

Navigating Child Support: A Legal Guide for Parental Advocacy



A close-up portrait of a woman with curly brown hair, smiling warmly. She is wearing a black and white striped top and a thin necklace. The background is a soft, out-of-focus greenish-grey. The image is partially obscured by a dark grey circular overlay on the right side.


Client: Sophia Gomez Paternity & Support

Sophia, now a single mother to the four-month-old Camila Gomez, is navigating the challenges of parenthood alone. Following her two-week separation from Matt Girardi, who has ceased to contribute support, Sophia is in pursuit of legal assistance to secure compensation for the medical expenses incurred during her pregnancy and ongoing child support.



Things to consider

- § 20-49.8 requires petition to be filed within 6 months of Camila's birth to assess Sophia's pregnancy and delivery expenses as well as her reasonable expenses incurred for the benefit of Camila prior to her birth.
- DCSE can take up to 90 days before filing a petition with court due to administrative requirements. Administrative Support Order's do not become effective until served on the party and do not address birth expenses. § 63.2-1916
- Preserve the effective date – the sooner the petition is filed with Court, the sooner the clock starts ticking. § 20-108.1 (B)




How are you
going to proceed
with establishing
child support?

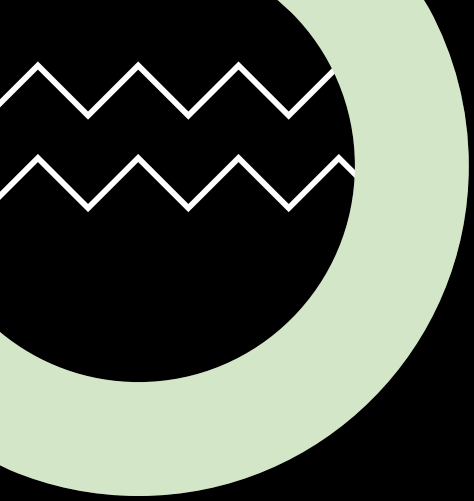


- DCSE has a Locate Unit
- Utilize automated resources to locate
- DMV, VEC, Social Security, DOC, DOD, Dept. of Veteran Affairs, FCR, FIDM, Virginia Power, New Hire Data Match, VaCMS, etc.
- Other locate resources
- Accurint, Vinelink, Justice Xchange, social media, skip tracing
- Quarterly attempts

What if Matt split the scene and Sophia doesn't know where he is.



Would your
advice change if
Sophia did not
know Matt's
location?



What if Matt moved back home to Iowa. Should the petition be filed in Iowa or Virginia?

- § 20-88.35 (3) The individual resided with the child in the Commonwealth.
- If Matt does not appear before the Court, it will be difficult to effectuate paternity testing. Promote Remote Hearings – see court policy.
- § 20-61.3 If Matt is personally served with notice of the hearing, the court shall proceed in hearing the evidence in the case under § 20-49.4. Evidence relating to parentage.



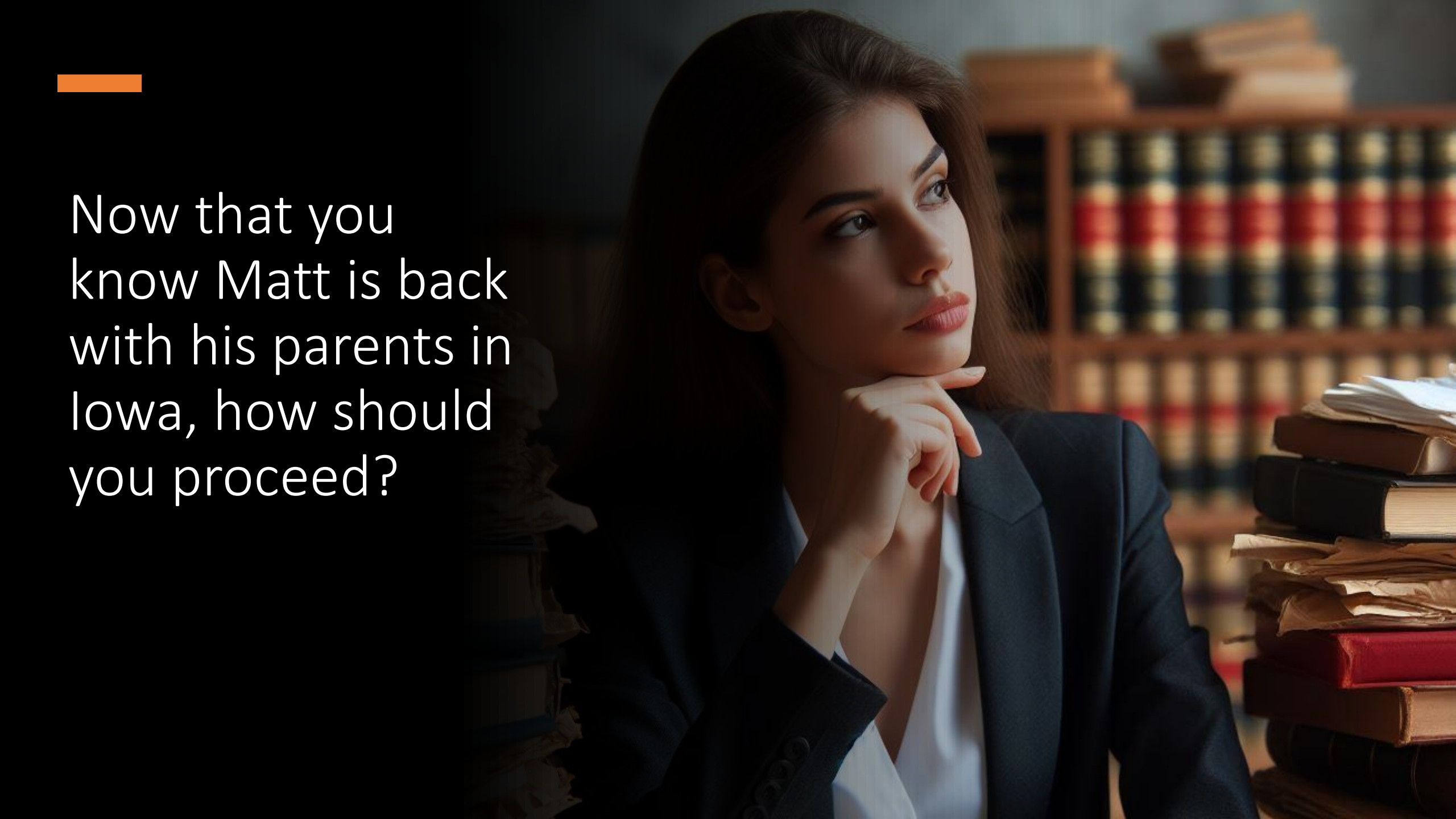


What if Matt moved back home to Iowa. Should the petition be filed in Iowa or Virginia?

- DCSE can assist in filing a UIFSA petition to Iowa. Sophia will not be required to personally appear. § 20-88.59



- How do I find out about Iowa Child Support Law? [Intergovernmental Reference Guide \(IRG\) - Policy Profiles and Contacts | The Administration for Children and Families \(hhs.gov\)](#)



Now that you know Matt is back with his parents in Iowa, how should you proceed?



Client: Luther

ASO Issues

In a twist of fate that could rival any theatrical drama, Luther was blindsided when he returned from an extended out-of-town work trip, by the cold hand of bureaucracy when the Division of Child Support Enforcement (DCSE) delivered a staggering blow—an administrative support order demanding a monthly tribute of \$750. The ink had barely dried on the document when Luther, with a heart heavy with betrayal, contested the very paternity of the child named Marco. He declared with unwavering conviction that the child was not of his blood but the progeny of a clandestine affair between his wife and his once-trusted confidant, Max.



DCSE Actions:

- Marriage creates a presumption that Luther is Marco's father unless:
 - Wife implicates Max.
 - Or the Husband is not on the birth certificate.
- Since Luther failed to provide his financial information to DCSE as requested, DCSE imputed income based on his last 12 months of earnings.



- Appeal the ASO to a hearing officer and then to court. § 63.2-1942 Send appeal request to Virginia Department of Social Services, Appeals and Fair Hearings Unit, 5600 Cox Road, Glen Allen, VA 23060
- Have Luther file an initial petition of support against himself to supersede the administrative order. § 63.2-1916
- File for a paternity determination.
- File a disestablishment of paternity. § 20-49.10



A photograph of two men in suits in a library. The man in the foreground is a young Black man with an afro, looking thoughtfully to the right with his hand on his chin. The man in the background is a white man with glasses, looking forward. There are bookshelves filled with books in the background and a stack of papers on a desk in the foreground.

What advice would
you give Luther?

A close-up portrait of a woman with dark, curly hair, wearing a red top. She has a serious, slightly distressed expression, with furrowed brows and a slight frown. The background is a plain, light-colored wall.

Former Client: Janine DCSE: Review & Mod

Two years ago, I represented Janine in her divorce proceedings, securing a child support order of \$1250. Recently, the DCSE informed Janine that Bill's child support obligation should decrease to \$375 per month following an administrative review.

DCSE ACTIONS




- Bill could call, email or write DCSE and request a review.
- DCSE will not review an order that is less than 36 months old unless special circumstances has occurred such as a 25% increase or decrease in income, childcare etc... Note, DCSE does not impute income for the review.
- Even if Bill was fired, DCSE may use average earnings for the past year.
- DCSE cannot modify the court order without filing a motion to amend or filing a proposed modified order with the court.



Things to Consider

- Communicate with DCSE on how it is proceeding on its review.
 - If DCSE's filing a motion to amend, child support guidelines will be run at trial.
 - If DCSE is filing a proposed modified order, then once Janine is served, file a request for hearing within 30 days of receipt of notice. § 63.2-1921 (A)
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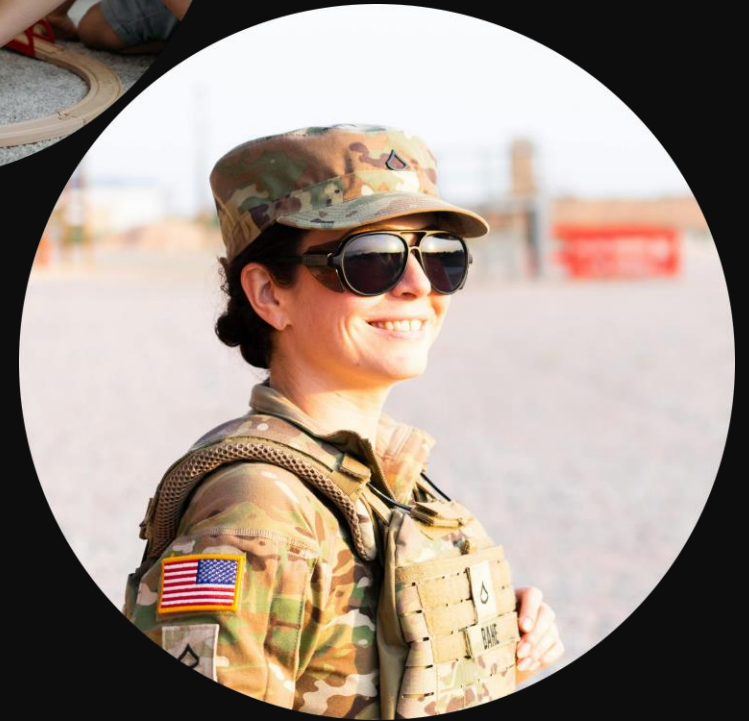


A woman with dark, curly hair is smiling and looking towards the camera. She is wearing a dark blazer. In the background, a man in a blue suit is blurred. The overall scene is a professional or business environment.

What advise
are you going
to give Janine?

Client: Brett Passport Denial

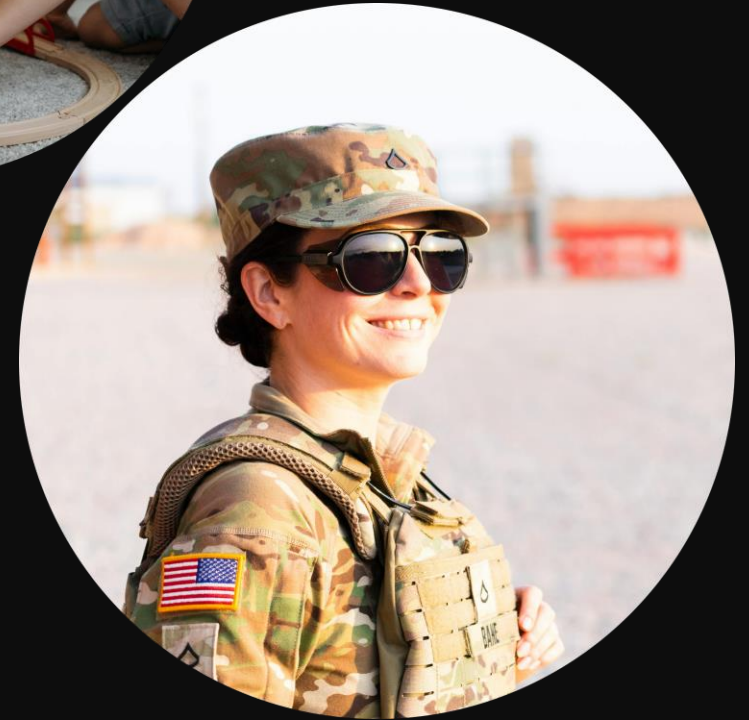
Brett, a stay-at-home dad, now stands at the precipice. The court's decree echoes like thunder: **\$500 monthly**, a relentless tempest. Arrears, a **\$3000.00** debt, loom like dark clouds. But it's the looming journey to Japan, his wife's orders, that churns his soul. In this legal maelstrom, Brett seeks counsel—a compass to navigate the storm. Yet, the cruelest of all twists: those arrears, like iron chains, threaten to bind him, preventing his obtaining a passport. Separation looms—wife, child, and dreams adrift.



Passport Denial Program

22 VAC40-880-405

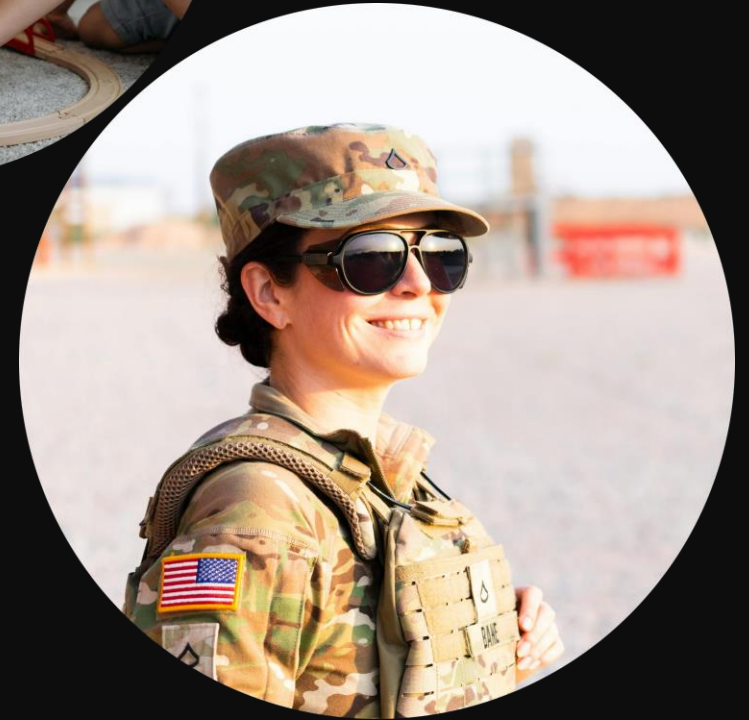
- Virginia DCSE submits information to the Federal Office of Child Support Services.
- The Federal Office of Child Support Enforcement will send Noncustodial parents a notice that says if they owe \$2500 or more in child support arrears that the State Department will refuse to issue or re-issue a passport. Note, the State Department will not suspend an existing passport.
- The parent has a right of appeal to the DSS hearing officer. The only appealable issue is whether the arrears met the threshold at time of certification or mistaken identity.




Passport Denial Program

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- How to acquire permission to obtain passport.
- Pay arrears in full.
- Obtain a letter from DCSE Regional Director that releases passport due to:
 - Life or Death Situation of an immediate family member;
 - Employment contingent international travel with written proof along with an agreement for income withholding order, a lump sum payment, and a plan to pay off the arrears in a finite period of time.





What Advise
are you going
to give Brett?




Client: Kelly & Ross IRS Seizure

High stakes: The IRS, wielding its authority, confiscates funds from the joint tax return of Kelly, the breadwinner, and Ross, a disabled Vet. The IRS earmarked these funds for the child support owed to the ex-girlfriend.



Client: Kelly & Ross IRS Seizure

If TANF arrears are \$150 – or - more and three months delinquent or non-TANF arrears are \$500 or more, DCSE may intercept federal tax returns. If there is a joint return, DCSE will hold the funds for 180 days to allow the joint tax payor to file an injured spouse claim with the IRS – See Form 8379 Injured Spouse Allocation



What advise
are you going
to give Kelly &
Ross?



Client: Kelly & Ross Bank Garnishment

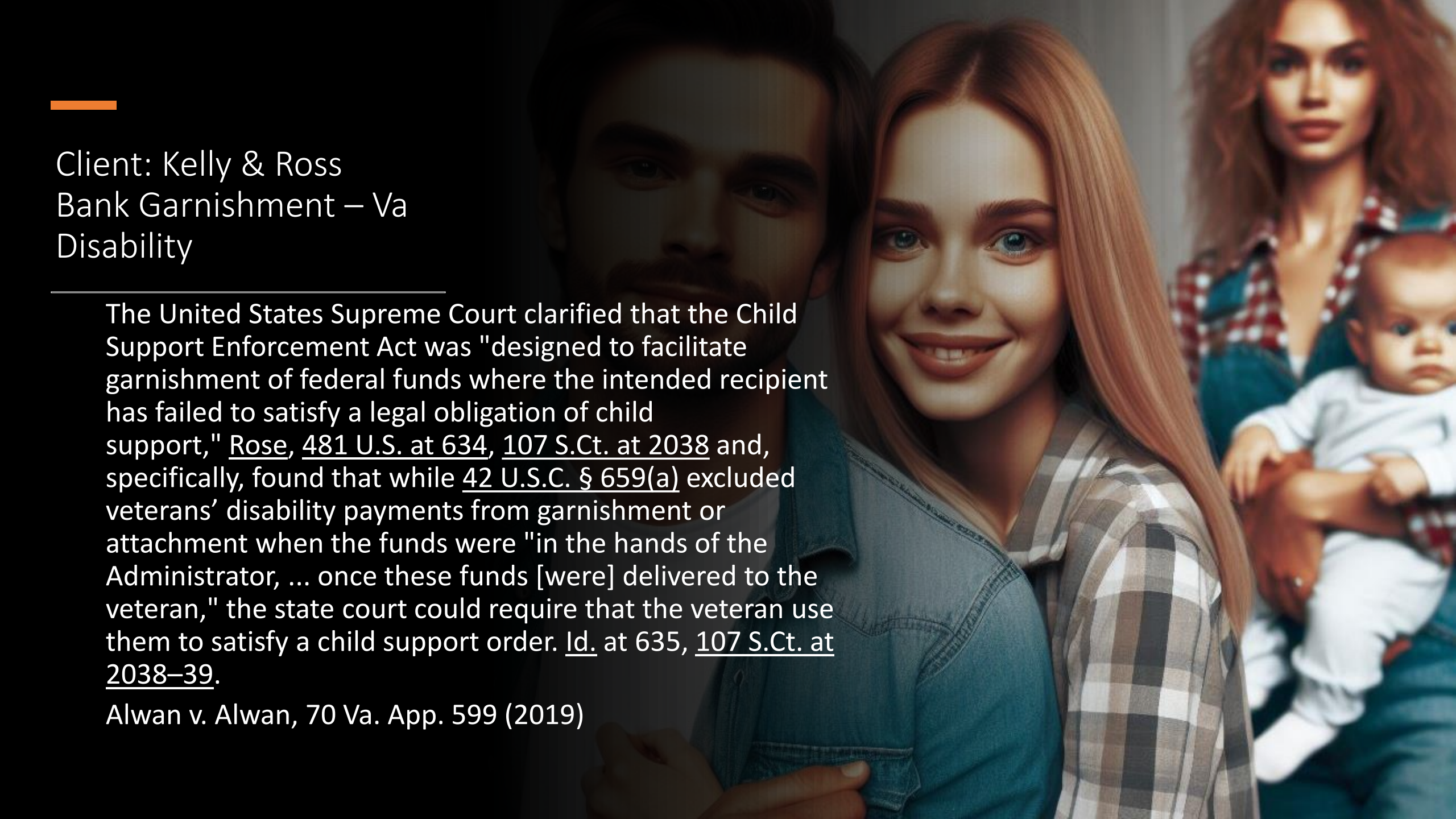
Dramatic upheaval: The DCSE, wielding its icy grip, **freezes** Brett and Kelly's bank account. The majority of the funds belong to Kelly, while Brett clings to his sole lifeline—his monthly VA disability check. Now, they stand united, ready to **battle** this relentless garnishment.



Client: Kelly & Ross Bank Garnishment

Virginia Code §§ 63.2-1929 & 63.2-1931 govern Orders to Withhold & Deliver in cases of administrative garnishment on bank accounts.


- Order to Withhold is separate from the Order to Deliver.
- Order to Withhold freezes the account/property until an Order to Deliver or a DCSE notice rescinds it.
- Order to Withhold is served on both the account holder and the noncustodial parent (NCP).
- NCP/Joint Account Holder have a right of appeal within ten days of being served of the Order to Withhold.
- If the joint account holder request an appeal of the hearing officer, DCSE files a motion in General District Court or Circuit Court depending on the fund amounts.
- Once appeal period is over, DCSE serves an Order to Deliver onto the bank.

A soft-focus background image of a family. In the foreground, a man with a beard and a woman with long blonde hair are smiling. The woman is wearing a plaid shirt. In the background, a woman is holding a baby. The overall tone is warm and domestic.

Client: Kelly & Ross
Bank Garnishment – Va
Disability

The United States Supreme Court clarified that the Child Support Enforcement Act was "designed to facilitate garnishment of federal funds where the intended recipient has failed to satisfy a legal obligation of child support," Rose, 481 U.S. at 634, 107 S.Ct. at 2038 and, specifically, found that while 42 U.S.C. § 659(a) excluded veterans' disability payments from garnishment or attachment when the funds were "in the hands of the Administrator, ... once these funds [were] delivered to the veteran," the state court could require that the veteran use them to satisfy a child support order. Id. at 635, 107 S.Ct. at 2038–39.

Alwan v. Alwan, 70 Va. App. 599 (2019)



What advise
are you going
to give Kelly &
Ross?



Client: John Case Closure

John, your client, seeks a child support reduction in court. Elizabeth, in a strategic move, proposes closing her case with DCSE if John withdraws his motion.

What if the order is an administrative support order

- John requests a reduction for of his administrative support;
- Elizabeth files for case closure.
- Should John continue to pursue the reduction?
- What if DCSE closes the case before it modifies the administrative order.

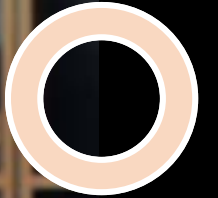




Case Closure v. Terminating Child Support Order

- **Misconception Clarified: Closing a case and terminating a support order** represent distinct processes.
- DCSE will terminate an ASO if one of the following conditions are met: Parties Reconciled · NCP has physical custody · Adoption · Parental Rights terminated · NCP deceased.

What advise
are you going
to give John?



Client: Chuck Driver License Suspension

- **High-speed dilemma:** Chuck, hauling a refrigerated meat-laden tractor-trailer, is **flagged down** by a stern police officer for speeding. But the twist? Chuck's **driver's license is suspended** due to child support arrears. Now, he's stranded—truck idle, meat rotting, and his only lifeline? A call to his attorney.



Client: Chuck

Driver License Suspension

- Suspension Criteria: More than 90 days behind on support or \$5000 in arrears.
 - Once DCSE notifies DMV of license suspension, NCP has to pay a reinstatement fee to obtain his license.
 - Petition for Restrict Drivers License – Doesn't apply for CDL licenses// provide court with DMV Compliance Summary.
 - DCSE Payment Agreements:
 - \$600 or 5% whichever is less lump sum and agree to pay arrears in 10 years.
 - \$700 or 7% whichever is less & 7 years.
 - \$1000 or 10% whichever is less & 7 years
-





What
advise are
you going
to give
Chuck?



Client: Rob Case Reopens with DCSE



In a twist of fate, Rob's past resurfaces like a tempest. Back in 2010, Helen, his ex-girlfriend, closed the DCSE case, assuring him she needed no more from him for their 11-year-old son. Fast-forward 14 years: Rob, engrossed in video games with his now-adult son, tears open a letter. DCSE's words strike like lightning—Helen reopened the case, demanding \$100,000 in back child support. Rob's rage echoes through the receiver as he dials your number. The storm has arrived.






Client: Rob Case Reopens with DCSE

Statement of Payment Received Procedures

- If CP returns SOP, then a SOP copy will be sent to the NCP.
- NCP has 10 days to respond. If NCP does not respond, then arrears will be added to the system.
 - Exception: NCP is in the military then the matter will be referred to court.
- If NCP timely contests the arrears, the matter will be sent to court to adjudicate arrears.



A man in a dark blue pinstriped suit, white shirt, and dark tie is sitting at a desk in an office. He is holding a black telephone receiver to his ear with his right hand and a blue and silver Red Bull can with his left hand. He has a concerned or stressed expression on his face, with furrowed brows and a slight frown. The background shows a wooden bookshelf filled with books and binders. On the desk in front of him are several papers and a pen. A watch is visible on his left wrist. In the top left corner, there is a small orange horizontal bar.

What advise
are you going
to give Rob?



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