

Virginia Family Law
Antonin Scalia Law School
Nathan J. Olson and Stephanie J. Smith, Adjunct Professors
Spring 2022: Tuesday/Thursday 8:10-9:35 p.m.

Course Description and Syllabus

Course Description: This three-credit course will provide students with a background in family law with a focus on Virginia law. The course is designed to provide insight into the practice of family law and prepare students for family law questions on the Virginia Bar Exam. The adjunct professors for this course are partners at a Fairfax family law firm with a combined 26 years of family law practice.

Class Format: This course will be organized around the three main legal issues that arise in Virginia family law cases: child custody and visitation; spousal and child support; and property division. The format of the class itself will include lectures, and when feasible, group discussions, and some breakout group exercises.

Office Hours: There will be no formal office hours as the professors do not maintain an office at the law school. Professors can be available by appointment and by email.

Contact Information: Email: nolson@cgglawyers.com / ssmith@cgglawyers.com

Course Materials: There are no assigned books or materials for this course. With that said, students should have access to the Virginia Code (with annotations), Rules of Supreme Court of Virginia (with annotations), and Virginia Forms. The current edition (2019 or newer) of *Family Law: Theory, Practice, and Forms* by Cecka, Diehl, and Cottrell is highly recommended. This book is accessible, electronically, through Westlaw.

Learning Outcomes: We design this course so that students obtain the following:

1. A general understanding of family law as practiced in Virginia;
2. Knowledge on Virginia family law to assist them in taking the Virginia Bar Exam;
3. An understanding of how Title 20 of the Virginia Code is used and interpreted by Virginia Courts; and
4. Real world examples of how laws affect the everyday person.

Grading: Substantive grades will be based on two components: one final exam and class participation/professionalism (as detailed below).

| Course Component | Description | Total Grade Percentage |
|-------------------------|--|-------------------------------|
| Final Exam | Timed multiple choice and essay questions on all course material | 80% |
| N/A | Class Participation/Professionalism | 20% |

Course Schedule*

| Date | Description | Readings |
|-------------|--|---|
| | <i>Introduction Section (Olson & Smith)</i> | |
| 1/18/22 | Course introduction; course expectations; basics of family law practice; description of Virginia court system (jurisdiction and appeals). | Statutes on JDR procedure and jurisdiction. Va. Code 16.1-226 to 16.1-228 Va. Code 16.1-241 to 16.1-245 Va. Code 16.1-296 to 16.1-297 |
| 1/20/22 | Divorce procedure: grounds for divorce; jurisdiction, service; and initial pleadings. | Va. Code 20-91 Va. Code 20-94 to 20-97 Va. Code 20-116 to 20-121.02 Va. Code 20-99 to 20-99.2 Va. Code 8.01-261(19) Va. Code 8.01-288 Va. Code 8.01-296 Va. Code 8.01-320 Va. Code 8.01-322 Va. Code 8.01-328.1A(8)-(9) <i>Blackson</i> , 40 VA App 507 (Va. Ct. App. 2003) <i>Petachenko</i> , 232 Va. 296 (1986) |
| | <i>Custody and Visitation Section (Smith)</i> | |
| 1/25/22 | Custody introduction; definitions and overview of relevant statutes; the “best interests” analysis | Chapter 6.1 of Title 20 of Code of Virginia Va. Code 20-124.2 to 20-124.3 Va. Code 20-103 Va. Code 16.1-228 <i>Vissicchio</i> , 27 Va. App. 240 (Va. Ct. App. 1998) <i>Canedo</i> , 2013 Va. App. LEXIS 61 (Va. Ct. App. 2013) |
| 1/27/22 | Divorce fault and custody; Child testimony; “Parental Alienation”; Role of a Guardian <i>ad litem</i> for children; Abuse and neglect overview | Va. Code 20-124.2:1 Va. Code 16.1-266 Va. Sup. Ct. R. 8:6 Va. Code 16.1-228 definition of |

| Date | Description | Readings |
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| | | <p>“Abused or neglected child” Va. Code 16.1-251-253 Va. Code 16.1-278.2 Va. Code 16.1-283 Va. Code 63.2-100 Va. Code 63.2-1509</p> <p><i>Brown</i>, 218 Va. 196 (Va. 1977) <i>Brinkley</i>, 1 Va. App. 222 (Va. Ct. App. 1985) <i>Ford</i>, 14 Va. App. 551 (Va. Ct. App. 1992) <i>Haase</i>, 20 Va. App. 671 (Va. Ct. App. 1995) <i>Rhodes</i>, 2015 WL 6690098 (Va. Ct. App. 2015) Review <i>Canedo</i>, 2013 Va. App. LEXIS 61 (Va. Ct. App. 2013)</p> <p>Handout: Standards to Govern the Performance of Guardians Ad Litem for Children</p> |
| 2/1/22 | Modification of custody; Parental relocation; UCCJEA and international child custody issues | <p>Va. Code 20-124.2 Va. Code 20-124.5</p> <p><i>Keel</i>, 225 Va. 606 (Va. 1983) <i>Carpenter</i>, 220 Va. 299 (Va. 1979) <i>Sullivan v. Knick</i>, 38 Va. App. 773 (Va. 2002) “Sullivan I” <i>Sullivan v. Jones</i>, 42 Va. App. 794 (Va. Ct. App. 2004) “Sullivan II”</p> <p>Chapter 7.1 of Title 20 of Code of Virginia <i>Middleton</i>, 227 Va. 82 (Va. 1984)</p> |
| 2/3/22 | Third party custody | <p>Va. Code 20-124.1 Va. Code 20-124.2(B) Va. Code 16.1-241(A)(7)</p> <p><i>Bailes</i>, 231 Va. 96 (Va. 1986) <i>Shortridge</i>, 224 Va. 589, 299 S.E.2d 500 (Va. 1983)</p> |

| Date | Description | Readings |
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| | | <i>Patrick</i> , 228 Va. 691 (Va. 1985) <i>Florio</i> , 277 Va. 566 (Va. 2009) <i>Brown</i> , 30 Va. App. 670 (Va. 1999) <i>Denise</i> , 46 Va. App. 372 (Va. 2005) <i>Williams</i> , 256 Va. 19 (Va. 1998) <i>Dotson</i> , 29 Va. App. 635 (Ct. App. 1999) |
| 2/8/22 | Third Party Custody (cont.); Adoption overview | Va. Code 63.2-1201 to 63.2-1205 Va. Code 63.2-1213 to 63.2-1216 Va. Code 63.2-1241 to 63.2-1244 |
| 2/10/22 | Review of Custody/Visitation Section (Come ready with questions). | Review of all previous readings for Custody Section. |
| | <i>Spousal and Child Support Section (Olson)</i> | |
| 2/15/22 | Support Generally | Va. Code 20-60.1-60.6 Va. Code 20-61 to 20-88.02:1 Va. Code 20-109.1 |
| 2/17/22 | Spousal Support Part 1 (Pleading, Factors, Amount, and Duration) ¹ | Va. Code 20-107.1 Va. Code 20-108.1 Va. Code 20-109.1 Va. Code 20-79 <i>Boyd</i> , 2 Va. App. 16 <i>Ozfidan</i> , 2017 Va. App. Lexis 5 <i>Floyd</i> , 1 Va. App. 42 <i>Lightburn</i> , 2009 Va.App.Lexis 459 <i>Smith</i> , 2008 Va. App. Lexis 62 <i>Johnson</i> , 2011 Va. Cir. Lexis 32 <i>Decamp</i> , 64 Va. App. 137 <i>Wiley</i> , 2017 Va. App. Lexis 33 <i>Lee</i> , 2000 Va. App. Lexis 689 <i>Barnes</i> , 16 Va. App. 98 <i>Jaffe</i> , 1997 Va. App. 399 <i>Bacon</i> , 3 Va. App. 484 <i>Millner</i> , 2004 Va. App. Lexis 338 <i>Mundy</i> , 66 Va. App. 177 <i>Giraldi</i> , 64 Va. App. 676 |
| 2/22/22 | Spousal Support Part 2 (Modification, Termination, and Enforcement) | Va. Code 20-79.1 to 20.79.3 Va. Code 20-80 Va. Code 20-109 |

| Date | Description | Readings |
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| | | Va. Code 20-99.1:1 Va. Code 20-110 Va. Code 20-113 to 20-114 <i>Miller</i> , 2015 Va. App. Lexis 201 <i>Slye</i> , 2014 Va. App. Lexis 26 <i>Allison</i> , 1996 Va. App. Lexis 271 <i>Antonelli</i> , 242 Va. 152 <i>Driscoll</i> , 59 Va. App 22 <i>Zipf</i> , 8 Va. App. 387 <i>Cid</i> , 2012 Va. App. Lexis 213 <i>LaBrie</i> , 2015 Va. App. Lexis 102 <i>Blair</i> , 2015 Va. App. Lexis 151 <i>Childress</i> , 88 Va. Cir. 403 <i>Smith</i> , 2012 Va. App. Lexis 148 |
| 2/24/22 | UIFSA/Military Support Issues | Va. Code 20-88.32 to 20-88.82 |
| 3/1/22 and 3/3/22 | Child Support (Pleading, Factors, Duration, Modification, Termination, and Enforcement) | Va. Code 20-79 Va. Code 20-107.2 Va. Code 20-108.1 Va. Code 20-108.2 Va. Code 20-108 Va. Code 20-113 Va. Code 20-114 Va. Code 20-115 <i>Acree</i> , 342 S.E.2d 68 (1986) <i>Jones</i> , 595 S.E.2d 501 (2004) <i>Tidwell</i> , 67 Va. App. 668 (2017) |
| 3/8/22 | Support Calculation (<i>Warning, math involved!</i>) | Va. Code 20-108.2 (and Virginia Support Guidelines) |
| 3/10/22 | Review of Support Section (Come ready with questions) | Review of all previous readings for Support Section |
| | <i>Property Division Section (Smith)</i> | |
| 3/22/22 | Introduction to Equitable Distribution; Overview of statute; <i>pendente lite</i> Orders | Va. Code 20-107.3 Va. Code 20-103 <i>Fox</i> , 61 Va. App. 185 (Va. Ct. App. 2012) |
| 3/24/22 | Valuing property; Dissipation; Alternate dates | Va. Code 20-107.3 <i>Wright</i> , 61 Va. App. 432 (2013) |

| Date | Description | Readings |
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| 3/29/22 | Classifying property (separate, marital, hybrid); transmutation of property; division of property; factors of 20-107.3 (Part 1) | Va. Code 20-107.3 |
| 3/31/22 | Classifying property (separate, marital, hybrid); transmutation of property; division of property; factors of 20-107.3 (Part 2) | Va. Code 20-107.3 |
| 4/5/22 | Business interests; Real estate | <i>Howell</i> , 31 Va. App. 332 (Va. Ct. App. 2000) <i>Wright</i> , 61 Va. App. 432 (Va. Ct. App. 2013) <i>Hart</i> , 27 Va. App. 46 (Va. Ct. App. 1998) <i>Brandenburg</i> , 617 S.W.2d 87 (Ky. 1981) <i>Keeling</i> , 47 Va. App. 484 (Va. Ct. App. 2006) <i>Rinaldi</i> , 53 Va. App. 61 (Va. Ct. App. 2008) |
| 4/7/22 | Retirement assets; Stock options | <i>Sawyer</i> , 1 Va. App. 75 (Va. Ct. App. 1985) <i>Dietz</i> , 17 Va. App. 203 (Va. Ct. App. 1993) <i>Ranney</i> , 45 Va. App. 17 (Va. Ct. App. 2005) <i>Schuman</i> , 282 Va. 443 (Va. 2011) |
| 4/12/22 | Special Topics: Fault and property division; Unique personal property (engagement rings, pets, collectibles) and “Mini” Review of Property Division Section | <i>Aster</i> , 7 Va. App. 1 (Va. Ct. App. 1988) <i>O’Loughlin</i> , 20 Va. App. 522 (Va. Ct. App. 1995) <i>Hicks</i> , 80 Va. Cir. 412 (Va. Cir. Ct. 2010) <i>Conahan-Baltzell</i> , 2004 Va. App. LEXIS 412 (Va. Ct. App. 2013) <i>Arbuckle</i> , 22 Va. App. 362 (Va. Ct. App. 1996) |
| | <i>Miscellaneous Topic Section</i> | |
| 4/14/22 | Domestic Violence/Protective Orders; Testimony by Spouses; Tortious Interference with Parental Rights | Va. Code 16.1-228 definition of “Family abuse” and “Family or household member” Va. Code 16.1-253.1 Va. Code 16.1-253.2 Va. Sup. Ct. R 2:504 |

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|-------------|---|---|
| | | <i>Wyatt</i> , 283 Va. 685, S.E.2d 555 (Va. 2012) |
| 4/19/22 | Premarital and Marital Settlement Agreements; Alternative Dispute Resolution: Collaborative Divorce (Guest Speakers!) | Va. Code 20-38.1 Va. Code 20-40 Va. Code 20-43 Va. Code 20-45.1 Va. Code 20-89.1 Va. Code 20-90 Va. Code 20-147 to 20-155 Va. Code 20-109.1 Va. Code 20-124.4 Chapter 11. of Title 20 of Uniform Code of Virginia <i>Uniform Collaborative Law Act</i> |
| 4/21/22 | Final course review (Come ready with questions) | N/A |
| TBD | Final Exam | Covering all course material. |

*This schedule and assigned readings are subject to change throughout the semester.