

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A23-0584**

In re the Marriage of:

Natasha Siefker Cook, petitioner,
Respondent,

vs.

Tobin Jack Cook,
Appellant.

**Filed December 26, 2023
Affirmed
Cochran, Judge**

St. Louis County District Court
File No. 69DU-FA-18-1168

Natasha Siefker Cook, Duluth, Minnesota (pro se respondent)

Tobin Cook, Duluth, Minnesota (pro se appellant)

Considered and decided by Cochran, Presiding Judge; Johnson, Judge; and
Ede, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

This family-law appeal arises from a district-court order that decided several pending motions. Appellant-father argues that the district court abused its discretion by modifying the parties' original parenting-time schedule, prescribing telephone contact between the "off-duty" parent and the children at a designated time, requiring the parties

to communicate through a messaging platform, relying on an assessment from a psychologist, and not finding respondent-mother “guilty” of perjury. Because none of father’s arguments merit reversal, we affirm.

FACTS

On June 17, 2020, appellant-father Tobin Jack Cook (father) and respondent-mother Natasha Siefker Cook n/k/a Natasha Siefker (mother) entered into a mediated settlement agreement as part of their marriage-dissolution proceeding. On February 24, 2021, the district court entered a judgment and decree dissolving the marriage. The judgment and decree generally incorporated the terms of the mediated settlement agreement and resolved other outstanding issues. The judgment and decree includes provisions governing custody, parenting time, communication, and therapy for the children, among other topics.

Judgment and Decree Terms

Under the terms of the judgment and decree, the parties were awarded joint legal and joint physical custody of their three minor children. The judgment and decree also provided that the parents shall share equal parenting time in accordance with a mediated schedule. This schedule specified that father is “on duty” Sundays through Tuesdays, mother is on duty Wednesdays through Fridays, and the parties alternate being on duty on Saturdays. Under this 4-3/3-4 schedule, weekday exchanges were to occur after school on Wednesdays and weekend exchanges were to occur at 9:00 a.m. on Saturdays or 9:30 a.m. on Sundays.

The judgment and decree also guaranteed the parties the “[r]ight to reasonable access and telephone or other electronic contact with the minor child[ren].” Regarding

communications between the parties, the judgment and decree provided that, “[u]nless there is an emergency, all communication between the parties shall be via text or e-mail.”

Lastly, the judgment and decree required the parties to ensure that the children are participating in therapy and that they attend their therapy appointments. The judgment and decree authorized mother to choose the children’s therapists going forward if father failed to cooperate in the therapist-selection process. The district court imposed this requirement over father’s objection based on mother’s allegations that father had not cooperated in selecting the children’s therapists and had “actively interfere[d] with the children’s mental health care.”

Motions at Issue on Appeal

Starting in the fall of 2021 and continuing through the summer of 2022, the parties filed numerous motions related to custody, parenting time, and other issues. In September 2021, mother filed an ex parte motion seeking various forms of relief, including a modification of custody. In an affidavit in support of the motion, mother detailed the parties’ conflict over the children’s schooling, including issues with busing. Mother also stated that father was interfering with the children’s therapy and was attempting to alienate the children from mother.

In December 2021, mother filed another motion asking the district court to find father in contempt for violating the parenting-time provisions of the judgment and decree. In the motion, she also requested compensatory parenting time. In support of her motion, she filed an affidavit in which she stated that father had deprived her of her parenting time on thirteen occasions in the fall of 2021. She also stated that father was continuing to

engage in parental alienation and asked the district court to “take a hard look into whether the respondent’s behaviors constitute endangerment.” Attached to her affidavit was a letter from a county psychologist who conducted a family assessment. The letter stated, in relevant part, that “there is little doubt that [father] is intentionally inducing animosity between his children and their mother.”

In January 2022, father filed a responsive motion. Father asked the district court to deny mother’s motion in its entirety and to require the parties to participate in mediation consistent with the terms of judgment and decree. In a supporting affidavit, father stated that he cared for the children during mother’s parenting time only when mother or the children expressly requested it. Father also stated that his behavior was motivated by a “desire to protect [the] children” and asserted that mother was at least partially to blame for her estrangement from the children. The parties attempted to resolve their parenting-time issues through mediation but were unable to reach an agreement.

Around the time that mother filed her December 2021 motion and until June 2022, the parties and their children were involved in a Child in Need of Protective Services (CHIPS) matter that was initiated after a county psychologist and the children’s therapist expressed concern about the children being “heavily triangulated” in the parties’ “contentious” and “dysfunctional” parenting relationship. After an investigation, the matter was closed, and no action was taken against the parties.

In July 2022, mother filed another motion seeking a variety of relief. She asked the district court to find father in contempt as previously requested, to reduce her parenting time to ten days per month for the next two years, to offset the decrease in parenting time

by granting her additional vacation time with the children, to allow the “off-duty” parent to contact the children via telephone every other night at 6:00 p.m., and to order the parties to communicate through Our Family Wizard.¹ In a supporting affidavit, mother stated that the parenting-time schedule included in the judgment and decree was untenable because father had repeatedly taken the children during mother’s parenting time and often appeared at mother’s house unannounced. Mother expressed a willingness to reduce her parenting time to avoid “the repeated conflicts that have arisen” since the parties’ divorce. She proposed a schedule in which the parties’ youngest child would stay with her Thursday through Sunday twice a month while the parties’ two older children would stay with her for ten consecutive nights once a month, overlapping for part of the time with the youngest child. Mother also attached the reports of various county professionals involved in the CHIPS matter, including the children’s guardian ad litem and social worker.

In early August 2022, father filed a responsive motion asking the district court to: reduce mother’s parenting time; order the parties to communicate through a combination of Our Family Wizard, text message, and email; and find mother “guilty of perjury” based on statements she made in her July 2022 affidavit. In a supporting affidavit, father expressed a desire to have more parenting time but objected to any modification that either allowed the children to be with mother for more than five nights at a time or increased the number of exchanges between the parties. Father acknowledged that “the children often [do not] like exchanging on Wednesdays [under the current schedule] and going to

¹ Our Family Wizard is a court-ordered communication website. *Winkowski v. Winkowski*, 989 N.W.2d 302, 306 (Minn. 2023).

different houses after school” because they carry their belongings with them and often forget some items. But he opposed mother’s proposed schedule because the children would be with mother for ten consecutive nights. Instead, he proposed a schedule where the children would stay with father on weekdays and every other weekend during the school year. During the summer, the children would stay with father every other week. Father also objected to mother’s request to allow the off-duty parent to contact the children at 6:00 p.m. every other night because “[t]he children [are not] always available then, and neither am I.” And father asked that the parties be allowed to communicate via text message and email as well as Our Family Wizard because he does not have internet access at home and cannot always access the platform.

In late August 2022, father filed a motion to modify custody, parenting time, and child support. In the motion, father asked the district court to grant him sole legal and sole physical custody of the children. He also asked the district court to order that the children be in father’s care “full-time,” that mother’s parenting time be “reserved,” and that mother’s child-support obligations be adjusted accordingly.

Evidentiary Hearing and District Court Decision

On November 28, 2022, the district court held an evidentiary hearing to address the various motions before the district court, including the motions to modify custody and parenting time and the motion to find mother “guilty” of perjury. The district court heard testimony from father, mother, and one other witness.² The district court also admitted

² The witness testified to an incident involving mother that is not relevant to this appeal. Consequently, we do not discuss it.

several exhibits, including screenshots of text messages between mother and father that were exchanged during various parenting-time disputes.

Father testified about several matters related to the pending motions. Relevant to parenting time, father testified that, when he was on duty, he drove the two youngest children to and from elementary school and that the oldest child rode the bus to the child's middle school. Father explained that he had arranged for busing to the elementary school from his home at the beginning of the 2022 school year but that the younger children no longer take the bus because the parties could not agree on a busing schedule from their respective homes. When asked whether a schedule that would allow the children to take the bus to and from his home during the week would be in the children's best interests, he said: "Yes." Father also testified that he had stopped bringing the children to therapy appointments during his parenting time because they did not want to attend therapy. Father testified that, in lieu of therapy, father tried "to do things they like to do and that . . . we do together . . . to have fun." During cross-examination, father also acknowledged removing one of the children from a hospital, after mother had the child admitted to address mental-health concerns, because he did not believe that hospitalization was necessary. Lastly, regarding the use of Our Family Wizard, father testified that he had signed up for it "after the CHIPS recommended it" and had "been using it ever since."

During her testimony, mother primarily addressed issues related to parenting time. Mother testified that she had "struggled" with her relationship with the children in the past because of father's "parental alienation." But she asserted that her relationship with the children was "improving greatly" because of her efforts to "take a lot of time to bond" with

the children and “talk to them.” At the hearing, mother also revised her request regarding parenting time. She testified that a fifty-fifty, week-on, week-off parenting-time schedule “would be the healthiest thing for each parent” and would provide stability for the children by providing them with “a bus route to rely on” during each week.

On March 1, 2023, the district court filed an order resolving the parties’ outstanding motions. The district court’s decisions on custody, parenting time, and communication are outlined below.

The district court denied the parties’ respective motions to modify custody. Regarding father’s motion to modify custody, the district court found that father had “historically acted in a manner that has interfered with and damaged [mother’s] relationship with the children” and that “the result of his behavior has been harmful.” The district court also found that father’s “lack of recognition of the needs of his children for mental health treatment and therapy . . . raises concerns if he should have sole decision-making authority.” With regard to mother’s motion, the district court found that mother “appears to be better able to put the needs of the children first” but lacks insight into the impact of her decisions on the children. The district court also noted that “the children are very bonded with [father] and likely view [him] as their primary parent,” which would make a change in custody “confusing and harmful to them.” Accordingly, the district court concluded that “[m]odification of custody is not appropriate.”

The district court did modify parenting time. The district court changed the parties’ parenting-time schedule from a 4-3/3-4, midweek-exchange schedule to a “week-on, week-off” schedule with exchanges occurring on Sundays at 5:00 p.m. The district court

found that “[a] weekly parenting schedule which would limit transitions to the weekend, and which would allow for busing is in the children’s best interests.” The district court noted that “[b]oth parties agree that transportation to and from school . . . is difficult on the current schedule and would be better if the children were at the same place Monday through Friday of each week” and that “[t]he professionals in the CHIPS case agree that a week on/week off parenting schedule with transitions on Sundays may be more appropriate for the children.” In addition to modifying the schedule, the district court granted mother’s request to allow the off-duty parent to call the children every other night at 6:00 p.m., finding that, “[i]n a parental high-conflict case such as this, the more structured an [o]rder can be, the better it tends to be for the children.”

Regarding the request for an order to communicate through Our Family Wizard, the district court found that “[b]oth parties appear to agree that they should use Our Family Wizard to communicate with each other,” and that “[u]se of Our Family Wizard was agreed upon in the original stipulation.” As a result, the district court ordered the parties to use Our Family Wizard for future communications. The district court stated that the parties should use other forms of written communication, such as text messaging, only “for time-sensitive matters related to the children” and “may communicate by phone only in an emergency.” Lastly, the district court denied father’s motion to find mother “guilty” of perjury without explanation.³

Father appeals.

³ The district court also denied mother’s motion to find father in contempt for violating the parenting-time provisions of the judgment and decree.

DECISION

Father challenges the district court's decisions to modify the original parenting-time schedule, to allow telephone contact between the off-duty parent and the children, and to require the parties to communicate through Our Family Wizard, as well as the district court's reliance on certain evidence and its refusal to find mother guilty of perjury. We consider each challenge in turn.⁴

I. The district court did not abuse its discretion by modifying parenting time.

Father first argues that the district court abused its discretion by modifying the parties' parenting-time schedule. A district court must grant a motion to modify parenting time if modification "would not change the child's primary residence" and "would serve the best interests of the child."⁵ Minn. Stat. § 518.175, subd. 5(b) (2022). District courts have broad discretion in deciding matters of parenting time. *Hansen v. Todnem*, 908 N.W.2d 592, 596 (Minn. 2018). We will not reverse a district court's parenting-time decision unless the district court "abuse[d] its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record." *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted).

⁴ Mother is self-represented and has not filed a response in this appeal. This matter therefore proceeds pursuant to Minn. R. Civ. App. P. 142.03, which provides that, if a respondent does not file a brief, "the case shall be determined on the merits."

⁵ Father does not argue that the parenting-time modification would change the children's primary residence. We therefore do not consider this element of the statute on appeal.

Father contends that the district court abused its discretion by modifying the parties' parenting-time schedule because the district court did not make the findings required by Minnesota Statutes section 518.18(d) (2022). This argument is unpersuasive because section 518.18(d) governs custody modifications and changes in a child's primary residence, not parenting-time modifications. Minn. Stat. § 518.18(d). Parenting-time modifications are governed by Minnesota Statutes section 518.175 (2022). *See* Minn. Stat. § 518.175, subds. 5, 8. Here, the district court modified the parenting-time schedule pursuant to section 518.175, subdivision 5.⁶ And section 518.175, subdivision 5, does not require the district court to make the findings required by section 518.18(d). *Compare* Minn. Stat. § 518.175, subd. 5, *with* Minn. Stat. § 518.18(d). Thus, father's reliance on section 518.18(d) is misguided, and the district court did not abuse its discretion by declining to make findings set forth in section 518.18.

Alternatively, father argues that the district court abused its discretion by modifying the parties' parenting-time schedule because the modification decision is not supported by findings addressing the best-interests factors enumerated in Minnesota Statutes section 518.17, subdivision 1 (2022). This argument also misses the mark. Caselaw

⁶ Although the district court did not expressly modify parenting time under section 518.175, subdivision 5(b), we conclude that the district court implicitly did so based on our reading of section 518.175, subdivision 5, and the district court's order. *See Umphlett v. Comm'r of Pub. Safety*, 533 N.W.2d 636, 639 (Minn. App. 1995), *rev. denied* (Minn. Aug. 30, 1995) (deriving the district court's implicit finding from its resolution of an issue); *State v. Modtland*, 970 N.W.2d 711, 723 (Minn. App. 2022) (affirming the district court's decision based on its implicit findings because those findings "were sufficient to permit review"), *rev. granted* (Minn. Apr. 27, 2022) and *ord. granting rev. vacated* (Minn. Mar. 14, 2023); *cf. Pechovnik v. Pechovnik*, 765 N.W.2d 94, 99 (Minn. App. 2009) (deferring to the district court's implicit credibility determination).

discussing the applicability of section 518.17, subdivision 1, persuades us that the district court was not required to make findings on these factors when it decided to modify the parties' parenting-time schedule under section 518.175, subdivision 5(b).

In *Hansen*, the supreme court held that “[section] 518.17 applies to the creation and *initial* approval of parenting plans, but [section] 518.175 . . . governs parenting time modifications.” 908 N.W.2d at 596. In reaching this decision, the supreme court interpreted section 518.175, subdivision 8, which provides that a “district court ‘may’ approve arrangements that are ‘reasonable *and in the best interests* of the child, as defined *in section 518.17, subdivision 1.*’” *Id.* at 598 (quoting Minn. Stat. § 518.175, subd. 8) (emphasis added). The supreme court held that the reference to the best-interests factors in subdivision 8 did not require the district court to make detailed findings on each factor listed in section 518.17. *Id.* at 597. Instead, the reference required the district court to merely *consider* the *relevant* best-interests factors when applying subdivision 8 of section 518.175. *Id.*

In this case, the motion to modify parenting time was made pursuant to subdivision 5(b), rather than subdivision 8, of section 518.175. Under subdivision 5(b), a district court “shall modify” parenting time if “modification would serve the best interests of the child” and “modification would not change the child’s primary residence.” Minn. Stat. § 518.175, subd. 5(b). But subdivision 5(b), unlike subdivision 8, does not reference the best interests of the child, “as defined in section 518.17, subdivision 1.” For that reason, since *Hansen*, this court has been reluctant to conclude that a district court considering a motion to modify parenting time under section 518.175, subdivision 5(b) must make

findings addressing the best-interests factors of section 518.17, subdivision 1. *See Robbins v. Robbins*, No. A22-1061, 2023 WL 2960917, at *3 (Minn. App. Apr. 17, 2023).⁷ Instead, we have applied the more general standard that requires a district court to “make sufficient findings to enable appellate review.” *Id.* at *3 (quoting *Hansen*, 908 N.W.2d at 597 n.2).

Applying that standard here, we discern no legal error in the district court’s decision not to make express findings on each of the best-interests factors. Instead, we conclude that the district court’s order reflects that the court considered whether the parenting-time modification would be in the children’s best interests, as the statute requires, and that the court made sufficient findings to enable appellate review. *See* Minn. Stat. § 518.175, subd. 5(b).

In deciding to modify parenting time, the district court found “[i]t is clear that there should be some adjustment to the parenting time schedule.” The court noted that both parties agreed that the midweek-exchange schedule created difficulties for transporting the two younger children to and from school and that it “would be better if the children were at the same place Monday through Friday of each week.” The district court also found that professionals in the CHIPS matter recommended a week-on, week-off schedule. These findings are supported by the record. The district court did not abuse its discretion by modifying the parties’ parenting-time schedule. *See* Minn. Stat. § 518.175, subd. 5; *Hansen*, 908 N.W.2d at 597 n.2.

⁷ This nonprecedential opinion is cited for its persuasive value only. Minn. R. Civ. App. P. 136.01(c).

We are also unpersuaded by father’s assertion on appeal that the district court’s parenting-time modification is not in the children’s best interests because it interferes with their spiritual education on Sunday mornings. To begin, father did not raise this argument before the district court. Therefore, we may decline to consider it. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (“A reviewing court must generally consider only those issues that the record shows were presented [to] and considered by the trial court in deciding the matter before it.” (quotation omitted)). But even if this argument were properly before us, it would be unavailing. The district court adequately considered the best interests of the children, as discussed above. Indeed, because these parties share joint legal custody of the children, they have “equal rights and responsibilities” regarding, among other matters, the children’s “religious training.” Minn. Stat. § 518.003, subd. 3(b) (2022). And there is no language in the district court’s order that prevents either parent from bringing the children to spiritual education classes. Accordingly, we discern no error in the district court’s parenting-time decision. *See* Minn. Stat. § 518.175, subd. 5; *Hansen*, 908 N.W.2d at 597 n.2.⁸

⁸ Father also asserts that the district court abused its discretion by relying on four findings that he argues are clearly erroneous. Three of these findings pertain to the district court’s decision not to modify physical or legal custody, which father has not challenged on appeal. Accordingly, we do not consider these findings. *See Thiele*, 425 N.W.2d at 582. The remaining finding—that “[t]he professionals in the CHIPS case agree that a week on/week off parenting schedule with transitions on Sundays may be more appropriate for the children”—is supported by the record and therefore is not clearly erroneous. *See In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 223 (Minn. 2021) (explaining that appellate courts consider whether the evidence in the record “reasonably tends to support the [district court’s] findings” when reviewing findings for clear error). Father’s argument that the district court erred by relying on the challenged findings is not persuasive.

II. The district court did not abuse its discretion by allowing the off-duty parent to contact the children during the on-duty parent's parenting time.

Father argues that the district court abused its discretion by allowing the off-duty parent to contact the children every other day at 6:00 p.m. during the on-duty parent's parenting time. Father contends that this aspect of the district court's order is not in the children's best interests and interferes with his right of reasonable access to the children because the provision limits his contact with the children to times when he and the children may not be available. We construe father's argument as a challenge to the district court's parenting-time decision. Accordingly, we review the district court's decision regarding telephone contact between the off-duty parent and the children for an abuse of discretion. *Woolsey*, 975 N.W.2d at 506.

In making these assertions, father misunderstands the district court's order. The district court's order does not *limit* the off-duty parent's contact with the children to 6:00 p.m. every other night—it *allows* the off-duty parent to contact the children at 6:00 p.m. every other night. In other words, the district court's order does not preclude the off-duty parent from contacting the children at other times during the on-duty parent's parenting time. Instead, it ensures a minimum level of contact for the off-duty parent when the children are in the other parent's care.

We discern no abuse of discretion in the district court's decision to allow the off-duty parent to contact the children at 6:00 p.m. every other night during the on-duty parent's parenting time. In reaching this decision, the district court found that “[i]n a high-conflict case such as this, the more structured an [o]rder can be, the better it tends to

be for the children.” This finding is supported by the record, which shows that the parties have an acrimonious relationship and that father has at times hindered mother’s efforts to contact the children and exercise her parenting time. We therefore conclude that the district court did not abuse its discretion by allowing the off-duty parent to contact the children at specified times during the on-duty parent’s parenting time.

III. The district court did not abuse its discretion by ordering the parties to communicate via Our Family Wizard.

Father contends that the district court abused its discretion by ordering the parties to communicate exclusively through Our Family Wizard because the district court based its decision on its erroneous finding that “[u]se of Our Family Wizard was agreed upon in the original stipulation.” We review this custody-related decision for an abuse of discretion. *Hansen*, 908 N.W.2d at 596; *see also* Minn. Stat. § 518.003, subd. 3(c) (defining “[p]hysical custody” as “the routine daily care and control and the residence of the child”), subd. 3(d) (defining “[j]oint physical custody” as “the routine daily care and control and the residence of the child,” which “is structured between the parties”) (2022).

Father is correct that the judgment and decree, which incorporates the terms of the parties’ mediated settlement agreement, does not require the parties to communicate exclusively through Our Family Wizard. Thus, the district court’s finding that the parties agreed upon the use of Our Family Wizard in the “original stipulation” is clearly erroneous. *See Kenney*, 963 N.W.2d at 223.

But the district court’s error does not merit reversal because it is harmless. The district court’s decision regarding Our Family Wizard was based on not only the “original

stipulation” but also the parties’ prior use of the platform and the parties’ agreement that the platform should be their “primary communication tool.” Moreover, the district court’s order affords the parties leeway to use other methods of communication for time-sensitive matters involving the children and emergencies. The parties’ prior use of and agreement to use Our Family Wizard and the order’s exceptions for urgent circumstances persuade us that the district court would reach the same conclusion if we were to remand for additional findings. Accordingly, we conclude that the district court’s error is harmless and must be ignored. *See* Minn. R. Civ. P. 61 (requiring harmless error be ignored); *Grein v. Grein*, 364 N.W.2d 383, 387 (Minn. 1985) (declining to remand in a child-custody case when “from reading the files, the record, and the [district] court’s findings, on remand the [district] court would undoubtedly make findings that” reach the same result).

IV. The district court did not abuse its discretion by relying on a family assessment by a county psychologist.

Father asserts that the district court abused its discretion by relying on a county psychologist’s assessment of the parties’ dynamics with each other and their children in its findings of fact. We review this decision for an abuse of discretion. *Hansen*, 908 N.W.2d at 596. Father raises three arguments to support this assertion. We consider each argument in turn.

Father first argues that the district court abused its discretion by relying on the assessment because the assessment “is not sufficient evidence to find [him] guilty of parental alienation.” But the district court did not find father “guilty” of parental alienation. Instead, the district court found that father “has historically acted in a manner that has

interfered with and damaged [mother's] relationship with the children" and that "the result of his behavior has been harmful." These findings support the district court's custody and parenting-time determinations—not a finding of "guilt." Father's first argument is not persuasive.

Father next contends that the district court abused its discretion by relying on the assessment because the psychologist who wrote it lacked "informed consent to treat or diagnose [father] or the children," in violation of Minnesota Rule 7200.0110, subpart 12 (2022). Rule 7200.0110, subpart 12, merely defines "informed consent"; it does not set forth requirements for providers in the child-protection context, especially providers who are performing assessments and not engaging in therapy. Father's second argument is also unavailing.

Lastly, father asserts that the district court abused its discretion by relying on the assessment because the psychologist who wrote it was prohibited from disclosing it under Minnesota Statutes section 595.02, subdivision 1(g) (2022), and Minnesota Rules of Evidence 404(a). Section 595.02, subdivision 1(g), provides rules for the "[t]estimony of witnesses," while rule 404(a) generally prohibits the admission of character evidence at trial. Minn. Stat. § 595.02, subd. 1(g); Minn. R. Evid. 404(a). The psychologist who wrote the assessment did not testify at the evidentiary hearing. And the assessment itself was not introduced as evidence at the hearing. Rather, the assessment was filed by mother in support of a motion, and not objected to by father. Thus, neither section 595.02, subd. 1(g) nor rule 404(a) are applicable in this context.

Accordingly, we conclude that the district court did not abuse its discretion by relying on the county psychologist's assessment.

V. The district court did not err by declining to address father's request to find mother "guilty" of perjury.

Finally, father argues that the district court "should have found [mother] guilty of perjury" under Minnesota Statutes section 609.48 (2022). This presents a question regarding the district court's application of the law, which we review de novo. *Harris ex rel. Banks v. Gellerman*, 954 N.W.2d 604, 607 (Minn. App. 2021). Father's argument is not persuasive, because the issue of whether mother committed perjury under section 609.48 was not properly before the district court. Perjury is a crime. *See* Minn. Stat. §§ 609.01 (providing that chapter 609 "may be cited as the Criminal Code of 1963"), .48, subd. 1 (describing the acts constituting perjury); *see generally* Minn. Stat. §§ 609.01-.912 (the "Criminal Code") (2022). As such, perjury must be prosecuted in a criminal proceeding, which affords defendants special due-process protections. *See* Minn. Const. art. I, §§ 6-7; *Johnson v. State*, 641 N.W.2d 912, 917 (Minn. 2002) (providing that "the power to decide whom to prosecute and what charge to file resides with the executive branch"); *State v. Carriere*, 290 N.W.2d 618, 620 n.3 (Minn. 1980) (explaining that a prosecutor is an executive official). Father presents no evidence that the state has charged mother with perjury in a criminal proceeding, nor does he explain how the district court in a civil family-law matter may find a party guilty of the crime of perjury without

prosecution or due process. For these reasons, we conclude that the district court did not err by not finding mother guilty of perjury under section 609.48.⁹

Affirmed.

⁹ To the extent that father is challenging the district court's decision to credit mother's testimony, we defer to the district court's credibility determination. *Kenney*, 963 N.W.2d at 221-22; *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988).