

FAMILY COURT FACT SHEET

Provided by COPE Ministries and authored by Rev. Minister Angela Smith

Divorce proceedings and custody hearings are very limited in scope. The court permits parties to say their piece or present their information while assuming representation understands how to object to irrelevant data out of respect for the court's time if nothing more. This is my understanding and best lay advice on these matters. But, permitting testimony does not equate to taking matters outside the scope of the proceedings into consideration when making decisions, but, if statements are reasonably unfounded or unsubstantiated as a matter of law, will hurt the party presenting irrelevant material most if the other side has intelligent representation. This is my humble opinion. For information on my full credentials to offer an opinion on these matters, see <https://www.cope.church/goodshepherd.htm> or <https://www.cope.church/credentials.pdf>.

1. On personal injury lawsuits in tort (NOT Family Court) depending on state the statute of limitations to file a claim is 2-6 years (unless there is an exception that extends the statute of limitations such as the victim was a minor at the time the injury occurred). Personal injury claims include torts such as assault, battery, fraud, and wrongful death. So, anything that would fall into those categories for seeking damages at law would need to be pursued in a tort action and is outside the scope of what family courts consider with exception to recognizing judgments of other courts where damages were awarded based on a previously settled suit. But, given that suit is settled, no additional damages will be awarded by the family court. It can only be used to establish a court found a tort or torts occurred ascribing responsibility to the party paying damages. But, that's not the family court's job, it's a civil suit. Divorce proceedings and custody hearings are not civil suits. They are petitions to dissolve a contract of marriage and redistribute property equitably. That's it. Source: <https://www.nolo.com/legal-encyclopedia/statute-of-limitations-state-laws-chart-29941.html> And, court cases where one spouse has sued another spouse while married in tort include Gilman v. Gilman. "The New Hampshire case, Gilman v. Gilman decided that under a statute which provided that "the wife may sue and be sued, in all matters in law and equity, and upon any contract by her made, or for any wrong by her done, as if she were unmarried," a wife might sue her husband for a tort, the only test being whether or not the action would lie if the marital relation were disregarded." Source:

https://openscholarship.wustl.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=5610&context=law_lawreview (Citations for that section on page 7 are citations 36: L. R. A. 1916 B. 907. and 37: Public Laws, Chap. 176, sec. 2.

2. On criminal claims of domestic abuse, in Madison, WI as an example, one of the requirements is that the crime be reported to law enforcement (NOT Family Court) within 28 days of occurrence if seeking arrest. Source: <https://www.cityofmadison.com/police/documents/sop/DomesticAbuse.pdf> (page 3) "Approximately 60% of family violence victimizations were reported to police between 1998 and 2002. The reporting rate among female victims was not significantly greater than the reporting rate among male victims... Family violence accounted for 33% of all violent crimes recorded by police in 18 States and the District of Columbia in 2000. Of

these more than 207,000 family violence crimes, about half (53%, or 110,000) were crimes between spouses.... 45% of persons sent to prison for family assault received a sentence of more than 2 years, compared to 77% of nonfamily assault offenders sent to prison." Source: <https://www.bjs.gov/content/pub/pdf/fvs08.pdf>

So, if it has been more than 28 days since the occurrence, and you did not report it prior to that, pursuing a criminal case or restitution through the Criminal Justice System may be impossible. An exception might be in the case where you can prove false imprisonment or kidnapping prevented you from reporting in a timely fashion. Kidnapping can occur by force or by fraud in many jurisdictions. In many jurisdictions the statute of limitations on kidnapping is none, but, ignorance is considered a defense to kidnapping in some jurisdictions. Source: <https://criminal.findlaw.com/criminal-law-basics/time-limits-for-charges-state-criminal-statutes-of-limitations.html> So, no conviction to present to family court substantiating the criminality of any other party and therefore any statements alleging criminality will not be read as proving criminality to the family court.

And, if it is past the statute of limitations to pursue a personal injury suit in tort (2-6 years depending on jurisdiction with limited exceptions), then you failed to file a claim and had a limited time to do so. If you filed and won, then that judgment could be used to substantiate that the other party committed the tort(s) according to the court of proper jurisprudence to try such facts and judge on those matters. But, without a judgment from a court of proper jurisprudence on matters outside the scope of family court, the party seeking damages through divorce proceedings for such appears to be incompetent at law which is injurious to their being found responsible enough to be a primary caregiver or legal guardian.

And, family law practitioners may hate me right now if they read this and I can live with that. I understand how it is funny to some to just do as they are told when faced with a narcissist and not advise properly especially where attempting to do so in the past has gone ignored or debated by similar individuals. I understand that it's easy money for some lawyers to just say "What do you want? Where's potential precedents for that argument? I can make the case." than to say "The judge is going to consider only this and this is the purpose of family court. The other issues you've raised need to be resolved in the Criminal Justice System or Tort. I can recommend a tort lawyer if you need a referral." And, if that makes them go on a hunt for a lawyer that will just be a mouthpiece, all lawyers should have that same policy or else they are arguably defrauding their clients by misleading them regarding what to expect out of a dissolution of marriage or custody hearing. The lawyers respond "But, if a malignant narcissist, delusional, and misleading themselves, right?" And, I say, "If you recognize that they are disabled or incompetent, then you've violated the ADA and/or provisions related to protections for those with disabilities at law. It's considered a form of exploitation at law. But, it's up to those defrauded to recognize the fraud in time and file suit for exploitation unless any extension of the statute of limitations applies such as discovery where a

fiduciary is the accused. And we all know, malignant narcissists would rather die than admit to incompetence.

If I were a lawyer, I would object as irrelevant and on grounds the allegations are prejudicial any statements introduced that are not judgments on record in the court of proper jurisprudence to decide matters of crimes and torts.

To put it as simply as possible, family court is not a trial court. All sides are equally on trial or not on trial. To the extent one party to a family court proceeding or hearing is on trial it is to that same extent the opposing party is on trial. But, family court is not a trial court. The purpose is to officially recognize the dissolution of the marriage or domestic partnership contract and terms regarding objectively reasonable distribution of assets or legal guardianship of dependents.

In addition, barring a pursuit of criminal justice as a result of expired statute of limitations, I'd recommend parties seeking divorce who have a tort case against the other side do the following:

1. File for legal separation prior to divorce.
2. While legally separated, file the tort action or pursue that case. In the event it is settled out of court, the terms of said settlement will be binding.
3. After the tort action or case is settled or adjudicated, then file for divorce. If the tort action is adjudicated with judgment in your favor, introduce that as evidence to be considered when deciding custody only if it would impact the decision and not any distribution of assets. The distribution of assets will not be determined as assessed damages for a tort-related case. Such matters need to be addressed in tort.

An example of what to possibly expect out of a tort suit with an example of such a suit following a criminal court adjudication follows. In the event both parties were found to be engaging in mutual combat and each ascribed 50% responsibility for the criminal misconduct resulting in injury to either party, then in tort the damages would likely be medical bills, provable financial loss (unpaid leave from work), and possibly related bills if property was destroyed that was not considered mutual property at time it was destroyed. So, if one party had \$3000 in medical bills, \$2,000 in lost wages, and \$1000 in other provable applicable losses as a result of that, the total would be \$6,000 (with addition of treble damages or \$18,000+\$6,000) in damages and 50% of that would be \$12,000 which most personal injury attorneys would take typically at most 33.33% of that plus costs. So, maybe looking at a \$8,000 recovery of damages once the lawyers get their cut in such a case. But, it opens one up to a counterclaim if the other party can also claim damages and prove them. But, family court isn't the place for a tort nor criminal action. They will permit conjecture to be polite in the event attorneys for either side don't know they can object in family court and have irrelevant information ruled immaterial, prejudicial, or hearsay. [Side note: I objected in a family court hearing where I was the falsely accused by a cult called Sacred Breath Academy who brought in all sorts of third-

party information that was outside the scope, hearsay, and false. I went to that hearing and I objected. My objection was sustained. You can object in family court and keep it focused on the matters at hand within reasonable confines of admissible evidence. But, just like with other courts if you open the door to discussing things you open the door to a response. Since someone I care about might have gone to prison or been arrested that day had I introduced all my evidence to respond to the false allegations by Sacred Breath Academy, I objected instead to keep all of it out. So, if Sacred Breath Academy and I represented two parents fighting over custody of a child, I forfeited to protect the "child". And, I still think that is the right decision because it is how one mother won custody in King Solomon's court. (See <https://www.cope.church/divorce.pdf> for more info.) Righteous but in a CA family court not King Solomon's. I was willing to concede on the protective order as long as I retained the first amendment rights to expose fraud and cults like Sacred Breath Academy. I retained those rights and retain them. That whole situation made me sympathize with the falsely accused even more.]

I do hope all lawyers everywhere find this more helpful than not and know I do love the law. And, I sincerely hope it helps all who are facing family court proceedings or hearings. Feel free to share this widely with my blessing.

The above is my honest opinion and my credentials to form such an opinion have been provided and cited above.

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ADDENDUM:

Those choosing to introduce allegations of crimes or torts in Family Court (wrong venue) where said crimes and torts have not been established as fact in a Trial Court (Civil Tort Lawsuit OR Criminal Prosecution) are not introducing facts in the eyes of the Family Court. And, the questions the judge may ask him/herself and/or the alleging parties include:

1. Was this reported to law enforcement and/or was there a judgment confirming the crime alleged occurred?

1A. Now, the alleging party might say "I was too afraid to report or too traumatized to report in a timely fashion or within window for prosecution." And, they may provide studies explaining how delayed reporting isn't uncommon among certain demographics.

1A-2. But, the judge may very well be aware of 9-year old girl in Florida who testified against her mother's boyfriend in the rape trial for raping her when she was 6-years old. Source: <https://www.sun-sentinel.com/local/broward/fl-sunrise-child-rape-trial-20150929-story.html> And, she was hospitalized for a month after being raped. So, if a 9-year old can report in a timely fashion and have the strength to testify against her rapist who was a member of the household, assuming a grown adult could reasonably be expected to muster the same timely resolve.

2. Did you sue in tort for damages and is there a trial court decision affirming by a preponderance of the evidence that the alleged torts occurred?

2A. Now, the alleging party might say, "I was unaware I could sue my spouse in tort while married. I didn't realize there was a limited time to file my claim nor that the time for filing had expired in my case."

2A-2. But, the judge might think ignorance of the law and/or failure to file a claim in a timely fashion reasonably bars introduction of the allegations in Family Court regarding what will be accepted as fact rather than opinion. And, a good attorney would object to introduction of any allegations not established as fact in a trial court.

So, again, if you have the proof allegations have been proven true in a trial court setting, whether civil or criminal, then introducing those judgments could help in legal guardianship/custody of dependent Family Court hearings. But, if you do not have proof from a trial court judgment evidencing the allegations are true, then the court may continue asking questions about your fitness.

3. If I were to entrust the care of a dependent child with you and there was a criminal threatening you and/or the children on a regular basis in the home, could I trust you to report it and keep the children safe given your record in the event what you allege is true?

3A. The children are always safe with me. I'm the victim. The children were always safe. Had the children been in danger, I would've called law enforcement immediately and pressed charges.

3A-2. The judge is likely aware of secondhand trauma caused by witnessing abuse. As familiar as you are with domestic violence statistics, maybe you've read this article: https://auburnpub.com/news/local/secondhand-victims-children-who-witness-domestic-violence/article_4d62e861-0f4e-585e-8765-cf221003ecfc.html So, are your children victims or not? Are they safe with you or not?

3A-A. They are safe with me and I'd never hurt them. I've always protected them from my spouse's violence. I fear if left alone my spouse would abuse them too.

4. Have your children ever been left alone with your spouse? What happened?

4A. Yes, they were fine.

4A-2. Why do you fear they would be abused if left alone now if they weren't abused when left alone previously with your spouse?

4A-A. Everyone knows that abusers take it out on whom they have most access to and when their favorite victim isn't available they take it out on the kids.

4A-3. But, you have no facts today showing your spouse is a threat to the children nor any adjudication showing other allegations are matters of fact as determined in a trial court, is that correct?

And, that's why. So, everyone is expected to go by the book especially in court settings with respect to all the different types of courts and their purposes. Family Court doesn't rule on crimes and torts and can't award damages. But, some people are being psych'd out by the process and it needs to stop.

Another way to understand the difference between Family Court and Trial Court (whether civil or criminal trial) is to think of Family Court as the principal's office. Please consider this:

THE PRINCIPAL'S OFFICE AS AN EXAMPLE

Did you ever get in trouble or have a disagreement with a friend or classmate in elementary school? Were you sent to the principal's office? Did the principal take all sides into consideration? Would you have found it fair if the principal allowed complaints not officially on record with the school to suggest you are more at fault in the dispute or scuffle? Would bringing up things outside the scope of the reason you were in the principal's office at that moment help or harm you and/or your friend even if after a falling out?

If you've been in the principal's office and the principal called in extra people like school security, school counselors, or your parents, how did that feel? Did it feel better or worse than just talking to the principal? See, when a judge brings in a Guardian Ad Litem (GAL) it should feel to both parents like the principal just called in reinforcements because there's a bigger problem than anticipated. It's not a good sign for anyone, especially the children.

And, the family court where likened to the principal's office is looking for two citizens who started an official club at the "school" they were initially excited about and thought was a great idea and then as a result of creative differences or the like wish to dissolve the club and have it no longer be recognized as an official school club without needing to know all the details about the creative differences where disclosing irrelevant information might result in both of you being flagged as "at risk".

Another way to think about is to say the "school club" was a 4-H type club that cared for nonhuman animals (dependents). If such a club is dissolved by the school at the request of the club founders, should the principal decide who gets to care for the nonhuman animals? The principal is hoping the two founders are already in agreement and just formalizing by notifying the principal so the school can remove the "club" from official "club" status. The principal is looking for those who founded the "club" to reasonably divide assets and/or responsibilities remaining or resulting from the "club". And, the principal may decide neither is fit for caring for the nonhuman animals depending on what is revealed to the principal while deciding that since the "club" is seeking the principal to decide that maybe the school confiscates the nonhuman animals and they are now part of the biology department or psychology/humanities department property. Then, suggests all remaining issues be addressed by the school counselor or private mental health providers.

The more amicable you can make dissolving any contractual partnership and fairly distributing property and any continuing responsibility for dependents, the better off everyone will be. And, if either party commits a crime or tort (again), report the crime or sue in tort within the statute of limitations or drop it as a matter of legal consideration. Work your frustrations out by taking a self-defense course or going back to school.

ADDENDUM 2: HOW MANY INNOCENT CHILDREN END UP BEING TRAFFICKED AND/OR ABUSED IN SEGREGATED CONGREGATE CARE:

It happens like this:

Family Court: All is a matter of arguable "he said, she said" unless established as fact on appropriate court record. Both sides appear to be unfit according to their own testimony about themselves and each other. I'm requesting a guardian ad litem.

Guardian Ad Litem (aka GAL): I agree. Both parents seem unfit at this time. The child would be best in a neutral environment. There is a residential treatment center and therapeutic boarding school that I would recommend until the parents prove to be fit. (Sometimes the GAL gets a kickback for such placements, sometimes evil judges like in the "Kids for Cash" case do.)

Parent 1: I was abused and the kids were exposed to violence the whole time and I did nothing to stop it nor report it properly. I'm the better parent and the kids will be safe with me.

Parent 2: There was no abuse, I'm willing to split custody. And, if there was abuse, then parent 1 failed to protect the children from it prior to filing for a divorce and there are ample cases on record of boyfriends or girlfriends of people with children abusing said children. If parent 1 is unable or unwilling to protect children from domestic violence or exposure to it per their own statement regarding their own history, why should care of

any child be entrusted to them now? And, if their alleged history of negligence and neglect is waived, so are any allegations against me.

Child: I just want as much normalcy and as little change as possible because I'm already experiencing a lot because I'm a child. I require stability. So, I don't think I should be institutionalized because my parents are acting crazy or driving each other crazy. I think that's fundamentally unjust and unfair. Pick the least crazy one, I can help. I'll live with the least crazy one.

HEAL Mission/COPE/Rev. Angela says: Parent 1 fails to recognize how failing to report to the proper authorities any crime is frowned upon in all courts especially where vulnerable populations are at risk such as children. Parent 2 so recognizes, but, should've objected rather than making the argument made in the event any incident with sufficient evidence could reasonably be understood or read to be abusive. But, sufficient evidence should require adjudication on matters of fact in a trial court or else all "he said, she said" and puts both parents in a bad light increasing likelihood the kids will be placed in systems of care or institutionalized which is worse than living with Parent 2 for sure and likely Parent 1 too. That's the truth. So, that's why <https://www.cope.church/familycourtfactsheet.pdf> is my masterpiece. If we can stop the misuse and abuse of Family Court as a surrogate for criminal or tort, then we can save thousands of children a year from wrongful institutionalization. But, it is up to the lawyers, the courts, the legislators, and/or the parents themselves to find this fact sheet and take appropriate action. And, I think the Parent 2-types will listen and their lawyers will object because it is the wrong venue to decide on matters of crime or tort, but, judgments from other courts relevant to the Family Court case will be permitted to be introduced. That's it. No trial court judgment, then allegations are inadmissible. And, trial court findings would be admissible including a determination that it was mutual combat which could indicate to Family Court both parents are equally unfit. In such a case best for both parents to not introduce it as evidence, in my humble opinion. That's what I want and that is my demand. I speak for the children of broken homes who were wrongfully institutionalized because their narcissistic parent accused the other of abuse or vice versa in hopes of getting damages in Family Court abusing Family Court believing it could be twisted into a Tort/Civil Court. It cannot. How dare they pervert the law. I'm taking a stand.