

# Rights and Responsibilities of Unmarried Parents



Fifth Edition Revised  
2018

# PREFACE

This booklet provides basic information about the rights and responsibilities of unmarried parents. It is a guide and is not meant to answer all questions. The laws referred to in this booklet may change often, so be sure to check for changes. This booklet only gives general rules, which may or may not apply to your situation.

If you are low-income you can get a free copy of this booklet from your local Legal Services office. You can also find it online at [www.LawHelpMN.org](http://www.LawHelpMN.org) to view or print out. Others can purchase the booklet for \$7.48 (which includes applicable sales tax, postage, and handling). Booklets are available for purchase from

Legal Services State Support  
Midtown Commons, Suite 101B  
2324 University Ave. W.  
St. Paul, MN 55114

Discounts are available on bulk orders by calling the Legal Services State Support office at 651-228-9105, ext. 6911.

For free information about this and other civil legal topics, visit [www.LawHelpMN.org](http://www.LawHelpMN.org).

You can also find fact sheets on different legal subjects online at the website listed above or from the Education for Justice Program of the Minnesota Legal Services Coalition. Please call (651) 842-6915 for a list.

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## **Table of Contents**

|   |    |
|---|----|
| <b>Introduction: Learning about legal parenthood .....</b>  | 1  |
| What is paternity?.....   | 1  |
| Why should paternity be established? .....  | 2  |
| How is paternity established? .....   | 2  |
| What is the Recognition of Parentage (ROP)?.....  | 2  |
| What if we signed an ROP and we agree about custody, parenting time and child support?.....           | 4  |
| What is Paternity Adjudication? .....   | 4  |
| What is a Presumption of Paternity?.....  | 5  |
| What is the Declaration of Parentage?.....  | 5  |
| Can I have a lawyer represent me? .....   | 6  |
| Guardian Ad Litem .....   | 6  |
| Genetic Tests.....  | 6  |
| Differences Between an ROP and a Paternity Adjudication.....  | 7  |
| <br><b>Child Support, Medical Support and Childcare Support .....</b>                                 | 8  |
| Does legal custody affect child support? .....  | 8  |
| Does parenting time affect child support? .....   | 9  |
| Medical Support.....  | 9  |
| Childcare .....   | 9  |
| What about public benefits? .....   | 10 |
| What about tax deductions? .....  | 10 |
| Who decides what the child's last name will be?.....  | 10 |
| <br><b>Rights and responsibilities of parents after paternity is established by court order .....</b> | 10 |
| What is custody?.....   | 10 |
| The court looks at 12 factors to determine what is in the best interest of the child.....             | 11 |
| Can custody be changed after the court has made its order? .....                                      | 12 |
| <b>Rights and responsibilities of each parent when they sign an ROP .....</b>                         | 12 |
| <br><b>Parenting Time .....</b>   | 13 |
| Reasonable Parenting Time .....   | 14 |
| Scheduled Parenting Time .....  | 14 |
| Additional parenting time to provide childcare .....  | 14 |
| Parenting Time Expeditor .....  | 14 |
| Restricted or supervised parenting time .....   | 15 |
| Moving out of state.....  | 15 |
| Once the court makes a decision about parenting time, can it be changed? .....                        | 15 |
| We signed an ROP. What are each parent's parenting time rights? .....                                 | 16 |
| Voluntary Parenting Plans .....   | 16 |
| <br><b>Minnesota Father's Adoption Registry .....</b>   | 16 |
| <b>Minnesota Voluntary Recognition of Parentage Information.....</b>                                  | 17 |
| <b>Legal Aid Offices in Minnesota Listed by County .....</b>  | 18 |

## Introduction: Learning about legal parenthood

This booklet will help you understand your rights and responsibilities as a parent. Your child deserves the best you can offer, including the love, attention, support, and understanding of BOTH parents.

Even if there are disagreements between parents, the child has a right to shared parenting when both parents are able to provide it. It is best for the child to be taken care of by both parents. Major decisions should be made by both parents so they can both lend their experience and judgment to a situation. The child does not lose these rights when the parents are not married.

### What is paternity?



Paternity is the legal term used for being the father of a child. When a man has paternity he is seen by the law as the legal father.

It is taken for granted (presumed) that the mother is the parent of her child. When a child is born during a marriage, the husband is presumed to be the father of the child.

If the parents were never married, the mother has sole legal and physical custody until a court order says differently.

An unmarried father has no legal rights to custody or visitation of the child. Only a legal parent can ask the court for custody or visitation. A legal parent is also responsible for supporting a child. Once Minnesota law names a man as the legal parent of a child, he has certain rights, duties, and obligations that go along with being the legal parent of that child.

When the parents are not married or there is a question about who the father is, paternity must be established. The parents may agree that the man is the biological father and sign a form called a **Recognition of Parentage** (ROP) or a court action may be started to name a father. Before the Recognition of Parentage form is signed, a parent may ask for tests to prove that the man is the biological father. He may also be ordered to take a blood test or other genetic test by the court.

Once paternity has been established, the father has the right to ask for parenting time (visitation) or custody. The parent who does not have custody will be ordered to pay child support, medical support, and childcare support. Paternity actions in court have far-reaching consequences and must be taken very seriously.

### Birth Certificates

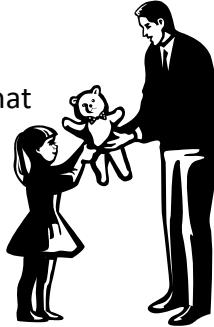
A birth certificate, by itself, does not establish legal paternity. When the parents sign the Recognition of Parentage (ROP) in the hospital, the father's name will automatically be on the birth certificate. If you sign the ROP after leaving the hospital, the father's name can be added to the birth certificate. You can add the father's name through the MN Department of Health, Office of the State Registrar, and there is no fee to update the child's record. Read more about ROPs on pages 2 and 3.

Advice from a lawyer is the best way to make sure that your rights are protected.

## Why should paternity be established?

### Psychological Benefit

Most of the time, there are emotional benefits for a child by having contact with his or her father. A child may also develop family ties to grandparents, aunts, uncles, and other relatives.



### Medical History

Your child may also gain access to medical history and genetic information that may be helpful in current or future medical treatment.

### Inheritance

The child has legal rights as an heir to inherit from the father and the father's relatives.

### Government Benefits

If the father becomes or is disabled, the child may be able to get benefits from the Social Security Administration or Veteran's Administration. The child can also get death benefits from Social Security or military benefits if the father was a veteran.

### Decision Making About the Child

Unless certain actions are taken to establish the legal relationship, a father has no right to be involved in the child's life, including the decision for the child to be adopted.

## How is paternity established?

There are 2 ways to establish legal paternity in Minnesota.

1. **Recognition of Parentage (Recognition or ROP)**
2. **Paternity Adjudication (Court Order)**



### **What is the Recognition of Parentage (ROP) and what is its legal significance?**

A Recognition of Parentage (ROP) is a legal document establishing the father and child's relationship when the father is not married to the mother of the child. See page 16 for information on where to find an ROP form online.

### **The ROP**

- is a form signed by both parents, notarized and filed with the MN Department of Health, Office of the State Registrar. It is an agreement recognizing the child's biological father.
- is an informal process that does not involve going to court.
- legally establishes paternity when the father is not married to the mother, and the mother is

not married to someone else. If the mother is married, but the husband is not the biological father, the husband signs it too.

- allows the father's name to be on the birth certificate. This creates certain legal rights and responsibilities for the father, mother, and child.

If either parent is under 18 years old when signing the ROP, or there is more than one "presumed" father, then it is only a "presumption of paternity" if paternity is later challenged in court (see page 5). However, it is final for other purposes such as child support.

An ROP can be filled out and signed at any time. You do not need a lawyer, but it's a good idea to talk to one before you sign to make sure you understand how it will affect your rights.

An ROP is as serious and final as a court order establishing paternity. When signing an ROP, each parent is giving up the rights to blood and genetic testing to find out if the man is the child's biological father. The father is giving up his right to a district court trial about parentage. Both parents give up their right to counsel. **If you are not sure, do not sign this important legal document.**

### **Does signing the ROP give custody or parenting time rights?**

No. The ROP does not give the father any custody or parenting time rights. It only establishes paternity. A father can visit the child if the mother agrees to parenting time. If the parents cannot agree on visits, the ROP gives the father the right to go to court about parenting time. If a child's father wants custody, the ROP is the legal basis to ask for it.



Signing the ROP does not give a father automatic rights to custody or to visit the child.

### **I signed an ROP but now I am not sure I should have. Can I cancel it?**

Anyone who signed an ROP can cancel it within 60 days. This is called a revocation. A revocation must be in writing, notarized, and filed with the MN Department of Health, Office of the State Registrar. The mother, the person who signed as father, or a husband who signed, can revoke the ROP. No special form is needed.

After 60 days, only a court can vacate (cancel) the ROP. The person who signed the ROP or the child or the public authority (the child support office) may bring a court action to vacate the ROP. The action must be brought within certain time limits as follows:

- The mother, father, or husband must bring the action within 1 year of signing the ROP. Or within 6 months of getting blood or genetic test results that show that the man named as father on the ROP is not the father.
- The child must bring the action within 6 months of the blood or genetic test results or within 1 year of becoming an adult (that is, by age 19), whichever is later.

The person bringing this action has to be able to show there was fraud, duress or material mistake of fact.

## **What if we signed an ROP and we agree about custody, parenting time and child support?**

If both parents agree, there is a process that lets you file your written agreement and a copy of the filed ROP with the court for approval. Your agreement must include:

- a statement that there are no other men thought to be or claiming to be the father
- whether or not either parent has any other proceedings for custody, parenting time or child support
- whether the county is in agreement (if required),
- whether there is any Minnesota Order for Protection (OFP) or any documents like an OFP in effect in another state And
- statements that the parents agree to waive their rights to a lawyer and to genetic testing

If you are interested in this process to get your agreement approved by the court and made into a court order, contact your local legal aid office, county child support office, or other providers in your area who may be able to help.

## **What is a Paternity Adjudication and why is it important?**

A Paternity Adjudication is different from an ROP. It is the other way to establish legal paternity. A Paternity Adjudication is a court order that says who the child's father is. The order should also decide custody, parenting time, child support, medical support, childcare support, and the child's legal name.

## **Who can bring a paternity action to court?**

The child (through a guardian), the child's biological mother, a man presumed to be the father, or the county can start a paternity action. The law also lets a grandparent start the case, if that grandparent's child (the mother or father) is dead or is a minor.



## **Can a paternity action decide that someone is not the father?**

Yes, the court can make an order that a man named in the court action as a party is not the father of the child.

## **Who can start a paternity action when the child is older?**

A child, the child's mother or a man presumed to be the father may bring a court action at any time for the purpose of declaring the parent-child relationship. If a presumed father (or another person) wants the court to declare he is not the father, the legal action must be started before the child is 3 years old. But, this time limit does not apply in all cases. Also, if a person starting the action knows the man is not

the father; the action must be started within 2 years of finding out that the man is not the father.

## What are the steps in a Paternity Adjudication?

The first step is serving formal legal papers just like starting any other court case. The next step is getting information. Either parent has the right to ask for blood or genetic tests. Parents can always come to an agreement at any stage of the court case. If the parents cannot agree, the court will schedule a hearing or trial to decide the issues. All hearings or trials under the parentage act are held in closed court without any persons other than those necessary to the action.

The court will make a paternity order or judgment. The final judgment is a public record, but all the other papers and records are not. These papers may be inspected only if the court and the people that were part of the case say it is ok. In some special cases the papers can be inspected without permission but the court has to decide if there is a good enough reason before they say ok. A plaintiff or defendant in a paternity trial has the right to a jury trial under the state constitution, but because of modern technology this is rare.

## What is a presumption of paternity?

**The court will sometimes “presume” (take for granted) that a man is the child’s father. Some examples of when a man is presumed to be the biological father are**



- He and the mother were married when the child was born, or the child was born within 280 days after the marriage was over or
- He receives the child into his home and openly “holds the child out” to be his biological child.
- He and the mother of the child signed a Declaration of Parentage before July 31, 1995. A Declaration of Parentage is different from a Recognition of Parentage (ROP). A Declaration of Parentage only creates a “presumption” of paternity. It does not establish paternity, like an ROP does.
- Blood or genetic tests say that he is the father at a 99% or greater probability.
- He and the mother of the child have signed an ROP (see the section about ROPs on pages 2 and 3), and another man is also a presumed father, or one of the parents is under age 18.

## What is the Declaration of Parentage?

A man may also be presumed to be the child’s father if he has signed a Declaration of Parentage. The Declaration of Parentage is any written acknowledgment of parentage. It is only a presumption of paternity. In 1995, the law changed to allow ROPs to be signed to determine parentage. The old form (Declaration) is no longer used. If you got a Declaration prior to 1995, you should consult a lawyer to find out the current status of that Declaration.

A Paternity Adjudication or an ROP is still needed to establish paternity even if a Declaration of Paternity is signed. People easily confuse Declarations and ROPs, but they are very different.

## **Can I have a lawyer represent me? What if I can't afford a lawyer?**

In any legal matter, you may always hire a lawyer to give legal advice or representation. If there is a paternity case in court, you have a right to have a free, court appointed lawyer if you are low-income. There is no right to a free lawyer if the parents have signed an ROP. You can still choose to consult with a lawyer, but you may have to pay for the lawyer yourself. If an ROP is signed, contact your local Legal Aid office for advice and help. You may be able to get help for free.



## **What is a Guardian Ad Litem (GAL)?**

A Guardian Ad Litem is a neutral person appointed by the court. They are appointed for the purpose of the court case and act on behalf of a person not able to take legal action, like the child. The Guardian Ad Litem will be involved throughout all stages of the Paternity Adjudication to advise the court about what is best for the child.

## **What does a Guardian Ad Litem (GAL) do?**

In family and juvenile court, a Guardian Ad Litem advises the court about what is in the best interest of the child regarding custody and parenting time during the case. The Guardian Ad Litem does not have custody. A Guardian Ad Litem should make an independent investigation about what's best for the child and write a report.

The parties may be asked to pay the costs of a Guardian Ad Litem. However, if you are low-income or represented by legal aid, you may not have to pay any Guardian Ad Litem costs.

If either parent is a minor, the court will appoint a Guardian Ad Litem for that parent. In this situation the court usually appoints a relative such as the parent of that minor.

## **Genetic Tests**

Blood tests and swab tests are 2 types of genetic tests done to determine paternity. Some areas still use blood tests, but many are now using cheek swab tests. Genetic tests are very sophisticated. Many people refer to both types as simply "blood tests."

Either parent may ask for genetic testing even before either party starts a court case.

Often genetic tests are the most objective and influential evidence in a paternity proceeding. The courts favor the use of genetic tests as the most accurate and efficient means of determining paternity.

The results of a genetic test can usually determine for sure that a person is NOT a biological parent of a child.

Once the court makes its final order, or after the ROP is signed, the right to a genetic test goes away. If you are unsure about paternity, ask for genetic testing either before signing an ROP, or as part of a court action. The county agency will assist with genetic testing before an ROP is signed or during a court action.

## Differences between Recognition of Parentage (ROP) and Paternity Adjudication

| Recognition of Parentage<br>(ROP)  | Paternity Adjudication<br>(court order)  |
|--|--|
| <ul style="list-style-type: none"> <li>• Informal – do not have to go to court</li> </ul>  | <ul style="list-style-type: none"> <li>• Formal – must go to court</li> </ul>  |
| <ul style="list-style-type: none"> <li>• Can be done at any time</li> </ul>  | <ul style="list-style-type: none"> <li>• Can be done at anytime to establish paternity, but time limits apply if trying to prove non-paternity in some cases</li> </ul>  |
| <ul style="list-style-type: none"> <li>• Both parents must agree and if the woman is married to another, the husband must sign also</li> </ul> | <ul style="list-style-type: none"> <li>• Goes forward regardless of agreement</li> </ul>   |
| <ul style="list-style-type: none"> <li>• Is the legal basis for child support and a separate child support action is needed</li> </ul>         | <ul style="list-style-type: none"> <li>• Child support is part of same legal action</li> </ul>   |
| <ul style="list-style-type: none"> <li>• Is the legal basis for father to bring court action for custody or parenting time</li> </ul>          | <ul style="list-style-type: none"> <li>• Custody/parenting time is part of the same legal action</li> </ul>  |
| <ul style="list-style-type: none"> <li>• Quick, inexpensive, no right to free lawyer but you can pay to have one</li> </ul>                    | <ul style="list-style-type: none"> <li>• Court actions can take a long time</li> <li>• If low-income right to have a free, court appointed lawyer</li> <li>• If not eligible for free lawyer, can be costly</li> </ul> |

## **Child Support, Medical Support, and Childcare Support**

Child support is a court ordered award of money for the care and support of the children. It is paid by the parent who does not have physical custody of the children. If the parents share equal custody, the parent with the higher income pays child support.



Child support has three parts - basic support, medical support, and childcare support.

The child support order can be part of the paternity order or made in a separate legal action for child support if there is an ROP already signed.

Child support is ordered after paternity is decided with an ROP or a Paternity Adjudication. It can cover up to 2 years before the legal action was started. The legal standards for deciding on basic support, medical support, and childcare support are the same in a paternity proceeding, a separate action for child support, and in a divorce proceeding. The amount of support is calculated based on the Minnesota Child Support Guidelines. The order usually sets up automatic withholding from the payer's income.

The non-custodial parent must pay child support even if there is no parenting time or if the custodial parent is denying parenting time rights. For more information on child support, see the [\*\*"Child Support Basics"\*\*](#) booklet.

A non-custodial parent cannot avoid the obligation to pay child support on the grounds that he was under 18 at the time the child was born.

### **If I have an ROP, can I start a court action for child support?**

Yes. An ROP by itself does not include anything about child support. But if you have an ROP you can use it to go to court to get child support. The parent who does not have custody (or if the parents share equal custody) and has the higher income, will be ordered to pay child support. Child support includes basic support, medical support, and childcare support.

If both parents agree about custody, parenting time and child support, there is a process that lets you file your written agreement and a copy of the filed ROP with the court for approval. See page 4 for more information.

### **Does Legal Custody affect child support?**

No. Legal custody does **not** change the way child support is determined. But joint physical custody **does** change the way child support is determined.

## Does Parenting Time affect child support?

Yes. Parenting Time, generally calculated by the number of overnights a child spends with each parent, may result in an adjustment to basic child support. If Parenting Time is equal or close to equal, a different formula is used. See the booklet [\*\*"Child Support Basics"\*\*](#) for more information about child support and parenting time.

## Medical Support



Both the custodial and the non-custodial parent can be ordered to provide medical support. Medical support includes covering the child with health insurance and paying toward premiums, co-pays or other uninsured or un-reimbursed medical expenses.

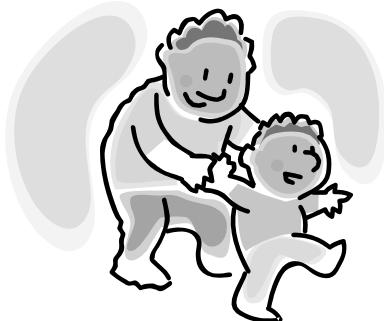
Whenever a court makes a decision about child support, it must also make an order about medical support. If the child gets Medical Assistance or MinnesotaCare, the court order will also include reimbursement for this public assistance.

See the booklet [\*\*"Child Support Basics"\*\*](#) for more information about medical support.

## Childcare

If the parent with custody has childcare costs while working or going to school, the non-custodial parent may have to pay a share of these childcare costs.

Each parent will be ordered to pay a share equal to that parent's share of the combined income.



See booklet [\*\*"Child Support Basics"\*\*](#) for more information about childcare support.

## How can I get help to establish child support?

The county child support office will help either parent establish paternity, child support or medical support. They can also help with other child support matters. If a parent gets public assistance, the child support case is started automatically. If a parent does not get public assistance, the parent must apply and pay the child support agency a one-time application fee of \$25. The county attorney represents the county agency, not either parent. The county's goal is to establish paternity (by Recognition of Parentage or by court action) for all children and to help set up child support. The county will not help you with custody or parenting time issues. Contact your local legal aid office for help with custody and parenting time.

There may be fees if you do not get any public assistance. Ask about those fees.

The child support office can help you find a missing parent to establish paternity (if a child was born outside of marriage) or to start a child support case.

If you believe you or your child could be harmed by starting a paternity or child support case, you do not have to apply for services or can stop any action already started. If you get public assistance, you can apply for a “good cause” exemption and you will not have to cooperate with the child support office. Tell your worker about domestic violence (threats, fears, or harm) and ask for a “good cause” exemption.

## **What about public benefits?**

A parent or other relative that has a child living with them may apply for and get public assistance without needing a custody order. An income eligible parent that has the children living with them may apply for and get MFIP (the Minnesota Family Investment Program), Medical Assistance, and childcare assistance.

## **What about tax deductions?**

IRS rules say the parent that the child lives with more than 50% of the time may claim the child as a dependent for their tax returns. Or that parent can sign a form giving that right to the other parent. This is called an exemption. The IRS (and State) tax rules apply. In a child support determination, the court can look at the financial situation and then order one parent to sign the form giving the exemption to the other.



## **Who decides what the child's last name will be?**

At the hospital, the mother can choose the child's last name. The parents must agree to keep or change the child's last name when they sign the ROP.

As part of a Paternity Adjudication, the court must make an order about the child's name. If the parents do not agree, the court will decide what name is in the child's best interest.

## **Rights and Responsibilities of Parents After Paternity is Established by Court Order**

### **What is custody?**

There are 2 parts to custody

1. Legal Custody
2. Physical Custody

**Legal Custody** could be called “decision-making custody.” This custody involves the right of a parent to make major decisions about the child’s life, such as

- where home is
- schooling
- religion
- major medical care

The court can give legal custody to one parent or to both parents together. This is called **joint legal custody**. Joint legal custody means both parents have equal rights in making major decisions. The court prefers that parents have joint legal custody, unless there has been domestic abuse.

**Sole legal custody** means one parent makes these decisions.

Whether legal custody is sole or joint, both parents have the right to be informed about the child’s schooling, medical care, and other major decisions. Both parents can attend school conferences, attend medical appointments, have reasonable telephone contact with the child, etc.

### **Physical Custody**



The parent that the child lives with has **physical custody**. Joint physical custody means that the child lives part of the time with each parent and both parents schedule where the child lives. It does not necessarily mean that the child spends 50% of the time with each parent.

**If the parties do not agree about custody and the court must decide, it looks at 12 factors to decide what is in the best interest of the child.**

1. The child’s physical, emotional, cultural, spiritual, and other needs, and the effect of the proposed arrangements on the child’s need and development.
2. Any special medical, mental health, or educational needs that the child may have that require special parenting arrangements or access to recommended services.
3. The reasonable preferences of the child, if the court deems the child to be of sufficient ability, age, and maturity to express and independent, reliable preference.
4. Whether domestic abuse has occurred in the parents’ or either parent’s household or relationship; the nature and context of the abuse; and the effect of abuse on the child’s safety, well-being, and developmental needs.
5. Any physical, mental, or chemical health issue of a parent that affects the child’s safety or developmental needs.
6. The history and nature of each parent’s participation in providing care for the child.

7. The willingness and ability of each parent to provide ongoing care for the child; to meet the child's ongoing developmental, emotional, spiritual, and cultural needs; and to maintain consistency and follow through with parenting time.
8. The effect on the child's well-being and developmental changes to home, school, and community.
9. The effect of the proposed arrangements on the ongoing relationships between the child and each parent, siblings, and other significant persons in the child's life.
10. The benefit to the child in maximizing parenting time with both parents and the detriment to the child in limiting parenting time and the detriment to the child in limiting parenting time with either parent.
11. Unless there is abuse, each parent's ability to support the child's relationship with the other parent and to encourage and permit frequent and continuing contact between the child and other parent.
12. The willingness and ability of parents to cooperate in the rearing of their child; to maximize sharing information and minimize exposure of the child to parental conflict; and to utilize methods for resolving disputes.

### **Can custody be changed after the court has made its order?**

Yes, custody can be changed. But, once the court makes its first decision about custody, that decision controls what happens and is very hard to change later. The court can only look at facts that have changed since the prior order. The court may change custody



- if both parents agree to the change, or
- if the custodial parent has let the child become part of the other parent's home, or
- there has been a big change of circumstances and the child's present custody harms or endangers the child, or
- if the parent with custody has denied or interfered with parenting time (parenting time problems are usually not enough to change custody).

### **Rights and Responsibilities of Each Parent When They Sign an ROP**

**When parents sign a Recognition of Parentage (ROP), it does not establish custody and parenting time.**

After an ROP is signed, the mother has the same sole legal and physical custody she had before the ROP was signed. If the father wants any custody or parenting time, he has to ask the court for an order. This court action is not a paternity action but is about custody under a different law. The court will then decide custody or parenting time using the same “best interest” standard used for the paternity order.

**We have a signed Recognition of Parentage (ROP) and are now going to a child support hearing before a magistrate. Can that magistrate make some decisions about custody?**

No. The special expedited process for child support cannot make any decisions about custody or parenting time. If you want to have custody decided by a court, you must let the other parties (the other parent and the county) know by properly bringing an action for custody and asking to have the matter heard in district court. District Court has the power to make decisions about both child support and custody.

**We have a signed Recognition of Parentage (ROP) and we are now going to court about domestic abuse. Can the court make some decisions about parenting time?**

The court can decide/set parenting time in an Order for Protection proceeding. The safety of the children and the person asking for the OFP must be considered by the court.

## **Parenting Time**

**What happens with parenting time when a court decides paternity?**

When a court makes a decision about paternity, the court order is also supposed to have decisions about custody and parenting time.

When the court makes decisions about parenting time, it looks at letting the child and the non-custodial parent to keep up a relationship, if that is in the best interest of the child. The court should consider the age of the child and the type of relationship the child had with that parent before the legal action began. The court can order a specific schedule for parenting time or leave it very broad and general by calling it “reasonable parenting time.” If the court finds that parenting time is likely to harm the child physically or emotionally, the court can restrict or condition parenting time. Restrictions can be things like:

- making a rule that another adult has to be there to supervise parenting time
- making a rule that the parent has to be sober
- limiting the parenting time to a place such as a child safety center where trained individuals are present.

## **Reasonable Parenting Time**

Sometimes the "Judgment and Decree" (court order) states that the parent without custody will have "reasonable parenting time." The parenting times are not set and the parties must make their own plan for visits. The plan can change from time to time if the parents agree. The parent who has custody has the final decision, but must be fair in allowing parenting time to the non-custodial parent. This works well when both parents get along well enough to plan the visits and set the times. If parents have conflicts, a parenting time schedule is better than "reasonable parenting time."

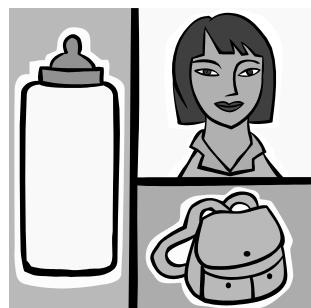
## **Scheduled Parenting Time**

If the parents cannot agree, the court may schedule parenting time by court order. For example, parenting time may take place on weekends and holidays, during a part of school vacations and for a longer time during the child's summer vacation. Parenting time can also be during the school week.

You may ask the court to order a law enforcement officer or another person to come along to make sure parenting time rules in the court order are followed. But this is not a permanent solution. If the pick-ups and drop-offs of the child cannot happen safely or as ordered on a regular basis, the court is likely to order a more restrictive exchange plan or location. If law enforcement or another person is needed, the court order needs to say this.

## **Additional Parenting Time to Provide Childcare**

Additional parenting time may be given to the non-custodial parent to provide childcare while the custodial parent is working. This kind of plan has to be fair and in the best interest of the child. In looking at if this additional parenting time/childcare time should be given, the court will look at



1. How well the parents can cooperate
2. Methods for solving arguments and about the care of the child and the parents' willingness to use those methods, and
3. If there has been domestic abuse between the parties.

Courts cannot lower child support payments because they order this kind of childcare.

## **Parenting Time Expeditor**

The court can appoint a "parenting time expeditor." This expeditor is a neutral person who will help solve problems about parenting time. Expeditors may not be available in all counties. If an agreement is not reached, the expeditor will make the decision. The decision of the parenting time expeditor is "non-binding." This means that the court can change the decision if either party brings a motion asking the court to resolve the dispute. The decision is "binding" (has to be followed) until changed by the court.

If a problem comes up, the expeditor will meet with the parties. The parties may also agree to meet

with a mediator, social worker, or someone who can help them reach an agreement. If no agreement is reached, the parties may go back to court.

The court cannot make you have your parenting time problem settled by a parenting time expeditor if

- you claim to be the victim of domestic abuse by the other parent, or
- the court finds that you or your child have been physically abused or threatened by the other parent.

You and the other parent will have to pay for the expeditor. The court will decide how much each of you will pay before appointing the expeditor. If you cannot afford to pay the expeditor's fees, and the other parent doesn't agree to pay, your parenting time problem will not be sent to an expeditor.

## **Restricted or Supervised Parenting Time**

The court may restrict parenting time if the parent asking for parenting time might harm the children. Harming the children might be physical, emotional, or by kidnapping. The court can limit the hours of parenting time or limit the place where parenting time can take place. The court can order that the child only visit when another person is there. This is called **supervised parenting time**. In some cases, parenting time may be denied altogether. The court can also order that the pick-up and drop-off of the child take place at a safety center to protect the custodial parent.

If a parent asking for parenting time has been convicted of certain crimes, that parent must convince the court that parenting time with the child is in the child's best interest. These crimes include assault, sexual abuse, parental kidnapping, terroristic threats, felony harassment, domestic assault by strangulation, and stalking. Ask your lawyer if these laws apply in your case.

## **Moving Out of State**

When parenting time rights are granted, the custodial parent cannot move the child to another state without getting permission from the other parent. If the other parent will not give written permission for the move, the custodial parent must ask for permission from the court.

## **Once the court makes a decision about parenting time, can that order be changed?**

Yes. The parenting time order can be changed if the situation changes and a new order is needed for the child's best interest. Changing parenting time rules is easier than changing custody orders. This is because the court just looks at the best interest of the child and does not have to look at if the current parenting time actually endangers the child. The court administrator's office has forms for the public to use (called pro se forms) to ask the court for parenting time changes without a lawyer. You can also contact your local legal aid office for help.



## We signed a Recognition of Parentage (ROP). What are each parent's parenting time rights?

If the father wants a legal right to visit, he has to bring a separate legal action for parenting time. The parents may agree about parenting time but there is NOT a legal right to enforce that agreement. Please read the sections about custody after an ROP is signed, since much of the same procedure applies when looking at parenting time. The court will also use the same legal standards to decide parenting time for any reason—after an ROP in a paternity action or in a divorce action.

## Voluntary Parenting Plans

The law allows parents to come up with their own “Parenting Plans.” This Parenting Plan takes the place of separate custody and parenting time orders. A Parenting Plan may include issues about the children that are not part of the ordinary custody and parenting time orders. A Parenting Plan includes a schedule of the time each parent spends with the child, a description of which responsibilities each parent has regarding the child and a description of how conflicts will be resolved. The court must approve this plan and it must be in the best interest of a child (see factors on pages 11 and 12).

Parents agreeing to a Parenting Plan may use terms other than “physical” and “legal” custody, as long as the terms are well defined. Parents must still write down that custody is joint legal or joint physical or sole legal or sole physical custody.

If parents do not agree to a Parenting Plan, the court may create one for the parents. If there has been domestic abuse by one parent against the other parent or the child, the court cannot create a Parenting Plan on its own motion.

## Minnesota Father's Adoption Registry

The Fathers' Adoption Registry is a record of “putative” fathers who voluntarily register any time before their child's birth or within 30 days of the birth. It applies to children born on January 1, 1998 or later, but not before then. A “putative father” means a man who may be a child's father, but who

- is not married to the child's mother on or before the date that the child was or is to be born and
- has not established paternity of the child in a court proceeding.

If adoption proceedings begin for the child, and if the father has placed his name on the registry, the court can find the father so he can participate in the adoption proceedings.

For more information about the adoption registry go to the Minnesota Department of Health's website here: <http://www.health.state.mn.us/divs/chs/registry/top.htm>

## **Recognition of Parentage Form**

For the voluntary Recognition of Parentage Form and instructions, visit the DHS website here: <https://edocs.dhs.state.mn.us/lfservr/Public/DHS-3159-ENG>. This form is included at the end of the printed version of this booklet.

This booklet was designed to help you understand your rights and responsibilities as a parent. A child has a right to be taken care of by both parents. The child does not lose these rights when the parents are not married. Once paternity is established, both parents have both rights and responsibilities as described in this booklet.

For information about related topics, please refer to the following booklets: [Getting a Divorce](#), [Child Support Basics](#), and [Orders for Protection and Harassment Restraining Orders](#).

## Legal Services Offices in Minnesota Listed by County

Or go to: [www.lawhelpmn.org/resource/legal-aid-offices](http://www.lawhelpmn.org/resource/legal-aid-offices)

| County                            | Office                         | Phone number   | Website  |
|-----------------------------------|--------------------------------|----------------|--|
| Aitkin                            | LASNEM - Grand Rapids          | (800) 933-1112 | <a href="http://www.lasnem.org">www.lasnem.org</a>   |
| Anoka                             | ANOKA - Blaine                 | (763) 783-4970 | <a href="http://www.anokajudicare.org">www.anokajudicare.org</a>   |
| Anoka (LSC)                       | CMLS - Minneapolis             | (612) 332-8151 | <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>   |
| Anoka (immigration)               | MMLA – Immigration Law Project | (612) 332-1441 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a>   |
| Anoka (seniors 60 and older only) | MMLA - Minneapolis             | (612) 334-5970 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a>   |
| Becker                            | LSNM - Moorhead                | (800) 450-8585 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |
| Beltrami                          | LSNM - Bemidji                 | (800) 450-9201 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |
| Benton                            | MMLA and CMLS - St. Cloud      | (888) 360-2889 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Big Stone                         | MMLA and CMLS - Willmar        | (888) 360-3666 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Blue Earth                        | SMRLS - Intake Hotline         | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Brown                             | SMRLS - Intake Hotline         | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Carlton                           | LASNEM - Duluth                | (800) 933-1112 | <a href="http://www.lasnem.org">www.lasnem.org</a>   |
| Carver                            | SMRLS - St. Paul or Shakopee   | (651) 222-4731 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Cass                              | LASNEM - Grand Rapids          | (800) 933-1112 | <a href="http://www.lasnem.org">www.lasnem.org</a>   |
| Cass (seniors 60 and older only)  | MMLA - St. Cloud               | (888) 360-2889 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a>   |
| Chippewa                          | MMLA and CMLS - Willmar        | (888) 360-3666 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Chisago                           | MMLA and CMLS - St. Cloud      | (888) 360-2889 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Clay                              | LSNM - Moorhead                | (800) 450-8585 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |
| Clearwater                        | LSNM - Bemidji                 | (800) 450-9201 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |
| Cook                              | LASNEM - Duluth                | (800) 933-1112 | <a href="http://www.lasnem.org">www.lasnem.org</a>   |
| Cottonwood                        | SMRLS - Intake Hotline         | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |

| County                                | Office                       | Phone number   | Website  |
|---------------------------------------|------------------------------|----------------|--|
| Crow Wing                             | LASNEM - Grand Rapids        | (800) 933-1112 | <a href="http://www.lasnem.org">www.lasnem.org</a>   |
| Crow Wing (seniors 60 and older only) | MMLA - St. Cloud             | (888) 360-2889 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a>   |
| Dakota (family law only)              | LADC                         | (952) 431-3200 | <a href="http://www.dakotalegal.org">www.dakotalegal.org</a>   |
| Dakota (all other civil law)          | SMRLS - St. Paul or Shakopee | (651) 222-4731 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Dodge                                 | SMRLS - Intake Hotline       | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Douglas                               | LSNM - Alexandria            | (800) 450-2552 | <a href="http://www.lsnlaw.org">www.lsnlaw.org</a>   |
| Faribault                             | SMRLS - Intake Hotline       | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Fillmore                              | SMRLS - Intake Hotline       | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Freeborn                              | SMRLS - Intake Hotline       | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Goodhue                               | SMRLS - Intake Hotline       | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Grant                                 | LSNM - Alexandria            | (800) 450-2552 | <a href="http://www.lsnlaw.org">www.lsnlaw.org</a>   |
| Hennepin                              | MMLA and CMLS - Minneapolis  | (612) 334-5970 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Houston                               | SMRLS - Intake Hotline       | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Hubbard                               | LSNM - Bemidji               | (800) 450-9201 | <a href="http://www.lsnlaw.org">www.lsnlaw.org</a>   |
| Isanti                                | MMLA and CMLS - St. Cloud    | (888) 360-2889 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Itasca                                | LASNEM - Grand Rapids        | (800) 933-1112 | <a href="http://www.lasnem.org">www.lasnem.org</a>   |
| Jackson                               | SMRLS - Intake Hotline       | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Kanabec (seniors 60 and older only)   | MMLA - St. Cloud             | (888) 360-2889 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a>   |
| Kanabec (all other civil law)         | LASNEM - Pine City           | (800) 933-1112 | <a href="http://www.lasnem.org">www.lasnem.org</a>   |
| Kandiyohi                             | MMLA and CMLS - Willmar      | (888) 360-3666 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Kittson                               | LSNM - Moorhead              | (800) 450-8585 | <a href="http://www.lsnlaw.org">www.lsnlaw.org</a>   |
| Koochiching                           | LASNEM - Virginia            | (800) 933-1112 | <a href="http://www.lasnem.org">www.lasnem.org</a>   |
| Lac qui Parle                         | MMLA and CMLS - Willmar      | (888) 360-3666 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Lake                                  | LASNEM - Duluth              | (800) 933-1112 | <a href="http://www.lasnem.org">www.lasnem.org</a>   |

| County                           | Office                    | Phone number   | Website  |
|----------------------------------|---------------------------|----------------|--|
| Lake of the Woods                | LSNM - Bemidji            | (800) 450-9201 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |
| Le Sueur                         | SMRLS - Intake Hotline    | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Leech Lake Reservation           | ANISHINABE - Cass Lake    | (800) 422-1335 | <a href="http://www.alslegal.org">www.alslegal.org</a>   |
| Lincoln                          | MMLA and CMLS - Willmar   | (888) 360-3666 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Lyon                             | MMLA and CMLS - Willmar   | (888) 360-3666 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Mahnomen                         | LSNM - Bemidji            | (800) 450-9201 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |
| Marshall                         | LSNM - Moorhead           | (800) 450-8585 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |
| Martin                           | SMRLS - Intake Hotline    | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| McLeod                           | SMRLS - Intake Hotline    | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Meeker                           | MMLA and CMLS - Willmar   | (888) 360-3666 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Mille Lacs                       | MMLA and CMLS - St. Cloud | (888) 360-2889 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Morrison                         | MMLA and CMLS - St. Cloud | (888) 360-2889 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Mower                            | SMRLS - Intake Hotline    | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Murray                           | SMRLS - Intake Hotline    | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Nicollet                         | SMRLS - Intake Hotline    | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Nobles                           | SMRLS - Intake Hotline    | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Norman                           | LSNM - Moorhead           | (800) 450-8585 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |
| Olmsted (family law)             | LAOC                      | (507) 287-2036 | <a href="http://www.laocmn.org">www.laocmn.org</a>   |
| Olmsted (all other civil law)    | SMRLS - Intake Hotline    | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Ottertail                        | LSNM - Alexandria         | (800) 450-2552 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |
| Pennington                       | LSNM - Moorhead           | (800) 450-8585 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |
| Pine (seniors 60 and older only) | MMLA - St. Cloud          | (888) 360-2889 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a>   |
| Pine (all other civil law)       | LASNEM - Pine City        | (800) 933-1112 | <a href="http://www.lasnem.org">www.lasnem.org</a>   |
| Pipestone                        | SMRLS - Intake Hotline    | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Polk                             | LSNM - Moorhead           | (800) 450-8585 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |

| County                             | Office                       | Phone number   | Website  |
|------------------------------------|------------------------------|----------------|--|
| Pope                               | LSNM - Alexandria            | (800) 450-2552 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |
| Ramsey                             | SMRLS - St. Paul             | (651) 222-4731 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Red Lake                           | LSNM - Moorhead              | (800) 450-8585 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |
| Red Lake Reservation               | ANISHINABE - Cass Lake       | (800) 422-1335 | <a href="http://www.alslegal.org">www.alslegal.org</a>   |
| Redwood                            | SMRLS - Intake Hotline       | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Renville                           | MMLA and CMLS - Willmar      | (888) 360-3666 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Rice                               | SMRLS - Intake Hotline       | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Rock                               | SMRLS - Intake Hotline       | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Roseau                             | LSNM - Moorhead              | (800) 450-8585 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |
| Scott                              | SMRLS - St. Paul or Shakopee | (651) 222-4731 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Sherburne                          | MMLA and CMLS - St. Cloud    | (888) 360-2889 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Sibley                             | SMRLS - Intake Hotline       | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| St. Louis (north)                  | LASNEM - Virginia            | (800) 933-1112 | <a href="http://www.lasnem.org">www.lasnem.org</a>   |
| St. Louis (south)                  | LASNEM - Duluth              | (800) 933-1112 | <a href="http://www.lasnem.org">www.lasnem.org</a>   |
| Stearns                            | MMLA and CMLS - St. Cloud    | (888) 360-2889 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Steele                             | SMRLS - Intake Hotline       | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Stevens                            | LSNM - Alexandria            | (800) 450-2552 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |
| Swift                              | MMLA and CMLS - Willmar      | (888) 360-3666 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Todd                               | MMLA and CMLS - St. Cloud    | (888) 360-2889 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Traverse                           | LSNM - Alexandria            | (800) 450-2552 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |
| Wabasha                            | SMRLS - Intake Hotline       | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Wadena (seniors 60 and older only) | MMLA - St. Cloud             | (888) 360-2889 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a>   |
| Wadena (all other civil law)       | LSNM - Alexandria            | (800) 450-2552 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |
| Waseca                             | SMRLS - Intake Hotline       | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Washington                         | SMRLS - St. Paul             | (651) 222-4731 | <a href="http://www.smrls.org">www.smrls.org</a>   |

| County                  | Office                    | Phone number   | Website  |
|-------------------------|---------------------------|----------------|--|
| Watonwan                | SMRLS - Intake Hotline    | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| White Earth Reservation | ANISHINABE - Cass Lake    | (800) 422-1335 | <a href="http://www.alslegal.org">www.alslegal.org</a>   |
| Wilkin                  | LSNM - Moorhead           | (800) 450-8585 | <a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>   |
| Winona                  | SMRLS - Intake Hotline    | (888) 575-2954 | <a href="http://www.smrls.org">www.smrls.org</a>   |
| Wright                  | MMLA and CMLS - St. Cloud | (888) 360-2889 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |
| Yellow Medicine         | MMLA and CMLS - Willmar   | (888) 360-3666 | <a href="http://www.mylegalaid.org">www.mylegalaid.org</a><br><a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a> |

**ABBREVIATIONS:**

**ANISHINABE** – Anishinabe Legal Services

**ANOKA** – Judicare of Anoka County

**CMLS** – Central Minnesota Legal Services

**LADC** – Legal Assistance of Dakota County, Ltd.

**LAOC** – Legal Assistance of Olmsted County

**LASNEM** – Legal Aid Service of Northeastern Minnesota

**LSNM** – Legal Services of Northwest Minnesota, Inc.

**MMLA** – Mid-Minnesota Legal Aid

**SMRLS** – Southern Minnesota Regional Legal Services



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