

**IN THE COURT OF APPEALS OF IOWA**

No. 6-874 / 06-0307  
Filed December 28, 2006

**IN RE THE MARRIAGE OF RICHARD B. LEGG  
AND TIMOTHEA R. LEGG**

**Upon the Petition of  
RICHARD B. LEGG,**  
Petitioner-Appellant,

**And Concerning  
TIMOTHEA R. LEGG, n/k/a TIMOTHEA R. RAHN,**  
Respondent-Appellee.

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Appeal from the Iowa District Court for Marshall County, Dale E. Ruigh,  
Judge.

Richard Legg appeals the modification of Timothea Rahn's child support  
obligation. **AFFIRMED.**

Barry S. Kaplan and Melissa A. Nine of Kaplan & Frese, L.L.P.,  
Marshalltown, for appellant.

Timothea R. Rahn, Ferguson, pro se.

Considered by Mahan, P.J., and Miller and Vaitheswaran, JJ.

**VAITHESWARAN, J.**

Richard Legg assumed physical care of his son Tyler pursuant to a stipulated dissolution decree. At the time the decree was entered, Tyler's mother, Timothea Rahn had no earnings. Accordingly, her child support obligation was set at fifty dollars per month. The parties later stipulated to an increase in her child support obligation to \$150 per month, despite the fact that she still had no earnings.

In January 2005, Rahn asked the Child Support Recovery Unit (CSRU) to review her support obligation. See Iowa Code ch. 252H (2005). The CSRU recommended a reduction because "the current support obligation varies by more than twenty percent from the amount that would be due under the mandatory child support guidelines." The CSRU found Rahn's gross monthly income to be \$650, and Legg's gross monthly income to be \$3188. Legg contested the recommendation and requested a hearing. The district court confirmed the recommended reduction, and reduced Rahn's child support obligation to fifty dollars a month. Legg appealed.

A hearing under chapter 252H is "an original hearing before the district court." Iowa Code § 252H.3(3). Our review of the court's order in the original proceeding is de novo. *Cf. State ex rel. Heidick v. Balch*, 533 N.W.2d 209, 211 (Iowa 1995).

Legg first argues that Rahn failed to establish a material and substantial change of circumstances since her child support obligation was modified. We disagree. The district court relied on Iowa Code section 598.21(9) (2005), which states, "a substantial change in circumstances exists when the court order for

child support varies by ten percent or more from the amount which would be due pursuant to the most current child support guidelines . . . .” Additionally, CSRU regulations authorize the initiation of procedures to adjust support when “[p]resent child support obligation varies from the Iowa Supreme Court mandatory child support guidelines by more than 20 percent.” Iowa Admin. Code r. 441-99.62(3)(a)(1). The district court found and concluded,

Given the parties’ actual present incomes, the child support guidelines promulgated by the Iowa Supreme Court indicate that Ms. Rahn should be paying \$50 per month, a variation far exceeding 20%. Absent a deviation from the guidelines, this variation supports a modification or change in Ms. Rahn’s child support obligation.

Legg does not take issue with the income figures used to arrive at the fifty dollars per month child support obligation. He also does not dispute that the prior order varies by more than twenty percent from the amount that would be due under the present guidelines. For these reasons, we conclude that the district court acted equitably in modifying the support obligation.

Legg next argues that the district court should have deviated from the amount due under the guidelines. He contends Rahn is capable of earning more than part-time wages, as she was at the time of the district court hearing. He acknowledges she now has a disabled child, Brianna, who requires significant care, but contends that her new husband can assist with that care, given his seasonal employment.

Our child-support rules permit courts to deviate from the guidelines if they make “a written finding that the guidelines would be unjust or inappropriate as

determined under” specified criteria. Iowa R. App. P. 9.11. The court declined to deviate, reasoning as follows:

Given the extraordinary parenting demands associated with Brianna, however, the court finds that Ms. Rahn’s working only part-time outside the home is reasonable. A deviation from the guidelines is not warranted by the existing circumstances. Of course, the day may come when such a deviation is justified. The record, however, does not contain sufficient information about Brianna’s future to allow the court to competently predict when that time may be.

The court concluded:

A deviation from the guidelines is unwarranted under the existing circumstances. The court acknowledges that a child support payment of only \$50 leaves Mr. Legg with almost total financial responsibility for Tyler. Ms. Rahn’s decision to remarry and have more children would not normally support a reduction in her financial responsibility for Tyler. The unique and extraordinary circumstances surrounding Ms. Rahn’s care of Brianna, however, do support such a reduction.

We give weight to the district court’s findings and we agree with the court’s conclusions on this issue.

Legg requests appellate attorney fees and an order requiring Rahn to pay the costs of this action. Legg is not the prevailing party and would not be entitled to an award of appellate fees even if chapter 252H authorized such an award.

He shall bear the costs of this action.

**AFFIRMED.**