STATE OF MINNESOTA

IN SUPREME COURT

A18-0223

Court of Appeals Chutich, J.

In re the Matter of:

Matthew Lawson Thornton,

Appellant,

vs.

Filed: October 2, 2019
Office of Appellate Courts

Jessica Ortiz Bosquez,

Respondent.

Rodd A. Tschida, Minneapolis, Minnesota, for appellant.

Robert J. Lawton, Rogosheske Lawton, PC, Saint Paul, Minnesota; and

Mary Catherine Lauhead, Law Offices of Mary Catherine Lauhead, Saint Paul, Minnesota, for respondent.

Christopher W. Bowman, Yaeger & Jungbauer Barristers, PLC, Saint Paul, Minnesota; and

Michael P. Boulette, Barnes & Thornburg, LLP, Minneapolis, Minnesota, for amicus curiae Minnesota State Bar Association.

Katherine S. Barrett Wiik, Best & Flanagan LLP, Minneapolis, Minnesota; and

Rana S. Alexander, Minneapolis, Minnesota, for amicus curiae Standpoint.

Kristine Lizdas, Minneapolis, Minnesota, for amicus curiae Battered Women's Justice Project.

Elizabeth J. Richards, Saint Paul, Minnesota, for amicus curiae Minnesota Coalition for Battered Women.

S Y L L A B U S

1. The statutory rebuttable presumption against an award of joint custody when domestic violence has occurred between the parents, found in Minnesota Statutes section 518.17, subdivision 1(b)(9) (2018), applies only against a joint physical or joint legal custodial arrangement, and not against a particular party.

2. The district court's custody award was not an abuse of discretion.

Affirmed.

O P I N I O N

CHUTICH, Justice.

This appeal concerns a dispute over the custody of a 4-year-old girl and the proper application of a statutory rebuttable presumption against an award of joint custody in cases when domestic abuse has occurred between the parents. Soon after the child's first birthday in November 2015, appellant Matthew Lawson Thornton ("Thornton"), the child's father, sued the child's mother, respondent Jessica Bosquez ("Bosquez"), for sole physical and legal custody. After a two-day trial, the family court referee found that Bosquez had committed domestic abuse against Thornton but that the child's best interests required that the parents be awarded joint physical custody and equal parenting time. The referee further found that the statutory presumption against joint legal custody was not rebutted and

awarded sole legal custody to Bosquez. The district court agreed and the court of appeals affirmed.

Thornton now asks us to reverse the district court's order and award him sole legal and physical custody. He contends that the district court misapplied the rebuttable presumption against awarding joint custody when domestic violence has occurred between the parents. *See* Minn. Stat. § 518.17, subd. 1(b)(9) (2018). Thornton further challenges the district court's application of the statutory best-interests factors, asserting that the district court improperly considered the friendly-parent factor in its best-interests analysis. *See* Minn. Stat. § 518.17, subd. 1(a)(11) (2018).

We conclude that the district court did not misapply the domestic-abuse presumption or the friendly-parent factor, and appropriately exercised its broad discretion in analyzing the best-interests factors. Accordingly, we affirm.

FACTS

Thornton and Bosquez first met when Thornton, an attorney, represented Bosquez in a personal injury matter. They became intimate sometime in 2010, after the attorney-client relationship ended. Until this lawsuit, the parties' on-again-off-again relationship was tumultuous, conflict-riven, and, as described by the referee, "toxic." After Bosquez became pregnant with the child in early 2014, she began living at Thornton's house. The parties never married, but they signed a Recognition of Parentage establishing Thornton as the child's father.

Bosquez and the child continued to live with Thornton until November 2015, when Thornton sought an award of child custody and simultaneously petitioned for an *ex parte*

order for protection on behalf of himself and the child. The district court granted a temporary, *ex parte* order for protection for Thornton and the child and ordered an evidentiary hearing. At the hearing, Bosquez stipulated to an order for protection for Thornton, without factual findings, and the district court dismissed the petition that sought protection for the child. The referee ordered temporary custody to Thornton subject to shared parenting time with Bosquez. The referee also appointed a guardian ad litem to provide final recommendations on physical custody, legal custody, and parenting time. Because Ramsey County follows a "one judicial officer per family" policy in family law matters, the same referee presided over the order for protection matters and the custody proceedings.

The guardian ad litem recommended that the parties share joint physical custody, joint legal custody, and parenting time according to a court-ordered schedule. The guardian's findings and recommendations were based on court-ordered psychological evaluations, parenting assessments, chemical dependency assessments, home visits with the parties and the child, discussions with the child's daycare provider, discussions with the parties' mental health care providers, and two personal references for each parent. The guardian also reviewed court files, medical records, correspondence between the parties, social media posts, and audio recordings.

At the 2-day bench trial in January 2017, Thornton testified and presented testimony from eight witnesses and over 90 exhibits. Bosquez's trial testimony was limited, but she rested her case on the reports of the guardian ad litem, her counsel's cross-examination of Thornton and his witnesses, and Thornton's documentary evidence.

In May 2017, in a detailed 31-page order, the referee set forth his analysis of statutory factors relevant to the child's best interests and the custody determination. *See generally* Minn. Stat. § 518.17, subd. 1(a) (2018) (providing 12 factors to consider in a determination of custody). To support an award of joint physical custody and sole legal custody to Bosquez, the referee made the following findings.

The referee found that the parties' relationship was "dysfunctional and unhealthy," with each alleging that the other has "serious behavioral problems." Thornton presented extensive testimony of Bosquez's physical abuse including photographs of "scratch marks and bruises on his shoulders and arms, a cut on his arm from a knife, and an obvious bruise on the back of his neck." Although the referee did not make any incident-specific findings of domestic abuse, he concluded that "[t]hese injuries occurred from numerous incidents over an extended period of time" and that Bosquez had committed domestic abuse under Minnesota Statutes section 518B.01, subdivision 2(a) (2018). The referee also found that Bosquez used threats of suicide, and one actual suicide attempt, to try to assert control over Thornton.

In considering the "nature and context of the domestic abuse," as required by section 518.17, subdivision 1(b)(9), the referee also found that Thornton was emotionally abusive towards Bosquez. Thornton admitted to calling Bosquez "extremely vulgar and degrading names and insults." When Bosquez was pregnant, he frequently denied being the father of the child and accused Bosquez of infidelity. Thornton regularly called Bosquez names such as "whore" and "slut" and impugned her ability to be a good mother with derisive comments. On occasion, he used this language in the child's presence. The

referee found that Bosquez testified credibly that this demeaning behavior was a "constant and daily occurrence."

In addition, the referee found that Thornton engaged in "coercive control and manipulation" of Bosquez. For example, he secretly photographed pages from Bosquez's private diary and gathered information about her foster care background and the criminal history of her family members; Bosquez told the guardian ad litem that he used this information to threaten to take custody of the child. Thornton also secretly dumped out Bosquez's breastmilk on his unfounded suspicion that she was abusing alcohol. The referee concluded that Thornton's behavior did not amount to statutory domestic abuse, but he found that this behavior was "offensive and demeaning and contribute[d] to an unhealthy dynamic which is central to this case."

Although Thornton was the victim of Bosquez's physical abuse, the referee specifically found that he retained the "vast majority of power" over Bosquez because of his education and profession, and the fact that when the couple lived together, they lived in Thornton's home. The referee expressed concerns that Thornton was on a "campaign to minimize the importance of [Bosquez's] role in the minor child's life," noting one mental health provider's conclusion that the relationship between Thornton and Bosquez was not salvageable because of Thornton's "observable contempt and resentment" towards Bosquez.

Crucially, the referee found that the child had suffered no abuse and that, in fact, she thrived under the care of both parties. The referee found no incidents of physical abuse by Bosquez since the parties ended their relationship. Despite Thornton's strenuous

assertions that Bosquez is not fit for parenting, the referee noted that every disinterested evaluator praised Bosquez's parenting abilities and commitment to the child's well-being. The referee further found that both parties are "loving parents who can and do provide for all the child's needs" and that the child was happy and healthy. Consequently, the referee concluded that the child's best interests required a healthy relationship with both of her parents.

Because the referee found that Bosquez committed domestic abuse against Thornton, the referee was required to assess whether the statutory presumption that "joint legal custody or joint physical custody is not in the best interests of the child" had been rebutted. Minn. Stat. § 518.17, subd. 1(b)(9). The referee provided the following analysis of the presumption:

> 24. The Court has already made findings regarding the nature and context of the domestic violence in this case. Father, the victim of domestic violence, has superior power and control over Mother. Mother's abusive actions were in the context of how powerless she felt in the relationship. The actions are not acceptable and, if they continue, will be detrimental to the minor child. There is evidence that Mother has respected the order for protection. There is also evidence that what appeared to be Mother's obsession to maintain the relationship has ended. The Court will adopt [the parental evaluator]'s recommendations for both parties to engage in therapy to address the issues which impair their ability to effectively communicate with each other.
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> 25. Under these circumstances, the Court finds that the presumption against joint legal custody is not overcome. As noted above, the Court is concerned that Father will use joint legal custody as a weapon. Father has engaged in coercive control and manipulation of Mother throughout their entire relationship. Despite being a victim of domestic abuse, he has maintained the power and control in the parties' relationship.
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> 26. Joint physical custody, on the other hand, is defined as "the routine daily care and control and the residence of the child is structured

> between the parties." Minn. Stat. [§] 518.003, subd. 3(d). As noted above, the parties have been able to have a jointly structured parenting time arrangement which benefits the child by providing substantial time with each parent and if exchanges and communication is addressed, the Court believes the presumption against joint physical custody has been rebutted.

Having found that the presumption against joint legal custody was not rebutted, the referee concluded that the child's interests would be best served by awarding sole legal custody to Bosquez and joint physical custody and parenting time according to a court-ordered schedule. The district court approved the referee's order.

Thornton challenged the custody award on appeal. He argued that the district court's award of sole custody to Bosquez was a misapplication of the presumption against joint custody in cases of domestic abuse. In Thornton's view, the presumption should benefit the domestic-abuse victim and, consequently, he should have been awarded sole custody of the child because Bosquez did not provide evidence to rebut the presumption against joint custody. He also argued that the district court's analysis of the best-interests factors was erroneous.

The court of appeals rejected Thornton's arguments and affirmed the district court. *Thornton v. Ortiz Bosquez*, No. A18-0223, 2018 WL 6442311, at *8 (Minn. App. Dec. 10, 2018). The court of appeals held that the district court did not err in its application of the presumption, reasoning that the statutory language "does not necessarily favor one party over the other party. The presumption simply expresses a preference for sole custody in one parent or the other parent, unless the presumption has been rebutted." *Id.* at *5. The court also held that the district court did not clearly err in any of its best-interests findings. *Id.* at *8.

We granted Thornton's petition for further review.

ANALYSIS

When a district court is deciding a custody dispute, a child's best interests is the court's "paramount commitment." *Olson v. Olson*, 534 N.W.2d 547, 549 (Minn. 1995). "The guiding principle in all custody cases is the best interest[s] of the child." *Pikula v. Pikula*, 374 N.W.2d 705, 711 (Minn. 1985).

In considering the child's best interests, a district court must "consider and evaluate all relevant factors," including 12 factors set forth by statute.[1] Minn. Stat. § 518.17,

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[1] Subdivision 1(a) of section 518.17 includes the following best-interests factors:

> (1) a child's physical, emotional, cultural, spiritual, and other needs, and the effect of the proposed arrangements on the child's needs and development;
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> (2) any special medical, mental health, or educational needs that the child may have that may require special parenting arrangements or access to recommended services;
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> (3) the reasonable preference of the child, if the court deems the child to be of sufficient ability, age, and maturity to express an independent, reliable preference;
>
> (4) whether domestic abuse, as defined in section 518B.01, has occurred in the parents' or either parent's household or relationship; the nature and context of the domestic abuse; and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs;
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> (5) any physical, mental, or chemical health issue of a parent that affects the child's safety or developmental needs;
>
> (6) the history and nature of each parent's participation in providing care for the child;
>
> (7) the willingness and ability of each parent to provide ongoing care for the child; to meet the child's ongoing developmental, emotional, spiritual, and

subd. 1(a)(1)–(12). The court must provide "detailed findings" on each of the statutory best-interests factors and explain how each "led to its conclusions and to the determination of custody and parenting time." *Id.*, subd. 1(b)(1).

In addition, the statute sets forth nine provisions that "govern the application of the best interests of the child factors by the court." *See* Minn. Stat. § 518.17, subd. 1(b)(1)−(9). In undertaking a best-interests analysis, "[t]he court may not use one factor to the exclusion of all others, and the court shall consider that the factors may be interrelated." *Id.*, subd. 1(b)(1). The court must also "consider that it is in the best interests of the child to promote the child's healthy growth and development through safe, stable, nurturing

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> cultural needs; and to maintain consistency and follow through with parenting time;
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> (8) the effect on the child's well-being and development of changes to home, school, and community;
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> (9) the effect of the proposed arrangements on the ongoing relationships between the child and each parent, siblings, and other significant persons in the child's life;
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> (10) the benefit to the child in maximizing parenting time with both parents and the detriment to the child in limiting parenting time with either parent;
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> (11) except in cases in which domestic abuse as described in clause (4) has occurred, the disposition of each parent to support the child's relationship with the other parent and to encourage and permit frequent and continuing contact between the child and the other parent; and
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> (12) the willingness and ability of parents to cooperate in the rearing of their child; to maximize sharing information and minimize exposure of the child to parental conflict; and to utilize methods for resolving disputes regarding any major decision concerning the life of the child.

Minn. Stat. § 518.17, subd. 1(a)(1)–(12).

relationships between a child and both parents." *Id.*, subd. 1(b)(2). The court must further "consider both parents as having the capacity to develop and sustain nurturing relationships with their children unless there are substantial reasons to believe otherwise." *Id.*, subd. 1(b)(3). As discussed below in detail, a district court must further employ certain rebuttable presumptions when joint custody is requested by a parent or when domestic abuse has occurred between the parents. *Id.*, subd. 1(b)(9). The district court here considered these relevant principles in arriving at its custody determination.[2]

As with any question of law, we review the district court's interpretation of the custody statute de novo. *See Hansen v. Todnem*, 908 N.W.2d 592, 596 (Minn. 2018). But when the issue turns on the district court's findings of fact, we review the findings for clear error, "giving deference to the district court's opportunity to evaluate witness credibility" and reversing only if we are left "with the definite and firm conviction that a mistake has been made." *Goldman v. Greenwood*, 748 N.W.2d 279, 284 (Minn. 2008) (citations omitted) (internal quotation marks omitted). This appellate deference reflects the Legislature's determination that a district court needs great leeway in making a custody decision that serves a child's best interests, in light of each child's unique family circumstance. *See In re Custody of M.J.H.*, 913 N.W.2d 437, 443 (Minn. 2018) (noting the

[2] The district court also considered subdivision 1(b)(4) (stating that conduct of a party that does not affect the party's relationship with the child should be disregarded); (5) (noting that "[d]isability alone . . . shall not be determinative" of custody); and (7) ("There is no presumption for or against joint physical custody, except as provided in clause (9).")

"principle that a district court has broad discretion in determining custody and parenting time").

I.

Thornton primarily contends that the district court misinterpreted the domestic-abuse presumption of subdivision 1(b)(9) of section 518.17 by failing to apply that presumption against the parent found to have committed domestic abuse. Citing Minnesota Rule of Evidence 301, he claims that a domestically abusive parent is necessarily "the party against whom [the presumption] is directed." Because Thornton believes that the burden of proof to rebut the presumption is on the domestic abuser, he asserts that the court *must* award sole custody to the domestic-abuse victim if the presumption is not rebutted. As discussed below, Thornton's statutory interpretation argument is not supported by the statute's text.

Because this issue requires an interpretation of law, our review is de novo. *Hansen*, 908 N.W.2d at 596. We interpret statutory language to "ascertain and effectuate" the Legislature's intent and construe the law to "give effect to all its provisions." Minn. Stat. § 645.16 (2018). "When the words of a law in their application to an existing situation are clear and free from all ambiguity," *id*., "our role is to enforce the language of the statute and not explore the spirit or purpose of the law." *Christianson v. Henke*, 831 N.W.2d 532, 537 (Minn. 2013) (citation omitted) (internal quotation marks omitted). Here, neither party claims that subdivision 1(b)(9) is ambiguous, and we agree that it is not.

Turning first to the language of the statute, subdivision 1(b)(9) of section 518.17 sets forth two presumptions concerning joint custody in specific situations, including when domestic abuse has occurred. It provides in relevant part:

> The court shall use a rebuttable presumption that upon request of either or both parties, joint legal custody is in the best interests of the child. However, the court shall use a rebuttable presumption that joint legal custody or joint physical custody *is not* in the best interests of the child *if domestic abuse, as defined in section 518B.01,*[3] *has occurred between the parents*. In determining whether the presumption is rebutted, the court shall consider the nature and context of the domestic abuse and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs.

Minn. Stat. § 518.17, subd. 1(b)(9) (emphasis added).

The second sentence in subdivision 1(b)(9) stands on its own to set forth a presumption that when domestic abuse has occurred, a joint custodial arrangement does not serve the child's best interests. Contrary to Thornton's contention, the plain language of the statute does not state that a district court must award sole custody to the victim of domestic violence. Notably, the provision contains no language stating that the presumption operates for or against any particular party. No reference is made to a party at all. The presumption does not mandate that a specific party receive sole custody if the presumption goes unrebutted; nor does it expressly impose on any party the burden of producing evidence to rebut the presumption.

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[3] Domestic abuse is defined as: "(1) physical harm, bodily injury, or assault; (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or (3) terroristic threats . . . ; criminal sexual conduct . . . ; or interference with an emergency call . . ." that is "committed against a family or household member by a family or household member." Minn. Stat. § 518B.01, subd. 2(a).

Rather than impose a presumption for or against a specific *custodian*, subdivision 1(b)(9) creates a rebuttable presumption against a *custodial arrangement*: joint custody. Unless the presumption has been rebutted, the subdivision's plain language expresses a preference for sole legal and physical custody when domestic abuse has occurred. The presumption focuses on the child's needs and a custodial arrangement that is beneficial to the child, and not on particular caregivers.

Other provisions of section 518.17 confirm our conclusion that the statutory scheme does not categorically prohibit an award of custody to a parent who has committed domestic abuse. First, an occurrence of domestic abuse between the parties is one factor among the 12 statutory best-interests factors that the district court must consider before awarding custody. Minn. Stat. § 518.17, subd. 1(a)(4). Although the existence of this factor is often a critical one, a district court "may not use one factor to the exclusion of all others." *Id.*, subd. 1(b)(1). Moreover, clauses (2) and (3) of subdivision 1(b) direct the district court to consider it in the child's best interests to develop "safe, stable, nurturing relationships" with each parent, *id.*, subd. 1(b)(2), and to "consider both parents as having the capacity to develop and sustain nurturing relationships with their children unless there are substantial reasons to believe otherwise." *Id.*, subd. 1(b)(3). These clauses show that the Legislature did not intend the presumption against joint custody to be mechanically applied against a parent who has committed domestic abuse, but instead intended to enable the district court to conduct a nuanced consideration of the child's needs.

Second, other provisions of the custody statute show that the Legislature is capable of directing custody presumptions against particular parties when it intends to do so. In

cases where the parent seeking custody has been convicted of certain crimes, for example, the statute specifically requires that parent to carry the burden to prove that awarding her custody would be in the child's best interests. *See* Minn. Stat. § 518.179, subd. 1 (2018) (stating that the person convicted of a specific crime who is "seeking custody or parenting time has the burden to prove that custody or parenting time by that person is in the best interests of the child"). If the Legislature sought to impose the presumption in subdivision 1(b)(9) against the domestic abuser specifically, it would have done so expressly.[4]

Despite this lack of an express statutory assignment of the burden of rebutting the presumption on one party or the other, Thornton asserts that Minnesota Rule of Evidence 301[5] mandates that Bosquez bear the burden of producing evidence to rebut the presumption. But Rule 301 is inapplicable here where, by the plain language of the presumption, there is no "party against whom [the presumption] is directed." *Id.*

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[4] Other states, we note, have imposed that burden expressly. *See* Cal. Fam. Code § 3044(a) (West 2019) ("[T]here is a rebuttable presumption that an award of sole or joint physical custody of a child to a person who has perpetrated domestic violence is detrimental to the best interests of the child."); N.D. Cent. Code Ann. § 14-09-06.2, subd. 1(j) (West 2019) (stating that after a qualifying incident of domestic abuse, there is "a rebuttable presumption that a parent who has perpetrated domestic violence may not be awarded residential responsibility for the child").

[5] Minnesota Rule of Evidence 301 provides:

> In all civil actions and proceedings not otherwise provided for by statute or by these rules, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast.

Minn. R. Evid. 301.

Moreover, in child-custody cases, neither party bears a burden of production or persuasion concerning the best interests of the child so there is no "party on whom [the risk of nonpersuasion] was originally cast." *Id.* Instead, a district court determines custody without regard to burdens of proof. *See* Minn. Stat. § 518.17, subd. 1.

Accordingly, under these circumstances, a presumption is "merely a procedural device [that] dictates a decision *only where there is an entire lack of competent evidence to the contrary* . . . ." *Kath v. Kath*, 55 N.W.2d 691, 693–94 (Minn. 1952); *accord Frandsen v. Ford Motor Co.*, 801 N.W.2d 177, 181 (Minn. 2011) (noting that a rebuttable presumption is "a legal inference or assumption that a fact exists") (citation omitted) (internal quotation marks omitted). A presumption ceases to function when "substantial countervailing evidence appears from any source." *Kath*, 55 N.W.2d at 694. Because the district court's foremost consideration is the best interests of the child, it is crucial that the court weigh all evidence of the child's best interests regardless of the source of the evidence. Under subdivision 1(b)(9), therefore, the district court simply concludes that joint custody is not appropriate unless substantial countervailing evidence from *any* source[6] exists to satisfy the presumption's rebuttal factors.

[6] Parties can rely upon a variety of evidence from various sources to rebut the presumption, including witness testimony, guardian ad litem reports, parenting assessments, psychological or chemical health reports, supervised visitation reports, and other materials when properly entered under the pertinent evidentiary rules. *See Pikula*, 374 N.W.2d at 706–10 (listing the evidence in the record as witness testimony, party testimony, and reports from social workers and custody evaluators, one of whom evaluated chemical health issues).

Thornton warns that this interpretation undermines the purpose of the domestic-abuse provisions and risks placing children in a violent home environment—concerns that are echoed by amici Standpoint, Battered Women's Justice Project, and the Minnesota Coalition of Battered Women. We take these concerns seriously. We disagree, however, that applying the presumption only against a particular custodial arrangement, and not against a domestic abuser, will have this effect under the current statutory scheme.

The custody statute has safeguards in place that protect children from the harmful effects of domestic abuse. The fourth best-interests factor listed in the custody statute requires the court to give special focus to "the nature and context of the domestic abuse[] and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs." Minn. Stat. § 518.17, subd. 1(a)(4). These same factors must be also be considered by the court in determining whether the presumption against joint custody is rebutted. *See id.*, subd. 1(b)(9). Accordingly, district courts are directed to address domestic abuse in whatever context it arises and to explicitly consider its impact on the child.

These provisions ensure that the court will consider the risk that an environment of domestic abuse will have serious detrimental effects on a child's development and well-being, even when the child herself is not the target of the abuse. Given the seriousness of these effects, we expect that in many cases the existence of domestic abuse weighs—and will continue to weigh—heavily in a district court's analysis of the statutory best-interests factors. But subdivision 1(b)(9) does not impose the rigid assumption that, no matter the nature or the context of domestic violence, one parent or another is unable to

serve a child's best interests. *See Maxfield v. Maxfield*, 452 N.W.2d 219, 225 (Minn. 1990) (Yetka, J., dissenting) (explaining that custody decisions are not suited to "inflexible presumptions about who is best able to care for a young child").

Accordingly, we hold that subdivision 1(b)(9) imposes a rebuttable presumption only against joint physical or joint legal custody arrangements in cases where domestic abuse has occurred between the parties. The subdivision does not assign a burden of production or persuasion to rebut the presumption to any particular party.

II.

With this interpretation of subdivision 1(b)(9) in mind, we next consider whether, as Thornton contends, the district court erred in awarding joint physical custody[7] and sole legal custody[8] to Bosquez. Thornton asserts that, even if Bosquez has no burden of production, the record evidence is insufficient to rebut the presumption against joint custody here, and that the district court impermissibly weighed the so-called friendly-parent factor of subdivision 1(a)(11) in its best-interests analysis. *See* Minn. Stat. § 518.17, subd. 1(a)(11). Because these challenges turn on a balancing of the best interests of the child, we review the district court's determination for an abuse of discretion. *See Hansen*, 908 N.W.2d at 596. Given the ample evidence that supports the district court's custody award, we conclude that the district court did not abuse its discretion.

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[7] " 'Physical custody . . .' means the routine daily care and control . . . of the child." Minn. Stat. § 518.003, subd. 3(b) (2018).

[8] " 'Legal custody' means the right to determine the child's upbringing, including education, health care, and religious training." Minn. Stat. § 518.003, subd. 3(a).

After the district court determined that Bosquez had committed domestic abuse, the court properly considered "the nature and context" of the domestic abuse.[9] Minn. Stat. § 518.17, subd. 1(b)(9). The court appropriately recognized that Bosquez's actions were "domestic abuse," but then analyzed the context in which her actions occurred. After weighing testimony from the parties and the reports of the guardian ad litem and a psychological expert, the court observed that Bosquez's abusive conduct was precipitated by, or occurred along with, "coercive control and manipulation" by Thornton of Bosquez "throughout their entire relationship." Among its numerous findings on this issue, the district court specifically found that Thornton, "the victim of domestic violence, has superior power and control over [Bosquez]. [Bosquez's] abusive actions were in the context of how powerless she felt in the relationship." It noted that no incidents of domestic abuse have occurred since the order for protection went into place.

In finding that the presumption was rebutted concerning joint physical custody, the district court also properly considered the implications of the abuse on the child's "safety, well-being, and developmental needs." Minn. Stat. § 518.17, subd. 1(b)(9). The court noted that the child has never been the victim of Bosquez's domestic abuse, and that domestic abuse does not occur in either parent's home. It further observed Bosquez's own

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[9] This consideration is necessary because "domestic abuse" under Chapter 518B encompasses a broad range of behavior ranging in severity and frequency from, for example, a single instance of family violence to long-term coercive controlling violence. *See* Minn. Stat. § 518B, subd. 2(a); *Thompson v. Schrimsher*, 906 N.W.2d 495, 500 (Minn. 2018) (noting the relevant circumstances in granting an OFP include "the timing, frequency, and severity of any alleged incidents" once the court makes a finding of domestic abuse).

improvement with the help of mental health treatment. Most importantly, the court found that the child thrives under the care of each parent and that her well-being had improved since the court ordered a shared parenting-time schedule. The district court further found that "the child enjoys her time with both parties and the activities and routines each has established while the child is in his or her care." Expert parenting assessments supported the district court's finding that shared responsibility for providing the child a home and routine daily care would further the child's best interests. *See* Minn. Stat. § 518.003, subd. 3(b).

The court's award of sole legal custody to Bosquez also has support in the record. In reaching this conclusion, the court noted that the parties' inability to cooperate made "a traditional award of joint legal custody unworkable." The court was concerned, given Thornton's past behavior towards Bosquez, that he would "use joint legal custody as a weapon" to exclude Bosquez from participating in major decisions about the child's upbringing.

Thornton asserts that, in arriving at this conclusion, the district court impermissibly considered the friendly-parent factor.[10] Minn. Stat. § 518.17, subd. 1(a)(11). Although the district court specifically stated that it did not consider this factor, Thornton asserts that the

[10] Subdivision 1(a)(11) provides that "except in cases in which domestic abuse . . . has occurred," the district court, in its best-interests analysis, must consider "the disposition of each parent to support the child's relationship with the other parent and to encourage and permit frequent continuing contact between the child and the other parent." Minn. Stat. § 518.17, subd. 1(a)(11).

court considered his unwillingness to support the child's relationship with Bosquez in its consideration of other best-interests factors.

We disagree with Thornton's interpretation of the order. Although the district court referenced, for example, Thornton's "unwillingness to support [Bosquez's] relationship with the child in a meaningful way," Thornton takes these statements out of context. The court was rightfully concerned that Thornton was not just unwilling to support the child's relationship with her mother, but was willing to interfere with that relationship despite the child's prevailing need for a healthy relationship with *each* of her parents.[11]

Moreover, the district court did not misapply the law by considering how Thornton's efforts to interfere with the child's relationship with Bosquez affected the other statutory best-interests factors. According to the statute, the district court "shall consider that the factors may be interrelated." Minn. Stat. § 518.17, subd. 1(b)(1). A district court's analysis of the twelfth best-interests factor, for example, requires the court to weigh "the willingness and ability of parents to *cooperate* in the rearing of their child; to maximize sharing information and minimize exposure of the child to parental conflict; and to utilize methods for resolving disputes regarding any major decision concerning the life of the child." *Id.*, subd. 1(a)(12) (emphasis added).

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[11] For example, the district court stated that Thornton's "inability to even visualize a schedule where Mother could have healthy parenting time with the minor child leaves the Court with the conviction that unless the Court clearly outlines Mother's parenting time, Father will *engage in activities designed to eliminate the minor child's time with Mother entirely*." (Emphasis added.)

The statute expressly contemplates that the twelfth factor will have weight in cases of domestic abuse, notwithstanding the exception for considering the friendly-parent factor. In considering whether the presumption against joint custody in cases of domestic abuse is rebutted, the statute instructs that "[d]isagreement alone over whether to grant sole or joint custody does not constitute an inability of parents to cooperate in the rearing of their children *as referenced in paragraph (a), clause (12).*" *Id.*, subd. 1(b)(9) (emphasis added).

To be sure, the overlapping provisions in this statutory framework required the district court to strike a fine balance between acknowledging that a domestic-abuse victim is not expected to support his or her child's relationship with a domestic abuser, and giving effect to a child's need for cooperation between her parents when possible to promote "safe, stable, nurturing relationships between a child and both parents." *Id.*, subd. 1(b)(2). The district court ably recognized this fine line and provided ample support for its conclusions. Accordingly, the district court's best-interests analysis was not a misapplication of the friendly-parent factor. *Id.*, subd. 1(a)(11).

In sum, after considering the best-interests factors and the statutory presumption against joint custody when domestic abuse has occurred, the district court concluded that the child was best served by a joint physical custodial arrangement. The court reached this conclusion because "[b]oth parties are capable, loving parents who can and do provide for all the child's needs" and because the child has "a close and loving attachment to each parent and thrives in both parents' homes."

The court also concluded that granting Thornton legal custodial rights would not be in the child's best interests given its conclusion that Thornton would use legal custody "as a weapon" against Bosquez. The district court found that the child "will benefit from the insights [Thornton] has" about her best interests and that Bosquez "will see wisdom in [Thornton's] input when there is wisdom." Accordingly, it determined that the child was best served if Bosquez had sole legal custody with a method for Bosquez to solicit input from Thornton "which is free of the unhealthy dynamics between the two."

These conclusions were not an abuse of discretion. The district court based its award on an exhaustive examination of the evidence and a well-reasoned application of the law. We further note that, because of the Second Judicial District's policy of assigning a single judicial officer to preside over the entirety of each family court dispute, the district court had many opportunities to observe the parties both before and during trial. The district court's observations of the parties' demeanor, sincerity, and credibility are integral to its balancing of the best-interests considerations, and we give great deference to its custody award. *See Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). That deference is fully warranted here.

CONCLUSION

For the reasons explained above, we affirm the decision of the court of appeals.

Affirmed.