

## Preface

After cutting funds for the Public Broadcasting System and early education programs for children, in 2025, Congress passed the “Big Beautiful Bill,” which had some tax cuts but also endangered SNAP and Medicaid funds, and the Administration took steps to start closing the Department of Education. While literally thousands of children have been impacted negatively by the drastic cuts in federal programs that help them eat, learn and thrive, the legal cases on child custody proceeded much the same as normal. Courts continue to have to determine who has status to seek custody, weigh the various state factors, and handle trials and appeals.

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 more states adopted the gender-neutral 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 & Ch. 7.

This year, there continued to be an emphasis on attorney wellness and how to spot addictive and abusive behaviors in both lawyers and prospective clients. There was more recognition of coercive controlling economic violence. The ABA Family Law Section devoted the winter 2026 issue of the *Family Advocate* to ethics and professional responsibility in family law practice.

The American Bar Association Standing Committee on Ethics and Professional Responsibility has issued several formal opinions that affect family law practice. In 2024, Formal Opinion 512 was on Generative Artificial Intelligence Tools, and Opinion 513 dealt with the lawyers’ duty to inquire into the facts and circumstances of representation. In 2025, Opinion 518 discussed a lawyer’s duties to avoid misleading communications when acting as a third-party

neutral mediator. Opinions 519 and 520 discussed withdrawing from representation. In 2026, Opinion 523 clarified the permissible terms of an engagement agreement allowing a lawyer to withdraw when the client fails substantially to fulfill an obligation regarding the lawyer's services.

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.

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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 (23 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) (11 states) are replacing it. Other acts include the Deployed Parents Custody and Visitation Act (16); Family Law Arbitration Act (8); Collaborative Law Act (28); and Premarital Agreements Act (28). To the extent states enact uniform laws, decisions from other states using the same uniform law become more authoritative.