

Basics of Family Law

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What is Family Law?

- ◆ Family Law includes:

Protection orders

Spousal support

Child support

Custody

Divorce

Protection Orders

- ◆ Every state has a mechanism for victims to obtain protection orders if they are seeking safety
- ◆ In N.J., protection orders are obtained based on
 - 1) right relationship with the defendant
 - 2) crime of domestic violence
 - 3) fear of defendant

What is a Crime of Domestic Violence?

- ◆ Crimes under state d.v. statutes can include:
 - assault
 - terroristic threats (threat to harm/kill)
 - rape
 - harassment
 - criminal mischief (destruction of property)
- ◆ Important to file right away

Spousal Support

- ◆ Do not need to be divorced for the wife/husband to file for spousal support
- ◆ Factors for spousal support similar to alimony

Child Support

- ◆ A parent is **always** entitled to file for child support
- ◆ Child support usually calculated accd'g to actual or imputed income

Divorce

- ◆ Divorce- one of the most complex proceedings in family law
- ◆ Can take at least 6 months
- ◆ Requires financial discovery, separation of assets, determination of alimony, and decision about custody

Basic Steps in Divorce

- ◆ Filing of Complaint (e.g. Appearance, Answer, Answer and Counterclaim)
- ◆ Service
- ◆ Financial Discovery (Interrogatories and Notice to Produce)
- ◆ Early Settlement Panel, Economic Mediation, Intensive Settlement Conference
- ◆ Trial


Alimony

- ◆ Some of the factors:
 - 1) Actual Need;
 - 2) Ability of party to pay; and
 - 3) Duration of marriage

Custody

- ◆ Custody can be litigated at any point, parties do not have to be divorced
- ◆ Custody- joint legal; primary residential
- ◆ Primary caretaker and best interests of child standard
- ◆ Custody can always change

Culturally Specific Probs

- ◆ Lack of awareness about legal rights
 - ◆ Cultural stigma of using legal system and other services
 - ◆ Language barriers, accessing interpreters
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Role of Advocates

- ◆ Should not give specific legal advice in a case, consult an attorney
- ◆ Can help clients navigate legal system and become better informed about their rights