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Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A09-1622**

In re the Marriage of:

Kelly Jo Dahl, petitioner,  
Respondent,

vs.

Stephen Charles Dahl,  
Appellant.

**Filed May 4, 2010  
Affirmed  
Lansing, Judge**

St. Louis County District Court  
File No. V1-FA-08-203

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James R. Cope, Cope & Peterson, Ltd., Virginia, Minnesota (for respondent)

James Perunovich, Law Offices of James Perunovich, P.F., Hibbing, Minnesota (for  
appellant)

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Considered and decided by Hudson, Presiding Judge; Lansing, Judge; and  
Connolly, Judge.

## UNPUBLISHED OPINION

LANSING, Judge

This appeal raises issues related to a child-support determination in a marital-dissolution judgment. Stephen Dahl challenges the method and accuracy of the district court's calculation of his parenting-expense deduction. Because the district court, relying on a stipulated parenting-time schedule, accurately calculated the parenting time and did not abuse its discretion by declining to use an alternative method to calculate the child-support-expense adjustment, we affirm.

### FACTS

Kelly and Stephen Dahl were married in 2002 and have two children, born in 2004 and 2006. Kelly Dahl petitioned for dissolution in 2008, and both parents initially sought sole physical custody of the children. They were able to resolve the custody issue, and dissolution was granted by stipulated judgment in February 2009. The judgment provided that “it is in the children’s best interests that [the parents] be awarded joint legal custody with [Kelly Dahl] awarded primary physical custody subject to a co-parenting plan as specified[.]” The judgment incorporated a parenting-time schedule based primarily on Stephen Dahl’s work schedule, with allowances for holidays and other deviations.

Although it was agreed that Stephen Dahl was obligated to provide child support, the judgment reserved the amount of support because the Dahls disagreed on the calculation of Stephen Dahl’s parenting-expense adjustment. Kelly Dahl argued that Stephen Dahl should receive a twelve-percent adjustment because his parenting time with

the children amounted to thirty percent. Stephen Dahl argued that he spent slightly over forty-six-percent parenting time with the children and that his parenting-expense adjustment should, therefore, be based on a presumption of equal parenting time.

The district court found that Stephen Dahl was with the children between ten and forty-five percent of the time, but not over forty-five percent. Based on that finding, the district court applied the statutory categories and allowed Stephen Dahl a twelve-percent parenting-expense adjustment, which results in a monthly obligation of \$1,023 for child support.

Stephen Dahl requested that the district court amend the child-support obligation by basing the parenting-expense adjustment on the actual time that Stephen Dahl spent with the children and not basing it on the number of overnights that the children spent with him. He contends that this alternative calculation is justified because of the children's young age.

Kelly Dahl opposed a recalculation of child support. She submitted calculations that showed that whether the district court based its determination on actual or overnight time, Stephen Dahl's parenting time was still less than forty-five percent and the parenting expense adjustment would, therefore, be twelve percent. The district court denied Stephen Dahl's motion to amend the \$1,023 child-support obligation, and Stephen Dahl appeals.

## **DECISION**

The child-support statute provides for a parenting-expense adjustment that recognizes that a parent, while exercising parenting time, has expenses associated with

the costs of raising the child. Minn. Stat. § 518A.36, subd. 1(a) (2008); *see also Hesse v. Hesse*, 778 N.W.2d 98, 102 (Minn. App. 2009). Accordingly, the provision allows the parent who is paying support to make a parenting-expense adjustment of his or her support obligation, based on the percentage of parenting time allocated to that parent during a calendar year. Minn. Stat. § 518A.36, subds. 1(a), 2 (2008). The district court applies the percentage of parenting time allocated, within specific ranges, to calculate a parenting-expense adjustment, which is then subtracted from the parent’s basic support obligation to arrive at the amount for child support unless parenting time is presumed equal. *Id.*, subds. 2, 3 (2008).

The child-support statute defines three categories of parenting time that result in a different parenting-expense percentage adjustment: less than ten percent, over ten but less than forty-five percent, and over forty-five but less than fifty percent. Minn. Stat. § 518A.36, subd. 2(1). The district court may determine the percentage “by calculating the number of overnights that a child spends with a parent.” *Id.*, subd. 1. Or, the district court may use “a method other than overnights if the parent has significant time periods on separate days where the child is in the parent’s physical custody and under the direct care of the parent but does not stay overnight.” *Id.* When determining whether children are with a parent for significant time periods, “[t]he court may consider the age of the child.” *Id.*

The district court found that Stephen Dahl’s parenting time is within the ten-to-forty-five-percent range. The finding was based on the number of overnights that Stephen Dahl was scheduled to spend with the children under the stipulated parenting-

time schedule. The schedule covers a representative twenty-eight days, and the children stay overnight with Stephen Dahl on nine of these twenty-eight days—four nights during Dahl’s “long weekend” shift and five nights during his “day” shift. Stephen Dahl’s parenting-time percentage is therefore nine out of twenty-eight, or slightly more than thirty-two percent. This calculation falls well within the ten-to-forty-five-percent range, as the district court determined.

Although Dahl argues that the district court should have used the statute’s “significant time” method rather than the “overnight” method for calculating the parenting-time percentage, he acknowledges that the district court has discretion to use either method. We agree that, under the statute and the caselaw, the choice of method is within the district court’s discretion. *See Putz v. Putz*, 645 N.W.2d 343, 347 (Minn. 2002) (recognizing district court’s broad discretion in determining child support). Significantly, the plain text of the statute establishes the two options as permissive alternatives. *See* Minn. Stat. § 518A.36, subd. 1(a) (stating that “percentage of parenting time *may* be determined by calculating the number of overnights that a child spends with a parent, *or* by using a method other than overnights” if circumstances support that method (emphasis added)). Because the district court has discretion to use either method, it was not an abuse of discretion to use the method the district court chose.

It is also worthy of note that the “significant time” calculation that Stephen Dahl advances does not produce a different result in this case. Out of the representative sample of twenty-eight days in the stipulated schedule, Stephen Dahl has parenting time for a total of approximately 277 hours. There are 672 hours in twenty-eight days, and

277 is approximately forty-one percent of 672. Thus, even if calculated under the “significant time” method, Stephen Dahl’s parenting time is approximately forty-one percent, which still falls in the ten-to-forty-five-percent category and results in a parenting-expense adjustment of twelve percent.

The district court properly exercised its discretion in calculating Dahl’s parenting-time percentage, and the calculation accurately reflected the parenting-time schedule as stated in the dissolution decree. A parenting-time percentage in the ten-to-forty-five-percent range entitled Stephen Dahl to a twelve-percent reduction in basic child support. Minn. Stat. § 518A.36, subd. 2(1)(ii). The district court’s order for \$1,023 in monthly child support properly reflects this reduction, and we, therefore, affirm.

**Affirmed.**