STATE OF MINNESOTA
IN COURT OF APPEALS
A15-1967

In re the Marriage of: Joanna Brooks Benson,
f/k/a Joanna Lee Brooks, petitioner,
Appellant,

vs.

Carl Grant Peterson,
Respondent.

Filed March 6, 2017
Affirmed in part, reversed in part, and remanded
Reyes, Judge
Concurring in part, dissenting in part, Johnson, Judge

Ramsey County District Court
File No. 62-FA-08-3227

Kristen C. Bullock, St. Paul, Minnesota (for appellant)

Susan A. Daudelin, Henschel Moberg Goff, P.A., Minneapolis, Minnesota (for respondent)

Considered and decided by Tracy M. Smith, Presiding Judge; Johnson, Judge; and Reyes, Judge.

U N P U B L I S H E D O P I N I O N

REYES, Judge

In this appeal, the mother challenges three rulings of the district court. First, the district court determined that distributions the father received from an inherited individual retirement account were not part of his gross income and denied the mother's

motion to modify the father's child-support obligation. Second, the district court ordered each of the parties to pay half of the travel expenses related to the father's unsupervised parenting time in California, where he resides. Third, the district court granted the father's motion for disclosure of the names and addresses of the child's school and medical providers. We affirm in part with respect to the second ruling, reverse in part with respect to the first and third rulings, and remand for further proceedings.

FACTS

Appellant-mother Joanna Brooks Benson and respondent-father Carl Grant Peterson were married in California in December 2007. They resided together in California until March 2008, when Benson moved to Minnesota. They have one child together, S.B., who was born in August 2008.

The marriage was dissolved by the Ramsey County District Court in January 2010. In the dissolution decree, the district court awarded Benson sole legal custody and sole physical custody of S.B. and awarded Peterson parenting time in an amount that increased incrementally with S.B.'s age. The parties stipulated that Peterson would pay Benson $385 per month in child support, based on his gross monthly income of $2,555.

The parties had a dispute concerning Peterson's parenting time in 2013, which was resolved by an agreement that was reflected in a stipulated order filed in July 2013. Additional issues arose in September 2014, which the parties were unable to resolve in mediation. Each of the parties sought relief from the district court in July 2015. After a referee conducted a hearing on the parties' respective motions in July 2015, the district

court issued an order in October 2015. Benson appeals from that order. The facts relevant to each of the issues raised by Benson are described in detail below.

D E C I S I O N

I. Child Support

Benson argues that the district court erred in denying her motion to modify Peterson's child-support obligation by failing to consider his IRA distributions as gross income and ordering her to pay half of the travel expenses related to Peterson's parenting time in California. We address each argument in turn.

To determine the existence and amount of a basic child-support obligation, a district court must determine the gross income of each parent. Minn. Stat. § 518A.29 (2016); Minn. Stat. § 518A.34(a), (b)(1) (2016). The district court must subtract certain credits from gross income to determine each parent's parental income for determining child support (PICS). Minn. Stat. § 518A.34(b)(1), (2). The district court then refers to statutory guidelines to determine each parent's proportional share of the total PICS amount. Minn. Stat. § 518A.35, subd. 2 (2016). The district court must also "consider certain statutory factors in addition to gross income and the child-support guidelines to determine whether to depart from the presumptive child-support obligation." *Haefele v. Haefele*, 837 N.W.2d 703, 708-09 (Minn. 2013) (citing Minn. Stat. § 518A.43 (2012)). The state has a strong interest in assuring that non-custodial parents provide for their children. *Murphy v. Murphy*, 574 N.W.2d 77, 81, 82 (Minn. App. 1998); *see also Schaefer v. Weber*, 567 N.W.2d 29, 33 (Minn. 1997) (noting "strong state policy of assuring that children have the adequate and timely economic support of their parents").

A district court may modify an existing child-support obligation if the moving party shows that a parent experiences "substantially increased or decreased gross income" that makes the existing support obligation unreasonable and unfair. Minn. Stat. § 518A.39, subd. 2(a) (2016). An irrebuttable presumption of a substantial change in circumstances arises if a new application of the child-support guidelines would result in a child-support obligation that is at least 20 percent more or less and at least $75 more or less than the amount specified in the prior child-support order. *Id.*, subd. 2(b)(1); *Rose v. Rose*, 765 N.W.2d 142, 145 (Minn. App. 2009). The moving party bears the burden of showing a substantial change in circumstances and showing the resulting unreasonableness and unfairness of the existing child-support order. *Bormann v. Bormann*, 644 N.W.2d 478, 481 (Minn. App. 2002).

This court applies an abuse-of-discretion standard of review to a district court's ruling on a motion to modify a child-support order. *Putz v. Putz*, 645 N.W.2d 343, 347 (Minn. 2002); *Brazinsky v. Brazinsky*, 610 N.W.2d 707, 710 (Minn. App. 2000). We apply a de novo standard of review to a district court's ruling on such a motion to the extent it is based on an interpretation of the child-support statute. *Hubbard Cty. Health & Human Servs. v. Zacher*, 742 N.W.2d 223, 227 (Minn. 2007).

A. IRA Distributions

Benson argues that the district court erred by not considering Peterson's distributions from an inherited individual retirement account (IRA) when determining his "gross income" for purposes of the PICS calculation. The district court disagreed, reasoning that the distributions were not gross income and concluding that Benson had

not established a substantial change in circumstances warranting a modification of Peterson's child-support obligation.

In 2012, Peterson inherited an IRA worth $307,914.97 from his mother after her death. Peterson, who has not been employed since 2011, received ten distributions from the inherited IRA in 2014 and 2015 at various intervals totaling $77,614 to pay for his living expenses, travel expenses, attorney fees, and to "purchase other assets."

Statutory interpretation is a question of law, which this court reviews de novo. *Haefele*, 837 N.W.2d at 708. The goal of statutory interpretation "is to ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2016); *Haefele*, 837 N.W.2d at 708. "If the meaning of a statute is unambiguous, we interpret the statute's text according to its plain language. If a statute is ambiguous, we apply other canons of construction to discern the legislature's intent." *Brua v. Minn. Joint Underwriting Ass'n*, 778 N.W.2d 294, 300 (Minn. 2010) (citation omitted).

The definition of "gross income" for purposes of calculating child support is as follows:

> Subject to the exclusions and deductions in this section, gross income includes *any form of periodic payment* to an individual, *including, but not limited to*, salaries, wages, commissions, self-employment income . . . , workers' compensation, unemployment benefits, annuity payments, military and naval retirement, pension and disability payments, spousal maintenance received under a previous order or the current proceeding, Social Security or veterans benefits provided for a joint child . . . , and potential income . . . . Salaries, wages, commissions, or other compensation *paid by third parties* shall be based upon gross income before participation in an employer-sponsored benefit plan that allows an employee to pay for a benefit or expense using pretax dollars, such as

> flexible spending plans and health savings accounts. No deductions shall be allowed for contributions to pensions, 401-K, IRA, or other retirement benefits.

Minn. Stat. § 518A.29(a) (emphasis added). This court has described the definition of income[1] as "broad." *Sherburne Cty. Social Servs. v. Riedle*, 481 N.W.2d 111, 112 (Minn. App. 1992).

Neither party argues that section 518A.29(a) is ambiguous; rather, they dispute how broadly or narrowly to interpret it. Benson argues for a broad interpretation of "gross income" that would include the periodic distributions Peterson receives from the IRA account, which are subject to income tax, and that would result in a substantial change in circumstances. Benson cites to Black's Law Dictionary defining "periodic payment" as "[o]ne of a series of payments made over time instead of a one-time payment for the full amount." *Black's Law Dictionary* 1310 (10th ed. 2014). Conversely, Peterson argues that the distributions are not gross income because he does not receive them from a third party and they are not regularly made, referring to "periodic" to mean "[r]ecurring at fixed intervals; to be made or done, or to happen, at successive periods separated by determined intervals of time, as periodic payments of interest on a bond, or periodic alimony payments." *Black's Law Dictionary* 1138 (6th ed. 1990). Under either definition his argument fails. Under operation of federal tax law, Peterson must receive yearly distributions from the IRA he inherited from his mother, a

[1] What the pre-2005 Child Support Statute defined as "income" is analogous to what is now defined by statute as "gross income."

third party, and these distributions constitute "periodic payments" that qualify as "gross income" under section 518A.29(a).

Under Internal Revenue Service (IRS) regulations, Peterson is the beneficiary of the IRA he inherited from his deceased mother, who was the owner of the IRA, and he "cannot treat [it] as [his] own" and he "must include in [his] *gross income* any taxable distributions [he] receive[s]." *See* IRS, *Publication 590-B: Distributions from Individual Retirements Arrangements (IRAs)* 5 (2016) (emphasis added).[2] Peterson "cannot treat the inherited IRA as [his] own," and, as such, the distributions he receives are from a third party. *Id.*; *see also Barnier v. Wells*, 476 N.W.2d 795, 796-97 (Minn. App. 1991) (payments received from relatives). Furthermore, under IRS regulations, Peterson must begin receiving distributions each year from the inherited IRA, which are referred to as "minimum required distributions." *Publication 590-B*, at 8. As a result, these distributions he must receive on a yearly basis are "periodic payment[s]" under section 518A.29(a) and thus constitute "gross income." *See Mower Cty. Human Servs. v. Hueman*, 543 N.W.2d 682, 683-84 (Minn. App. 1996) (considering lump-sum payments received every five years pursuant to two annuity contracts from tort litigation as income for child-support purposes); *Barnier*, 476 N.W.2d at 796-97 (considering payments received monthly and annually as income). Finally, because Peterson is required to

[2] We take judicial notice of the IRS regulations despite the fact that such materials were not presented to the district court. *See Fairview Hosp. v. St. Paul Fire & Marine Ins. Co.*, 535 N.W.2d 337, 340 n.3 (Minn. 1995) (noting that an appellate court may consider rules and proposed rules set out in the Federal Register as well as publicly available articles that were not previously presented to the district court).

receive annual distributions, he is receiving periodic payments, and the fact that he may receive additional distributions does not mean that those distributions are not periodic.

We conclude that the distributions Peterson received were periodic payments qualifying as gross income for purposes of calculating child support under Minn. Stat. § 518A.29(a). Therefore, we reverse and remand[3] to the district court for a determination of whether the distributions result in a substantial change of circumstances requiring modification of his child-support payments.

B. Travel Expenses Related to Parenting Time

Benson argues that the district court erred by ordering her to pay half of the travel expenses related to Peterson's parenting time (which we assume to be principally airfare) on the ground that the district court increased her responsibility for travel expenses without making a finding of a substantial change in circumstances.

The dissolution decree allowed Peterson to have parenting time in Minnesota, in increasing amounts, until S.B. reached the age of five. After S.B.'s fifth birthday, in August 2013, the decree also allowed Peterson two non-consecutive weeks of parenting time, which he could exercise in Minnesota or outside Minnesota. The decree states that Peterson was responsible for the expenses of his own travel to Minnesota for purposes of parenting time and for any expenses associated with S.B.'s travel during his two non-consecutive weeks of parenting time.

[3] We also note that, under *Haefele*, in addition to performing the gross-income and the presumptive child-support analysis, the district court is required under Minn. Stat. § 518A.43 to consider certain statutory factors to determine whether a deviation from the presumptive child-support obligation is appropriate. 837 N.W.2d at 708.

In July 2013, the parties entered into an agreement concerning parenting time in Minnesota in the latter half of 2013 and early 2014 and, for the first time, parenting time in California in the summer of 2014. The parties agreed that if Peterson consistently exercised his right to parenting time in Minnesota, he would have two non-consecutive weeks of parenting time in California in the summer of 2014. With respect to the expenses of such parenting time, the parties agreed that Benson would be responsible for paying her own travel expenses in accompanying S.B. on both legs of her first visit to California, that Peterson would be responsible for paying his own travel expenses in accompanying S.B. on both legs of her second visit, and that Peterson would be responsible for paying S.B.'s travel expenses for both visits. The stipulated order provides that all provisions in the original decree "not otherwise modified herein remain in full force and effect."

In his 2015 motion, Peterson asked the district court to award him, among other things, parenting time in Minnesota and, in addition, four weeks of parenting time in California each year. He also asked the district court to order each party to pay half of the travel expenses associated with his parenting time in California. In response, Benson asked the district court to restrict Peterson's parenting time to Minnesota. She also asked the district court to order Peterson to pay all travel expenses related to his parenting time. The district court ruled that Peterson could have two non-consecutive weeks of parenting time in California in 2016. The district court ordered the parties to evenly divide the travel expenses related to Peterson's parenting time in California, thereby adopting Peterson's position with respect to the allocation of travel expenses. The district court

reasoned that the "parents have demonstrated an ability to participate in and pay for parenting time transportation."

Benson contends that the district court erred by shifting some travel expenses from Peterson to her without making a finding of a substantial change in circumstances. She relies on *Kellen v. Kellen*, 367 N.W.2d 648 (Minn. App. 1985), in which this court concluded that a district court erred by shifting to the custodial parent all responsibility for transporting a child to and from Marshall after the custodial parent had moved only three miles, from East Grand Forks, Minnesota, to Grand Forks, North Dakota, while the parenting-time schedule had remained the same. *Id.* at 650-51. We reasoned that there was no meaningful increase in the total amount of travel expenses, so the district court's re-allocation of existing travel expenses effectively modified the existing child-support order, thereby triggering the requirement of a substantial change in circumstances. *Id.* at 649-51. Benson asserts that, under the terms of the 2010 decree, Peterson was responsible for all travel expenses related to his parenting time but that, under the 2015 order, she is responsible for half of the expenses necessary to facilitate his parenting time in California. She contends that the additional travel expenses effectively decrease her receipt of child support, in the same manner as in *Kellen*.

In response, Peterson cites *Ballard v. Wold*, 486 N.W.2d 161 (Minn. App. 1992), in which one parent's move from the Twin Cities to Winona gave rise to additional travel expenses relating to parenting time. *Id.* at 162-63. We concluded that a substantial change in circumstances was not required as in *Kellen*. *Id.* at 163. We reasoned that "*Kellen*'s holding was unique to its circumstances and does not control here." *Id.* We

stated that the issue in *Ballard* was "the more neutral question of apportioning the costs of *new* visitation expenses." *Id.* (emphasis added). We reasoned that if a district court makes adjustments to an existing parenting time schedule, the court "should allocate new transportation expenses equitably." *Id.* We explained that issues concerning new transportation expenses (by which we meant either a new parenting schedule or an expansion of an existing parenting schedule) "must be adjudicated without rigidly applying statutes normally governing changed circumstances." *Id.* (citing *Auge v. Auge*, 334 N.W.2d 393, 400 (Minn. 1983)).

In this case, the 2010 decree initially provided Peterson with a right to a limited amount of parenting time in Minnesota. The decree expressly stated that Peterson was responsible for the expenses of his own travel, which presumably refers to the need to travel from California to Minnesota and back. After S.B. turned five, Peterson also had a right under the decree to two non-consecutive summer weeks of parenting time in Minnesota or outside Minnesota. Peterson again was responsible for the expenses of his own travel as well as the expenses of S.B.'s travel, if any such expenses were incurred. The decree appears to assume that Peterson would pick up and drop off S.B. in Minnesota at the beginning and end of each of those non-consecutive weeks. The 2015 order expressly provides, for the first time, that Peterson has a right to parenting time in California and that each party is responsible for accompanying S.B. to and from California for one of the two summertime visits. In other words, the 2015 order requires S.B. to travel from Minnesota to California two times each summer and requires Benson to make at least one round-trip with respect to one of S.B.'s visits to California, whereas

S.B. and Benson were not required to travel to California under the 2010 decree. Thus, the 2015 order necessarily gives rise to a new form of travel expense.[4]

The facts of this case are more like the facts of *Ballard*, in which changing circumstances gave rise to a need for the children to be transported to places where parenting time previously had not occurred, which gave rise to additional transportation expenses. *See* 486 N.W.2d at 163. For that reason, in *Ballard*, we reasoned that the new transportation expenses may be allocated to both parties in an equitable manner without considering whether there has been a substantial change in circumstances. *See id.*; *see also Danielson v. Danielson*, 393 N.W.2d 405, 407 (Minn. App. 1986) (concluding that district court did not abuse its discretion by evenly allocating new parenting-time travel expenses after mother relocated to Montana). The *Kellen* opinion is inapplicable here for the same reasons that it was inapplicable in *Ballard*. *See Ballard*, 486 N.W.2d at 163.

Thus, the district court did not err by allocating travel expenses related to Peterson's parenting time in California without finding a substantial change in circumstances. Therefore, the district court did not err by denying Benson's motion to modify child support.[5]

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[4] Both parties compare the 2015 order to the original decree. They acknowledge that, although the 2013 stipulated order expressly contemplated that S.B. would travel to California and expressly allocated responsibility for those expenses, the 2013 stipulated order governed the issue only with respect to the summer of 2014. The parties essentially agree that, for summers after 2014, Peterson's right to out-of-state parenting time again was governed by the original decree. Accordingly, our analysis ignores the 2013 stipulated order, which was temporary in duration and no longer was in effect at the time of the district court's ruling.

[5] Benson makes one additional argument, which we do not consider. She argues that the district court erred by not ordering Peterson to contribute to the expenses of S.B.'s health

II. Confidentiality

Benson argues that the district court erred by requiring her to disclose to Peterson the name and address of S.B.'s school and the names and addresses of S.B.'s medical providers. She argues that she should not be required to make those disclosures to Peterson and that Peterson should not be able to otherwise obtain that information because she is a participant in a state-sponsored program, referred to by the secretary of state as the "Safe at Home" program, that is designed to maintain the confidentiality of the addresses of persons who wish to avoid actual or threatened domestic violence. *See* Minn. R. 8920.0100, subp. 18.

A. Safe At Home Program

Benson's argument is based on chapter 5B of the Minnesota Statutes, which is captioned "Data Protection for Victims of Violence." Chapter 5B was enacted into law in 2006 and became effective September 1, 2007. 2006 Minn. Laws ch. 242, §§ 1-8. The purpose of chapter 5B is stated in the first section of the chapter:

> The legislature finds that individuals attempting to escape from actual or threatened domestic violence, sexual assault, or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding

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insurance and dental insurance. In response, Peterson argues that Benson did not adequately present this argument to the district court. Peterson is correct that Benson did not include this issue among the 17 issues that she enumerated in her July 2015 motion. She did not submit a memorandum of law in support of the motion. She submitted an 18-page, 55-paragraph affidavit in which she alluded only briefly to the costs of health insurance and dental insurance. She did not present any argument on the issue at the motion hearing. In these circumstances, Benson failed to preserve the argument by presenting it to the district court and expressly asking for a ruling in her favor. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988); *Doe 175 ex rel. Doe 175 v. Columbia Heights Sch. Dist.*, 842 N.W.2d 38, 43 n.1 (Minn. App. 2014).

> them. The purpose of this chapter is to enable state and local agencies to respond to requests for data without disclosing the location of a victim of domestic violence, sexual assault, or stalking; to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, sexual assault, or stalking; and to enable program participants to use an address designated by the secretary of state as a substitute mailing address for all purposes.

Minn. Stat. § 5B.01 (2016); *see also* Jonathan Grant, Note, *Address Confidentiality and Real Property Records: Safeguarding Interests in Land While Protecting Battered Women*, 100 Minn. L. Rev. 2577, 2584-87 (2016) (describing address-confidentiality programs in multiple states).

A Minnesota resident is eligible for participation in the Safe at Home program if

> there is good reason to believe (i) that the [person] is a victim of domestic violence, sexual assault, or stalking, or (ii) that the [person] fears for the person's safety, the safety of another person who resides in the same household, or the safety of persons on whose behalf the application is made.

Minn. Stat. § 5B.02(e) (2016). An eligible person may enroll in the program by submitting an application to the secretary of state, who "shall certify an eligible person as a program participant," so long as the application contains ten specified categories of information. Minn. Stat. § 5B.03, subd. 1 (2016). "The secretary of state must designate a mailing address to which all mail for program participants is to be sent." *Id.* subd. 4 (2016).

If the secretary of state designates a mailing address for a program participant, the participant is entitled to use the designated mailing address in lieu of a street address that would disclose the participant's residence:

> When a program participant presents the address designated by the secretary of state to any person, that address must be accepted as the address of the program participant. The person may not require the program participant to submit any address that could be used to physically locate the participant either as a substitute or in addition to the designated address, or as a condition of receiving a service or benefit, unless the service or benefit would be impossible to provide without knowledge of the program participant's physical location.

Minn. Stat. § 5B.05(a) (2016). In addition, "A program participant may use the address designated by the secretary of state as the program participant's work address." Minn. Stat. § 5B.05(b). The secretary of state is required to "forward all mail sent to the designated address to the proper program participants." Minn. Stat. § 5B.05(c). A person who has received formal notice of a person's participation in the program generally is forbidden from disclosing to others the actual location of the participant's home, work, or school. *See* Minn. Stat. § 5B.05(d).

Notwithstanding the confidentiality protections described above, chapter 5B contains other provisions that allow for limited disclosures of a program participant's addresses in a judicial proceeding in certain circumstances:

> If a program participant's address is protected under section 5B.05, no person or entity shall be compelled to disclose the participant's actual address during the discovery phase of or during a proceeding before a court or other tribunal unless the court or tribunal finds that:
>
> (1) there is a reasonable belief that the address is needed to obtain information or evidence without which the investigation, prosecution, or litigation cannot proceed; and
>
> (2) there is no other practicable way of obtaining the information or evidence.

> The court must provide the program participant with notice that address disclosure is sought and an opportunity to present evidence regarding the potential harm to the safety of the program participant if the address is disclosed. In determining whether to compel disclosure, the court must consider whether the potential harm to the safety of the participant is outweighed by the interest in disclosure. . . .
>
> Disclosure of a participant's actual address under this section shall be limited under the terms of the order to ensure that the disclosure and dissemination of the actual address will be no wider than necessary for the purposes of the investigation, prosecution, or litigation.

Minn. Stat. § 5B.11 (2016).

The legislature authorized the promulgation of administrative rules "to facilitate the administration of" chapter 5B. Minn. Stat. § 5B.08 (2016). The secretary of state has promulgated administrative rules for that purpose. *See* Minn. R. 8920.0100-.1500 (2015). By administrative rule, both an eligible adult and "a minor child residing at the actual address for whom a properly completed application or renewal is filed shall be certified by the secretary of state as a program participant." Minn. R. 8290.0300, subp. 1.

B. Child-Custody Statute

Peterson argues in response that the district court did not err because he is entitled by statute to information relevant to S.B.'s school activities and health, notwithstanding Benson's and S.B.'s participation in the Safe at Home program. Peterson bases his argument on a provision in the child-custody statute, which provides: "The court shall grant the rights listed in subdivision 3a to each of the parties, regardless of custodial designation, unless specific findings are made under section 518.68, subdivision 1." Minn. Stat. § 518.17, subd. 3(b) (2016). The rights listed in section 518.17, subdivision 3a, are as follows:

> (1) right of access to, and to receive copies of, school, medical, dental, religious training, police reports, and other important records and information about the minor children;
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> (2) right of access to information regarding health or dental insurance available to the minor children;
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> (3) right to be informed by the other party as to the name and address of the school of attendance of the minor children;
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> (4) 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, unless attending the same conference would result in violation of a court order prohibiting contact with a party;
>
> (5) right to be notified by the other party of an accident or serious illness of a minor child, including the name of the health care provider and the place of treatment;
>
> (6) right to be notified by the other party if the minor child is the victim of an alleged crime, including the name of

> the investigating law enforcement officer or agency. There is no duty to notify if the party to be notified is the alleged perpetrator; and
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> (7) right to reasonable access and telephone or other electronic contact with the minor children.

Minn. Stat. § 518.17, subd. 3a (2016).

Section 518.17 contemplates that a parent might be a participant in the Safe at Home program authorized by chapter 5B. In doing so, it refers to both the parent who is a program participant and the parent who is not: "If one of the parties is a program participant under chapter 5B, the other party shall send all information and notifications required under subdivision 3a, clauses (1), (2), (3), (5), and (6), to the participant's designated address. The program participant is exempted from the requirements of subdivision 3a." Minn. Stat. § 518.17, subd. 3(e).

C. Domestic Abuse Allegations and Order for Protection

In the district court, Benson submitted an affidavit in which she stated that she separated from Peterson in early 2008 and moved to Minnesota because Peterson had engaged in domestic abuse against her. She stated that Peterson was convicted in a California court of committing felony domestic assault in December 2007. Benson stated further that a California court issued an order for protection (OFP), which was in effect when she moved to Minnesota.

Because of the OFP, the district court allowed Benson to keep her home address confidential during dissolution proceedings. In 2013, Benson still used a post-office box for correspondence. In early June 2015, Benson applied to the secretary of state for

participation in its Safe at Home program on behalf of S.B. and herself. The secretary of state certified both Benson and S.B. as program participants. The secretary of state provided them with a designated mailing address, which is a post office box, and issued them wallet-sized cards with the designated mailing address.

In his motion, Peterson asked the district court to, among other things, require Benson to disclose to him S.B.'s home address and the names and addresses of S.B.'s school and medical providers. In response, Benson asked the district court to deny Peterson's request for any location-identifying information concerning S.B. Benson's motion papers noted that she and S.B. are participants in the Safe at Home program.

At the hearing, Peterson abandoned his request for S.B.'s home address because he had discovered it "through his own research." With respect to the addresses of S.B.'s school and medical providers, the district court orally acknowledged Benson's safety concerns, noted Peterson's statutory rights, stated that Benson had requested "an extreme remedy" that was not justified under the circumstances, and emphasized the importance of allowing direct communication between Peterson and S.B.'s school and medical providers. Accordingly, the district court granted that part of Peterson's motion and ordered Benson to disclose "the name, address, and telephone number of the minor child's school and all medical professionals who have worked with or are working with the minor child." The district court ordered Benson to provide the information to Peterson through a web-based co-parenting application that the parties previously were ordered to use. In its written order, the district court stated that Benson's "participation in the Safe at Home program does not impact [Peterson]'s right to know where the

parties' child goes to school and who provides medical treatment on her behalf" and that "[i]t is in the best interest of the minor child for both parents to have school and health information."

D. Statutory Interpretation

To resolve the parties' respective arguments, we must engage in statutory interpretation. We begin the task of interpreting a statute by asking "whether the statute's language, on its face, is ambiguous." *American Tower, L.P. v. City of Grant*, 636 N.W.2d 309, 312 (Minn. 2001). A statute is unambiguous if it "is susceptible to only one reasonable interpretation." *Nelson v. Schlerer*, 859 N.W.2d 288, 292 (Minn. 2015). If a statute is unambiguous, we "interpret the words and phrases in the statute according to their plain and ordinary meanings." *Graves v. Wayman*, 859 N.W.2d 791, 798 (Minn. 2015). A statute is ambiguous, however, if it has "more than one interpretation." *Lietz v. Northern States Power Co.*, 718 N.W.2d 865, 870 (Minn. 2006). If a statute is ambiguous, we apply "the canons of statutory construction to determine its meaning." *County of Dakota v. Cameron*, 839 N.W.2d 700, 705 (Minn. 2013). We apply a de novo standard of review to a district court's interpretation of a statute. *Caldas v. Affordable Granite & Stone Inc.*, 820 N.W.2d 826, 836 (Minn. 2012).

The statutory provision that is most relevant to the parties' dispute is the sentence that concerns both the Safe at Home program of chapter 5B and the rights of a non-custodial parent in section 518.17, subdivision 3a. That provision states, "The program participant is exempted from the requirements of subdivision 3a." Minn. Stat. § 518.17, subd. 3(e). Benson contends that this provision means that she has no obligation to

provide Peterson with any of the information listed in subdivision 3a. Benson argues further that her participation in the Safe at Home program effectively nullifies Peterson's rights to the information described in subdivision 3a such that the district court has no authority to order her to provide such information to him.

Benson's contention requires us to identify "the requirements of subdivision 3a." *See* Minn. Stat. § 518.17, subd. 3(e). Subdivision 3a consists of a list of rights, without any express statement of requirements. *See id.* We are mindful, however, of the canon of statutory interpretation that states, "A statute should be interpreted, whenever possible, to give effect to all of its provisions" such that "'no word, phrase, or sentence should be deemed superfluous, void, or insignificant.'" *American Family Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000) (quoting *Amaral v. Saint Cloud Hosp.*, 598 N.W.2d 379, 384 (Minn. 1999)). Furthermore, if two statutory provisions appear to conflict, we must interpret them in a manner that gives effect to both provisions. *State by Beaulieu v. Independent Sch. Dist. No. 624*, 533 N.W.2d 393, 396 (Minn. 1995); *Appeal of Crow Wing Cty. Atty.*, 552 N.W.2d 278, 279-80 (Minn. App. 1996), *review denied* (Minn. Oct. 29, 1996). With those canons in mind, we interpret subdivision 3(e) to mean that a parent ordinarily is required to share information with the other parent to ensure that the other parent enjoys the rights described in subdivision 3a, but in light of the exemption in subdivision 3(e), the participating parent has no obligation, absent court intervention, to provide the other parent with the information necessary to vindicate his rights under subdivision 3a.

That interpretation of subdivision 3(e) does not answer the question of whether the other parent's rights to the information described in subdivision 3a may be vindicated in other ways. As stated above, chapter 5B contains provisions that expressly allow court-ordered disclosures of addresses of program participants in certain circumstances. Those provisions expressly allow the disclosure of information concerning a program participant's address in the discovery process and in a court proceeding. Minn. Stat. § 5B.11. Those provisions may be applied to the particular circumstances of this case, in which a parent has made a request in a court proceeding for information protected by chapter 5B. *See id.* Thus, a parent's participation in the Safe at Home program authorized by chapter 5B does not preclude another parent from vindicating the rights described in subdivision 3a. A parent may vindicate those rights by bringing an appropriate motion, as Peterson did in this case. Upon such a motion, a district court should consider whether the moving party's rights to the information described in subdivision 3a may be reconciled with the purpose of chapter 5B and, if so, may order appropriate relief.

Benson contends that there should be no disclosure whatsoever of the address of a person participating in the Safe at Home program because such a disclosure is likely to result in subsequent disclosures of the address to others, thereby compromising the protections of chapter 5B. But, as Peterson contends, that potential problem can be avoided. Another provision of chapter 5B allows a program participant to give notice to third parties (such as schools and medical providers) of the person's participation in the

Safe at Home program, thereby imposing on the third party an obligation to not disclose the confidential address to any other person. *See* Minn. Stat. § 5B.05(d).

In this case, the district court considered both Benson's safety concerns and Peterson's rights to information relevant to S.B.'s education and health. But the district court did not make any findings concerning the statute's two threshold requirements: that "the address is needed to obtain information or evidence without which the investigation, prosecution, or litigation cannot proceed" and that "there is no other practicable way of obtaining the information or evidence." Minn. Stat. § 5B.11. The district court also did not make any express findings on the ultimate question specifically required by the statute: "whether the potential harm to the safety of the participant is outweighed by the interest in disclosure." *Id.*

Thus, the district court committed reversible error by requiring Benson to disclose to Peterson the names and addresses of S.B.'s school and medical providers, notwithstanding Benson's and S.B.'s participation in the Safe at Home program authorized by chapter 5B, without making the findings required by section 5B.11. Therefore, we remand the matter to the district court for further consideration of the applicable law and for additional findings.

Affirmed in part, reversed in part, and remanded.

JOHNSON, Judge (concurring in part, dissenting in part)

I concur in part I.B. and part II of the opinion of the court, but I respectfully dissent from part I.A. In my view, Peterson's inherited IRA is an asset that belongs to him such that he may take distributions from it without increasing his "gross income," as that term is used for purposes of calculating child support.

"Gross income" is defined to mean "any form of periodic payment to an individual." Minn. Stat. § 518A.29(a) (2016). Peterson contends that his receipt of the inherited IRA was not a periodic payment and that his subsequent distributions from the inherited IRA were not periodic payments of the type defined by the statute. The text of the statute supports Peterson's contention. The statute requires a "periodic payment *to* an individual." *Id.* (emphasis added). The preposition "to" with reference to the indirect object "an individual" implies that the payment must come *from* another person. *See id.* A person does not make a "payment" to himself or herself. Indeed, all of the examples of gross income in section 518A.29(a) are transfers of money from another person or entity to a parent. Thus, no "payment" was made when Peterson merely transferred funds from one of his accounts (the inherited IRA) to another one of his accounts (presumably a checking account).

The assets in Peterson's inherited IRA should be treated in the same manner as other forms of inherited assets, such as cash or securities. If Peterson had inherited a savings account with a balance of $300,000, he would not receive income, in any sense of that word, by withdrawing funds from his savings account. Likewise, if Peterson had inherited corporate stock worth $300,000, he would not receive income by selling shares in exchange

for cash. *See Duffney v. Duffney*, 625 N.W.2d 839, 842-43 (Minn. App. 2001) (concluding that proceeds of sale of timber from obligor's land was not income for purposes of child support). To be sure, interest paid on funds in a savings account and dividends paid on shares of stock are included in gross income. *See Dinwiddie v. Dinwiddie*, 379 N.W.2d 227, 230 (Minn. App. 1985) (noting that district court "erred in deducting interest income and dividends from [obligor's] total income"). But a person's taking of a distribution from his own IRA is merely a conversion of an asset from one form to a different form and, thus, is not a "payment to an individual." *See* Minn. Stat. § 518A.29(a).

Federal tax law provides no reason to take a different approach. As an initial matter, there is no authority for the proposition that the gross-income determination under section 518A.29 depends on whether a taxable event has occurred for purposes of federal income tax. In addition, it is irrelevant whether Peterson funded the IRA, inherited it from a spouse, or inherited it from his mother. Regardless of the original source, the assets in the IRA, for all practical purposes, belong to him. He presumably exercises sole control over how funds are invested and over the frequency, timing, and amount of distributions, so long as his distributions equal or exceed the amount of his annual required minimum distribution, *see* I.R.C. § 401(a)(9) (2012); I.R.C. § 408(b)(3) (2012); Treas. Reg. § 1.401(a)(9)-6 (2015). Whether the inherited IRA may or may not be "treated as his own" is relevant only to the calculation of the amount of his required minimum distribution, which is a consequence of federal tax policy concerning the extent to which income taxes on contributions to IRAs may be deferred.

It must be remembered that a finding of each parent's gross income is merely the starting point of the determination of a child-support obligation. *See* Minn. Stat. § 518A.34 (2016). Before making a determination, a district court also "must take into consideration" certain statutory factors "in setting or modifying child support or in determining whether to deviate upward or downward from the presumptive child support obligation." Minn. Stat. § 518A.43, subd. 1 (2016). One of those statutory factors is the "earnings, income, circumstances, and resources of each parent, including real and personal property." *Id.* subd. 1(1). It is not difficult to imagine that, in appropriate circumstances, the existence of an IRA or the taking of distributions from an IRA might justify a deviation from the presumptive child-support amount, so long as the deviation served the purpose of the deviation statute, *i.e.*, to "encourage prompt and regular payments of child support and to prevent either parent or the joint children from living in poverty." *Id.* subd. 1. But IRA distributions should not be considered at the first step of the child-support analysis, where a district court makes findings of gross income. *See* Minn. Stat. §§ 518A.29(a), .34(b)(1).

In this particular case, Benson does not argue that the district court erred by not making a deviation, most likely because, at the time of district court proceedings, Peterson was current on his child-support obligation, which was determined based on the income he earned before he became unemployed. Furthermore, Peterson is not seeking to avoid or reduce his child-support obligation. If an obligor attempted to avoid or reduce a child-support obligation by becoming unemployed and living off an IRA, the child-support statutes would provide a means of setting or maintaining an appropriate amount of child support: the district court could find the obligor's potential income and use that figure in

lieu of actual income. *See* Minn. Stat. § 518A.32 (2016). The record in this case indicates that Peterson apparently is drawing down his inherited IRA instead of engaging in remunerative employment. But Benson is not relying on Peterson's IRA distributions as an alternative basis of a finding of gross income. Rather, she is seeking a finding that his gross income is equal to *both* the income he previously earned *and* the distributions he is taking from his IRA. Such a finding of gross income probably would exceed the income Peterson ever has earned, thereby giving Benson a windfall in the child-support calculation.

In sum, I would conclude that the district court did not err by ruling that Peterson's distributions from his inherited IRA are not included in his "gross income" for purposes of determining child support and by denying Benson's motion to modify Peterson's child-support obligation for that reason.