

Preface

In 2024, COVID-19 became treated more like the flu. Parents were back to work, children were back in school, and family courts were back in live session. States struggled with issuing temporary orders, weighing the various custody factors and deciding whether to allow modification of existing orders. There were some new developments in the area of parentage as some states adopted the Uniform Parentage Act (2017) allowing for de facto parenthood, or otherwise recognized the parental rights of a second parent. Other states rejected nonbiological nonlegal parenthood. Ch. 1 & 7. In addition, North Dakota enacted the Uniform Nonparent Custody and Visitation Act; Kansas enacted only the visitation portions.

This year, there were more articles and emphasis on attorney wellness and how to spot addictive behaviors in both lawyers and prospective clients. The ABA Family Law Section devoted an entire issue of the *Family Advocate* to addictions. Additionally, the ABA amended the Model Rules to require lawyers to decline representation or withdraw if the client intends to commit a crime or fraud. Ch. 2.

Jurisdictional issues continue to arise as conflicts between states arise in custody cases. In addition to defining the “home state,” this year saw issues about the length of temporary emergency jurisdiction, communication between judges in different states, and inconvenient forum decisions. See Ch. 3.

Judges continue to have broad discretion in interpreting the various factors that go into the best interest of the child in custody cases. More courts appear to be paying attention to allegations of domestic violence. The Uniform Law Commission (ULC) committee on Judicial Interview of Children presented its final Act in July 2025 and it was adopted. The Uniform Judicial Interview provides guidance as to when to conduct an interview, who can request, the procedure for interviewing, and protection for parents’ due process rights.

Ch. 4 Appellate courts continue to uphold broad judicial discretion on factual issues because of the judge's ability to determine credibility of the witnesses. Ch. 14.

The inability of parents to make mutual decisions with respect to their child's lives and activities mitigated against joint legal and physical custody in several cases. Ch. 5. Many of the modification cases are because of failed joint custody arrangements or one parent's attempted relocation. Most states have adopted the best interest of the child standard for relocation cases, which means they are uniquely fact specific. Ch. 17.

Several courts discussed the limitations on restrictions on "fit" parents. Courts cannot abdicate the decision of when to lift restrictions to the other parent or to third parties. Ch. 6. Additionally, there were many cases dealing with standing issues for third parties, grandparents, stepparents, and others, seeking to visit. Because states have different statutes and cases, there is not much uniformity on who has standing and what is required to get visitation. The parental preference rule, however, is universal. Ch. 7.

While there continue to be issues with temporary orders, there were fewer appellate cases on discovery or trials in family law cases. There were several cases dealing with experts and child custody evaluations. Ch. 10 & 11.

Nationally, the ULC continues to be successful in getting states to enact uniform laws in the family law area. The Uniform Interstate Family Support Act is in 50 states, D.C., and Puerto Rico. Another success is the Uniform Child Custody Jurisdiction and Enforcement Act (49 states and D.C.). In 2023, the Child Abduction Prevention Act (21 states) was endorsed by the National Center for Missing and Exploited Children. The Uniform Parentage Act (UPA 1973) was once in 18 states, but UPA (2002) and UPA (2017) are replacing it. Other acts include the Deployed Parents Custody and Visitation Act (16); Family Law Arbitration Act (8); Collaborative Law Act (23); and Premarital Agreements Act (27). To the extent states enact uniform laws, decisions from other states using the same uniform law become more authoritative.