

Frequently Asked Family Law Related Questions in Utah

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Family law governs the legal duties and responsibilities of people that share a domestic relationship. The cases primarily involve people connected by blood or marriage, but may also pertain to those with distant or romantic interests. Because this practice area deals with close personal bonds, it tends to be emotionally charged and parties involved are wise to enlist the help of an experienced and objective attorney. **Many family law matters involve issues such as the following:**



Why Hire a Family Law Attorney?

Whether you are considering filing for divorce or face another type of family law matter, it's **important to have an experienced attorney that understands the judicial system.** Resolving legal issues can present a complex series of steps. **These are some of the things a family law attorney can bring to the table.**

- **Objective Assessments:** People involved in litigation often have strong emotional attachments to possessions and preset ideas about outcomes. Those ideas may be inconsistent with the legal process and common results. By providing a professional case evaluation and advice, *a family law attorney can help you have reasonable and practical expectations about child support, alimony and property divisions among others.*
- **Deal with The Red Tape:** Family law matters involve filing a series of petitions and responses. The more strenuous the case, the more complicated the paperwork. *A family law attorney handles paperwork for you.*
- **Dispute Resolution:** A great deal of family law involves *negotiation with the other person's attorney.* The courts favor what is known as "nominal" track resolution in which people come to agreement or compromise on pertinent issues. *An experienced family law attorney generally has an open line of communication with colleagues. This helps to avoid costly and protracted litigation.*
- **Property Settlements:** Lawyers can help separate marital and non-marital assets and *protect your interests.*
- **Child Custody and Visitation:** Attorneys will help build a compelling case that *can maximize your parent-child time.*
- **Protective Orders:** Experienced attorneys are prepared to *file motions on your behalf* that put the protection of law enforcement and the courts behind you and your child.
- **Adoptions:** Whether an adoption involves bringing someone into your family or *extending legal rights through step-child adoption,* a family law attorney can *provide experienced advice about the advantages, disadvantages, rights and long-term implications* of adoption.

What is the Difference Between Legal Separation and Divorce?

The chief difference between a separation and a divorce is that **you remain legally married if you are separated.** Many people choose separation for religious and other reasons. There may be tax benefits and it leaves the door open to reconcile in the future. But, you will need to go through the divorce process to resolve any property issues and terminate a marriage.

How Long Do I Need to Live in Utah Before Filing for Divorce?

You need to establish a **minimum 3-month residence in Utah to file a divorce petition**. Other family law matters may not have a residency requirement. Talk to an attorney about specific issues.

Utah is a “No Fault” Divorce State. What Does that Mean?

In a no fault divorce, only one party needs to file a petition and **you don't have to prove either person was responsible for the breakdown of the marriage**. In the divorce filing, you will **sign an affidavit that states the marriage is broken beyond repair**. You will need to meet residency criteria to file and attend at least one **mediation session** in most cases. There is a **90-day waiting period before a final decree can be issued**.

How are Marital Assets Divided?

Utah is one of the few states that uses the “**equitable distribution method**.” **Long-term marriages often see a 50-50 split**. In brief unions, the court tries to put people back to the position they were in before marrying. **Couples can negotiate a settlement agreement** and a judge will review and consider it for fairness.

How Does Alimony Work?

Marital support can be ordered to a husband or wife **depending on financial need**. These payments can be ordered on a **temporary basis while the divorce is pending or for the same length as the marriage**, with some exceptions.

Factors for determining alimony include **debt, standard of living, child care costs, earning capacity** and harm among others.

Can I Receive Child Support and Alimony Before Divorce is Final?

The short answer is: Yes. **The court will look at the financial situation of both parties and may issue a temporary order that includes child support and alimony**. This may be modified or terminated in the final divorce decree.

How are Child Custody and Visitation Decided?

Who Pays for the Child's Health Care?

If one of the parents has a health care policy through employment, **the courts prefer that the child remain on the policy**.

Deductibles and copays may be shared between the parents or rolled into the child support and alimony decision.

Can I Adopt My Stepchild?

It may be possible to **adopt** a child if you are married to the parent under certain circumstances. Either the other **biological parent is deceased or agrees to waive parental rights**. If the non-custodial parent does not consent or cannot be located, you would need to **present a case for the termination of parental rights**.

What is Parental Kidnapping?

When a parent removes a child ***without knowledge or permission of the other parent or courts***, that is generally referred to as “**custodial interference**.” The basis of the interference is ***denying a parent rightful custody or visitation***. Law enforcement regards it as a high-level felony.

Can Gay Couples Adopt in Utah?

In 2013, same-sex marriage became legal in Utah and gay couples enjoy the same rights, privileges and responsibilities as heterosexual couples. Same-sex couples ***must be over 18 years old and pass the same adoption scrutiny as others***. The process can be rigorous and the courts place the *best interests of the child before the wishes of potential adoptive parents*.

What’s Worth Fighting for and What’s Worth Letting Go?

Don’t Fight Over the Principle of an Issue

People who want to fight over the principle of a matter rarely end up being satisfied, even when they win because the cost to do so is more than it was worth. The return from the investment is rarely worth it, on many different levels.

Don’t Brush Away the Value of Your Personal Property

Household furniture, appliances, etc., etc.—until you consider how much you have. Sometimes a spouse will say, “Oh, he/she can have it all” but they don’t realize that such property comprises the bulk of what most people own is invested in their personal property. The cost of replacing such property can be huge, and take a long time.

Custody of Children

Don’t just assume that mom always gets the kids, especially because it is Utah, so why fight for something more than every other weekend. Dads for years have been getting more in the way of custodial rights than they used to do; but keep in mind that custody disputes are costly.

Don’t Get Into a Fight Over Anything If you Can’t Afford to Go the Distance, Especially Custody Fights

Don’t spend a lot of money for attorneys, etc., and then have to stop part way through because you didn’t recognize the cost involved earlier in the case.

Keep Your Kids Out of Discussions About Adult Issues, Including Custody.

Keep Records

Emails, text messages, keep a journal, keep a calendar of all visits with kids, etc., especially if child custody is going to be an issue.

How often do you litigate versus settle or negotiate your cases?

Using mediation and/or a parenting coordinator early in a case MAY eliminate issues, especially financial issues, or custody where there is not a great divide in positions. Keep in mind that custody of children is usually the biggest stumbling block to an early settlement because parents tend to dig in their heels on this issue, and it takes something significant to get them to budge.

Other Things to Know:

1. Be careful how much money you give the other spouse after the separation and before court. You really need to discuss this issue with an attorney so you are not paying too much or too little. This pertains to both child support and what may be considered alimony or spousal support.
2. Make sure you deal with who claims the kids as dependents for tax purposes.
3. Be careful with the on-line divorce papers. We handle a lot of cases where clients put the wrong things in those papers, or the other spouse puts things in that are more favorable to that spouse, all without being noticed. The on-line papers are overly lengthy and detailed, so it is easy for a spouse to slip in a small paragraph that can cause great problems to the unsuspecting spouse. We do piecemeal or unbundled work, so we will go over papers you are doing on your own at an hourly rate, without the client needing to hire an attorney for the full case, so make sure papers are reviewed by an attorney.
4. If you go to mediation you MAY want to have an agreement subject to review by an attorney, but not always. You need to know when you want that and when you don't.
5. Be mindful of protective orders. They can have immediate and serious consequences. Spouses will fabricate stories to get custody of kids, possession of the home, control of a business, etc. If a protective order is issued do NOT accept an invitation from the other spouse to meet, talk, email, etc., unless it is allowed by the order specifically.
6. If separation is contemplated get advice before you are the one who leaves the marital home.
7. Law is an area where fees are hard to estimate because of the different issues in each case, different personalities, different needs of parties, issues working with the other side, etc. Costs can be driven up by these and other forces that are out of control of your attorney. This applies to all areas of the law.
8. Many people assume that since they are a good and virtuous person, whose position in a legal dispute is highly meritorious, they should win. It doesn't work that way. Judges and juries don't know you. Just because you feel your cause is just doesn't mean others see it that way. This is a huge mistake many people make going into any type of legal action. Many times the decision from a judge is going to come down somewhere between the positions of the two parties.

SLC Family Law Attorneys Wall and Wall Attorneys at Law

We understand the legal process of divorce and other family law related issues can be overwhelming. We are a **family-owned law firm in Salt Lake City, Utah with over 190 years of experience in family law**. Let us guide you with our experience. Feel free to contact our attorneys at [Wall & Wall Attorneys at Law](#) for a **free consultation** at **801-441-2388**.