

Preface

NEW TO THIS EDITION

For this sixth edition, we have updated the law, with a principal focus on the major changes made by the U.S. Supreme Court in its 2022, 2023, and 2024 terms. This includes new case excerpts, new Discussion Questions, and new Critical Thinking Exercises. The overall organizational structure of the book remains the same.

The following significant changes were made in the following chapters:

- Chapter 1, Introduction to the Study of Law: enhanced discussion of *stare decisis* and new Discussion Question citing U.S. Supreme Court case *Dobbs v. Jackson* (2022) (overruling *Roe v. Wade*).
- Chapter 2, Functions and Sources of Law: discussion of U.S. Supreme Court's overruling of the *Chevron* doctrine regarding the need to defer to agency interpretations and inclusion of U.S. Supreme Court decision, *Loper Bright Enterprises v. Raimondo* (2024).
- Chapter 4, Edited discussion of *stare decisis* to include U.S. Supreme Court's willingness to overturn longstanding precedent if it views the prior decision as "egregiously wrong" with inclusion of *Dobbs v. Jackson* (2022); added two new Discussion Question on differentiating between questions of law and questions of fact and the U.S. Supreme Court's new Code of Ethics; updated section on Approaches to Statutory and Constitutional Interpretation with a focus on the U.S. Supreme Court's use of textualism, originalism, and pragmatism; added Critical Thinking Exercise based on U.S. Supreme Court case *Garland v. Cargill* (2024) (bump stocks not meeting definition of machine guns).
- Chapter 6, Constitutional Law: enhanced discussion of Freedom of Expression, true threats and U.S. Supreme Court case *Counterman v. Colorado* (2023); noted changes to the Court's view on religious freedom with inclusion of U.S. Supreme Court case *Kennedy v. Bremerton School District* (2022); addition of new section on the Second Amendment with extensive discussion of U.S. Supreme Court cases *Columbia v. Heller* (2008), *N.Y. State Rifle & Pistol Assoc. v. Bruen* (2022), and *U.S. v. Rahimi* (2024); added information and Discussion Question regarding transgender issues.
- Chapter 10, Laws Affecting Business: added section on Bankruptcy and U.S. Supreme Court case *Bartenwerfer v. Buckley* (2023); enhanced discussion of Title VII's protection against discrimination based on sexual

orientation or gender identity in U.S. Supreme Court case *Bostock v. Clayton County* (2020).

- Chapter 11, Family Law: new discussion regarding the ramifications of *Dobbs v. Jackson* (2022) (overruling *Roe v. Wade*).
- Chapter 12, Criminal Law: expanded discussion of Crimes Affecting Governmental Functions; added discussion of parental responsibility for their child's carrying out a mass shooting; added section on Presidential Immunity and U.S. Supreme court case *Trump v. U.S.* (2024); new Discussion Questions, including reference to U.S. Supreme Court case *Grants Pass v. Jackson* (2024) regarding constitutionality of criminalizing homelessness.
- Chapter 13, Criminal Procedure: new discussion of problems created by no-knock warrants.
- Chapter 14, Ethical Dilemmas Facing Attorneys: updated section on Making Legal Services Available to Low-Income Clients.

APPROACH

As the title indicates, in this book we use a critical thinking approach to introduce readers to the study of law. This book is designed for use in introductory law courses for students in business, criminal justice, paralegal studies, and political science.

Rather than taking the traditional approach that emphasizes the memorization of definitions and rules, *The Study of Law: A Critical Thinking Approach* focuses on the basic foundations of the legal reasoning process. In addition to presenting an overview of the legal system, this book teaches the basic skills necessary to read and analyze statutes and court cases.

We use this critical thinking approach because we believe it is the best way for students to learn the fundamental principles of law. By learning how to read and interpret statutes, cases, regulations, and court documents, students will be better able to learn how the American legal system functions. Therefore this book emphasizes careful reading for detail, analytical thinking, and presentation of arguments. The hypothetical cases, Discussion Questions, and Critical Thinking Exercises incorporated throughout the text all serve to help develop students' critical thinking skills.

ORGANIZATION OF THE BOOK

Part 1, The American Legal System, introduces students to the study of law and the organization of the legal system. It covers such topics as sources of the law, the different ways in which law is classified, and various stages involved in litigation.

Part 2, Substantive Law and Ethical Issues, introduces students to basic concepts and terminology used in the most prominent substantive areas of law. This section leads off with a chapter on constitutional law, because constitutional law stands at the top of the hierarchy of law and establishes the framework within

which the legal system operates. We then go on to cover key fundamental concepts in torts, contracts, property and estate law, business law, family law, and criminal law. In each chapter we blend traditional case law with a discussion of cutting-edge developments to give students a solid foundation in traditional concepts and an appreciation of the dynamic nature of law. The final chapter probes the ethical dilemmas attorneys face in the context of our adversarial system.

Instructors may wish to alter the sequence in which they cover the chapters, or even skip parts when time is limited. However, it is best if instructors plan on covering Part One before selecting from the substantive law chapters contained in Part Two.

KEY FEATURES

Among the many features that set this book apart are

- the nature of the included cases
- marginal definitions of key terms
- NetNotes
- Critical Thinking Exercises
- Discussion Questions integrated into each chapter
- Review Questions

Because this book stresses the critical thinking approach, we illustrate our points with hypothetical situations and with real case decisions that students will understand and to which they can relate. The cases cover such topics as AIDS-infected blood transfusions, same-sex marriage, flag burning, the insanity defense, search and seizure of automobiles, sexual harassment, surrogate motherhood, and spousal immunity. We have also included such “classics” as *Obergefell v. Hodges*, *Palsgraf v. Long Island Railroad*, *Texas v. Johnson*, and *Mapp v. Ohio*. Our philosophy in editing these and other cases was to retain enough of the court’s wording to give students a realistic feel for how judges actually write and to allow students to develop their critical thinking skills. We deleted nonessential information in order to keep each case a reasonable length.

Furthermore, the cases are fully integrated into the text. Many times, these cases are cross-referenced in other cases and used to show how the courts build on precedent and modify it in response to changing societal conditions. Discussion Questions and Critical Thinking Exercises call on students to carefully analyze these cases and apply them to hypothetical situations.

Also of special note are the appendices. Appendix A includes a complete copy of the U.S. Constitution and Appendix B contains a convenient listing of websites for legal resources.

An instructor’s manual that includes suggested answers for all the Discussion Questions, Review Questions, and Critical Thinking Exercises, as well as teaching tips, is available to help teachers make the most effective use of this book. Also available are PowerPoint slides to assist with classroom lectures and a computerized test bank.

RELATIONSHIP TO THE AUTHORS' OTHER TEXTS

Those familiar with *Introduction to Law for Paralegals: A Critical Thinking Approach* and *Introduction to Paralegal Studies: A Critical Thinking Approach* will recognize many similarities to this text. All three books emphasize the “critical thinking approach” to understanding the law. All three include excerpts from court cases, discussion questions, NetNotes, and references to ethical questions. Topics such as sources of law; classification of the law; structure of the court system; overviews of civil and criminal litigation; overviews of torts, contracts, property law, and criminal law; and analysis of statutes and cases are also covered in all three books.

However, where the other two books focus on the role of paralegals, this text is designed for use in general education courses about the nature of law and the operation of the legal system. In addition to dropping the appendices on legal research and writing, and references to tasks performed by paralegals, we have increased our coverage of constitutional law and placed more emphasis on general education objectives.

ACKNOWLEDGMENTS

Naturally, we owe a great deal of thanks to the many students, educators, paralegals, and attorneys who contributed ideas for this book.

We would also like to thank the staff at Aspen Publishing for their support and especially Betsy Kenny for the key role that she played in handling this sixth edition.

Finally, a special thanks goes to our families for their continued support and understanding of our professional activities.

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