

Paternity Establishment and the Parenting Expense Adjustment



Parenting Time – 518A

Minnesota Statutes section 518A.36 – Parenting Expense Adjustment

Subd. 1(a) “....Every child support order **shall** specify the percentage of parenting time granted to or presumed for each parent...” (emph. added)

- “Percentage” = amount of scheduled time per year with each parent averaged over two year period
- Using overnights or equivalents
- This language is not new. Subdivision 1 is essentially unchanged from the prior PEA statute.

Parenting Time - 257

Minnesota Statutes section 257.66 - Judgment or Order

Subd. 3 “The judgment or order shall contain provisions concerning the duty of support, the custody the child, the name of the child...parenting time for the child...”

Establishing Parenting Time in a Paternity Case

Minnesota Statutes section 257.541 – Custody and Parenting Time with Children Born Outside of Marriage

Subd. 2(b) [When paternity is adjudicated] the “father may petition for rights of parenting time or custody in the paternity proceeding or in a separate proceeding under section 518.156.”

Parenting time is to be determined according to Minnesota Statutes section 518.175. (Apparently.)

Do we *really* need a schedule?

Minnesota Statutes § 518.175 – Parenting Time

Subd. 1(e) *Upon request of either party, to the extent practicable* an order for parenting time must include a specific schedule for parenting time, including...holidays and vacations...”
(emphases added)

SHALL or “shall”?

518A (Child Support) – Mandates a specific schedule

518 (Parenting Time) – Leaves wiggle room



Practice Practicalities:

Use a number

Whether or not a specific schedule is ultimately ordered, specifying a percentage of parenting time for each party is crucial.

- No need to force a specific schedule on people who don't want one (518.175)
- BUT...No schedule + no percentage = No PEA
- Ex. "Respondent is granted reasonable and liberal parenting time with the minor child. For purposes of the parenting expense adjustment, Respondent's parenting time percentage shall be 20%."

Practice Practicalities

Current Practice

- How are counties currently handling parenting time in paternity cases?
- SLC – Complainer states "Petitioner MOM requests that the issue of parenting time be reserved."
- If mom and dad are both respondents, complaint requests that the court "address the issue of parenting time."

Practice Practicalities

To ex pro, or not to ex pro?
That is the question.



Practice Practicalities

Discussion:

Does it make sense to handle paternity cases in the expedited child support process?

Finally, be aware.....

Minnesota Statutes § 518.175 – Parenting Time
Subd. 1(g) “In the absence of other evidence, there is a rebuttable presumption that a parent is entitled to receive a minimum of 25 percent of the parenting time for the child. For purposes of this paragraph, the percentage of parenting time may be determined by calculating the number of overnights...or by using a method other than overnights...”
