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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1673**

In the Matter of the Welfare of the Children of:
S. P. D., D. P.-C., and A. D. B., Parents.

**Filed June 12, 2023
Affirmed
Segal, Chief Judge**

Isanti County District Court
File No. 30-JV-22-26

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Considered and decided by Reilly, Presiding Judge; Segal, Chief Judge; and Slieter, Judge.

NONPRECEDENTIAL OPINION

SEGAL, Chief Judge

Appellant-mother S.P.D. challenges the termination of her parental rights, arguing that the district court erred in concluding that grounds for termination were proven by clear and convincing evidence. Mother also argues that the district court improperly took judicial notice of a court file involving her roommate. We affirm.

FACTS

Mother is the parent to three children: child 1, born in September 2016; child 2, born in December 2019; and child 3, born in January 2021.¹ D.P.-C. is the biological father of child 2 and child 3.² In February 2022, respondent Isanti County Health and Human Services (the county) brought a termination-of-parental-rights (TPR) proceeding against mother and father. The county had previously opened two cases involving the family. In the first case, the county initiated case-management services following an injury to child 2 in May 2020. The first case was closed in December 2020. The second case was initiated by a child-in-need-of-protection-or-services (CHIPS) petition in March 2021 after similar injuries were observed on child 3.

Mother is the sole appellant in this case; father voluntarily terminated his parental rights to child 2 and child 3 (father had no legal rights with regard to child 1) during the TPR trial.

May 2020 Injuries

In May 2020, when child 2 was five months old, mother brought child 2 to the emergency room (ER). Mother told ER staff that, earlier that morning, father was feeding child 2 in another room when mother heard a strange noise. Mother went to the room where father was feeding child 2 and saw father “slamming” child 2 on the bed. She said

¹ We refer to the children as child 1, child 2, and child 3 because the younger two children have the same initials.

² Child 1 has a different biological father. Child 1’s father voluntarily terminated his parental rights prior to the termination proceeding that is the subject of this appeal.

she believed father may have slammed child 2 twice because the noise she had heard from the other room was the same one made by child 2 when she saw father “slamming” child 2 on the bed. Mother said that father told her that she needed to take child 2, saying “I can’t do this.”

The ER staff referred child 2 to Midwest Children’s Resource Center (MCRC) for evaluation. The MCRC report stated that, while the event of being slammed down on the bed by father “is indicative of child physical abuse,” it “appears not to have caused any significant injuries at this time.” However, the evaluation identified other injuries that were not related to the slamming incident, including bruising and a posterior rib fracture.³

The MCRC report noted that mother had brought child 2 to her pediatrician the month before due to concerns about “easy bruising,” and that tests for underlying causes for the bruising, such as bleeding disorders, yielded normal results. The report further stated that “any bruise in a nonmobile infant must raise significant concerns for abuse” and that mother’s explanation for the bruising—routine care or laying on toys—could not explain the injuries. The report concluded in relation to the bruising that, “[i]n the absence of an underlying coagulation disorder, these bruises are . . . indicative of child physical abuse.”

The report estimated that child 2’s “[rib] fracture is at least approximately a few weeks old” and stated that “[t]here is no evidence of underlying disorder of bone metabolism that would cause [child 2] to develop fractures with routine cares or minor

³ The initial evaluation indicated that child 2 also had a possible femur fracture, but this was later ruled out.

trauma.” The report also concluded that child 2’s fracture was caused by abuse, explaining that “posterior rib fractures are highly specific for child physical abuse. . . . [Such fractures] occur when an infant is violently squeezed.”

The county was contacted and began an investigation. The county investigator spoke with mother the day of the incident, and mother stated that she and father believed that father had post-traumatic stress disorder (PTSD) and that father would seek therapy and medication “so he doesn’t snap like he did today.” That day, mother also sent several texts to a friend, which the friend later shared with the investigator. In the first text, mother wrote:

I’m telling you this and if . . . ANYONE ELSE find[s] out I’m going to probably hate you forever. Tell Dad, that’s it. But this morning [father] was feeding [child 2] and she must have pushed a button because I heard a weird noise so I walked in to see him slamming her down on a pillow on the bed. With her bruising I took her in to make sure she’s fine.

Mother subsequently texted, “I told [father] he is to start therapy immediately . . . and is not to be alone with any of the kids until further notice.” Further, “[h]e has PTSD and was a high risk for this. I’ve been pushing him for therapy, but I let him tell me no. And meds. He needs to get on something so he can start working through this.”

When the investigator conducted a home visit, mother said that she had overreacted in reporting that father “slammed” child 2 and in taking the child to the ER. Mother stated that she saw father set child 2 down on a pillow and was concerned that the child could have a brain bleed from being set down because of the previous bruising that mother had

reported to the pediatrician. She suggested that the bruise on the child's forehead resulted from a toy on her car seat and that the other bruises must have resulted from routine care.

The investigator also interviewed father. Father said that child 2 started screaming while he was feeding her and that this caused him to have an anxiety attack. Father stated that he had not previously been diagnosed with a mental-health disorder or received treatment and he was trying to be proactive about addressing it now.

The county initiated case-management services but did not remove the children from mother's care. Instead, the county created a safety plan that required father to, at least initially, move out of the home and to have no contact with the children until approved by the county. The plan also required that mother be supervised at all times when the children were present. As part of the safety plan, a family friend stayed with mother in the home. As the county was working with the family in developing the safety plan, mother again told the county worker that she felt that using the word "slammed" to describe father's behavior was too harsh and that the words "placed roughly" should instead be used.

During the course of the county's investigation, no further bruising was observed on child 2. The investigator determined that father had perpetrated "[m]altreatment in the form of physical abuse" against child 2 based on mother's initial report that father had slammed child 2 down on the bed. The investigator noted that "[t]here is concern that, following the events, [mother] minimized the incident, suggesting that she over-reacted and only saw [father] set [child 2] on a pillow." In relation to child 2's bruising and rib fracture, the investigator stated that there was no medical evidence to support that child 2 is susceptible to "easy bruising" and "[t]here is also no evidence or suggestion of an

accidental injury that could have caused the fracture.” The investigator concluded that, for these injuries, “[m]altreatment in the form of physical abuse has been determined against an unknown offender.” The investigator did not recommend termination of parental rights because father’s slamming of child 2 did not meet the definition of egregious harm and there had been no pattern of injury observed at that time.

The county worked with the family over several months to transition back to unsupervised parenting for both mother and father. During this period, mother informed the county that she was pregnant. Before closing its case with the family in December 2020, the county established an ongoing safety plan for the family to follow. This safety plan identified individuals who would serve as a safety network to check for heightened stress in the family and injuries to the children. The plan contained specific provisions for coping with the stress of the arrival of another infant.

March 2021 Injuries

Mother gave birth to child 3 in January 2021. In March 2021, when child 3 was two months old, the county received a report that child 3 had bruising on her face. County workers conducted a home visit the following day. The workers noted choking hazards and dirt throughout the home. They also observed bruises on child 3, as well as bruises and scratches on child 2’s back; the bruises appeared to align with child 2’s ribs. Mother stated that child 3’s bruises were from burping the child and that child 2’s bruises must have resulted from falling on toys.

The county placed a hold on all three children due to the injuries to child 2 and child 3. The workers brought child 2 and child 3 to the county office to view the bruises in better lighting. The workers observed that child 3's bruise was larger than it appeared in the home and that child 3 also had a red mark on her arm. The children were initially placed with a friend of mother's who sometimes watched the children. After an emergency-protective hearing several days later, the county maintained custody of the children. Mother requested that the children be moved from their initial placement, as mother now suspected that the friend could be a source of the injuries. The county investigator interviewed the friend and "had no significant concerns that it was [the friend] that caused the injury." The children were placed with foster parents and the county filed a CHIPS petition.

Child 2 and child 3 were both evaluated at MCRC several days after they were removed from the home. Child 2's evaluation report stated that she "has multiple circular hyperpigmented areas to her back that appear to be superficial abrasions extending to her lower left flank." The report said that "[d]ue to the location and the appearance, the primary diagnostic consideration is child physical abuse."

Child 3's evaluation showed that child 3 had a left posterior fracture of her 11th rib, a corner fracture of her right tibia, and bruises on her left cheek and right arm. The evaluation report stated that each of these injuries were "diagnostic of child physical abuse." MCRC conducted a follow-up examination two weeks later, as "[i]t is common to identify additional fractures once radiographic healing is apparent." The evaluation report

confirmed child 3's initial rib fracture and tibia fracture and identified five additional rib fractures.

The county's investigation did not reveal the perpetrator of the injuries against child 2 and child 3. The investigator wrote that "[i]nformation obtained indicated the [harm] occurred while [child 2 and child 3] were in [their] parents' care, however due to [the parents] declining to be interviewed and cooperate with the investigation, the [county] is unable to determine [that either parent] caused the injuries." The investigator referred the case for continued case management, because "[d]ue to the severity of the injuries and the offender remaining unknown, it has been determined that continued services are still needed at this time."

In May 2021, mother entered an admission in the CHIPS matter, and the district court adjudicated the children as CHIPS. The district court ordered mother and father to comply with case plans developed with the county.

Mother's and father's case-plan goals included "receiv[ing] services to assist in managing parenting stress . . . in a healthy way," "demonstrat[ing] an understanding of [the] children's needs and development," and "keep[ing] [the] children safe from future harm." Mother, father, and the children engaged in various assessments and services in relation to these goals, including individual therapy, parenting-capacity evaluations and anger management for mother and father; and intensive treatment in foster care (ITFC) for the family.

Mother and father also saw the children for supervised visits several times per week. Initially, these occurred at a social-services agency, but in May 2021, the family's case manager began assessing friends and relatives to potentially supervise the visits. Mother's grandfather, D.S., was one of the family members approved to supervise visits with the children, and he supervised visits twice per week at his home in the summer of 2021.

August 2021 Injury

In August 2021, the county received a report regarding another injury to child 2. The children's foster mother reported that the day after the children had a visit with mother and father at D.S.'s home, she was helping child 2 put on her swimsuit and she noticed a large handprint-shaped bruise on the back of child 2's leg. The county investigator interviewed mother, father, and D.S. separately about the bruise. Mother refused to allow law enforcement to be present for the interview. She stated that she did not know how the bruise happened and could not think of who could have caused it. Father also denied having any knowledge of how the injury may have occurred. D.S. stated that he was supervising the visit the entire time, except possibly when he went outside with child 1 for ten minutes. He did not think anything occurred during the visit that would have caused the injury.

A doctor at MCRC examined child 2's injury. The evaluation report stated child 2 "is noted to have a large bruise on her posterior left thigh that is blue-purple in color." The report noted that "[t]he thigh is an unusual location for accidental bruising in a child. It is a soft protected surface that does not usually develop bruising with routine cares or activities of a toddler." As such, "this bruise raises significant concern for inflicted injury

and child physical abuse. It is additionally concerning that [child 2] has had multiple prior episodes of physical abuse.”

Approximately one month after the initial report, D.S. requested to meet again with the county investigator to provide additional information. The investigator reported that D.S. claimed, upon thinking about the situation longer, that he had caused the bruise. As recorded in the report, D.S. contended that “[s]hortly after [mother] left [partway through the visit], [child 2] was hanging on [a] gate [at the top of the stairs] hollering ‘mommy, mommy’ and the gate fell forward.” D.S. told the investigator that child 2 “started to fall down the stairs and he reached and grabbed her left leg.” D.S. said he did not mention this earlier because the first time he talked to the investigator they discussed a different week. He explained that “he couldn’t sleep . . . and all of a sudden it just came to mind. He said he knows that [neither parent did] it He said he’s telling the truth and he wants this family . . . whole again, that’s what he is after.” When pressed, D.S. admitted that he had talked with mother since he last spoke with the investigator just three days earlier, but claimed he did not talk with mother about the bruising incident.

The county investigator did not credit D.S.’s explanation for the bruise. The investigator concluded that the bruise was caused by maltreatment during the visit at D.S.’s home but was unable to determine the specific offender. However, despite the uncertainty as to the exact cause of the injury, the investigator “continue[d] to [have] significant concern for the children in [father’s] and [mother’s] care.” Following this incident, the county required all visits to again be supervised by a social-services agency.

TPR Trial

Mother and father separated in January 2022. The next month, the county filed a petition to terminate mother's and father's parental rights. The county cited as statutory grounds for termination that mother and father neglected to comply with parental duties, they were palpably unfit to be parties to the parent and child relationship, reasonable efforts failed to correct conditions leading to the out-of-home placement, and a child experienced egregious harm in mother's and father's care. *See* Minn. Stat. § 260C.301, subd. 1(b)(2), (4), (5), (6) (2022).

The district court held a trial on the county's petition over nine days between August and October 2022. The court heard testimony from the children's original pediatrician, to whom mother first brought child 2 to be evaluated for "easy bruising"; three medical professionals from MCRC who examined child 2 and child 3 in May 2020, March 2021, and August 2021; five county social workers who worked with the family as investigators, ongoing case managers, or safety planners during the two cases; the mental-health professional who conducted mother's and father's parenting-capacity assessments; the two guardians ad litem (GALs) assigned to the case that opened in March 2021; the children's foster mother; D.S.; a friend of mother's; mother; and mother's individual therapist.

The MCRC doctors and nurse practitioner who conducted the exams testified that all of the injuries identified in the children are diagnostic of physical abuse. The doctor who examined child 2 in May 2020 stated that she did not credit mother's explanation that child 2's bruising was caused by bumping or laying against a toy, explaining "bruises in infants are extremely, extremely unusual, and require a very, very significant amount of

trauma . . . bruises in infants are extraordinarily rare and would not be caused by bumping their head against an infant toy.”

The nurse practitioner and physician who identified the rib fractures in child 3 in March 2021 testified that rib fractures in infants are most often caused by forceful squeezing. They both also stated that these injuries could not be caused by accidents and that another child, anyone younger than a teenager, could not have enough strength to inflict the injuries. The physician testified that child 3’s “total and entire clinical presentation” showed “a child who’s . . . suffered abusive trauma.”

Several of the witnesses discussed their concerns regarding mother’s and father’s ongoing inability to keep the children safe and apparent failure to take seriously the children’s injuries. The ongoing case manager, who worked with the family between March 2021 and March 2022 and recommended termination of parental rights, testified that many of the conversations that she had with mother’s therapist focused on the significance of the children’s injuries. The case manager reported that the therapist informed her that “there seem[ed] to be a significant disconnect between the [county] and [the GAL’s] view of the seriousness of the injuries and [mother’s] view,” that mother “minimized the injuries to the children,” and that mother told the therapist that “MCRC is biased and only looks for child abuse.” Because of this “huge gap” between mother’s and the county’s views of the injuries, the case manager made several attempts to hold joint meetings with the therapist, the GAL, and mother to discuss the injuries and their severity. However, mother’s therapist informed the case manager that mother declined to participate.

When asked why she recommended termination of parental rights as the permanency plan, even though mother had completed many elements of her case plan, the case manager explained that “the information that we have is that [child 2 and child 3] have experienced egregious injuries while they were in parent’s care.” And “there continued to be a pattern of physical abuse for the children . . . when we attempted to expand visits throughout the case.” The case manager noted that when there was less supervision in D.S.’s home, “[t]hen another child got hurt. [And the injury] was indicative of physical abuse. [S]o throughout these children’s lives it appears that . . . when there is less supervision or no supervision happening that the kids keep getting hurt.” Further, the case manager stated that, despite the agency creating “a very detailed safety plan . . . before closing case management in 2020 . . . essentially that safety plan didn’t work. [Child 3] got . . . egregiously hurt.” Thus, the case manager lacked “confidence that that safety network is [going to] keep the kids safe . . . that [mother’s] able to keep the kids safe moving forward.”

The mental-health professional who conducted the parenting-capacity assessments of mother and father in May 2021 also stated that mother “did not seem to display a great deal of concern . . . for the injuries to the children” as “she did not seem as upset or determined to find out exactly how the injuries came about” as the mental-health professional would expect under the circumstances. This witness testified that she deemed it a safety concern that the records indicated mother initially reported to multiple sources that she saw father slam child 2 down on the bed and then recanted. She said that, during her examination of father, father told her that “he put [child 2] down hard and then he said,

‘I did it.’” She also stated that father’s evaluation indicated that he has a very low frustration-tolerance level, which was “concerning, especially in the context of the . . . reasons that the family was involved with child protection.”

Multiple witnesses, including the GAL assigned to the case from March 2021 to February 2022 and the case manager who took over the case in March 2022, testified that the parents had difficulty keeping the children injury-free during supervised visits. The GAL stated that, even during visits at the social-services agency, “[child 2] would escape the room and no one [would] notice” and “[child 3] would have something in her mouth . . . that was a choking hazard, and the [supervisor] would have to remove it.” The case manager stated that the visitation notes indicated there were “several instances of . . . children running into the road . . . where the supervisor has either had to step in or notify the parents.”

The second case manager and foster mother testified regarding mother’s decision-making after child 1 broke her clavicle at daycare in July 2022.⁴ This break occurred just

⁴ The case manager reported that, per the daycare and the foster mother, the broken clavicle occurred when child 1

was standing at the bottom of a slide [and] another child came down the slide and knocked into [child 1]. Following the incident, [child 1] had a bloody nose that was being cleaned up by staff when [foster mother] arrived. They were notified of the incident immediately. [Foster mother] messaged [mother] that night following the incident to make her aware of the injury and provided detail of how the injury occurred. [Mother] did not request [child 1] be seen after being notified of the incident.

before mother planned to have the children for a supervised visit at a church festival. Mother attended the appointment the day before the festival during which the doctor instructed mother and the foster mother that child 1 should not go swimming or do several of the planned festival activities, such as going in a bounce house or down a slip-and-slide. However, mother reported to the foster mother—and pictures taken at the event confirm—that mother took child 1 down the slip-and-slide and allowed her to play in the bounce house.

Mother was one of the final witnesses. She testified that she overreacted to the May 2020 incident when father set child 2 on the bed, describing her reaction as “irrational kind of freaking out” because she was worried that child 2 had a bleeding disorder. Mother stated that she read all of the reports from MCRC “[v]ery thoroughly” and that one of the reasons she had a difficult time trusting the reports is that one of child 2’s injuries initially identified in May 2020—a broken femur—was not confirmed. She and the attorney for the county had the following exchange during cross-examination:

Q: [Is it] true that the investigation showed that the children were abused by someone?

A: That was the testimony of the doctors as to cause. It showed that the children sustained injuries.

Q: Do you doubt whether they were abused by someone?

A: It could be abuse, it could be an accident, I have no information on how it occurred. I can’t say. I don’t doubt that it could be, I don’t doubt that it couldn’t be.

The foster mother took child 1 to be seen by the doctor the following day when child 1 had increased pain in her shoulder area.

Mother stated that she never saw father do anything that made her suspect he caused the children's injuries. She believed the most likely perpetrator of the March 2021 injuries was the ten-year-old daughter of her friend who watched the children.

On the planned final day of trial, the district court accepted father's voluntary termination of his parental rights. Mother was recalled to testify after father did so. She stated that father's testimony—that he lacked the mental and financial stability to parent the children—did not affect her position that she never observed father engage in concerning behavior.

Earlier in the trial, mother had indicated that she had not seen the children's x-rays from MCRC but wanted to do so. The district court interjected and said, "All right keep going with this testimony, but I'll let everybody know that this trial is not [going to] be completed until the parents have had an opportunity to review the x-rays that are the subject of the most serious allegations in the petition." And after all witnesses had testified, the district court kept the record open and issued an order compelling MCRC to release the x-rays to mother.

After reviewing the x-rays, mother asked to testify again (October testimony). In this testimony, mother stated that, having seen the x-rays, she "definitely know[s] for a hundred percent certainty that [her] children are the victims of physical abuse. Repeatedly." She admitted that the examining physicians, the county, and the medical reports at the time of the injuries had advised that the injuries resulted from physical abuse. Mother acknowledged that her October testimony had completely changed from her prior trial testimony, but she claimed that seeing "all of the broken bones and stuff" allowed her

to process and accept all that had occurred. She also said that, based on a conversation she had with father after she viewed the x-rays, along with father's body language during the conversation, she now believed that father inflicted the injuries. The district court then closed the record.

The district court granted the county's petition to involuntarily terminate mother's parental rights, concluding that the county had proven by clear and convincing evidence each of the four statutory bases under which it had sought termination. The district court also found that the county had made reasonable efforts to reunify the family and that termination was in the children's best interests.

The district court found credible the testimony of the pediatrician, the three MCRC medical professionals, the mental-health professional who conducted the parenting-capacity assessments of mother and father, all of the county social workers, the two GALs, the foster mother, and mother's friend. The district court found that mother's individual therapist was generally credible, but the court did not credit the therapist's testimony that it would have been irresponsible of the therapist to pry further into the nature of the children's injuries with mother. Regarding D.S.'s testimony, the district court found it credible "as it relates to his care and concern for the children, as well as [mother's] and [father's] bond to the children." However, the district court "[could not] judge his testimony as to the August 2021 bruising incident to be credible given his initial statements denying knowledge of any possible source of injury."

The district court discussed mother's testimony at length in the TPR order. The district court found that mother "provided credible and consistent testimony that she herself did not injure the children, and that she has grown in her understanding of and remorse for how badly they were hurt." However, in light of mother's "near-complete reversal" in position about the children's injuries during her October testimony, the district court found many aspects of mother's testimony not credible.

For example, the district court found:

[Mother] stated that based on her new understanding, she wants to ensure that [father] will be "nowhere near" the children, and that the [county] should reopen the investigation for possible criminal charges against [father]; this is an incredible assertion considering her prior significant efforts to deflect and cast doubt regarding [father's] culpability. [Mother] testified that there was no chance that she would rekindle her relationship with [father], and that while she previously "didn't believe that she had any ability to keep the children from their father" . . . now, based on the x-rays, she would never allow any contact. Given her prior testimony and the suddenness of this turnaround, this assertion was not credible.

The district court wrote that the discrepancy in mother's testimony "weigh[ed] heavily in the Court's ultimate determination on [the county's] petition." The district court further commented that up until the very last day of trial when mother asked to add to her testimony, mother "was consistently unwilling to realistically assess . . . a mortal danger to the children in the actions, and potential future actions of [father]." Additionally, "[t]he swiftness, recency, and relative arbitrariness of her change of position indicates that such a position could just as easily change again placing the children directly in harm's way."

DECISION

On appeal, mother argues that the record does not support the district court's determinations that (1) there was a statutory basis for termination of her parental rights, (2) the county made reasonable efforts to reunify the family, and (3) termination is in the children's best interests. She also contends that the district court erred in taking judicial notice of court proceedings involving her new roommate.

“[P]arental rights may be terminated only for grave and weighty reasons.” *In re Welfare of Child of W.L.P.*, 678 N.W.2d 703, 709 (Minn. App. 2004). Termination generally requires clear and convincing evidence that (1) there is a statutory ground for termination, (2) the county has made reasonable efforts to reunite the family, and (3) termination is in the child's best interests. *In re Welfare of Child. of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). We review for abuse of discretion a district court's conclusion that the statutory requirements for termination have been established. *In re Welfare of Child. of J.R.B.*, 805 N.W.2d 895, 901 (Minn. App. 2011), *rev. denied* (Minn. Jan. 6, 2012). And we review findings of fact for clear error. *In re Welfare of Child of J.H.*, 968 N.W.2d 593, 600 (Minn. App. 2021), *rev. denied* (Minn. Dec. 6, 2021).

I. The county established by clear and convincing evidence a statutory basis for termination.

The district court determined that the county proved all four of the statutory grounds asserted in the county's petition: (1) mother failed to satisfy her parental duties, (2) mother was palpably unfit to parent, (3) reasonable efforts failed to correct the condition leading to out-of-home placement, and (4) the children experienced egregious harm while in

mother's care. *See* Minn. Stat. § 260C.301, subd. 1(b)(2), (4), (5), (6). A decision to terminate parental rights may be affirmed on the basis of only one statutory ground. *S.E.P.*, 744 N.W.2d at 385.

We begin our analysis with a review of the district court's termination of mother's parental rights for refusing or neglecting to comply with parental duties under Minn. Stat. § 260C.301, subd. 1(b)(2). Under that subdivision, a district court may terminate parental rights if it finds that a parent has "substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship." Minn. Stat. § 260C.301, subd. 1(b)(2). Parental duties include "providing the child with necessary food, clothing, shelter, education, and other care and control necessary for the child's physical, mental, or emotional health and development, if the parent is physically and financially able." *Id.* The district court must also determine that, at the time of termination, the parent is not presently able and willing to assume her responsibilities and that the condition will continue for the reasonably foreseeable future. *See In re Welfare of J.K.*, 374 N.W.2d 463, 466-67 (Minn. App. 1985), *rev. denied* (Minn. Nov. 25, 1985).

Here, the district court concluded that there was clear and convincing evidence that mother failed to comply with her parental duties because her minimization and denial of the significance of the children's injuries "interfere[d] with her ability to discharge the duties imposed upon her by the parent and child relationship with regards to the physical health of her children." The district court stated that because "the evidence that her daughters were the victims of physical abuse in the form of multiple repeated inflicted

injuries was insufficient to sway her belief until the final day of trial,” it did not have confidence “that [mother] would be able to recognize risks to her children should she be faced with similar circumstances in the future.” Thus, “the Court does not believe that [mother] is currently capable of discharging her duty to keep her children safe from physical harm in the future.”

In support of this conclusion, the district court relied on the multiple injuries to the children; mother’s retraction of her original statements that father “slammed” child 2 on the bed; mother’s minimization of the children’s injuries to the parenting-capacity evaluator and her failure to address the severity of the injuries with her individual therapist and county workers; mother’s failure to follow the instructions from child 1’s doctor that child 1 should avoid vigorous activity after child 1 broke her clavicle; mother’s suggestion that her friend’s ten-year-old daughter caused child 3’s rib fractures, even after the MCRC medical staff testified that a child lacked the strength to cause such injuries; and mother’s “dogged insistence” that both child 2’s and child 3’s bruising resulted from benign events, like laying on a toy.

Mother argues that the evidence is insufficient to demonstrate that mother has exhibited “a historic pattern of failing to meet the children’s needs.”⁵ As the district court found, however, the evidence shows a repeated pattern of injuries to the children, along with a persistent denial and minimization by mother of the seriousness of the injuries.

⁵ Mother specifically states that “the district court’s findings fail to adequately conform with the statutory criteria for terminating”; we construe this argument as challenging the sufficiency of the evidence.

Indeed, it was only months after the county closed its first case involving injuries to child 2 that the same types of injuries were found on child 3. Thus, despite the services provided to mother and the safety plan put in place by the county as a result of the injuries—bruising and a broken rib—suffered by child 2 in the first case, less than a year later both child 2 and child 3 showed bruising and child 3 had six rib fractures. Mother responded to being told of the children’s injuries by denying and minimizing them, despite the information provided by multiple medical professionals that the injuries were caused by physical abuse. Indeed, the family’s first case manager testified that mother had asked for a change in pediatricians because the pediatrician had suggested that father had caused child 2’s injuries.

Further, the district court cited events in the record that supported its conclusion that mother would not be able to perform the parental duty of keeping her children physically safe for the reasonably foreseeable future even though mother had separated from father. For example, the court stated that mother’s decision-making around child 1’s broken clavicle “demonstrates . . . that [mother] is unable to adequately consider the effects—both in the short and long term—of her actions vis-à-vis the physical health of her children.” The court also cited mother’s continued denial that father may have inflicted the injuries, at least up until the final day of trial, as evidence that demonstrated mother’s ongoing inability to recognize risks to her children in the future.

The record thus supports the district court’s determination that mother has neglected her parental duties and that her inability to provide for her children’s safety will continue for the reasonably foreseeable future. Having concluded that the district court did not abuse

its discretion in determining that the county proved this statutory ground for termination of parental rights by clear and convincing evidence, we need not address the other three grounds found by the district court. *S.E.P.*, 744 N.W.2d at 385.

II. The record supports the district court’s reasonable-efforts determination.

We turn next to mother’s argument that the district court erred in concluding that the county made reasonable efforts to reunify the family because the county “failed to adequately identify the changes it wanted Mother to make for the children to be returned to her care.”

Reasonable efforts are “services that go beyond mere matters of form so as to include real, genuine assistance.” *In re Welfare of Child. of S.W.*, 727 N.W.2d 144, 150 (Minn. App. 2007) (quotation omitted), *rev. denied* (Minn. Mar. 28, 2007). In determining whether the county’s efforts were reasonable, a court should consider whether the services provided were:

- (1) selected in collaboration with the child’s family and the child;
- (2) tailored to the individualized needs of the child and the child’s family;
- (3) relevant to the safety, protection, and well-being of the child;
- (4) adequate to meet the individualized needs of the child and family;
- (5) culturally appropriate;
- (6) available and accessible;
- (7) consistent and timely; and
- (8) realistic under the circumstances.

Minn. Stat. § 260.012(h) (2022).

Additionally, in a TPR proceeding, the district court must make specific findings “that reasonable efforts to finalize the permanency plan to reunify the child and the parent were made.” Minn. Stat. § 260C.301, subd. 8(1) (2022). These findings must include “individualized and explicit findings regarding the nature and extent of efforts made by the social services agency to rehabilitate the parent and reunite the family.” *Id.*

Here, the district court made sufficient specific findings that addressed the statutory factors relevant to reasonableness and are supported by the record. In relation to the factors in Minn. Stat. § 260.012(h), the court determined that the services offered to the family and children that were relevant to the children’s protection and safety included parenting assessments, through which mother and father identified their strengths and weaknesses in caring for the children; supervised visitation; the parents’ individual therapy; and stress and anger-management therapy.

The district court also determined that the services were adequate to meet the family’s needs, as evidenced in part by the services listed in the county’s reports to the court. These services included extensive coordination between the case manager and the parents’ therapists; coordination with the children’s foster parents; referral to and coordination with the parenting-capacity evaluator; connection of the parents to ITFC; assessment of relatives for supervision of visits and potential placement; assisting father with obtaining medical assistance; coordination and scheduling of mental-health assessments of the children; coordination of breastmilk exchanges between mother and the foster parents for child 3; and arranging and paying for the children to visit their maternal

grandparents in Florida. Mother testified at trial that the county went “above and beyond what [she] needed.”

The district court found, and mother acknowledged, that the services were culturally appropriate and the district court further found that the services were available, accessible, consistent, timely, and realistic. In this regard, the district court noted that the county worked to schedule services around mother’s work hours, that there was no evidence that mother struggled to access services, and that there were no major lapses in services.

Mother does not contest these specific findings. However, she contends that the district court erred in determining that the county’s efforts were reasonable based on her claim that the county wanted mother to recognize that father committed the abuse but did not make such recognition part of her case plan or an explicit requirement for reunification. Yet, as the district court noted, the county’s reason for removing the children from the home was broader than mother’s failure to recognize that father perpetrated the abuse; the reason for removal was mother’s inability to recognize and prevent physical harm to her children. And the services provided—including individual therapy, family therapy and parenting education through ITFC, and frequent supervised visits—were targeted toward each parent’s case-plan goals of identifying and preventing the harm to the children.

Further, when the county made additional efforts to confront mother regarding the severity of the children’s injuries, mother declined to participate. For example, the ongoing case manager attempted to coordinate a meeting with the GAL, mother’s individual therapist, and mother to get mother to grasp the seriousness of the children’s injuries as opposed to the minimized version that mother had communicated to her therapist, but

mother refused to meet. The case manager also repeatedly offered to meet with mother in person to facilitate a more in-depth discussion of sensitive topics, but mother requested to primarily correspond via email. Additionally, each of the children were evaluated and diagnosed with trauma disorders over the course of the case. The case manager tried to discuss child 1's evaluation with mother, but mother stated that she preferred to discuss it with her own therapist.

On this record, the district court did not err in determining that the county made reasonable efforts to reunify the family.

III. The district court properly analyzed the best interests of the children.

In a TPR proceeding, the best interests of the child is the paramount consideration. *J.R.B.*, 805 N.W.2d at 902. The district court “must balance three factors: (1) the child’s interest in preserving the parent-child relationship; (2) the parent’s interest in preserving the parent-child relationship; and (3) any competing interest of the child.” *W.L.P.*, 678 N.W.2d at 711 (quotation omitted); *see* Minn. R. Juv. Prot. P. 58.04(c)(2)(ii) (requiring the district court to consider these factors). Competing interests of the child “include a stable environment, health considerations, and the child’s preferences.” *In re Welfare of Child of M.A.H.*, 839 N.W.2d 730, 744 (Minn. App. 2013). This court reviews the district court’s determination that termination is in a child’s best interests for an abuse of discretion. *J.R.B.*, 805 N.W.2d at 905.

Mother argues that “the district court failed to make particularized findings addressing each of the children’s best interests” and erred in concluding that the children’s best interests require termination of mother’s parental rights. The district court, however,

addressed each child's best interests and the district court's determination is supported by the record.

For example, the district court found that all three of the children "have a strong interest in preserving the parent-child relationship, roughly correlating with the ages of the children." The district court found that the visitation notes demonstrate that child 1 and child 2 are each bonded with mother. And, while child 3 was only two months of age when she entered foster care, she still has a relationship with mother. The district court also found that mother "has a profound interest" in preserving her relationship with the children, which she demonstrated through continued engagement with the children's care after their removal from the home.

The district court, nevertheless, determined that the children's competing interests outweigh the first two factors and "weigh[] strongly in favor of termination." Specifically, the district court found that "[t]he children have an overwhelming interest in being brought up in an environment where there is no risk of physical abuse and injuries inflicted by their caregivers." As described above, the record supports that the children have consistently been physically unsafe while in mother's care and mother failed to acknowledge the severity of the problem until the final day of trial. Further, the two case managers and the GALs assigned to the case, whose testimony the district court credited, all testified that TPR was in the children's best interests. On this record, and giving deference to the district court's credibility determinations, the district court did not abuse its discretion in concluding that termination is in the children's best interests. *See In re Welfare of L.A.F.*, 554 N.W.2d 393, 396 (Minn. 1996) ("Considerable deference is due to the district court's

decision because a district court is in a superior position to assess the credibility of witnesses.”).

IV. The judicial notice taken by the district court of court proceedings involving mother’s roommate does not require reversal.

Finally, mother argues that the district court erred in making finding of fact 96, which states:

[Mother] . . . testified that she was currently living with a roommate, [C.K.]—an individual with a significant criminal, child protection and relational conflict history including a recent Isanti County child protection matter. [Mother] asserted, less than credibly, that she would comply with any directives from the County, regarding the children’s safety, including evicting [C.K.], should the children be returned to her care.

The district court included a footnote to this finding to the effect that the district court was taking judicial notice of C.K.’s recent proceedings “in their entirety” and referenced the court file number. At trial, the district court had commented that mother’s new roommate, who mother had identified by name, “was the subject of a child protection action before this Court.” Mother specifically contends that the court should not have taken “judicial notice of an entire file that was not disclosed to Mother.” Although mother frames her argument as challenging a factual finding as clearly erroneous, we construe mother’s argument as disputing the district court’s decision to take judicial notice of a court record.

Under the Minnesota Rules of Juvenile Protection Procedure, a district court may take judicial notice as allowed by the rules of evidence. Minn. R. Juv. Prot. P. 3.02, subd. 3; *see* Minn. R. Evid. 201 (addressing judicial notice). Consistent with rule 3.02, this court has recognized that a district court may take judicial notice of “[c]ourt records and files

from prior adjudicative proceedings.” *See In re Welfare of D.J.N.*, 568 N.W.2d 170, 174 (Minn. App. 1997). We review a district court’s evidentiary decision to take judicial notice for an abuse of discretion. *Fed. Home Loan Mortg. Corp. v. Mitchell*, 862 N.W.2d 67, 71 (Minn. App. 2015) (“A district court’s decision whether to take judicial notice of proffered facts is an evidentiary ruling that we review only for abuse of discretion.”), *rev. denied* (Minn. June 30, 2015).

In juvenile cases, appellate courts may only review evidentiary rulings “if there has been a motion for a new trial in which such matters have been assigned as error.” *In re Welfare of D.N.*, 523 N.W.2d 11, 13 (Minn. App. 1994) (quotation omitted), *rev. denied* (Minn. Nov. 29, 1994). Because mother made no motion for a new trial, this issue has been forfeited. Mother concedes that “[t]his issue was not properly preserved for the court of appeals,” but states that “the interest[s] of justice require its review.”

But even if we were to review this issue and assume, without deciding, that the district court’s taking of judicial notice was in error, mother would not be entitled to a reversal because the record is sufficient to support termination of mother’s parental rights without considering finding of fact 96. *See D.J.N.*, 568 N.W.2d at 176 (declining to reverse TPR where appellants failed to demonstrate that a district court’s error caused prejudice). Further, the district court placed little emphasis on the roommate in the TPR order, mentioning the roommate at only one other point in the 62-page order. And, while mother states that the district court erred by failing to give her notice before taking judicial notice of the roommate’s court records, she does not identify how the lack of notice prejudiced her. *Loth v. Loth*, 35 N.W.2d 542, 546 (Minn. 1949) (stating that “on appeal error is never

presumed,” and placing the burden of showing prejudice on appellant (quotation omitted)).

We thus reject mother’s argument on this issue.

Affirmed.