

**TEXAS SOUTHERN UNIVERSITY
THURGOOD MARSHALL SCHOOL OF LAW**

**DOMESTIC RELATIONS
LAW 725
Fall 2017**

PROFESSOR ANNA TAYLOR JAMES

Required Texts

Areen, Spindelman, and Tsoukala Family Law, Sixth Edition
Texas Family Code Pamphlet – Latest Edition

Scope

The content of Law 725, Domestic Relations, will include the following topics:

Non-Marital relations
Marriage
Divorce
Division of marital property
Adoption
Custody (intrastate, interstate and international)
Parent-child relationships
Termination of parental rights
Extended families
Domestic violence
Procreation
Impact of state laws, including Texas, on family relationships
TX-Jurisdiction/venue; time limits/procedural devices/steps for filing documents
TX-Division of estates and classification of estates
Application of federal statutes to domestic relations matters
Application of international laws and conventions to family relationships
Impact of applying constitutional provisions to family relationships

Students should develop the following competencies for the textual materials:

Define, describe and distinguish terms and words of art.
Define, compare and distinguish the rules and principles related to the subject matter.
Analyze the facts and data of the cases and statutes.
Classify the elements subject matter outlined in the rules and principles of the specific topic.
Apply the various rules to solve problems

Determine the criteria utilized for the decision process.
Determine the policies and rationales established by the rules, cases and statutes.
Identify the trends or evolving directions of specific rules and principles.

Materials needed for class

Textbook, Texas Family Code and notes for the daily assignments. Occasionally, additional cases, reading materials and problems will be assigned. Read concurring and dissenting opinions if they are included in the assigned readings. Do not bring commercial case briefs, outlines and other study materials to class.

Examinations

Mid-term examination—essay format; 25% of final grade; **October 16, 2017**
Final Examination—essay format; 75% of final grade

Attendance

The Student Rules of Matriculation regarding attendance will be enforced. There are no excused absences.

Arrive on time for class and remain until it is dismissed unless there is an emergency.

Accommodations

If you require accommodations, complete the proper forms in Dean Mouton’s Office. Your application and documentation will remain confidential. Your prompt attention to this matter will allow the Law School to accommodate you as soon as it has been made aware of your needs. Please refer to the Student Accommodations Handbook.

Place all computers in the “off” position during class.

Electronic communications devices must be placed in the “off” position during class. Secure the devices so that you will not have access to them during class. If a student’s communications devices disrupt class, the student must leave class and will be marked absent.

When the schools are not in session, make arrangements for child care instead of bringing the children to class.

Office Hours

Monday and Wednesday	11-1; 3-4
Tuesday	1-5
Thursday	11-2
Friday	11-1

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**DOMESTIC RELATIONS
FALL 2017
ASSIGNMENTS**

As part of your preparation for class, identify and apply the appropriate Texas statutes to the cases.

Assignment 1, Chapter 1, Introduction to Family Law, pages 1-11, 17-49

The American family in modern society, pages 1-11

Definition of family

Blended families, extended families

Same-sex families

National and international family law standards, pages 17-49

Transnational families

Aleem v. Aleem

Foreign legal systems and religious traditions

Awad v. Ziriax

Marriage and immigration law

Catreras-Salinas v. Holder

International standards and domestic standards

Town of Castle Rock v. Gonzales

Inter-American Commission on Human Rights, (Gonzales) v. United States

Assignment 2, Chapter 2, Marrying, pages 60-68, 72-99

Restrictions on who may marry, pages 60-68

Traditional restrictions

Incest

State v. Sharon H

Back v. Back

Restrictions pages 72-99

Age

In re J.M.N.

Polygamy

In re Steed

Same-sex marriage

Goodridge v. Department of Public Health; Hollingsworth v. Perry, 133 S. Ct. 2652 (2013);
United States v. Windsor, 133 S. Ct. 2675 (2013); Obergefell v. Hodges, 135 S. Ct. 2584 (2015)

Assignment 3, Chapter 2, Marrying, pages 99-133

Restrictions

Same-sex marriage

Perry v. Schwarzenegger/**OMIT**

Transsexuals and marriage

M.T. v. J.T.

Assignment 4, Chapter 2, Marrying, pages 133-168

Constitutionality on marriage restrictions

Loving v. Virginia

Zablocki v. Redtail

Turner v. Safley

Michael H. v. Gerald D.

Restrictions on the procedure for marrying

Rappaport v. Katz

State of mind restrictions

Lester v. Lester

Assignment 5, Chapter 2, Marrying, pages 168-179; Chapter 3, Marriage, pages 179-200

Restrictions

State of mind

Johnston v. Johnston

In re Marriage of Farr

Common law marriage

Hargrove v. Duval-Couetil (In re Estate of Duval)

Assignment 5, Chapter 3, Marriage, pages 179-200

Traditional model of marriage

Marital privacy

McGuire v. McGuire

Gender Roles

Graham v. Graham

Bradwell v. Illinois/**Read entire Supreme Court opinion**

Fourteenth Amendment

Orr v. Orr

Assignment 6, Chapter 3, Marriage, pages 200-234

Fourteenth Amendment

United States v. Virginia

United States v. Flores-Villar

Statutory limits on sex discrimination

Hopkins v. Price Waterhouse

Family and medical leave

Knussman v. Maryland

Assignment 7, Chapter 3, Marriage, pages 248-288

Encroachment on family privacy; property during marriage

Common law system

Southern New Hampshire Medical Center v. Hayes

Constitutional right to privacy

Griswold v. Connecticut

Eisenstadt v. Baird

Roe v. Wade

Planned Parenthood v. Casey

Assignment 8, Chapter 3, Marriage, pages 288-326

Constitutional right to privacy

Gonzales v. Carhart; Whole Woman's Health v. Hellerstedt, 136 S. Ct. 2292 (2016)

Lawrence v. Texas

Domestic violence

Battered women's syndrome

People v. Humphrey

R. Malott

Assignment 9, Chapter 3, Marriage, pages 331-358; Chapter 4, Parenting, pages 358-365

Civil protective orders

Mitchell v. Mitchell

Ba v. United States

Mandatory arrest policy

Town of Castle Rock v. Gonzales

Chapter 4, Parenting, pages 358-365

Limits of parental authority

Family privacy

Kilgrew v. Kilgrew

Education
Pierce v. Society of Sisters

Assignment 10, Chapter 4, Parenting, pages 365-390

Child labor laws
Prince v. Massachusetts

Child neglect and abuse
Roe v. Conn

Unmarried fathers
Stanley v. Illinois
Lehr v. Robertson
Michael H. v. Gerald D.

Extended family
Troxel v. Granville

Assignment 11, Chapter 4, Parenting, pages 390-426

Adoption
Types of adoption
Agency adoption
Vela v. Marywood

Independent adoption
In re J.M.P.
In the Matter of Donna R. Hagedorn

Children with special needs
Ferdinand v. Department for Children and Their Families

Stepparent adoption
In the Matter of Adoption of G.L.V. and M. J. V.

Open adoption
Birth Mother v. Adoptive Parents and New Hope Child and Family Agency

Assignment 12, Chapter 4, Parenting, pages 426-459

Equitable adoption
Lankford v. Wright

Transnational adoptions
Eleanor P. v. California Department of Social Services

Standards

Child's best interest

Sonet v. Unknown Father

Race and ethnicity

Petition of R.M.G.; Mississippi Band of Choctaw Indians v. Holyfield

Adoptive Couple v. Baby Girl, 133 S. Ct. 2552 (2013)

Sexual orientation

Campaign for Southern Equality v. Miss..Dep't. of Human Services, __F.Supp. 3d__ (2016)

Arkansas Department of Human Services v. Cole/**OMIT**

Florida Department of Children and Families v. Adoption of X.X.G. and N.R. G/**OMIT**

Constitutional Background: Full Faith and Credit Clause

V.L. v. E.L. et al, 136 S. Ct. 1017 (2016)

Assignment 13, Chapter 4, Parenting, pages 459-493; Chapter 5, Nontraditional Family, Pages 483-493

Post adoption issues

Agency liability

Ann Marie N. v. City and County of San Francisco

Adoptee's right to know identity of biological parents

In the Matter of the Application of Victor M.I.I.

Fraud

Joslyn v. Reynolds

In re Petition of Otakar Kirchner

Chapter 5, The Nontraditional Family, pages 483-493

Unmarried adults

Traditional rules

McLaughlin v. Florida

Assignment 14, Chapter 5, Nontraditional Family, pages 500-535

Unmarried adults

Legal developments

Marvin v, Marvin

Bashaway v. Cheney Bros., Inc.

Child born out of wedlock

Lalli v. Lalli

Clark v. Jeter

People in Interest of S.P.B.

Assignment 15, Chapter 5, Nontraditional Family, pages 535-570

Extended family

Moore v. City of East Cleveland

Troxell v. Granville

Americana Healthcare Center v. Randall

Groups

Village of Belle Terre v. Boraas

Penobscot Area Housing Development Corp. v. City of Brewer

Borough of Glassboro v. Vallorosi

Assignment 16, Chapter 6, Assisted Reproductive Technologies and the Law, pages 571-608

Surrogacy contracts

In re Baby M

Legality and enforcement of transnational surrogacy contracts

In re X and [A]nother

ART and the spousal parental status

Strnad v. Strnad

In re Marriage of Witbeck-Wildhagen

Miller-Jenkins v. Miller-Jenkins, Roe v. Patton, __F.Supp. 3d__ 2015;

McGaw v. McGaw, 468 S.W. 3d 435 (2015)

Assignment 17, Chapter 6, Assisted Reproductive Technologies and the Law, pages 608-648

ART and the unmarried partner's parental status

Charisma R. v. Kristina S.

ART and the donor's parental status

In re K.M.H.

ART and the gestational mother's parental rights

In re C.K.G.

In re Roberto d.B.; How many parents? In re Roberto d. B.

Access to one's genetic information,,,

In re K.M.H.

Johnson v. Superior Court

Rights of posthumously conceived children

Schafer v. Astrue

Protection of the child

In re Marriage of Buzzanca

Assignment 18, Chapter 6, Assisted Reproductive Technologies and the Law, pages 648-658; Chapter 7, Divorce, pages 695-719

Disposition of Gameses and embryos

In re Marriage of Witten

Misplanted embryos

Perry Rogers v. Fasano

Assignment 18, Chapter 7, Divorce, pages 695-719

Divorce

Fault-based grounds

Adultery

Capone v. Capone

Desertion

Jenkins v. Jenkins

Cruelty

Benscoter v. Benscoter

Hughes v. Hughes

Defenses

Recrimination

Rankin v. Rankin

Connivance

Hollis v. Hollis

Condonation

Wilan v. Wilan

Collusion

Fuchs v. Fuchs

Insanity

Anonymous v. Anonymous

Assignment 19, Chapter 7, Divorce, pages 725-750

No fault grounds

Adjudicating no-fault

What constitutes separation?

In re Marriage of Dowd

What constitutes irretrievable breakdown?

Grimm v. Grimm

Contracting around statutory grounds for divorce
Massar v. Massar
In re Marriage of Cooper

...Interspousal torts in no-fault divorce
Twyman v. Twyman

Assignment 20, Chapter 7, Divorce, pages 750-762; Chapter 8, Custody, pages 768-856
Chapter 7, Divorce, pages 750-762

Access to divorce
Boddie v. Connecticut, Sosna v. Iowa

Religion
Aflalo v. Aflalo

Foreign divorces
Aleem v. Aleem

Assignment 20, Chapter 8, Custody, pages 768-856/Start reading this assignment several days before we discuss the case in class.

Best interest standard
Rose v. Rose/The trial
Rose v. Rose/The Trial Court decides
Rose v. Rose/The Appeals Court decides

Assignment 21, Chapter 8, Custody, pages 857-892

Applying the best interest standard
Fitness
In re Marriage of Carney

Weighing multiple factors
Hollon v. Hollon

Race and ethnicity
Palmore v. Sidoti
Jones v. Jones

Religion
Kendall v. Kendall
Elk Grove Unified School District v. Newdow

Child's preference
Johns v. Cioci

Reliance on mental health experts
K.J.B. v. C.M.B.

Assignment 22, Chapter 8, Custody, pages 892-929

Counsel for the child
Schult v. Schult

Alternative approaches
Tender years presumption
Pusey v. Pusey

Primary caretaker
Garska v. McCoy

Joint custody
Rivero v. Rivero

Past care...
Young v. Hector

Parenting plans
Huelskamp v. Huelskamp

Assignment 23, Chapter 8, Custody, pages 929-971

Parenting plans
In re the Custody of Halls; **Compare the District of Columbia Parenting Plan with a Texas Parenting Plan**

Modification
Hassenstab v. Hassenstab
Rose v. Rose revisited

Relocation
Morgan v. Morgan

Visitation
Eldridge v. Eldridge

Assignment 24, Chapter 8, Custody, pages 971-1008

Visitation
Zummo v. Zummo
Troxell v. Granville

Stepparents

In re Marriage of DePalma

Simons by & Through Simons v. Gisvold

Edwards v. Edwards

Unmarried couples

Smith v. Gordon

K.B. v. J.R,

Tort law

Khalifa v. Shannon

Assignment 25, Chapter 8, Custody, pages 1008-1019; Chapter 9, Property, Alimony, and Child Support Awards, pages 1020-1043

Assignment 25, Chapter 8, Custody, pages 1008-1019

Criminal liability

United States v. Amer

Change of custody

Doe v. Doe

Separation of visitation rights from child support

Farmer v. Farmer

Assignment 25, Chapter 9, Property, Alimony, and Child Support Awards, pages 1020-1043

What is marital property?

Innerbichler v. Innerbichler

Holman v. Holman

What is marital property?

Pensions and deferred income

Laing v. Laing

Assignment 26, Chapter 9, Property, Alimony, and Child Support Awards, pages 1043-1081

Human capital

Postema v. Postema

Elkus v. Elkus

Wilson v. Wilson

Marital debt

Rice v. Rice

Fairness: What is equitable?

Adams v. Adams

Finan v. Finan

Tucker v. Tucker

Types of alimony

Need

Hodge v. Hodge

Standard of living

Lorenz v. Lorenz

Reimbursement

In re Marriage of Probasco

**Assignment 27, Chapter 9, Property, Alimony, and Child Support Awards,
pages 1081-1128**

Types of alimony

Fault

Dykman v. Dykman

Modification

Schwarz v. Schwarz

Evaluation of divorce awards: apply the Texas rules to the following

Marital fault principle

Need principle

Status principle

Rehabilitation principle

Contribution principle

Restitution or market value of services

Compensation for forgone opportunities

Enhanced earning capacity

Partnership

Applying the child support guidelines: what is required in Texas?

Little v. Little

Kraisinger v. Kraisinger

**Assignment 28, Chapter 9, Property, Alimony, and Child Support Awards,
pages 1129-1165**

Deviation from guidelines

Court's discretion

Schmidt v. Schmidt

Rich families
Smith v. Smith

Poor families
Rose on Behalf of Clancy v. Moody

College education
Solomon v. Findley
Curtis v. Kline

Who is responsible for child support?
Miller v. Miller

Modification
Ainsworth v. Ainsworth

Enforcement
Enrique v. Powell

Assignment 29, Chapter 9, Property, Alimony, and Child Support Awards, pages 1165-1177; Chapter 10, Family Law Jurisdiction, Recognition, and Choice of Law, pages 1178-1198

Assignment 29, Chapter 9, Property, Alimony, and Child Support Awards, pages 1165-1177

Enforcement
State v. Talty
Turner v. Rogers

Assignment 29, Chapter 10, Family Law Jurisdiction, Recognition, and Choice of Law, pages 1178-1198

Recognition of marriage
Wilson v. Ake

Divorce jurisdiction
Sosna v. Iowa
Ankenbrandt v. Richards

Custody jurisdiction
Interstate custody disputes
Foster v. Wolkowitz
Thompson v. Thompson

Assignment 30, Chapter 10, Family Law Jurisdiction, Recognition, and Choice of Law, pages 1198-1222

International custody disputes
Abbott v. Abbott

Charalambous v. Charalambous

Property, alimony, child support jurisdiction
Property and divisible divorce
Vanderbilt v. Vanderbilt

Foreign versus domestic law on marital property
Aleem v. Aleem

Child support
Long-arm jurisdiction
Kulko v. Superior Court of California
Bergaust v. Flaherty

Uniform Interstate Family Support Act
Hamilton v. Hamilton

Assignment 31, Chapter 11, Private Ordering, pages 1223-1257

Private ordering

Maynard v. Hill

Ordering by private contract
Premarital contracts
Edwardson v. Edwardson
Simeone v. Simeone

Separation agreements
Duffy v. Duffy
Toni v. Toni

Assignment 32, Chapter 11, Private Ordering, pages 1258-1300

Separation agreements
Kelley v. Kelley

Marital contracts
Ansin v. Craven-Ansin

Alternative dispute resolution
Arbitration
Johnson v. Johnson

Mediation
Ferguson v. Ferguson

DOMESTIC RELATIONS TERMS AND TOPICS

Adoption—standards
Adoption--types
Adultery
Affinity
Alienation of Affections
Alimony
Alimony—modification
Alternative dispute resolution procedures
Annulment
Arbitration
Battered Women’s Syndrome
Best interest of the child standard
Breach of promise
Child abuse
Child neglect
Child support
Child support guidelines
Children without presumed fathers
Cohabitation
Collaborative law
Common law marriage
Community property
Condonation
Conjugal
Connivance
Consanguinity
Custody of children
De facto parent
Divorce—grounds
Economic contribution
Equitable distribution
Family and Medical Leave Act
Family violence
Gender discrimination
Hague Convention on Child Abduction
Inception of title doctrine--property
Incest
International custody laws/statutes
International Parental Kidnapping Criminal Act
Joint custody
Jurisdiction
Loss of consortium

Managing conservator
Marital privacy
Marital privacy--restrictions
Marital property
Marriage
Mediation
Meretricious relationship
Miscegenation
Modification of custody
No-fault divorce
Non-conjugal
Parental duties
Parental Kidnapping Prevention Act
Polygamy
Possessory conservator
Prenuptial agreements
Primary caretaker presumption
Putative spouse
Reimbursement--property
Reproductive rights—privacy
Reproductive rights--restrictions
Separate property
Spousal maintenance
Spousal maintenance--modification
Tender years presumption
Termination of parental rights
Tracing--property
Uniform Child Custody Jurisdiction Enforcement Act
Uniform Interstate Family Support Act
Uniform Services Former Spouses Protection Act
Unmarried partners
Visitation rights
Visitation rights—restrictions
Void marriage
Voidable marriage

Review and prepare for your study the following documents: forms for an adoption; forms for the award of custody; forms for the award of child support; general warranty deed; divorce petition; and prenuptial agreement.