

## 2025 - 2026 Edition Highlights

With this resource you can successfully complete domestic litigation cases—ensuring that you are covering the full range of steps and considerations. Each chapter of this definitive set begins with an overview, examining the current state of the law across the country along with supportive case law, then provides extensive checklists that fully review domestic relations law nationwide and ends with forms.

This publication covers issues such as: annulments and premarital agreements, litigating contested divorces on fault and no-fault grounds, privacy issues stemming from discovery, separation and temporary relief, treatment of family photographs and football tickets as marital property to be divided, non-marital QDROs, withdrawal and windup, ethics and client relations, temporary relief, discovery, separation agreements, tax matters, post-litigation work, and key statutes such as the Uniform Reciprocal Enforcement of Support Act, Parental Kidnapping Prevention Act, and Uniform Child Custody Jurisdiction Act.

Some of the highlights in this year's update include:

- In New York, when waiving spousal maintenance, it is required that a self-represented spouse-to-be entering into a prenuptial agreement must be provided with the presumptive maintenance calculations in order to knowingly waive spousal maintenance. (§ 1:5)
- Tex. Fam. Code Ann § 6.501(a) provides that after the filing of a suit for dissolution of a marriage, on the motion of a party or on the court's own motion, the court may grant a temporary restraining order without notice to the adverse party for the preservation of the property and for the protection of the parties as necessary. (§ 4:1)
- While the caselaw directs district courts to consider all sources of income when determining alimony, it does not dictate that all sources of income be counted as income received by a spouse for that purpose. (§ 6:8)
- Ability of the spouse seeking maintenance to meet his or her needs independently is only one factor to be considered; maintenance is not just a means of providing bare necessities, but rather a flexible tool by which the parties' standard of living may be equalized for an appropriate period of

time. No one factor is necessarily assigned more weight than the other and the court's paramount concern is instead the parties' economic conditions post-dissolution. (§ 6:20)

- A parent's disagreement with sending a child to private school or their objection to paying for the same does not alone justify the denial of including private school cost as part of child support for educational expenses. (§ 7:1)
- Trial court permissibly relied on the ex-husband's tax return to determine the amount of income generated by the ex-husband's trust, of which the ex-husband was the primary beneficiary, and to determine the amount of income to be imputed to the ex-husband when calculating his support obligation in proceeding on the ex-wife's motion to modify stipulated child support based on the material change in circumstances of an increase in the ex-husband's available income, where the trust was made up of multiple businesses that were pass-through entities for tax purposes. (§ 7:1)
- When considering the likelihood that a party who does not have a presently enforceable right in a potential interest that can be unilaterally revoked or amended by a third party will eventually obtain an enforceable legal right in the interest, in determining whether the interest constitutes marital property subject to equitable distribution, the likelihood that the third party will exercise its right to unilaterally revoke or modify the party's right to the interest is relevant to the analysis. (§ 8:1)
- Military retirement benefits that the former husband earned during involuntary recalled active duty service were not the direct result of community effort and performance, and the husband's rank and salary upon his second military retirement after such service could not be used to calculate the community portion of his military pension under the community efforts doctrine. (§ 9:1)
- Withdrawals from a mixed retirement account for marital expenses first reduce the marital portion of that account, unless the parties agree otherwise. (§ 9:1)
- Even after an initial instance of a child's wrongful retention outside the child's country of habitual residence, a parent may extend authorization for the child to remain outside the country of habitual residence, and such an extension postpones the date of wrongful retention for determining the availability of the "well-settled" defense to a petition for the child's return to the country of habitual residency, a defense that allows courts to consider the child's interests before ordering the child's return if more than one year has passed from the date of the wrongful retention. (§ 10:29)

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