



Domestic Relations

Class 13

Child Arrangements



FAMILY D

Alimony – Spousal Support

- **Factors:**
 - Age of the parties;
 - Health and physical condition of the parties;
 - The earning capacity of the parties;
 - Present income of the parties; and
 - The jurisdiction of the marriage (in some jurisdictions).
- When divorce statutes were fault-based, there were two additional factors courts considered: (1) degree of fault and (2) maintenance of status.
- **Enforcement:** All methods of civil enforcement are available PLUS
 - contempt of court.
 - imprisonment if willful and in bad faith.
 - ineligibility for all sorts of government benefits.
 - ineligibility for professional licenses and government jobs.



Types of Alimony

- **Permanent Alimony**

- Despite the name, this is usually awarded only for a set period of time.

- **Temporary Alimony**

- Awarded temporarily during the divorce proceeding to tide the spouse over until permanent alimony can be awarded.

- **Rehabilitative Alimony**

- A form of alimony awarded to allow a spouse to get education or training to allow him/her to become self-sufficient.

- “Palimony”?



Financial Aspects of Divorce

- Property Division => community property laws
 - Separate property => acquired before/after marriage, gift, inheritance.
 - Community (marital) property => acquired during the marriage; each own 50/50 regardless of who provided the money or whose name assets in.
- Community Property States => [Nine states are community property states; ten have community property laws]
 - Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.
 - In addition:
 - Alaska is an opt-in community property state (both parties can choose to make their property community property).
 - Puerto Rico is a community property jurisdiction.



Financial Aspects of Divorce (cont.)

- Property Division => equitable distribution
 - Separate property => acquired before marriage, gift, inheritance – returned to owner
 - Equitable distribution marital property => based on factors
 - Age
 - Length of the marriage
 - Occupation and income
 - Needs and contributions of the party in acquiring property
 - Alimony awarded





QUIZ TIME!

Intangible Property

- **The principal areas of intangible property are:**
 - professional degrees and licenses;
 - goodwill of a business; and
 - pension rights.
- **Professional degrees:**
 - Majority view => should not be considered marital property and therefore not subject to equitable distribution.
 - Minority view (e.g., New York) => New York Court of Appeals classified a professional license (i.e., increased future earning potential) as marital property in 1985.
 - UMDA => a professional degree is not property and therefore not subject to equitable distribution upon divorce.
- “Profession goodwill” => the enhanced earning capacity that comes from a professional’s reputation, and client or customer list.
- Pension rights: marital property that can be divided.
- Qualified domestic relations order (“QDRO”): document needed to distribute pension benefits until the beneficiary spouse actually begins receiving benefits (deferred distribution) vs. immediate distribution.

