

Table of Contents

CHAPTER 1

HOW FAMILY AND IMMIGRATION LAW INTERSECT

- I. Scope of Chapter [§ 1.1]**
- II. The Importance of Supporting Immigrants Accessing Wisconsin Courts [§ 1.2]**
- III. Marriage and Divorce in the Context of Different Cultures [§ 1.3]**
 - A. In General [§ 1.4]
 - B. Validity of Marriage [§ 1.5]
 - C. Relevant Wisconsin Provisions [§ 1.6]
 - D. Practical Considerations for Determining Validity of Non-Wisconsin Marriages [§ 1.7]
 - 1. In General [§ 1.8]
 - 2. Full Faith and Credit [§ 1.9]
 - 3. Cultural Marriage Ceremonies [§ 1.10]
 - 4. Common-Law Marriages [§ 1.11]
- IV. Starting a Family Law Action: How May It Be Different for an Immigrant? [§ 1.12]**
 - A. Residence Requirements [§ 1.13]
 - 1. Residency Defined Under the Wisconsin Family Code [§ 1.14]
 - 2. Residency Defined Under Immigration Law [§ 1.15]
 - 3. Admission Requirement Under Immigration Law [§ 1.16]
 - 4. Minimizing Confusing Terminology for Immigrants [§ 1.17]
 - B. Documents or Identification Required in Family Law Actions [§ 1.18]
 - 1. Social Security Numbers [§ 1.19]
 - 2. Picture Identification When Documents Require Notarization [§ 1.20]

- V. Divorces from Other States and Countries [§ 1.21]**
 - A. Full Faith and Credit to Actions in Courts of Other States [§ 1.22]
 - B. Uniform Divorce Recognition Act [§ 1.23]
 - C. Cultural Divorces [§ 1.24]
- VI. Other Considerations When Representing Immigrants in Family Court Proceedings [§ 1.25]**
 - A. Financial Disclosure [§ 1.26]
 - 1. In General [§ 1.27]
 - 2. Property (Including Real Estate Located in Another Country) [§ 1.28]
 - 3. Employment Verification [§ 1.29]
 - 4. Information on Financial Institutions [§ 1.30]
 - B. Using Discovery as a Tool to Gather Documentation Needed for Immigration or Other Proceedings [§ 1.31]
 - C. Maintenance and Child Support: Issues for Immigrants Paying or Receiving Support [§ 1.32]
 - D. Power of Attorney When Risk of Deportation Exists [§ 1.33]
 - E. How to Handle International Travel for Children [§ 1.34]
 - 1. Travel Authorizations: In General [§ 1.35]
 - 2. Passports for Minor Children and the Issue of Multiple Nationalities [§ 1.36]
 - 3. International Travel and Child Abduction [§ 1.37]

CHAPTER 2

IMMIGRATION STATUS OVERVIEW AND HOW IT MAY AFFECT FAMILY COURT PROCEEDINGS

- I. Scope of Chapter [§ 2.1]**
- II. Overview of Immigration Status [§ 2.2]**
- III. U.S. Citizenship and Types of Immigrant or Immigration Statuses [§ 2.3]**
 - A. In General [§ 2.4]
 - B. U.S. Citizens [§ 2.5]
 - C. Lawful Permanent Residents [§ 2.6]
 - D. Refugees and Asylees [§ 2.7]

E.	Visas [§ 2.8]
F.	Other Types of Statuses [§ 2.9]
1.	Temporary Protected Status (TPS) [§ 2.10]
2.	Deferred Action for Childhood Arrivals (DACA) [§ 2.11]
3.	Visa Waiver Program (VWP) [§ 2.12]
4.	Undocumented Immigrants [§ 2.13]
IV.	Key Takeaways About Immigration Status [§ 2.14]
V.	Family Law Proceedings That Can Affect Immigration Status [§ 2.15]
A.	Overview: Family-Based Immigration [§ 2.16]
1.	In General [§ 2.17]
2.	Two-Step Process [§ 2.18]
a.	In General [§ 2.19]
b.	First Step: Filing a Petition for Alien Relative [§ 2.20]
c.	Second Step: The Green Card Application Process [§ 2.21]
B.	Divorce and Annulment [§ 2.22]
1.	In General [§ 2.23]
2.	Pending Petition for Alien Relatives or Application for Lawful Permanent Residence [§ 2.24]
3.	Conditional Permanent Residents [§ 2.25]
4.	Lawful Permanent Residents [§ 2.26]
C.	Legal Separation [§ 2.27]
VI.	Establishing the Parent-Child Relationship [§ 2.28]
A.	In General [§ 2.29]
B.	Stepparent-Stepchild Relationship [§ 2.30]
C.	Adoptions [§ 2.31]
1.	In General [§ 2.32]
2.	Family-Based Petition Adoption Process [§ 2.33]
3.	The Hague Adoption Process [§ 2.34]
4.	Orphan Adoption Process [§ 2.35]
5.	Readoption [§ 2.36]

CHAPTER 3
THE EFFECT OF DOMESTIC AND
FAMILY VIOLENCE ON IMMIGRATION MATTERS

- I. Scope of Chapter [§ 3.1]**
- II. Examination of Domestic and Family Violence [§ 3.2]**
- III. Violence Against Women Act (VAWA) Self-Petitions [§ 3.3]**
 - A. In General [§ 3.4]
 - B. Requirements for VAWA Self-Petitions [§ 3.5]
 - 1. In General [§ 3.6]
 - 2. Qualifying Relationship [§ 3.7]
 - 3. Valid and Good-Faith Marriage (If Self-Petitioner Is the Spouse) [§ 3.8]
 - 4. Residence with an Abuser [§ 3.9]
 - 5. Good Moral Character [§ 3.10]
 - 6. Abuse: “Battery and Extreme Cruelty” [§ 3.11]
 - C. Benefits and Protections Available to VAWA Self-Petitioners [§ 3.12]
 - D. Removal of Conditions [§ 3.13]
 - E. What Happens If There Is a Family-Based Petition Pending? [§ 3.14]
 - F. VAWA Cancellation of Removal and Cancellation of Removal [§ 3.15]
 - G. Intersection of VAWA Self-Petitions and Family Actions [§ 3.16]
 - 1. In General [§ 3.17]
 - 2. Annulment [§ 3.18]
 - 3. Legal Custody and Physical Placement Orders [§ 3.19]
 - a. In General [§ 3.20]
 - b. Legal Custody [§ 3.21]
 - c. Physical Placement [§ 3.22]
 - d. Relationship Between Abuse-Related Documentation in Family Court Proceeding and Proof in Immigration Case [§ 3.23]
 - e. Effect of Parent’s Undocumented Status on Custody and Physical Placement Proceeding [§ 3.24]
 - 4. Orders of Protection [§ 3.25]
 - H. Limitations of VAWA Self-Petitions [§ 3.26]

IV. U Nonimmigrant Status (U Visa) [§ 3.27]

- A. Petition Requirements [§ 3.28]
 - 1. In General [§ 3.29]
 - 2. Suffered Substantial Physical or Mental Abuse as a Victim of Criminal Activity [§ 3.30]
 - 3. Applicant Must Possess Information Concerning Criminal Activity [§ 3.31]
 - 4. Applicant Helpful to Law Enforcement Officials Investigating or Prosecuting Criminal Activity [§ 3.32]
- B. Benefits of U Nonimmigrant Status [§ 3.33]
- C. Some Limitations of a U Visa [§ 3.34]

V. Special Immigrant Juvenile Status (SIJS) [§ 3.35]

- A. Two-Step Process [§ 3.36]
 - 1. In General [§ 3.37]
 - 2. Step 1: Obtain an Order in Juvenile Court [§ 3.38]
 - 3. Step 2: File Appropriate Immigration Petition [§ 3.39]
- B. Intersection of SIJS and Juvenile State Court Proceedings [§ 3.40]

CHAPTER 4

SPECIAL CIRCUMSTANCES FOR IMMIGRANTS IN FAMILY COURT

I. Scope of Chapter [§ 4.1]

II. Risk to Immigrants When Attending In-Person Hearings [§ 4.2]

III. Request to Attend Hearings by Alternative Means If in Immigration Detention [§ 4.3]

IV. Divorcing in Wisconsin While Immigrant Is Residing in Native Country: A Look at Jurisdiction [§ 4.4]

CHAPTER 5

CULTURAL CONSIDERATIONS AND BEST PRACTICES

I. Scope of Chapter [§ 5.1]

II. Cultural Considerations: In General [§ 5.2]

III. Religion and Faith [§ 5.3]

- A. In General [§ 5.4]
- B. Examples of the Intersection of Family Law and Religious Practice [§ 5.5]
 - 1. Recognition of Divorce [§ 5.6]
 - 2. Choice of Children’s Religion [§ 5.7]
 - 3. Medical Care and Religious Beliefs [§ 5.8]

IV. Gender Roles [§ 5.9]

V. Immigration Status [§ 5.10]

- A. In General [§ 5.11]
- B. Property Division [§ 5.12]
- C. Legal Custody and Physical Placement [§ 5.13]

VI. Language [§ 5.14]

- A. In General [§ 5.15]
- B. Communication with Clients [§ 5.16]
- C. Language Access in Court [§ 5.17]

VII. Conclusion [§ 5.18]

INDEX