FAMILY LAW:
CASES, TEXT, PROBLEMS
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Revised Fifth Edition

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DEDICATION

When I remember bygone days
I think how evening follows morn;
So many I loved were not yet dead,
So many I love were not yet born.

Ogden Nash, *The Middle*.

In memory of the lives of Edward Ellman and Larry Spector, and in awe of my marvelous luck 42 years ago when I married Tara.

I.M.E.

To Mom and Dad, who taught me the meaning of family and who I miss every day; to my loving sisters who have taught me over the years that geography is no impediment to closeness; and, most especially to the incredible Carol and our son, Benji, and to Claire who has made our family complete.

P.M.K.

To Zachary and Cara (the lights of my life), and in memory of my mother Corinne (a woman for all seasons).

L.A.W.

To Karen and David.

B.B.

To Dana, Cecily, Jake, Max and Nathan, who teach me something new about family every day.

K.C.

To Eric, and to Hannah, Abe, and Eli, who simultaneously delayed this project and gave it meaning.

M.E.
Twenty-five years ago, Ira Ellman carefully taped up a very large and very heavy box, preparing it for shipment to a publishing company called Michie. The box contained many hundreds of pages of typescript, and of Xerox copies of cases and articles that had been edited by cutting them up with scissors and pasting them with tape. The product of countless months of work by both Ellman and Paul Kurtz, the contents would become the first edition of *Family Law*. It was among the earliest law school casebooks published by Michie, which had recently acquired the casebook business previously owned by the Bobbs-Merrill Company — a company better known for having been the original publisher of the most popular American cookbook ever written, *The Joy of Cooking*, as well as the first American fairy tale, *The Wonderful Wizard of Oz*. *Family Law* never sold as well as they both did, although it has not done badly for a casebook. But it did get off to a rocky start. Unprepared for the potential heft of a law school casebook, Michie, which had its own printing plant, discovered that its factory’s binding machines could not accommodate a book as large as *Family Law*’s first edition. The crisis was abated when the factory manager thought to place the unbound pages in large stacks under heavy weights, forcing out the air and compressing the pages just enough to allow them to be bound.

A lot has changed since the first edition appeared in 1986. Neither Bobbs-Merrill nor Michie any longer exist, and no publisher would allow an author to submit his work in the form of an actual physical manuscript. Nor do many publishers manufacture books themselves, and indeed we seem to be in sight of the day when no one will, when electronic distribution will entirely replace printed copies.

And of course the law continues to change. This new edition reflects those changes through the time when the electronic “manuscript” was submitted to the editor in November of 2009. We have omitted, in statutory citations, any references to a year, because statutory language is no longer checked against printed volumes and pocket parts with publication year, but against electronic research services. Such a check was made on all statutory citations at the time of the manuscript’s preparation during 2009, and the citations were current as of that time.

Finally, the authors of *Family Law* continue to change. Successful collaborations create bonds that are one of the great pleasures of authorship. Ira Ellman and Paul Kurtz experienced that in the first edition, as we both remember, back before the age of email, the special pleasure we took in meeting one another for our very first face-to-face conversation some months after the first edition’s publication. In the years since, we have been very fortunate in the additional partners we have been able to enlist to work with us, beginning with Kate Bartlett in the second edition, and Elizabeth Scott in the third and the fourth, and our friendship with each of them happily continues even though they have both gone on to focus on other endeavors. Ira and Paul are delighted that Lois Weithorn and Brian Bix, who joined for the fourth edition, have continued to contribute to this one, and all four of us have been very pleased to welcome Maxine Eichner and Karen Czapskiy to the endeavor. Adding new authors adds new perspectives and new ideas, to the benefit of the entire enterprise, and their impact will undoubtedly grow in the future. We have nonetheless adhered to two features that were distinctive among family law casebooks in the first edition: extensive text along with cases and excerpts from the
PREFACE

The goal is to minimize the time the teacher must spend on making clear what the law is so that class time can instead focus on complications in the law’s application, and on the policy issues presented by its formulation.

We all have people to thank, among the colleagues, librarians, staff, and students in our respective institutions, for invaluable assistance in this project and others. They know who they are, and they know that we do also.

I.M.E.
P.M.K.
L.A.W.
B.H.B
M.E.
K.C.

November 6, 2009
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# TABLE OF CONTENTS

Preface ................................................................. v  
Acknowledgments ................................................. vii  

## Part I  INTRODUCTION ........................................... 1

### Chapter 1  INTRODUCTION ........................................ 3

A. THE THEMES OF FAMILY AND FAMILY LAW ......................... 3  
   [1] The Revolution in Families and The Direction of Family Law .... 3  
      JUDITH STACEY, IN THE NAME OF THE FAMILY: RETHINKING FAMILY  
      VALUES IN THE POSTMODERN AGE ........................................ 3  
      DAN CERE, REPORT FROM THE COUNCIL ON FAMILY LAW, THE  
      FUTURE OF FAMILY LAW: LAW AND THE MARRIAGE CRISIS IN NORTH  
      AMERICA ................................................................. 5  
   [2] Does the State Have a Legitimate Interest in Privileging (Particular)  
      Families? ................................................................. 6  
      MICHAEL WARNER, THE TROUBLE WITH NORMAL: SEX, POLITICS,  
      AND THE ETHICS OF QUEER LIFE .................................... 6  
      MARTHA FINEMAN, THE AUTONOMY MYTH: A THEORY OF  
      DEPENDENCY ........................................................................ 7  
      LINDA McCLAIN, THE PLACE OF FAMILIES: FOSTERING CAPACITY,  
      EQUALITY, AND RESPONSIBILITY ......................................... 8  
      Lynn Wardle, The Bonds of Matrimony and the Bonds of  
      Constitutional Democracy .................................................. 8  
      MARTHA FINEMAN, THE AUTONOMY MYTH: A THEORY OF  
      DEPENDENCY ........................................................................ 9  
      Lynn Wardle, The Bonds of Matrimony and the Bonds of  
      Constitutional Democracy .................................................. 9  
      NANCY POLIKOFF, BEYOND (STRAIGHT AND GAY) MARRIAGE:  
      VALUING ALL FAMILIES UNDER THE LAW ......................... 10  
      Daniel A. Crane, Abolishing Civil Marriage: A “Judeo-Christian”  
      Argument for Privatizing Marriage ..................................... 11  
      Elizabeth S. Scott, Marriage, Cohabitation and Collective  
      Responsibility for Dependency ........................................... 11  
      WILLIAM ESKRIDGE, THE CASE FOR SAME-SEX MARRIAGE: FROM  
      SEXUAL LIBERTY TO CIVILIZED COMMITMENT ..................... 12  
      William A. Galston, Public Morality and Public Policy: The Case  
      of Children and Family Policy ........................................... 12

xiii
### TABLE OF CONTENTS

Stephanie Coontz, *Too Close For Comfort* ..................................... 12


Ira Ellman, *Why Making Family Law is Hard* .................................. 14

MARY ANN GLENDON, *THE TRANSFORMATION OF FAMILY LAW* .......... 15

HENDRIK HARTOG, *MAN AND WIFE IN AMERICA: A HISTORY* ............. 18

Jill Hasday, *The Canon of Family Law* ........................................... 19

GARY S. BECKER, *A TREATISE ON THE FAMILY* ................................ 20


MARY ANN GLENDON, *ABORTION AND DIVORCE IN WESTERN LAW* .... 20

MILTON C. REGAN, JR., *FAMILY LAW AND THE PURSUIT OF INTIMACY* .... 20

Carl E. Schneider, *Moral Discourse and the Transformation of American Family Law* ................................................................. 21


### B. THE “FAMILY” AS A REGULATORY CLASSIFICATION ......................... 25

[1] Zoning Rules .................................................................................. 25

*Village of Belle Terre v. Boraas* ....................................................... 25

Notes .................................................................................................. 28

*Moore v. City of East Cleveland* ...................................................... 31

Notes ............................................................................................... 34

Problems ............................................................................................ 38

[2] Rent Control Regulation ................................................................. 39

*Braschi v. Stahl Associates Co.* ....................................................... 39

Notes .................................................................................................. 41

### C. FAMILIES AND THE CONSTITUTIONAL RIGHT TO PRIVACY .............. 44

[1] Evolution of the Right of Privacy ..................................................... 45

*Griswold v. Connecticut* ................................................................. 46

Notes .................................................................................................. 50

*Eisenstadt v. Baird* ........................................................................... 51

Notes .................................................................................................. 53


[a] The Road to *Lawrence* ............................................................... 56

*Lawrence v. Texas* ............................................................................ 58

Notes .................................................................................................. 69

[b] Implications of *Lawrence* Beyond Sexual Orientation ..................... 73

[i] Sodomy .......................................................................................... 73

[ii] Fornication ..................................................................................... 73
TABLE OF CONTENTS

[iii] Cohabitation ........................................ 74
[iv] Adultery ............................................. 74
[v] Polygamy ............................................. 74
[vi] Incest ................................................ 75
[vii] “Sex Toys” .......................................... 75
   Problems ............................................... 76
D. FAMILY, WORK, AND GENDER .......................... 76
   [1] Patterns of Employment, Family Responsibilities, and Gender Roles ..... 76
      DAPHNE SPAIN & SUZANNE M. BIANCHI, BALANCING ACT:
      MOTHERHOOD, MARRIAGE, AND EMPLOYMENT AMONG
      AMERICAN WOMEN ..................................... 76
      ANN CRITTENDEN, THE PRICE OF MOTHERHOOD — WHY THE MOST
      IMPORTANT JOB IN THE WORLD IS STILL THE LEAST VALUED .......... 78
      SUZANNE M. BIANCHI, JOHN P. ROBINSON & MELISSA A. MILKIE,
      CHANGING RHYTHMS OF AMERICAN FAMILY LIFE ...................... 81
      Notes ................................................ 84
   [2] Regulatory Approaches to the Work-Family Conflict ..................... 88
      JOAN WILLIAMS, UNBENDING GENDER: WHY FAMILY AND WORK
      CONFLICT AND WHAT TO DO ABOUT IT .......................... 88
      Mary Anne Case, How High the Apple Pie? A Few Troubling
      Questions About Where, Why, and How the Burden of Care for
      Children Should be Shifted ........................................ 90
      Martin H. Malin, Fathers and Parental Leave .......................... 92
      Maxine Eichner, Dependency and the Liberal Polity .................... 94
      Notes ................................................ 97
      Ira Mark Ellman, The Future of Marriage: Marital Roles and
      Declining Marriage Rates ....................................... 101
      Notes ................................................ 112

Part II MARRIAGE AND DIVORCE ............................. 119

Chapter 2 MARRIAGE .......................................... 121
A. ENTERING MARRIAGE ..................................... 121
   [1] Formal Requirements .................................... 121
   [a] Licensure and Solemnization .................................. 121
      Notes ................................................ 121
      State v. Denton ......................................... 123
      Notes ................................................ 125
   [b] Common Law Marriage: Exception to Formality Requirements ........ 128
      In re Estate of Hall ........................................ 128
## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Notes</th>
<th>131</th>
</tr>
</thead>
<tbody>
<tr>
<td>[c] Putative Spouse Doctrine: Form over Substance or Substance over Form?</td>
<td>136</td>
</tr>
<tr>
<td>In re Estate of Vargas</td>
<td>136</td>
</tr>
<tr>
<td>Notes</td>
<td>138</td>
</tr>
<tr>
<td>Problems</td>
<td>142</td>
</tr>
</tbody>
</table>

### [2] Substantive Requirements | 143 |
| [a] Constitutional Restraints Upon Substantive Requirements | 143 |
| Zablocki v. Redhail | 143 |
| Notes | 149 |
| Problems | 151 |
| [b] Same-Sex Prohibitions | 152 |
| Varnum v. Brien | 152 |
| Notes | 163 |
| Notes on Conflict of Law and Marriage Regulation | 175 |
| Problems | 182 |
| [c] Other Restrictions on Available Marital Partners | 183 |
| [i] Age | 183 |
| Notes | 183 |
| Problem | 184 |
| [ii] Non-Relation | 184 |
| Denise Grady, *Few Risks Seen to the Children of First Cousins* | 186 |
| Notes | 187 |
| [iii] Monogamy | 189 |
| Notes | 189 |
| Problem | 193 |
| [d] Consent Requirements | 193 |
| Notes | 193 |
| Problems | 199 |

| Notes | 200 |
| Problems | 203 |

### B. LAW OF THE INTACT MARRIAGE | 204 |
| [1] Duty to Support | 204 |
| McGuire v. McGuire | 204 |
| Notes | 206 |
| Forsyth Memorial Hospital v. Chisholm | 208 |
| Notes | 211 |
| [2] Spousal Control Over Earnings and Property | 213 |

xvi


TABLE OF CONTENTS

Notes .................................................. 215

    Notes .................................................. 219
C. CONSEQUENCES OF MARITAL STATUS ...................... 222
    [1] Names ........................................... 222
        In re Natale ....................................... 222
        Notes ........................................... 224
    [2] Liability for Spousal Violence ............................. 228
        Reva Siegel, “The Rule of Love”: Wife Beating as Prerogative
        and Privacy ....................................... 228
        Notes ........................................... 230
        Problems .......................................... 248
        Problem ........................................... 251
        Notes on Torts and the Married Couple ................. 251

Chapter 3 DISSOLVING THE MARITAL STATUS .............. 255

A. THE ORIGINS AND HISTORY OF AMERICAN DIVORCE LAW ...... 256
    [1] Early American Divorce ................................ 256
        LAWRENCE M. FRIEDMAN, A HISTORY OF AMERICAN LAW ... 256
    [2] American Divorce in the Twentieth Century ............... 259
        Note, Collusive and Consensual Divorce and the New York
        Anomaly ........................................... 260
        LAWRENCE M. FRIEDMAN, AMERICAN LAW IN THE
        TWENTIETH CENTURY ................................ 261
        Notes ........................................... 263
    [3] The Development of the No-Fault Approach ............... 264
        MAX RHEINSTEIN, MARRIAGE STABILITY, DIVORCE AND THE
        LAW ............................................. 265
        Notes on Comparative Law of Divorce ..................... 267

B. THE MODERN LAW IN ACTION ................................ 269
    [1] Pure No-Fault Systems ................................ 269
        Notes ........................................... 270
        Koon v. Koon ...................................... 276
        Notes ........................................... 279

C. REPRISE: RE-EVALUATING NO-FAULT, FAULT, AND THE
    LAW’S ROLE IN PROMOTING MARITAL STABILITY ........... 283
    [1] The Data on Marriage and Divorce Rates ................... 284
        [a] What Are the Trends? ............................ 284
## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Chapter 4</th>
<th>PROPERTY DIVISION AND ALIMONY UPON DIVORCE</th>
<th>317</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>PROPERTY DIVISION: GENERAL PRINCIPLES</td>
<td></td>
</tr>
<tr>
<td>[2]</td>
<td>Equal Division</td>
<td>322</td>
</tr>
<tr>
<td></td>
<td>Problem</td>
<td>324</td>
</tr>
<tr>
<td>[3]</td>
<td>Equitable Division</td>
<td>325</td>
</tr>
<tr>
<td></td>
<td>Michael v. Michael</td>
<td>325</td>
</tr>
<tr>
<td></td>
<td>Toth v. Toth</td>
<td>328</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>336</td>
</tr>
<tr>
<td></td>
<td>Problems</td>
<td>352</td>
</tr>
<tr>
<td>B.</td>
<td>PROPERTY DIVISION: CLASSIFICATION PROBLEMS</td>
<td></td>
</tr>
<tr>
<td>[1]</td>
<td>The Basics</td>
<td>353</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>354</td>
</tr>
<tr>
<td>[2]</td>
<td>Some Special Problems</td>
<td>357</td>
</tr>
<tr>
<td></td>
<td>Niroo v. Niroo</td>
<td>357</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>362</td>
</tr>
<tr>
<td></td>
<td>Problems</td>
<td>371</td>
</tr>
<tr>
<td>[a]</td>
<td>State Law Issues</td>
<td>372</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>372</td>
</tr>
<tr>
<td>[b]</td>
<td>Federal Preemption of State Law</td>
<td>376</td>
</tr>
<tr>
<td></td>
<td>Problems</td>
<td>379</td>
</tr>
<tr>
<td>C.</td>
<td>SHOULD EARNING CAPACITY, PROFESSIONAL CREDENTIALS, OR GOODWILL BE TREATED AS MARITAL PROPERTY?</td>
<td></td>
</tr>
<tr>
<td>[1]</td>
<td>Earning Capacity and Professional Credentials</td>
<td>380</td>
</tr>
<tr>
<td></td>
<td>O’Brien v. O’Brien</td>
<td>380</td>
</tr>
<tr>
<td></td>
<td>Postema v. Postema</td>
<td>384</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>393</td>
</tr>
</tbody>
</table>
## TABLE OF CONTENTS

### D. ALIMONY .......................................................... 419

[1] History and Historical Justifications ................................. 419  
   *ALI, Principles of the Law of Family Dissolution* ................ 419  
   Notes ......................................................................... 420

[2] The Struggle for a Modern Rationale ................................. 422  
   Note: Gender Patterns in Alimony Claims .......................... 423  
   Note: The Debate Over Differences in the Financial Impact of Divorce on Men and Women .......................... 424

[a] The Weitzman Data on the Gender Impact of Divorce ............. 424

[b] Beyond Weitzman: Assessing the Gender Impact of Divorce .... 426  
   Note: The Alimony Puzzle ........................................... 428

[3] Why Do We Have Alimony? ............................................. 430  
   *Clapp v. Clapp* .......................................................... 430  
   *Marriage of Wilson* .................................................... 434  
   Notes ......................................................................... 436  
   Problem ...................................................................... 447

[4] Size and Duration of Awards Following a Long-Term Marriage ... 447  
   *Rainwater v. Rainwater* ................................................. 447  
   *Hecker v. Hecker* ....................................................... 452  
   Notes ......................................................................... 454  
   Problem ...................................................................... 458  
   Note: Earning Capacity Losses and Their Recovery ............... 458  
   Problems .................................................................... 460

### E. RESCISSION AFTER THE SHORT-TERM MARRIAGE ............ 462

   *Rose v. Rose* ............................................................ 462  
   Notes ......................................................................... 465

### F. MODIFICATION OF AWARDS: SOME SPECIAL Problems ......... 466

[1] Basic Rules .................................................................. 466

[2] Remarriage of the Obligee ................................................. 468  
   Notes ......................................................................... 469  
   Problems .................................................................... 471

[3] Obligee’s Cohabitation ...................................................... 472  
   *O’Connor Brothers Abalone Co. v. Brando* ....................... 472  
   *Love v. Love* ............................................................. 474  
   Notes ......................................................................... 477  
   Problem .................................................................... 481

[4] Economic Changes .......................................................... 482
## TABLE OF CONTENTS

[a] Increase in Obligor’s Income ........................................... 482  
[b] The Obligor’s Retirement or Change in Employment ............... 482  
[c] Voluntary Employment Changes by the Obligee .................... 485  
[d] Inflation ................................................................. 485  
                      Problems ...................................................... 486  

G. SHOULD COURTS CONSIDER CLAIMS OF MARITAL MISCONDUCT? ............................................. 486  
[1] As a Factor in Alimony or Marital Property Adjudications? .... 486  
                      Ellman, *The Place of Fault in a Modern Divorce Law* ............ 487  
                      Notes ............................................................... 492  
[2] As the Basis of an Interspousal Tort Claim? ........................ 495  
                      [a] Ordinary Battery Claims ........................................ 495  
                      [b] Emotional Distress Claims Based Upon Adultery .............. 497  
                      [c] Other Interspousal Claims for Outrageous Infliction of Emotional Distress .................................................. 498  
                      [d] Criminal Conversation and Related Tort Actions ............ 499  
                      Problems .............................................................. 499  

Chapter 5   CHILD SUPPORT .................................................. 501  

A. DUTY OF SUPPORT ......................................................... 502  
[1] Duration ........................................................................ 502  
                      [a] General Rule .......................................................... 502  
                      [b] Post-Majority Support for Disabled Children ................. 503  
                      [c] Post-Majority Support for Higher Education ............... 503  
                          *Donarski v. Donarski* ........................................ 503  
                          Notes ................................................................. 506  
                          Problems .............................................................. 509  
                      [d] Pre-Majority Termination of Support .......................... 511  
[2] Support of Step-Children ................................................. 512  
                      [a] General Rule of Non-Liability .................................. 513  
                      [b] Imposing Liability on Step-Parents ............................ 513  
                      [c] Same-Sex Partners as Step-Parents? ......................... 514  
                      [3] Relationship Between Visitation and Support Obligations .... 514  
                          Problems .............................................................. 515  

B. ESTABLISHING THE AMOUNT OF SUPPORT: FROM DISCRETION TO GUIDELINES ........................................... 516  

[1] Structure of Guidelines .................................................. 516  
                      Ira Mark Ellman, Sanford Braver & Robert J. Maccoun, *Intuitive Lawmaking: The Example of Child Support* ............... 516  
                      Notes ................................................................. 521  

xx
**TABLE OF CONTENTS**

Ira Mark Ellman & Tara O'Toole Ellman, *The Theory of Child Support*  
**Notes** .......................... 529  
**Problems** .......................... 534

[2] Aspects of Support not Included Within the Ordinary Guideline ........ 536  
[a] Expenditure for Child Care Required by the Custodial Parent’s Gainful Employment ......................................................... 536  
[b] Expenditure for Health Insurance and for Uninsured Health Care Costs .............................................................. 536

[3] Determining the Obligor’s Resources ............................. 537  
*In re Marriage of Dennis* .......................................................... 537  
**Notes** .......................... 542  
**Problems** .......................... 544

*Donohue v. Getman* ................................................................. 545  
**Notes** .......................... 546

*Isaacson v. Isaacson* ................................................................. 549  
**Notes** .......................... 552


**Notes** .......................... 559  
**Problem** .......................... 559

[a] Serial Families ................................................................. 559  
*Kestner v. Clark* ................................................................. 560  
**Notes** .......................... 562  
**Problem** .......................... 566

[b] Retroactive Modification ..................................................... 566  
*Price v. Price* ................................................................. 566  
**NOTE** .......................... 568

C. ENFORCEMENT OF SUPPORT ORDERS ............................... 571

[1] Traditional Difficulties in Collecting Support ......................... 571

**Note on Federal Involvement in Support Enforcement** ........ 574

[3] Enforcement Remedies ...................................................... 577

[a] Income Withholding ......................................................... 577

[b] Contempt ................................................................. 579

**Notes** .......................... 579  
**Problem** .......................... 581
TABLE OF CONTENTS

[c] Other Enforcement Techniques ................................................. 582
[i] Criminal Prosecution .............................................................. 582
[ii] Civil Remedies ................................................................. 584
[iii] Revocation or Denial of Privileges ........................................... 586
[iv] Termination of Parental Rights ............................................... 587
[4] Defenses to Actions to Collect Arrearages ................................... 587
[a] Prior Payment ........................................................................ 587
[b] Custodial Changes .................................................................. 588
[c] Delay ...................................................................................... 588
[d] Estoppel ................................................................................. 589
[e] Nature of Obligor’s Resources ..................................................... 589
[f] Bankruptcy ............................................................................. 590
  Problems .................................................................................. 591
D. INTERSTATE SUPPORT LITIGATION ............................................. 592
   John J. Sampson & Paul M. Kurtz, UIFSA: An Interstate Support Act for the 21st Century .................................................. 593
   John J. Sampson, Uniform Family Laws and Model Acts .................. 595
  Notes ...................................................................................... 599
  Harbison v. Johnston ................................................................ 609
  Notes ...................................................................................... 613
  Problems .................................................................................. 618

Chapter 6 CHILD CUSTODY ............................................................... 621
A. INTRODUCTION ............................................................................. 621
[1] Brief History of Inter-Parental Custody Disputes ................................ 621
  E. Mavis Hetherington, Margaret Stanley-Hagan & Edward R.
  Anderson, Marital Transitions: A Child’s Perspective ................ ...... 624
B. THE BEST INTEREST OF THE CHILD STANDARD .......................... 626
[1] Introduction ............................................................................. 626
[2] Determining the Child’s Best Interests ......................................... 629
[a] Gender and Caretaking Roles ..................................................... 629
  Burchard v. Garay .................................................................... 629
  Notes ...................................................................................... 632
  Problem .................................................................................... 637
  Note on Domestic Violence as a Factor in Custody Decisions .......... 637

xxii
### TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>[b]</th>
<th>Sexual Conduct and Moral Unfitness</th>
<th>641</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><em>Van Driel v. Van Driel</em></td>
<td>641</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>642</td>
</tr>
<tr>
<td></td>
<td>Problem</td>
<td>645</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[c]</td>
<td>Race</td>
<td>646</td>
</tr>
<tr>
<td></td>
<td><em>Palmore v. Sidoti</em></td>
<td>646</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>648</td>
</tr>
<tr>
<td></td>
<td>Problem</td>
<td>649</td>
</tr>
<tr>
<td></td>
<td>Note on Custody and Health</td>
<td>649</td>
</tr>
<tr>
<td></td>
<td>Problem</td>
<td>650</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[d]</td>
<td>Religion</td>
<td>651</td>
</tr>
<tr>
<td></td>
<td><em>Leppert v. Leppert</em></td>
<td>651</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>653</td>
</tr>
<tr>
<td></td>
<td>Problems</td>
<td>657</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[e]</td>
<td>Alienation of the Child’s Affections</td>
<td>658</td>
</tr>
<tr>
<td></td>
<td><em>Renaud v. Renaud</em></td>
<td>658</td>
</tr>
<tr>
<td></td>
<td>NOTE</td>
<td>661</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[f]</td>
<td>Child’s Preference: The Role of Child Preferences in Custody</td>
<td>663</td>
</tr>
<tr>
<td></td>
<td>Decisions</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Note on the Role of the Child’s Attorney</td>
<td>665</td>
</tr>
<tr>
<td></td>
<td>Problem</td>
<td>668</td>
</tr>
</tbody>
</table>

### C. ALTERNATIVE CUSTODY DECISION RULES

| [1] | Joint Custody                      | 669 |
|     | *McCarty v. McCarty*               | 670 |
|     | Notes                              | 673 |
|     | Problems                           | 681 |
|     |                                   |     |
| [2] | Past Parental Caretaking Roles     | 682 |
|     | [a] Primary Caretaker Preference   | 682 |
|     | [b] The ALI Standard — Approximation of Past Parental Roles | 685 |
|     | Elizabeth Scott, *Pluralism, Parental Preference and Child* | 687 |
|     | Custody                            | 687 |
|     | Notes                              | 689 |
|     | Problem                            | 691 |

### D. RIGHTS OF THE NONCUSTODIAL PARENT

| [1] | Visitation Rights                  | 692 |
|     | Notes                              | 692 |
|     | Note on the Enforcement of Visitation Orders | 694 |
|     | Problems                           | 697 |
|     | Note on Custody Agreements and Parenting Plans | 697 |
|     |                                   |     |
| [2] | Naming the Child                   | 700 |
|     | Problem                            | 701 |
## TABLE OF CONTENTS

**E. MODIFICATION OF CUSTODY** ........................................ 701  
[1] General Principles ........................................... 701  
   *Burchard v. Garay* ........................................... 701  
   Notes ......................................................... 704  
   Problem ....................................................... 708  
   *Marriage of Lamusga* ....................................... 708  
   Notes ......................................................... 716  

**F. DISPUTES BETWEEN PARENTS AND NON-PARENTS** .............. 724  
[1] Grandparent Visitation ........................................ 724  
   *Troxel v. Granville* ....................................... 724  
   Notes ......................................................... 730  
   Problem ....................................................... 734  
[2] Custody Disputes Between Legal and De Facto Parents .......... 735  
   *V.C. v. M.J.B.* ............................................... 735  
   Notes ......................................................... 740  
   Problems ..................................................... 747  

**G. THE ROLE OF THE ATTORNEY IN CUSTODY CASES** ............ 748  
Problem .......................................................... 749  

**H. INTERNATIONAL CUSTODY DISPUTES** ......................... 749  

### Chapter 7 DIVORCE JURISDICTION ............................. 755  

**A. TERMINATION OF MARITAL STATUS** .......................... 755  
   *Sosna v. Iowa* ............................................... 755  
   Notes on Divorce Jurisdiction ................................ 757  

**B. JURISDICTION TO ISSUE SUPPORT ORDERS AND DIVIDE PROPE... 761  
   *Kulko v. Superior Court of California* ....................... 762  
   Notes ......................................................... 766  
   Problems ..................................................... 771  

**C. JURISDICTION TO ADJUDICATE CUSTODY DISPUTES** .......... 772  
[1] Constitutional Framework ...................................... 772  
   [a] Jurisdiction to Render Initial Custody Decree .......... 782  
      *Welch-Doden v. Roberts* ................................ 782  
      Notes ....................................................... 788  
      Problems .................................................. 794  
   [b] Jurisdiction to Modify an Existing Decree ............. 795  
      *Snow v. Snow* ............................................ 795  
      Notes ....................................................... 798  
      Problems .................................................. 802
## TABLE OF CONTENTS

### Chapter 8

**FIXING THE CONSEQUENCES OF DIVORCE BY AGREEMENT OF THE PARTIES**  

<table>
<thead>
<tr>
<th>Chapter 8</th>
<th>FIXING THE CONSEQUENCES OF DIVORCE BY AGREEMENT OF THE PARTIES</th>
<th>807</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. PREMARITAL AGREEMENTS</strong></td>
<td></td>
<td>808</td>
</tr>
<tr>
<td>[1] Introduction</td>
<td></td>
<td>808</td>
</tr>
<tr>
<td>Notes</td>
<td></td>
<td>809</td>
</tr>
<tr>
<td>[a] The Traditional Rule of Heightened Scrutiny</td>
<td>Button v. Button</td>
<td>811</td>
</tr>
<tr>
<td>Gant v. Gant</td>
<td></td>
<td>815</td>
</tr>
<tr>
<td>[b] The Contractual Model</td>
<td>Marriage of Bonds</td>
<td>819</td>
</tr>
<tr>
<td>Simeone v. Simeone</td>
<td></td>
<td>830</td>
</tr>
<tr>
<td>[c] Current Trends and the ALI’s Proposals</td>
<td>Problems</td>
<td>847</td>
</tr>
<tr>
<td>[3] Limitations on Subjects Governed by Premarital Agreements</td>
<td>Diosdado v. Diosdado</td>
<td>849</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td></td>
<td>852</td>
</tr>
<tr>
<td><strong>B. SEPARATION AGREEMENTS</strong></td>
<td></td>
<td>861</td>
</tr>
<tr>
<td>[a] The Traditional Bargaining Process</td>
<td></td>
<td>861</td>
</tr>
<tr>
<td>[i] Factors Influencing Whether a Case Is Settled</td>
<td></td>
<td>861</td>
</tr>
<tr>
<td>[ii] Factors Influencing the Terms of a Settlement</td>
<td></td>
<td>864</td>
</tr>
<tr>
<td>[b] Mediation as a Means of Achieving Agreement</td>
<td>Notes</td>
<td>867</td>
</tr>
<tr>
<td>[a] In General</td>
<td>ALI Principles, Chapter 1 Introduction</td>
<td>877</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td></td>
<td>880</td>
</tr>
<tr>
<td>[b] Special Rules To Govern Bargaining Over Children</td>
<td></td>
<td>881</td>
</tr>
<tr>
<td>[a] Joint Representation</td>
<td></td>
<td>893</td>
</tr>
<tr>
<td>[5] Limitations on the Subject or Terms of Separation Agreements</td>
<td></td>
<td>905</td>
</tr>
</tbody>
</table>
**TABLE OF CONTENTS**

<table>
<thead>
<tr>
<th>A.</th>
<th>NONMARITAL COHABITATION</th>
<th>917</th>
</tr>
</thead>
<tbody>
<tr>
<td>[1]</td>
<td>The Demographics of Unmarried Cohabitating Couples in the United States</td>
<td>917</td>
</tr>
<tr>
<td>[2]</td>
<td>Enforcing Obligations Between Cohabitants</td>
<td>922</td>
</tr>
<tr>
<td>[a]</td>
<td>Contract-Based Remedies</td>
<td>922</td>
</tr>
<tr>
<td></td>
<td><em>Marvin v. Marvin</em></td>
<td>922</td>
</tr>
<tr>
<td></td>
<td><em>Hewitt v. Hewitt</em></td>
<td>929</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>932</td>
</tr>
<tr>
<td>[b]</td>
<td>The Status Alternative to Contract Remedies</td>
<td>944</td>
</tr>
<tr>
<td>[i]</td>
<td>Washington State’s Approach</td>
<td>944</td>
</tr>
<tr>
<td></td>
<td><em>Connell v. Francisco</em></td>
<td>945</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>949</td>
</tr>
<tr>
<td>[ii]</td>
<td>The ALI Approach</td>
<td>951</td>
</tr>
<tr>
<td></td>
<td>ALI Principles of the Law of Family Dissolution: Analysis and Recommendations</td>
<td>951</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>953</td>
</tr>
<tr>
<td></td>
<td>Problems</td>
<td>962</td>
</tr>
<tr>
<td>[3]</td>
<td>Legal Status of Unmarried Partners Vis-à-Vis Third Parties</td>
<td>965</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>965</td>
</tr>
<tr>
<td></td>
<td>Problems</td>
<td>971</td>
</tr>
<tr>
<td>[a]</td>
<td>State Laws that Allow Partners the Same Rights and Benefits as Marriage — Civil Unions and Civil-Union-Like Domestic Partnerships</td>
<td>973</td>
</tr>
<tr>
<td>[b]</td>
<td>State Laws that Provide Limited Privileges to Relationships — Domestic Partnerships and Reciprocal Beneficiaries</td>
<td>977</td>
</tr>
<tr>
<td>[c]</td>
<td>Statuses Granting Employment Benefits to Domestic Partners of Government Employees</td>
<td>978</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>980</td>
</tr>
<tr>
<td></td>
<td>Note on Formal Registration Schemes Outside of the United States</td>
<td>986</td>
</tr>
</tbody>
</table>

| B. | UNMARRIED PARENTS AND THEIR CHILDREN | 987 |

xxvi
## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>[1]</td>
<td>Establishing Paternity</td>
<td>992</td>
</tr>
<tr>
<td>[a]</td>
<td>Methods of Proof</td>
<td>993</td>
</tr>
<tr>
<td>[b]</td>
<td>Biological or Social Paternity? of Procedures and Presumptions</td>
<td>994</td>
</tr>
<tr>
<td></td>
<td>Ira Mark Ellman, <em>Thinking About Custody and Support in Ambiguous-Father Families</em></td>
<td>994</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>1007</td>
</tr>
<tr>
<td></td>
<td>Problems</td>
<td>1012</td>
</tr>
<tr>
<td></td>
<td>Note on Enforcing Paternal Support</td>
<td>1013</td>
</tr>
<tr>
<td></td>
<td>Special Considerations</td>
<td>1013</td>
</tr>
<tr>
<td></td>
<td>Problems</td>
<td>1012</td>
</tr>
<tr>
<td>[a]</td>
<td>Constitutional Protection of the Unwed Father’s Claim</td>
<td>1021</td>
</tr>
<tr>
<td></td>
<td><em>Lehr v. Robertson</em></td>
<td>1027</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>1034</td>
</tr>
<tr>
<td></td>
<td>Problems</td>
<td>1050</td>
</tr>
<tr>
<td>[b]</td>
<td>The Unwed Father vs. the Mother’s Husband</td>
<td>1052</td>
</tr>
<tr>
<td></td>
<td><em>Michael H. v. Gerald D.</em></td>
<td>1052</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>1065</td>
</tr>
<tr>
<td></td>
<td>Problems</td>
<td>1073</td>
</tr>
<tr>
<td></td>
<td>Charlotte J. Patterson, <em>Children of Lesbian and Gay Parents</em></td>
<td>1075</td>
</tr>
<tr>
<td>[a]</td>
<td>Adoptions by Same-Sex Couples and Gay or Lesbian Individuals</td>
<td>1079</td>
</tr>
<tr>
<td>[i]</td>
<td>Second-Parent Adoption</td>
<td>1079</td>
</tr>
<tr>
<td></td>
<td><em>Sharon S. v. Superior Court</em></td>
<td>1079</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>1084</td>
</tr>
<tr>
<td>[ii]</td>
<td>Statutory Bars to Adoptions by Gay and Lesbian Couples and Individuals</td>
<td>1089</td>
</tr>
<tr>
<td></td>
<td><em>Lofton v. Department of Children and Family Services</em></td>
<td>1089</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>1096</td>
</tr>
<tr>
<td>[b]</td>
<td>Parenting Disputes Between Former Same-Sex Partners</td>
<td>1099</td>
</tr>
<tr>
<td>[1]</td>
<td>Custody Disputes Between Same-Sex Partners</td>
<td>1100</td>
</tr>
<tr>
<td></td>
<td><em>V.C. v. M.J.B.</em></td>
<td>1100</td>
</tr>
<tr>
<td>[2]</td>
<td>Parentage Disputes Between Same-Sex Partners</td>
<td>1100</td>
</tr>
<tr>
<td></td>
<td><em>Elisa B. v. Superior Court of El Dorado County</em></td>
<td>1100</td>
</tr>
<tr>
<td></td>
<td><em>K.M. v. E.G.</em></td>
<td>1106</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
<td>1113</td>
</tr>
<tr>
<td></td>
<td>Problems</td>
<td>1118</td>
</tr>
</tbody>
</table>
**TABLE OF CONTENTS**

<table>
<thead>
<tr>
<th>Part IV</th>
<th>PARENT AND CHILD</th>
<th>1121</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter 10</td>
<td>STATE REGULATION OF THE PARENT-CHILD RELATIONSHIP</td>
<td>1123</td>
</tr>
<tr>
<td>A.</td>
<td>PARENTAL AUTONOMY AND STATE AUTHORITY: THE CONSTITUTIONAL BOUNDARIES</td>
<td>1124</td>
</tr>
<tr>
<td>Meyer v. Nebraska</td>
<td>1125</td>
<td></td>
</tr>
<tr>
<td>Pierce v. Society of Sisters</td>
<td>1127</td>
<td></td>
</tr>
<tr>
<td>NOTE</td>
<td>1128</td>
<td></td>
</tr>
<tr>
<td>Prince v. Massachusetts</td>
<td>1128</td>
<td></td>
</tr>
<tr>
<td>Wisconsin v. Yoder</td>
<td>1131</td>
<td></td>
</tr>
<tr>
<td>Notes</td>
<td>1138</td>
<td></td>
</tr>
<tr>
<td>Wisconsin v. Yoder</td>
<td>1145</td>
<td></td>
</tr>
<tr>
<td>Notes</td>
<td>1153</td>
<td></td>
</tr>
<tr>
<td>Problem</td>
<td>1156</td>
<td></td>
</tr>
<tr>
<td>B.</td>
<td>THE CHILD’S CLAIMS AGAINST PARENTAL AND STATE AUTHORITY</td>
<td>1156</td>
</tr>
<tr>
<td>[1] Claims of Independence by the Child from Parental Authority</td>
<td>1157</td>
<td></td>
</tr>
<tr>
<td>[a] Legal Emancipation</td>
<td>1157</td>
<td></td>
</tr>
<tr>
<td>[b] Other Claims By Minors Against Parental Authority</td>
<td>1158</td>
<td></td>
</tr>
<tr>
<td>Polovchak v. Meese</td>
<td>1159</td>
<td></td>
</tr>
<tr>
<td>NOTE</td>
<td>1162</td>
<td></td>
</tr>
<tr>
<td>Problems</td>
<td>1166</td>
<td></td>
</tr>
<tr>
<td>[2] Minors’ Objection to Parental Medical Decisions — The Case of Psychiatric Hospitalization</td>
<td>1167</td>
<td></td>
</tr>
<tr>
<td>Parham v. J. R.</td>
<td>1167</td>
<td></td>
</tr>
<tr>
<td>Notes</td>
<td>1175</td>
<td></td>
</tr>
<tr>
<td>Problem</td>
<td>1179</td>
<td></td>
</tr>
<tr>
<td>[a] Trends in Adolescent Sexual Activity, Pregnancy, Childbearing, and Abortion</td>
<td>1180</td>
<td></td>
</tr>
<tr>
<td>Carey v. Population Services International</td>
<td>1182</td>
<td></td>
</tr>
<tr>
<td>Notes</td>
<td>1184</td>
<td></td>
</tr>
<tr>
<td>[b] Regulation of Adolescent Access to Contraception</td>
<td>1182</td>
<td></td>
</tr>
<tr>
<td>Bellotti v. Baird (II)</td>
<td>1189</td>
<td></td>
</tr>
<tr>
<td>Notes</td>
<td>1193</td>
<td></td>
</tr>
<tr>
<td>Problem</td>
<td>1199</td>
<td></td>
</tr>
<tr>
<td>C.</td>
<td>OVERRIDING PARENTAL AUTHORITY IN ORDER TO PROTECT ENDANGERED CHILDREN</td>
<td>1200</td>
</tr>
<tr>
<td>[1] Standards for State Intervention in Child Abuse and Neglect Cases</td>
<td>1201</td>
<td></td>
</tr>
</tbody>
</table>

xxviii
TABLE OF CONTENTS

In re Texas Department of Family and Protective Services . . . . . . 1202
Notes .................................................................................. 1207
Problem ............................................................................ 1219
[2] Failure to Provide Medical Treatment for the Child .......... 1220
[a] The Minor Child ............................................................ 1220
Newmark v. Williams .......................................................... 1220
Notes ............................................................................. 1224
Problems ........................................................................ 1229
[b] The Infant .................................................................... 1230
Notes ............................................................................. 1230
Problem ........................................................................ 1233
[3] Abuse or Neglect of the Fetus ........................................ 1234
[a] Court-Ordered Caesareans and Other Mandated Treatment of
Mothers ........................................................................... 1234
[b] Drug Abuse by Pregnant Women .................................... 1235
Angela M.W. v. Kruzicki ...................................................... 1235
Notes ............................................................................. 1237
Problem ........................................................................ 1240
[4] State Duties Arising from its Child Protection System .... 1240
Deshaney v. Winnebago County Department of Social Services . 1240
Notes ............................................................................. 1245
Note on Foster Care ............................................................ 1249
Smith v. Organization of Foster Families For Equality & Reform ........................................................................ 1251
Notes ............................................................................. 1252
[5] Termination of Parental Rights ...................................... 1254
In re Adoption/Guardianship No. J9610436 .................... 1256
Notes ............................................................................. 1262
Richard Barth, Fred Wulczyn & Tom Crea, From Anticipation to
Evidence: Research on the Adoption and Safe Families Act . . 1270
Problems ........................................................................ 1271
[6] Proving Child Abuse and Neglect in Criminal Court .... 1272
[a] Testimony by the Alleged Child Victim ....................... 1273
Maryland v. Craig .............................................................. 1273
Notes ............................................................................. 1278
[b] Expert Testimony in Child Sexual Abuse Cases .......... 1285
Sanderson v. Commonwealth ............................................ 1285
Notes ............................................................................. 1291
Note on Child Abuse Law Reform ...................................... 1297

xxix
TABLE OF CONTENTS

Chapter 11  ADOPTION AND ASSISTED REPRODUCTIVE TECHNOLOGIES 1303

A. ADOPTION TRENDS IN THE UNITED STATES: PAST, PRESENT, AND FUTURE 1304
   [1] Adoption in Historical Perspective 1305
       [a] Relinquishment of Newborns by Unmarried Women 1307
       [b] Children in the Child Welfare System 1308
       [c] Adoptions by Relatives 1310
       [d] Intercountry Adoptions 1310
       [e] Adoptions by Gays and Lesbians 1311
   [3] The Psychological Adjustment of Adopted Children 1312

B. “FREEING” THE CHILD FOR ADOPTION 1313
   [1] Involuntary Termination of Parental Rights 1313
   [2] Consent to Adoption 1314
       [a] Whose Consent is Necessary? 1314
       [i] Stepparent Adoption 1314
           In the Matter of J.J.J. 1315
           Notes 1320
           Problem 1327
       [ii] Adoption into a New Family 1327
           Problem 1331
       [b] What Constitutes Valid Consent? 1331
           Vela v. Marywood 1332
           Notes 1336
           Problems 1340

C. THE ADOPTION PROCESS 1341
   [1] Agency vs. Independent Adoptions 1341
       [a] The Role of the Agency 1341
           Jackson v. Montana Dep’t of Family Servs. 1342
           Notes 1345
       [b] Regulating Independent Adoptions 1348
       [i] The Role of the Attorney 1350
       [ii] Regulation of Fees 1353
   [2] Choosing Adoptive Parents and Children 1361
       [a] Agency Selection Criteria and Matching Procedures 1361
       [b] The Role of Religion in Adoption Placement Decisions 1362
           Problem 1364
       [c] The Role of Race in Adoption Placement Decisions 1364

xxx
# TABLE OF CONTENTS

*Dewees v. Stevenson* ........................................... 1365
Notes ......................................................... 1368
[e] Intercountry Adoption ........................................ 1380
[f] Gays and Lesbians as Adoptive Parents ......................... 1382

**D. THE LEGAL EFFECTS OF ADOPTION** ......................... 1382

[1] What is An “Open Adoption”? ................................ 1382
   [a] Access to Nonidentifying Information ...................... 1385
   [b] Access to Identifying Information ......................... 1385
   [i] Registries and Intermediaries .............................. 1385
   [ii] Exceptions for “Good Cause” ............................. 1386
   [iii] Modern Statutes Permitting Access to Birth Records .... 1387
       Problem ................................................ 1388
[3] Post-Adoption Contact Agreements and “Cooperative Adoption” . . 1388
   *Michaud v. Wawruck* ........................................ 1388
   Notes ....................................................... 1390
[4] Inheritance Rights after Adoption ................................ 1395
[5] Abrogation of Adoption by Adoptive Parents .................... 1396
   Problem .................................................... 1398

**E. ALTERNATIVES TO ADOPTION: ASSISTED REPRODUCTIVE**
TECHNOLOGIES .................................................. 1398

[1] Insemination by Donor ........................................ 1398
[2] In Vitro Fertilization and Egg Donation ........................ 1400
[3] Surrogacy Contracts .......................................... 1403
   *In re Baby M* ............................................... 1403
   Notes ....................................................... 1410
   Problems ................................................ 1420
[4] The Legal Status of Embryos and Resolution of Disputes Over their
   Disposition .................................................. 1421
   *Davis v. Davis* ............................................. 1421
   Notes ....................................................... 1431

Table of Cases .................................................. TC-1

Index ............................................................ I-1