

*George Mason University
Antonin Scalia School of Law
LAW 212-R03: Family Law
Spring 2023*

COURSE INFORMATION:

Class Time: On January 23rd we will meet from 6:05-9:00PM via the Zoom link below. After the first week, our class will consist of two short asynchronous, pre-recorded video lectures on the assigned topic (~25 minutes/each) posted to TWEN for you to watch in advance of our class meeting. We will then meet synchronously on Mondays from 7:00-9:00PM.

Classroom: Online via recurring Zoom link:
<https://gmu.zoom.us/j/93985812101?pwd=TkYrNXF6Q2h4a28yOTZ0Qlk5T2ZlZ09>

Credits: 3 credit hours

INSTRUCTOR INFORMATION:

Adjunct Prof: Elizabeth R. Kirk, J.D.

Email: ekirk7@gmu.edu

Office Hours: I am always willing to connect with you about the course, or any other matter. Email is the best way to contact me or to set an appointment for a Zoom conference or phone call. I will also make it a practice to keep the Zoom link open after class for a few moments to field questions or continue conversation.

I. COURSE OVERVIEW. The course is focused on the formation of families, marriage, marital dissolution and the division of marital assets, cohabitation, issues connected with children, and contemporary directions in the reform of family law.

II. REQUIRED & RECOMMENDED TEXTS:

A. Krause, Elrod & Oldham, *Family Law: Cases, Comments and Questions* (West: 8th ed).

B. Additional handouts (or links), whether required or recommended, may be posted on the TWEN course page from time to time.

C. In order to be apprised of developments and contemporary conversations in the area of family law, I *recommend* that you subscribe to a legal listserv located at http://lawprofessors.typepad.com/family_law/. At the top of the page, click on the link “subscribe.”

III. LEARNING OUTCOMES

- A. Knowledge and understanding of the substantive and procedural law: students will be expected to understand the fundamentals of American constitutional, statutory, and common law pertaining to the family (including the specific topics listed in the Course Schedule & Assignments). Students should also be aware of contemporary developments in family law.
- B. Legal analysis/reasoning and problem-solving skills: in class and on the examination, students will be expected to use critical thinking skills, such as analogical, deductive, and inductive reasoning, to engage texts (such as cases or statutes), to study hypothetical and real-world problems, and to apply doctrinal law to theoretical cases.
- C. Written and oral communication in the legal context: students will be expected to communicate clearly and thoughtfully during class discussion, with explicit reference to the text(s) under consideration. On the exam, students will be expected to write with clarity, demonstrating an adequate grasp of the relevant legal principles and serious and thoughtful engagement with the texts.
- D. Exercise of proper professional and ethical responsibilities to clients and the legal system and other professional skills needed for competent and ethical participation as a member of the legal profession: students will be expected to pay particular attention to the role of the attorney in family law matters. Practice in this area involves private, intimate details of clients' personal lives, and a special sensitivity is required of attorneys who seek to practice in it. In addition to demonstrating an understanding of the relevant substantive law and ethical requirements, class discussion will provide an opportunity to display this sensitivity and professionalism. Moreover, the course will provide opportunities to discuss ways in which attorneys may contribute to the common good of the family through public service or public policy efforts.

IV. COURSE REQUIREMENTS:

A. Attendance

- i. Regular, prepared, and punctual attendance is required. In the Zoom context, "punctual" means being camera-ready at the start time of class. I will open the Zoom meeting a few minutes early in order to give ample time to log in.
- ii. Attendance, including the time you log on and off, is recorded by Zoom. According to Academic Regulation 4-1.1, if a student "is absent for any reason for more than 20 percent of the sessions of a course, the student is not eligible for credit in that course. A student who is not present for at least 75 percent of a session of the course is absent from that session." See <https://www.law.gmu.edu/academics/regulations>.
- iii. Class will consist of two components:
 - 1. Asynchronous Lecture: After the first week, there will be two pre-recorded lectures per week (approximately 25 minutes each, or 50

minutes total) to provide an overview of the material and to summarize the basic rules we will cover in class. So that you will have sufficient time to listen to this lecture carefully in advance, I will post them to TWEN at or before noon on the Friday preceding our class. The lectures must be completed prior to the live class because the live class will assume that all have already covered this material. I recommend that you do the reading in advance of watching the pre-recorded lectures. If you attend the Zoom class without having listened to the lectures in advance, you will not benefit from the class as much as you should because I do not plan to re-present the material. Please note that an attendance record of those who have listened to the lecture is automatically generated.

2. **Synchronous Class:** The live classes will take place via Zoom and attendance at these live sessions is mandatory. Class will run from 7:00-9:00PM on Mondays. This is within the time frame class was originally scheduled. The later start reflects the fact that a portion of class time will already have been covered by the asynchronous lecture. We will have one 10-minute break during the live class.

B. Participation

- i. An essential component of this course will be your active participation in our class discussions just as it is during in-person classes. Students are expected to attend class having watched the pre-recorded lectures, prepared to discuss the assigned readings, and should have handy the text under consideration.
- ii. I will be calling on different students randomly or on a volunteer basis in each Zoom class to help lead our discussion of the rules, cases, and problems. There will also be times in class when I may pose questions in the “Chat” feature of Zoom and ask you to share your solutions to problems with the group. If, for some reason, you are not prepared to participate in a particular class, please send me an email before class begins, and I will not call on you for that session. I expect this emergency privilege to be used rarely.

C. Assignments.

- i. Assigned readings (as detailed in the Course Schedule & Assignments, and as distributed additionally from time to time) must be completed before class.
- ii. According to Academic Regulation 3-4, for each credit hour of class students are expected to spend 2 hours of out-of-class preparation. If you find yourself devoting significantly more or less than 6 hours per week outside of class time to this course, please let me know. That time does *not* include listening to the asynchronous lectures.

D. Examinations.

- i. **Final Exam.** There will be a three-hour, cumulative examination at the end of the semester. More information will be provided as the semester progresses.
- ii. **Exam Format.** The final exam may include a variety of assessment formats, including multiple-choice, short answer questions, hypothetical problems or

fact patterns, or essay questions. I will provide more specific guidance about the format of the examinations in class.

E. Grades.

- i. **Assessment.** Subject to Section E(ii) below, your course grade will be based on the following assessment:

| | |
|------------|------|
| Final Exam | 100% |
|------------|------|
- ii. **Classroom Participation.** Demonstrating the importance of active, prepared participation (as described above), classroom performance may raise or lower a student's grade for the course by a single increment adjustment. A single increment adjustment is a change from an A to an A-, from a B+ to an A- or B, etc.
- iii. **Mandatory Curve.** The final grade for this course will be calculated in accordance with the applicable provisions of the Academic Regulations, 4-5.7.

V. Additional Information

A. Course Communication

- i. Please check your GMU email regularly.
- ii. Students must register for the course TWEN page and check it regularly. I will post class materials on TWEN, including the pre-recorded asynchronous videos, as well as any class updates or changes in assignments.

B. A Few Thoughts on Professional Zoom Participation:

- i. Avoid visually disruptive behavior (e.g., moving around excessively, eating, using distracting backgrounds).
- ii. Try to attend class in a distraction-free, quiet place. I do understand that family members, roommates, small children, dogs, cats (especially cats!) may occasionally wander through the screen. You may occasionally see or hear my dog and children! Do your best.
- iii. Stay muted but be ready to unmute quickly to participate in conversation. Please use the "raise your hand" icon when you have a question or wish to make a comment. I may not be able to see you if you are raising your hand on camera since not everyone's photo may be visible to me at the same time.
- iv. Please keep your video on. This will help us in building a community and give you practice in participating in on-line discussions in a professional setting. It will also let me see how well the conversation is going. If your home, like mine, does not look like the perfect set or if you would like greater privacy, you might consider a virtual background. I do understand that there may be times it is not possible to keep your camera on, or that you may turn it off for brief periods of time, or that bandwidth trouble or other exigent circumstances may not make it possible to keep the camera on. But barring such situations, I hope that all will be live so that we can be together and present to one another in the fullest way possible.

- v. Don't multi-task – it's obvious! Turn off notifications or anything else that might distract you (and others).
- vi. Rules adapted from https://www.wsj.com/articles/seven-rules-of-zoom-meeting-etiquette-from-the-pros-11594551601?mod=djemwhatsnews&fbclid=IwAR22CNxCrQzVI5Hps8XZNS83QN7b-KxsEa3Ey3Qbk5csM_Qp8ZwyfqUgaYc

- C. Recording Prohibited.** Academic Regulation 4–2.2 provides that unless “expressly permitted in writing by an instructor, no portion of a class session or an examination may be preserved by means of a recording device (such as an audio recording device or a camera).” If directed by Student Academic Affairs to record a class to accommodate a particular student, such recording is made for that student’s use only and may not be shared with anyone in or outside the class and must be deleted after use.
- D. Accommodations.** Any student who requires accommodation should contact the Records Office or Associate Dean Nields.
- E. Honor Code.** The Honor Code applies to the conduct of law students from the time a student is admitted to the law school until graduation. You may access these rules on the law school’s website at http://www.law.gmu.edu/academics/honor_code.
- F. Modifications.** I reserve the right to modify this course and syllabus with appropriate and timely notice.

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COURSE SCHEDULE & ASSIGNMENTS

Typically, there are two topics assigned per week and each corresponds to a separate pre-recorded, asynchronous lecture.

N.B. This schedule may be modified and supplemental readings may be assigned from time to time, with sufficient notice. Announcements in class about reading assignments supersede what is assigned here.

| DATE | TOPIC(S) | ASSIGNED READINGS |
|-------------|---|--|
| Jan. 23 | Introduction [to syllabus and class] | pp. 1-20; 29-35 (top of page); [<i>skim</i> pp. 20-28] |
| | Family Privacy | pp. 46-64; [<i>skim</i> pp. 64-71] |
| Jan. 30 | Decisional Autonomy | pp. 71-88 |
| | Regulation of Marriage | pp. 89-143 |
| Feb. 6 | Procedural Requirements for Marriage; Common Law Marriage | pp. 143-165 |
| | Marital Rights & Obligations; Property Rights | pp. 174-208 |
| Feb. 13 | Marital Agreements; | pp. 215-52 (stop at after Note 10) |
| | Nonmarital Relationships | pp. 213-14; 275-298; 321-22 (“Some Concluding Thoughts”) |
| Feb. 20 | Abortion | TBD |
| | Paternity; The Unmarried Father | pp. 342-71 |

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| Feb. 27 | Adoption | pp. 383-414; pp. 422-424; pp. 426-429 |
| | Assisted Reproduction | pp. 431-62 |
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| Mar. 6 | Assisted Reproduction (cont'd) | pp. 462-93 |
| | Child, Parent & State | pp. 503-545 |
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| Mar. 13 | NO CLASS | SPRING BREAK |
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| Mar. 20 | Child Abuse & Neglect; Termination of Parental Rights; | pp. 556-72; 579-92 |
| | Divorce (History; Grounds; Alternatives) | pp. 673-701; pp. 705-21 |
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| Mar. 27 | Divorce (Jurisdiction) | pp. 727-72 |
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| April 3 | Divorce (Custody) | pp. 789-841 |
| | Visitation; Nonparents' Interests; Modification | pp. 845-84 |
| | | |
| Apr. 10 | Divorce (Property Division) | pp. 885-929; pp. 940-65 |
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| Apr. 17 | Divorce (Spousal Support) | pp. 967-974 (stop at Problem 16-1); pp. 976-1000 |
| | Child Support | pp. 1023-42 |
| | | |
| April 24 | Child Support (cont'd) | [skim pp. 1042-55]; 1055-88 |
| | Separation Agreements; Modification of Support; Enforcement | pp. 1093-1099; 1105-1111; 1115-26; 1127-28; 1157-93; 1199-1202 |