

University of Washington School of Law

Spring 2021

A580 Family Law

4 credits

Class meets Mondays, 3:30-5:40pm (live remote), Wednesdays pre-recorded

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Office Hours by appointment

SYLLABUS

Class Description

This course focuses upon the dissolution of marriage and the work of the family lawyer. Topics covered include divorce, parenting, child support, property distribution, maintenance (spousal support), domestic violence, and marriage. Legislative changes to family law will also be discussed. The skills and interdisciplinary knowledge required for a successful family law practice will also be explored. This course will draw on Washington and national cases, forms and statutes to illustrate the work of the lawyer.

Family law generally encompasses a broad range of topics. It is impossible to give adequate treatment to all of these issues in a one-quarter, 4-credit class. Therefore, some subjects are not covered here at all. To experience a more thorough treatment of community property, you should take Community Property offered by Professor Boxx. For a deeper understanding of family law for gay and lesbian couples, Sexual Orientation and the Constitution and Gender and the Law are useful courses.

Learning Objectives

- To understand general trends and changes in family law over the last thirty years.
- To be able to analyze jurisdictional issues for family law cases.
- To be aware of the change from fault to no-fault divorce, and how that manifests in current jurisprudence.
- To understand the myriad of legal changes to parenting, including within a marriage, with unmarried partners, with extended family relationships, the laws regarding formation and modification of parenting plans, and adoption and surrogacy.
- To be aware of the financial issues related to marriage, including property division, child support and maintenance.
- To understand how the court addresses domestic violence in family relationships.
- To be aware of the changes in marriage and family definition in the last decade.

Textbook

There will be no course textbook. The readings will be a mix of articles and cases. Because students have free access to Westlaw/Lexis/Bloomberg, I do not post the cases.

Grading

Your grade will be based on the following:

- Answering discussion board questions with well thought out answers (8 responses at 5 possible points each equals 40 possible points total)
- Parenting plan exercise-- 20 points total
- Recorded case presentation--10 points total (Link to Google Doc with the possible cases: https://docs.google.com/document/d/1S-zvT2yb-Gbr6xp_S_KJ7COU4Tx5GoFhXFzqRt1O-ij/edit?usp=sharing (Links to an external site.)
- Final exam--30 points total

Given the number of students in the class, this class has a mandatory curve.

Students are bound by the UWLS/ABA policies on attendance:

<https://www.law.washington.edu/students/academics/attendance.aspx> (Links to an external site.)

Final Exam

The final exam will be 3 hours using ExamSoft. It will be open note—anything you created on your computer will be available to you. You will have the ability to schedule it yourself during exam week. You are responsible for reviewing the exam schedule to determine if there are any changes. The exam schedule for this quarter is posted at <https://www.law.washington.edu/students/exams/default.aspx>.

Course Evaluation

Course evaluations are open online during the last week of classes.

Law School Attendance Policy

Under changes to ABA Accreditation Standard 304, adopted in August 2004, a law school shall require regular and punctual class attendance.

At any time after the fifth week of a course (halfway through a summer session course), a student who has been determined by the instructor to have attended fewer than 80 percent of the class sessions in any course will be required to drop the course from his or her registration upon the instructor's so indicating to the Academic Services Office.

An instructor may also impose stricter attendance standards or other sanctions for nonattendance, including lowering of a grade, provided that students are informed at the start of the course of the instructor's attendance rules and possible sanctions.

Access and Accommodation

Your experience in this class is important to me. If you have already established accommodations with Disability Resources for Students (DRS), please communicate your approved accommodations to me at your earliest convenience so we can discuss your needs in this course.

If you have not yet established services through DRS, but have a temporary health condition or permanent disability that requires accommodations (conditions include but not limited to; mental health, attention-related, learning, vision, hearing, physical or health impacts), you are welcome to contact DRS at 206-543-8924 or uwdrs@uw.edu or disability.uw.edu. DRS offers resources and coordinates reasonable accommodations for students with disabilities and/or temporary health conditions.

Reasonable accommodations are established through an interactive process between you, your instructor(s) and DRS. It is the policy and practice of the University of Washington to create inclusive and accessible learning environments consistent with federal and state law.

Religious Accommodations

Washington state law requires that UW develop a policy for accommodation of student absences or significant hardship due to reasons of faith or conscience, or for organized religious activities. The UW's policy, including more information about how to request an accommodation, is available at Faculty Syllabus Guidelines and Resources. Accommodations must be requested within the first two weeks of this course using the Religious Accommodations Request form available at <https://registrar.washington.edu/students/religious-accommodations-request/>.

Class Meetings

Monday, March 29

Topic 1: When are adult partners a family?

Required Reading

- "The Nuclear Family Was a Mistake," <https://www.theatlantic.com/magazine/archive/2020/03/the-nuclear-family-was-a-mistake/605536/> (Links to an external site.)
- "Getting Married is Better than Dying, Right?" uploaded under Files/First Week Readings
- "Decoding the Story of Yourself," uploaded under Files/First Week Readings
- "Divorce Advice (and it won't cost you a thing)," uploaded under Files/First Week Readings
- "You can Crowdfund Everything These Days, Including Your Divorce," http://www.huffingtonpost.com/entry/you-can-crowdfund-everything-these-days-including-your-divorce_us_5755ac51e4b0eb20fa0e8961

Topic 2: Jurisdiction

Required Reading

- RCW 4.28.185
- *Sherrer v. Sherrer*, 334 U.S. 343 (1948)

- *Kulko v. Superior Court*, 436 U.S. 84 (1978)
- *Ankenbrandt v. Richards*, 504 U.S. 689 (1992)
- *In re Marriage of Peck*, 82 Wn. App. 809 (1996)
- Gohd, Chelsea, "NASA Astronaut Anne McClain Refutes Space Crime Claim by Spouse as Divorce Details Emerge," <https://www.space.com/astronaut-anne-mcclain-refutes-space-crime-claim.html> (Links to an external site.)
- RCW 26.27 UCCJEA (skim)

Wednesday, March 31

Topic 1: Dissolution--**Pre-recorded (check Modules for the recordings, materials)**

Required Reading

- RCW 26.09.030
- *Mertens v. Mertens*, 38 Wn.2d 55 (1951)
- *In re Marriage of Mu Chai v. Yi Kong*, 122 Wn.App. 247 (2004)
- *In re Marriage of Buecking*, 179 Wn.2d 438 (2013)
- 2013 SB 5614, WA St Family 2nd Chances Act, <http://apps.leg.wa.gov/documents/billdocs/2013-14/Pdf/Bills/Senate%20Bills/5614.pdf> (Links to an external site.)
- Cunha, Darlena, "The Divorce Gap," https://www.theatlantic.com/business/archive/2016/04/the-divorce-gap/480333/?utm_source=atl&utm_medium=email&utm_campaign=share (Links to an external site.)
- Court Form—FL Divorce 201, Petition for Divorce

Monday, April 5

Topic: Parenting-Standards for Custody Determination

Required Reading

- *Stanley v. Illinois*, 405 U.S. 645 (1972)
- *Palmore v. Sidoti*, 466 U.S. 429 (1984)
- RCW 26.09.002, .182, .184, .187, .191
- Court Forms—FL ALL Family 140, Parenting Plan
- *Marriage of Underwood*, 181 Wn.App. 608 (2014)
- *Marriage of Jensen-Branch*, 78 Wn. App. 482 (1995)
- *Marriage of Magnuson*, 141 Wn. App. 347 (2007)
- *Marriage of Black*, 188 Wn.2d 114 (2017)
- 2019 HB 1050, <https://app.leg.wa.gov/billsummary?BillNumber=1050&Year=2019&Initiative=false> (Links to an external site.)

Wednesday, April 7-- Pre-recorded (check Modules for the recordings, materials)

Topic: Parenting-Standards for Custody Determination (con't)/ Modification/Relocation

Required Reading

- - RCW 26.09.270, .260 (pre-recorded lecture in Panopto Recordings)
 - RCW 26.09.520, .525 (pre-recorded lecture in Panopto Recordings)
 - *Marriage of Possinger*, 105 Wn. App. 326 (2001)
 - *Marriage of Taddeo-Smith and Smith*, 127 Wn. App. 400 (2005)
 - *In re Marriage of Zigler and Sidwell*, 154 Wn.App. 803 (2010)
 - *Marriage of Snider and Stroud*, 6 Wn.App.2d 310 (2018)

Monday, April 12

Topic: Parentage and Paternity

Required Reading

- *Jhordan C. v. Mary K.*, 179 Cal.App.3d 386 (1986)
- *Michael H. v. Gerald D.*, 491 U.S. 110 (1989)
- *Lehr v. Robertson*, 463 U.S. 248 (1982)
- *In re Parentage of C.S.*, 139 P.3d 366 (2006)
- *In re Parentage of J.M.K.*, 119 P.3d 840 (2005)
- RCW 26.26A, Washington's Uniform Parentage Act (skim)

Wednesday, April 14

Topic: Adoption and Surrogacy--**(Pre-recorded-- check Modules for recordings, materials)**

Required Reading

- *In re Adoption of TAW*, 188 Wn. App. 799 (2015)
- RCW 26.33 (skim)(pre-recorded lecture, "Adoption Basics/ICWA" in Panopto Recordings)
- *Couple v. Baby Girl*, 133 S.Ct. 2552 (2013) (ICWA)
- "Ethiopian Lawmakers Vote to Ban Foreign Adoptions," https://www.npr.org/sections/thetwo-way/2018/01/10/577144605/ethiopian-lawmakers-vote-to-ban-foreign-adoptions?utm_source=facebook.com&utm_medium=social&utm_campaign=npr&utm_term=nprnews&utm_content=20180110 (Links to an external site.)
- Inskip, Steve, "NPR Host Steve Inskip on His Two Adoptions," <https://www.newsweek.com/npr-host-steve-inskeep-his-two-adoptions-63337> (Links to an external site.)

- Surrogacy (pre-recorded lecture in Panopto Recordings)
- *Johnson v. Calvert*, 5 Cal.4th 84 (1993)
- *Litowitz v. Litowitz*, 102 Wn.App. 934 (2000)

Monday, April 19

Topic: Non-parental custody, *de facto* Parentage and Visitation

Required Reading

- *In re Parentage of L.B.*, 155 Wn.2d 679 (2005)
- *In re Custody of AFJ*, 179 Wn.2d 179 (2013)
- *In re Custody of LMS*, 187 Wn.2d 567 (2017)
- RCW 26.26A.440
- *Troxel v. Granville*, 530 U.S. 57 (2000)
- RCW 26.11

Wednesday, April 21-- (Pre-recorded, check Modules Tab for recordings, materials)

Topic: Child Support

Required Reading

- RCW 26.19.020
- Court Form-FL All Family 130, Child Support Order (Pre-recorded lecture uploaded in Panopto Recordings)
- Court Form-WSCSS-Worksheets (Pre-recorded lecture uploaded in Panopto Recordings)
- *State and Zabloski v. Hall*, 418 NW.2d 187 (1988)
- *Amunrud v. Board of Appeals and Dept. of Social & Health Servs*, 124 Wn. App. 884 (2004)
- *Marriage of Bundy and Rush*, 460 P.3d 1111 (2020)

Monday, April 26

Topic: Property Division

Required Reading

- RCW 26.09.080 (pre-recorded lecture in Panopto Recordings)
- *In re Marriage of Washburn*, 101 Wn.2d 168 (1984)
- *In re Marriage of Estes*, 84 Wn. App. 586 (1997)
- *Clayton v. Wilson*, 168 Wn.2d 57 (2010)

- *In re Marriage of Larson and Calhoun*, 178 Wn. App. 133 (2013)
- *Matter of Estate of Petelle*, 8 Wn.App.2d 714 (2019), *rev. granted*, 194 Wn.2d 1001 (2019)
- *Sale of Big-Game Trophies to be Allowed in Divorce Cases*, Anchorage Daily News, March 12, 2012, <https://www.adn.com/alaska-news/article/sale-big-game-trophies-be-allowed-divorce-cases/2012/03/12/> (Links to an external site.)
- *Zuckerberg's Property Status, Post-Marriage*, New York Times, May 21, 2012 (Under Files), <http://www.nytimes.com/2012/05/22/technology/zuckerbergs-property-status-post-marriage.html?emc=eta1> (Links to an external site.)
- "The Marriage is Over, but the Jewelry is Mine," New York Times, January 18, 2018 (Under Files), <https://www.nytimes.com/2018/01/18/fashion/weddings/the-marriage-is-over-but-the-jewelry-is-mine.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=mini-moth®ion=top-stories-below&WT.nav=top-stories-below> (Links to an external site.)

4:30-5:40--Collaborative Law presentation

Wednesday, April 28 (Pre-recorded, check Modules Tab for recordings, materials)

Topic: Maintenance

Required Reading

- RCW 26.09.090 (Pre-recorded lecture uploaded in Panopto Recordings)
- *Marvin v. Marvin*, 18 Cal.3d 660 (1976)
- *In re Marriage of Valente*, 320 P.3d 115 (2014)
- *In re Marriage of Kaplan*, 4 Wn.App.2d 466 (2018)

Monday, May 3

Domestic Violence and Prenuptial Agreements

Topic 1: Domestic Violence

Required Reading

- RCW 26.50.130
- RCW 9.41.800
- *Rodriguez v. Zavala*, 188 Wn.2d 586 (2017)
- Stalking, https://www.npr.org/sections/alltechconsidered/2018/01/04/554564010/i-know-where-you-ve-been-digital-spying-and-divorce-in-the-smartphone-age?utm_source=facebook.com&utm_medium=social&utm_campaign=npr&utm_term=nprnews&utm_content=20180104 (Links to an external site.)

- "Washington has reported 150 denied gun buyers to law enforcement since adoption of 'Lie and Try' law", <https://www.thetrace.org/rounds/washington-state-background-checks-denied-gun-buyers/> (Links to an external site.)
- "New Rapid Response Team Disarms Accused Abusers," http://www.king5.com/mobile/article/news/local/new-rapid-response-team-disarms-accused-abusers/281-515919133?utm_campaign=trueAnthem:+Trending+Content&utm_content=5a7ccbef04d301459c2a5aa1&utm_medium=trueAnthem&utm_source=twitter?utm_campaign=trueAnthem:+Trending+Content&utm_content=5a7ccbef04d301459c2a5aa1&utm_medium=trueAnthem&utm_source=twitter (Links to an external site.)

Topic 2: Prenuptial agreements

- *Marriage of Foran*, 67 Wn. App. 242 (1992)
- *Marriage of DewBerry and George*, 115 Wn.App. 351 (2003)
- *Marriage of Friedman*, 122 Cal.Rptr.2d 412 (2002)

Wednesday, May 5 (Pre-recorded, check Modules Tab for recordings, materials)

Domestic Partners

Required Reading

- RCW 26.60 (Pre-recorded lecture in Panopto Recordings)
- *Connell v. Francisco*, 127 Wn.2d 339 (1995)
- *In re Pennington*, 142 Wn.2d 592 (2000)
- *In re Domestic Partnership of Walsh and Reynolds*, 183 Wn.App. 830 (2014)
- *Donald Muridan v. Nicole Redl*, 3 Wn.App.2d 44 (2018)
- *All the Conventional Cohabitation But no Nuptials*, <http://mobile.nytimes.com/2014/07/06/fashion/weddings/all-the-conventional-cohabitation-but-no-nuptials.html?ref=weddings&r=1&referrer=> (Links to an external site.)

Monday, May 10

View from the Bench, King County Superior Court Judge David Keenan, 4:00pm

Topic: Marriage

- RCW 26.04.020 (Pre-recorded lecture under Panopto Recordings)
- *Loving v. Virginia*, 388 U.S. 1 (1967)
- *Zablocki v. Redhail*, 434 U.S. 374 (1977)

- "Advocates are fighting to outlaw adult marriages to minors," http://www.abajournal.com/magazine/article/adult_marriages_minors_law (Links to an external site.)

Topic: Marriage/DOMA/Same-sex marriage

Required Reading

- *US v. Windsor*, 133 S.Ct. 2675 (2013)
- *Obergefell v. Hodges*, 135 S.Ct 2584 (2015)

Wednesday, May 12 (Pre-recorded, check Modules Tab for recordings, materials)

Required Reading

Topic: Same-sex marriage backlash

- *V.L. v. E.L.*, 136 S.Ct. 1017 (2016)
- *State of WA v. Arlene's Flowers/Ingersoll v. Arlene's Flowers*, 187 Wn.2d 804 (2017)
- *Craig v. Masterpiece Cakeshop, Inc.*, 138 S.Ct. 1719 (2018)
- *Telescope Media v. Lucero*, 936 F.3d 740 (8th Cir. 2019)
- *Fulton v. City of Philadelphia*, 922 F.3d 140 (3rd Cir. 2019), *cert. granted*, 2020 WL 871694 (2020)

Monday, May 17

Topic: Additional Supreme Court family law case review

Required Reading

- *Monasky v. Taglieri*, 2020 WL 889182)
- *Astrue v. Capato*, 132 S.Ct. 2021 (2012) (Social Security)
- *Hillman v. Maretta*, 133 S.Ct. 1943 (2013)(beneficiary dispute)
- *Moore v. City of East Cleveland*, 431 U.S. 494 (1977) (definition of family)
- Court Form-FL Divorce 241, Final Divorce Order (Pre-recorded lecture under Panopto Recordings)

Wednesday, May 19

Review