



# NY FAMILY LAW RESEARCH GUIDE

*H. Douglas Barclay Law Library*

## **NEW YORK STATE FAMILY LAW LEGAL RESEARCH**

**Check the library's Online Catalog for the current location of sources mentioned in this pathfinder.**

### **PURPOSE:**

This pathfinder is a guide to the typical Family Law print materials found in the Barclay Law Library. Included are basic primary resources, secondary sources, finding aids and internet sources for researching all aspects of Family Law in New York State. The emphasis on law research finding aids in part four of this guide is to help the Family Law researcher carry on cost effective research.

### **OUTLINE:**

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### **I. PRIMARY SOURCES FOR FAMILY LAW**

## A. The New York Code

The New York code is a subject arrangement (titles) of laws currently in effect for New York. The two unofficial codes discussed herein, “*McKinney’s*” and the “*CLS*”, include annotations, that is, references and notes to aid the researcher in understanding the specific law or statute consulted. Please note that the text of laws published in *McKinney’s* and in the *CLS* are identical.

### **Starting Point – finding citations to the New York Code (statutes):**

*New York Law Finder* **KFN5061.N482** (Stack 1)

This finding aid serves as an alphabetical index of descriptive law topic headings. For example: “Custody of Children”

The topic headings supply references to primary law sources and to secondary law sources. References include: texts, treatises, encyclopedias, statutes, court rules, form books & digest topics & key numbers, etc

*McKinney’s Law and the Family New York*, **KFN 5115 .M335** (Stack 1)

- One volume collection of Family Law and related titles found in the New York code.
- Contains the *Domestic Relations Law*, the *Family Court Act*, and *Social Services Law*.
- Also contains selected sections from the *Civil Practice Law and Rules*, *Civil Rights Law*, *Code of Professional Responsibility*, and *New York Rules of Court*, as they relate to families.

The titles and sections referenced in this work can also be found in the following two New York State code compilations:

### **NYS Code Compilations:**

- *McKinney’s Consolidated Laws of New York, Annotated (McKinney’s)* **KFN 5030 .A43** (Stack 1 & Floor 3 Reference)
  - Published by West. Updated by annual pocket parts.
  - Arranged by title & section number.
  - Subject index to entire set and individual indexes for each title.
  - Annotations provide historical notes, citations to cases and law review articles.
  - Forms are available in a separate set: *McKinney’s Forms* **KFN 5068 .W4** (Stack 1).
- *New York Consolidated Laws Service: Annotated Statutes With Forms (CLS)*

**KFN 5030 .A45 (Stack 1)**

- Published by Lexis.
- Text of laws identical to McKinney's.
- Fewer annotations.
- Forms are included following statutes

**B. Case Law Reports**

Court cases and decisions pertaining to Family Law matters are found in case law reporters. Case law reporters are compilations of court decisions, arranged in chronological order by jurisdiction and court. Official New York case law reporters are those sanctioned by statute or court rule, while unofficial reporters are those published without legislative or judicial authority. Citations to official and unofficial New York case reporters are provided below:

**Starting Point:**

*BNA Family Law Reporter* **KF 501 .A3F3** Stack 3 Library of 25+ vols.

This is a very useful secondary source for locating case law citations. It covers all jurisdictions on matters of family law and provides analysis and commentary on current Family Law cases. It includes the divorce statutes of the fifty states, the full text of federal laws and Uniform and Model Acts. In addition, the Practice Aids section offers practitioners checklists, agreements, letters, fee-agreements, visitation guidelines, property division suggestions, etc. The “Current Developments” section reviews new developing issues in Family Law.

Legal Encyclopedias (*New York Jurisprudence 2d.*)

Another good resource to consult for New York family law cases is the legal encyclopedia. See the discussion under Secondary Sources for the various law encyclopedias available in the library.

Digests:

*New York Digest, 2d, 3d, 4th* **KFN 5057 .A32** (Stack 1)

- Case law finding tool
- Contains abstracts of court decisions, arranged by subject.
- Used to located specific cases in the New York case reporters.

**Check with reference librarian for assistance in accessing this resource.**

The cases cited in the *BNA Family Law Reporter* or in an encyclopedia or in the New York Digest can be found in the following New York case reporters.

Case Law Reporters-Compilations:

- *New York Reports (NY)*, *2d Series (NY2d)*, *3d series (NY3d)* **KFN 5045 .A33** (Stack 1)
  - Official reporter of cases from the New York Court of Appeals.
  - Coverage 1847 – present.
  - Ex. *Eschbach v. Eschbach*, 56 N.Y.2d 167 (1982).
- *Appellate Division (AD)*, *2d series (AD2d)*, *3d series (AD3d)* **KFN 5048 .A22** (Stack 1)
  - Official reporter of cases from the Appellate Division of the Supreme Court of New York.
  - Coverage 1896 – present.
  - Ex. *Robert GG v. Kathleen HH*, 278 A.D.2d 713, 710 N.Y.S.2d 176 (2000).
- *New York Miscellaneous (Misc)* and *New York Miscellaneous 2nd (Misc2d)* **KFN 5051 .A5** (Stack 1)
  - Official reporter of select cases from New York courts other than the Court of Appeals and the Appellate Division of the Supreme Court, including some trial cases (not comprehensive).
  - Coverage 1892 – present.
  - *E.R. v. G.S.R.*, 170 Misc2d 659, 648 N.Y.S.2d 257 (1996).
- *New York Supplement (NYS)* and *New York Supplement 2nd (NYS2d)* **KFN 5045 .A333** (Stack 1)
  - Unofficial reporter that includes all cases from the three official reporters.
  - Coverage 1888 – present.
  - Published by West (uses the key number system).
  - Ex. *Vasile v. Vasile*, 116 A.D.2d 1021, 498 N.Y.S. 2d 635 (1986).

Other examples of New York cases with reporter citations:

*Tropea v. Tropea*, 87 N.Y.2d 727 (1996).

*Matter of Alison D. v. Virginia M.*, 77 N.Y.2d 651 (1991).

*Matisoff v. Dobi*, 90 N.Y.2d 127, 681 N.E.2d 376, 659 N.Y.S.2d 209 (1997).

*Eschbach v. Eschbach*, 56 A.D.2d 167, 451 N.Y.S.2d 658, 436 N.E.2d 1260 (1982).

## II. SECONDARY SOURCES FOR FAMILY LAW

## A. Introduction

### What Are Secondary Sources?

Secondary Sources provide helpful introductions or overviews to Family Law subjects. They provide the Family Law researcher with a general overview of a Family Law subject or topic and identify the relevant primary law, that is, the statutes, regulations, constitutional provisions and important cases that relate to a topic. They are also useful for obtaining synopses of decisions, statutes, and regulations in Family Law.

Secondary sources can be used mainly to find citations or references to primary sources (the law) and to gain an overview of a particular subject such as alimony, parent & child, divorce, domestic abuse, domestic violence, custody or adoption, paternity, child abduction, child support, etc.

## B. Encyclopedias: National

Encyclopedias such *American Jurisprudence 2d* (*Am Jur 2d*) and *Corpus Juris Secundum* (*CJS*) are useful for an overview of Family Law topics from a multi-jurisdictional perspective. Both encyclopedias offer a detailed subject index for access. Both are available in book form and on Lexis, Westlaw, and Westlaw Next.

- *American Jurisprudence 2d*, West Publishing, **Reference KF154 .A42** (Floor 3: Encyclopedia Wall)

Family Law topics discuss the broad principles of law and provide citations to supporting cases and other publications, such as related annotations, forms, proofs, and trial techniques (subjects include *inter alia* divorce, separation, custody, child support, adoption, etc.).

- **Titles To Consult:**

- 2 Am. Jur. 2d, *Adoption of Children* – adoption agreements, adoptive parents, consent to adoption, natural parents at Sec. 1-207.
- 24A Am. Jur. 2d, *Divorce & Separation* - child custody & visitation discussion at Sec. 929 et seq.
- 41 Am. Jur. 2d, *Husband & Wife* – interspousal immunity, restraints of marriage, cotenancy and joint ownership at Sec. 1-261.
- 42 Am. Jur. 2d, *Infants*- abuse of children.
- 52 Am. Jur. 2d, *Marriage*- capacity to marry, ceremonial marriage at Sec. 1-120.

- *Corpus Juris Secundum* (CJS), West Publishing, **Reference KF154 .C5** (Floor 3: Encyclopedia Wall)

This encyclopedia also provides articles on all subject areas of the law, including Family Law. The Family Law articles discuss principles of law and provide footnotes and citations to supporting cases, statutes, regulations, and West key numbers. Subjects covered include *inter alia* divorce, separation, custody, child support, adoption, etc.).

- **Titles To Consult:**

- 2 C.J.S. *Adoption of Persons* – persons who may adopt; persons who may be adopted; consent of parties
- 27A C.J.S. *Divorce* – grounds; no-fault divorce; alimony
- 28 C.J.S. *Domestic Abuse & Violence* – protected persons; orders
- 41 C.J.S. *Husband and Wife* – mutual rights, duties, and liabilities; marital agreements, settlements, and stipulations
- 67A C.J.S. *Parent and Child* – support, maintenance, and education; special parental relationships

### C. Encyclopedias: New York State

- *New York Jurisprudence 2d*, West Publishing, **Reference KFN5065 .N48** (Floor 3: Reference Wall)
  - Provides articles on New York Family Law subjects. The articles discuss principles of law and provide cites to supporting cases, state and federal statutes, regulations, and cross references to other sources.
  - Family Law matters are discussed under the subject of “*Domestic Relations*” in volumes 45 through 48A of *New York Jurisprudence 2<sup>nd</sup>*.
  - These volumes offer a topical treatment of such Family Law matters as: marriage, divorce, parent-child, adoption, neglect, etc.
  - The topics discussed also provide the researcher with references and citations to the relevant New York code and case law.
  - **Titles To Consult:**
    - 45 N.Y. Jur. 2d *Domestic Relations* – marriage, husband and wife, parent and child, adoption, support of spouse, family court proceedings
    - 67 N.Y. Jur. 2d *Infants, Etc.* – infants, guardianship of infants, incompetent and mentally disabled persons

### III. NEW YORK FAMILY LAW PRACTICE MATERIALS

Practice materials offer ‘how to’ commentary and practical advice with the interpretation of relevant cases, statutes or rules. Footnotes found in such commentaries are valuable sources of case references, law review articles, and other relevant citations that the researcher might want to consult.

#### Titles To Consult:

**Family & Matrimonial Law - Stack 1**

Brandes, Joel R. and Carole L. Weidman, *Law and the Family in New York*, 2d, West Group, **KFN5126 .F678** (most recent supplement 2010).

*Callaghan's Family Court Law and Practice in New York*, Revised Edition, West Group, **KFN 5116 .K47** (most recent supplement 2010).

DeSilva, Willard H., *New York Matrimonial Practice* **KFN 5120 .D38** (most recent supplement 2010-2011).

Elkins, Hon. Lee H, & Fosbinder, Jane , *New York Law of Domestic Violence*, West Group **KFN 6121.4 .E44** (most recent supplement 2010-2011).

Haralambie, Ann M. *Handling Child Custody, Abuse, and Adoption Cases* McGraw-Hill, 3<sup>rd</sup> ed. 2009 **KF 547 .H37 2009**

Kramer, Donald T. & Catherine Palo. *Legal Rights of Children*. Thomson/West, 2<sup>nd</sup> ed., 2005. **KF 479 .L44 2005**

Lanser, David J. & Reichler, Judith M., *New York Civil Practice: Matrimonial Actions*, M. Bender, **KFN 5126 .L281** (most recent supplement 2010).

Peters, Jean Koh *Representing Children in Child Protective Proceedings: Ethical and Practical Dimensions* LexisNexis, 2007. **KF 3735 .P47 2007**

Scheinkman, Alan D., et al., *New York Law of Domestic Relations*, West's New York Practice Series, **KFN 5115 .S37**

Sobie, Merrill, et al., *New York Family Court Practice*, West's New York Practice Series, **KFN 5116.N3**

Tuppins, Timothy M, *New York Matrimonial Law and Practice*, **KFN 5126 .T57** (most recent supplement 2010-2011).

*New York Practice Guide: Domestic Relations*, M. Bender **KFN 5115.N48** (most recent supplement 2009).

**Child Support Related Materials: Stack 1**

Gallet, Jeffry H. & Finn, Maureen M., *Spouse and Child Support in New York*, **KFN 5130 .Z9 G35**

Reichler, Judith M., *New York Child Support Handbook*, (National Center on Women and Family Law, 1992) **KFN 5130 .A9 R34**

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*Compendium of promising practices/good ideas in child support enforcement*, 2006  
Department of Health and Human Services, Administration for Children and Families,  
Office of Child Support Enforcement, Bird-Gov't Info-USA, 3rd Floor **HE 24.15:07-01**

**Guardianship Related Materials: Stack 1**

*Law Guardian Reporter* (Appellate Division of the Supreme Court)  
**KFN 5084.5 .J88 A1355**

Morrissey, James, *Rights and Responsibilities of Young People in New York; A Legal Guide for Human Service Providers*, (NYSBA, 1990) **KFN 5603.Z9 R54**

*Law Guardian Representation Standards*, (NYSBA) Vol. 2: Custody Cases  
**KFN 5111 .M5 N39**

Kasoff, Edwin, and Charles, Robert, *Elder Law and Guardianship in New York*, **KFN 5111.A33 K27** (most recent supplement 2009)

**Form Books and Drafting Manuals: Stack 1**

Brandes, Joel R. and Weidman, Carole L., *Law and the Family New York Forms*, **KFN 5126 .F678** (most recent supplement 2010).

*New York Forms--Legal and Business*, **KFN 5068 .N4** (most recent supplement 2010-2011).

*West's McKinney's Forms*, **KFN 5068 .W4** (supplemented often, most recently 2011).

*Consolidated Law Service--New York Statutes* (Forms appear after relevant sections of the Code) **KFN 5030.A45** (updated quarterly, most recently 2011).

**Other Secondary Sources:**

Clark, Homer H. *The Law of Domestic Relations in the United States*, 2d. edition (West Hornbook), 1988 **KF 505.C55**  
-- dated but useful as a secondary source (references to primary sources)  
-- useful for a general overview of topic (custody, etc)

*Principles of the Law of Family Dissolution: Analysis and Recommendations* As Adopted and Promulgated by the American Law Institute at Washington, D.C., May 16, 2000. LexisNexis, 2002. **KF 535 .P753 2003**

**Representative Family Law Journal & Reviews**



Typical “Family Law” journals and periodicals cited in the ILP and available in the Law Library include: **(Floor 2 Unclassified)**

- *American Journal of Family Law* 1987 - (practice issues)
- *Family Advocate* 1987 - (advocacy, ethics, experts)
- *Family Law Quarterly* 1967 – 2010 autumn (family law issues)
- *Journal of Divorce & Remarriage* 1977 - (clinical studies)
- *Journal of Law & Family Studies* 1999- 2010
- *Journal of Family Law* 1961 - (family law issues)
- *University of Louisville Journal of Family Law* 1992 –
- *Whittier Journal of Child and Family Advocacy* 2002-

Best accessed through print and online indexes. See the discussion in part IV (B) of this guide. Also, consult with a reference librarian on how to access and use the print and electronic *Index To Legal Periodicals* (ILP).

#### IV. FAMILY LAW FINDING TOOLS

##### A. Online Catalogs

- <http://library.syr.edu/> (Syracuse University)
- <http://www.law.syr.edu/library/index.aspx> (Syracuse University College of Law)

Syracuse University's online catalog includes all libraries on campus as well as ESF's Moon Library. The catalog should be searched when you want to find books, treatises, loose-leaf services, and journals dealing with Family Law matters.

The online catalog can be searched in a variety of ways: by author, title, journal title, subject, or any combination thereof.

Sample Keyword Searches in the Online Library Catalog for Secondary Family Law Sources:

- Child Cases & Expert Witnesses
- Child Custody & Practice & Procedure
- Child Custody & Cases
- Guide & Child Custody
- Best Interests & Child
- Best Interests & Loco Parentis

##### B. Legal Periodical Indexes

**Check with reference librarian for assistance in accessing this resource.**

Legal periodical indexes are used to find citations to articles in law related periodicals such as law reviews, bar journals, and legal newspapers. Law reviews, law journals, and bar journals are found on floor 2 of the law library.

- *Index To Legal Periodicals*, Wilson & Co., **K33 .I5** (3<sup>rd</sup> Floor)
  - ILP is a subject and author index to legal periodicals and books.
  - Author, title and subject entries contain a complete citation of the article, and are arranged by geographic jurisdiction within the topics.
  - Coverage in the print version is much greater than in the electronic version, and therefore it is valuable for historical research.
  - Online version (1980-) available via Law Library's Electronic Resources Web Page.

The ILP is extremely useful to researchers for Family Law article searching by keyword or subject. For example, here are some sample searches to conduct in the online version of the ILP:

- Custody & “best interest” & “New York”
  - Custody & “New York” or “Connecticut”
  - Best interest standard’ & custody
  - Divorce & “Community property” & lottery
  - California & “Community property”
- 
- *New York Law Finder* **KFN 5061 .N482** (Stack 1)
    - One volume index to West legal publications for New York State.
    - Index lists 4,500+ descriptive topic headings in alphabetical order.
    - Topic headings supply references to New York and federal law sources.
    - References to sources include: treatises, statutes, court rules, form books, etc.

For further information on the use of this and other digests see also the law library pathfinder entitled: "West Case Reporters and Digests."

## **V. INTERNET RESOURCES**

- ABA Section of Family Law  
<http://www.abanet.org/family/home.html>

This web site provides subscribers, among other things, summaries of articles from recent issues of the ABA's *Family Advocate* and *Family Law Quarterly*. Informational resources are also provided for law students and the general public. They include:

- Family Law in 50 States Tables
- Fact Books
- ABA Guide to Family Law

- Cornell University 's Legal Information Institute  
[http://topics.law.cornell.edu/wex/category/family\\_law](http://topics.law.cornell.edu/wex/category/family_law)

This web site is very useful for access to primary law resources sources for researching such matters as adoption, child custody, children's rights, divorce, estate planning, insurance and marriage. Overview of these topics also includes links to source materials such as statutes, regulations and cases.

- Family Law and Social Policy Links  
<http://www.law.syr.edu/academics/center-and-institutes/family-law-and-social-policy/>

This web site is a gateway to resources and organizations related to children's rights, family law, health law, reproductive rights, elder law, and other social policy issues compiled by our own Family Law & Social Policy Center.

## VI. SOUND RECORDINGS

Marc G. Perlin, Family Law [sound recording], **Audio KF505 .Z9 P36** (Floor 3: Reserves).

## VII. GENERAL REFERENCE SOURCES

- Ellen Gibson, *New York Legal Research Guide* **Reference KFN 5074 .G53** (Floor 3: Reference); **KFN 5074 .G53** (Stack 1)
  - Excellent guide to conducting legal research in New York.
  - Introduction to print/non-print sources for researching the law of New York State
- *New York Red Book* **Reference KFN 5074 .A14 N48** (Floor 3: Reference); **KFN 5074 .A14 N48** (Stack 1)
  - Annual directory and biographical information for NYS government officials.
  - Current year shelved in reference, older years in stacks.
- *New York State Directory* **Reference KFN5072 .N4** (Floor 3: Reference)
  - Annual directory for New York State government.
  - Library keeps current year only.

## Appendix – Family Law Subjects

*Abused children*

*Aged*

*Aged--medical care*

*Antenuptial contracts*

*Battered child (wife) syndrome*

*Child abuse*

*Child support*  
*Children of divorced parents*  
*Children's rights*  
*(Joint) Custody of children*  
*Discrimination in education*  
*Dispute resolution*  
*Domestic relations*  
*Family*  
*Family law*  
*Guardian and Ward*  
*Husband and wife*  
*Legal assistance to the aged*  
*Marriage law*  
*Parent and child*  
*Separation*  
*Surrogate mothers*  
*Unmarried couples*  
*Visitation rights*