

NY DOMESTIC RELATIONS

Preliminary matters:

Much of what is done in domestic relations is left to the discretion of the judge. Discretion is based on factors that are listed in the statute and factors make sense and you can bluff your way through.

Roadmap:

1. Matters that precede marriage and the process of getting married (least important topic)
2. Terminating a marriage (new and significant development in NY)
3. Economic issues surrounding termination of marriage (most heavily tested area)
4. Matters surrounding children (2nd most important in test frequency)
5. Conflict of laws

Matters that precede marriage

- 1) Relationship between unmarried couple living together
 - a) Also called unmarried cohabitants
 - i) Cohabitants = living together and having sexual relations
 - b) Can they make agreements with each other and have those agreements be enforceable?
 - i) Yes and Yes.
 - ii) NY will enforce an express agreement between cohabitants, specifically obligations after they break up.
 - (1) Exception:
 - (a) Agreement is not enforceable if consideration given by one of the parties is sex.
 - (i) I.e. "In consideration of Mary's efforts in managing the household, I promise to pay her \$1k/month for 3 years after we break up" is permissible.
 - (b) Must be express – NY courts will not imply an agreement between them.
 - c) Contract between couple planning to marry (engaged, not just cohabitants)
 - i) Pre-marital agreement, antenuptial agreement – contract entered into in contemplation of marriage.
 - ii) These agreements will typically deal with economic issues in the event that the marriage is unsuccessful.
 - (1) There is no legal limit to the scope of premarital agreements (i.e. can lay out who is going to cook each night).

- iii) Typical fact pattern on exam:
 - (1) Couple entered into a premarital agreement and got married. Many years later, they divorce. One party wants to set aside the agreement, and this person is usually the less moneyed, less well-off spouse. Richer spouse usually defends the agreement.
 - (2) It is the **husband's burden to establish validity** of the agreement:
 - (a) Must be in writing, signed by both spouses and acknowledged; and
 - (b) Agreement must be freely made (duress is grounds for invalidating); and
 - (c) Couple must have gotten married; and
 - (d) Substantive scrutiny of the terms.
 - (i) This means that the agreement must have been fair and reasonable at the time of the making of the agreement and not unconscionable at the time of the divorce (final divorce judgment) when enforced.
 - (ii) This standard is discretionary; analyze using your common sense.
- d) Two unmarried people have children
 - i) Child = **nonmarital child**
 - ii) Nonmarital children are treated the same as marital children in almost every situation.
- iii) Nonmarital children are entitled to:
 - (1) Inherit from mother and father if no will.
 - (2) Government benefits, like social security.
 - (3) Sue for wrongful death for death of a parent.
 - (4) Economic support from both parents.
- iv) Only testable issue is who is the father? Paternity determination.
 - (1) In NY, if there is ambiguity regarding paternity, you can litigate a filiation proceeding.
 - (a) Can be brought by:
 - (i) Mother
 - (ii) Child acting through a guardian
 - (iii) State of NY – for purposes of support, determine the father
 - (iv) Father – to establish affirmatively his rights as father
 - (b) Must be brought before the child is 21 (age of majority in NY).
 - (i) Standard of proof - clear and convincing evidence
 - 1. DNA test
 - a. Either party can ask for the DNA test. If DNA excludes defendant, case is dismissed.
 - b. If DNA is never conclusively proven, then 95% or higher that defendant is father, burden is on father to disprove paternity.
 - i. Do this by showing unable to have children or no opportunity for sexual access.

- (c) If mother testifies that she had sex with defendant, does not need to be corroborated.
 - (i) If defendant testifies that mother had sex with other men, then there must be corroboration.
- (d) Once there is a determination of the father, then there is a support obligation.
- (2) Equitable estoppel
 - (a) If you acted like the father of a child, you may not be allowed to deny it later for purposes of child support.
 - (b) Example: stable relationship between man and woman and then a child is born. He supposes the child is his and treats the child as his. 5 years later, a new man arrives and DNA proves that this other man is the father.
 - (i) Estoppel only the child has relied on it to the detriment of the child

Marriage

1) Requirements for marriage

- a) Capacity
 - i) Marriage is a contract, so you must be sane, old enough. Must also be single.
 - ii) Lack of capacity is grounds for terminating a marriage.
 - iii) In NY, capacity also means that there is one man and one woman.
 - (1) Though NY will recognize a same-sex marriage if validly performed in another jx that allows it.
- b) Ceremonial marriage
 - i) **License** – this gives the state an opportunity to ascertain whether you have capacity.
 - ii) Ceremony requirements:
 - (1) **Officiant** – someone to conduct the ceremony
 - (2) **Witness** – need only 1
 - (3) **Solemn declaration** – an exchange of promises, mutually agree to take on this new status
- c) NO common law marriage in NY!
 - i) However, if a couple enters into a valid common law marriage in a state that allows it and then they move to NY, they are treated as married when they get to NY.

Termination of marriage

1) Types of matrimonial actions in NY

a) **Declaration of nullity**

i) Brought when there was a capacity problem that makes the marriage void.

(1) Void marriage is not a real marriage.

(2) Get declaration to clarify the record, make status unambiguous, and so court can adjudicate collateral relationship (i.e., property or children)

ii) Grounds on capacity:

(1) Bigamy

(a) If you have a spouse from a previous marriage and never terminated it and that spouse is still alive, you cannot marry others.

(2) Incest

(a) You cannot be too closely related by blood.

(b) Blood relationships only – an ancestor, descendant, a sibling (or half-sibling), and lineal relative up or down one generation.

(i) I.e., man can't marry his daughter, granddaughter, great granddaughter, sister, half-sister, aunt, niece.

(c) CAN marry cousins in NY.

(d) People related only by marriage or step-relations are free to marry.

(e) Entering into an incestuous marriage is also criminal.

b) **Annulment**

i) Also based on a capacity problem, but marriage is not void. It is voidable.

(1) So it stays intact until you get an annulment.

ii) Grounds

(1) Can be waived by innocent spouse who learns of the problem and continues to cohabitate once problem is removed or eliminated.

(2) Age

(a) Party is too young. In NY, must be 18 to marry. If under 18, can seek annulment.

(i) Example: H and W elope. H is 19 and W is 17. Later, W rethinks it and files for annulment. Imagine if W seeks annulment when she is 20. If W continued to cohabitate after age 18, she waived the grounds.

(b) If you are over 16 and under 18, you can marry lawfully with consent of both parents.

(c) If you are over 14 and under 16, you can marry lawfully with consent of both parents and approval of judge.

(d) Under age 14, cannot get married.

- (3) Mental capacity at time of marriage
- (a) Must be of sound mind at time of marriage.
 - (b) Will be brought by a guardian on behalf of the mentally incompetent.
Called a committee in NY.
 - (c) Waiveable only if the mental capacity is cured and you continue to cohabit after regaining sanity or lucidity.
- (4) Duress
- (a) Example: Teenage girl wants to marry but teenage boy doesn't. Her father gets his gun and forces the boy to get married.
 - (b) This is waiveable if you stay in the relationship after the threat is eliminated and you continue to cohabit.
- (5) Fraud
- (a) Misrepresentation of or concealment of information that goes to an essential aspect of the marriage calculated to deceive a reasonably prudent person.
 - (b) Takes place before the marriage and committed by one of the fiancé.
One of them will keep a secret or tell a lie.
 - (c) Key thing to write on exam: Must go to an essential aspect of the marriage.
 - (i) This goes to the materiality of the secret or lie. Everyone lies but the law is not concerned with triviality (ex. being a natural blonde)
 - (ii) Case-by-case basis.
 - (d) Topics where determination of fraud is clear:
 - (i) Misrepresentation about **religion**.
 - 1. This is material and grounds for annulment.
 - 2. Also grounds if you lie about the intensity of your religious beliefs.
 - 3. This is waiveable.
 - (ii) Lying about **procreation**.
 - 1. Ability to have children – if you conceal fact that you cannot reproduce, then it is material and grounds for annulment.
 - 2. If you are a carrier of a genetic ailment that could lead to possible defects in children, grounds for annulment.
 - 3. If you lie about other being father of children, grounds for annulment.
 - (iii) Lying about **sex**.
 - 1. Lies about prior marriages or lack thereof, grounds for annulment.
 - 2. Lies about sexual history is more ambiguous, but if you lie about it in a big way, then grounds. (example, previously worked as a prostitute)

- (e) Lies about money, career, social status, or property IS NOT GROUNDS for annulment.
 - (i) These do not go to the essential aspect of marriage. One does not marry to increase one's economic or social status.

(f) **Waiver – 3 year statute of limitations after discovery**

(6) Physical incapacity

- (a) Involves the ability to have sex, consummate the marriage. Not about procreation.
 - (i) It also does not involve just being cold or unaffectionate with spouse.
- (b) Definition – incurable physical condition that prevents safe sexual intercourse.
 - (i) Must be incurable – not for when you can take Viagra.
 - (ii) Must not be psychological – that is not grounds.
- (c) This grounds for annulment presupposes that the couple did not have sex prior to the marriage and that the problem is learned of on their wedding night.
- (d) Waiver – 5 year statute of limitations.
- (e) This is the only ground for which there is no jury trial.

(7) 5 year incurable insanity

- (a) Must arise after the date of marriage.
- (b) 3 court appointed doctors must agree to the diagnosis and testify.

c) **Lawsuit for legal separation**

- i) Legal separation authorizes the parties to live in separate homes and adjudicates their economic relationship and may make order re: children.
 - (1) Marriage is left intact.
- ii) Reasons:
 - (1) Practical
 - (a) Economic – continue filing joint tax returns, use spouse's health insurance
 - (b) Note: NY legal separation, there is no right to claim elective share.
 - (2) Religious reasons to keep marriage intact.
- iii) This is not tried in front of a jury.
- iv) Grounds
 - (1) Cruel and inhuman treatment
 - (a) Physical and mental abuse. Cruelty must endanger well-being of plaintiff and render it unsafe or improper for spouses to live together.
 - (b) Mental cruelty may include coldness, refusal to have sex if carried out long term.

(2) Abandonment

(a) Elements:

- (i) Voluntary departure by one spouse
- (ii) Departure is without consent of other spouse
- (iii) Departure is without justification
 - 1. If you leave home to escape violence, this is justified.
- (iv) There is no intent to return
 - 1. This is usually inferred from time of separation

(b) In NY, there is no set time that must be met.

(c) Constructive abandonment – does not involve moving out but refusal to have sex.

(d) No statute of limitations because it is a continuing condition.

(3) Adultery

(a) Victim of assault is not an adulterer. Must be another person (animals and inanimate objects do not count).

(b) Defenses:

(i) Recrimination

- 1. Dirty hands. Legal separation is an equitable remedy, so plaintiff must be blameless. If you are guilty of misconduct, you cannot get relief.

(ii) Condonation

- 1. Form of waiver, to put up with something.
- 2. If plaintiff, after learning of adultery, freely continues to cohabit, then plaintiff has waived.

(iii) Connivance

- 1. Form of entrapment.
- 2. When plaintiff, in the separation proceeding, procured or arranged the adultery in the first place.

(iv) Statute of limitations

- 1. 5-year period for adultery.
- 2. If you resume cohabitation, it is also condonation.

(4) 3 years consecutive imprisonment

(a) If you can't remember the # of years on exam, say so.

- (i) Write: "imprisonment for the statutory period is grounds for legal separation, but I cannot recall the period. If it is lower than the period given, she has no grounds. If it is higher than the period given, then she does have grounds."

(5) Failure to support

- (a) Spouses have a reciprocal duty to take care of each other economically. If you are not fulfilling that obligation, that is grounds for legal separation. Court will liquidate the obligation for support into a concrete number for support.

d) **Divorce**

- i) NY has fault grounds and no-fault grounds. It is a hybrid jx.

- ii) Grounds:

- (1) Fault grounds:

- (a) Cruel and inhumane treatment
 - (b) Abandonment
 - (i) Difference with this abandonment is that it must be endured for at least 12 months.
 - (c) Adultery
 - (d) 3 years imprisonment

- (2) Quasi-fault grounds:

- (a) Conversion divorce – scenario where first you have separation, then wait some time, and then convert separation into divorce.
 - (i) For this, need 1) predicate separation + 2) passage of time
 - (ii) Predicate separation:
 - 1. Court-ordered separation as a result of litigation, or
 - 2. Mutual agreement to separate embodied in a document called a separation agreement.
 - (iii) Separation agreement:
 - 1. Marital contract, governed by standards for premarital contracts.
 - 2. Must be filed with the court prior to seeking a conversion divorce.
 - a. Rescission of separation agreement:
 - i. If you cohabit with the intent to reconcile.
 - ii. Sex without intent to reconcile does not reset the time and does not rescind the agreement.
 - b. Material breach of separation agreement:
 - i. If material breach, cannot rely on the agreement for a conversion divorce.
 - (iv) Parties must live separate and apart for 1 full year.
 - (v) Cohabitation after court-ordered separation will not affect the right to get a conversion divorce.

(3) No-fault grounds:

(a) No fault divorce:

(i) Does not mean that you don't need grounds. You have to prove a ground but the ground does not point to blameworthiness of either spouse.

(ii) **Irretrievable breakdown of the marriage**

1. [This is the 2nd most important term in domestic relations to know.]

2. Must be shown for a period of at least 6 months, provided that one party so states under oath.

a. New law, so don't know if testimony can be challenged by other party or what kind of details are needed.

(iii) No-fault divorce will not be entered until all collateral issues are resolved (children, economic rights) so it may take some time.

(iv) For exam – if you see a fault ground, write about the fault ground, and then also say that no-fault is a viable alternative.

1. A spouse with grounds for fault can also choose to go the no-fault route.

e) **Dissolution**

i) Only use it when your spouse has disappeared, haven't heard from the person for at least 5 years.

ii) Judicial declaration that the person missing is dead.

iii) Must prove:

(1) Diligent search has been made;

(2) Published a request that spouse return for 3 weeks in an English newspaper; and

(3) Plaintiff must be a NY resident for 1 year or NY was the matrimonial domicile at the time of the disappearance.

iv) Court will not enter collateral orders – the other spouse is dead!

2) Procedural issue

a) When a family law case is filed, under the no-fault legislation, certain automatic orders kick in to preserve the economic status quo.

i) Forbids either party to: sell assets, conceal assets, incur unusual debts, make changes in insurance beneficiaries.

ii) These become operative on defendant as soon as they get the complaint.

b) In all matrimonial cases, they are required to make full financial disclosure of worth and must file accompanying federal tax returns to corroborate their disclosure.

Alimony (statute refers to it as “maintenance”)

1) Temporary

- a) Ordered to be paid while suit is pending.
- b) Designed to meet the reasonable needs of the less-monied spouse and preserve the status quo until judgment.
- c) Formulas were adopted to calculate the presumptive amount but the court can adjust this, though must state why it is using a different amount.

2) Post-judgment maintenance

- a) Statute lists 19 factors that the court should consider.
 - i) Factor 19: any other factor the court deems just.
 - (1) So if you make one up, you are still right! Write: “The court can consider statutory factors or other factors that the court deems just. Such factors may include...”
 - ii) Factors: age, health, earning capacity, children and whether one is going to be custodial (or caretaker for elderly parent), property division (if one person gets a lot of property, maybe they don’t need maintenance), duration of marriage (longer the marriage, more likely to get maintenance)
 - iii) Just be rationale and use common sense.
- b) Rebuttable presumption: less-monied spouse should get atty’s fees at end of matrimonial action.
- c) Modifying maintenance:
 - i) If by order, it can be modified if it can be proven that there is a substantial change in circumstances.
 - ii) If part of a separation agreement, it can be modified if it can be proved that there is an extreme hardship.
 - iii) Modification is prospective only. Past due amounts are like debts.
- d) Maintenance order lasts as long as the court indicates.
 - i) Can be open-ended and indefinite.
 - ii) Automatic termination:
 - (1) Death of either party.
 - (2) If recipient remarries OR cohabitates with another.
- e) If payor stops paying, enforce by:
 - i) Seize property
 - ii) Enter a wage withholding order
 - iii) File with state and federal tax to retrieve tax refunds
 - iv) Non-payor can have driver’s license revoked
 - v) Put non-payor in jail for contempt of court

Property division [most often testes]

1) **NY is an equitable distribution state.**

2) Process:

a) Categorize the assets

i) Divide into 3 columns: H's separate prop., W's separate prop., Marital assets.

ii) **Separate property:**

- (1) Any assets owned by spouse before marriage is that spouse's separate property.
- (2) Any bequests or gifts received by either spouse in their sole name during the marriage.
 - (a) Any gift to them jointly is marital asset, even if received prior to marriage, like wedding gifts.
- (3) Any personal injury compensation received by either spouse during marriage as a tort judgment is the separate property of that spouse.
- (4) Any property the parties agree to treat as separate.
- (5) Appreciation in value on anything listed above due purely to market forces – *passive* appreciation.
 - (a) Appreciation that is due to the *active* participation or effort of party is treated as marital property.
 - (b) Example: prior to marriage, H has restaurant with debt and a value of \$25k. After marriage, W starts working at the restaurant, in charge of reservation system, and now it is worth \$100k.
 - (i) So \$25k is H's separate prop. \$75k is marital property.
 - (c) Active participation can include services as a homemaker and parent that liberates the other spouse to devote time to the asset.
 - (d) Example: as above, but this time W agrees to stay home and watch the kids for 10 years. The \$75k in appreciation is due to W's active participation because by staying home, she liberated H to devote more time to the restaurant.

iii) **Marital property:**

- (1) Anything and everything else owned by the couple not listed above.
 - (a) Construed broadly – when in doubt, it is a marital asset.
 - (b) Salary, overtime, stock options
- (2) Timing – after the marriage ceremony until the filing of the matrimonial action, it is the things acquired and not spent that is marital property, regardless of form of title or who earned the asset.

- (3) Professional degree or license
 - (a) If earned during marriage, it is marital property.
 - (b) Court will value the asset by predicting how much extra money you will earn over lifetime due to the degree or license. You keep the degree but other spouse gets assets to make up the difference.
 - (c) If treated as a marital asset, court must take that into account when awarding maintenance to avoid double counting.
- b) Distribute the assets
 - i) H gets his own separate prop., W gets her own. There is no court discretion on this.
 - ii) Courts exercise **equitable discretion** with regard to marital assets.
 - iii) Factors considered:
 - (1) Similar to factors for awarding maintenance.
 - (2) Includes final factor of “any factor the court considers just” so ok to make them up.
 - (3) Loss of health insurance benefits and inheritance rights are considered.
 - (4) Need to children to occupy the marital home is considered.
 - iv) Fault is **not** considered for property division.
 - v) Court can divide in kind or make cash awards.

Children

- 1) **Termination of parental rights (TPR)**
 - a) Procedure:
 - i) Adjudicated in Family Court
 - ii) Must be established by clear and convincing evidence.
 - iii) Parent entitled to state-appointed counsel if they cannot afford one.
 - b) Grounds:
 - i) Abandonment of child by parent
 - (1) Failure to visit or communicate with child for period of at least 6 months and evidences an intent to forego your parental rights
 - (2) Example: nonmarital child where father and mother had a very brief relationship.
 - ii) Permanent neglect
 - (1) Child must be in agency care
 - (2) Parent has failed to for one year to maintain substantial contact with child, failed to plan for future of child despite being able to financially and physically and despite agency’s efforts to assist, then parent’s rights will be terminated.

- iii) Abuse
- iv) Mental illness or development disability
- v) Parent has murdered one of child's siblings

2) **Adoption**

- a) Can be done by:
 - i) Married couple (including if one spouse is a minor and child is other spouse's)
 - ii) Single person (includes married but separated)
- b) Any child or adult can be adopted.
 - i) But objective must be to establish a true parent-child relationship.
 - ii) Example: gay couple cannot chose to adopt the other in order to establish inheritance rights or hospital visitation.
- c) Consent
 - i) This is key. Need consent of all parties or that consent is legally dispensable.
 - ii) Certain people have veto power.
 - iii) If adoptee is under 18, need consent of both biological parents.
 - (1) Parents' right to consent is forfeited if the child is voluntarily surrendered.
 - (2) Parents' right to consent is lost if their rights have been terminated.
 - iv) If different person has custody of the child, need consent of the custodian.
 - v) If adoptee is over 14, adoptee must consent.
- d) Adoptive parents
 - i) Are investigated.
 - ii) NY typically places child in home for 3-month trial period.
 - iii) Preference is to match religion of adoptive parents to the child. Not mandatory.
- e) Hearing is held to finalize the adoption.
 - i) After the adoption order is entered, just like any other parent-child relationship, including support obligations.

3) **Child support**

- a) Support must be provided to children until age 21.
 - i) Court can extend this to completion of college if court finds child has academic ability and parents have financial means.
- b) Court only gets involved if:
 - i) Termination of marriage
 - ii) At end of filiation proceeding
 - iii) Petition filed by minor acting through guardian, alleging non-support.

- c) Calculation
 - i) Specific formulas are used and then apportioned to parents based on their respective incomes.
 - (1) Court can use discretion here.
 - ii) Parents can agree on alternate support obligations in a separation agreement.
 - (1) But this must expressly state that they know there is a statutory amount, what that amount is, and that they know the court can modify it to ensure the child is cared for.
 - (2) Court is not likely to approve agreements for less than the statutory amounts.
- d) Modification of support order
 - i) Can be modified if changed circumstances are shown.
 - ii) Situations of automatic changed circumstances:
 - (1) 3 years have passed since last review or modification
 - (2) Change in either parent's income up or down by 15% or more.
- e) Enforcement of support
 - i) Same as for maintenance
- 4) **Child custody**
 - a) Standard: what is in the best interests of the child
 - i) [This is the most important phrase to remember.]
 - b) Factors:
 - i) This is wide open – think of anything you can.
 - ii) Gender is *irrelevant*.
 - iii) Health, physical and mental of the 2 parents
 - iv) Economic and educational background of each parent
 - v) History of domestic violence, substance abuse, criminality
 - vi) Parent's new relationship and what kind of person that is
 - vii) Preferences of parents and child
 - (1) If the child is old enough to have preferences.
 - viii) If court is considering joint custodial relationship, consider whether parents get along, how far apart they live.
 - c) Court can take unsworn testimony of child in camera but must then make a record of it for appellate review of record.
 - d) Custody between parent and non-parent:
 - i) Best interest of the child still applies.
 - ii) Presumption is that child's best interests are with biological parent.

- iii) Non-parent will only prevail by:
 - (1) Showing biological parent is unfit, or
 - (2) Extraordinary circumstances.
 - (a) Example: W is single mother, father not in picture. W is a drug dealer and is in jail for the 3rd time. W places child with sister but wants child back after getting out of jail. Sister refuses. W brings action for custody. Sister shows she lives in a good neighborhood, is married. It is clear that the child would be better off with the sister but this is not enough. Sister must show that W is unfit or there are extraordinary circumstances.
 - (b) Example: may also arise in context of gay couple, as one is biological parent and other is not.
- e) Relocation of custodial parent
 - i) Should not be done without permission of court.
 - ii) If relocation makes contact with the non-custodial parent more difficult, court must determine whether relocation is in the best interests of the child.
 - (1) Example: better job in new city for custodial parent vs. detriment to non-custodial parent with more difficulty for visitation.
- iii) Non-custodial parent is always entitled to visitation.
 - (1) Only grounds for denial:
 - (a) If it poses actual threat to health or safety of child.
 - (b) If it is borderline whether there is an actual threat, court will order supervised visitation.
 - (2) Won't lose visitation for failure to pay support.
- f) Grandparent petition for visitation
 - i) Always go by what is in the best interests of the child.
 - ii) Presumption is in favor of the parent's wishes.
 - (1) Grandparents must make a showing of special circumstances that establish a substantial state interest in allowing the visitation.

Conflict of laws

- 1) NY recognition of **out of state marriage**:
 - a) If valid where contracted, then valid in NY, unless it violates a strong state public policy.
 - i) Example: foreign jx that allowed siblings to marry, NY might refuse to recognize it, as it is a crime in NY.

- 2) NY recognition of an **out of state divorce**:
 - a) If bilateral (both spouses participated) and appeared in the out of state proceedings, divorce will be recognized and cannot be collaterally attacked in NY.
 - i) It is also res judicata as to all issues that could have been raised, so too bad if no maintenance was brought up in PA divorce.
 - b) If ex parte (only 1 spouse participated) in out of state divorce, that divorce is prima facie valid in NY if defendant received service of process.
 - i) This can be collaterally attacked but the only basis is that the party obtaining the divorce was not a true domiciliary in the forum.
 - (1) Substantive grounds for out of state divorce are irrelevant.
 - ii) So:
 - (1) Was defendant served with process?
 - (2) Was spouse who obtained divorce truly domiciled there?
- 3) NY recognition of **out of country divorce**:
 - a) If bilateral, NY will recognize divorce through doctrine of comity.
 - b) If ex parte, NY will not recognize this. Absolutely invalid.
- 4) **Out of state support orders**
 - a) Uniform Interstate Family Support Act
 - i) Provides that court that entered the original support order has continuing exclusive jx unless all parties have left that state
 - ii) Provides for direct interstate enforcement
 - (1) So custodial parent in PA can garnish NY wages and vice versa.
 - b) Federal statute – Full Faith and Credit for Child Support Orders Act
 - i) Does same thing.
 - ii) This act was needed b/c normal full faith and credit only applies to final orders and since support orders can be modified, they were not final.
- 5) **Out of state custody orders**
 - a) Uniform statute – UCCJCA (??)
 - b) To determine which court has jx to enter an initial child custody order:
 - i) Home state of child has jx. Typically the divorce court.
 - ii) Home state = state where child has lived 6 months with a parent immediately preceding the filing of the claim.
 - c) Once home state enters a child custody order, same rule. Continuing exclusive jx unless all parties have left the state.
 - d) Crime in every state to take a child out of state in violation of a custody order.