

**SOUTHERN ILLINOIS UNIVERSITY**  
**SCHOOL OF LAW**

**FAMILY LAW**  
**Spring 2019**

**Professor Upchurch**  
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**Room 102**  
**M & W 1:30 – 2:45**

**SYLLABUS**

**COURSE DESCRIPTION:**

Family law is an interesting and ever-changing area of law governing the interrelationship between the state and the family. In this course, we will explore the impact of the law on the formation and dissolution of intimate partner relationships and parent-child relationships. Our focus will be on the practice of family law and the considerations practitioners must make in representing clients; however, we will also pay considerable attention to family law public policy. This semester, we will cover the process for marrying and we will examine alternative forms of legally recognized intimate partner relationships. We will also cover dissolution of these relationships, paying special attention to the topics of child custody, jurisdiction, child support, property division and property settlement agreements. In addition to these topics, we will discuss adoption and the use of assisted reproductive technologies.

**STUDENT LEARNING OUTCOMES:**

As a student in this class, you should expect to achieve the following learning outcomes throughout the semester:

- Students will be able to critically examine the Constitutionality of regulations regarding marriage; students will make critical and effective arguments regarding the meaning of these regulations and their constitutional validity, and confidently predict the outcome of a challenge to these regulations.
- Students will be able to identify relevant facts necessary to gather from a client seeking to establish or modify child custody or to establish parentage, including those related to jurisdiction. Students will be able to identify legal issues related to paternity and child custody disputes from a relevant fact pattern, make critical and effective arguments through application of statutory and case law, and determine the likely resolution of those issues in each fact pattern. Students will be able to critically evaluate sample parenting plan language and confidently predict the enforceability of the provided plans.

- Students will be able to identify relevant facts necessary to gather from a client seeking a divorce or an annulment, including those necessary to resolve jurisdictional considerations. Students will be able to identify legal issues related to divorce, including property division and economic support, from a relevant fact pattern, make critical and effective arguments through application of statutory and case law, and determine the proper resolution of these matters in the case.
- Students will be able to identify the legal issues raised by a fact pattern involving cohabitation agreements and premarital agreements, make critical arguments regarding the enforceability of such agreements and confidently predict whether a particular agreement will be enforced.
- Students will be able to identify proper techniques for interviewing child clients and will be able to articulate the various representational models used in representing child clients. Students will be able to evaluate interviewing techniques they observe in demonstrated child client interviews. Students will demonstrate proper techniques for interviewing child clients.
- Students will be able to identify and critique various interviewing and rapport building techniques used in representing adult clients in family law matters.
- Students will be able to identify potential ethical dilemmas common in family law practice and articulate strategies for avoiding or resolving these dilemmas.

**REQUIRED TEXTS, UNIFORM CODES and ILLINOIS FAMILY CODE:**

WORK OF THE FAMILY LAW by Oliphant & Ver Steegh (Wolters Kluwer 2016, 4th edition).

I selected this casebook because it provides an opportunity to focus on the practice of family law. You should always read and be prepared to share your thoughts on the “Reflective Questions,” “Discussion Problems” and “Chapter Problems” in the casebook. You do not need to look up the referenced cases with these problems and you should not limit your thinking to the court’s analysis of the problem. Sometimes you will be asked to write out and submit your answers to these questions. I will specifically indicate when a written submission is required.

While we will be using several of the “Preparation for Practice” exercises as a focus for class, you do not need to prepare these for class unless specifically instructed to do so.

There will be additional reading materials posted on TWEN (discussed below). Additionally, I have assigned various sections of the Illinois Code for you to read and prepare for class. Family law in Illinois has undergone some significant revision in recent years; we will focus on the current law in class. Finally, while we will examine Illinois law, we will explore trends in family law across the country. For the exam, you should be familiar with any Uniform Code we cover in addition to Illinois law; you should also be prepared to read and interpret statutes (drawing on information discussed in class) provided on the exam.

**CLASS PREPARATION:**

*General Notes:*

To supplement class, I will be using TWEN, a web-based platform hosted by Westlaw. This syllabus is posted on TWEN. Moreover, I will use TWEN to post other class materials. In addition to these posted materials, there is a Continuing Class Discussion page where you can post questions at any hour of the day (or night) and where others, including myself, can respond. **You must sign-up for the class TWEN page by the start of class. You are responsible for familiarizing yourself with the information posted and discussed on TWEN prior to the examination.**

You must register on TWEN to be able to access it, using your Westlaw password. To do so, go to: <http://lawschool.westlaw.com>. At the top of the page, there should be a blue bar, with "TWEN" as one of the options you can click on; click on TWEN. There should be further directions that can guide you through registration process. When you register, be sure to use whatever e-mail address you wish to be contacted at (you do not need to use your Southern Illinois University Law School account) because this is the address that I will use for any announcements.

*Reading Assignments and Class Preparation Assignments:*

**The first few weeks of reading assignments are posted on TWEN.** I will post the reading schedule for each two to four week period well in advance to provide time for you to prepare for class. This will ensure that if we need to spend extra time on a particular concept, we can do so without having to constantly adjust an already published reading schedule.

Students are required to carefully read assignments prior to attending class and work through the "Reflective Questions," "Discussion Problems" and "Chapter Problems" in the casebook. Occasionally, I will assign supplemental reading material or study questions created by me that are intended to guide you through the assigned readings and get you thinking about the issues prior to class. The supplemental materials will be available at all times on the TWEN website so that you can print them out at your leisure. Check for supplemental material under the heading "Class Materials" on TWEN.

Periodically, I will assign tasks for you to complete as you prepare for class. These tasks will require you to complete a short writing assignment which you will turn in prior to the start of class. These assignments will factor into your grade. *See GRADES.*

**CLASS ATTENDANCE AND PARTICIPATION:**

*Attendance Policy*

Active class participation is essential to success in this course. As such, attendance is mandatory and you may miss no more than four (4) classes during the semester. An absence may be excused (or made up through a separate assignment) only in extraordinary situations, which will be addressed at my sole discretion on a case-by-case basis. I would advise that you not use up all of your absences early in the semester. Those exceeding the maximum number of absences will be subject to the ramifications described in the Law School's attendance policy. *See* School of Law Rules III.5 (f)-(g).

An attendance sheet will be distributed at the beginning of each class. Please sign the attendance sheet acknowledging that you (1) are present, (2) are prepared to participate in the class discussion, and (3) have completed any assigned exercise. If you are late for class, you may not sign the attendance sheet and you will be counted as absent. You may, however, still come to class provided that you do not cause an interruption. You may not sign for anyone but yourself.

*Class Participation, Group Work and Class Polling Tools*

You are also required to **actively participate** in class. When called on, be prepared to share your thoughts with the class. You are not expected to know every answer, but you are expected to demonstrate that you have given some consideration to the assigned materials.

For most of our classes, we will work in pre-assigned student groups. These groups will provide you with an opportunity to collaborate with your peers and to think through the course material. While you are welcome to work with your fellow group members outside of class, you are not required to do so. Additionally, your group members will not play a role in assessing your performance in this course. During class, you should contribute to the group discussion and be prepared to share your thoughts with the class.

Finally, as part of in-class group work, we will be using an online program called Socrative during class. This program will enable your group to report back to the class on your in-class group tasks, provide you instant feedback on your performance, and assist me in understanding areas of student confusion. Your group is responsible for submitting group responses to Socrative when directed to do so. If, for some reason, your group is not able to report responses through Socrative, you may submit your group responses to me in writing after class.

**If a student is not prepared to discuss the assigned materials when called upon, fails to actively participate during the in-class group discussion, fails to submit group responses to group work when directed to do so, or fails to complete an assigned class exercise in a timely manner, the student will be marked as absent for that class.**

**OFFICE HOURS:**

My scheduled office hours are on Mondays & Wednesdays from 3-4pm (unless there is a scheduling conflict). Feel free to stop by my office **at any time**; however, the hour before class is generally not the best time to reach me. I am also available by email, phone and for meeting by appointment. Also, you should always feel free to post any question you might have on TWEN.

**COURSE WORK LOAD:**

You might be interested to know that the ABA standards incorporate out of class work in the calculation of credit hours. Under the ABA standards, **you should expect to spend 150 minutes per week in class (2.5 hours), plus (a minimum of) six hours of study a week, for a total of 8.5 hours per week.**

**PROFESOR AND STUDENT EXPECTATIONS:**

As a law student, I expect that you will treat your time spent in class and preparing for class as a professional. You can expect the same from me. While the following list is not exhaustive, these guidelines will assist in the creation of a comfortable and productive learning environment throughout the semester.

You can expect me:

- To start and end class on time.
- To reply to e-mails within 24 hours on weekdays and 48 hours on weekends.
- To be available during my posted office hours (and to provide alternative office hours should any require rescheduling).
- To assign out of class work that adequately covers the material and meets the learning objectives of the course while adhering to the time expectations for a 3 credit course.
- To give an exam that accurately reflects the material covered in class and assigned in our readings.

I can expect you:

- To come to every class and to be on time.
- To be attentive and engaged in class.
- To refrain from using laptops, cell phones and other electronic devices during class for anything other than class work.
- To spend an adequate amount of time on the reading assignments each week, making an effort to understand the legal principles covered, generating answers to the questions stated in the syllabus and working through the problems in the book.
- To seek help when appropriate.

**GRADING:**

Your grade in this course will be calculated as follows:

- **20% Class Preparation Assignments**
  - Class preparation assignments will be listed with the reading assignments for class. These assignments are to be completed by the start of the class for which they are assigned. They must be submitted on the class TWEN page Assignment Drop Box. At the end of the semester, I will drop your lowest score. If you miss an assignment due to an unexpected emergency, you must contact me as soon as practicable to arrange a make-up option. You may not make-up class preparation assignments missed or submitted incomplete due to a planned absence.
- **10% Writing Across the Curriculum Assignments**
  - During this semester, we will be practicing writing bar exam essay questions. **On Monday, April 8<sup>th</sup> we will have a timed in class essay question.** After receiving feedback, you will have an opportunity to rewrite your answer for a higher score. You will be required to re-write your answer until you have achieved a minimum level of competency. More information about this assignment will be distributed in class.
- **70% Closed-book Comprehensive Final Exam**
  - The final exam will take place on **Thursday, May 9<sup>th</sup> at 8:15am.**

**BAN ON COLLABORATION ON WRITTEN ASSIGNMENTS:**

You are not allowed to obtain help from any other person (including any other student or professor) on **any** written assignment in this course. This ban on collaboration **includes obtaining written materials online from any source** (including publically posted materials that are not specifically authorized in the assignment itself) and communicating with anyone other than Professor Upchurch about the assignment. If you violate the ban on collaboration policy, you can be found in violation of the Honor Code, which can lead to serious penalties, including expulsion. An Honor Code investigation must also be reported to the Bar Examiners, even if you are cleared of any violation. When in doubt about how to proceed, please do not hesitate to contact me for clarification.

**PLAGIARISM:**

Plagiarizing another's work, in whole or in part, is a violation of the Honor Code and can lead to serious penalties, including expulsion. An Honor Code investigation must also be reported to the Bar Examiners, even if you are cleared of any violation. The Honor Code defines plagiarism as:

passing off another's ideas, words, or work as one's own, including written, oral,

multimedia, or other work, either word for word or in substance, unless the student author credits the original author and identifies the original author's work with quotation marks, footnotes, or other appropriate designation in such a way as to make clear the true author of the work.

**DISABILITY ACCOMMODATION POLICY:**

Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. <http://disabilityservices.siu.edu/>. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar's Office to ensure the School of Law provides the proper classroom and examination accommodations.

**SALUKI CARES:**

The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-5714, or [siucares@siu.edu](mailto:siucares@siu.edu), <http://salukicare.siu.edu/index.html>. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is [judiray@siu.edu](mailto:judiray@siu.edu), and her phone number is 618-453-3135.

**NOTICE OF RECORDING POLICIES:**

For the benefit of students who are unable to attend a particular class due to an unavoidable circumstance, and for students who wish to review a particular class to better facilitate learning objectives, class sessions will be audio recorded by Professor Upchurch and made available through a link on the class TWEN page. The audio recorder will be kept at the front of the room at Professor Upchurch's podium. Because of the possibility of a technical malfunction, Professor Upchurch cannot guarantee the successful recording of every class. Students are free to record class lectures for their own purposes, but are not permitted to distribute that recording to other individuals inside or outside of class.

**EMERGENCY PROCEDURES:**

Southern Illinois University-Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC emergency Response Plan and Building

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Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at [www.bert.siu.edu](http://www.bert.siu.edu), Department of Safety's website [www.dps.siu.edu](http://www.dps.siu.edu) (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. **It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency.** The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.

**FIRST ASSIGNMENT:**

The first assignment is available on the course TWEN page. Please sign up for the TWEN page at your earliest convenience.