

# ■ CONTENTS

<i>Preface</i>	<i>xxxiii</i>
<i>Introduction</i>	<i>xxxvii</i>
<i>Acknowledgments</i>	<i>xli</i>

---

## **I. Private Family Choices: Constitutional Protection for the Family and Its Members** **1**

---

<b>A. Evolution of Privacy for the Family</b>	<b>1</b>
1. Birth of Privacy	1
a. Meanings of Privacy	1
<i>Griswold v. Connecticut</i>	1
Note: Who Was Estelle Griswold?	7
Catherine G. Roraback, <i>Griswold v. Connecticut</i> : A Brief Case History	7
Notes and Questions	10
<i>Eisenstadt v. Baird</i>	12
Notes and Questions	14
Note: The Contraceptive Mandate, Hobby Lobby, and Subsequent Federal Developments	16
Problem	17
2. Roots of Privacy	17
<i>Meyer v. Nebraska</i>	18
<i>Pierce v. Society of Sisters</i>	19
Notes and Questions on Meyer and Pierce	21
Problems	23
3. Expansion of Privacy to Abortion	24
<i>Roe v. Wade</i>	24
Note: Who Were Jane Roe and Henry Wade?	32
Note: Who Was Sarah Weddington?	33

Sarah Weddington, <i>A Question of Choice: Roe v. Wade 40th Anniversary Edition Revised and Updated</i>	33
<i>Brief for the Amici Curiae Women Who Have Had Abortions and Friends of Amici Curiae in Support of Appellees, Webster v. Reproductive Health Services</i>	35
Notes and Questions	36
a. Anti-abortion Laws: Historical and Philosophical Perspectives	40
Kristin Luker, <i>Abortion and the Politics of Motherhood</i>	40
Sidney Callahan, <i>Abortion and the Sexual Agenda</i>	42
Judith Jarvis Thomson, <i>A Defense of Abortion</i>	43
4. The Evolution of Privacy and Its Contraction	45
<i>Planned Parenthood of Southeastern Pennsylvania v. Casey</i>	45
Notes and Questions	50
<i>Dobbs v. Jackson Women's Health Organization</i>	54
Notes and Questions	63
Note: Impacts of Dobbs on the Lives of Women and Their Children	68
ANSIRH, University of California, San Francisco, <i>The Harms of Denying a Woman a Wanted Abortion: Findings of the Turnaway Study</i>	68
Samantha Artiga et al., <i>What Are the Implications of the Overturning of Roe v. Wade for Racial Disparities?</i>	69
Note: Implications of Dobbs for Pregnant Minors	71
Note: New Idaho Law Targets People Who Help Pregnant Minors Obtain Abortions	72
<b>B. Sexual Intimacy</b>	<b>72</b>
<i>Lawrence v. Texas</i>	72
Note: Who Was John Lawrence?	78
Patty Reinert, <i>Pair Proud They Could Get Sodomy Law Thrown Out</i>	78
Tony Mauro, <i>A "Cultural Milestone" at the High Court: Lawrence Gay Attorneys Turned Out in Force to Witness Lawrence Arguments</i>	80
Notes and Questions	81
Problem	83

<b>II. Getting Married</b>	<b>85</b>
<b>A. Introduction: Public Versus Private Dimensions of Courtship and Marriage</b>	<b>85</b>
1. Courtship Patterns	85
John Demos, <i>A Little Commonwealth: Family Life in Plymouth Colony</i>	85
Beth L. Bailey, <i>From Front Porch to Back Seat: Courtship in Twentieth-Century America</i>	86
Emily A. Vogels, <i>Ten Facts About Americans and Online Dating</i>	87
2. The Marriage Contract	88
<i>Maynard v. Hill</i>	89
Henry Maine, <i>Ancient Law</i>	89
Susan Moller Okin, <i>Justice, Gender, and the Family</i>	90
<b>B. Preparing to Marry: Premarital Controversies</b>	<b>91</b>
1. Breach of Promise to Marry	91
<i>Rivkin v. Postal</i>	91
Notes and Questions	93
Problem	96
2. Gifts in Contemplation of Marriage	96
<i>Campbell v. Robinson</i>	96
Notes and Questions	98
Problems	134
<b>C. Premarital Contracts</b>	<b>100</b>
1. Background	100
2. State Approaches	101
<i>Simeone v. Simeone</i>	101
<i>In re Marriage of Shanks</i>	104
Notes and Questions on Simeone and Shanks	108
Uniform Premarital Agreement Act (UPAA)	109
Problems	113

<b>D. Getting Married: Substantive and Procedural Regulations</b>	<b>115</b>
1. Constitutional Limits on State Regulation of Entry into Marriage	115
<i>Loving v. Virginia</i>	115
Note: Who Were Mildred and John Loving?	117
Robert A. Pratt, Crossing the Color Line: A Historical Assessment and Personal Narrative of Loving v. Virginia	117
Gretchen Livingston & Anna Brown, Intermarriage in the U.S. Fifty Years After Loving v. Virginia	119
<i>Zablocki v. Redhail</i>	120
Note: Who Is Roger Redhail?	120
Tonya L. Brito et al., Chronicles of a Debt Foretold: Zablocki v. Red Hail	124
Notes and Questions on Loving and Zablocki	125
Restatement (Second) of Conflict of Laws	126
Problems	128
Note: Income Inequality and Readiness to Marry	129
D’Vera Cohn, Research from 2018 Demographers’ Conference: Migration, Self-Identity, Marriage and Other Key Findings	129
<i>Turner v. Safley</i>	130
Sheila Isenberg, Women Who Love Men Who Kill	132
Notes and Questions	133
Problems	134
2. State Regulation of Entry into the Marital Relationship	135
a. Substantive Restrictions	135
(i) Eligibility to Marry	135
(1) Sex and Sexual Orientation	135
<i>Obergefell v. Hodges</i>	135
Note: Who Is Jim Obergefell?	143
Michael S. Rosenwald, How Jim Obergefell Became the Face of the Supreme Court Gay Marriage Case	143
Jeffrey Masters, Jim Obergefell: We Still Don’t Enjoy True Marriage Equality	144
Jim Obergefell, The Legacy of Obergefell v. Hodges	145
<i>303 Creative v. Elenis</i>	146

Elizabeth Sepper, “Expressing” Inferiority: 303 Creative and the (Re)Creation of a Discriminatory Workplace	152
Julie Compton, Meet the Couple Behind the Masterpiece Cakeshop Supreme Court Case	153
David J. Garrow, Toward a More Perfect Union	154
Amanda Barroso & Richard Fry, On Some Demographic Measures, People in Same-Sex Marriages Differ from Those in Opposite-Sex Marriages	156
Notes and Questions on Obergefell and 303 Creative Problem	156 163
David Masci et al., Five Facts About Same-Sex Marriage	163
(2) Incest	165
<i>In re Adoption of M.</i>	165
Note: Void and Voidable Distinction	167
Notes and Questions	167
Problem	169
(3) Bigamy	169
<i>Collier v. Fox</i>	169
Jack Anderson, Adventures Among the Polygamists	173
Notes and Questions	175
Problem	177
Elizabeth Joseph, My Husband’s Nine Wives	178
(4) Age	179
<i>Kirkpatrick v. District Court</i>	179
Notes and Questions	181
Child Marriage Poses Serious Risks to Children Problems	184 184
(ii) State of Mind Restrictions: Fraud and Duress	186
<i>Blair v. Blair</i>	186
Notes and Questions	188
Problems	190
Note: Marriage Fraud in Immigration	190

b. Procedural Restrictions	192
(i) Licensure and Solemnization	192
<i>Carabetta v. Carabetta</i>	192
Harriette Cole, Jumping the Broom: The African-American Wedding Planner	194
Stephanie Cain, A Gay Wedding Is a Wedding, Just a Wedding	194
Notes and Questions	195
Problems	197
(ii) Note: Procedural Variations	198
(1) Proxy Marriages	198
(2) Other Variations	199
c. Informal Marriages	199
(i) Common Law Marriage	199
<i>Jennings v. Hurt</i>	199
Notes and Questions	202
Problems	204
(ii) The Putative Spouse Doctrine and Other Curative Devices	206
Problems	207

---

### III. Being Married: Regulation of the Intact Marriage 209

---

A. Introduction: The Changing Nature of Marriage	209
Joseph Chamie, The End of Marriage in America?	210
W. Bradford Wilcox, Marriage in Decline: No Big Deal?	211
<b>B. Roles and Responsibilities in Marriage</b>	<b>212</b>
1. The Common Law View	212
William Blackstone, Commentaries	212
2. Marital Property Regimes	213
a. Introduction	213
b. Common Law Disabilities	214
c. Managerial Rules	215

3. Duty of Support	216
<i>McGuire v. McGuire</i>	216
Jessie Bernard, The Good-Provider Role: Its Rise and Fall	218
Notes and Questions	220
ProblemNote: Constitutional Limits on Sex-Stereotyped Role Assignments	221
4. Names in the Family	223
<i>Melbourne v. Neal</i>	223
<i>Pavan v. Smith</i>	226
Notes and Questions	228
Problems	232
5. Employment	233
<i>Bradwell v. Illinois</i>	233
Notes and Questions	234
Note: Married Woman's Domicile	235
<i>Vaughn v. Lawrenceburg Power System</i>	235
Notes and Questions	238
Problems	240
6. Parenting	240
a. Pregnancy Leave	240
<i>Cleveland Board of Education v. LaFleur</i>	240
Note: Who Is Jo Carol LaFleur?	240
Jo Carol LaFleur, "Go Home and Have Your Baby"	244
Pregnancy Discrimination Act of 1978	246
<i>California Federal Savings &amp; Loan Association v. Guerra</i>	246
Note: Who Is Lillian Garland?	249
Wendy W. Williams, Equality's Riddle: Pregnancy and the Equal Treatment/Special Treatment Debate	250
Notes and Questions	253
Problems	255
b. Balancing Work and Family	256
<i>Caldwell v. Holland of Texas, Inc.</i>	256
Family and Medical Leave Act	256

Notes and Questions	261
Key Facts: The Family and Medical Leave Act	264
Problems	265
Fathers Need Paid Family and Medical Leave	265
<i>Hicks v. City of Tuscaloosa</i>	266
Note: Who Is Stephanie Hicks?Notes and Questions	271
Problem	274
c. Work-Family Conflict	274
Arlie Hochschild & Ann Machung, The Second Shift: Working Families and the Revolution at Home	274
Impact of COVID on Work-Family Conflict	274
Amanda Barroso & Juliana Menasce Horowitz, The Pandemic Has Highlighted Many Challenges for Mothers But They Aren't Necessarily New	276
Note: Work-Family Conflict Issues	277
Problem	281
<b>C. Tort Law</b>	<b>282</b>
1. Tort Actions Against Third Parties: Alienation of Affections and Criminal Conversation	282
<i>Ammarell v. France</i>	282
Notes and Questions	284
Problems	286
2. Tort Actions Between Spouses	287
<i>Epstein v. Epstein</i>	287
Notes and Questions	290
Problem	291
<b>D. Evidentiary Privileges Arising from the Marital Relationship</b>	<b>291</b>
<i>State v. Gutierrez</i>	291
Notes and Questions	296
Problems	298

<b>IV. Intimate Partner Violence</b>	<b>301</b>
<b>A. Introduction</b>	<b>301</b>
Richard J. Gelles & Murray A. Straus, Intimate Violence	301
Centers for Disease Control & Prevention (CDC), National Intimate Partner and Sexual Violence Survey (NISVS)	302
Shannan Catalano et al., Bureau of Criminal Statistics, Female Victims of Violence	303
Judith A. Wolfer, Top Ten Myths About Domestic Violence	303
<b>B. The Role of Age: Teen Dating Violence</b>	<b>306</b>
<i>Emily K. v. Luis J.</i>	306
Notes and Questions	307
Problem	311
Note: The Role of Other Influential Factors	312
<b>C. Civil Protection Orders: Nature and Scope</b>	<b>315</b>
<b>D. Criminal Justice Response</b>	<b>317</b>
1. Self-Defense	317
<i>Hawthorne v. State</i>	317
Dr. Lenore Walker, Terrifying Love: Why Battered Women Kill and How Society Responds	318
Notes and Questions	320
Problem	323
2. Law Reform: Mandatory Arrest and No-Drop Policies	323
3. Duties of Law Enforcement	325
<i>Town of Castle Rock v. Gonzales</i>	325
Note: Who Is Jessica Gonzales?	325
<i>Testimony of Jessica Gonzales Lenahan Before the Inter-American Commission on Human Rights</i>	328
Notes and Questions	330
Problem	333
<b>E. High-Lethality Crimes: Marital Rape, Threats to Kill, and Stalking</b>	<b>334</b>
1. Lethality Assessment	334
Neil Websdale, Assessing Risk in Domestic Violence Cases	334
2. Marital Rape	336

<i>People v. Harris</i>	336
Notes and Questions	339
Problems	341
3. Threats to Kill and Stalking	343
<i>Elonis v. United States</i>	343
Notes and Questions	347
<b>F. Violence Against Women Act (VAWA)</b>	<b>350</b>
Note: VAWA Reauthorizations	354
Problem	354
<b>G. Children’s Exposure to IPV</b>	<b>355</b>
<i>Nicholson v. Scoppetta</i>	355
Who Is Sharwline Nicholson?	356
Jill M. Zuccardy, <i>Nicholson v. Williams</i> : The Case	358
Note: The Green Book Initiative	360
Notes and Questions	361
Note: The Troubled Legacy of <i>Nicholson v. Scoppetta</i>	361
D. Kelly Weisberg, <i>Collateral Damage: Discrimination in Failure-to-Protect Laws for Children’s Wellbeing</i>	364
<hr/>	
<b>V. Nonmarital Relationships</b>	<b>367</b>
<hr/>	
<b>A. Changing Family Forms: Context</b>	<b>368</b>
Juliana Menasce Horowitz et al., <i>The Landscape of Marriage and Cohabitation in the U.S.</i>	368
Kim Parker & Renee Stepler, <i>As U.S. Marriage Rate Hovers at 50%, Education Gap in Marital Status Widens</i>	369
<b>B. Constitutional Limits on Definitions of “Family”</b>	<b>370</b>
1. The Constitution and the Nonmarital Family	370
<i>U.S. Department of Agriculture v. Moreno</i>	370
Notes and Questions	373
Vivian Hamilton, <i>Mistaking Marriage for Social Policy</i>	375
2. The Extended Family	377
<i>Moore v. City of East Cleveland</i>	377

Note: Who Was Inez Moore?	377
Peggy Cooper Davis, <i>Moore v. East Cleveland</i> : Constructing the Suburban Family	381
D'Vera Cohn et al., Financial Issues Top the List of Reasons U.S. Adults Live in Multigenerational Homes	382
Notes and Questions	383
Problem	384
<b>C. Cohabitation: Unmarried Couples</b>	<b>385</b>
1. Introduction	385
Marsha Garrison, Nonmarital Cohabitation: Social Revolution and Legal Regulation	385
Nat'l Marriage Project, Social Indicators of Marital Health & Well-Being: Trends of the Past Five Decades: Unmarried Cohabitation	386
Social Trends Institute, Global Family Structure (2011)	386
2. Sanctions Based on Nonmarital Status	388
<i>Shahar v. Bowers</i>	388
Note: Who Is Robin Shahar?	388
Postscript by Robin Shahar	391
Notes and Questions	392
3. Extension of Rights and Protections	395
a. Unmarried Couples' Rights Inter Se	395
<i>Marvin v. Marvin</i>	395
Note: Who Were Lee Marvin and Michelle Triola Marvin?	400
<i>Blumenthal v. Brewer</i>	401
Note: Who Are Jane Blumenthal and Eileen Brewer?	406
Notes and Questions	407
Problems	411
Law Reform Developments	412
Uniform Cohabitants' Economic Remedies Act	412
Notes and Questions	414
Problem	416
b. Claims against Third Parties and the State	416
<i>Graves v. Estabrook</i>	417

Note: Who Is Catrina Graves?	417
Roy A. Duddy, The Background Story of <i>Graves v. Estabrook</i>	420
Notes and Questions	421
<i>Braschi v. Stahl Associates Co.</i>	423
Notes and Questions	425
Problem	427
<i>Beckwith v. Dahl</i>	428
Note: Who Was Marc Christian MacGinnis?	431
Notes and Questions	433
Problems	434

---

## VI. Divorce 435

---

<b>A. Introduction</b>	<b>435</b>
1. Divorce as a Historical Phenomenon	435
Lawrence M. Friedman, <i>A History of American Law</i>	435
2. Divorce as a Social Phenomenon	437
Paul Bohannon, <i>The Six Stations of Divorce</i>	437
3. Divorce as a Gender-Based Phenomenon	439
Catherine K. Riessman, <i>Divorce Talk: Women and Men Make Sense of Personal Relationships</i>	439
Kimberly F. Balsam et al., <i>Predictors of Relationship Dissolution Among Same-Sex and Heterosexual Couples</i>	440
<b>B. Fault-Based Grounds for Divorce</b>	<b>441</b>
1. Adultery	441
<i>Brown v. Brown</i>	441
Notes and Questions	443
Julie H. Hall & Frank D. Fincham, <i>Relationship Dissolution Following Infidelity</i>	445
2. Cruelty	445
<i>Moss v. Moss</i>	445
Notes and Questions	447

3. Desertion	449
<i>Reid v. Reid</i>	449
Notes and Questions	451
<b>C. Fault-Based Defenses</b>	<b>453</b>
1. Recrimination	453
<i>In the Matter of Ross</i>	453
Notes and Questions	455
2. Condonation	456
<i>Gerty v. Gerty</i>	456
Notes and Questions	459
Note: Other Fault-Based Defenses	459
Problems	460
<b>D. No-Fault Divorce</b>	<b>461</b>
1. Divorce Reform	461
Allen M. Parkman, Good Intentions Gone Awry: No-Fault Divorce and the American Family	461
Lynne Carol Halem, Divorce Reform: Changing Legal and Social Perspectives	463
California Family Code	463
Uniform Marriage and Divorce Act	464
New York Domestic Relations Law	465
2. Legal Problems Raised by No-Fault Divorce	466
a. Early Problems of No-Fault Problems	466
b. Living Separate and Apart	467
<i>Bennington v. Bennington</i>	467
Notes and Questions	468
Note: Abolition of Fault-Based Defenses	469
c. What Role for Fault?	470
<i>Feltmeier v. Feltmeier</i>	470
Note: Who Are Lynn and Robert Feltmeier?	470
Notes and Questions	473
Problems	475

3. Assessment of the No-Fault “Revolution”	475
a. Divorce Reform in the United States	475
Deborah L. Rhode & Martha Minow, Reforming the Questions, Questioning the Reforms: Feminist Perspectives on Divorce Law	475
b. Divorce Reform: The Comparative-Law Perspective	477
Divorce Around the World	477
c. Divorce Reform: The Return of Fault Movement 511	478
<b>E. Access to Divorce</b>	<b>478</b>
<i>Boddie v. Connecticut</i>	478
Notes and Questions	481
Problems	482
<i>Smith v. Millville Rescue Squad</i>	483
Notes and Questions	485
Note: Pro Se Divorce	487
Note: Religious Obstacles Surrounding Divorce	488
<b>F. The Role of Counsel</b>	<b>489</b>
1. Emotional Aspects of Divorce	489
Kenneth Kressel et al., Professional Intervention in Divorce: The Views of Lawyers, Psychotherapists, and Clergy	489
<i>Moses v. Moses</i>	491
Notes and Questions	492
2. Conflicts of Interest	493
<i>Florida Bar v. Dunagan</i>	493
Notes and Questions	496
Problems	497
Ethics Opinion 243. District of Columbia Bar	498
Ethics Committee, State Bar of Montana, Opinion 10	498
Mary E. Chesser, Comment, Joint Representation in a Friendly Divorce: Inherently Unethical?	498
3. Sexual Ethics	500
<i>Iowa Supreme Court Attorney Disciplinary Board v. Morrison</i>	500
Notes and Questions	502
Problems	504

4. Risks of Practicing Law	505
Stephen D. Kelson, Another “Spillover Effect” of Domestic Violence: Threats and Violence Against Family Law Practitioners	505
<b>G. Divorce Jurisdiction</b>	<b>506</b>
1. Over the Plaintiff and Defendant	506
<i>In re Marriage of Kimura</i>	506
Notes and Questions	511
Problem	512
2. Durational Residency Requirements	513
<i>Sosna v. Iowa</i>	513
Notes and Questions	516
Problem	517
3. Domestic Relations Exception to Diversity Jurisdiction	517
<i>Ankenbrandt v. Richards</i>	517
Notes and Questions	520
Problems	522
<hr/>	
<b>VII. Financial Consequences of Dissolution</b>	<b>523</b>
<hr/>	
<b>A. Introduction: The Demise of Fault?</b>	<b>523</b>
<b>B. Property Distribution: From Title Theory to Contribution</b>	<b>525</b>
<i>Ferguson v. Ferguson</i>	525
Uniform Marriage and Divorce Act	525
Stephen D. Sugarman, Dividing Financial Interests on Divorce	528
Notes and Questions on the Theory of Property Division	529
Problem	532
<b>C. Spousal Support: Theories of Need, Self-Sufficiency, and Beyond</b>	<b>532</b>
<i>Alizzi v. Alizzi</i>	532
<i>Mani v. Mani</i>	534
Uniform Marriage and Divorce Act	534
Massachusetts Alimony Reform Act	538
Notes and Questions on the Rationales for Postdissolution Support	540
Problems	545

<b>D. “Winding Up” a Marriage: Applying Theories of Property and Support</b>	<b>546</b>
1. A Case Study	546
<i>Wolfe v. Wolfe</i>	546
Notes and Questions	550
Problem	551
2. Special Problems in Achieving a Fair Dissolution	552
a. Changing Circumstances	552
<i>Mennen v. Mennen</i>	552
Notes and Questions	555
Problems	557
b. Bankruptcy	558
<i>Howard v. Howard</i>	558
Notes and Questions	560
Note: The Family Home	562
c. Pensions and Employee Benefits	562
<i>Bender v. Bender</i>	562
Notes and Questions	565
Problem	566
Note: Medical Coverage Following Dissolution	567
d. Investments in a Spouse’s Future Success: Degrees, Earning Capacity, and Goodwill	567
<i>In re Marriage of Roberts</i>	567
Joan Williams, Is Coverture Dead? Beyond a New Theory of Alimony	569
Notes and Questions	571
Problem	572
e. Taxation	573
<b>E. Child Support</b>	<b>574</b>
1. From Discretion to Guidelines	574
<i>Turner v. Turner</i>	574
Notes and Questions	576
Problem	579

2. Postmajority Support	580
<i>McLeod v. Starnes</i>	580
Notes and Questions	582
Problem	583
3. Modification of Child Support	583
a. Subsequent Families	583
<i>Pohlmann v. Pohlmann</i>	583
Notes and Questions	585
b. Employment Changes	587
<i>Olmstead v. Ziegler</i>	587
Notes and Questions	589
Problem	590
<b>F. Enforcement</b>	<b>590</b>
1. Criminal Nonsupport	590
<i>State v. Oakley</i>	590
Note: Who Is David Oakley?	590
David Ray Papke, <i>State v. Oakley</i> , Deadbeat Dads, and American Poverty	593
Notes and Questions	594
2. Civil Contempt and the Transformation of Enforcement	596
<i>Turner v. Rogers</i>	596
Notes and Questions	600
Note: From Private Remedies to Public Interventions	602
3. The Challenge of Multistate Cases	604
a. Jurisdictional Limitations on Establishing Awards	604
<i>Kulko v. Superior Court</i>	604
Notes and Questions	607
Problems	609
b. Modification and Enforcement	609
<i>Henson v. Henson</i>	609
Notes and Questions	613

<b>G. Separation Agreements</b>	<b>615</b>
<i>Miles v. Miles</i>	615
Uniform Marriage and Divorce Act	615
Notes and Questions	618
Problem	620
<hr/>	
<b>VIII. Child Custody</b>	<b>621</b>
<hr/>	
<b>A. Parental Disputes Concerning Child Custody</b>	<b>621</b>
1. Approaches to Allocating Custody	621
a. Presumptions?	621
<i>Devine v. Devine</i>	621
Notes and Questions	624
b. Best Interests of the Child?	626
(i) Introduction	626
Robert H. Mnookin, Child-Custody Adjudication: Judicial Functions in the Face of Indeterminacy	626
Uniform Marriage and Divorce Act (UMDA)	626
(ii) Permissible, Impermissible, and Required Considerations	627
<i>Palmore v. Sidoti</i>	628
Notes and Questions	630
Problem	631
<i>Rowe v. Franklin</i>	632
Notes and Questions	634
<i>Sagar v. Sagar</i>	635
Notes and Questions	637
Problems In re Marriage of Black	640
Note: Who Is Rachelle Black?	642
David Ward, Postscript: In re Marriage of Black	644
Notes and Questions	645
Rachel H. Farr & Abbie E. Goldberg, Same-Sex Relationship Dissolution and Divorce: How Will Children Be Affected?	647

Problem	648
<i>Smith v. Smith</i>	649
Notes and Questions	651
David Goodman, How Medical Care for Transgender Youth Became “Child Abuse” in Texas	652
Note: Parents with Disabilities	653
<i>Peters-Riemers v. Riemers</i>	654
Notes and Questions	656
Problems	659
Joan S. Meier, Domestic Violence, Child Custody, and Child Protection: Understanding Judicial Resistance and Imagining the Solutions	660
Note: Children’s Preferences	661
c. Joint Custody: Presumption, Preference, or Option?	663
<i>Bell v. Bell</i>	663
Notes and Questions	665
Judith G. Greenberg, Domestic Violence and the Danger of Joint Custody Presumptions	667
2. Standards Governing the Noncustodial Parent: Visitation	668
Uniform Marriage and Divorce Act (UMDA)	668
a. Traditional Rule	668
b. Restrictions on Visitation	669
<i>Hanke v. Hanke</i>	669
Notes and Questions	671
Problems	673
c. Denial of Visitation	674
<i>Turner v. Turner</i>	674
Notes and Questions	676
Jessica Pearson & Nancy Thoennes, The Denial of Visitation Rights: A Preliminary Look at Its Incidence, Correlates, Antecedents and Consequences	677
3. Standards Governing Parent Versus Third Party Disputes	679
<i>Troxel v. Granville</i>	679
Notes and Questions on Troxel	684
Uniform Nonparent Custody and Visitation Act (2018)	684

4. The Role of Special Participants	688
a. Representation for the Child	688
<i>Hoskins v. Hoskins</i>	688
Notes and Questions	691
b. Role of Experts	693
<i>In re Rebecca B.</i>	693
Notes and Questions	695
Reflections on the Legacy of In re Rebecca B.	697
5. Modification	698
a. Standard	698
Problem	699
b. Relocation	700
<i>Bisbing v. Bisbing</i>	700
Notes and Questions	703
Problem	706
6. Jurisdiction and Enforcement	706
Uniform Child Custody Jurisdiction and Enforcement Act	706
Note: International Child Abduction	710
<b>B. What Process Should Govern Custody Disputes?</b>	<b>712</b>
1. The Adversary System Versus the Mediation Process	712
Elizabeth S. Scott & Robert Emery, Child Custody Dispute Resolution: The Adversarial System and Divorce Mediation	712
<i>McLaughlin v. Superior Court</i>	714
Notes and Questions	717
Problem	720
2. Coin Flipping	721
Robert H. Mnookin, Child-Custody Adjudication: Judicial Functions in the Face of Indeterminacy	721
<hr/>	
<b>IX. Parentage: Establishment and Disestablishment</b>	<b>723</b>
<hr/>	
<b>A. Establishing Parentage</b>	<b>723</b>
1. Marriage	723
Douglas NeJaime, The Nature of Parenthood	723

<i>McLaughlin v. Jones</i>	724
Notes and Questions	727
2. Biology	728
<i>Stanley v. Illinois</i>	728
Notes and Questions	731
<i>PP v. DD</i>	734
Notes and Questions	736
3. Function	738
<i>In re Nicholas H.</i>	738
Notes and Questions	740
<i>Chatterjee v. King</i>	741
Notes and Questions	744
4. Competing Claims to Parentage	746
<i>Michael H. v. Gerald D.</i>	747
Note: Constitutional Protection for Nonmarital Fathers and Questions on Michael H.	752 753
Uniform Parentage Act (2017)	753
5. Assisted Reproduction	759
John LaRose, 6 Things to Know About the U.S. Fertility Clinics Industry	759
<i>Adoption of Anonymous</i>	760
Notes and Questions	763
Uniform Parentage Act (1973)	763
Uniform Parentage Act (2017)	764
Problems	765
Note: Posthumous Conception	765
<i>In re M.F.</i>	766
Uniform Parentage Act (1973)	766
Uniform Parentage Act (2017)	769
Notes and Questions	769
<i>P.M. v T.B.</i>	771
Note: The Baby M Case	776
Notes and Questions	778
Uniform Parentage Act (2017)	778
Problems	783

6. Multi-Parenthood?	784
<i>Raymond T. v. Samantha G.</i>	784
Notes and Questions	787
Uniform Parentage Act (2017)	787
Problem	789
7. Embryo Disputes	790
<i>In re Marriage of Rooks</i>	790
Notes and Questions	794
Problem	797
<b>B. Adoption</b>	<b>797</b>
1. Overview and Background	797
Stephen B. Presser, The Historical Background of the American Law of Adoption	798
2. Involuntary Termination of Parental Rights	799
<i>Santosky v. Kramer</i>	799
Note: The Child Welfare of Family Regulation System	802
Notes and Questions	804
Problem	807
3. Voluntary Relinquishment or Surrender	807
Note: Adoption and Nonmarital Fathers	809
Problem	810
4. Contemporary Controversies in Adoption	811
Indian Child Welfare Act (ICWA)—Historical Context	811
<i>Haaland v. Brackeen</i>	813
Note: Who Is Deb Haaland?	816
Notes and Questions	818
Note: Intercounty Adoption	822
5. Adoption Disruption and Dissolution	823
<i>In re Adoption of M.S.</i>	823
Sarah Kershaw, In Some Adoptions, Love Doesn't Conquer All	825
Notes and Questions	826
<i>Table of Cases</i>	829
<i>Index</i>	000