

FAMILY LAW

What is family law?

Brette Sember, JD

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Overview and professional resources for attorneys

Legal glossary · Family law

Highlights

- Family law encompasses divorce, custody, support, adoption, and protective orders across multiple court systems.
- Child custody decisions prioritize the child's best interests using state-specific factors and standardized jurisdiction rules.
- Courts enforce child and spousal support through wage garnishment, asset seizure, and license suspension.

Family law is a comprehensive discipline that involves many subspecialties of law that impact families and intimate relationships.

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Divorce cases

Paternity

Child custody and visitation cases

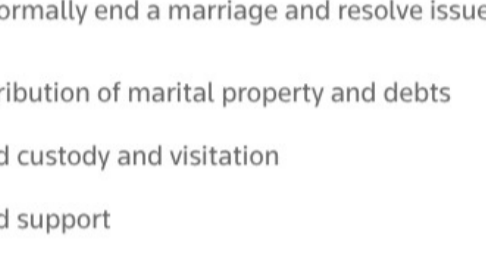
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Divorce cases

Divorce is the type of case most people think of when they hear the term “family law.” Dissolution of marriage cases formally end a marriage and resolve issues that may include:

- Distribution of marital property and debts
- Child custody and visitation
- Child support
- Spousal support or alimony
- Domestic violence** and restraining orders

Divorce cases are some of the most complex matters heard in family court. State laws governing divorce matters vary greatly, with differences in:

- Waiting periods
- Residency requirements
- Filing requirements
- Fees
- Property division laws
- Child custody laws
- Spousal support laws

Legal separation cases

Some states provide for legal separations, in which a court declares a couple still married but separated. Many legal separations are completed by agreement, but it is possible to litigate.

These cases can also include:

- Child custody
- Child support
- Spousal support
- Domestic violence and restraining orders
- Distribution of marital property and debts

Annulment cases

Family court also handles annulments, in which a marriage is declared void from the beginning. This is different from a divorce in which a marriage was valid but is dissolved in the divorce.

Reasons for an annulment may include:

- Bigamy
- Fraud or force
- Underage party/parties
- Mental incapacity
- Inability to consummate the marriage

If there is marital property to distribute, the court makes that determination. Children born into an annulled marriage are legitimate, and custody can be determined as part of the case.

Consent to marry

If an underage person wants to get married, state laws may require judicial approval. When this is necessary, this case is heard in family court.

Paternity

Family court can determine the paternity of a child. Some cases involve a simple acknowledgement or admission, but others involve DNA testing and a trial.

Child custody and visitation cases

Child custody cases determine custody or modify or enforce existing custody and visitation orders. These cases can include:

- Unmarried parents seeking custody
- Separated married parents seeking custody
- Divorced parents seeking modification of an existing custody order
- Stepparents, grandparents, or other parties seeking custody

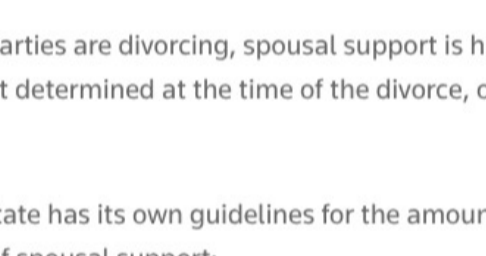
The **Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)**, which has been adopted by most states, standardizes when a state has jurisdiction over a custody case and simplifies enforcement.

Custody and visitation cases are determined based on what is in the best interest of the child. However, each state has its own list of considered factors, which may include:

- Mental and physical health of the parents
- Mental and physical health of the child and their adjustment to their home, school, and community
- The child's special needs
- Domestic violence in the home
- Educational opportunities available through each parent
- Substance abuse by either parent
- Which parent has been the primary caregiver
- Parents' work schedules
- The child's relationships with siblings, half-siblings, and other family members
- Each parent's ability to cooperate with the other parent and encourage their relationship with the child

There are a few sub-niche areas in this type of case, including:

- Relocation cases: This is when the parent with primary physical custody seeks to move out of the area
- Voluntary surrender of parental rights: A parent can choose to give up their parental rights. This is most common when there will be a stepparent adoption.
- Third-party custody: These are cases in which a non-parent (such as a grandparent) seeks custody.



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Child support cases

Cases establishing, modifying, or enforcing child support are also heard in family court. These matters involve assessing the income and financial status of both parents, considering the custody plan, and using a formula to determine how much child support is owed.

The **Uniform Interstate Family Support Act (UIFSA)** was adopted by every state and streamlines jurisdiction and enforcement so that all states follow the same rules.

Child support is usually calculated using a formula, but it is possible for parents to deviate from the formula in certain circumstances. Additionally, many states allow for judicial discretion in determining child support for high-income or high-asset families over a set cap.

In addition to income-based payments, child support may also include sharing of children's expenses such as:

- Health insurance
- Health costs
- Tuition
- Educational expenses such as supplies, uniforms, instruments, tutoring, and lessons
- Child care
- Extracurricular activities

Child support may continue until one of the following:

- The child turns 18
- They graduate after turning 18
- They become emancipated
- They join the military
- The child reaches another age (such as 19 or 20) determined by state law

The court has extensive enforcement powers when it comes to child support, which can include:

- Wage garnishment
- Withholding of unemployment, workers' comp, or disability payments
- Liens on real property
- Seizure of assets
- Withholding of income tax refunds
- Suspension of driver's, professional, or occupational licenses
- Jail sentences
- Referral for criminal prosecution

Spousal support cases

Spousal support cases can involve parties who are still married to each other but living separately or to parties who are divorcing or already divorced.

If the parties are divorcing, spousal support is heard as part of a divorce case. However, in some situations, support was not determined at the time of the divorce, or the parties are seeking to modify or enforce an existing support order.

Each state has its own guidelines for the amount of spousal support and the length of support. There are several types of spousal support:

- Temporary support (pendente lite): This is paid while the case is in progress.
- Rehabilitative support: This type of support is for a specific period of time with the intention of allowing the non-moneyed spouse time to obtain the education or job experience necessary to become self-supporting.
- Durational support: Support for a specific period of time without the purpose of helping a spouse become self-supporting falls into this category.
- Permanent support: This is often ordered when a spouse is disabled or elderly and continues until either party dies.
- Lump sum: This is one payment of a specific amount.

Spousal support cases can also involve modification or enforcement actions.

Protective order or domestic violence cases

Family courts hear, enforce, and modify domestic violence cases. These types of cases often involve married or cohabitating partners, but can also include:

- Former intimate partners
- Adults who live in the same household, even if they are not in intimate relationships
- Children who live in the same household, even if they have no legal relationship to the perpetrator

The court has a variety of options in these cases, which include:

- Stay away orders
- Move out orders (exclusive residency orders)
- No contact orders
- No abuse or harassment orders
- Surrender of firearms
- Temporary custody of children
- Temporary child support
- Temporary spousal support
- Restitution for property damage
- Payment of rent or mortgage and utility payments for the shared home
- Mandatory treatment (substance abuse or batterer intervention)

Protective order matters can also include modification or enforcement actions.

Neglect and abuse cases and foster care review

Cases in which a child or children have allegedly been neglected or abused fall under the umbrella of family law. A state's child protective services agency brings these cases against parents.

In a neglect or abuse case, the court decides if the state has proven its case and may order ongoing supervision of the parents, removal of the children from the home (in which case they are placed with a relative or in a foster home), or termination of parental rights (in which case a child is eventually freed for adoption).

In a review of foster care case, the court hears regular updates on children who are in foster care.

Adoption cases

Adoption is a key area of family law. These cases include stepparent adoption, surrogacy, domestic adoption, and international adoption.

The adoptive parents become the child's legal parents in the procedure, and a new birth certificate is issued.

Juvenile supervision and delinquency cases

In some states, juvenile supervision and juvenile delinquency (JD) cases are heard in family courts and involve minors who have engaged in actions that would be a crime for an adult or actions that are violations of laws that pertain only to minors (such as school attendance, underage drinking, or curfew laws).

Supervision cases are generally less serious than JD cases in which a child can be removed from the home and placed in a juvenile delinquency facility.

Courts that hear family law cases

Each state has its own court structure, and the types of cases listed above may not all be heard in what the state calls family court. For example, in some states, divorces are heard in a court of general jurisdiction. Adoption cases are sometimes heard in Surrogate's or Probate Court.

Juvenile delinquency, abuse cases, and domestic violence cases are sometimes heard in state criminal court in addition to—or in place of—family court matters.

Parties in family court cases

Family court cases can include a variety of parties, including:

- Spouses
- Parents
- Non-parents seeking custody or visitation
- Non-spouses involved in a domestic violence case
- People seeking to adopt
- Children (in supervision or JD cases)
- State agencies (such as child protective services)

Each party is represented by their own **attorney**. In some cases, a child is assigned an Attorney for the Child or Law Guardian to protect their interest in divorce or custody cases, even though the child is not a party to the case.

Family law is a complex, ever-changing area of law that involves a wide variety of situations, problems, and concerns.

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