

FAMILY LAW GUIDE

What is Family Law?

Family law consists of a body of statutes 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 family 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 or divorce, alimony, and 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 prenuptial 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 attorney 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 & Obligations

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

In an effort to do what is best for the child, the court can assign legal and physical custody to one parent, or these rights can be shared. A typical schedule would allow the child to spend weekdays, 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.



Family Law Guide Speedy Study Guide

Julia Schneider



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