

SURVIVAL GUIDE TO FAMILY LAW IN SOUTHWEST PENNSYLVANIA



COVERING
PITTSBURGH/ALLEGHENY COUNTY
BEAVER COUNTY
BUTLER COUNTY
WASHINGTON COUNTY

This book is a good introduction to Family Law in Southwestern PA, but it is only a starting point.

This guide is NOT a substitute for legal advice from an Attorney who knows you and your case.

ROSEN

Family Law Group

A Limited Liability Company



WHAT IS FAMILY LAW?

Family Law includes:

- **Divorce**
- **Custody**
- **Marital Asset and Debt Division**
- **Child and Spousal Support**
- **Prenuptial Agreements**
- **Protection from Abuse Actions**
- **Anything that deals directly with the family unit**

Family Law is mostly based upon State Law, so Pennsylvania does things differently from Florida, or California, for example. In fact, Family Law is often practiced differently from county to county and *even from Judge to Judge.*

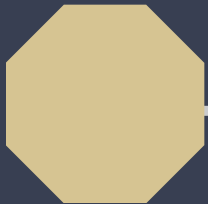
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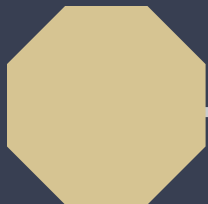
Six Steps to Finding the Right Family Law Attorney for You



The MUST KNOW basics of Family Law



Not sure what to put here to break up the sections



Vital Advice for Every Family Law Client



Common Myths of Family Law



Contact Information and Helpful Resources



SIX STEPS TO FINDING THE RIGHT FAMILY LAW ATTORNEY FOR YOU

1. FIND SOMEBODY LOCAL

"Good Lawyers know the Law. Great Lawyers know the Judge."
-Anonymous

Because Family Law practice changes based upon the county, it is important to get an attorney who practices in the county where your case will take place.

You might think that any Family Law attorney can read the rules and handle any case. But many of the most important rules are *unwritten!!* There is a lot of "that's just the way we do things here" procedure in Family Law. It is also vital for your attorney to know and understand the local Judges, hearing officers, and court staff.

Much of Family Law is, frankly, vague. For example, custody is always based upon the "best interests of the child." Well, what exactly *is* in a child's best interest? Every Judge looks at this differently, sometimes radically differently.

For the reason, Rosen Family Law Group only practices in the counties we know – Allegheny, Beaver, Butler, and Washington. However, if you are looking for an attorney in say, Westmoreland County, or Greene County, feel free to contact us and we can give you recommendations.

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FAMILY LAW



2. FIND A FAMILY LAW SPECIALIST

Law is like medicine. You need a medical specialist for the different parts of your body. And you need a legal specialist for the different parts of law.

No attorney can be good at everything. There is simply too much to know, and some legal skills can only come from repeated experience.

Also, an experienced Family Law attorney will come across certain personality types doing the same things over and over again. Experienced attorneys intuitively know how best to deal with cooperative or difficult parties from the person on the other side, all the way to the Judge and everyone in between.

**Don't hire someone who does Family Law
AND personal injury, AND criminal, AND, etc.**

Hire someone who exclusively practices Family Law!!





3. ONLY HIRE SOMEONE YOU FEEL COMFORTABLE WITH

Family Law is the most **personal** area of law. Your Family Law attorney may come to know more about your life than your best friend. You need to feel personally comfortable with your attorney and their firm.

Ask yourself:

- "Do I feel comfortable with this attorney knowing about my private life?"
- "Has this attorney communicated to me in a way that makes me comfortable that the attorney knows what they're doing?"
- "Does this attorney put me at ease or make me more anxious?"
- "Is this attorney telling me the **TRUTH**, or just what they think I **WANT** to hear?"

There is no one attorney that is right for EVERY client. Being honest, informative, and plain-spoken is a good place to start.

The Rosen Family Law Group is known for "telling things as they are" to our clients.



4. Hire the FIRM – not just the attorney

The truth is that, depending on your case, much of your work and communications with the firm you hire may involve people other than your attorney. So, you should hire the firm and not just the attorney.

Find out how long the office and support staff has worked at the firm. Find out how long the attorneys have worked at the firm. For example, our office manager/client manager, **Stacey Livengood** has been helping our clients for over 20 years.

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5. Avoid hiring a Family Law attorney for the **WRONG** reasons

Don't hire somebody to "fight for you" – Hire somebody to **WIN** for you.

"The greatest victory is that which requires no battle."

--Sun Tzu, Art of War

Any good Family Law attorney can litigate and "fight" the other side, but this should only happen as a last resort. Avoiding excessive litigation is cost effective and limits risk and can preserve the relationship between parties who need to act as co-parents.

We are hardnosed litigators, when necessary, but we are collaborative in our approach whenever possible.

Don't hire somebody because they agree with you on everything

Attorneys are called legal "counsel" because a big part of our job is to counsel you towards a wise course of action, rather than simply agree with you.

Don't hire a firm based upon their size

There are good Family Law firms that are small, medium, and large. And there are bad Family Law firms that are small, medium, and large.

An advantage of small firms is that you get a more personalized experience, and you generally have the same attorney that you "hired", rather than associates taking the case. An advantage of large Family Law firms is that there are many attorneys to bounce ideas off of. Rosen Family Law Group combine these two advantages by providing individualized case, while holding meetings so that the entire firm can discuss especially thorny issues.

Don't hire a firm based upon "awards" that can be purchased on the internet

About once a month we are contacted by somebody trying to sell us some kind of "you are an awesome attorney" award. Recommendations and the "social signs" listed in the next section are a better indication of quality.



6. Read the Social Signs

Here are a few psychological ways to distinguish between an excellent firm and a mediocre firm. These are often subtle or hidden, but can be real signs of a good (or bad) firm

Did the person who answered my call seem to be more interested in helping me or selling to me?

Your first experience with a firm is often indicative of how their representation of you will work. Did the person answering the phone listen to your questions and answer plainly and thoughtfully? Or did the person answering the phone seem to try and "sell" you on the firm and avoid any really helpful discussions?

How do the attorneys and staff interact with each other?

You want *Parks and Rec* **NOT** *The Office*

A firm of pompous or snippy attorneys is rarely effective. A good firm should have a relaxed, but professional environment. Everybody should feel comfortable around everybody else.

How much initiative does everybody have?

If everybody in the firm seems to have the ability and permission to act independently for your benefit, you probably have a good firm. On the other hand, the firm is probably not very good if power seems centralized so that the staff cannot do and think on their own. This is because a centralized firm is usually centralized because of problems with communication, quality, and/or stability.



The **MUST KNOW** Basics of Family Law

Divorce

There are two basic kinds of divorce in Pennsylvania. Divorce based on the consent of the parties and divorce based upon separation for at least one year.

This means that absent the consent of the parties, a spouse cannot generally begin to force a divorce through the system unless the parties have been separated for one year, although there are exceptions to this rule.

Also, the parties **do not** automatically get divorced after one year's separation, they merely gain the ability to begin pushing the divorce case through the system.

Parties can be living in the same household and be separated. For example, if a Complaint in Divorce has been filed, the parties are presumed to be separated even if they continue to live together.

While there is no such thing as a **legal** separation in Pennsylvania, the **date of separation** is an important demarcation line between marital and non-marital property. Generally speaking, assets and debts acquired after separation are not marital.



Equitable Distribution

Dividing up the marital assets and debts in Pennsylvania is called **Equitable Distribution**. An equitable distribution may be 50/50, but it may also be *skewed* in favor of one party or the other.

However, it is extremely rare for one party to obtain more than 60% of a marital estate.

Only marital assets and marital debts are subject to equitable distribution. Generally an asset or debt is marital if it was acquired between the date of marriage and the date of separation, but there are *many* exceptions to this rule. For example, the appreciation on a non-marital assets during the marriage is generally marital.

The Pennsylvania Divorce Code has a list of factors that the Court is *supposed* to consider in equitable distribution. Their relative importance depends on the facts of the case, but commonly important factors include:

- The length of the marriage
- The incomes of the parties
- The health of the parties



Simple and High-Net Worth Divorces

A simple divorce may be obtained without the need for Court appearances, an MSA, or litigation. It is the quickest and cheapest way to get divorced. However, a simple divorce will only work if:

- The parties have no joint assets or debts; and
- The parties will cooperate with the divorce process, and sign all required documents timely; and
- Each party is OK with no spousal support and with keeping the assets and debts in their name and possession.

A high-net worth divorce may involve issues such as business valuations, stock options, commercial real estate, tax consequences, economic confidentiality, and discovery of assets and debts. Support in high income cases is calculated differently than in other cases. An experienced and sophisticated attorney is absolutely required for a high-net worth divorce.





Custody

There are two forms of custody in Pennsylvania:

legal custody and physical custody.

Legal custody is the ability to make important life decisions on behalf of the child(ren) such as:

- School Choice
- Doctors
- Extracurricular Activities
- Religious Education

Legal custody is most often shared and is *rarely* in the sole possession of one party. However, certain **elements** of legal custody may be sole, such as school choice or medical care.

Physical custody is having the child(ren) in your physical possession and is counted by overnights.

A party may have shared, partial or primary physical custody.

Physical custody schedules can be tailored to the parties' schedules and a good custody order will be based upon the specific circumstances of the parties.

The most common arrangement is called a 5-2-2-5, meaning each party exercises the same two weekdays during the week and then weekends are alternated. However, many other schedules are also used.

Other important elements of a custody order include:

- Holiday schedule
- phone/video contact
- transportation
- vacations



All custody is based upon the best interest of the child. Those best interests are broken down into 16 different factors. Physical custody and specific elements of legal custody are extremely fact and case specific.

Some custody cases involved a psychological evaluation but most do not. A psychological evaluation does NOT evaluate the psychological condition of your co-parent. Instead, it focuses on the parental relationship with the child(ren) and with your co-parent.

Since custody is always based upon the best interests of the child, it can always be modified based upon a change of circumstances or other elements.

Relocating with the child(ren) is based upon a separate (though related) series of factors and requires special notices to your co-parent, the Court and others along with either an agreement or trial.

Custody litigation is **very** complex and subtle and requires experienced counsel.





Support/Alimony

Pennsylvania provides for both **child support** and **spousal support**.

Child support is based primarily on each parties' net monthly incomes, the number of children and physical custody. But other elements include childcare, earning capacities, health insurance costs and more.

Spousal support is also primarily based on the parties' net monthly incomes, but many other factors are also involved. Spousal support (sometimes also known as *alimony pendente lite*) only exists for so long as the parties are married.

Support for a spouse after marriage is simply called **alimony** and is a **very** complex involving many factors and budgets. The award, length, amount and/or denial of alimony are highly dependent on the facts of the case, the county involved and the arguments of legal counsel.

Spousal support is based upon a formula and is usually given as a matter of course. **Alimony** is case specific and is not based upon a formula



PFAs

A **Protection from Abuse Order** (known as a PFA) is for the protection of a party that is in ***reasonable*** fear for their safety or the safety of their child(ren).

PFAs may be obtained for protection from current or former spouses, current or former partners, and family members related by blood or marriage.

The maximum duration is 3 years and a PFA is a **civil** order, not a criminal order. However, ***violation*** of a PFA is a criminal matter.

Emergency and Temporary PFAs are given *ex parte*, meaning only the requesting party is present. At this initial stage, the Court assumes that the requesting party is telling the truth and merely decides if the allegations are serious enough for a PFA.

Emergency and Temporary PFAs may be obtained after Court hours, based on your location. Contact the police or your local magistrate for guidance.

A **final** PFA is only awarded or denied based upon a trial, the agreement of the parties or a failure to appear.



Pre-nuptial and Post-nuptial Agreements

A written agreement of the parties prior to marriage that defines certain economic elements of the marriage (in case of divorce) is called a **pre-nuptial or ante-nuptial agreement**. It can determine what property and debts are martial, the percentages in equitable distribution, spousal support and alimony, and many other economic issues.

If you are married and unsure about your future, but want to settle the economic issues now, you can enter into a **post-nuptial agreement**.

Both **pre-nuptial** and **post-nuptial agreements** are contracts (not court orders) and their enforceability is based primarily upon the full and fair disclosure of the parties' economic circumstances prior to signing.

However, **neither custody nor child support** can be permanently settled by any type of agreement. This is because custody is always modifiable based upon the best interests of the child(ren) and the right to child support belongs to the child(ren), not the parents.



Vital Advice for Every Family Law Client

A divorce is a business transaction

A marriage is a very personal and private matter. A divorce is always just a business transaction. The Court will view the divorce as a business transaction and sooner you accept this the better off you will be.

Key issues for the Court will include:

- Date of Separation
- Marital Assets
- Marital Debts
- Incomes

The Court does not care about what kind people the parties were during the marriage or are now that they are separated.

In custody, the more *reasonable* party often wins

When in doubt, don't post!!

If you are really angry at your co-parent, don't vent to social media or via email/text. If you don't want the Court to see it, don't type it.

Many custody litigants have a litany of problems with their co-parent. The Court is not impressed by *he said/she said* claims or righteous indignation. Many litigants are convinced (some correctly) that their co-parent is a narcissist or bi-polar, or has some other mental issue. The Court will not make such determinations. The Court sees angry parties all day, every day. One key to custody is to be, and appear, the more reasonable party. In other words, *take the high road*.

Custody litigation can only produce an Order of Court, which is a piece of paper. It cannot solve a personal rupture with a child. Do not win in Court at the expense of losing your child outside of Court.

The truth does **NOT** matter

It really does not matter. Only what you can **prove** as true matters. You may **know** that your spouse is a narcissist or bipolar, or cruel, or untrustworthy. **He said/she said** will generally get you nowhere in Family Law. Just because you **know** that your spouse is not good for your children does not mean that the Court will know.

That is one reason why custody litigation can be so tricky. A good Family Law attorney will be able to craft a compelling narrative or story based upon the facts.

Cash is King

Do not spend big money with a divorce pending or expected. Your divorce resolution will usually involve more expenses than you expect. Remember that two households are more expensive than one. You don't want to be forced to settle because you cannot afford to pay an attorney.

Everybody prefers cash to assets in a divorce. Ready cash can solve many cases.

The ***most*** important rules are unwritten

One common mistake we see is when a client tries to figure out how their divorce or custody situation will play out based upon Pennsylvania laws and rules. The most important rules are often unwritten and require years of experience to master.

One example of an unwritten rule is the connection between a skewed distribution in equitable distribution and alimony. This connection is mostly absent from the written laws and rules but is a major element of how a case can get settled.



Common Myths of Family Law

Myth: Parties are automatically divorced once the parties have been separated for one year

Truth: A party can generally begin the process of forcing a divorce after one year of separation

Myth: All of the assets and debts are divided up

Truth: The Court adds up all of the marital assets and subtracts out the marital debts to determine the **net marital estate**. The Court then divides this by some percentage figure.

Myth: Leaving the marital residence may bring abandonment charges.

Truth: Leaving the marital residence can have many economic and custody consequences and should be discussed with your attorney. There is no such thing as abandonment in Pennsylvania and you will not lose your economic rights to the house by leaving.

Myth: The child(ren) can choose where they want to live at a certain age.

Truth: The child(ren)'s custody situation is always determined by their **best interests** and not their choice. However, as the child(ren) get older they can testify or be part of a psychological evaluation.

Myth: Having an affair can affect equitable distribution or custody.

Truth: Affairs are not a factor in equitable distribution or in custody. Affairs are one of the many factors in alimony, but are *rarely* important.

Myth: Shared custody means no child support.

Truth: Shared custody can involve child support if the parties have unequal incomes.

Myth: There is no alimony in Pennsylvania.

Truth: Alimony exists in Pennsylvania and is granted, denied, or limited by a number of factors.

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Contact Information and Helpful Resources

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Rosen Family Law Group

Phone: 412 563 5000

Email: info@avramrosen.com

Website: avramrosen.com

Pennsylvania Support Website:

<https://www.humanservices.state.pa.us/csws/?Preference=Desktop&Owner=Client>

Note: It says child support but it also includes spousal support

Pennsylvania Support Mobile Optimized Website:

<https://www.humanservices.state.pa.us/CSWSMobile/#/>

Allegheny County Family Division:

<https://www.alleghenycourts.us/family/departments/>

Beaver County Domestic Relations (support):

<http://www.beavercountypa.gov/Depts/Courts/DR/Pages/default.aspx>

Butler County Domestic Relations:

<https://www.butlercountypa.gov/282/Domestic-Relations>

Washington County Domestic Relations (support):

<https://www.washingtoncourts.us/171/Domestic-Relations>