

New York's Domestic Relations Statutes

§ 237. Counsel fees and expenses.

(a) In any action or proceeding brought (1) to annul a marriage or to declare the nullity of a void marriage, or (2) for a separation, or (3) for a divorce, or (4) to declare the validity or nullity of a judgment of divorce rendered against a spouse who was the defendant in any action outside the State of New York and did not appear therein where such spouse asserts the nullity of such foreign judgment, or (5) to enjoin the prosecution in any other jurisdiction of an action for a divorce, the court may direct either spouse or, where an action for annulment is maintained after the death of a spouse, may direct the person or persons maintaining the action, to pay such sum or sums of money directly to the attorney of the other spouse to enable that spouse to carry on or defend the action or proceeding as, in the court's discretion, justice requires, having regard to the circumstances of the case and of the respective parties. Such direction must be made in the final judgment in such action or proceeding, or by one or more orders from time to time before final judgment, or by both such order or orders and the final judgment; provided, however, such direction shall be made prior to final judgment where it is shown that such order is required to enable the petitioning party to properly proceed. Any applications for counsel fees and expenses may be maintained by the attorney for either spouse in his own name in the same proceeding.

(b) Upon any application to annul or modify an order or judgment for alimony or for custody, visitation, or maintenance of a child, made as in section two hundred thirty-six or section two hundred forty provided, or upon any application by writ of habeas corpus or by petition and order to show cause concerning custody, visitation or maintenance of a child, the court may direct a spouse or parent to pay such sum or sums of money for the prosecution or the defense of the application or proceeding by the other spouse or parent as, in the court's discretion, justice requires, having regard to the circumstances of the case and of the respective parties. With respect to any such application or proceeding, such direction may be made in the order or judgment by which the particular application or proceeding is finally determined, or by one or more orders from time to time before the final order or judgment, or by both such order or orders and the final order or judgment. Any applications for counsel fees and expenses may be maintained by the attorney for either spouse in counsel's own name in the same proceeding. Representation by an attorney pursuant to paragraph (b) of subdivision nine of section one hundred eleven-b of the social services law shall not preclude an award of counsel fees to an applicant which would otherwise be allowed under this section.

(c) In any action or proceeding for failure to obey any lawful order compelling payment of support or maintenance, or distributive award the court shall, upon a finding that such failure was willful, order respondent to pay counsel fees to the attorney representing the petitioner.

(d) The term "expenses" as used in subdivisions (a) and (b) of this section shall include, but shall not be limited to, accountant fees, appraisal fees, actuarial fees, investigative fees and other fees and expenses that the court may determine to be necessary to enable a spouse to carry on or defend an action or proceeding under this section. In determining the appropriateness and necessity of fees, the court shall consider:

1. The nature of the marital property involved; 2. The difficulties involved, if any, in identifying and evaluating the marital property;
3. The services rendered and an estimate of the time involved; and

4. The applicant's financial status.