STATE OF MINNESOTA

IN SUPREME COURT

A17-1730

Court of Appeals — Lillehaug, J.
Anderson, J., Gildea, C.J., dissenting

In the Matter of the Application of J.M.M. o/b/o Minors for a Change of Name

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Office of Appellate Courts

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S Y L L A B U S

1. The phrase "both parents" in Minn. Stat. § 259.10, subd. 1 (2018), which establishes the requirements for changing a name, could mean biological parents or could mean legal parents and, therefore, is ambiguous. The most reasonable definition is legal parents.

2. Minnesota Statutes § 259.10 does not require that notice of a name-change application on behalf of a minor be given to a biological father who is neither listed on the minor's birth certificate nor an adjudicated father under the Parentage Act, Minn. Stat. §§ 257.51–.74 (2018), and therefore is not a legal parent.

3. Minnesota Statutes § 259.10, as interpreted, does not violate the Due Process Clause.

Reversed.

O P I N I O N

LILLEHAUG, Justice.

This case requires us to interpret the notice provision found in Minn. Stat. § 259.10 (2018), relating to name-change applications on behalf of minors. Because the language of the notice provision is ambiguous, we construe it in light of its legislative history and in harmony with statutes relating to birth registration and parentage. We hold that the phrase "both parents" refers to legal parents: persons either listed on the minor's birth certificate or adjudicated as parents through the legal system. Here, appellant J.M.M. is the only parent listed on her children's birth certificates, and no one has been adjudicated as their father. The district court and the court of appeals concluded that she nonetheless had to notify the children's biological father of the name change that she requested. We disagree. She is the legal parent with authority to apply to change her children's names. Therefore, we reverse.

FACTS

Appellant J.M.M. is the mother of three children: M.G., born in 2009; D.J.G., born in 2010; and G.G., born in 2013. J.M.M. was not married when any of the children were conceived or born, and no one has ever been adjudicated as the legal father of any of the children. J.M.M. selected the children's names shown on their birth certificates.

On October 16, 2015, J.M.M. filed name-change petitions for all three children in Hennepin County District Court. On the applications, in response to the question "[t]he name and last known address of the non-custodial parent is," J.M.M. wrote "no other legal parent." In response to the question:

> The non-applicant parent's name is: *(Check all that apply)*
>
> □ The name on the birth certificate
> □ The person acting as the non-applicant parent
> □ The biological parent
> □ The non-applicant parent is not known and his/her/their name(s) is/are not shown on the birth certificate

J.M.M. checked the final box, indicating that the non-applicant parent was "not known" and his name was not shown on the birth certificate. During a subsequent phone call with a Hennepin County law clerk, J.M.M. said that she knew the identity of the biological father but did not know his current whereabouts.

On November 30, 2015, the district court sent a letter to J.M.M. scheduling a hearing on the name-change applications. The court noted that the statute governing name-change applications for minors, Minn. Stat. § 259.10, subd. 1, required that "both parents hav[e] notice of the pending of the application for change of name." Because J.M.M. had acknowledged to the clerk that she knew the identity of the biological father, the court

stated that the petitions would be dismissed if J.M.M. failed to provide proof that he had been served notice of the hearing.

On December 23, 2015, counsel for J.M.M. submitted a letter to the district court asserting that notice was not required under section 259.10 because the children did not have another legal parent. Counsel also stated that, if the court disagreed on who is entitled to notice, a separate provision in subdivision 1 of the statute applied—that notice is only due "whenever practicable, as determined by the court." Counsel argued that threats of violence, detailed in an affidavit from J.M.M. attached to the letter, demonstrated that notice was impracticable.[1] On February 4, 2016, counsel for J.M.M. submitted an additional brief, which reiterated J.M.M.'s arguments.

On February 23, 2016, the district court dismissed the petitions without prejudice. The district court reasoned that the phrase "both parents" in Minn. Stat. § 259.10, subd. 1 "plainly and unambiguously refers to the biological father and biological mother of the child." The district court also concluded that notice to the biological father was "practicable" because J.M.M. had not made a showing that serving notice was not reasonably capable of being accomplished.

The court of appeals, in a published decision, reversed. *In re Application of J.M.M.*, 890 N.W.2d 750, 756 (Minn. App. 2017). The court determined that the phrase "both parents" was ambiguous and that the Minnesota Parentage Act, Minn. Stat. §§ 257.51–.74

[1] In the affidavit, J.M.M. explained that "the man who shares a last name with [her] children" had threatened her and her family; that he had never paid any child support; that he had not seen her two oldest children since March 2013; and that he had never met her youngest child.

(2018), was a "logical place to look to determine the meaning of 'parent.' " 890 N.W.2d at 754. It then held that, "for purposes of the name-change act, notice is required to be given to a biological father only if he has a parent-child relationship under the Minnesota Parentage Act," and remanded to the district court to "consider and determine whether the biological father satisfies the criteria of the parentage act." *Id.* at 756.

On remand, the district court held two evidentiary hearings. At these hearings, J.M.M. testified that there was a single biological father for all three children: D.G.

After the hearings, the district court "determined that D.G. has a legally recognized parent-child relationship with [J.M.M.'s] eldest two children and is therefore entitled to notice of the name-change petition[s]."[2] *In re Application of J.M.M.*, No. A17-1730, 2018 WL 2470701, at *2 (Minn. App. June 4, 2018). The district court also concluded that notice was practicable because J.M.M. "knows where D.G. lives, and is able to serve him."[3] *Id.* at *6.

The court of appeals, in an unpublished, divided decision, affirmed. *Id.* at *7. The court held that D.G. had an unrebutted presumptive parent-child relationship under the Parentage Act, Minn. Stat. § 257.55, subd. 1(d), and therefore D.G. was a legal parent entitled to notice of a pending name-change petition for the two eldest children. *Id.* The court of appeals also affirmed the district court on the issue of practicability, holding that

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[2] The district court also determined that D.G. did not have a parent-child relationship with G.G. That determination was not appealed and is not before us.

[3] J.M.M. disputes that she knows where D.G. lives. The resolution of this factual dispute is not necessary to our decision.

"[t]he district court did not abuse its discretion in finding that giving notice to D.G. is a thing that can be accomplished, and that it can be safely accomplished." *Id.* at *6

Chief Judge Cleary dissented. *Id.* at *7. He disagreed that D.G.'s status satisfied the presumption of paternity created by Minn. Stat. § 257.55, subd. 1(d), which applies when a putative father "receives the child into his home and openly holds out the child as his biological child." *In re Application of J.M.M.*, 2018 WL 2470701, at *7–8. Chief Judge Cleary also disagreed that notice was practicable, given the safety concerns expressed by J.M.M. *Id.* at *8. Rather than affirm, he would have "remand[ed] this case with instructions to the district court to schedule a hearing for a name change for the three minor children without notice to D.G." *Id.* at *9.

We granted J.M.M.'s petition for review. We requested that the Minnesota State Bar Association appoint counsel to argue in response to J.M.M.'s brief, and the MSBA did so.[4]

ANALYSIS

I.

Minnesota Statutes §§ 259.10–.13 (2018) govern the procedure for seeking a change of name from the district court. An applicant must be a resident of Minnesota for at least six months before applying; must "describe all lands in the state in or upon which" the individual whose name is to be changed may "claim any interest or lien;" and must "appear personally before the court and prove identity by at least two witnesses." Minn. Stat.

[4] We are grateful to the lawyers for the MSBA for the care and effort they devoted to the brief and to oral argument in this case.

§ 259.10, subd. 1. One may apply for oneself, on behalf of "minor children," or for "a spouse, if the spouse joins in the application." *Id.* If applying on behalf of minor children, the applicant must be their "guardian or next of kin." *Id.* J.M.M. clearly had the right to apply to have her minor children's names changed.

At issue in this case is a portion of the final sentence of Minn. Stat. § 259.10, subd. 1, which states that "no minor child's name may be changed without both parents having notice of the pending of the application for change of name, whenever practicable, as determined by the court." *Id.* The term "both parents" is not defined in the statute. That is the interpretative task before us.

A.

Questions of statutory interpretation are reviewed de novo. *Thompson v. Schrimsher*, 906 N.W.2d 495, 498 (Minn. 2018). "The first step in statutory interpretation is to 'determine whether the statute's language, on its face, is ambiguous.' " *Larson v. State*, 790 N.W.2d 700, 703 (Minn. 2010) (quoting *Am. Tower, L.P. v. City of Grant*, 636 N.W.2d 309, 312 (Minn. 2001)). "A statute is ambiguous only when the statutory language is subject to more than one reasonable interpretation." *State v. Fleck*, 810 N.W.2d 303, 307 (Minn. 2012). If a statute is unambiguous, we "apply the statute's plain meaning." *Larson*, 790 N.W.2d at 703.

"If a statute does not define a word or phrase, we give that word or phrase its 'plain and ordinary meaning.' " *State v. Prigge*, 907 N.W.2d 635, 638 (Minn. 2018) (quoting *State v. Hayes*, 826 N.W.2d 799, 803–04 (Minn. 2013)). Although we may "look to dictionary definitions to determine a term's plain and ordinary meaning," the meaning of

a statutory phrase is dependent upon context. *State v. Henderson*, 907 N.W.2d 623, 626 (Minn. 2018).

Here, there are two reasonable dictionary definitions of "parent." One definition is about biology; the other definition is about the law. *See, e.g., Webster's Third New International Dictionary* 1641 (1961) (defining parent as "one that begets or brings forth offspring" or as "a *lawful* parent" (emphasis added)); *Parent*, *Black's Law Dictionary* (3d ed. 1933) (defining parent as "[t]he *lawful* father or the mother of a person") (emphasis added); *Parent*, *Bouvier's Law Dictionary* (1926) ("The *lawful* father and mother of the party spoken of") (emphasis added). The legal definition denotes "*more* than responsibility for conception and birth." *Parent*, *Black's Law Dictionary* 1287 (10th ed. 2014) (emphasis added). As another dictionary explains, although "parent" may mean "[o]ne who has generated a child; a father or a mother," the definition "in law" is "the relation incident to the contract of marriage, and carrying with it the duty of supporting the children of such marriage." *Funk & Wagnalls New Standard Dictionary* 1795 (1945).

Sometimes, the context of a word tells us its meaning. *Henderson*, 907 N.W.2d at 626. Here, the word "parents" is plural, and is modified by the word "both." Unfortunately, the word "both" is of little help. Not every child has two biological parents who could be notified. *See, e.g.*, Minn. Stat. § 257.56, subd. 2 (2018) (explaining that a sperm donor is not treated as a biological father). Biological parents can die, have their parental rights terminated, or give up their children for adoption. Likewise, not every child has two legal parents. *See* Minn. Stat. § 257.541, subd. 1 (2018) (explaining that a birth mother is the sole legal parent of a child born to the mother who is not married to the child's

biological father at either conception or birth). Legal parents can also die, have their parental rights terminated, or give up their children for adoption.

Thus, there are two reasonable interpretations of the phrase "both parents." In this case, if the meaning is biological, D.G. is entitled to notice. If the meaning is legal, D.G. is not entitled to notice. We consider next which interpretation is the more reasonable.

Because the definition of the phrase "both parents" is ambiguous, we "turn to canons of construction to discern [the statute's] meaning." *State v. Thonesavanh*, 904 N.W.2d 432, 436 (Minn. 2017). In this case, two canons are helpful. First, we will review the legislative intent through legislative history—specifically, the entirety of the 1951 amendment of which the "both parents" phrase is a part. Second, we will apply—in two respects—the canon of *in pari materia*. "Also called the related-statutes canon, *in pari materia* 'allows two statutes with common purposes and subject matter to be construed together to determine the meaning of ambiguous statutory language.' " *Id.* at 437 (quoting *State v. Lucas*, 589 N.W.2d 91, 94 (Minn. 1999)). The related statutes are the birth registration statute, Minn. Stat. § 144.215 (2018), and the Parentage Act, Minn. Stat. §§ 257.51–.74 (2018).

B.

The full text of the 1951 amendment to section 259.10 supports the reading that "both parents" means legal parents, not biological parents. Before the 1951 amendment, section 259.10 gave an adult man the right to change his last name, and thereby change the last names of his wife and his children. *See* Minn. Stat. § 259.10 (1949). The Legislature's 1951 amendment to section 259.10 had two parts. First, the Legislature continued the right

of the man to apply to change his name and those of his minor children, but allowed him to apply to change his wife's name only "if she joins in the application." Minn. Stat. § 259.10 (1951). Second, the Legislature directed "that no minor child's name may be changed without both of his parents having notice of the pending of the application for change of name, whenever practicable, as determined by the court." *Id*.

To discern the legislative intent behind ambiguous words, we may consider the occasion and necessity for the law; the mischief to be remedied; the object to be obtained; the former law; and the legislative history. Minn. Stat. § 645.16 (2018). Reading the amendment as a whole, there is no signal that the Legislature's intent was to give notice to biological fathers who were not legal fathers. Rather, the evident problem to be remedied in 1951 was the unilateral power of the man (as husband and legal father) to change his wife's name without her consent and their children's names without notice to her. The evident object of the amendment was to recognize the rights of a female spouse: the right to control her own name and to have a say in the names of her children.

Read in context, the Legislature appears to have been using the phrase "both parents" to refer to husband and wife—the children's legal parents. Interpreting "both parents" to mean "legal parents" better fits the Legislature's apparent intent.

C.

Next, we construe section 259.10 with the help of the birth-registration statute, Minn. Stat. § 144.215. An analysis of how young Minnesotans first receive their legal names naturally sheds light on how those names are changed. As we will see, in this case, only J.M.M., not the biological father, had the right to choose the children's names. If we

were to decide that notice to D.G. was required under section 259.10, it would create the anomalous result that he would be entitled to have a legal say about changing a name over which he had no legal say in the first place.

Birth registration—including the initial determination of parentage and the giving of names to children—is governed by Minn. Stat. § 144.215, implemented by Minn. R. 4601 (2017), and overseen by the Office of Vital Records (OVR) within the Department of Health. *See* Minn. Stat. § 144.213 (2018) (creating OVR and describing its various duties). When a child is born, "at least the following information must be provided: (1) date and county of birth; (2) child's sex; (3); birth order if multiple birth; and (4) first name, middle name, and maiden surname of mother." Minn. R. 4601.0600, subp. 4(B); *see also* Minn. Stat. § 144.215, subd. 2 ("The commissioner shall establish by rule . . . a provision governing the names of the parent or parents to be entered on the birth record."). According to the rule, when a baby is born to an unmarried mother and there is neither a recognition of parentage pursuant to Minn. Stat. § 257.75, nor a presumption of paternity pursuant to Minn. Stat. § 257.55,[5] then "the father's name must not be entered on the birth record." Minn. R. 4601.0600, subp. 5.

In this case, J.M.M.'s children were born to an unmarried mother and there is no recognition of parentage. Nor did any of the presumptions of paternity apply at the time

[5] There are eight presumptions listed in the Parentage Act, under which "[a] man is presumed to be the biological father of a child." Minn. Stat. §257.55, subd. 1. They are "generally divided between those based on marriage," i.e. subdivisions 1(a)–(c), "and those based on circumstances other than marriage," i.e. subdivisions 1(d)–(h). *Witso v. Overby*, 627 N.W.2d 63, 66 (Minn. 2001).

of the children's births. The presumption on which appointed counsel rely is found in Minn. Stat. § 257.55, subd. 1(d): "while the child is under the age of majority," a man "receives the child into his home and openly holds out the child as his biological child." But this presumption cannot apply *at the time of birth*. Thus, that presumption is inapposite to the issue in this case, and both the district court and the court of appeals erred in applying it. As a result, J.M.M. had the right at the time of each child's birth, as biological mother, to decide whether D.G.'s name should appear on the birth record.

The birth registration statute in Wisconsin, where two of the three children were born, is substantially similar. *See* Wis. Stat. § 69.14 (2016). When a mother is "not married at any time from the conception to the birth" of a child, "no name of any alleged father of the [child] may be entered as the father on the birth certificate." Wis. Stat. § 69.14(1)(e)2. The original birth certificate may be amended, or a new birth certificate may be created, after one of several paternity-determination actions have been undertaken. Wis. Stat. § 69.15(3) (2016). Additionally, when a child is born to a mother "not married to the father of the [child] at any time from the conception to the birth of the [child], the given name and surname which the mother of the [child] enters . . . on the birth certificate *shall be* the given name and surname filed and registered on the birth certificate." Wis. Stat. § 69.14(1)(f)1.c.

Under either Minnesota or Wisconsin law, the result is the same: J.M.M. was the only parent entitled to appear on the birth certificates of M.G., D.J.G., and G.G. Although she may have had the option to list the biological father, J.M.M. lawfully chose not to do so. Both states have statutory processes in place to alter this initial arrangement, but D.G.

has not availed himself of either. J.M.M. was the only person legally entitled to give the children their names.

It stands to reason that if, in naming the children, J.M.M. had no legal obligation to involve the biological father because he was not a legal parent, J.M.M. should not have to give the biological father notice of her desire to change the very names she chose. Put another way, we doubt that the Legislature intended to give a biological father any greater right in the name-change process than in the naming process.

D.

Finally, we are aided by the Parentage Act, Minn. Stat. §§ 257.51–.74, which "provides a statutory framework for determining parentage." *In re Custody of D.T.R.*, 796 N.W.2d 509, 511 (Minn. 2011). Establishment of paternity under the Parentage Act is specifically cross-referenced in the birth-registration statute. Minn. Stat. § 144.215, subd. 3. The Parentage Act also includes a provision for creating a replacement birth record to include an adjudicated father subsequent to a determination action. Minn. Stat. § 257.73, subd. 1. The Parentage Act obviously shares with both section 144.215 and section 259.10 "the necessary common purpose and subject matter for application of the *in pari materia* canon." *Thonesavanh*, 904 N.W.2d at 438.

The Parentage Act tells us that, to be a parent, biology is not sufficient. Contributing a sperm to an egg is not enough. One must have a "parent and child relationship," which the act defines as "the legal relationship existing between a child and the child's biological or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations." Minn. Stat. § 257.52.

Under the Parentage Act, biological mothers and biological fathers are treated differently. The act provides that "a biological mother of a child who was not married to the child's father when the child was born or conceived has sole custody of the child until specific court proceedings are held that determine custody issues." *Beardsley v. Garcia*, 753 N.W.2d 735, 741 (Minn. 2008) (Meyer, J., dissenting); *see* Minn. Stat. § 257.541, subd. 1 ("The biological mother of a child born to a mother who was not married to the child's father when the child was born and was not married to the child's father when the child was conceived has sole custody of the child until paternity has been established under sections 257.51 to 257.74 . . . .").

By contrast, biological fathers do not have custody of the child until paternity has been established. A biological father not married to the biological mother can establish paternity in either of two ways. He can secure a written recognition of parentage signed by himself and the biological mother. Minn. Stat. § 257.75. Or, he can commence a paternity action under the Parentage Act, which "provides the exclusive bases . . . to bring an action to determine paternity." *Witso v. Overby*, 627 N.W.2d 63, 65–66 (Minn. 2001).[6]

Applying the Parentage Act framework, Minn. Stat. § 257.541, subd. 1, J.M.M. is the sole lawful "parent" of her children. She conceived and gave birth to M.G., D.J.G., and G.G. without being married to anyone. She is the only parent listed on the birth

[6] A man bringing a paternity action can rely on the presumption that he is the biological father if, "while the child is under the age of majority, he receives the child into his home and openly holds out the child as his biological child." Minn. Stat. § 257.55, subd. 1(d). This presumption is not applicable here because no paternity action has been commenced.

certificates of the three children.[7] Neither D.G. nor anyone else has commenced a paternity action, much less established legal paternity. Therefore, J.M.M. is the sole legal parent of her children.[8]

Appointed counsel argue that J.M.M.'s status under the Parentage Act is immaterial because "[t]his court has twice held that a custodial mother does not possess a superior right to change a child's name over the child's natural father." *See In re Application of Saxton*, 309 N.W.2d 298, 300–01 (Minn. 1981); *Robinson v. Hansel*, 223 N.W.2d 138, 140 (Minn. 1974). But this argument conflates the issue of notice with the underlying merits of the name-change application. Neither case was about notice. Further, both *Saxton* and *Robinson* are distinguishable; they were name-change actions decided on the merits after the children's parents had divorced. Here, J.M.M. and D.G. were never married.

E.

Appointed counsel also argue that, if the *in pari materia* canon is to be employed, the definition of "parent" is best supplied by the Adoption Act—"the natural or adoptive parent of a child," Minn. Stat. § 259.21, subd. 3 (2018)—because it is located in

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[7] The birth certificates do not appear to be in the record, despite a request from J.M.M., made in February 2016, that they be included. In both her affidavit and her hearing testimony, J.M.M. stated that hers was the only name listed on the certificates. Her statement was adopted as fact by the district court, and appointed counsel do not dispute the matter.

[8] Mothers named as the sole legal parent of a child under Minn. Stat. § 257.541, subd. 1, can consent to surgery without notice to a nonadjudicated father, can move the child out of state without notice, and can put the child up for adoption without notice (so long as the nonadjudicated father failed to timely file with the fathers' adoption registry). Whatever interest a nonadjudicated father might have in a name change—an act that could ultimately be undone—it is a much less significant interest than in these examples.

chapter 259 and was passed into law within one day of the 1951 amendment to section 259.10. *See* Act of Apr. 19, 1951, ch. 508 § 1, 1951 Minn. Laws 769, 769–75 (enacting the Adoption Act); Act of Apr. 20, 1951, ch. 535 § 1, 1951 Minn. Laws 803, 803 (amending Minn. Stat. § 259.10).

We are not persuaded. By its own terms, the definitions in the Adoption Act do not govern section 259.10. Minn. Stat. § 259.21, subd. 1 (applying definitions only to sections 259.21 to 259.63). But, even if the Adoption Act definitions did apply, D.G. would not be a "parent"; he would only be a "putative father."

In 1997, the Legislature amended section 259.21 to define a specific category of persons: the "putative father." Act of May 30, 1997, ch. 218, § 7, 1997 Minn. Laws 2200, 2202. A putative father is "a man who may be a child's father, but who: (1) is not married to the child's mother on or before the date that the child was . . . born; and (2) has not established paternity of the child according to section 257.57 in a court proceeding before the filing of a petition for the adoption of the child." Minn. Stat. § 259.21, subd. 12. Notice of the hearing on an adoption petition need not be given to a putative father if he: (1) does not appear on the child's birth record; (2) has not "substantially supported" the child; (3) was not married to the biological mother of the child within a certain, limited time before or after the child was born; (4) is not currently living with the child, the biological mother, or both; (5) has not been adjudicated the child's parent; (6) did not file a paternity action within 30 days of the birth of the child, which is still pending; (7) has not signed, along with the biological mother, a recognition of parentage under section 257.75; or (8) has not registered with the adoption registry. Minn. Stat. § 259.49, subd. 1(b)(1)–(8) (2018).

Therefore, even if we turned to the Adoption Act rather than to the birth registration statute and the Parentage Act, D.G. would not be a "parent"; he is only a putative father and would not be entitled to notice of a hearing on an adoption petition. Under the facts of this case, he would be "considered to have abandoned the child." Minn. Stat. § 259.52, subd. 8(3). If D.G. is not entitled to notice of proceedings in an adoption matter, surely he is not entitled to notice of a name change.

II.

Because J.M.M. is the only legal parent of her three minor children, the district court erred when it determined that D.G. is a "parent" under Minn. Stat. § 259.10. As discussed above, J.M.M. gave birth to the three children and was not married—to any biological father or otherwise—at any of the children's conceptions or births. Thus, J.M.M. is the sole legal parent of the children "until paternity has been established under sections 257.51 to 257.74." Minn. Stat. § 257.541, subd. 1. No evidence in the record suggests that D.G. has had his paternity established. Accordingly, D.G. is not a "parent" entitled to notice of the name-change petitions. The 1951 amendment, read as a whole, and the related birth-registration and parentage statutes confirm this.[9]

Finally, only a brief word is necessary about the dissent's interpretation of "both parents." The dissent finds our task not at all complicated. It is self-evident to the dissent that "both parents" must mean—"and can only mean" in the context of this case—both

[9] Because we have determined that the interpretation of section 259.10 by the district court and the court of appeals was incorrect, we need not reach the issue of whether notice was "practicable."

biological parents. But as the dictionary definitions demonstrate, the word "parent" is not quite that simple, even in the simpler times of the 1951 Legislature.

A definition focusing on the law rather than on biology is plainly the more reasonable. If the dissent were correct, a male in a one-night encounter would be entitled to notice 15 years later, even if the child did not bear his name or even know him. By contrast, a loving, supportive adoptive father whose name the child had borne for 15 years would have no right to notice. Neither result can be what the 1951 Legislature intended.

III.

Appointed counsel suggest that "[i]nterpreting Minn. Stat. § 259.10 to deprive D.G. of notice solely because parentage has not been formally adjudicated risks leaving" section 259.10 "constitutionally infirm." They cite no Minnesota authority for this claim, and we disagree.

On a constitutional claim such as this one, Minnesota statutes are presumed to be constitutional and the party challenging the constitutionality of a statute must meet a very heavy burden. *Heidbreder v. Carton*, 645 N.W.2d 355, 372 (Minn. 2002). Appointed counsel's argument does not satisfy this heavy burden. In *Heidbreder*, a putative father made an untimely registration with the fathers' adoption registry, and was therefore not statutorily entitled to notice or allowed to intervene in a pending adoption. We held that he did not have a protected liberty interest in knowing the child. 645 N.W.2d at 372–73. Our decision had the effect of precluding a putative father from establishing a legal parent-child relationship.

Here, the stakes are considerably lower—the issue is a name change, not an adoption. D.G. is not a legal parent and his name does not even appear on the birth certificates. No protected liberty interest is at stake here, as *Heidbreder* makes plain.

The three foreign cases on which appointed counsel rely do not convince us to the contrary. *See Hamman v. Cty. Court*, 753 P.2d 743 (Colo. 1988); *In re Application of Tubbs*, 620 P.2d 384 (Okla. 1980); *Eschrich v. Williamson*, 475 S.W.2d 380 (Tex. Civ. App. 1972). In *Eschrich*, the court determined that the Due Process Clause of the Fourteenth Amendment required that notice of a name-change application on behalf of a minor must be given to the child's biological father. 475 S.W.2d at 383. In *Hamman*, the Colorado Supreme Court "adopt[ed] the reasoning and the results of *Eschrich*." 753 P.2d at 749. In *Tubbs*, the Oklahoma Supreme Court held that failure to provide notice of a name-change proceeding to a non-custodial parent violated the due process clause of its state constitution. 620 P.2d at 388. These three cases are not on point because each of them turns on the fact of marriage. In each, the noncustodial father bringing the action was the ex-husband of the child's mother.[10] Here, J.M.M. and D.G. were never married.

[10] The court in *Tubbs* appears to limit its holding to *divorced* noncustodial fathers: "Every divorced parent—custodial or not—whose paternal or maternal bond remains unsevered, has a cognizable claim to having his/her child continue to bear the very same legal name as that by which it was known at the time the marriage was dissolved." 620 P.2d at 385.

CONCLUSION

For the foregoing reasons, we reverse the decision of the court of appeals.

Reversed.

D I S S E N T

ANDERSON, Justice (dissenting).

We do not face a complicated legal issue in this dispute over a petition to change the names of children. A clear and unambiguous statute, enacted almost 70 years ago, requires that "both parents" receive notice of a petition to change the names of their children. Because I conclude that a plain language reading of the phrase "both parents" in the unambiguous statute must, at a minimum, include the biological father, I dissent.

I begin with the statutory language. Minnesota Statutes § 259.10, subd. 1 (2018), which explains the procedure used in a name-change proceeding, requires that "no minor child's name may be changed without both parents having notice of the pending application for change of name, whenever practicable, as determined by the court." Statutory interpretation is a question of law, which we review de novo. *City of Oronoco v. Fitzpatrick Real Estate, LLC*, 883 N.W.2d 592, 595 (Minn. 2016). The goal of statutory interpretation is to "effectuate the intent of the legislature." *State v. Riggs*, 865 N.W.2d 679, 682 (Minn. 2015) (citations omitted). "Where the legislature's intent is clearly discernable from plain and unambiguous language, statutory construction is neither necessary nor permitted and courts apply the statute's plain meaning." *Am. Tower, L.P. v. City of Grant*, 636 N.W.2d 309, 312 (Minn. 2001).

The first step in statutory interpretation is to determine whether the language of the statute, on its face, is ambiguous. *State v. Thonesavanh*, 904 N.W.2d 432, 435 (Minn. 2017). When determining whether a statute is ambiguous, "words and phrases are

construed according to rules of grammar and according to their common and approved usage." Minn. Stat. § 645.08(1) (2018). "A statute is ambiguous if, *as applied to the facts of the case*, it is susceptible to more than one reasonable interpretation." *A.A.A. v. Minn. Dep't of Human Servs.*, 832 N.W.2d 816, 819 (Minn. 2013) (emphasis added). And "[w]hen the words of a law *in their application to an existing situation* are clear and free from all ambiguity, the letter of the law shall not be disregarded under the pretext of pursuing the spirit." Minn. Stat. § 645.16 (2018) (emphasis added).

The court is searching for statutory ambiguity where none exists, at least as applied to the facts of this dispute. Where the statutory language is clearly applicable to the matter in controversy, no occasion exists to resort to rules of statutory construction, and it is "improper to give the language used another and different meaning than it plainly demands." *State v. N. Pac. Ry. Co.*, 22 N.W.2d 569, 573 (Minn. 1946). The statutory reference to "both parents," in the context of this case, means, and can only mean, the biological mother and biological father who created the children. Here, there is a known biological mother and a known biological father and there are no additional adoptive or legal parents involved. J.M.M. testified that she dated D.G. and that they lived together continuously for approximately four years. During those four years, M.G. and D.J.G. were born, and J.M.M. testified that D.G. held out the children as his own, and the children were given D.G.'s last name. In this case, the statutory phrase "both parents" means two people: J.M.M. and D.G. The court's attempt to step around the plain meaning of section 259.10

deprives the children's father of the due process notice that the Legislature intended for him to receive.[1]

The court ignores the application of the statutory words "both parents" to the facts of this case and resorts to dictionary analysis and hypothetical questions to import ambiguity. But even if we engaged in a dictionary analysis, the same result obtains. I begin by looking at the dictionary definition of "parent" in use at the time the statute was enacted, 1951, to discern the Legislature's intent. *See State v. Henderson*, 907 N.W.2d 623, 626 (Minn. 2018) (explaining that we may "look to dictionary definitions to determine a term's plain and ordinary meaning"). "Parent" was defined as "one who begets, or brings forth, offspring; a father or a mother." *Webster's New International Dictionary of the English Language* 1776 (2d ed. 1947). "Both," a word with a meaning that has not changed over time, is defined as "being the two," or "involving the one and the other." *Webster's Third New International Dictionary* 258 (1993). As a matter of dictionary definition and common usage, D.G., the known father of M.G. and D.J.G., is entitled to notice of the name change under Minnesota law.

The court waves away the phrase "both parents," deciding that "the word 'both' is of little help." I disagree. The court incorrectly concludes, based on modern dictionary

[1] Although not free from doubt—and unnecessary to resolve here—it is certainly possible that the result reached by the court today is the better public policy approach, given the 1997 enactment of the Minnesota Fathers' Adoption Registry, changing family relationships, and other developments, both legislative and cultural, since the statute that governs this proceeding was adopted in 1951. How to deal with these complex matters is best left to those elected to decide public policy.

definitions, and also by positing various circumstances that do not apply here, that there are "two reasonable" definitions of "parent," drawing a distinction between legal parentage and biological parentage. After reading in an additional word to find ambiguity, the court further compares statutes that were enacted decades *after* section 259.10 to interpret the meaning of "parent" in that statute.[2]

The word "legal" does not appear in the statute, and the court erroneously adds the word in disregard of the plain language of the statute. *328 Barry Ave., LLC v. Nolan Props. Grp., LLC*, 871 N.W.2d 745, 750 (Minn. 2015) ("But we cannot add words to an unambiguous statute under the guise of statutory interpretation."); *Cty. of Dakota v. Cameron*, 839 N.W.2d 700, 709 (Minn. 2013) ("[W]e do not add words or phrases to an unambiguous statute."). It is also notable that the Legislature did not amend Minn. Stat. § 259.10 to include "both legal parents" or something similar that would clearly reflect the statutory meaning of "parent" as provided in more recently enacted statutes, such as the Parentage Act. *See State v. Atwood*, 925 N.W.2d 626, 638 (Minn. 2019) (Gildea, C.J., dissenting) (discussing the importance of the fact that the Legislature did not amend a statute).

In light of the plain and ordinary meaning of "both parents," and taking into account the Legislature's intent and the facts here, D.G. is entitled to notice of the name-change proceeding for M.G. and D.J.G.

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[2] The Parentage Act, Minn Stat. §§ 257.51–.74 (2018), which the court uses to interpret the definition of "parent," was enacted in 1980, almost 30 years after Minn. Stat. § 259.10. Act of Apr. 23, 1980, ch. 589, 1980 Minn. Laws 1070, 1070–79.

Because I conclude that notice of the name change petition to D.G. is required, I turn next to the argument of J.M.M. that even if D.G. is entitled to notice, this requirement should be waived because of impracticability and potential threat to J.M.M. and the safety of her family. *See* Minn. Stat. § 259.10, subd. 1 (requiring notice to "both parents . . . whenever practicable"). The district court found that notice was practicable because J.M.M. "knows where [D.G.] lives, and is able to serve [him]." The district also addressed J.M.M.'s safety concerns by offering to redact her contact information and seal the filings, and the district court found that J.M.M. offered no reason why the measures offered by the court were insufficient protection. We review the district court's findings of fact for clear error, and I conclude no clear error was shown. *Rasmussen v. Two Harbors Fish Co.*, 832 N.W.2d 790, 797 (Minn. 2013).

It is not our place to redraft a statute to meet modern circumstances; that is a task left to the Legislature. These two children have a known biological mother and a known biological father. Under the plain and ordinary meaning of the statutory language requiring "both parents" to receive notice of a petition for a change of the names of their children, D.G. is entitled to notice of the petition, and I would affirm the court of appeals. Thus, I respectfully dissent.

GILDEA, Chief Justice (dissenting).

I join in the dissent of Justice Anderson.