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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0863**

In the Marriage of:

Neil Mark Hatfield, petitioner,
Respondent,

vs.

Jennifer M. Hatfield,
Appellant,

County of Itasca,
Intervenor.

**Filed June 16, 2025
Affirmed in part and remanded
Ede, Judge**

Itasca County District Court
File No. 31-FA-17-1145

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Minneapolis, Minnesota, and

D. Scott Berry, Berry Law Offices, Princeton, Minnesota (for respondent)

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Considered and decided by Bentley, Presiding Judge; Ede, Judge; and Harris, Judge.

NONPRECEDENTIAL OPINION

EDE, Judge

Appellant/cross-respondent mother and respondent/cross-appellant father each
challenge different aspects of the district court's findings of fact, conclusions of law, and

order on mother's motion to modify legal custody and to establish physical custody of the parties' two children, as well as mother's requests for a change in the children's primary residence, for attorney fees, and for custody-evaluation costs. We affirm the district court's findings of fact, conclusions of law, and order on mother's custody motion but remand for further findings on the court's decision to deny mother's requests for attorney fees and the court's order that each party bear one-half of the custody-evaluation costs.

FACTS

Marriage, Dissolution, and Final Judgment and Decree

Appellant/cross-respondent Jennifer M. Hatfield (mother) and respondent/cross-appellant Neil Mark Hatfield (father) married in 2014. The parties share two sons (the children).

Father petitioned for dissolution in 2017. At hearings in March and April 2019, the parties notified the district court that they had agreed upon a resolution. During the hearings, the parties' agreements about spousal maintenance, custody, and the distribution of property and debt were read into the record. Both parties were represented by counsel and placed under oath, and they both asked to be bound by their agreements.

In May 2019, the district court entered a final judgment and decree dissolving the parties' marriage (the final judgment and decree) and granting the parties joint legal custody of the children. The district court ruled that father's home would be the children's primary residence and reserved physical custody for later determination. And the district court ordered that mother have parenting time with the children every other weekend, which was to begin "when a therapist working with the family deem[ed] it therapeutically

appropriate for the children.” The final judgment and decree also stated: “The best-interests standard in Minnesota Statutes [section] 518.17 shall apply to future custody modifications.”

Mother’s Motion to Modify Legal Custody and to Establish Physical Custody

In November 2020, mother moved the district court to modify the custody arrangement established in the final judgment and decree by changing the children’s primary residence to her home and by awarding her sole legal custody and sole physical custody of the children. Mother’s prayer for relief included a generalized request for an award of reasonable attorney fees and costs. Among other arguments in support of her motion, mother asserted that she was a victim of domestic abuse during the parties’ marriage.

The district court held a hearing in December 2020. During that hearing, mother’s requests included that the district court schedule a contested proceeding on her motion. The district court scheduled the contested proceeding and ordered that mother could hire a custody evaluator. Specifically, the district court ruled that, if mother chose to engage a custody evaluator, she was to “pay for the service and hire the evaluator by the middle of January” 2021. The district court nonetheless granted mother leave to request reimbursement for the custody-evaluation costs at the contested proceeding. Mother hired a custody evaluator, who filed four reports before the contested proceeding.

Father's Motion to Apply Endangerment Standard and Mother's Motion for Temporary Relief

In October 2021, father filed a motion asking that, in considering mother's motion to modify legal custody and to establish physical custody, the district court apply the endangerment standard set forth in what is now Minnesota Statutes section 518.18(d)(iv) (2024), rather than the best-interests standard set forth in what is now Minnesota Statutes section 518.17 (2024). Father argued that Minnesota Statutes section 518.18(d)(i) (2024)—which allows the district court to apply the section 518.17 best-interests standard in custody-modification proceedings when the parties have agreed to do so in writing—was inapposite because the “parties did not present a written stipulation for approval by the court.”

In May 2022, mother moved the district court for temporary relief, which included a request for conduct-based attorney fees and costs. In a sworn statement, mother alleged that father had “unreasonably extended the length and expense” of the proceedings by “unilaterally eliminating [her] parenting time for the past three years.” Father opposed the motion, asserting that the district court should deny mother's request for conduct-based attorney fees. The district court held a hearing on mother's motion in June 2022. Before the hearing, the parties reached a temporary agreement, reserving a decision by the court on mother's request for conduct-based attorney fees.

Contested Proceeding and Findings of Fact, Conclusions of Law, and Order

The contested proceeding on mother's motion to modify legal custody and to establish physical custody of the children occurred over 13 days between July and

December 2023. The parties submitted written closing arguments and proposed orders. Mother proposed that the district court grant her motion to modify legal custody and to establish physical custody, as well as her request that the court change the children's primary residence to her home. She also asked that the district court adopt a parenting-time schedule reflecting her desired arrangement.

In April 2024, the district court filed findings of fact, conclusions of law, and an order on mother's motion to modify legal custody and to establish physical custody. As to mother's legal-custody and primary-residence requests, the district court determined that mother had neither established a change in circumstances nor shown that the award of sole legal custody and primary residence she sought was in the children's best interests.¹ And the district court denied mother's request for sole physical custody, reasoning that the children's best interests would instead be served by establishing joint physical custody.

Moreover, the district court determined that mother's proposed parenting-time schedule would constitute "a restriction of father's parenting time." Rather than adopt mother's proposed parenting-time schedule, the district court ordered that mother have parenting time every other weekend from 6 p.m. on Friday until 6 p.m. on Sunday during the school year. The district court also ordered that father have parenting time every other weekend during the summer, "with two separate periods of five additional overnights

¹ Regarding mother's primary-residence request, the district court also determined under Minnesota Statutes section 518.18(d)(iv) that mother had not established by a preponderance of the evidence that the children's present environment endangered the children's physical or emotional health or impaired the children's emotional development, and the court ruled that the harm likely to be caused by a change of environment was not outweighed by the advantage of a change to the children.

attached to one of his weekends, creating a period of one full week of parenting time (seven overnights, two times per summer).” And the district court ordered that the parties’ parenting time alternate on holidays and that each party have “three days annually with the children for the purpose of special events.”

Although the district court denied mother’s motion for attorney fees and costs, the court nonetheless ordered that each party bear one-half of the costs of the custody evaluation. Because mother had already paid the custody evaluator \$3,000, the district court ordered that father likewise pay the evaluator \$3,000 and that the parties split the remaining balance.

Mother appeals, and father cross appeals.

DECISION

Mother and father each challenge different aspects of the district court’s findings of fact, conclusions of law, and order denying mother’s motion to modify legal custody and to establish physical custody. For the reasons discussed below, we conclude that the district court acted within its discretion in ordering that the parties share legal custody and physical custody of the children, and in maintaining the children’s primary residence as father’s home. But we remand for further findings on the district court’s decision to deny mother’s motion for attorney fees and its order that each party bear one-half of the costs of the custody evaluation.

I. The district court did not abuse its discretion as to the statutory rebuttable presumption against joint legal custody and joint physical custody that applies when domestic abuse has occurred between parents.

Mother argues that the “district court was required to presume that joint physical and legal custody was not in the best interests” of the children and that the court erred “by presuming the opposite, tainting its entire custody analysis.” She maintains that the district court misapplied the law and that the “error [was] prejudicial, uncurable on appeal, and requires a remand to the district court to rectify.” Father counters that mother forfeited any argument on this issue by failing to raise it before the district court and that—even assuming without conceding that the presumption did apply—the court properly determined that the presumption was rebutted at the time of the findings of fact, conclusions of law, and order on mother’s motion to modify legal custody and to establish physical custody. Father’s argument on the merits is persuasive.²

“District courts have broad discretion on matters of custody and parenting time.” *Hansen v. Todnem*, 908 N.W.2d 592, 596 (Minn. 2018); *see also Dahl v. Dahl*, 765 N.W.2d 118, 123 (Minn. App. 2009) (citing *Olson v. Olson*, 534 N.W.2d 547, 550 (Minn. 1995)) (“The district court has broad discretion in determining parenting-time issues and will not be reversed absent an abuse of that discretion.”). “A district court abuses its discretion by

² Father disputes the applicability of the presumption against joint legal custody and joint physical custody that applies when domestic abuse has occurred between parents, arguing instead that the presumption is inapposite here and, alternatively, that the presumption was rebutted at the time of the final judgment and decree. Because we agree that the district court did not abuse its discretion in implicitly determining that the presumption was rebutted at the time of the findings of fact, conclusions of law, and order on mother’s motion to modify legal custody and to establish physical custody, we do not address father’s other arguments.

making findings unsupported by the evidence or improperly applying 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) (quoting *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022)). When reviewing factual findings for clear error, appellate courts (1) view the evidence in the light most favorable to the findings, (2) do not find their own facts, (3) do not reweigh the evidence, and (4) do not reconcile conflicting evidence. *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221–22 (Minn. 2021); *see also Ewald v. Nedrebo*, 999 N.W.2d 546, 552 (Minn. App. 2023) (citing *Kenney* in a family-law appeal), *rev. denied* (Minn. Feb. 28, 2024). Thus,

an appellate court need not go into an extended discussion of the evidence to prove or demonstrate the correctness of the findings of the [district] court. Rather, because the factfinder has the primary responsibility of determining the fact issues and the advantage of observing the witnesses in view of all the circumstances surrounding the entire proceeding, an appellate court’s duty is fully performed after it has fairly considered all the evidence and has determined that the evidence reasonably supports the decision.

Kenney, 963 N.W.2d at 222 (quotations and citation omitted); *see also Vangsness v. Vangsness*, 607 N.W.2d 468, 472, 474 (Minn. App. 2000) (similarly discussing the clear-error standard of review); *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988) (explaining that the district court’s “findings must be sustained unless clearly erroneous” and that “[d]eference must be given to the opportunity of the [district] court to assess the credibility of the witnesses” (quotation omitted)).

As to her request to modify legal custody, mother bore the burden of proof. *See Szarzynski v. Szarzynski*, 732 N.W.2d 285, 291–92 (Minn. App. 2007). Although the

district court must “use a rebuttable presumption that upon request of either or both parties, joint legal custody is in the best interests of the child,” the court is required to “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, has occurred between the parents.” Minn. Stat. § 518.17, subd. 1(b)(9) (2024). When “determining whether the [latter] presumption is rebutted,” the district court must “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.” *Id.*

“[T]he plain language of the statute does not state that a district court must award sole custody to the victim of domestic violence.” *Thornton v. Bosquez*, 933 N.W.2d 781, 791 (Minn. 2019) (discussing section 518.17, subdivision 1(b)(9) (2018)). It “contains no language stating that the presumption [against joint custody that applies when domestic abuse has occurred between the parents] operates for or against any particular party,” and “[t]he presumption does not mandate that a specific party receive sole custody if the presumption goes un rebutted; nor does it expressly impose on any party the burden of producing evidence to rebut the presumption.” *Id.* Instead, “[t]he presumption focuses on the child’s needs and a custodial arrangement that is beneficial to the child, and not on particular caregivers.” *Id.*

In *Thornton*, the Minnesota Supreme Court concluded “that the statutory scheme does not categorically prohibit an award of custody to a parent who has committed domestic abuse.” *Id.* In reaching this conclusion, the supreme court considered the inclusion of “an occurrence of domestic abuse between the parties [as] one factor among

the 12 statutory best-interests factors that the district court must consider before awarding custody” and reasoned that, “[a]lthough 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.* (citing Minn. Stat. § 518.17, subd. 1(a)(4); quoting Minn. Stat. § 518.17, subd. 1(b)(1)). The supreme court also observed that section 518.17

direct[s] the district court to consider it in the child’s best interests to develop “safe, stable, nurturing relationships” with each parent . . . 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. (quoting Minn. Stat. § 518.17, subd. 1(b)(2); Minn. Stat. § 518.17, subd. 1(b)(3)). Thus, the supreme court concluded 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.” *Id.* at 791–92. The supreme court explained that, “[b]ecause 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.” *Id.* at 792. “Under subdivision 1(b)(9), therefore, the district court simply concludes that joint custody is not appropriate unless substantial countervailing evidence from *any* source exists to satisfy the presumption’s rebuttal factors.” *Id.* (footnote omitted).

Here, the district court determined that “father committed acts of domestic abuse against mother during their relationship.” In particular, the district court found as follows. In January 2016, “father assaulted mother in a bar and at the parties’ home,” and mother

later petitioned for and secured an ex parte order for protection (OFP) “based in part on this incident, after the parties separated.” Mother subsequently “dismissed her petition in favor of a civil order limiting contact in the dissolution file.”³ In June 2017, “father assaulted mother . . . at the parties’ home while the children were present,” “hitting [mother on] the right side of her face and causing a bump,” which led to a “domestic assault” charge against father. Mother obtained a second ex parte OFP against father not long after the June 2017 incident, but she dismissed the OFP “when the parties fully resolved the dissolution” in May 2019.⁴

We conclude that the district court did not abuse its discretion as to the statutory rebuttable presumption against joint legal custody and joint physical custody that applies when domestic abuse has occurred between parents. Assuming without deciding that mother did not forfeit her argument on the presumption against joint custody that applies when domestic abuse has occurred between the parents,⁵ we disagree that reversal is

³ The district court’s findings of fact, conclusions of law, and order do not specify the scope of this “civil order limiting contact in the dissolution file.”

⁴ The district court also found that father had alleged that mother committed domestic abuse against him during the June 2017 incident. Father initially called the police seeking help, denied hitting mother, and claimed that she had assaulted him. And in January 2019, father petitioned for a harassment restraining order against mother, which “was granted because of multiple phone calls and text messages and an obscene voicemail from mother, rather than physical or sexual assault.”

⁵ We question whether mother forfeited this argument by failing to raise it before the district court. Mother focused her written closing argument on her request to modify the children’s primary residence and the application of the best-interests standard to her motion to modify legal custody and to establish physical custody. And mother never argued that the district court should apply the presumption. “[A] party may not ‘obtain review by raising the same general issue litigated below but under a different theory.’” *Crowley v.*

warranted. This is because the district court’s findings of fact, conclusions of law, and order on mother’s motion to modify legal custody and to establish physical custody reflects that the court did not presume that joint legal and joint physical custody is in the children’s best interests per Minnesota Statutes section 518.17, subdivision 1(b)(9). We are also mindful that the presumption against joint custody does not require that the district court “award sole custody to [mother as] the victim of domestic violence” and “does not mandate that [mother] receive sole custody [even] if the presumption [went] un rebutted.” *Thornton*, 933 N.W.2d at 791. And we are satisfied by the record before us that, consistent with the presumption, the district court implicitly determined that the presumption was rebutted by properly “focus[ing] on the child[ren]’s needs and a custodial arrangement that is beneficial to the child[ren], and not on [mother as a] particular caregiver[.]” *Id.*; see also *Vettleson v. Special Sch. Dist. No. 1*, 361 N.W.2d 425, 428 (Minn. App. 1985) (reviewing implicit findings of fact for clear error).

Indeed, the district court made express findings about the domestic abuse—which occurred before the May 2019 final judgment and decree, when the district court awarded the parties joint legal custody pursuant to the parties’ agreed-upon resolution—and

Meyer, 897 N.W.2d 288, 293 (Minn. 2017) (quoting *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988)) (other citations omitted). And “[a]ppellate courts generally address only those matters that were presented to and considered by the district court.” *Butler v. Jakes*, 977 N.W.2d 867, 873 (Minn. App. 2022) (citing *Thiele*, 425 N.W.2d at 582) (other citation omitted) (concluding that, where an “argument was neither presented to nor considered by the district court,” “appellant forfeited [the] argument because it is not properly before this court, and . . . declin[ing] to address it for the first time on appeal”). We need not decide whether mother’s argument about the presumption against joint custody is forfeited because we conclude on the merits that the district court did not abuse its discretion.

appropriately considered the abuse as one of the 12 statutory best-interests factors, determining that the factor favored mother. *See Thornton*, 933 N.W.2d at 791. The district court also found, however, that there was “no evidence of domestic abuse occurring in either of the parties’ home[s] currently.” And the district court’s analysis as a whole is consistent with the statutory mandate that the court “not use one factor to the exclusion of all others,” as well as the requirements that the court “consider it in the child’s best interests to develop safe, stable, nurturing relationships with each parent . . . 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.* (quotations omitted). This is evident from the district court’s extensive factual findings on the section 518.17 best-interests factors.

For example, although the district court acknowledged that “the children have been exposed to parental conflict,” it ultimately determined that the “children would benefit from the opportunity to have a relationship with each parent that is supported by the other parent.” And the district court reasoned that, while the children “would benefit from maximizing time with [m]other given the past lapse in consistent contact and their current positive attachment” to her, restricting father’s parenting time “would be a detriment to the children considering the bond they have” with him.

The district court’s findings reasonably support its determinations that “[m]other ha[d] not established that a modification of legal custody—specifically awarding [m]other with sole legal custody—is in the children’s best interests” and that “[t]he best interests of the children will be served if joint physical custody is granted.” In other words, the findings

of fact, conclusions of law, and order on mother’s motion to modify legal custody and to establish physical custody evinces the district court’s “consider[ation of] the nature and context of the domestic abuse and the implications of the domestic abuse for parenting and for the child[ren]’s safety, well-being, and developmental needs.” Minn. Stat. § 518.17, subd. 1(b)(9). On this record, we conclude that the district court did not “mechanically appl[y the presumption against joint custody] against [father as] a parent who ha[d] committed domestic abuse,” but rather “conduct[ed] a nuanced consideration of the child[ren]’s needs.” *Thornton*, 933 N.W.2d at 791–92. The district court “weigh[ed] all evidence of the child[ren]’s best interests regardless of the source of the evidence” and implicitly determined that “substantial countervailing evidence . . . exists to satisfy the presumption’s rebuttal factors.” *Id.* at 792.

Thus, under these specific circumstances, we conclude that the district court acted within its discretion.

II. The district court did not prejudicially err by declining to apply the statutory endangerment standard to mother’s motion to modify legal custody.

Father contends that the district court erred by failing to apply the endangerment standard to mother’s motion to modify legal custody, maintaining that the parties never agreed to apply the best-interests standard to custody-modification requests in a writing approved by the court. Mother responds that the parties’ agreement to apply the Minnesota Statutes section 518.17 best-interests factors “was reduced to a court-approved writing: the parties’ [final] judgment and decree.” We need not resolve this dispute because any assumed error is harmless.

“Determining the proper legal standard to be applied to a child-custody modification motion presents a question of law that [appellate courts] review de novo.” *Woolsey*, 975 N.W.2d at 506. “A modification of custody or a change of the child’s primary residence requires that the district court utilize the procedures set forth in Minn. Stat. § 518.18(d) and associated caselaw.” *Suleski v. Rupe*, 855 N.W.2d 330, 334–35 (Minn. App. 2014) (addressing Minn. Stat. § 518.18 (2012)). Under Minnesota Statutes section 518.18(d) (2024), “the [district] court shall not modify a prior custody order . . . which specifies the child’s primary residence unless it finds, upon the basis of facts” arising since the prior order, or based on facts that were unknown to the court at the time of the prior order, “that a change has occurred in the circumstances of the child or the parties and that the modification is necessary to serve the best interests of the child.” And the district court must “retain the custody arrangement or the parenting plan provision specifying the [children’s] primary residence that was established by the prior order unless,” among other circumstances:

(i) the court finds that a change in the custody arrangement . . . is in the best interests of the child and the parties previously agreed, in a writing approved by a court, to apply the best interests standard in section 518.17[,] . . . and . . . both parties were represented by counsel when the agreement was approved or the court found the parties were fully informed, the agreement was voluntary, and the parties were aware of its implications; [or]

. . . .

(iv) the child’s present environment endangers the child’s physical or emotional health or impairs the child’s emotional development and the harm likely to be caused by a

change of environment is outweighed by the advantage of a change to the child

Minn. Stat. § 518.18(d)(i), (iv).

Here, the final judgment and decree included a provision stating that “[t]he best-interests standard in Minnesota Statutes [section] 518.17 shall apply to future custody modifications.” Although this provision was based on an oral stipulation presented by the parties on the record, father moved the district court to apply the section 518.18(d)(iv) endangerment standard in considering mother’s motion to modify legal custody. As he does on appeal, father asserted in his motion that section 518.18(d)(i) does not apply because the parties did not present a written stipulation for approval by the district court.

In the findings of fact, conclusions of law, and order on mother’s motion to modify legal custody and to establish physical custody, the district court rejected father’s argument that the provision requiring application of the best-interests standard for future custody modifications was not a writing approved by the court. The district court determined that “the parties presented an agreement on the record, the agreement was reduced to a writing, and the court approved the writing by signing the judgment and decree.” And the district court ruled that there was no reason “to invalidate a provision of a decree because an agreement was placed on the record before being reduced to [a] writing rather than presented by stipulation.” The district court therefore applied the best-interests standard to mother’s motion to modify legal custody.

Assuming without deciding that the district court erred in applying the section 518.17 best-interests standard based on its determination that the provision in the final

judgment and decree constitutes a “writing” under Minnesota Statutes section 518.18(d)(i), we conclude that such presumed error is harmless. “[N]o error or defect in any ruling or order . . . is ground for granting a new trial or . . . for vacating, modifying, or otherwise disturbing a judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice.” Minn. R. Civ. P. 61. “The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.” *Id.* An error requires reversal only if it resulted in prejudice, and the party asserting error has the burden of showing such prejudice. *Sinda v. Sinda*, 949 N.W.2d 170, 176 (Minn. App. 2020).

Although the district court did not apply the section 518.18(d)(iv) endangerment standard, the court nonetheless denied mother’s motion to modify legal custody under the less-demanding section 518.17 best-interests standard. The district court determined that mother did not establish that a custody modification awarding her sole legal custody is in the children’s best interests. Thus, the district court’s decision not to apply the section 518.18(d)(iv) endangerment standard—which, by its express terms, encompasses the section 518.17 best-interests standard—had no effect on the court’s overall legal-custody ruling because it determined mother had not established one of the predicate requirements for modification of legal custody under section 518.18(d)(iv): “that the modification is necessary to serve the best interests of the child.” Minn. Stat. § 518.18(d). Neither party challenges the district court’s best-interests determination on appeal.

Accordingly, even assuming without deciding that the district court erred by not applying the statutory endangerment standard to mother’s motion to modify legal custody,

we conclude that such assumed error did not result in prejudice to father and that reversal is therefore unwarranted.

III. The district court did not prejudicially err by applying the statutory endangerment standard to mother's request to modify the children's primary residence.

Mother asserts that the district court erred by applying the Minnesota Statutes section 518.18(d)(iv) endangerment standard in addressing her request to modify the children's primary residence because the final judgment and decree provides for the application of the section 518.17 best-interests standard to future custody modifications. She posits that the preponderant question "is whether the term 'custody,' as used in the parties' May 2019 [final judgment and decree,] includes modifications to primary residenc[e]," asserting that "this court should conclude that it does." Father disputes these contentions, arguing that, "[g]iven the [final] judgment and decree's language and the plethora of law differentiating between custody and primary residence, it is not reasonable to conclude that the [final] judgment and decree's provision applying the best-interests standard to custody modification motions must also encompass requests to modify primary residenc[e]." As with father's contention about the district court's decision not to apply the endangerment standard to mother's motion to modify legal custody, we conclude that any assumed error about the legal standard applicable to mother's request to change the children's primary residence is harmless.

"Determination of the applicable statutory standard and the interpretation of statutes are questions of law that [appellate courts] review de novo." *Goldman v. Greenwood*, 748 N.W.2d 279, 282 (Minn. 2008) (citations omitted).

While the district court applied the best-interests standard to mother's motion to modify legal custody and to establish physical custody, it "decline[d] to use the best-interests standard in addressing [her] motion to modify the children's primary residence." In part, the district court relied on *Suleski*, which states that "a change of the child's primary residence requires that the district court utilize the procedures set forth in Minn. Stat. § 518.18(d) and associated caselaw." 855 N.W.2d at 334–35.

Assuming without deciding that the district court erred in analyzing mother's primary-residence request under section 518.18(d), we discern no prejudice requiring reversal. *See* Minn. R. Civ. P. 61; *see also Sinda*, 949 N.W.2d at 176. This is because the district court determined that "mother ha[d] not established . . . that awarding mother with primary residenc[e] is in the children's best interests," whereas a converse finding is necessary for modification under the statutory endangerment standard. *See* Minn. Stat. § 518.18(d) (providing that, to modify a prior custody order that specifies a child's primary residence under the statutory endangerment standard, the district court must find "that the modification is necessary to serve the best interests of the child"). Mother does not challenge the district court's best-interests determination on appeal.

Thus, mother has not shown that affirming the district court's decision is "inconsistent with substantial justice," Minn. R. Civ. P. 61, and reversal is not required because mother has not met her burden of demonstrating that the court's application of the section 518.18(d)(iv) endangerment standard resulted in prejudice, *see Sinda*, 949 N.W.2d at 176.

IV. The district court did not abuse its discretion in determining that mother’s parenting-time proposal would have resulted in a restriction of father’s parenting time and did not err in analyzing this issue under Minnesota Statutes section 518.175, subdivision 5(c).

Mother contends that the district court incorrectly construed her proposed parenting-time schedule as a modification of parenting time that constituted a substantial change and restriction of father’s parenting time. She maintains that, rather than analyze mother’s proposal under Minnesota Statutes section 518.175, subdivision 5(c) (2024),⁶ the district court should have applied the section 518.17 best-interests standard, which she urges that we order on remand. Father counters that mother forfeited this argument by failing to raise it before the district court and that, in any event, the court correctly concluded that mother’s proposed parenting-time schedule restricted his parenting time under subdivision 5(c) of section 518.175. We agree with father on the merits.

As noted above, “[t]he district court has broad discretion in determining parenting-time issues and will not be reversed absent an abuse of that discretion[,]” which occurs “if its findings are unsupported by the record or if it misapplies the law.” *Dahl*, 765 N.W.2d at 123. And “[a] district court’s findings of fact underlying a parenting-time decision will be upheld unless they are clearly erroneous.” *Id.* (citing *Griffin v. Van Griffin*, 267 N.W.2d 733, 735 (Minn. 1978)).

⁶ As relevant here, the statute provides that “the [district] court may not restrict parenting time unless it finds that: (1) parenting time is likely to endanger the child’s physical or emotional health or impair the child’s emotional development; or (2) the parent has chronically and unreasonably failed to comply with court-ordered parenting time.” Minn. Stat. § 518.175, subd. 5(c).

“A change in parenting time that reduces the amount of time a parent has with a child is not necessarily a restriction of parenting time.” *Id.* Indeed, “[a] modification of parenting time which increases a parent’s percentage of time to an amount that is between 45.1 to 54.9 percent parenting time is not a restriction of the other parent’s parenting time.” Minn. Stat. § 518.175, subd. 5(c). Although we observed in *Dahl* that “[a] restriction occurs when a change to parenting time is ‘substantial[,]’” 765 N.W.2d at 123–24 (quoting *Matson v. Matson*, 638 N.W.2d 462, 468 (Minn. App. 2002)), and that “[m]odifications are ‘less substantial changes’ in parenting time[,]” *id.* at 124 (quoting *Lutzi v. Lutzi*, 485 N.W.2d 311, 315 (Minn. App. 1992)), we have more recently noted that “[t]here is no statutory definition of what constitutes a ‘restriction’ of parenting time[,]” *Suleski*, 855 N.W.2d at 336. And we have consistently explained that, “[t]o determine whether a reduction in parenting time constitutes a restriction or modification, the court should consider the reasons for the changes as well as the amount of the reduction.” *Suleski*, 855 N.W.2d at 336 (quoting *Dahl*, 765 N.W.2d at 124).

Under the final judgment and decree, although the district court reserved determination of physical custody, the court ruled that father’s home would be the children’s primary residence and ordered that mother have parenting time with the children every other weekend, which was to begin “when a therapist working with the family deem[ed] it therapeutically appropriate for the children.” After the contested proceeding on mother’s motion to modify legal custody and to establish physical custody, both parties filed proposed parenting-time schedules. Mother proposed that she receive sole legal

custody and sole physical custody, as well as a change of the children's primary residence to her home.

The district court rejected this proposal, finding that “mother seeks to flip [the] schedule [ordered in the final judgment and decree], so that the children reside with her and father has parenting time every-other weekend plus a week each summer month.” And the district court determined that “mother's proposed parenting time schedule is a restriction of father's parenting time,” reasoning that “[h]er schedule is a substantial change in parenting time and therefore constitutes a restriction as opposed to a simple modification.” Rather than adopt mother's proposal, the district court decided that, during the school year, mother would have parenting time with the children on an every-other-weekend basis. In addition, the district court ruled that father would have parenting time during the summer on an every-other-weekend basis, with one added week and alternating holidays. The district court determined that this “modification of the parties' parenting time schedule is in the best interests of the children.”

Assuming without deciding that mother has not forfeited the argument that the district court should have applied the section 518.17 best-interests standard instead of analyzing her parenting-time proposal under subdivision 5(c) of section 518.175,⁷ we conclude that the district court acted within its discretion by ruling that mother had

⁷ As father points out, there is some question whether mother forfeited this argument by failing to request that the district court analyze her proposed parenting-time schedule under the section 518.17 best-interests standard instead of the factors set forth in section 518.175, subdivision 5(c). *See Crowley*, 897 N.W.2d at 293; *Butler*, 977 N.W.2d at 873. We decline to decide the forfeiture issue and instead address the merits of mother's argument.

proposed a substantial modification that amounted to a restriction of father’s parenting time. The district court’s findings are reasonably supported by the record and it correctly applied the law. *See Dahl*, 765 N.W.2d at 123. The children’s primary residence had been with father since before the district court entered the final judgment and decree. Mother’s proposal sought to change both the children’s primary residence and to substantially limit father’s parenting time to an every-other-weekend basis. Mother concedes that her proposed parenting-time schedule would have increased her parenting time to an amount greater than 54.9 percent. Thus, mother proposed a schedule that, under subdivision 5(c) of section 518.175, was outside the range of parenting-time divisions that the statute precludes from being a restriction. As a result, mother’s proposed parenting-time schedule was one for which—depending on the amount of and reason for the proffered change—the district court had the discretion to determine would result in a restriction of father’s parenting time. Based on our careful review of the record, we are satisfied that the district court properly considered the amount of the reduction mother sought. *See Dahl*, 765 N.W.2d at 124.⁸

⁸ By reasoning that mother’s proposal would have resulted in a restriction of father’s parenting time, the district court permissibly focused its consideration of the restriction analysis on the amount of the proposed reduction rather than the reasons for the proffered changes. *See, e.g., Suleski*, 855 N.W.2d at 336 (explaining that, when “it [was] undisputed that the reason for the reduction of mother’s parenting time is the distance between the parties’ homes and not a defect in mother’s care of (or ability to care for) the child[,] . . . the reason-for-the-change prong of the restriction analysis [was] not at issue,” and our determination of whether there had been a “restriction must [have] arise[n] solely from the amount-of-the-reduction prong of the analysis, rather than the reason-for-the-change prong, or from a combination of the two prongs”).

We therefore conclude that the district court did not abuse its discretion in deciding that mother's parenting-time proposal would have resulted in a restriction of father's parenting time and that the court did not err in analyzing this issue under Minnesota Statutes section 518.175, subdivision 5(c), rather than applying the section 518.17 best-interests standard.

V. The district court's findings on mother's requests for attorney fees and custody-evaluation costs are insufficient for appellate review.

Mother argues that the district court overlooked whether she was entitled to need-based attorney fees, which she asserts was "contemplated" by her request. Father challenges this claim, contending that mother's "argument fails because [her] motion clearly sought only conduct-based fees, she never argued for need-based fees at the district court, and the record lacks the necessary evidence to grant such fees."

Father separately asserts that the district court abused its discretion by ordering him to pay one-half of the custody-evaluation costs because the court did not require the evaluation and instead merely ordered that mother could hire an evaluator. Mother responds that her request sought reimbursement for the custody evaluation as a need-based cost under Minnesota Statutes section 518.14, subdivision 1 (2024).

Based on the record before us, we cannot resolve these disputes.

In marriage dissolution actions, we review district court decisions on attorney fees and costs under Minnesota Statutes section 518.14 for an abuse of discretion. *See Backman v. Backman*, 990 N.W.2d 478, 489 (Minn. App. 2023) (explaining that "[t]his court applies an abuse-of-discretion standard of review to a district court's award of need-based attorney

fees” per Minn. Stat. § 518.14, subd. 1 (2022)); *Madden v. Madden*, 923 N.W.2d 688, 702–03 (Minn. App. 2019) (applying an abuse-of-discretion standard of review to an award of conduct-based attorney fees under Minn. Stat. § 518.14, subd. 1 (2018)).

Minnesota Statutes section 518.14, subdivision 1, governs requests for need-based attorney fees and costs. In relevant part, the statute provides that “the [district] court shall award attorney fees, costs, and disbursements in an amount necessary to enable a party to carry on or contest the proceedings.” Minn. Stat. § 518.14, subd. 1. To do so, the district court must find:

(1) that the fees are necessary for the good faith assertion of the party’s rights in the proceeding and will not contribute unnecessarily to the length and expense of the proceeding;

(2) that the party from whom fees, costs, and disbursements are sought has the means to pay them; and

(3) that the party to whom fees, costs, and disbursements are awarded does not have the means to pay them.

Id.

Minnesota Statutes section 518.14, subdivision 1a (2024), governs conduct-based attorney fees. The district court has the discretion to award such fees “against a party who unreasonably contributes to the length or expense of the proceeding or whose unreasonable failure to comply with an order or decree causes the other party to seek enforcement or other relief, including the reimbursement of fees and costs incurred before filing a motion.” Minn. Stat. § 518.14, subd. 1a. “In determining whether to award fees, the court must

consider the circumstances and any other factors that contributed to the length or expense of the proceeding.” *Id.*

The district court must make specific findings on a motion for need-based attorney fees and costs. *See Richards v. Richards*, 472 N.W.2d 162, 166 (Minn. App. 1991) (concluding that, “given the mandatory language in the statute, and the need for findings on the specific factors set forth in the statute, the [district] court erred by failing to make specific findings on [the] issue” of need-based attorney fees). “Conclusory findings on the statutory factors do not adequately support a fee award.” *Geske v. Marcolina*, 624 N.W.2d 813, 817 (Minn. App. 2001). But the lack of findings on the statutory factors for a need-based fee or costs award is not necessarily fatal so long as a “review of the order reasonably implies that the district court considered the relevant factors and [that] the district court was familiar with the history of the case and had access to the parties’ financial records.” *Id.* (quotations omitted).

In her motion to modify legal custody and to establish physical custody, mother broadly requested that the district court award her reasonable attorney fees and costs. And in her motion for temporary relief, mother requested conduct-based attorney fees and costs. The district court ultimately denied mother’s “motion for attorney’s fees and costs,” finding that “[n]either party established that the other party’s conduc[t] unreasonably contributed to the length and expense of the proceeding.” This finding suggests that the district court considered mother’s initial broad request only as seeking conduct-based attorney fees and costs under subdivision 1a of section 518.14. But regarding custody-evaluation costs, the district court ordered that “[t]he parties shall each be responsible for half of the costs

of . . . [the] custody evaluation[,]” reasoning that, “[g]iven the parties’ unequal incomes, it [was] fair and equitable for father to be responsible for half of the custody evaluation costs.”

Although the district court’s findings of fact, conclusions of law, and order on mother’s motion to modify legal custody and to establish physical custody includes findings related to the parties’ incomes, there are no such findings about the need-based factors set forth in subdivision 1 of section 518.14. Moreover, the findings of fact, conclusions of law, and order otherwise addresses neither need-based attorney fees nor custody-evaluation costs. And we are unable to reasonably infer from the district court’s order that the court considered the relevant need-based factors. *See Geske*, 624 N.W.2d at 817.

We therefore remand for the district court to make further findings on need-based attorney fees and costs per Minnesota Statutes section 518.14, subdivision 1. On remand, the district court shall have the discretion to reopen the record to address these issues.

Affirmed in part and remanded.