

## Introduction

The story of family law in the twentieth century is complex. This was the century that said goodbye to common-law marriage and breach-of-promise lawsuits. This was the century of the sexual revolution, women's liberation of gay rights, and cohabitation as well. Marriage lost its powerful monopoly over legitimate sexual behavior. Couples who lived together without marrying now had certain rights. Gay marriage became legal in a handful of jurisdictions. By the end of the century, no State still prohibited same-sex behavior. Children in many states could legally have two mothers or two fathers. No fault divorce became cheap and easy. Illegitimacy lost most of its social and legal stigma. These changes were not smooth or linear – all met with resistance and provoked a certain amount of backlash. Families took many forms, something new and different, and though affected by the wind of change, the family will always emerge stronger through love, faith, and knowledge.

## Family Law

Family law consists of a body of statute and case precedents that govern the legal responsibilities between individuals who share a domestic connection. These cases usually involve parties who are related by blood or marriage, but family law can affect those in more distant or casual relationships as well. Due to the emotionally-charged nature of most family law cases, litigants are strongly advised to retain legal counsel.

The vast majority of law proceedings come about as a result of the termination of a marriage or romantic relationship. Family law attorneys help their clients file for separation of divorce, alimony, child custody, visitation, and support. Spouses married a short time may seek an annulment and special rights may exist between same-sex couples. The division of property at the end of a marriage is also a common issue in family law cases.

With respect to property division at the time of divorce, every state has a comprehensive set of laws in place to determine the rights of the parties. However, couples who do not agree with the default rules in their state can “opt-out” by hiring a lawyer to draft a prenuptial agreement. Absent fraud or duress, courts will enforce these premarital agreements upon divorce, and distribute property and financial support accordingly.

Family law also involves the prevention of physical and emotional abuse. The potential for domestic abuse is not limited to relationships between current or former spouses and their children. Judges will not hesitate to assert jurisdiction to protect an elderly family member, someone in a dating relationship, or even a roommate. When allegations of abuse are made, the court will typically issue a restraining order to prevent further contact.

In a contested family law case, most people understand that hiring a skilled lawyer will provide an advantage. An attorney can find assets or income the other party is trying to hide; present arguments regarding child support and visitation; and even take the case to trial if

settlement talks fail. Attorney representation is just as crucial in uncontested cases; however, without it a party is vulnerable and can unknowingly waive important legal rights.

### Parental Rights and Obligations

The issue of child custody is the most common dispute in family court. As should be expected, parents are extremely concerned with safety, education, and overall wellbeing of their children. Custody decisions become even more difficult following a divorce or breakups, as parents tend to be distrustful of each other at times. Regardless of the state of affairs between the parents, judges will always decide custody based on the best interest of the child.

In an effort to do what is best for the child, the court will assign legal and physical custody to one parent, or these rights can be shared. A typical schedule would allow the child to spend weekends, summers, and alternating holidays with the non-custodial parent, with both parents having an equal say in major decisions affecting the child. When approving a custody schedule, the court will do what it can to avoid unnecessary disruptions to the child's life.

All parents have a legal duty to provide financial support for their children. The amount of support ordered in a particular case will be calculated according to state statute. Most states publish a child support worksheet that simplifies the task. The calculation will take into account the respective incomes of the parents, the cost of health insurance for the child, support paid for other children by the non-custodial parent, and more.

Custody and support orders are subject to modification. In fact, family law attorneys spend much of their time representing clients in modification proceedings. To alter a visitation schedule or revise the amount of child support, the requesting party must demonstrate that circumstances have changed since the order was entered. Examples of changed circumstances include loss of employment, a parent becoming disabled, etc.

Family law can involve a number of other issues. Establishing (or disproving) paternity is a common subject of litigation, although it is becoming less complicated with the ability of courts to order DNA testing. Other issues include the termination of parental rights, adoption, gay and LGBT relations, and grandparents' rights. Family law in the 21<sup>st</sup> century is evolving quickly, making it more important than ever to seek advice from a qualified attorney.

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Organizations Regarding Family Law

Publications Regarding Family Law

**Organizations**

American Academy of Matrimonial Lawyers

International Academy of Collaborative Professionals (IACP)

International Society of Family Law

National Council of Juvenile and Family Court Judges

Resolution, First for Family Law - UK