

# THE MEN'S EDITION

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**Learn What to Expect  
in Your Divorce,  
So You Can  
Stop Worrying!**

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*An Experienced New Jersey Divorce & Family Law  
Firm Focusing on Men's Rights  
Explains How to Protect What Matters Most to You.*

*By Carrie Schultz, Esq., Owner  
Certified by the Supreme Court of New Jersey as a  
Matrimonial Law Attorney*



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# The Goal of this Book

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The goal of this e-book is to provide you with some basic foundational information we think you would want to know about if you're considering a divorce in New Jersey. We hope you find this information valuable and begin to worry a little less as we educate you about what to expect. When you are ready to move forward with your divorce, you will need experienced divorce attorneys to help you create a personalized divorce plan, which our firm would gladly assist in creating.



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# About Us

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At MR. Men's Rights Divorce & Family Law™ of New Jersey by Schultz & Associates LLC, we realize that everyone has different priorities when they are faced with a serious relationship problem or family transition. Our role as attorneys is to help our clients protect what matter most to them given the unsettling situation of change. For you, that may be your children, your business, your home, your peace of mind, your health, and/or your future happiness.

Husbands and/or Fathers can often face unique challenges within the divorce process. Although New Jersey law does not inherently favor either spouse or parent in a divorce, you will need to develop and execute a plan focused on preserving your rights in light of your specific personal, financial, and family circumstances. You absolutely deserve to have an opportunity in the legal system as much as your spouse does.

MR. Men's Rights Divorce & Family Law™ of New Jersey by Schultz & Associates LLC concentrates exclusively in divorce & family law-related matters. Our attorneys have more than 40 years of combined experience, working with families facing a variety of legal difficulties specifically related to:

- Divorce
- Issues Affecting Individuals with High Assets
- Men's and Fathers' Rights
- Child Custody
- Property Division
- Business and high asset valuation
- Child Support & Alimony
- Court Order Modification and Enforcement
- High-Conflict Cases
- Domestic Violence



The owner of the firm, Carrie S. Schultz, Esq., is certified by the Supreme Court of New Jersey as a Matrimonial Law Attorney. This specialization is only given to a very small percentage of family law attorneys in the state and means she has extensive knowledge in her field, along with an outstanding representation for her clients. Additionally, the rest of her team of attorneys are extremely qualified to handle the most novel and complicated of situations and those that may also be more straightforward.

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# Child Custody

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Custody arrangements are often the most contested and difficult issues in a divorce matter. There can be many types of resolutions, including innovative options, with the goal of always being able to provide for the best interests of the children while suiting the parent's lifestyles.

It is often best to avoid a legal battle in which one party is declared the winner and the other the loser, especially in a highly emotionally charged family law matter and in matters involving children. Working to negotiate a child custody arrangement that is mutually satisfactory is always in the child's best interest because who knows your children better than you and your spouse!? However, if that fails, the next recourse is to seek the Court's assistance.

## Legal & Residential Custody in New Jersey

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New Jersey law promotes the concept that it is best for a child to have strong, functional relationships with both parents. Contrary to popular belief, the law does not inherently favor the mother. However, the issue of custody in New Jersey is by no means straightforward.

It is important to understand the difference between legal custody and residential custody, and some of the nuances within that framework. Legal custody relates to decision making for the child(ren). Residential custody relates to the physical and residential arrangement between the child(ren) and the parents post-divorce.

With residential custody, it is critical to discuss and implement a parenting time/visitation schedule that works for the child(ren), you, and the other parent, including a regular schedule (during the school year) and a schedule for holidays, summers, and vacations. You want to focus on not just duration and frequency the child(ren) have with both parents, but also the quality of time. Visitation arrangements can be completely customizable to what is in the best interest of the child(ren) and what works for your family.



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# Child Custody

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Determining any custody arrangement involves the consideration of a range of issues, including but not limited to:

- The child's and parent's physical and mental health
- The relationships between the child and each parent
- The relationship and cooperation between the parents
- The stability of each potential home environment
- Any special needs of the child
- The geographic distance between the parent's homes
- The child's preference, if he or she is of a certain age

No longer are the days where the father should be disadvantaged in having decision making capabilities and/or seeing his children. In fact, NJ law is favorable to this notion, with new law recently being discussed to make it even clearer. However, that does not mean that there is still not a perception that exists, especially perhaps by the mother of your child, that she has greater 'rights' to the child than you and some semblance of entitlement. Our firm is working towards reversing and changing this ill-conceived perception.



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# New Jersey Fathers' Rights During and After Divorce

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Whether you want to be your children's primary custodian or you want to have a say in major decisions affecting your child(ren), your focus during your divorce should be the same: your children's best interests.

"The best interests of the child" is the guiding standard in all custody and visitation-related matters, as well as any requests by one parent to relocate to a different state or country. You need to tailor your efforts to the realities and practicalities of your life at home and at work.

When determining what is in a child's best interests, the New Jersey family courts consider a variety of different factors. If you and your spouse are attempting to resolve your divorce amicably, these same factors should guide your discussions regarding a custody and a visitation arrangement. In New Jersey, the law does not favor the mother or the father when it comes to awarding primary custody but is what we call "child-focused" and really trying to do what is in the best interest of the child(ren).

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## Child Support

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Child support belongs to your child(ren). Both parents have an obligation to pay child support accordingly. The amount each parent pays in child support is determined by certain enumerated factors and if the parents combined income falls below a certain figure, then the child support is determined by the NJ Child Support Guideline Worksheet (a computer program in essence). Child support is one of the last issues to be calculated in a divorce because there are certain items that need to be resolved before a calculation can be performed, such as:

- The number of children
- The number of regular and consistent overnights exercised by the parents
- The gross incomes of both the non-custodial and the custodial parents
- Whether alimony is being paid and or received
- Whether alimony or child support paid by a former spouse or for children from a previous marriage, if applicable
- The health insurance and/or daycare cost for the child(ren)



These are presumptive guidelines, but your case may have special circumstances that require a deviation from these guidelines, which may make one parent pay more or less in child support, depending.

NJ Law also provides a list of items that the child support obligation would cover on behalf of the child(ren), but there may be some additional costs, such as extraordinary extracurricular activities, tutoring, special need expenses, etc., that may need to be shared in some proportion between the parents. A discussion surrounding college contribution and who is covering the child(ren) on health insurance (and at what cost) is also necessary.

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# Child Support

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## *Frequently Asked Questions as to Custody and Child Support:*

### **Can I seek primary custody if I work full-time?**

You can seek primary custody as long as you can demonstrate that serving as your children's primary custodian serves their best interests. If your children are currently enrolled in daycare or attending school and you can make arrangements to be there when your children need you, there is no reason why you shouldn't be able to maintain an active role in their lives.

If you travel for work regularly, this may make obtaining primary custody more challenging, but it is certainly not an option that you should write off entirely.

### **My spouse works full-time. Will I have to pay child support (and/or alimony)?**

Since child support is calculated based on both parents' incomes, your spouse's job is absolutely relevant to determining your post-divorce financial obligations.

If your spouse is not in need of alimony, then you should not have to pay. Not all divorces involve alimony; if your spouse earns close to the same amount that you do (or more), then he/she may not need alimony. But, you may!



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# Division of Property

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In all divorce matters, generally, any and all assets accumulated during your marriage must get divided; this is called "equitable distribution". New Jersey law does not state that these assets are automatically split equally. Rather, there are many factors that go into the percentage allocation split of these accumulated assets between you and your spouse.

Also, one of the major questions that we are asked is whether it matters whose name the asset is titled in. The general answer is "no", but as with most laws, there are always exceptions to the rule, such as the timing of when the asset was acquired like an inheritance, pre-marital property, and whether that asset was commingled or transmuted into joint property. It is critically important to talk to an attorney to determine whether you fall into an exception or not, as you could be dividing the value of an asset that you may not have to or think that any particular asset is 'exempt' from division, when it is not.

A lot of people ask us about who gets the house in a divorce. That is a great question! Either party can make a request to keep the house post divorce so long as the other party is able to get his or her share of the marital equity, if any. Otherwise, the property can be sold and the net proceeds divided between you and your spouse in some negotiated or court-ordered percentage allocation.

Like with the house, part of the process of equitable distribution is to value the assets to be divided, such as a boat, marital residence, retirement assets, businesses, etc. There are specific ways to go about valuing these items that are acceptable methods to the Court. Although it sounds scary, the parties most often work together to streamline the costs by conducting a Joint valuation in order to eventually agree on an acceptable and fair number to divide between them.





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# Alimony

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Alimony is otherwise known as spousal support. The point of alimony is to ensure that post-divorce, each spouse is able to live a comparable (not exact) lifestyle to that in which they enjoyed during the marriage for a set certain duration. In some marriages, that duration could be no more than the length of the marriage or may be longer, usually termed 'open durational alimony'. The amount and length of time alimony is paid is very dependent on a series of factors in your marriage, including but not limited to the disparity of income between you and your spouse, the length of your marriage, child responsibilities, etc.

Stereotypically, wives were the primary recipient of alimony, considering that they would be stay-at-home mothers while the role of the father was the wage earner. However, times have changed and there are more and more non-traditional families where the roles may be reversed or mixed. It is no longer taboo or uncommon for a man/father in a divorce to be receiving alimony from his wife, should the circumstances dictate.

There are different types and kinds of alimony, which are not meant to be mutually exclusive. However, determining if and what kind of alimony is appropriate in your matter can be complicated.

There is no mathematical formula, per se, but the determination of the amount and duration of alimony is based upon twelve factors as set forth in the New Jersey alimony statute. A few of those factors are as follows:

- The actual need and ability of the parties to pay
- The duration of the marriage
- The ages and physical and emotional health of the parties
- The standard of living established in the marriage and the likelihood that each party can maintain a reasonably comparable standard of living
- The earning capacities, educational levels, vocational skills, and employability of the parties
- The equitable distribution of property and any payouts on equitable distribution

The trends in alimony or spousal support in New Jersey are changing constantly. so make sure to speak with an attorney before making any final decisions on this issue.



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# Alimony

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You must also additionally talk about the likelihood of the paying spouse's compliance and what steps you can take to ensure receipt of the alimony and, if necessary, how to enforce the other party to pay should your spouse suddenly stop paying.

We also get asked the question of whether alimony will be paid or received after retirement or if one party decides to change jobs and earn less. These are all very good questions and the answer is, "It depends." The law has set forth a protocol for these kinds of circumstances, knowing that some may try to manipulate the system or some may be legitimately unable to pay or pay at the rate that was ordered at the time of the divorce. Every case has or will have a unique set of facts which are very important to the discussion on this topic and the impact it may or may not have on ongoing alimony.

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## New Jersey Support Laws: Enforcement and Modification

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When a parent owes the other parent money or has stopped making court-ordered child support Equitable distribution, or alimony payments, enforcement becomes necessary. However, the other parent may have a legitimate excuse or a change in circumstances that warrants a re-review or modification of the prior Court Order.

For example, child support or alimony may need to be re-visited if one parent is earning significantly more or significantly less in income than at the time the child support was established. However, the circumstances surrounding these events is a critical component to the final outcome of the request.

### *What if the recipient of alimony has re-married or is cohabitating?*

The support paid may need to be modified, suspended, or terminated, accordingly, depending on the facts of the case. As another example, if a child is deemed emancipated as defined under NJ Law, child support should be re-calculated for any remaining child or terminated altogether depending.

Regardless, the most important analysis to determine if and how to approach a post-divorce enforcement or request for modification is what is written in your Divorce Agreement; both parties are bound by those specific terms well into the future. So, it is critically important that the Divorce Agreement is clear, concise, and aligned with protecting you for the future.

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# Men & Fathers' Rights

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As a man and/or a father, it may appear to you by some pre-conceived notions that the odds are stacked against you. Unfortunately, there is a lot of misinformation communicated online and in discussions between spouses.

While many of these types of generalizations used to be accurate, we now live in a more modern society. Today, both parents are on equal footing when it comes to seeking parental rights in a divorce with neither parent having a greater entitlement than the other. Comparatively, divorcing spouses' financial obligations are based primarily on earning capacities, not on gender.

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## Dedicated to Our Clients & Ready to Assist with Your Divorce or Family Law Matter

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Your case is unique and every detail is important. That is why we listen closely to you to make sure we understand your situation and your specific goals. We will strive to customize a resolution to meet your needs and objectives. For husbands and fathers, we pay particular attention to those unique aspects.

From your initial consultation to the ultimate conclusion, we will communicate clearly the options available to you. Your input about the strategy of the case is required. We will ensure that you fully understand the meaning and the practical effects of the terms of any agreement before you sign it.

Our goal as attorneys in almost all cases is to attempt to reach a mutually satisfactory agreement on the issues with the assistance of counsel, but there are occasions where the parties reach an impasse and cannot agree. We are effective negotiators, and we have vast experience as zealous advocates who will not hesitate to argue our clients' cause in court – whether that means fighting to secure a father's custody rights, avoiding an unjustified obligation to provide financial support to your former spouse, or advocating on your behalf to receive financial support.



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We also know our clients need to get their questions answered as they arise. Our firm takes pride in our long-standing office policy that a response to your call or email is always returned within 24-48 hours. In our opinion, effective and timely communication is a top priority to ensure a solid professional working relationship between attorney and client.

We hope that this e-book provided you with some valuable information. There is always much more to talk about and we welcome the opportunity to do so with you in the near future and have our expertise guide you through this process.

We offer consultations that will help you understand your legal rights and your options for moving forward. Contact us to discuss your legal concerns with an experienced lawyer.

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## **Business Hours**

Monday to Friday:

9:00 AM – 5:30 PM

Saturday: Closed

Sunday: Closed

