
 MCAA Child Support Conference  
 June 15, 2018

Lisa Kontz  
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 Shila Walek  
 Chief Deputy Isanti County Attorney

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**MN Legislative Session  
2017-2018**




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**Bills that passed**



- Modification following change in law
  - Enactment, amendment or repeal of law constitutes a substantial change in circumstances when the standards for modification are met
  - Codification of *Rose v. Rose*, 765 N.W.2d 142 (2009)
  - Session Law Chapter 118
  - Effective August 1, 2018

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### Bills that passed (continued)

- Joint Petition
  - Parties agree on all issues related to custody, parenting time and child support
  - File joint petition, agreement and proposed order
    - Attach copy of ROP that was filed with vital records
    - Documentation of income
  - Must contain many of the same things as petition for dissolution
    - Incomes
    - Health insurance
    - Child care expenses
    - Nonjoint children
  - Must be signed by public authority if 518A.44 applies (Notice to Public Authority)
  - Session Law Chapter 127, Effective August 1, 2018

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### Bills that passed (continued)

- Parenting Expense Adjustment Statute fix
  - Minn. Stat. 518A.39, subd. 2
    - (2) if the parenting time was presumed equal but the parents' parental incomes for determining child support were not equal:
      - (i) multiply the combined basic support obligation under section 518A.34, paragraph (b), clause (5), by ~~0.075~~ 0.75;
      - (ii) prorate the amount under item (i) between the parents based on each parent's proportionate share of the combined PICS; and
      - (iii) subtract the lower amount from the higher amount.
  - Session Law Chapter 182
  - Effective August 1, 2018

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### Bills that passed (continued)

- Federal Annual Fee
  - Bipartisan Budget Act of 2018, February 9, 2018
  - Effective October 1, 2018
    - Federal annual fee raised from \$25 to \$35
    - Threshold for cases that have to pay went from \$500 to \$550
  - Minnesota's legislative session started after passage therefore we must comply by October 1, 2018



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### Bills that did not pass

- Federal Annual Fee legislation
- Potential Income changes – not voluntarily unemployed or underemployed if:
  - eligible to receive general assistance or social security
  - incarcerated even if incarceration is due to nonpayment of support
    - Federal Final Rule Compliance
- Credit Bureau “clean up”
  - Delete requirement in 518A.685 that public authority report to consumer reporting agency that the obligor is currently paying child support as ordered by the court

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### Bills that did not pass (continued)

- Modification of 518A.35
 

(d)If a child is in custody of either parent and a support order is sought by the public authority in an action involving only one parent under section 256.87, unless the parent against whom the support order is sought has court-ordered parenting time, the support obligation must be determined by referencing the guideline for the appropriate number of joint children and the parent’s individual income without application of the parenting expense adjustment formula under section 518A.34.
- Paternity Disestablishment
- Eliminating collection of child support interest
  - Public authority shall not calculate or charge interest unless court has issued judgment for a specific dollar amount

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### Bills that did not pass (continued)

- Lump Sum Consumer Credit Protection Act
  - Remove language that states CCPA does not apply to lump sum payments (inconsistent with federal law)
- Tribal Vital Records
  - Tribal child support programs shall have access to birth records for child support enforcement purposes
- Gross income changed to net income in guidelines statutes
- Parenting skills training for MFIP recipients

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### Bills that did not pass (continued)

- Amending effect of ROP to create equal custodial rights
- Rebuttable presumption of 40% parenting time (instead of 25%)
- Remove notice requirements in Appendix A
  - Address, telephone number, driver's license number, social security number, employer name, address and telephone number
- Firearms rights suspension
  - Obligor's rights may be suspended if in arrears greater than three times monthly support obligation and not in compliance with written payment agreement

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### Next Session

- Federal Annual Fee
- Potential Income
- Consumer Credit Reporting Change
- Lump sum Consumer Credit Protection Act
- Tribal Vital Records
- Interest
- Motion to Transfer to Tribal Court




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### Next Session (continued)

- Statutory changes required by the Final Rule
  - medical
- Legislation recommended by Child Support Task Force
- Child Support Task Force Re-authorization
- Uniform Paternity Act




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## Comprehensive Legal Vision



Shila Walek, Chief Deputy Isanti County Attorney

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**What is CLV?**

- Purpose
  - Resolve statewide legal issues
- Groups involved
  - DHS, MCAA, County IV-D programs
- Four large groups and executive committee
  - Court
  - Enforcement
  - Guidelines
  - Medical
- Membership




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**Slide 15**

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**SW3** Shila Walek-Hooper, 6/9/2017

### What has been approved?

- Court group
  - ✓ Minor ROPs
  - ✓ Filing paternity adjudication orders with MDH
  - ✓ Certified copies of ROPs not required
  - ✓ Reconciliation
  - ✓ Parenting Expense Adjustment without court ordered parenting time
  - ✓ Parenting Expense Adjustment
  - ✓ Facilitating ROPs at county IV-D offices
  - ✓ Competing presumptions of paternity
  - ✓ ROP signed and genetic tests indicate ROP father not bio father




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### Approved continued

- Court group continued
  - ✓ Deceased ALF
  - ✓ Consent form for release of GT results
  - ✓ Case closure
  - ✓ CP case closure request and arrears remain
  - ✓ Role reversal establishments and user doc
  - ✓ Paternity Order Elements
  - ✓ Basis for modification
  - ✓ Multiple families




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### What has been approved?

- Enforcement Group
  - ✓ FIDM exemptions
  - ✓ IW and 20%
  - ✓ Termination of IW upon emancipation or TPR
  - ✓ Judgments by Operation of Law
    - ✓ Policy manual rewrite
    - ✓ PRISM/Word forms
    - ✓ Training
  - ✓ Interest distribution
    - ✓ Payments apply to principal first, then interest




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## What has been approved?

- Guidelines
  - ✓ RSDI
  - ✓ NCP on MA or MNCare
  - ✓ High deductible healthcare coverage and definition of affordable difference in ACA and MN Law
  - ✓ State funded MFIP
  - ✓ Credit for Court ordered Arrears (Branch case)
  - ✓ Imputation of Income for recipients of GA/SSI
  - ✓ No income to NCP \$50 or \$0 obligation
  - ✓ DHS will update web calculator to match PRISM calculator




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## Elements of Paternity Pleadings and Court Orders

- Minnesota Statute Section 257.66:
  - Parent-child relationship
  - Custody
  - Parenting time
  - Legal name of the child
  - Child Support
  - Past support/reimbursement




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## Elements continued

- Caselaw/Statutes
  - Morey v. Peppin, 375 N.W.2d 19 (Minn. 1985)
    - The county attorney/child support office have an obligation to make sure there is a final custody order in a paternity case.
  - Minn. Stat. § 257.541
    - The biological mother of a child born to a mother who was not married to the child's father when the child was born or conceived has sole custody of the child until paternity is established or until custody is determined in a separate proceeding.
  - Minn. Stat. § 257.66
    - Order shall address custody and parenting time




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### Required Elements



- Parent-child relationship
- Physical and Legal custody
- Legal name of the child(ren)
- Percentage of parenting time
- Ongoing child support
- Past support
- Pregnancy and confinement expenses
- Genetic testing costs
- Social Security numbers
- Full names, dates of birth and places of birth
- The paternity order should also indicate that the birth record shall be updated with the father's information

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### Sample Language

THE COUNTY REQUESTS THAT THE COURT:

- Address the issues of legal and physical custody, parenting time, and the legal name(s) of the child(ren) involved in this action, as required by Minnesota Statutes, section 257.66, *Morey v. Peppin*, 375 N.W.2d 19, 24 (Minn. 1985) and *Latourell v. Dempsey*, 518 N.W.2d 564, 565-566 (Minn. 1994).

Unless either parent files an answer or appears at the hearing to request other relief, order that:

- "MOTHER NAME" retain sole physical and sole legal custody consistent with Minnesota Statutes, section 257.541, subdivision 1 subject to "FATHER NAME's" right to request custody under Minnesota Statutes, sections 257.541, subd. 2(b), 518.17 and 518.175; and
- The issue of parenting time be reserved, subject to "FATHER NAME's" right to request parenting time under Minnesota Statutes, sections 257.541, subd. 2(b), 518.17 and 518.175. The reservation of parenting time still allows for reasonable contact between "FATHER NAME" and the child(ren) as agreed to by the parties; and
- The child(ren)'s name shall remain as it is on the birth certificate(s).

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### Consent to Release Voluntary GT Results

- Minn. Stat. § 257.62 allows release after a paternity action is commenced
- How can genetic test information be released before a paternity action is commenced?
  - Genetic information is private data – Minn. Stat. § 13.386
    - May be **collected, used, stored and disseminated** only with written informed consent of the individual.
    - Previous GT lab forms only addressed collection, use and storage, not dissemination.




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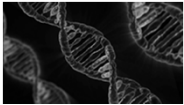
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## Serving the GT Results on all Parties

- Should the GT results be served on all parties or just the parents?
- **Minn. Stat. § 257.62** states that "a copy of the test results must be served on each party by first class mail to the party's last known address."




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### AUTHORIZATION FOR RELEASE OF PROTECTED GENETIC INFORMATION IN COUNTY CHILD SUPPORT/PATERNITY CASE

Name: \_\_\_\_\_ IV-D Case Number: \_\_\_\_\_

A. I hereby authorize the county child support office to disclose protected genetic information for the following purposes:

1. To establish the existence or non-existence of a parent-child relationship.
2. To inform the parties involved of an exclusion or possible inclusion of a parent-child relationship.

B. The genetic information to be disclosed is: Genetic test results showing genetic markers that are used to determine a parent-child relationship.

C. The genetic information may be disclosed to: county child support office, county attorney's office-child support section, the child's mother, the alleged father in this genetic test, and the child's caretaker (if applicable).

D. I understand that if a legal action is or has been commenced to establish paternity for the minor child, the genetic information will be disclosed according to the applicable Minnesota laws and court rules.

E. I understand that if I am the legal custodian of the child(ren) subject to the genetic testing, I consent to the release of the child(ren)'s protected genetic information.

F. I understand that I am not required to submit to genetic testing or sign this Authorization. This Authorization expires one year from the date it is signed.

G. I understand that if I do not agree to the terms of this voluntary genetic testing, the county attorney's office reserves the right to proceed with a legal action to determine the paternity of the child(ren). If the legal action is commenced, the county attorney's office may obtain a court order requiring the parties to submit to genetic testing, if deemed appropriate.

I voluntarily agree to the genetic testing. I hereby consent that a copy of the genetic test results may be mailed to all of the participants of this genetic test, as well as my child's caretaker (if applicable).

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## DHS - SIR SharePoint Page

- What is it?
  - Share information about CLV
  - Working site for CLV
  - Form for new CLV issues
- Includes
  - Submitted issues
  - Approved issues
  - Communications
  - New issue form
  - Updated issues list with status of each item
  - Contact info
  - Calendar




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## New Issues Submission

- You can submit an issue to the CLV
  - CLV front page under announcements OR on the Executive Committee page
    - Directions are on the form
- If you have a new idea, please feel free to reach out to any of the executive committee members, or large group chairs.
  - Keep in mind new issues will require homework and research prior to submission so that the people reviewing the issues can easily understand exactly what it is and determine where it best fits.




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## DHS-SIR CLV page

DHS-SIR BlueZone Scripts ISDS-SMRT MAXIS MEC\* MMIS/METS PRISM SMI

CLV Groups  
 Court  
 Enforcement  
 Executive Committee  
 Guidelines  
 Medical  
 CLV Document Library  
 Lists  
 Best Practices  
 Calendar  
 CLV Group Members  
 Site Contents  
 Site Permissions  
 View All Site Content  
 Recent

DHS-SIR > PRISM > Proposal > Comprehensive Legal Vision (CLV)  
 Comprehensive Legal Vision: What is it? What does it do?  
 Child Support

Comprehensive Legal Vision Project  
 A Comprehensive Legal Vision Project was created to bring child support professionals together to attempt to solve some of the most difficult child support legal issues facing the child support community. An Executive Committee was established to oversee this project. The Executive Committee is currently composed of Jim Koppel, Human Services Division Assistant Commissioner; Jeff Jorgenson, DHS Child Support Division Director; Julie Erickson, DHS-CSD Policy & Planning Supervisor; and MCAA Representatives, Shila Wakek Hooper, Chief Deputy Isanti County Attorney and Melissa Rossow, Assistant Ramsey County Attorney.

Announcements  
 Submit a New Issue to CLV! 1/3/2018 1:14 P  
 by Nelson, Autumn

If you have a new, legal-related child support issue that you would like to submit to the CLV, please complete the attached form and email it to a CLV co-chair. Form - New Issue Submission to CLV.docx

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## DHS-SIR CLV page

DHS-SIR BlueZone Scripts ISDS-SMRT MAXIS MEC\* MMIS/METS PRISM SMI Help Search

Court @

CLV Groups  
 Court  
 Enforcement  
 Executive Committee  
 Guidelines  
 Medical  
 CLV Document Library  
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 Calendar  
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 Recent

**Court CLV Group**

ANNOUNCEMENTS  
 new announcement or edit this list  
 Title Info  
 Court Group Issues List.docx This document contains a list of the pending issues with the Court group as well as previous issues that have been resolved.  
 Court Group Members List  
 Click on the link in the left column titled "CLV Group Members". Choose the view for Court CLV Group.

Approved Proposals from Court Group

ID	Title	Approval Status	Document Type	Created	Modified By
1	CLV - Court - Establishment - RSA Licensee	Approved	Proposal/Recommendation	December 28, 2017	Nelson, Autumn
2	CLV - Court - Establishment - Risk Reversal	Approved	Proposal/Recommendation	December 28, 2017	Nelson, Autumn
3	CLV - Court - Modif - Case Closure Forms Recommendation	Approved	Proposal/Recommendation	December 28, 2017	Nelson, Autumn

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### Membership List

- Andrew Abruzzese
  - Amy Anderson
  - Karla Bauer
  - Ashley Benson
  - Janell Boeckermann
  - Tara Borton
  - Cindi Bratton
  - Beth Cone
  - Jennifer Cooklock
  - Jim Demgen
  - Jessica Dettman
  - Richard Diffatte
  - James Donehower
  - Rachelle Drakeford
  - Crystal Emerson
  - Julie Erickson
  - Theresa Farrell-Strauss
  - Carrie Gjerde
  - Heidi Haefner
  - Kim Hamill
  - Susan Hanstad
  - Kristie Hermanson
- Lori Hoff
  - Karen Holt
  - Tina Isaac
  - Bobby Jackson
  - Rhonda Jaeger
  - Tom Kelly
  - Gretchen Kewitsch
  - Jeanette Koehler-Harris
  - Lisa Kontz
  - Jim Koppel
  - Sara Lauthen
  - Juan Martinez
  - David McLeod
  - Holly Mikeworth
  - Catherine Miller
  - Tina Morrison
  - Autumn Nelson
  - Sandy Nordman
  - Jill Olson
  - Scott Orrey
  - Crysta Parkin
- Tracy Pederson
  - Angela Petroske
  - Kristi Pheidara
  - Jessica Raymond
  - Brynn Rhodes
  - Melissa Rossow
  - Sandy Ruhland
  - Patti Sallie
  - Brett Schading
  - Annette Schneckloth
  - Sherry Schwarzkopf
  - Jennifer Starfield
  - Ruth Sundermeyer
  - Kerri Sutton
  - Brad Thiel
  - Julie Thompson
  - Mary Vangerud
  - Shila Walek
  - Karen Wangler
  - Casey White
  - Jackie Wise




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### Thank you!

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