
PREFACE

This casebook is intended for a basic course in family law. In the preface to every edition since the first we have commented on how rapidly the law concerning families, parents and children, spouses, and domestic partners is changing. This seems truer today than ever. The last edition incorporated the wide-ranging effects of the Supreme Court's decision that the Constitution protects the right of same-sex couples to marry. Long-standing principles and practices regarding marriage, divorce, marital property, spousal support, and custody have been abandoned or substantially modified and continue to change. This edition touches on another transformation in an area covered by almost every family law casebook: the reversal of *Roe v. Wade* and the elimination of constitutional protection for abortion rights.

This book compares innovative developments across states with the reaffirmation of traditional principles in others and does so in the context of a wider focus on family and the state, the role of mediating institutions, and the efficacy of law and particular methods of enforcing the law. In assessing these developments, we present many different voices and arguments without, we hope, privileging any particular account as representing that of the book as a whole. Perspectives in this book shift regularly, through the notes and questions. In this volume, in particular, we see two issues on the horizon: the growing class divide in family formation, and the tensions between relatively conservative versus relatively liberal states about the foundations of family law, including how varying forms of families are recognized and defined.

Understanding family law requires appreciation of the difficult social and theoretical issues underlying changes in legal doctrine, as well as the settings in which family law practice occurs. Many students will practice domestic relations shortly after graduation, and a family law course must introduce them to the doctrine, procedures, and techniques they will encounter in law offices and courts.

Although family law has its own distinct body of doctrine, it also draws on doctrines from a number of other areas, including property, contracts, torts, criminal law, conflict of laws, public benefits, bankruptcy, tax, civil procedure, and constitutional law. The book introduces or reviews principles from those areas to enable students to understand how they play out when they encounter problems in family law.

The practice of family law is—even more than most other areas—cross-disciplinary. The foundation of family wealth has changed from land, cars, and bank accounts to employment and benefits—and therefore retirement accounts, businesses, and degrees. Some notion of financial principles (such as the time value of money) is essential to the valuation of property at divorce. As parentage has become more contested and complicated, knowledge of genetics and assisted reproductive technologies, for example, has become more important, and some understanding of child development is regularly necessary in custody disputes. Social history is important to understanding the context in which the law has developed and to the interpretation of current bodies of doctrine. And discussions of legal and policy responses to domestic violence, for instance, must draw on social scientific evidence regarding the incidence, distribution, and causes of such violence.

Moreover, family law cannot be effectively taught without some attention to process. The text incorporates materials that address jurisdiction, alternative dispute resolution, and ethics. The role of contract and of privately ordered processes are increasingly important in resolving disputes between partners and parents.

The casebook deals with the complexity of family law both in the organization of the chapters and in the diversity of materials within each chapter. Each unit combines primary cases with comprehensive notes, supplemented with academic and policy analyses that provide a foundation for evaluation. Detailed problems extend the coverage or apply the commentary to real world examples.

We hope the casebook conveys our continued excitement about the study of family law, and our conviction that family practice requires appreciation of the complex interaction between human relations and legal process.

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Editors' note: Throughout the book, footnotes to the text, to opinions, and to other quoted materials are numbered consecutively from the beginning of each chapter. Some footnotes in opinions and secondary authorities are omitted. Editors' footnotes added to quoted materials are indicated by the abbreviation: —Eds.