

**INSTRUCTOR'S MANUAL WITH TEST BANK AND TRANSPARENCY  
MASTERS TO ACCOMPANY**

# **FAMILY LAW**

**FIFTH EDITION**

**WILLIAM P. STATSKY**

**WEST**  
  
**THOMSON LEARNING**™

Australia Canada Mexico Singapore Spain United Kingdom United States



**WEST LEGAL STUDIES**

**Family Law, Fifth Edition**  
by William P. Statsky

**Business Unit Director:**  
Susan L. Simpfinderfer

**Editorial Assistant:**  
Lisa Flatley

**Channel Manager:**  
Nigar Hale

**Executive Editor:**  
Marlene McHugh Pratt

**Executive Production Manager:**  
Wendy A. Troeger

**Cover Image:**  
Family Ties, 1999; Diana Ong  
(b. 1940/Chinese-American)  
Computer Graphics;  
Diana Ong/SuperStock

**Senior Acquisitions Editor:**  
Joan M. Gill

**Production Manager:**  
Carolyn Miller

**Developmental Editor:**  
Rhonda Dearborn

**Executive Marketing Manager:**  
Donna J. Lewis

COPYRIGHT © 2002 Delmar. West Legal Studies is an imprint of Delmar, a division of Thomson Learning, Inc. Thomson Learning™ is a trademark used herein under license

Printed in the United States  
1 2 3 4 5 XXX 05 04 03 02 01

For more information contact  
Delmar Learning  
Executive Woods  
5 Maxwell Drive  
PO Box 8007  
Clifton Park, NY 12065-8007.

Or find us on the World Wide Web at  
[www.thomsonlearning.com](http://www.thomsonlearning.com) or [www.westlegalstudies.com](http://www.westlegalstudies.com)

ALL RIGHTS RESERVED. No part of this work covered by the copyright hereon may be reproduced or used in any form or by any means—graphic, electronic, or mechanical, including photocopying, recording, taping, Web distribution or information storage and retrieval systems—without written permission of the publisher.

For permission to use material from this text or product, contact us by  
Tel (800) 730-2214  
Fax (800) 730-2215  
[www.thomsonrights.com](http://www.thomsonrights.com)

Library of Congress Card Catalog Number: 2001045555  
ISBN: 0-7668-3359-3

**NOTICE TO THE READER**

Publisher does not warrant or guarantee any of the products described herein or perform any independent analysis in connection with any of the product information contained herein. Publisher does not assume, and expressly disclaims, any obligation to obtain and include information other than that provided to it by the manufacturer.

The reader is notified that this text is an educational tool, not a practice book. Since the law is in constant change, no rule or statement of law in this book should be relied upon for any service to any client. The reader should always refer to standard legal sources for the current rule or law. If legal advice or other expert assistance is required, the services of the appropriate professional should be sought.

The Publisher makes no representation or warranties of any kind, including but not limited to, the warranties of fitness for particular purpose or merchantability, nor are any such representations implied with respect to the material set forth herein, and the publisher takes no responsibility with respect to such material. The publisher shall not be liable for any special, consequential, or exemplary damages resulting, in whole or part, from the reader's use of, or reliance upon, this material.

# CONTENTS

## Chapter 1 Introduction to Family Law and Practice 1

Chapter Competencies	1
AAfPE Model Syllabus	2
Legal Analysis in Family Law	2
What's It Like to work in a Family Law Practice?: Quotes from the Trenches	2
What Do Divorce Attorney's Say about Their Clients, Family Law, Judges, and Themselves?	3
A Day in the Life of a Family Law Paralegal	5
Key Terminology	5
Course Project: Divorce from A to Z	6
Assignment 1.1 (bias)	7
Assignment 1.2 (bias)	7
My Sister's Divorce	7
Violence in a Family Law Practice	8
Finding Family Law	8
Assignment 1.3 (library resources on family law)	8
Assignment 1.4 (internet resources on family law)	9

## Chapter 2 Ethics and Malpractice in Family Law 10

Chapter Competencies	10
Fees: \$250 a Second to Collect Child Support!	11
Assignment 2.1 (ethics in your state)	12
Assignment 2.2 (fees)	12
Conflict of Interest: Introduction	12
Assignment 2.3 ( <i>Ethics Opinion RPC 176</i> )	12
The Paralegal Profession and Conflict of Interest	13
Can I Have Your Autograph?	13
Attorney-Client Sexual Relations	13
Unauthorized Practice of Law: "Good, Fast, and Cheap"	13
<i>Furman Case</i>	13
Assignment 2.4 (multiple ethical violations)	14
Assignment 2.5 ( <i>In the Matter of Eloy R. Martinez</i> )	15

## Chapter 3 Compiling a Family History 16

Chapter Competencies	16
Students Interviewing Each Other	16
Assignment 3.1 (What does the client want?)	17
Assignment 3.2 (instructor as new client)	17
Assignment 3.3 (interviewing a married person)	17
Ethics in Practice	17

## Chapter 4 Premarital and Cohabitation Agreements 18

Chapter Competencies	18
Introduction	18

Assignment 4.1 (premarital agreement requirements)	19
Assignment 4.2 (disclosure of assets and liabilities)	19
Abolish Marriage?	19
Assignment 4.3 (legality of specific clauses)	19
Assignment 4.4 (legality of specific clause)	19
Assignment 4.5 ( <i>In re Marriage of Bonds</i> )	19
Assignment 4.6 (b) (draft a premarital agreement)	20
Jewish Pre-Nuptial Agreement	20
Contract Cohabitation: Some Introductory Questions	20
Assignment 4.7 ( <i>Hewitt v. Hewitt</i> and <i>Watts v. Watts</i> )	20
Assignment 4.8 (draft a cohabitation agreement)	22
Ethics in Practice	23

## Chapter 5 Traditional Marriage and Alternatives 24

Chapter Competencies	24
Breach of Promise to Marry	25
Assignment 5.1 ( <i>Stanard v. Bolin</i> )	26
Assignment 5.3 (heart balm action)	27
I Want My Kidney Back	27
Assignment 5.4 (gifts)	28
Assignment 5.5 (b) (gifts)	28
Assignment 5.6 (restraints on marriage)	28
Clause Encouraging Divorce?	29
Cost of a Wedding Partner	29
Warning: Marriage Could Be Dangerous	30
Assignment 5.10 (authority to marry)	30
Assignment 5.11 (covenant marriage)	30
Assignment 5.13 (common law marriage)	30
Assignment 5.14 (common law marriage)	30
Assignment 5.15 (common law marriage)	30
Assignment 5.17 ( <i>Baker v. State</i> )	31
Assignment 5.18 (a) ( <i>Baker v. State</i> )	32
Ethics in Practice	32

## Chapter 6 Annulment 33

Chapter Competencies	33
Introduction	34
Assignment 6.4 (HIV testing)	34
Assignment 6.5 (a) (sham marriage)	34
Assignment 6.6 ( <i>In the Interest of Melissa Miller</i> )	35
Assignment 6.7 (duress)	35
Assignment 6.8 (marry a multimillionaire)	35
Ethics in Practice	35

## iv Contents

<b>Chapter 7 Divorce Grounds and Procedure</b>	<b>37</b>	Poll	61
Chapter Competencies	37	Assignment 10.1 ( <i>Straub v. B.M.T.</i> )	61
Introduction	38	Assignment 10.3 ( <i>Goldberger v. Goldberger</i> )	62
Celebrating Divorce?	39	Ethics in Practice	63
Biography of a Divorce Litigation	39		
Court Visit	41	<b>Chapter 11 Tax Consequences of Separation and Divorce</b>	<b>64</b>
Assignment 7.1 (b) (grounds for divorce)	41	Chapter Competencies	64
Assignment 7.2 (living apart)	41	Assignment 11.1 (tax calculations)	64
Assignment 7.4 (b) (incompatibility)	42	Assignment 11.2 (tax calculations)	65
Domicile	42	Ethics in Practice	66
Bifurcated Divorce	42		
Assignment 7.10 (domicile)	42	<b>Chapter 12 Legal Rights of Women</b>	<b>67</b>
Assignment 7.13 (jurisdiction)	42	Chapter Competencies	67
Assignment 7.25 (procedure)	43	Assignment 12.7 (violence)	67
Ethics in Practice	43	Assignment 12.8 (a) ( <i>Warren v. State</i> )	68
		Ethics in Practice	68
<b>Chapter 8 Spousal Support, Property Division, and The Separation Agreement</b>	<b>44</b>		
Chapter Competencies	44	<b>Chapter 13 Illegitimacy and Paternity</b>	<b>69</b>
Introduction	45	Chapter Competencies	69
Drafting a Separation Agreement	46	Introduction	69
Assignment 8.1 (facilitating divorce)	48	Assignment 13.4 ( <i>Pettinato v. Pettinato</i> )	69
Assignment 8.3 ( <i>Bell v. Bell</i> )	48	Ethics in Practice	70
How Much Does a Homemaker Contribute?	49		
Assignment 8.6 ( <i>Crabill v. Crabill</i> )	50	<b>Chapter 14 The Legal Status of Children</b>	<b>71</b>
Assignment 8.8 ( <i>Gastineau v. Gastineau</i> )	51	Chapter Competencies	71
Assignment 8.9 (QDRO)	51	Ethics in Practice	71
Assignment 8.10 ( <i>Woodworth v. Woodworth</i> )	52		
Assignment 8.13 (modification of alimony)	53	<b>Chapter 15 Adoption</b>	<b>72</b>
Assignment 8.14 (reconciliation)	53	Chapter Competencies	72
Assignment 8.16 (drafting a separation agreement)	53	Expedited Adoption Procedure	73
Ethics in Practice	53	Assignment 15.17 ( <i>In re Petition of Doe</i> )	73
		United States Supreme Court	74
		Final Comments from Otakar's Successful Attorney	74
		Impeachment of Justice Heiple	75
		Ethics in Practice	75
<b>Chapter 9 Child Custody</b>	<b>54</b>		
Chapter Competencies	54	<b>Chapter 16 Surrogacy and the New Science of Motherhood</b>	<b>76</b>
Introduction	55	Chapter Competencies	76
Assignment 9.1 (drafting a joint custody agreement)	55	Genetically Unrelated "Twins"	76
Assignment 9.2 ( <i>Schutz v. Schutz</i> )	55	Assignment 16.1 (frozen sperm)	76
Assignment 9.3 (a) (religion)	56	<i>Johnson v. Calvert: Racism Charge</i>	77
Sample Custody Evaluation by an Expert (Figure 9.2)	56	Assignment 16.3 ( <i>Johnson v. Calvert</i> )	77
Assignment 9.5 (visitation)	56	Assignment 16.4 (b) (lesbian couple)	78
Assignment 9.7 ( <i>Allen v. Farrow</i> )	56	Ethics in Practice	78
Assignment 9.8 (c) (biological parent vs. psychological parent)	57		
Assignment 9.9 (c) (d) (custody modification)	57	<b>Chapter 17 Torts and Family Law</b>	<b>79</b>
Assignment 9.10 (a) (UCCJEA)	57	Chapter Competencies	79
Assignment 9.11 (UCCJEA)	58	Assignment 17.3 (torts)	79
Taking a Witness Statement in a Custody Case	58	Assignment 17.4 ( <i>Hakkila v Hakkila</i> )	80
Ethics in Practice	59	Assignment 17.7 (b) (heart balm actions)	80
		Assignment 17.9 (b) (family purpose doctrine)	80
		Ethics in Practice	80
<b>Chapter 10 Child Support</b>	<b>60</b>		
Chapter Competencies	60		
Introduction	61		

<b>Appendix A General Instruction for the Assignments</b>	<b>81</b>		
Competencies)	81		
Assignment A.1 (cartwheel)	82		
Assignment A.2 (cartwheel)	83		
Assignment A.3 (statutory code)	83		
Assignment A.4 (legal analysis: elements)	83		
Assignment A.5 (legal analysis: issues)	84		
Additional Issue Exercise	85		
Assignment A.6 (legal analysis: memos)	85		
Assignment A.6 (legal analysis: memos)	85		
Assignment A.7 (court opinions)	87		
<b>Testbank</b>			
Chapter 1	88		
Chapter 2	90		
Chapter 3	93		
Chapter 4	95		
Chapter 5	97		
Chapter 6	100		
Chapter 7	103		
Chapter 8	105		
Chapter 9	108		
Chapter 10	110		
Chapter 11	112		
Chapter 12	114		
Chapter 13	116		
Chapter 14	118		
Chapter 15	119		
Chapter 16	121		
Chapter 17	123		
<b>Transparency Masters</b>			
TM 4-1 Kinds of Agreements	125		
TM 5-3 Common Law Marriage	126		
TM 5-4 Declaration of Domestic Partnership	127		
TM 5-6 Vermont License and Certificate of Civil Union	128		
TM 6-1 Marriages Valid in State of Celebration	129		
TM 6-2 Marriages Invalid in State of Celebration	130		
TM 7-1 Divorce Rate	131		
TM 7-3 Kinds of Divorce Jurisdiction	132		
TM 7-4 Basic Structure of a Divorce Complaint	133		
TM 8-1 Characteristics of an Effective Separation Agreement	134		
TM 8-3 Sample Introductory Clauses in a Separation Agreement	135		
TM 8-4 Alimony and Property Division Terms of a Separation Agreement	136		
TM 8-5 Property Division upon Divorce	137		
TM 8-6 Qualified Domestic Relations Order (QDRO)	138		
TM 9-1 Example of Computer-Assisted Custody and Visitation Planning	139		
TM10-3 Amnesty Ad in Sports Section of Local Newspaper	140		
TM 10-4 Notice of Collection of Income Tax Fund	141		
TM 11-2 Requirements for Deductible Alimony	142		
TM 11-4 Tax Treatment of Payments and Transfers Pursuant to Divorce Agreements and Decrees	143		
TM 13-2 Paternity Petition	144		
TM 13-3 How DNA Identity Testing Works	145		
TM 13-4 Sample DNA Report	146		
TM 13-5 Voluntary Recognition of Parentage	147		
TM 15-1 Adoption Statistics	149		
TM 15-2 Adoption Petition	150		
TM 15-3 Consent Form	151		
TM 15-5 Putative Father Registry	152		
TM 16-1 Terminology: The Biology of Reproduction	153		
TM 17-1 Intrafamily Torts	154		

