

Divorce FAQ

1. How do I get a no-fault divorce?

New York was the last State in the Union to pass No Fault Divorce

. That means that one party no longer has to prove their spouse did something wrong to end the marriage – what is commonly called “grounds.” Instead, one party may now simply claim the marriage has reached an “irretrievable breakdown” for a period of 6 months. However, the Court still cannot grant divorce

unless the couple has also resolved all of their other issues of custody

, support, asset distribution and division of debts.2. What are “grounds”?

New York courts may grant a divorce

based on allegations of either abandonment, or constructive abandonment, cruel and inhuman treatment, adultery, or imprisonment for a specified period of time. These grounds have to be proven just like in any other lawsuit.3. What is “marital property”?

Marital property is any real or personal property acquired during the course of the marriage, and purchased with the couple’s funds. Inheritance, or property purchased with one of the party’s inheritance is generally considered separate property, not marital property.4. Can I get alimony?

Alimony, now called spousal maintenance, may be awarded based on several factors. The Judge considers the length of the marriage, the relative earning capabilities and education of the parties, whether one person was supported by the other spouse while earning either a specialized degree or license, among other things.5. How is child support calculated?

The amount of child support a person pays is governed by the Child Support Standards Act (also known as the CSSA). It is based on the number of children the couple have and their income. For example, if they have one child, support is 17% of the gross income minus FICA, or 6.45%. This is the basic support obligation for one child. In addition, extra costs such as daycare, out of pocket medical expenses, and summer camp are calculated on a pro rata share of the parties combined incomes. Certain exceptions apply to the CSSA that require a more in depth explanation. Please contact our office to meet with an attorney to discuss these issues in further detail.6. How long does it take to get divorced, and how much will it cost?

Unfortunately, that depends on many factors, including where you live, whether the divorce will be contested, whether you have a separation agreement, and the complexity of the issues. Actions for divorce

are filed in Supreme Court, so there are filing fees that are set by statute. Please contact our office to meet with an attorney to discuss your particular situation.7. My child won’t let me see my grandchildren, is there anything I can do?

Grandparents can file Petitions for Visitation in Family Court if they are able to prove that they had a consistent relationship with their grandchildren, and that this contact was beneficial to the grandchildren.⁸ What is the difference between joint and sole custody?

Legal custody

refers to the decision making roles of the parents. Joint legal custody means that both parents work together to make significant decisions regarding their children. Sole legal custody means that only one parent makes the significant decisions in raising the children. If the parents have joint legal custody

and cannot agree on a particular matter, usually the person with primary physical custody will prevail. The most popular City / Village / Town Courts our lawyers serve:

Albany, Altamont, Amsterdam, Berne, Bethlehem, Brunswick, Clifton Park, Cohoes, Colonie, Coeymans, Delaware, Duanesburg, East Greenbush, Fulton, Glens Falls, Glenville, Gloversville, Grafton, Greene, Guilderland, Hoosick, Hudson, Johnstown, Malta, Mechanicville, Menands, Montgomery, Nassau, New Scotland, Rensselaer, Rensselaerville, Rotterdam, Saratoga, Schenectady, Schoharie, Schodack, Scotia, Troy, Ulster, Voorheesville, Warren, Washington, Watervliet