

**Rule 353. Types of Proceedings****Rule 353.01 Types of Proceedings**

**Subdivision 1. Mandatory Proceedings.** Proceedings to establish, modify, and enforce support shall be conducted in the expedited process if the case is a IV-D case, except as provided in subdivision 2 and Rule 353.02. Proceedings to enforce spousal maintenance, including spousal maintenance cost-of-living adjustment proceedings, shall, if combined with a support issue, be conducted in the expedited process if the case is a IV-D case, except as provided in subdivision 2 and Rule 353.02.

**Subd. 2. Permissive Proceedings.**

(a) **County Option.** At the option of each county, the following proceedings may be initiated in the expedited process if the case is a IV-D case, except to the extent prohibited by subdivision 3:

- (1) parentage actions; and
- (2) civil contempt matters.

(b) **Parentage Actions.** Any order issued pursuant to Rule 353.01, subd. 2(b) shall address the financial issues if appropriate, whether or not agreed upon by the parties.

(1) **Complete Order.** Notwithstanding subdivision 3 a child support magistrate has the authority to establish the parent-child relationship, legal and physical custody, parenting time, and the legal name of the child when:

- (A) the parties agree or stipulate to all of these particular issues; or
- (B) the pleadings specifically address these particular issues and a party fails to serve a response or appear at the hearing.

If all of the otherwise prohibited issues above have been resolved on a permanent basis, the child support magistrate shall issue an order which shall be a final determination of all claims raised in the parentage action.

**(2) Partial Order.**

(A) **Minimal Requirements.** If the parties at least agree to the parent-child relationship and temporary or permanent physical custody, the child support magistrate shall issue an order:

- (1) establishing the parent-child relationship; and
- (2) establishing temporary or permanent physical custody.

(B) **Further Agreed Upon Issues.** The order of the child support magistrate shall also establish parenting time and the legal name of the child if the parties so agree.

The order is final as to the parent-child relationship. The order is also final as to any agreement concerning permanent legal or physical custody, parenting time, name of the child, and any financial issues decided by the child support magistrate. If there is no agreement concerning permanent legal and/or physical custody, parenting time, or the legal name of the child, those issues shall be referred to the district court. The issues referred to district court are considered pending before the district court and are not final until the district court issues an order deciding those issues. The order of the child support magistrate referring the remaining issues to district court is not

appealable pursuant to Rule 378. This rule shall not limit the right to appeal the district court's order. When one or more issues are referred to district court, service of the summons and complaint in the expedited process is sufficient for the matter to proceed in district court.

(3) **Order When Parent-Child Relationship Not Resolved.** In an action to establish parentage, if the parties do not agree to the parent-child relationship and the temporary or permanent physical custody, the child support magistrate shall make findings and issue an order as follows.

(A) **Blood or Genetic Testing Not Completed.** When the issue of the parent-child relationship is not resolved and genetic testing has not been completed, the child support magistrate shall order genetic testing and shall continue the hearing in the expedited process to allow the tests to be completed and the results to be received.

(B) **Blood or Genetic Testing Completed.** When genetic testing has been completed, if the parties still disagree about the parent-child relationship, the child support magistrate shall refer the entire matter to district court for further proceedings. The child support magistrate may set temporary support pursuant to Rule 371.11, subd. 2.

(c) **Change of Venue.** Upon motion by a party for a change of venue, a child support magistrate shall issue the following order:

(1) Upon consent of all parties, or the failure of any party to file a timely objection, a child support magistrate may issue an order changing venue or may sign a proposed default order changing venue. The court administrator shall forward the court file to the county that has been granted venue.

(2) If any party disputes a motion to change venue, the child support magistrate shall issue an order referring the matter to district court and the court administrator shall schedule the matter for hearing. The court administrator shall transmit notice of the date, time, and location of the hearing to all parties. Notice shall be sent in accordance with Rule 14 to all parties who have agreed to or are required to accept electronic service, and to all other parties in accordance with Rule 13 of these Rules and Rule 77.04 of the Rules of Civil Procedure.

**Subd. 3. Prohibited Proceedings and Issues.** The following proceedings and issues shall not be conducted or decided in the expedited process:

- (a) non-IV-D cases;
- (b) establishment, modification, or enforcement of custody or parenting time under Minnesota Statutes 2000, chapter 518, unless authorized in subdivision 2;
- (c) establishment or modification of spousal maintenance;
- (d) issuance, modification, or enforcement of orders for protection under Minnesota Statutes, chapter 518B;
- (e) division of marital property;
- (f) determination of parentage, except as permitted by subdivision 2(b);
- (g) evidentiary hearings to establish custody, parenting time, or the legal name of the child under Minnesota Statutes 2000, chapter 257;
- (h) evidentiary hearings in contempt matters;
- (i) matters of criminal contempt;

- (j) motions to change venue, except as permitted in subdivision 2;
- (k) enforcement proceedings prohibited in Rule 373.01;
- (l) matters of criminal non-support;
- (m) motions to vacate a recognition of paternity or paternity adjudication; and
- (n) the constitutionality of the statutes and rules.

(Amended effective July 1, 2001; amended effective November 1, 2003; amended effective July 1, 2015; amended effective July 1, 2019; amended effective November 22, 2023.)

***Advisory Committee Comment - 2019 Amendment***

*Rule 353.01, subd. 2(c), is amended in 2019 to clarify that unopposed motions for change of venue do not need to be referred for hearing before a district court judge but may be granted by the child support magistrate.*

***Advisory Committee Comment - 2023 Amendments***

*Rule 353.01, subd. 2(c), is modified in 2023 to allow magistrates to approve default orders for uncontested change of venue motions, without scheduling these matters for hearing.*

**Rule 353.02 Procedure When Prohibited Issues**

**Subdivision 1. Generally.** These rules do not prevent a party, upon timely notice to all parties and to the county agency, from commencing a proceeding or bringing a motion in district court if the proceeding or motion involves one or more issues identified in Rule 353.01, subd. 1, and one or more issues identified in Rule 353.01, subd. 3.

**Subd. 2. Multiple Issues in District Court.** If a proceeding is commenced in district court, the district court judge shall decide all issues before the court. If the district court judge cannot decide the support issues without an additional hearing, the district court judge shall determine whether it is in the best interests of the parties to retain the support issues or refer them to the expedited process for decision by a magistrate. If the district court judge refers the support issues to the magistrate, the referral shall include a clear statement of the issues referred and a description of the additional information needed, and shall provide the date, time, and location of the continued hearing. If possible at the time of the referral, the district court judge shall decide temporary support. A matter referred to district court pursuant to subdivision 3 shall be decided in its entirety by the district court judge and shall not be referred back to the expedited process. After the district court judge has issued a final order in the matter, subsequent review or motions may be heard in the expedited process.

**Subd. 3. Prohibited Issues in Expedited Child Support Process.** If a proceeding is commenced in the expedited process and the complaint, motion, answer, responsive motion, or counter motion raises one or more issues identified in Rule 353.01, subd. 3, all parties, including the county agency, may agree in writing to refer the entire matter to district court without first appearing before the child support magistrate. Notice of the agreement must be filed with the court at least 7 days before the scheduled hearing in the expedited process. The child support magistrate shall issue an order referring the entire matter to district court. Absent an agreement by all parties and upon motion of a party or upon the child support magistrate's own initiative, the child support magistrate assigned to the matter shall, either before or at the time of the hearing, decide whether to:

- (a) refer the entire matter to district court; or

(b) determine the temporary support amount and refer all issues to district court. The district court judge shall issue an order addressing all issues and, with respect to support, may adopt and incorporate by reference the findings and order of the child support magistrate. If the district court judge does not adopt the findings and order of the child support magistrate, the judge shall make the necessary findings and order regarding permanent support. In the alternative, the order for temporary support shall become permanent upon the dismissal or withdrawal of the prohibited issue referred to district court. If the district court order fails to address the issue of permanent support, the order for temporary support shall become permanent and shall be deemed incorporated upon issuance of the district court order. If the district court judge fails to issue an order, on the 180th day after service of the notice of filing of the order for temporary support, the order for temporary support shall become permanent.

When a matter is referred to district court, service of the summons and complaint or notice of motion and motion in the expedited process is sufficient for the matter to proceed in district court. A child support magistrate's order that refers a matter to the district court calendar shall provide the date, time, and location of the continued hearing.

(Amended effective July 1, 2001; amended effective November 1, 2003; amended effective January 1, 2020.)