

New York Family Law Bar Practice Exam (Sample)

Study Guide



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SAMPLE

Questions

- 1. What is the statute of limitations for filing a divorce in New York?**
 - A. Five years**
 - B. There is no statute of limitations**
 - C. Two years**
 - D. One year**
- 2. Under what circumstances can child support be modified in New York?**
 - A. Only if one parent moves to another state**
 - B. Changes in income, needs of the child, or duration of support**
 - C. Modification is not allowed once set**
 - D. Only if the child reaches a certain age**
- 3. Which of the following qualifies as significant-connection jurisdiction?**
 - A. No other state has home-state jurisdiction**
 - B. Both parents must reside in the state**
 - C. Evidence of the child's training exists in the state**
 - D. Child must have lived in the state for at least three months**
- 4. Which factor is NOT required for home-state jurisdiction?**
 - A. The child has lived there for at least six months**
 - B. One parent must live in the state currently**
 - C. Both parents must agree on custody matters**
 - D. The child cannot be more than six months old**
- 5. What is the presumption in New York regarding joint custody?**
 - A. There is a presumption against joint custody**
 - B. Joint custody is only granted if one parent requests it**
 - C. There is a presumption in favor of joint custody if parents can cooperate**
 - D. Joint custody is rare in New York**

- 6. What is typically required for a prenup to be enforceable?**
- A. Verbal agreement of both parties**
 - B. Written and signed by both parties**
 - C. Court approval prior to marriage**
 - D. Witnesses to the signing**
- 7. What does not constitute child neglect in New York?**
- A. Failing to provide medical care**
 - B. Failing to provide educational opportunities**
 - C. Allowing children to make their own decisions**
 - D. Failing to supervise children properly**
- 8. What is the process for modifying a child support order in New York?**
- A. A verbal agreement between parents**
 - B. A court hearing without filing paperwork**
 - C. Filing a petition with the court showing a substantial change**
 - D. Submitting a modification request in writing**
- 9. How does New York law distinguish between child neglect and child abuse?**
- A. Neglect is a form of abuse**
 - B. Neglect requires intent, abuse does not**
 - C. Neglect involves a failure to provide basic needs**
 - D. There is no distinction made under the law**
- 10. What does the "Family Court Act" govern?**
- A. Property disputes and business partnerships**
 - B. Family law matters including custody, support, and domestic violence**
 - C. Only child support cases**
 - D. Criminal cases involving family members**

Answers

SAMPLE

1. B
2. B
3. A
4. C
5. C
6. B
7. C
8. C
9. C
10. B

SAMPLE

Explanations

SAMPLE

1. What is the statute of limitations for filing a divorce in New York?

- A. Five years
- B. There is no statute of limitations**
- C. Two years
- D. One year

In New York, there is no statute of limitations for filing for divorce. This means that a party can initiate divorce proceedings at any time, regardless of how long the marriage has lasted or how long the parties have been separated. The absence of a time limit allows individuals to seek a divorce when they feel ready and appropriately prepared, without being constrained by a specific timeframe. This principle reflects the state's recognition of the importance of personal circumstances and the various reasons individuals may have for wanting to dissolve their marriage, whether those reasons arise soon after separation or many years later. As a result, individuals should not feel pressured to adhere to a particular time constraint when deciding to pursue divorce, enabling a more thoughtful and informed decision-making process. The other options presented imply specific time frames during which a divorce must be filed, which does not align with New York law regarding divorce proceedings. Thus, the correct understanding lies in recognizing that there is no time limit imposed on initiating a divorce in this jurisdiction.

2. Under what circumstances can child support be modified in New York?

- A. Only if one parent moves to another state
- B. Changes in income, needs of the child, or duration of support**
- C. Modification is not allowed once set
- D. Only if the child reaches a certain age

In New York, child support can be modified under specific circumstances, and these primarily revolve around significant changes in the financial circumstances of the parents or the needs of the child. The correct answer reflects that child support can be changed based on changes in income, the needs of the child, or the duration of support. Changes in income can include situations such as a parent losing a job, getting a new job with a different salary, or experiencing significant medical expenses that affect their ability to pay child support. Similarly, as a child grows, their needs may change, whether it be due to educational requirements, health care costs, or changes in living arrangements. These factors create a basis for reevaluating the support obligation. Additionally, the duration of support can also be a contributing factor, especially if there are predetermined time frames for support obligations that can be adjusted based on calendar timelines or other substantive changes in circumstances. Modification of child support is allowed in New York, providing a mechanism for either parent to seek a change based on the evolving situation. This adaptability is essential to ensure that the child's best interests are continuously prioritized in accordance with the current realities faced by both parents.

3. Which of the following qualifies as significant-connection jurisdiction?

- A. No other state has home-state jurisdiction**
- B. Both parents must reside in the state**
- C. Evidence of the child's training exists in the state**
- D. Child must have lived in the state for at least three months**

Significant-connection jurisdiction allows a court to exercise jurisdiction based on a child's connection to a state, even if that state is not the child's home state. When considering significant-connection jurisdiction, one important factor is whether there is no other state that has home-state jurisdiction. This is crucial because, under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), if a home state does not exist, the court may establish jurisdiction based on significant connections relating to the child. In this scenario, if no other state has home-state jurisdiction, the court may be empowered to assume jurisdiction because significant connections—such as where the child has been physically present, where evidence pertaining to the child is located, or other factors indicating a significant relationship to the state—can be demonstrated. Choosing significant-connection jurisdiction opens up options for custody determinations by ensuring that cases can be managed in jurisdictions where the appropriate ties and evidence exist, thus promoting the child's best interest and welfare. Other options might suggest residency requirements or the presence of both parents, which are not conditions for establishing significant-connection jurisdiction as per UCCJEA guidelines.

4. Which factor is NOT required for home-state jurisdiction?

- A. The child has lived there for at least six months**
- B. One parent must live in the state currently**
- C. Both parents must agree on custody matters**
- D. The child cannot be more than six months old**

Home-state jurisdiction is a key concept in family law, particularly when determining which state's courts have authority over custody disputes involving children. For a state to assert home-state jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), a few specific requirements must be met. The correct choice indicates that both parents must agree on custody matters is not a requirement for home-state jurisdiction. This is accurate because home-state jurisdiction is based on the physical presence and residence of the child, rather than the agreement between parents. The law is designed to prioritize stability and continuity for the child's living situation, which can require judicial intervention even if parents disagree. For home-state jurisdiction to apply, the child typically must have lived in that state for at least six months. Additionally, it is necessary for at least one parent to currently reside in the state. The stipulation regarding the child's age, which states that the child cannot be more than six months old, serves a specific purpose in ensuring that there is a clear legal framework concerning very young children. However, under the UCCJEA, a child can still qualify if they have lived in a state for six months regardless of their age, as long as they do meet the residential requirements. Therefore,

5. What is the presumption in New York regarding joint custody?

- A. There is a presumption against joint custody**
- B. Joint custody is only granted if one parent requests it**
- C. There is a presumption in favor of joint custody if parents can cooperate**
- D. Joint custody is rare in New York**

In New York, there is a presumption in favor of joint custody when both parents demonstrate the ability to cooperate and effectively communicate with one another regarding the child's welfare. This principle is rooted in the belief that maintaining a strong relationship with both parents serves the best interests of the child, provided that the parents are willing and able to share responsibilities and work together. The courts recognize that a collaborative and involved parenting approach can contribute positively to a child's emotional and social development. As such, if parents can demonstrate that they can amicably share parental responsibilities and make joint decisions about their child's upbringing, joint custody is likely to be favored. The emphasis is on the parents' ability to cooperate rather than a mere division of physical custody or visitation time. This framework encourages parents to prioritize their child's well-being by fostering a supportive co-parenting environment. Other options do not align with this principle; for instance, stating that there is a presumption against joint custody overlooks the growing trend and judicial acknowledgment of shared parenting relationships. Additionally, the idea that joint custody is only granted if one parent requests it misrepresents the proactive stance courts may take in fostering cooperative parenting arrangements. Lastly, the assertion that joint custody is rare is contradicted by the trend in family law toward supporting

6. What is typically required for a prenup to be enforceable?

- A. Verbal agreement of both parties**
- B. Written and signed by both parties**
- C. Court approval prior to marriage**
- D. Witnesses to the signing**

A prenuptial agreement, commonly referred to as a prenup, must generally be in writing and signed by both parties to be enforceable. This written requirement ensures that there is a clear and documented understanding of the terms agreed upon by both partners before entering into marriage. Having a written document serves several purposes. It provides clarity on the intentions of each party regarding asset distribution, spousal support, and other financial matters in the event of divorce or separation. The requirement for both parties to sign the agreement further ensures mutual consent, as both individuals must formally agree to the terms. In contrast, a verbal agreement would be difficult to enforce due to the lack of documentation and potential disputes regarding what was actually agreed upon. Court approval is not typically required for a prenup; instead, the enforceability is decided upon by the courts if there is a dispute later. While having witnesses can be beneficial in some legal contexts, it is not a standard requirement for the validity of a prenuptial agreement under New York law. Thus, the written and signed stipulation is pivotal for the enforceability of a prenup.

7. What does not constitute child neglect in New York?

- A. Failing to provide medical care**
- B. Failing to provide educational opportunities**
- C. Allowing children to make their own decisions**
- D. Failing to supervise children properly**

In New York, child neglect is defined as the failure of a parent or guardian to provide for the basic needs of a child, which can include medical care, educational opportunities, proper supervision, and a safe environment. Allowing children to make their own decisions does not fall under the legal definitions of neglect because it implies a level of autonomy and independence that is not necessarily harmful or neglectful. In fact, promoting decision-making skills can be a positive aspect of parenting as it encourages children to develop critical thinking and responsibility. Children should be entrusted to make choices appropriate for their age and maturity, within a framework of guidance and support from their parents or guardians. Thus, this option reflects a recognized aspect of parenting that does not equate to neglect, unlike the other choices, which directly relate to failing to meet essential needs of a child.

8. What is the process for modifying a child support order in New York?

- A. A verbal agreement between parents**
- B. A court hearing without filing paperwork**
- C. Filing a petition with the court showing a substantial change**
- D. Submitting a modification request in writing**

In New York, the appropriate process for modifying a child support order involves filing a petition with the court and demonstrating a substantial change in circumstances. This process is critical to ensure that any adjustments to child support payments are legally recognized and enforceable. To successfully obtain a modification, one must provide evidence that a significant change has occurred since the original child support order was issued. This could include changes in income for either parent, changes in the needs of the child, or other substantial life changes that impact financial responsibilities. The requirement to show a substantial change protects both parents and the child by ensuring that modifications are warranted based on current circumstances rather than mere desire for change. While agreements between parents or requests submitted in writing may seem simpler, they do not hold the legal weight unless approved by the court. A court hearing is required to properly assess the evidence and make a decision on the proposed modification, ensuring that due process is followed. Hence, the necessity of filing a formal petition is fundamental to the legal process surrounding child support modifications.

9. How does New York law distinguish between child neglect and child abuse?

- A. Neglect is a form of abuse**
- B. Neglect requires intent, abuse does not**
- C. Neglect involves a failure to provide basic needs**
- D. There is no distinction made under the law**

Under New York law, the distinction between child neglect and child abuse is primarily rooted in the definitions and circumstances surrounding each concept. Neglect specifically refers to instances where a caregiver fails to provide the necessary and basic needs for a child's well-being, such as adequate food, shelter, medical care, and education. This failure constitutes neglect, as it directly impacts the child's health and safety by not meeting their fundamental needs. While neglect does involve a failure to provide care, it does not necessarily require the same level of intent or malicious actions that might characterize abuse. In contrast, child abuse typically involves overt actions that cause physical, emotional, or psychological harm to a child. This includes physical injury or mental impairment resulting from mistreatment or a failure to protect. Thus, the correct answer accurately reflects the legal criteria used to define neglect, highlighting that it primarily revolves around the caregiver's duties and the consequences of failing to fulfill those responsibilities, which can place the child's welfare at serious risk. Therefore, choice C effectively captures the essence of the legal definition of neglect in New York law.

10. What does the "Family Court Act" govern?

- A. Property disputes and business partnerships**
- B. Family law matters including custody, support, and domestic violence**
- C. Only child support cases**
- D. Criminal cases involving family members**

The Family Court Act governs a broad range of family law matters, which include critical issues like child custody, child support, visitation rights, spousal support, and cases involving domestic violence. This comprehensive framework is tailored specifically to address family dynamics and the legal challenges that arise within them. By focusing on areas such as custody and support, the Family Court Act ensures that the best interests of children are prioritized in custody decisions while also providing necessary support mechanisms for families in distress. Additionally, the Act creates a venue for individuals to seek protection from domestic violence, offering a legal process for obtaining orders of protection and addressing related concerns. The other options do not accurately capture the scope of the Family Court Act. For instance, property disputes and business partnerships fall under different jurisdictional areas that are not solely aimed at family law. Although child support is a part of family matters, the Act encompasses much more, not limited to just that one aspect. Similarly, criminal cases involving family members are typically handled in criminal court, rather than under the jurisdiction of family law. This distinction emphasizes the unique nature and purpose of the Family Court Act in addressing familial relationships and related legal issues.