

MASSACHUSETTS SCHOOL OF LAW at ANDOVER **--------
 SYLLABUS for FAMILY LAW
FALL 2019**
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**Text: *Family Law- Cases and Materials* – Areen Spindelman Tsoukala Maldonado- 7'th Edition 2019**

**Massachusetts Cases and Materials – See Additional Cases List**\*

**I. Marriage**

*Marriage is that relation ... in which the independence is equal, the dependence is mutual and the obligation reciprocal*. - Louis K. Anspacher

**Week 1**

* **August 19th** – What is a family? What is family law? Why marry?
Introductory Reading pp. 1-7; pp. 10-15; pp. 25-37; and, Discussion of:

 Moore v. City of Cleveland, p. 631

 Village of Belle Torre v. Boraas, p. 638

 Penobscot Area Housing Development v. City of Brewer, p. 642

 Borough of *Glassboro* v. Vallarosi, p. 644

**Week 2**

* **August 26th** - The right to marry and challenges thereto; Cases: Loving at p. 67; Zablocki at p.76; Turner at p. 88; Obergefell v.Hodges at p.92; Substantive and procedural requirements of a valid marriage and impediments thereto, pp. 111-160; Moe v. Dinkins, 669 F.2d 67, (1982); M.G.L. ch. 207, secs. 1-11; M.G.L. ch. 207, sec. 25; Remedies for an invalid marriage, M.G.L. ch. 207, sec. 14.
* **September 2nd –Labor Day- No Class**

**Week 3**

* **September 9th** - Putative marriage or other “marriage” saving constructions M.G.L. ch. 207, sec. 6 and Chandler (Additional cases list); Formal vs. informal marriage pp. 160-171; Rights and duties of married vs. unmarried cohabitants doctrine of family privacy and limits on private ordering of marital obligations pp. 173-186 and Marvin at p. 581; Violation of marital covenants/ separation M.G.L. ch. 209. sec. 32

**Week 4**

* **September 16th** - Pre and Postnuptial Agreements, validity and enforceability, pp. 1362-1387; Osborne, Austin, DeMatteo (Additional cases list); Ainsin at 1376.

**II. Divorce**

*Happy families are all alike; every unhappy family is unhappy in its own way.
-* Leo Tolstoy (Opening line of Anna Karenina)

**Week 5**

* **September 23rd** Divorce grounds, defenses and no-fault divorce; pp. 775-807

**Week 6**

* **September 30th** – Continue divorce grounds and defenses pp.807-822; M.G.L. ch. 208, sec. 1; No-fault divorce and contractual divorce; M.G.L. ch. 208 sec. 1A & 1B; pp.7; Role of counsel and attorney conduct in family law cases; practical considerations in representing the client; Read Dineen & Berg (Additional Cases List)

**Week 7**

* **October 7th –** - Access to divorce and jurisdiction, p. 1277-1290; Domicile & venue; M.G.L. ch. 208, secs. 4-6; Divorce Jurisdiction: Finck, (Additional Cases list); Doctrine of Comity, Doctrine of Estoppel and Jurisdiction over the Defendant, Read: Yoder, Clagett, Burnham, Baggett (Additional Cases List).

**Week 8**

**OCTOBER 14th - Columbus Day – No class.**

**Week 9 – MIDTERM EXAM WEEK**

* **October 21st -Midterm Evaluation –1 ½ hours\***

**Week 10**

* **October 28th** - Financial consequences of divorce; Approaches to property division and alimony; M.G.L. ch. 208, Sec. 34 and M.G.L. ch. 208, sec 48-55,
* Defining marital assets and Determining what is equitable pp. 1111-1166; Alimony pp. 1166-1179; (Ref. Michael, Rosenberg, & Rose, Additional Cases List) Green v. Green, 84 Mass. App. Ct. 1109

**Week 11**

 **November 5th**  - The obligation to pay child support - hypotheticals ; See Mass. Child Support Guidelines, <http://www.mass.gov/courts/childsupport/guidelines.pdf>

* Readings pp. 1208-1249;
* Separation agreements and modification of divorce; pp. 1394-1407; M.G.L. ch. 208, Sec. 28, pp.; Maillet (Additional Cases List); Enforcing the divorce judgment and orders to pay child support 1250-1270; Uniform Interstate Family Support Act and Full Faith and Credit pp. 1331-1348; M.G.L. Ch. 209D.

**III. Child Custody**

*Having children makes you no more than a parent than having a piano makes you a pianist. -* Michael Levine

**Week 12**

* **November 11th** – Paternity Rights and Rights to Custody of One’s Own Child
* Rights of the unwed father to custody - constitutional issues; See M.G.L. Ch. 209C; Read pp. 424-448.
* Determining the best interests of the child, Read pp. 940-1005; Forms of custody M.G.L. ch. 208, secs. 31 & 31A; [Partanen v. Gallagher (475 Mass 632)](http://r20.rs6.net/tn.jsp?f=001DjLMh2jf_hO347mfY4bI_4OcPpTv39FIox4zvz6llEqEl5W3xZUKKTjeCd3NE97q1Qb7A5wm7KFmdqDhCcVVaquQAuFNUsPmVol9S0YjAPC0jUqGHTTxnUsWLXWlEScyV8tF-ot9IAc0gEGAH0p1m897etp7rW0NQ3ev1TNhX8jXtFCN_CooKm-3tzyk-XkndTOXnug9QmrwzmsU1472_2A8f0M1JRb7y28V7cvCt8_731cifIJHUmcGLahnP9LZF0BvZwl6X-0=&c=5S64o8vAhz8694Wp_PuoZX4gPist3mHPsp9UEq9eEcGD0EbEX758Bw==&ch=LBtv32cnWjhZSWC4wBU2oqIEIgUUezOkU15FV7ru-QY-rKWoySY-GQ==) (2016); Custody of Zia (Additional Cases List); Parenting time and modification pp. 1028-1052;

**Week 13**

* **November 19th** - Third party claims for custody and visits-Troxell v.Granville p.384; The *de facto* parent and Massachusetts cases Youmans, E.N.O., A.H. v. M.P. (Additional Cases List)
* Uniform Child Custody Jurisdiction Act (M.G.L. Ch. 209B) and pp. 1290-1294
* Standards for removing a child from his home state and interstate or international custody disputes; pp.105-1064; M.G.L. Ch. 208, Sec. 30; Rosenthal & Yannas cases (Additional Cases List)

**Week 14**

* **November 25th** - Abuse in the home, violence between spouses, the impact of domestic violence on custody decisions and state intervention in custody matters pp. 297-336
* Reference M.G.L. Ch. 209A at p. 311, M.G.L. Ch. 208, Sec. 31A
* Read: Gordon and Vaughn (Additional Cases List)
* Child welfare concerns, M.G.L. Ch. 119, secs. 51A & 51B, M.G.L. Ch. 119, Secs. 24 & 26; pp. 376-418; Chronister v. Brenemen p. 405

**Week 14**

* **December 2nd** - Adoption – private vs. agency sponsored; Qualifications of an adoptive parent, consent, meeting the needs of the child and ICWA, pp 457-534 and M.G.L. Ch. 210, Sec. 1 et. seq.; Matter of Sarah K., (Additional Cases List)
* Custody and parental rights and obligations in cases involving reproductive technology pp.663-729 and Marriage of Buzzanca at p. 738; Culliton & Woodward, (Additional Cases List.)

**Note**: This syllabus may be updated as time and events require.

**Final Exam:** To be scheduled during Exam Week. All students in both the family law in person and family law on line sections are expected to arrange their affairs so that all students are *present in class* on the date and time of the final exam.

**\***Students with disabilities are encouraged to seek approval from Dean Kaldis for exam accommodations early. Arrangements for testing accommodations must be made directly with the instructor **at least two weeks** prior to the date of any midterm or final exam, or accommodations cannot be made or expected.

**Other Requirements:** Each student will be required to schedule one morning of observation at the Probate & Family Court. Dates and times for Rounds will be coordinated and scheduled monthly. Students will be required to submit a paper summarizing his/her observations within one week of attendance. Available dates will be offered by the instructor to students via email.

**All students are required to check email regularly each week for class updates and information.**