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00:00
Good afternoon, everyone.

00:01
My name is Colleen brains. I'm a Senior Associate Attorney at lovella lava law is a law firm based in Schaumburg and the Chicago Board of Trade. We serve Cook County, and also all the color counties surrounding Cook County in Illinois. We do just about every area of law. Here at Laval law, I'm on the litigation team focusing mainly on family law. So that includes matters that we'll get into in just a little bit. First off, if you have any questions about my law firm or me or the type of work I do, you can head to our website, which will have up on a slide Lavelle law Comm. There you can see our podcasts, articles, and coming soon, some videos on family law topics. There, you can also see that we have a new Instagram feature. So you can check that out if you are interested in keeping up to date on different family law topics and social media way.

01:02
Onto the next slide,

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I just want to give you a brief overview of what Family Law is, lots of times people come to me and they may be confused about what Family Law is. And they'll ask me to do certain things for them, that doesn't necessarily fall into the purview of family law. And then there are also some other areas that people are surprised that aren't part of family law that I can help with. So just

want to dive into them. Now, referring to a slide about what is Family Law, it can be a lot of things. The first thing that can be is an uncontested divorce. That's a lot of the work I do. What that means is that a couple comes to me and they're amicable, but they want to get divorced. So they come to me to draft up the legal documents that can effectuate their agreements and make them binding. So that means they're in agreement as to all of the terms of what they're trying to do. When it comes to the financials of the marital state, how to co parent everything. It's just for me to draft up their wishes and make them into agreements that they're comfortable to find and have entered as a divorce decree. Usually there were only looking at one court date. So it's the quickest, cheapest way to do a divorce by and large. The next area that we see in family law is contested divorce. So what that means is that a couple is getting a divorce, and they're in disagreement about at least one issue. And sometimes it can only be just one issue. But the issues that it could be in disagreement about could have to do with their marital expenses, the assets they have between them and how they want to co parents. And it's for me as an attorney to represent one side of that case and file motions as necessary to get the relief that my client is looking for, put it to the judge and then get a ruling after that issue. Sometimes if there's only one issue or just a few issues that we're in disagreement about, it's simple to put that to the judge get a ruling on those issues, and then kind of proceed in an uncontested way by settling the case and drafting up agreements that work for the parties. The next area is legal separation. I think that this is an area of law that people are very commonly confused about. Lots of times people hear the word separation, and they think that it's something that they are required to get in the form of an order in order to proceed on to divorce. That's not true. It's a completely separate judgment as opposed to a divorce. It's not a requirement to get a judgment for legal separation before you proceed to a divorce. And it's so separate that if you've got a legal separation, and you wanted to proceed by divorce later, it's a completely different case a completely different process. A legal separation is a good idea for a narrow set of circumstances, we're in parties have been living separate and apart for a significant period of time. And while they don't want to get divorced, they do want the courts to enter some orders when it comes to health insurance or support. For example. If down the road, that couple wanted to get divorced, like I mentioned, that would be its own proceeding its own divorce proceeding which is different and separate. The next area of law is parentage. This is what's commonly referred to as custody cases. parentage is generally a case between two parents or they have at least one child in common and maybe not be married. But what they want is to have an order in place that finds each of them to be the legal parents of this child or children and to put in place orders that provides for how the two of them will co parent together. Sometimes, parents can come to me like that in an uncontested way. And it's just for me to draft the agreements that they have and put them into a judgment that provides a roadmap for how they will coherence more often, usually one parent comes to me because things are not going so well with that other parent, and they want to know what their rights are. And they want to know what they could be entitled to seek from the courts. So there I can help them and file the appropriate motions that they need to make sure that their co parenting is protected. A part of this is the idea of principal responsibility, otherwise known as custody, which we will be getting

into today on the presentation. But a good thing to know at the outset is parental responsibility is the new term for custody. And what it means is decision making for a child. I think lots of times when people hear that term custody, they think it means physically having a child and that's just

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not true. It means decision making. And when we're talking about decision making, we're talking about four major areas of decision making for our child's education, religion, extracurricular and medical decisions. When we're talking about parental responsibility, generally what a person is looking for is something called an allocation of parental responsibility to be granted to them. As a court can award either sole allocation of parental responsibility to one parents were shared allocation of parental responsibility to the two parents. And generally what the courts look at is the fitness of both parents and their ability to communicate together to make these decisions. The court can award allocation of parental responsibility, and one some or all of the four major areas of decision making. But the next area we should talk about is orders of protection. Lots of times people are surprised to hear that this is part of family law. And it certainly is, and it's it's great work, orders, protection or remedies available to people who are victims of abuse or domestic violence by a loved one or a former loved one, family member or roommates. With orders of protection, we're able to represent people who are victims of this type of violence, and make sure that there's an order in place by a judge protecting that person from any future violence. This can be granted on an emergency basis without giving notice to the other side to protect the interests of the victim and avoid further abuse. Genuinely when an emergency order of protection is granted. On an ex parte basis, meaning notice isn't given to the other side of that hearing date. If it's granted, an emergency order protection can be served on the respondents. And generally that emergency order protection is good for up to 21 days here in Illinois, and then can be set for what we call plenary hearing date, where in both sides has the right to provide testimony, call witnesses and present evidence as to whether the order of protection should or should not extend. If the court finds appropriate and that there's an ongoing threat of harm, the court can extend that order of protection for up to two years, providing greater protection for that victim.

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Generally what we see are emergency orders of protection or grades and more liberally than plenary orders of protection. And the reason for that is emergency orders of protection are shorter remedy. Like we mentioned here, they could be good for up to 21 days first plenary is a more extreme remedy where it could prohibit contact between parties for up to two years. This is something that I've definitely seen on the rise since we've started quarantine due to COVID-19. So I would definitely encourage you to check in on your friends and loved ones and make sure that they're safe, where they're quarantines and if they're not make sure that they're aware that they

can't seek an order of protection if you're in an abusive situation. The next area of family law that I'm definitely seeing a lot of in the last year are prenuptial agreements and post nuptial agreements. prenuptial agreements are a great idea for couples who are engaged and planning on getting married. And we want to set forth exactly what they would like to see happen in the unlikely event of a divorce. Here I like to say prenuptial agreements. We hope that they're like life insurance policies where there's something you have to give you peace of mind. You put it in a safety deposit box and it collects dust and hopefully you never need it again, because you're happily married for the rest of your life. But if for whatever reason a divorce does take place this prenuptial agreement can protect you and protect your spouse too. From racking up lots of attorneys fees having lots of litigation on a divorce. Because this prenuptial agreement What's that for is exactly what you want to see happen in the divorce and the prenuptial agreement you could provide for lots of things that may be different than what the law would normally do. Such as how you would like to see maintenance or alimony, shakeout or what would happen with a house, as opposed to what the law would provide for a divorce. One thing to know is that prenuptial agreements cannot have provisions when it comes to parental responsibility, formerly known as custody of a child or child support are really any child related issues. The idea being is that circumstances can change. And the court wants to know what's in the best interest of the child at the time of a divorce to make a good and reasoned decision for the child in that child's best interest. Lots of times that cannot be determined ahead of time in a prenuptial agreement, things can arise that may not have existed at that time that you exist at the divorce that the court needs to take into consideration. Another side of this are post nuptial agreements, like prenuptial agreements, they are meant to be a blueprint for what should happen in the unlikely event of a divorce. The difference here is that there's something that a couple can enter into while they're still married, and not something that they need prior to the marriage. Generally, I say these prenuptial or post nuptial agreements make good sense. If we're talking about a couple were in one party has a business that they want to protect, where one party has children of another marriage that they want to be sure and protected. Or for seeing a substantial difference in incomes or debts of the parties coming into marriage. Those are some instances where it really does make good sense to talk about having a prenuptial or postnuptial agreement in place. Another area of family law is that of adoption. This is probably one of the happiest, most fun areas of family law and makes family law so rewarding. The idea of adoption, I think it's self explanatory to a lot of people, it's when someone wants to grow their family, by adopting a child that may not be their biological child after their own. Here, it's a really wonderful area of law. And I encourage so many people to explore the idea of adoption and see if it's a right fit for them because they think it's a beautiful thing to give a home to a child in need, and also to become a parent yourself. Another area of family law is that of child representation and child advocacy. We'll talk about this a bit more in depth in our presentation here. But in family law cases where there's a minor child or children, the court can appoint an attorney to represent the best interests of that child, and make sure that that that child's voice is heard in the family law case.

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Lots of times couples, when they come into a family law case, can unfortunately sometimes lose sight of what's important because it's heated and they're fighting about financials, for example. But it's important that a child's best interests are always at the forefront. And this is how the court makes sure that that can happen. When the court appoints someone to represent the best interests of the child. here in Illinois, there's three different ways the court can do that. One is by appointing a guardian ad litem, which is the one who has to act as the eyes and ears of the court by conducting an investigation and making recommendations to the court about what he or she believes would be in the best interest of the child. Another way is as a child representative, which is an attorney that has all the investigative powers of the guardian ad litem, but also can litigate on behalf of the best interests of the child. And we'll talk about those differences in some greater depth later today. Another way is the court can appoint someone called an attorney for a child. And it's just that it's someone who is appointed to act as the attorney for a child and advocate for the child and that way, and we'll talk about those roles in more depth later. Another area of family law is supposed to create work. So what that means is that someone already has a default or regular judgment in place when it comes to divorce or co parenting issues. And they need help either enforcing it, modifying it, terminating it or even vacating it. Lots of times if a judgment is put in place, it may make sense at the time. But then there's a change in circumstance where the court needs to step in and help with that judgment down the road. So generally, what this looks like is a few things. You can have a judgment in place that was entered by default, meaning the other party didn't have an opportunity to participate because they weren't participating in the litigation to begin with. If that's if there's a default judgment entered in Illinois, usually the person who it's entered against has 30 days to file something called a motion to vacate to try to reopen the case throughout that judgment and litigate the issues in a way where both parties participate. Another way is if there's a jury in place, and some time has passed, and one side isn't performing the way that they were supposed to as ordered, for example, say there's a divorce judgment, and one side is ordered to cooperate with the other side to close the joint bank account. And they're not doing that. The person who's looking for relief can file something called a petition for oil to show cause, which is essentially putting the court on notice that there's a judgment in place, this person is not complying, and I need the court to help me to get compliance. And also perhaps the word my attorneys fees in the process, we see a lot of that work on the post decree level. Another area we touched on is modification. We see this a lot for a parenting time, for example, sometimes people enter into a judgment that provides for a parenting time schedule, when their children could be much younger, and maybe not even in school yet. But then circumstances change. And nowadays, children are in school involved in extracurriculars, and have all sorts of other considerations and time as it relates to their schedule that needs to be considered into a parenting time schedule that's reworked. That makes sense, we see that a lot of the time as a child grows and develops. Another thing that we see in the poster career level is that of enforcement, which is essentially you have a judgment in place, and the other side may not be outright violating it. But I need some help getting some enforcement of that judgment. And a

court can step in and enter some orders to make sure that the judgment is being adhered to. And the next side of post decree work we see is the idea of termination. This is common and the idea of support, especially if someone is paying maintenance or child support, there generally are some terminating events that should make that support payment stop. But generally, the onus is on the person who is paying support to let the court know that a termination event has occurred, and therefore support should be terminated. And that should be put in an order. So those are just some areas of family law to be mindful of. But here today, we're going to be talking about how to establish a parentage case. And here we're going to be looking at the Illinois parentage act of 2015. If you'd like to follow along, you could find this at 750 i lsds 46. So here, it's important to talk about what's old. And

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by that I mean, what here's a jack that we haven't placed before the one we had in 2015. And here, what's old is the Illinois research act of 1984. This is what was changed and updated with the Illinois 2015 parentage act. So let's look at why we wanted to modify and change the Illinois parentage act of 1984. The first thing to know is that that act did not take into account the cultural and family dynamic changes in the last 30 years. Now it's more common to see parents who are unmarried or same sex marriages. And these weren't taken into account in that old act. Another thing to know is this old act was not gender neutral, it did not make room for same sex relationships. Another thing to know about it is it extended unequal rights to mothers and fathers and children born outside of a quote, legal relationship. There was a pervasive idea that moms automatically won custody disputes due to their gender alone. And that is just not the case here

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today.

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I like to believe that all courts lens a fair ear and give a fair chance to either parent regardless of their gender, when it comes to rights to their child. Here are the Act also wanted to make sure that that was the case. And that was at the forefront that someone wasn't given an unfair advantage and a case just due to their gender. Another thing to know is that it previously extended rights to children born outside of a marriage that were different and lesser than the rights of a child born within a legal relationship or marriage. Here you can see that this act really needed to go it really needed to change because it was old fashioned and it didn't account for what was actually happening in the world today. Where we see different family makeups that you know should be afforded the same rights that any other relationship would have when it comes to parenting a child. So next, we should look at the timeline of law change and see really what got us to this

Illinois 2015 parentage act. So some important dates to know about June 1 2011. That's when the Illinois Supreme Court establishes that civil unions allow for same sex marriage and opposite sex couples to be recognized in Illinois on June 26 2013. Here we saw that the United States Supreme Court ruled that the constitution allows for same sex couples to marry June 27 2015, we saw that the United States Supreme Court ruled in favor of same sex marriage nationwide ruling that states cannot ban same sex marriage. And it was shortly after that on June 1 2016, that the Illinois parentage act of 2015 went into effect. So we could see that starting June 1 2011, there was a shift to get away from that 1984 appearance, Ajax it did take some time.

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But

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once we got that periods of Janson place, it accounted for all these shifts and changes in the law. So let's talk about what's new, the Illinois parents rejected 2015. This is the act that family law attorneys in Illinois follow today. And I'd like to go through it with you and point out some important portions of the statute and explain them in some words. So first, we're going to talk about section 102, which is the new public policy that's in place with this new Act. And the new public policy here is that it's meant to recognize the right of every child, the physical, emotional, mental and financial support of his or her peers. And also that the parent child relationship extends equally to every child to his or her appearance, or to each of his or her parents, regardless of the legal relationship with appearance. And regardless of whether the parent is a minor. So it equalizes the rights of the parents, despite whether their parents are minors meaning under 18 here in Illinois, regardless of whether the parents are married, and regardless of whether the parents are seeing sex. I also want to touch on some new definitions that we see here in the statute, specifically, section 103. We see here that in the definitions, it removes the designation of mother or father in favor of parents. So that's that gender neutrality that we were talking about. In the terms of general are more gender neutral. One important thing to know is that practitioners based on the statute or getting away from using the term paternity case, and instead calling it appearance edge case to keep it more gender neutral. Like we talked about before, that this act

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is meant to take into consideration that same sex marriages and civil unions, and in doing that, if it fills the requirements of the Illinois constitution. So let's talk about section two, a one, which provides for new automatic establishment of the parent child relationship. So this is similar to the prior law, but provisions now are more parallel between the genders and we'll get into that in

depth. But first, I want to talk about that now, there's no need for adjudication of periods. If a parent has signed a voluntary acknowledgement of paternity, otherwise known as a bap, or VAP, Watson of people I work with are surprised to hear about this document at all, even though they probably did sign it at the hospital at the time of their child's birth and just didn't even remember in the in the emotion and the whirlwinds of having a new child in the world. But it's a very important document. And I would say that people should always be very careful and read it thoroughly before it's ever signed. So let's talk about why this is a document that could be signed at the time of birth, or for that matter, anytime after a child is born to establish parentage outside of court. This document details information about the parents and the child and are, it's to be signed by both parents in front of a witness. One thing to know under this new Act, minors under 18, who are parents

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can now sign this document without the consent of their parents when that wasn't always the case. And this is the most important thing to know about it.

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Someone who is signing a voluntary acknowledgement of paternity should be very cautious, because if it signs it waives the right to a DNA test leader. Essentially what this document is saying is that I knew that this child is mine, and I'm acknowledging the parentage of this child. And I'm acknowledging it so much that I'm not asking for a DNA test. I'm waiving my right to a DNA test. Some people may feel that way at the time of birth, and then change their mind later. So it's really important that someone understands the gravity of this document when they sign it. And it's important also to know that after a voluntary acknowledgement of paternity has been signed for 60 days. It's permanent except in cases of fraud, duress or mistake of material facts, which are difficult to bring to the court and to prove. So I would always caution any parent who has any sort of question about whether a child is theirs to not sign this voluntary acknowledgement of paternity. So be very careful if you do sign it. So we also want to talk about how this statute to a one shows parallels between genders that it didn't show in the 1984 Act. The first one to know is parents edge, a parent child relationship is established for a woman in five different scenarios. One is if that woman gave birth to the child, except as provided for an invalid gestational surrogacy contract. Another way is if there's an adjudication of that woman's parentage. Another one is through adoption. Another one is through a valid gestational contract under the gestational surrogacy act. And the other way is through an unrebutted presumption of parentage under Section 204, which we'll actually be talking about on the next slide. And we can see that this has parallels with the establishment of a parent child relationship for a meal. under the statute. There are five ways that this, this relationship can be established for male, the first one being through an unfit rebutted presumption of parentage under Section 204. Like I said, we'll

get into those through a voluntary acknowledgement of paternity unless that voluntary acknowledgement of paternity has been rescinded, or successfully challenged, which we will also talk about later today. If there's been an adjudication of parentage, there's been an adoption or if there's been a valid gestational contract under the gestational surrogacy act.

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So

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we see in both of these statutes that it does talk about the idea of adjudication of parents at the edge. So some people may have questions about what that means. What did you dication means is that one parent brings to the court a petition to establish parentage, alleging who the parents are of this child in saying that they want an order to be put in place that protects the rights of the parents. When this is brought by a parent, there may not be a voluntary acknowledgement of paternity, but they're alleging that they are the parents. And they want there to be an order either by agreement of the other parent, finding them to be the parent or in the alternative, through a court order a DNA test. And that DNA test comes back showing that there is in fact a parent child relationship, the court will enter an order finding that finding who the parents are of this child, and therefore, those parents have rights to the child and also can file motions when it comes to the well being and best interest that their child. Once parentage is established. That parent has a right to seek parental responsibility, otherwise known as custody or decision making, parenting time, otherwise known as visitation, child support, and a number of other things when it comes to the CO parenting and well being of their child. So like I promised, let's talk about section 204, which provides for the new presumption of parentage, like we touched on earlier, it's important to notice that it's, it's now called the parentage. It's not paternity. So this is a gender neutral term. And it's obvious from the parallels as we discussed on the last slide. It also changes the presumption of parentage, it provides that a parent child relationship extends equally to every child and his or her parents, regardless of legal relationship or age, which as we talked about was not available under the 1984 acts. This also extends regardless of the gender of appearance, there's no presumption of parentage and civil unions or similar legal relationships, not just marriages. In addition, it's more simple to establish appearances for unmarried parents, as we talked about on the last slide. With this new presumption, it's gender neutral, and it's it has more specific timeframes for how parentage can be presumed and how to rebut it. So let's move on to the next slide, which talks about that presumption. So it's important here to know that there have been there been changes to the establishment appearance edge, as opposed to the 1984 acts and we see four or bartable, presumptions appearance edge. So what this means is that the burden to rebut parents age is on the one challenging the parents edge. So it's assumed that appeared is better. No, it is assumed that there's parents education Between a parents and a

child. If we see one of the four scenarios that I'm going to detail here, the first one is if a child was born, while a person and mother are married in a civil union or a similar relationship, if that happens, it's assumed that that person is the parents of that child. But the next rebuttable presumption is if the child was born during or within 300 days of the termination of sad relationship. The next one is if the child was born during or within 300 days of termination of an invalid marriage, civil union or similar relationship, but the parties attempted to comply with the law for this theme. The next presumption is if a person enters it's a federal relationship with a mother after the birth, and that person is listed on the birth certificate if the child is born to the mother, while the parties are this type of relationship, parentage is assumed only to be rebutted by what we call clear and convincing evidence. Here, it used to be that if it used to be that two of these presumptions were considered to be conclusive, unless the person who signed the voluntary acknowledgement of paternity acted promptly to rebut the parents edge pursuant to Section 12 of the vital records act. Now it all of these needs to be proven by clear and convincing evidence instead of considered conclusive. Also, if two or more conflicting presumptions arise under this section, so if there's a situation, not just one of these, but two are warm, the presumption is what the courts will do with that

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is look at the facts founded on the weightier considerations of policy and logic, especially promoting a child's best interests. That's what should control. And that's something important to know in family law, in general, a phrase you'll hear over and over again, is the best interests of the child. And that's at the forefront of any family law case involving children, the courts want to always look to the best interests of the children and protect those best interests. That's the extent possible, sometimes even to the detriment of a presumed parent, which we can get to in a little bit here. Now, we want to talk about section 205, which are the proceedings to declare the non existence of a parent child relationship. So one thing to note here is that can be brought by the child, the birth mother, or the person presumed to be the parent under the Act via a verified completes as the meaning that this is a complaint that's signed by the person bringing it under oath, saying that everything in this petition is true and correct to the best of their knowledge. After a presumption of parentage is rebutted under Section 204. Parents search by another can be established. So that means that if someone successfully can show that they're actually not the parent of this child, and the presumption of parentage is rebutted, someone else can then step in, to establish themselves to be the parent of this child. Proceedings to declare the non existence of a parent child relationship can be barred, if brought less than if brought later than two years after the petitioner knew or should have known of the underlying facts, giving rise to the possible non existence of a parent child relationship. This act also provides that it shall not extend beyond the child's reaching 18 years of age. There's a two year time limit does not bar asserting a defense and an action to declare existence of a parent child relationship. It does not include time periods where a mom refuses to submit to a DNA test. It can also be brought after an adjudication of

parentage if a negative DNA test is had, and can vacate all orders regarding parental responsibility, parenting time and support. The idea here is if someone successfully proves and shows that they are not the parent of this child, all of the orders that provide for co parenting go out the door, and that person no longer has any rights to that child as they would as appearance. They don't have that right security time. They don't have that right to decision making. They don't have that right to receive support, they've been receiving support, that that all goes out the window and there's an opportunity for someone who may actually be the parent to be established, and to have those rights and to have those orders in place. And then a quick aside here, I want to talk about section 404 B, which provides for the procedure when genetics experts disagree as to appearances, which sometimes can happen. So here we're talking about, for example, conflicting DNA tests. You know, one showing that a person is a parent of a child and one showing that a person is not a parent of a child, that the question will be weighed with other competent evidence of paternity when the court views these conflicting results. So that's a way of saying that the court can hear other evidence, take other testimony to support which of these DNA tests is right. It's not something I've personally seen happen. But the fact that it's in Section 404 B, makes sure that in the event that does happen, the court can consider both of those tests and other evidence when it comes to determining if there is parentage or not parents edge. So now I would like to talk about section 610, which talks about the new stances on DNA testing, which we got into a little bit. First and foremost, courts consider the best interests of the child before ordering genetic testing. So with that, in mind, courts are now allowed to deny motions for DNA testing if the conduct of a presumed parent has stopped that person from his nine parents edge if it would be inequitable to deny the parent child relationship, and it is in the child's best interest to deny genetic testing. And the court considers the length of time age nature of relationship

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effect on the equities etc. The old law used to say that you could file suit challenging parentage up to your child's 20th birthday. Now that stopped at 18. And the new law also says that a suit can only be brought two years after a parent learns or should have learns about the relevant facts leading to proposed challenge of paternity. So put simply, if someone believes that they are not the parent of this child as they had previously thought, they can't sit on that information. Whenever they learned whatever facts that give rise to the idea that they may not be the parent of this child, they should get into court right away and must do it within two years, in order to bring this to the court's attention. So today, we want to talk about what factors the court will consider when thinking about the child's best interest in potentially denying genetic testing. So the first thing that the court would look at is the length of time between the presumption or acknowledgement or adjudication of parentage, and the time that this proceeding is brought the length of time that the petitioner assumes a parent role with this child. Next, the facts surrounding discovery of a possible non parentage situation.

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Next,

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the nature of the relationship between that parent and child, the court will also consider the age of the child. The court will also consider the potential harm to the child if parentage is disproved. The court will also consider the extent to which passage of time reduces the chances to establish parentage of another person and securing a child support obligation in favor of that child. The court will also look at other factors that may affect the equities arising from the disruption of parentage, and any other factor that the court deems equitable. So the court really has a wide latitude here to deny the request for DNA testing. And the idea here is the court wants to protect the best interests of the child and the child's access to two parents and the support of two parents from the decision making up to parents to the extent possible. Generally speaking, when we see these types of motions, courts really do look at the age of the child and what kind of relationship that the child had with his parent. If that relationship has been non existent, it's a bit easier to prevail on emotion for DNA testing. If this has been a substantial and ongoing and lifelong parent child relationship, the court will look at that closely and be careful about up ending that with a potential DNA test disproving parentage. So here, I would say that petitioners should be very careful and tread very lightly and know that courts really can deny these motions for DNA testing if they think it's not in the child's best interest. So that brings me back to the first idea of being very careful about signing a voluntary acknowledgement of paternity. A good rule of thumb always is to know exactly what you're signing, and read it carefully and only sign it if you completely understand it. So next, within 610, I'd like to talk about the new factors considered with DNA testing. So we talked about these on the earlier slide but as a refresher that we look at the length of time between the birth and the time the present Parent learns he or she is not the biological parents. The length of time presumes that the parent has parents of the child, the child's age, the type of relationship between the parent and child and any harm that may result in rebutting the presumption of parentage with DNA testing. In this type of proceeding, a child's must be represented by a guardian ad litem, a child representative or an attorney for child, which we touched on briefly in the earlier slides. And we'll talk about in more depth, what those what those roles are and how they differ and what they mean. But the idea here, for purposes of this slide is the court wants to make sure that a child is advocated for and that his or her voices heard in this type of proceeding, that they're not just the silent bystander, but that they're being represented and advocated for in this case. Another thing to know is if a court denies a motion, for DNA testing, it shall issue an order adjudicating the presumed parent to be the parent of the child. So if a DNA test request is denied, an order is going to be put in place saying that you are the parents. So that's again, where I would say tread very lightly with signing voluntary acknowledgement of paternity and bringing a motion for DNA testing. So let's move on to the next slide. I'd like to talk about section 501. And here we see some things don't change. In the 1984

Act versus the 2015. ads, we talked about several areas where there are major differences between the two apps and why we needed that 2,015x. But some things did not change under this act, because they're they're working and they serve the core and a child's Well, when it comes to the supports, for example. So here are child support. That's one thing that did not change under the fact under Section 501, temporary orders for temporary orders for child support can be put

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in place if someone is presumed to be a parent to the child through marriage, civil union, etc. At the time of birth. If someone is petitioning to have parentage adjudicated, if someone is identified as the parent through DNA testing, if someone is declining to submit your DNA test, the court can construe that as a positive test where there's a parent child relationship. If someone is shown by clear and convincing evidence to be the child's parents, if someone is the mother of the child biologically, or if anyone else is determined to be the child's parents. Here, child support uses the guidelines of 505 and 505. Wheat to have the Illinois a marriage and dissolution of marriage act. So an important thing to know about Illinois is that Illinois now uses something called the income shares model, and putting in place child support. And what this does is it looks at the respective income and parenting time schedules of the parents and calculating child support. And the idea here is that child support can be put in place temporarily meaning molecule is proceeding and on a permanent basis, meaning that once there's a final judgment in the case, and that there's no longer litigation on the case, child support can be payable up until a child turns 18. And graduates college, the burden could be on the payer to bring a motion to terminate Child Support once Child Support should be terminated and the child has reached that age and graduated high school. And another thing to know is that child support is meant to cover the basic necessities of a child. It's meant to contribute to food, clothing and shelter. Something that's completely separate are expenses of a child such as out of pocket uncovered medical expenses, educational expenses, extracurricular expenses, religious expenses, that petty daycare expenses, those can be split by the parents. On top of a child support award. Child Support is meant to cover the basics expenses are on top of child support. That's important to know. And it's also important to know that child support it can be modifiable down the line, especially in the year 2020. We saw lots of people's incomes and employments change, lots of people got furloughed, laid off, let go fired. And because of that the incomes between the parties have substantially changed. Sometimes even the piercing time of the parties have substantially change out of an abundance of caution when it comes to COVID-19. So when we're seeing substantial changes in income or parenting time, that's a good reason to bring a motion to modify child support to make sure it's in keeping with the statute and calculated correctly. Another thing to know is that child support cannot be waived by the parents. The idea here That child support is something that may be payable by one parent to the other. But it's awarded to a child it's meant to benefit a child. So the parents aren't able to say, yeah, we're we're waiving the idea of child support forever, unless they can show that there's some way that this child is otherwise adequately supported. Courts want to make sure that

children have the financial support of both parents and take that very seriously. Another thing that didn't change under Section 502 is the idea of removal, otherwise known as relocation. While the guidelines for removal have changed, I would suggest that you see 750, ALCS five slash six or 9.2, the rules for removal still apply and appearance. Appearance can be enjoined from temporarily temporarily removing a child from the state during a case. And if a parent is looking to enjoin the other from removal, or if a parent has already removed a child from the state, the court considers the extensive the other parents previous involvement with the child's the likelihood parents it should be established. And the impact on the financial, physical and emotional health at the party being enjoins. So people are often surprised to hear that this is part of a family law statute. But here in Illinois, there's a certain mile radius, that a child cannot be removed from by another parent permanently, unless the other parent agrees, or if there's leave of court to do so. If someone wanted to move further away, taking their child's with them, and there isn't an agreement from the other side, they would have to petition the court and bring a petition for relocation. And the court would have to have a hearing I hear from witnesses take testimony and look at evidence as to why this move would be in the best interest of the child. Likewise, if someone just moves

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so far away with a child without leave of court without agreement of the other party, the other parents can bring a motion for emergency Return of the child back, saying that this, asking the court to order that this person immediately return and come to court and be enjoined from further removing a child without agreement or leave of court. So I would always say that it's important for people are co parenting. And for people who are not married or in relationships that know about the idea of removal and relocation and know that they can't just move without some possible ramifications on courts. So here it's always important to talk to a customer family law attorney about your plans when it comes to changes and co parenting. And the idea here is that if there's a parent still here that has a right to parenting time and decision making, the courts don't want that hampered the courts don't want that frustrated, simply buy a move. There needs to be provisions in place that if for relocation work to happen, how this parenting time would still go on. So something to consider. Some other things that don't change under Section 613. We see the idea of child representation. A minor child is a permissible parties to a case and can be represented by either a guardian ad litem, otherwise known as a jL, a child's representative or an attorney for the child. So we touched on these rules briefly, but it's important to know what they are and what they do. A guardian ad litem is someone who's appointed to be the eyes and ears of the court. This is a family law attorney that the court fallax in orders to act as the guardian ad litem to be its eyes and ears and conducted investigation as to the best interests of the child. The court needs its eyes and ears because this you're aware, a judge is unable to get off the bench and meet with every child and meet with every family and get a full sense of what's going on in a case in that way. And so a guardian ad litem does that instead, through his or her investigation.

The guardian ad litem meets with appearance needs with the child and anyone else but the guardian ad litem believes is someone was meeting when it comes to conducting an investigation and forming a recommendation as the best interests of the child and the ultimate outcome of a family law case. The guardian ad litem then produces an oral or written report to the court as to his or her investigation and what he or she would recommend, as a final resolution in the case in the in the vein of the best interests of the child that guardian ad litem can make recommendations for who should have parental responsibility, what parenting time look should look like etc. From there. The court generally accepts the court's recommendations and encourages the parties to settle based on those recommend And if they can't, a guardian ad litem can be called as a witness at trial and cross examined as to his or her investigation and recommendation. The next role is that of a child's representative. That child rep as we otherwise call it has the all the investigative powers that we mentioned of a guardian ad litem, but also has the ability to litigate on behalf of a child by conducting discovery, filing pleadings, calling witnesses and opposing witnesses and also reviewing expert records. When it comes to any ultimate litigation or trial on a case, ends can litigate and call witnesses at trial just as an adults attorney can bear the child representative shall consider but is not bound by the wishes of the child. What a garden, what a child wrap is bound to do is they actually to advocate for the best interests of the child. Sometimes the child may be too young or too immature, to articulate his or her wishes in a reasoned way, that are also in his or her best interests. And so that's where a child wrap can come in and advocate for what he or she believes is in the child's best interest. The next form of this is the attorney for the child, which is just that it's an attorney that's been appointed to represent a child in a case like a child Rep. What we talked about is that this attorney has the ability to file pleadings, conduct discovery columns, oppose witnesses and review expert records and litigate at trial. But the difference here is that an attorney for a child has an undivided duty of loyalty, confidentiality, and advocacy that would be owed to any adult clients.

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And this child's attorney must advocate for the child's wishes, just as it just as an attorney for an adult would have to do. So with these three different roles. What we see by and large is that often a guardian ad litem is appointed for a younger child who may not be able to articulate what he or she wants in a guardian ad litem can do a global investigation based on the into the facts. In a child wrap. It is generally for a child who can be older and can express his or her wishes. Same with an attorney for a child. When it comes to the appointment of an attorney for a child. Generally what the court wants to see is that this child is old enough and mature enough to express his or her wishes in a reasoned way. So that the attorney for the child can advocate for that. Here we also see the idea of in camera interviews, were in the court can have an in camera meeting in chambers interview with a child where the parents are not present and the child can express to the judge what he or she wants and can also illuminate some of the facts of the case. There's also the possibility of a child providing testimony in a case. This is where courts tend to

favor and camera interviews over hearing child testimony in court, as providing testimony in favor or against one parent through child can be traumatizing can be a major life experience, or as an in camera interview kind of removes that concern in that risk. In camera interviews can happen when a child has a guardian ad litem child's representative or child attorney and seeing with child's testimony. Another thing that I want to touch on is the imdm Ma, otherwise known as the Illinois marriage and dissolution of marriage act. One thing to know is that the parentage Act applies to unmarried parties, but changes to many of the same ideas apply to married parties as well. Both types of cases must still provide for the care parental responsibility, control and parenting time of minor children. Both types of cases contain all words of child support. And both types of cases are governed by the same removal provisions. Basically, the parentage act refers back to the I MDMA, that the same rules that are in place for couples who are unmarried and not getting divorced also apply to couples who are getting divorced. So we can see that there's more equalization across the legal status of parents when it comes to cases involving their children. Another thing to know and both marriage and non marriage cases, we have the idea of parenting time otherwise known as visitation, parental responsibility, otherwise known as custody or decision making, and parenting plans, which used to be known as joint parenting agreements in Illinois. But those are full and complete judgments, that detail everything having to do with the parties, co parenting and how they're to operate and coherence. Also important to know in both of these types of cases. in Cook County, both parents, both parents and both types of cases must complete parenting classes before a final judgment is made. We actually see this as a requirement all over along the way. The class itself may be different, but the requirements to complete appearance in class stays the same. Also in contested cases and Cook County parents in both types of cases must also complete mediation, and may have a child rep or guardian ad litem appointed or a child's attorney, except in the event of an emergency, emergency orders of protection, other orders protection or some extenuating circumstance where the court finds that may be inappropriate says then the parties to mediation. So let's talk about if you're a family law attorney and you're a new family law attorney, you may want to know how do I do this? How do I actually file appearance edge case? So here's how you get started. You first file a petition for establishment of periods edge and that petition, you want to allege jurisdiction, who the parties are who the minor child is, certainly let the court know if there's a voluntary acknowledgement of paternity. One thing to know is that the jurisdiction should be where the child is living. You also need to file a summons to gain service on the on the other parents, and they would have 30 days from that date of service to file an appearance. If they don't they could be held in default, which means that the parent who filed the petition could potentially seek an allocation judgment or a parenting plan to be entered by the court without participation of the other parents.

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So I would say if you've been served with a summons, act quickly, make sure your appearance is on file so you can participate my case, just burying your head in the sand is never a good idea.

And as you're litigating on appearance which case, it's important to know that there are various motions, you can file for remedies. For the person you're representing. You can file a motion for allocation of parental responsibility, emotion for parenting time, emotion for child support, motion for contribution to expenses, which are those expenses we talked about, which are over and above child support, daycare, education, religion, extracurricular and medical, you can file a motion for the appointment of a guardian ad litem child representative or child's attorney, you can file a motion for Return of the minor child if they've been removed, you can file a petition for order of protection, if there's been some abuse. You can also file a petition for relocation, among others. These are just some motions, you can file and parents edge cases. And the final question is how do we determine an outcome and appearance edge case. This can be done in a few ways. This can be done by agreement of the parties, when they come together, determine how they want to compare it and that's putting the final judgment can be done with the help of mediation. It can be done with the help of a guardian ad litem or a child representative guiding settlements. It can be done by default, as we talked about, it can be done ultimately in a trial where a court makes a decision for the periods as to what this judgment should say. And with that, I would encourage you to reach out to me Should you have any questions? I have a slide containing how you can reach me and I'm happy to answer any questions or talk about any of this further should you wish. If you check out our website, there are different articles and podcasts that you could check out at different family law topics should you be so inclined. And I'd like to thank you all for listening to me today. Thank you very much for your time and as I mentioned, I am here for you if you have any further questions. Thanks very much