CHAPTER OUTLINE

**FAMILY LAW IN THE TWENTY-FIRST CENTURY**

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**FAMILY LAW IN THE TWENTY-FIRST CENTURY**

Family law consists of legal principles that define relationships, rights, and duties within family units such as those formed by marriage. We will spend a good deal of time studying the rules of family law that have been part of our history for many years, but we must recognize that this area of the law is still growing. The world of our grandparents was dramatically different from today’s world as we begin the twenty-first century. Among our vast population, the concept of a family is diverse and is shifting. Today, for example, more than 25 percent of all children under the age of eighteen live with only one parent. Furthermore, when two adults are at home, they are not always mother and father. The “two-mommy” or “two-daddy” household is no longer an isolated family unit that the law can ignore. We live in a society that sometimes appears to be in a state of perpetual change. Courts and legislatures have not always been able to fit traditional family law principles into the realities of modern life. New principles have had to be created. One of our central themes will be how family law has evolved in response to the shifting boundary lines of how people choose to live together.

Five important developments in family law are a product of this turmoil. They have shaped our recent history and will continue to play major roles in the twenty-first century. Here is an overview of these developments, which we will be studying throughout the chapters of this book along with the traditional principles of family law.

**Equality of the Sexes: The Struggle Continues**

There was a time in our history when a wife could not make her own will or bring a lawsuit in her own name. Without the consent of her husband, there...
was relatively little that she could do. Two centuries ago, the greatest scholar of the day, Blackstone, declared that “the very being or legal existence of a woman was suspended during the marriage, or at least was incorporated and consolidated into that of her husband.”\(^1\) Indeed, in the eyes of the law, the husband and wife were one person, and that person was the husband. Carried to its logical extreme, this theory meant that a husband could not be convicted of raping his wife, as this would amount to a conviction for raping himself!

Much progress has been made in abandoning this theory of the law based on male dominance. “The laws relating to marriage have undergone many changes during the last century, largely toward the goal of equalizing the status of husbands and wives.”\(^2\) It is important to keep in mind, however, that reforms in the law do not always translate into reforms in human behavior. No matter how many laws we pass to prevent domestic violence, for example, the safety of women in intimate relationships continues to be a serious problem. Thirty percent of murders against women are committed by their husbands and boyfriends. Other examples of the continuing imbalance in the male-female relationship can be cited. Recently, a court was asked to interpret a marital agreement between Mr. and Mrs. Spires that contained the following provisions:

**Mrs. Spires:**

- may not withdraw any money from the bank without Mr. Spires’s express permission
- may not “attempt to influence the status/intensity” of any relationship that Mr. Spires may have “with other individuals outside of the marriage unless the husband verbally requests input from the wife”
- may not “dispute” Mr. Spires in public “on any matter”
- must “conduct herself in accordance with all scriptures in the Holy Bible applicable to marital relationships germane to wives and in accordance with the husband’s specific requests”
- must maintain a sexual relationship that “remains spontaneous and solely with the husband”
- must “carry out requests of the husband in strict accordance, i.e., timeliness, sequence, scheduling, etc.”
- may not receive any loan or gift without first obtaining Mr. Spires’s permission.\(^3\)

The date the parties entered this agreement was 1991, not 1791 or 1891. Although the court eventually declared the agreement to be unenforceable, the fact that such a case had to be litigated in the 1990s suggests that not everyone in society accepts the legal principle of equality between the sexes. Fortunately, most do accept it. Nevertheless, anyone engaged in the practice of family law must be prepared to find serious discrepancies between the laws on the books and how people in fact conduct their lives. These discrepancies will continue to generate considerable business for family law practices.

**Federalization of Family Law**

The vast majority of family law is created and enforced by the states. As Chief Justice Rehnquist has said, domestic relations “has been left to the states from time immemorial.”\(^4\) Congress, federal courts, and federal administrative agencies have historically played relatively minor roles in family law. When

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parties want a divorce, for example, they go to a state court, not to a federal court.

Although state law continues to dominate the field, federal law is becoming increasingly important. Major changes in the state law of paternity, for example, have been due to interpretations of the federal Constitution by the United States Supreme Court. Competent legal representation in a divorce settlement must include advice on how federal tax laws affect alimony and property division. The same is true for the impact of our federal bankruptcy laws. Interstate child-custody disputes are now substantially regulated by federal statutes such as the Parental Kidnapping Prevention Act. Perhaps the most dramatic inroad of federal law has been in the area of child support. Congress has passed laws that have led to national standards in the enforcement of child support. Though it is an overstatement to say that family law is now totally federalized, it is clear that the role of federal law in family law is significant and is increasing. Not everyone is happy with this trend, as we will see.

The Contract Dimension of Family Law

Marriage is a status in the sense that it is a legal entity that imposes certain rights and obligations, often in spite of what both spouses agree to do. For example, once parties are married, they cannot agree on their own to dissolve their marriage so that each can marry someone else. Spouses cannot divorce themselves. They need a court order of divorce. Nor can they agree that either or both can have additional spouses. A basic requirement of the law is one spouse at a time.

Many of these requirements remain central to the institution of marriage. However, one of the modern trends in family law is to allow parties to enter enforceable contracts that help define their rights and obligations to each other. When we study premarital agreements, for example, we will see a greater willingness of the courts to allow the parties to define important components of the marriage they are about to enter, particularly in the area of finances. To an increasing degree, marriage is viewed as an economic partnership that is subject to mutual modification, rather than as an eternal union of love benevolently presided over by the husband. There are still limits on what parties can do by contract. Spouses cannot, for example, enter an agreement that would be detrimental to the welfare of their children. Courts will carefully scrutinize such agreements to ensure that they are in the best interests of the child. It is sometimes said that in every marriage there is a third party—the state—that imposes rights and obligations on the spouses. This is still true, although we have begun to see more flexibility in what the parties are allowed to do by contract. This trend is even greater in family units created as alternatives to marriage, as we will see when we study contract cohabitation and domestic partnership.

Science and Law

Scientific breakthroughs have created startling challenges for family law. Nowhere is this more evident than in the new science of motherhood. New ways to create babies have given us the reality of multiple mothers of the same child (e.g., a birth mother and a genetic mother). This has forced legislatures and courts to redefine traditional areas of the law. The wonders of science are by no means over. We can expect to see new scientific breakthroughs, necessitating further rethinking of traditional family law.

Emerging Recognition of Gay Rights

For years, homosexuals have been unsuccessful in asserting that they are entitled to the same family law rights as heterosexuals. To a significant extent,
this argument is still unsuccessful today. Recent developments, however, suggest that the tide may be turning. Many states, for example, now say that adoption applications by gays will be treated the same as those by heterosexuals. Adoption in such states will not be denied solely on the basis of sexual orientation. Dramatic developments in Hawaii and Vermont almost led to the legalization of same-sex marriages. Vermont came the closest by creating the “civil union.” This is a new relationship that has the same state rights and duties as an opposite-sex marriage. Although there has been major opposition to the assertion of any gay rights in family law, there is a noticeable trend in favor of equal application of family law to heterosexuals and homosexuals.

As family law moves into the twenty-first century, these are some of the major themes that will continue to demand the attention of courts, legislatures, and family law practitioners.

THE SCOPE OF FAMILY LAW

To work in an office where family law is practiced, you need compassion, flexibility, skill, and, above all, an ability to handle a wide diversity of problems. While some cases are straightforward and “simple,” many are not. A veteran attorney observed that a family law practice requires everyone “to become an expert in many fields of law and not just one.”

Assume that you are a paralegal working for Karen Smith, an attorney in your state. One of the clients of the office is Susan Miller, who lives out of state. The attorney receives the following e-mail message from Ms. Miller:

Karen Smith:

I am leaving the state in a week to come live with my mother. She will help me move everything so that we can start a new life. I must see you as soon as I arrive. Yesterday my husband called from his business. He threatened me and the children. I will bring the twins with me. I don’t know where my oldest boy is. He is probably with his father getting into more trouble.

Susan Miller

2/7/99

The checklist below lists many of the questions that are potentially relevant to the case of Susan Miller. As a paralegal, you might be asked to conduct preliminary interviews and field investigation on some of the questions. Others may require legal research in the law library or online. (Later in the chapter we cover paralegal roles in family law in greater detail.) Many of the technical terms in this list will be defined in subsequent chapters. Our goal here is simply to demonstrate that the scope of the law covered in a family law practice can be very broad.

Criminal Law

- Has Mr. Miller committed a crime? What kind of threats did he make? Did he assault his wife and children?
- Has he failed to support his family? If so, is the nonsupport serious enough to warrant state or federal criminal action against him?
- Even if he has committed a crime, would it be wise for Ms. Miller to ask the district attorney to investigate and prosecute the case?

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• Is there any danger of further criminal acts by her husband? If so, what can be done, if anything, to prevent them? Can she obtain a restraining order to keep him away?
• Is Ms. Miller subject to any penalties for taking the children out of state?

Divorce/Separation/Annulment Law

• What does Ms. Miller want?
• Does she know what her husband wants to do?
• Does she have grounds for a divorce?
• Does she have grounds for an annulment? (Were the Millers validly married?)
• Does she have grounds for a judicial (legal) separation?
• Does Mr. Miller have grounds for a divorce, annulment, or judicial separation against his wife?

Law of Custody

• Does Ms. Miller want sole physical and legal custody of all three children? (Is she the natural mother of all three? Is he their natural father? Are there any paternity problems?) Will Mr. Miller want custody? What is the lifestyle of the parent or parents seeking custody? Is joint custody an option?
• If she does not want a divorce, annulment, or judicial separation, how can she obtain custody of the children?
• Does she want anyone else to be given temporary or permanent custody of any of the children (e.g., a relative)? Will such a person make a claim for custody against Ms. Miller?
• If she wants custody, has she jeopardized her chances of being awarded custody by taking the children out of state?

Support Law

• Is Mr. Miller adequately supporting his wife? Is she supporting him?
• Is he adequately supporting the three children? Do they have any special medical or school needs? If so, are these needs being met?
• Are the children now covered under Mr. Miller’s health insurance policy? Is Ms. Miller covered? Is there a danger that the policy will be changed?
• Can Ms. Miller obtain a court order forcing Mr. Miller to support them while she is deciding whether she wants to terminate the marital relationship?
• If she files for divorce, annulment, or judicial separation, can she obtain a temporary support order while the case is in progress?
• If she files for divorce, annulment, or judicial separation and loses, can she still obtain a support order against him?
• Does Mr. Miller have assets (personal property or real property) against which a support order can be enforced? Is there a danger he might try to hide or transfer these assets?
• If he cannot be relied upon for support and she cannot work, does she qualify for public assistance such as Temporary Assistance to Needy Families (TANF)?
• Would she be entitled to more support in the state she is coming from or in this state?
• Is Mr. Miller supporting any other children, such as from a previous marriage? If so, how would this affect his duty to support the three he had with Ms. Miller?
Contract/Agency Law

• While she is living apart from her husband, can she enter into contracts with merchants for the purchase of food, clothing, furniture, medical care, prescriptions, transportation, and other necessaries and make him pay for them? Can she use his credit?
• Has she already entered into such contracts?
• Can he obligate her on any of his current or future debts?
• Has she ever worked for him or otherwise acted as his agent?
• Has he ever worked for her or otherwise acted as her agent?
• Have the children (particularly the oldest child) entered into any contracts under their own names? If so, who is liable for such contracts? Can they be canceled or disaffirmed?

Real and Personal Property Law

• Do either or both of them own any real property (e.g., land)? If so, how is the real property owned? How is title held? Individually? As tenants by the entirety? Who provided the funds for the purchase?
• What rights does she have in his property?
• What rights does he have in her property?
• What is his income? Can his wages be garnished?
• Does Mr. or Ms. Miller have a pension plan from prior or present employment? Can one spouse (or ex-spouse) obtain rights in the pension plan of the other spouse (or ex-spouse)?
• What other personal property exists—cars, bank accounts, stocks, bonds, furniture? Who owns this property?

Corporate Law/Business Law

• What kind of business does Mr. Miller have? Is it a corporation? A partnership? A sole proprietorship? If the parties separate and obtain a divorce, will Ms. Miller be entitled to a share of the business as part of the division of marital property?
• What are the assets and liabilities of the business?
• Is there a danger that Mr. Miller or his business might go into bankruptcy? If so, how would this affect her rights to support and to a share of the marital property? How would it affect his duty of child support?

Tort Law

• Has he committed any torts against her (e.g., assault, fraud, conversion)?
• Has she committed any torts against him?
• Can one spouse sue another in tort?
• Have the children (particularly the oldest) damaged any property or committed any torts for which the parents might be liable?

Civil Procedure/Conflict of Law

• If a court action is brought (e.g., for divorce, custody, separate maintenance), what court would have jurisdiction? A court in this state? A court in the state where he resides?
• How can service of process be made?
• If she sues and obtains a judgment in this state, can it be enforced in another state?

Evidence Law

• What factual claims will Ms. Miller be making, e.g., that Mr. Miller has hidden money or other assets that could be used to support the family?
• What testimonial evidence (oral statements of witnesses) exists to support her claims?
• How much of this evidence is admissible in court?
• How much of the admissible evidence is likely to be believed by a judge or jury?
• What documentary evidence should be pursued (e.g., marriage and birth certificates, records of purchases)?
• Whose depositions should be taken, if any?
• What claims will Mr. Miller make against Ms. Miller? What evidence is he likely to use to support these claims? What objections can be made to this evidence?

Juvenile Law
• Can a dependency or child neglect petition be brought against Mr. Miller? Against Ms. Miller?
• Why is she upset about her eldest son? Has he committed any “acts of delinquency”?
• Is he a Person in Need of Supervision (PINS) or a Child in Need of Supervision (CHINS)?
• If he has damaged anyone else’s property, can a parent be financially responsible for the damage?

Tax Law
• Have Mr. Miller and his wife filed joint tax returns in the past?
• Are any refunds due (or money owed) on past returns?
• In a property settlement following a divorce or separation, what would be the most advantageous settlement for Ms. Miller from a tax perspective?
• What arrangement might Mr. Miller seek in order to obtain the best tax posture? What is negotiable? What will he be willing to give up to obtain his tax objectives? Will he, for example, cooperate in allowing her to have sole physical and legal custody of the children in exchange for her cooperation in ensuring that his alimony payments are deductible?

Estate Law
• Do they both have their own wills? If so, who are the beneficiaries? If there is no divorce, can he leave Ms. Miller out of his will entirely?
• Who receives their property if they die without a will while they are separated or after a divorce?
• Are there any life insurance policies on Mr. Miller’s life, with Ms. Miller or the children as beneficiaries? If so, is he allowed to change these beneficiaries?

Professional Responsibility/Ethics
• Is Mr. Miller represented by counsel? If so, can we contact Mr. Miller directly, or must all communications to him be made through his attorney? If he is not yet represented, are there limitations on what we can and cannot say to him?
• If Ms. Miller can find her eldest son, can she simply take him away from her husband when the latter is not around? Would this be illegal? What is the ethical obligation of an attorney whose client is about to do something illegal?

Miscellaneous
• Can Mr. Miller be forced to pay legal fees that Ms. Miller will incur in her disputes with him?
• Can she be forced to pay his legal fees?

The purpose of this book is to examine these questions that could arise in a case such as Miller v. Miller. More specifically, the purpose is to equip you with the skills needed to be able to raise and to help answer such questions that could arise in your state.
PARALEGAL ROLES IN FAMILY LAW

First we will take a more specific look at the possible range of paralegal responsibilities in a family law practice. Keep in mind, however, that no two paralegals will have identical job descriptions. According to veteran paralegal, Yasmin Spiegel, “Your skills and interests, as well as the degree of trust and communication between you and your boss, will determine the tasks that you will be assigned.” Nevertheless, it is possible to identify some of the commonly performed tasks of many paralegals. Here are two job descriptions written by different bar associations. Following their lists of tasks, we will read more from Yasmin Spiegel as she provides a flesh-and-bones perspective of life in the trenches. Although her focus is on California, her observations are pertinent to the life of a family law paralegal in any state.

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6Yasmin Spiegel, Family Law for Paralegals, 6 The Journal 7 (Sacramento Association of Legal Assistants, June 1986).
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THE SKILLS ASSIGNMENTS IN THE BOOK

To help you develop the ability to perform many of the tasks mentioned in these job descriptions, eleven categories of skills assignments are presented in chapters of this book. Your instructor will decide which of these assignments you will be doing. The categories are as follows:

1. Legal analysis assignment
   In this assignment, you are given a set of facts and asked to apply one or more of the legal principles discussed in the text to those facts. Another legal analysis assignment asks you to apply the holding of a court opinion to a new set of facts. A holding is the court’s answer to one of the legal issues it has been asked to resolve in the opinion.

2. State code assignment
   A great deal of family law is found in your state statutory code. In the state code assignment, you will be asked to determine what your state code says about a particular topic.

holding
The court’s answer to a legal issue, given in an opinion.
3. Court opinion assignment

Two of the major categories of court opinions are those that interpret statutes and those that create and interpret common law. The common law is judge-made law in the absence of statutory or other controlling law. If a problem exists for which there is no governing statute, a court may have the authority to create common law to solve that problem. In the court opinion assignment, you will be asked to find both kinds of court opinions written by state courts in your state on a family law issue.

4. Complaint drafting assignment

Draft a complaint acceptable in your state on a specific family law controversy.

5. Agreement drafting assignment

Agreements are often used in a family law practice by parties who wish to define an aspect of their relationship or to avoid litigation. In this assignment, you will be asked to draft such agreements.

6. Checklist formulation assignment

Examine a statute or common law principle and design a checklist of questions that an interviewer would ask (or that an investigator would pursue) to help determine whether that statute or common law principle applies.

7. Investigation strategy assignment

Formulate a plan for gathering new facts or for substantiating facts that you already have on a family law problem.

8. Interview assignment

Role-play an interviewer who will conduct a legal interview on a hypothetical (i.e., assumed) set of facts in a family law case.

9. Interrogatory assignment

Draft a set of interrogatories, which are questions sent to an opposing party in litigation to help your side prepare for trial.

10. Flowchart assignment

Present a step-by-step outline of a particular legal procedure in your state.

11. Systems assignment

Interview someone who now works in a family law office, to determine what system(s) the office uses to accomplish some aspect of client service.

The general instructions for most of these assignments are found in Appendix A of the book. Within each assignment, you will find specific instructions. In addition, you may be referred to Appendix A where you will find general instructions for that category of assignment.

ASSESSING YOUR OWN BIASES

Working in family law is not for the faint of heart. “One of the worst kept secrets in legal practice is the toll that domestic relations work can take on a lawyer’s staff, resources, and psyche.” Case stories of clients are often emotionally draining. The client’s world may be falling apart in a volcano of pain, anger, and confusion.

Inevitably, you will have personal feelings about a case. A client’s objective or personality might give you a sense of discomfort or unease. The question is

whether the personal feelings will become the basis of a **bias**, which is a pre-disposition to think and to act in a certain way. How would you answer the following question: “Am I objective enough that I can assist a person even though I have a personal distaste for what that person wants to do or what that person has done?” Many of us would quickly answer “yes” to this question. We all like to feel that we are levelheaded and not susceptible to letting our prejudices interfere with the job we are asked to accomplish. Most of us, however, have difficulty ignoring our personal likes and dislikes.

In the following cases, to what extent might an individual be hampered in delivering legal services because of personal reactions toward the client? Identify potential bias:

**a.** Mr. Smith, the client of your office, is being sued by his estranged wife for custody of their two small children. Mr. and Mrs. Smith live separately, but Mr. Smith has had custody of the children during most of their lives while Mrs. Smith has been in the hospital. Mrs. Smith has charged that Mr. Smith often yells at the children, leaves them with neighbors and day care centers for most of the day, and is an alcoholic. Your investigation reveals that Mrs. Smith will probably be able to prove all these allegations in court.

**b.** Mrs. Jones is being sued by Mr. Jones for divorce on the ground of adultery. Mrs. Jones is the client of your office. Thus far your investigation has revealed that there is considerable doubt over whether Mrs. Jones did in fact commit adultery. During a recent conversation with Mrs. Jones, however, she tells you that she is a prostitute.

**c.** Jane Anderson is seeking an abortion. She is not married. The father of the child wants to prevent her from having the abortion. Jane comes to your office for legal help. She wants to know what her rights are. You belong to a church that believes abortion is murder. You are assigned to work on the case.

**d.** Paul and Victor are a gay couple who want to adopt Sammy, a six-month-old baby whose parents recently died in an automobile accident. Sammy's maternal grandmother is not able to adopt him because of her age and health. She opposes the adoption by Paul and Victor because of their lifestyle. Paul and Victor are clients of your office in their petition for adoption. You agree with the grandmother's position, but have been assigned to work on the case.

**e.** Tom Donaldson is a client of your office. His former wife claims that he has failed to pay court-ordered alimony payments and that the payments should be increased substantially because of her needs and his recently improved financial status. Your job is to help Tom collect a large volume of records concerning his past alimony payments and his present financial worth. You are the only person in the office who is available to do this record gathering. It is clear, however, that Tom does not like you. On a number of occasions, he has indirectly questioned your ability.

Having analyzed the fact situations in Assignment 1.1, do you still feel the same about your assessment of your own **objectivity**? Clearly, we cannot simply wish our personal feelings away or pretend that they do not exist. Nor are there any absolute rules or techniques that apply to every situation you will be asked to handle. Nor are the following admonitions very helpful: “Be objective,” “be dispassionate,” “don’t get personally involved,” “control your feelings.” Such admonitions are too general, and when viewed in the abstract, they may appear not to be needed, because we want to believe that we are always objective, dispassionate, detached, and in control.

We must recognize that there are facts and circumstances that arouse our emotions and tempt us to impose our own value judgments. Perhaps if we
know where we are vulnerable, we will be in a better position to prevent our reactions from interfering with our work. It is not desirable for you to be totally dispassionate and removed. A paralegal who is cold, unfeeling, and incapable of empathy is not much better than a paralegal who self-righteously scolds a client. It is clearly not improper for a paralegal to express sympathy, surprise, and perhaps even shock at what unfolds from the client’s life story. If these feelings are genuine and if they would be normal reactions to the situation at a given moment, then they should be expressed. The problem is how to draw the line between expressing these feelings and reacting so judgmentally that you interfere with your ability to communicate with the client now and in the future. Again, there are no absolute guidelines. As you gain experience in the art of dealing with people, you will develop styles and techniques that will enable you to avoid going over that line. The starting point in this development is to recognize how easy it is to go over the line.

Some paralegals apply what is called the “stomach test.” If your gut tells you that your personal feelings about the case are so intense that you may not be able to do a quality job for the client, you need to take action. Talk with your supervisor. You may have some misunderstandings about the case that your supervisor can clear up. You may be able to limit your role in the case or be reassigned to other cases. Without breaching client confidentiality, contact your local paralegal association to try to talk with other paralegals who have handled similar situations. They may be able to give you some guidance.

Attorneys often take unpopular cases involving clients who have said or done things that run the gamut from being politically incorrect to being socially reprehensible. As professionals, attorneys are committed to the principle that everyone is entitled to representation. Paralegals should have this same commitment. But attorneys and paralegals are human beings. No one can treat every case identically. In the final analysis, you need to ask yourself whether your bias is so strong that it might interfere with your ability to give the needs of the client 100 percent of your energy and skill. If so, you have an obligation not to work on the case.

Ethical concerns also dictate this result. As we will see in chapter 2, attorneys have an ethical obligation to avoid a conflict of interest. Such a conflict exists when an attorney has divided loyalties. An obvious example is an attorney who represents both parties in a legal dispute they have with each other. A less obvious example is an attorney whose personal feelings could interfere with his or her obligation to give a client vigorous representation. The attorney’s personal feelings should not be in conflict with a client’s legitimate need for undiluted advocacy. Is the attorney going to be loyal to his or her personal feelings and values, or to the client’s cause? Clients should not be subjected to such conflicts of loyalties. When a conflict of this kind exists, the attorney has an ethical obligation not to take the case. The same obligation applies to paralegals. There should be no interference with anyone’s inclination to give the client a total commitment.

**ASSIGNMENT 1.2**

a. Think about your past and present contacts with people who have irritated you the most. Make a specific list of what bothered you about these people. Suppose that you are working in a law office where a client did one of the things on your list. Could you handle such a case?

b. In the relationship among husband, wife, and child, many things can be done that would be wrong (i.e., illegal, immoral, improper) according to your personal system of values. Make a list of the ten things that could be done by

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husband, wife, or child to another family member (e.g., husband to wife, child to parent) that would be most offensive to your sense of values. Assume that a client in the office where you work has done one of these ten things and is being challenged in court by someone because of it. Your office is defending the client against this challenge. What difficulties do you see for yourself in being able to assist this client?

“MY SISTER’S DIVORCE”

Most people are fascinated by family law and almost always have a question or two that they would love to ask someone. Once your relatives, friends, neighbors, and acquaintances find out that you work in a family law office, you will probably become a target of inquiries. Inevitably, while talking to someone in a social gathering, you will find yourself being asked about child support rights or about “my sister’s divorce.” Be careful. If you answer a legal question about the facts of a particular person’s case, you are giving legal advice and may be engaging in the unauthorized practice of law. It makes no difference whether you answer the question correctly or incorrectly. Nor is it relevant that your advice is free. Nonattorneys cannot give legal advice on matters that ultimately require resolution by a court. There are some areas, such as social security, where you do not have to be an attorney to answer legal questions. This is rarely true in family law.

It may be awkward for you to decline to answer legal questions, especially when they cover topics on which you may be more knowledgeable than some attorneys. People you know may not appreciate being told that they should consult an attorney for legal questions they ask you. Yet this is the proper response. Do not risk misleading someone and being charged with the unauthorized practice of law. There are many self-help books and Internet sites that provide information about the law. If you are aware of some good ones, there is nothing wrong with referring the questioner to them. This is quite different from telling someone what laws might apply to particular facts. Of course, you can also suggest that the person contact your law office for legal assistance. We will return to these themes when we discuss ethical issues in a family law practice in chapter 2.

VIOLENCE IN A FAMILY LAW PRACTICE

Unfortunately, violence must be one of the concerns of a family law practice. In chapter 10 (on child support), for example, we will see that special measures must be taken to protect a mother from violence once she asserts a claim for child support against a father. In chapter 12 (on the legal rights of women), we will examine other dimensions of domestic violence.

Violence can also be directed at family law offices. At a recent legal conference, the speaker asked a group of about 120 experienced family law attorneys if anyone in the room had experienced violent actions or threats in their practice. Almost all the attorneys in the room raised their hand. One woman told the group, “Just yesterday, I [learned that] my client and I were in grave danger.”

Many attorneys are upgrading their office security systems; some acknowledge that when interviewing a new client, they consciously assess whether taking the case might pose personal risks to anyone in the office.

9 A.P. Roth, Dangerous Divorces, California Lawyer 23, 24 (Feb. 1994).
Family Court personnel are also concerned. Violence has erupted in the corridors of some courthouses and occasionally in the courtroom itself. “In 1992, a San Jose man fighting for custody of his three children shot and wounded three deputies.”¹⁰ At a retirement party for family law court commissioner Abe Gorenfeld, he pointed to the “bullet hole still visible in the ceiling outside his fifth-floor courtroom where a woman fired her pistol at her soon-to-be ex-husband and missed.”¹¹ Many courthouses now have elaborate security systems at the entrances. Some courts, however, have been slow to add such security. One court did not do so until a bailiff discovered a gun in the lunch box of an estranged husband sitting in a courtroom.

Of course, violence is not an everyday occurrence in family law offices and courthouses. Out-of-control, angry, frustrated citizens exist throughout our society. However, we all should be aware of the reality that volatile emotions often exist within families undergoing disintegration. Individuals who perceive themselves as victims are sometimes capable of lashing out against anyone involved in what they irrationally feel is an unresponsive legal system. Caution is the order of the day.

**FINDING FAMILY LAW**

**Introduction**

Law books and online legal resources are important tools for an attorney. The same should be true of the paralegal. Because there is so much law, and because a good deal of it is constantly changing, no one—including an experienced judge—can be expected to know all the family law of a particular state. In a child-support case, for example, the question is not so much, “What is the law of child support?” as it is “What is the law of child support today?” Understanding general principles is helpful as a starting point, but more is usually needed in the actual practice of law. And the ticket of admission to current law is the law library.

In this section, we will cover some of the fundamentals of the law library from the viewpoint of the family law practitioner. The section is not intended as a substitute for a full course in legal research, nor does it assume that you have already had such a course. Rather, we highlight some of the basics so as to reinforce what you may have learned elsewhere, or to give you a headstart on what you will be learning for the first time elsewhere.

Two major categories of legal materials are relevant to a family law practice: those containing primary authority and those containing secondary authority. A court will want to know what primary authority is available to resolve a legal dispute in a family law case—or in any kind of case. Primary authority is any law that a court could rely on in reaching its conclusion (e.g., a statute, court opinion, court rule, constitutional provision, administrative regulation, or ordinance). Secondary authority is any nonlaw that a court could rely on in reaching its conclusion (e.g., a legal encyclopedia, legal treatise, or law review article). The main value of secondary authority is that it helps you locate and interpret primary authority.

**Important Publications for Family Law Practitioners**

Among the most important legal materials to which a family law practitioner should have access are the state statutory code, court rules, court opinions, practice manual, and legal newspaper. All are available in a traditional law library in book or paper format. Codes, rules, and opinions are also available online, for a fee, through commercial databases such as WESTLAW, Lexis-

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¹⁰Roth, *Dangerous Divorces*, at 24.
Nexis, and Loislaw. All three may also be available on the Internet at no cost, although they are not always as comprehensive, current, and reliable as the commercial databases. Here is a closer look at the materials in book or paper format (later in the chapter, we will examine legal materials online):

**Your State Statutory Code**  The statutes of the legislature govern many aspects of family law. They will probably be found in three or four volumes of the statutory code for your state. (See Appendix A for more about using statutory codes.)

**Court Rules**  Court rules (also called rules of court) govern the mechanics of litigation before a particular court. They cover many of the procedural aspects of divorces, annulments, adoptions, etc. The rules often contain standard forms that are either required or recommended.

**State Court Opinions and Digests**  A court opinion is a written explanation of the court’s resolution of a legal issue. These opinions are printed in full in volumes called reporters. There are usually several sets of reporters containing the opinions of your state courts, particularly the highest state court. There may be an official reporter published by the state itself. In addition, there is a regional reporter published by a private company (West Group) containing the opinions of the highest state courts (and some lower courts) of a cluster of states in the same region of the country. You need to find out what region your state is in so that you can find your regional reporter.

Almost every state has a digest, a set of volumes that contains small paragraph summaries of the court opinions of that state. Most of the regional reporters also have regional digests that give summaries of the opinions in their respective regional reporter. The largest digest covering every state is the American Digest System. You need to have access to your individual state digest, or to your regional digest (if one exists for your region), or to the American Digest System.

**Practice Manual**  Many states have a practice manual covering a variety of topics such as Family Law, Probate Law, Corporate Law, etc. In addition to summaries of the law, the manuals usually contain practical information, e.g., standard forms, checklists.

**Legal Newspapers**  The legal newspaper gives current cases, docket calendars for local courts, news on what the legislature and bar association are doing, etc.

**SAMPLE PROBLEM**

Let us assume that you work in a law office whose client signed a surrogate motherhood contract. She agreed to be artificially inseminated with the semen of a man who is not her husband and, upon birth, to allow the child to be adopted by this man and his wife. Problems have arisen in this arrangement. Your supervisor asks you to do some legal research on the legality of surrogacy contracts. Later, in chapter 16, we will study such contracts in greater detail. For now our goal is simply to give you an overview of some of the law books you might consult when researching a family law case such as this.

**Starting with Primary Authority**

One possible starting point would be to go directly to law books containing or indexing primary authority.
STATUTES  To find out if there are any statutes on surrogacy, check the index of your state statutory code. It might lead you to such statutes. See Exhibit 1.1 for an example. For a summary of techniques to use when trying to find statutory law, see Appendix A.

Exhibit 1.1  Example of a family law statute: Michigan Compiled Laws Annotated, §§ 772.851 and 772.855 (1993)

772.851. Short title
This act shall be known and may be cited as the "surrogate parenting act".

722.855. Contracts; void and unenforceable
A surrogate parenthood contract is void and unenforceable as contrary to public policy.

COURT OPINIONS  Exhibit 1.2 gives an example of a page from a regional reporter volume containing Doe v. Attorney General, a court opinion on the legality of surrogate motherhood contracts. One of the major ways to find such opinions is through the digests, which, as indicated, are volumes of small paragraph summaries of court opinions. Another way is to use computer databases such as those found on WESTLAW, Lexis-Nexis, Loislaw, and the Internet. In Exhibit 1.3 you will find the beginning of a WESTLAW page containing Doe v. Attorney General, the same case we looked at in a reporter volume in Exhibit 1.2. For a summary of techniques to use when trying to find court opinions, see Appendix A.

Starting with Secondary Authority

Another option is to start with secondary authority. This approach is often valuable when you are doing research in an area of the law that is new to you. Secondary authority will not only give you leads to primary authority, but will also often give you background information about the law. This background can be tremendously helpful in providing basic terminology and general understanding. Here are some of the main secondary authorities:

LEGAL ENCYCLOPEDIAS  A legal encyclopedia is a multivolume set of books that summarizes almost every major legal topic. The two most important national legal encyclopedias are:

• American Jurisprudence, 2d (West Group) (Am. Jur. 2d)
• Corpus Juris Secundum (West Group) (C.J.S.)

Exhibit 1.4 contains a page from a volume of American Jurisprudence, 2d on surrogate motherhood. Exhibit 1.5 contains a page from a volume of Corpus Juris Secundum on the same topic. In addition to these national encyclopedias, some states have their own encyclopedia covering the law of one state, e.g., Florida Jurisprudence, 2d; Michigan Law and Practice.

LEGAL TREATISES  A legal treatise is a book written by a private individual (or a public official writing as a private citizen) that provides an overview, summary, or commentary on a legal topic. Exhibit 1.6 contains a page from a widely used legal treatise on family law, Homer H. Clark, The Law of Domestic Relations in the United States (2d ed. 1987). If the legal treatise contains very practical material such as litigation techniques and standard forms, it is often also called a formbook or a practice manual.

DOE v. ATTORNEY GENERAL

Cite as 487 N.W.2d 484 (Mich.App. 1992)

Jane DOE, John Doe, Rena Roe, Richard Roe, Carol Coe, Carl Coe, Paula Poe, and Nancy Noe, Plaintiffs-Appellants,

v.

ATTORNEY GENERAL,
Defendant-Appellee.

Docket No. 113775.

Court of Appeals of Michigan.
Submitted March 20, 1990, at Detroit.
Decided June 1, 1992, at 9:10 a.m.
Released for Publication August 28, 1992.

Infertile couples and prospective surrogate mothers brought action for declaratory judgment against state Attorney General regarding constitutionality of Surrogate Parenting Act. The Circuit Court, Wayne County, John H. Gillis, Jr., J., granted summary disposition for the Attorney General, and plaintiffs appealed. The Court of Appeals, Holbrook, P.J., held that: (1) case or controversy existed concerning constitutionality of statute, giving court jurisdiction for declaratory judgment; (2) state had compelling interests sufficient to warrant governmental intrusion into protected area of privacy in matter of procreation; and (3) surrogate parentage contract involving voluntary relinquishment after conception of female’s parental rights to child, is void and unenforceable.

Affirmed in part and reversed in part.

Murphy, J., concurred and filed opinion.

1. Declaratory Judgment ➔ 124

“Case or controversy” existed, for purposes of declaratory judgment, despite agreement as to interpretation of statute, where attorney for infertile couples and prospective surrogate mothers later informed trial court that he misunderstood agreement with state concerning constitutionality of interpretation of Surrogate Parenting Act. M.C.L.A. §722.851 et seq.; U.S.C.A. Const. Amends. 5, 14; MCR 2.605(A).

2. Constitutional Law ➔ 82(10), 274(5)


American Civil Liberties Union Fund of Michigan by Robert A. Sedler, Elizabeth L. Gleicher and Paul J. Denenfeld, Detroit, for plaintiffs-appellants.


Before HOLBROOK, P.J., and MURPHY and JANSEN, JJ.

HOLBROOK, Presiding Judge.

In this action for a declaratory interpretation of the Surrogate Parenting Act, M.C.L. § 722.851 et seq.; M.S.A. § 25.248(151) et seq., plaintiffs appeal as of right from an order of the Wayne Circuit Court granting defendant’s motion for summary disposition for failure to state a claim. We affirm in part and reverse in part.

Plaintiffs are infertile couples and prospective surrogate mothers. In their suit, filed on August 4, 1988, plaintiffs assert that if the Surrogate Parenting Act were interpreted as being an outright ban on surrogacy contracts for pay, the statute would deny them their constitutionally protected privacy rights and would offend the Due Process and Equal Protection Clauses of the state and federal constitutions. . . .

EXAMPLE OF A REGIONAL REPORTER VOLUME
Infertile couples and prospective surrogate mothers brought action for declaratory judgment against state Attorney General regarding constitutionality of Surrogate Parenting Act. The Circuit Court, Wayne County, John H. Gillis, Jr., J., granted summary disposition for the Attorney General, and plaintiffs appealed. The Court of Appeals, Holbrook, P.J., held that: (1) case or controversy existed concerning constitutionality of statute, giving court jurisdiction for declaratory judgment; (2) state had compelling interests sufficient to warrant governmental intrusion into protected area of privacy in matter of procreation; and (3) surrogate parentage contract involving voluntary relinquishment after conception of female's parental rights to child, is void and unenforceable.

Affirmed in part and reversed in part.

Murphy, J., concurred and filed opinion.

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**Exhibit 1.3**


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**Exhibit 1.4**


59 Am Jur 2d

PARENT AND CHILD

§ 3. —“Surrogate mother”

The surrogate mother arrangement is an arrangement between a surrogate mother and a husband and wife, whereby the surrogate mother agrees to be artificially inseminated with the husband's semen, bear a child, and relinquish all rights regarding that child to the husband and wife. They agree to pay the costs of the surrogate mother's pregnancy and to accept the child at birth. In addition, they may agree to pay the surrogate mother a fee in excess of the costs of bearing a child.22 The legality and enforceability of a surrogate mother arrangement is questionable.23

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**Legal Periodicals**

A legal periodical is an ongoing publication (e.g., published quarterly) that contains articles, studies, reports, or other information on legal topics. Many legal periodicals are published by law schools, such as the one in Exhibit 1.7 from the Marquette Law Review.

**Annotations**

An annotation is a set of notes or commentaries on something. The most widely used annotations are those printed in:

- American Law Reports (A.L.R.)
- American Law Reports, Second Series (A.L.R.2d)
- American Law Reports, Third Series (A.L.R.3d)
- American Law Reports, Fourth Series (A.L.R.4th)
- American Law Reports, Fifth Series (A.L.R.5th)

All six sets are sometimes referred to collectively as American Law Reports or ALRs. Exhibit 1.8 contains an example of an annotation on surrogacy from A.L.R.4th.

A C.J.S. volume can provide a comprehensive overview of a family law topic. Section 25. In General explains that adoption relationships cannot typically be created by private contract, but exceptions may exist in certain circumstances.

While surrogate parenting agreements, in which payment is given to the surrogate mother for bearing and surrendering the baby to the natural father and his wife, have been prohibited, such agreements that compensate the surrogate mother have been given legal effect.


Section 21.9, Adoption—The Surrogate Mother Contract, discusses the legal and nonlegal output on the topic, noting that it has been enormous and will likely continue at the same rate. It acknowledges the difficulty in solving legal problems that vary inversely with the number of words expended.

Exhibit 1.7  Example of a page from a legal periodical article on family law: 76 Marquette Law Review 675 (1993)

The article, "Surrogate Gestator: A New and Honorable Profession" by John Dwight Ingram, explores the complexities of noncoital reproduction and the legal issues surrounding it. It highlights the need for ethical and legal considerations to accompany advancements in medical and scientific techniques.
EXAMPLE OF AN A.L.R.4th VOLUME

Exhibit 1.8  Example of a page from an annotation on family law: 77
A.L.R.4th 70 (1990)

ANNOTATION

VALIDITY AND CONSTRUCTION OF SURROGATE PARENTING AGREEMENT

by

Danny R. Veilleux, J.D.

I. Preliminary Matters

§ 1. Introduction

[a] Scope

This annotation collects and analyzes the reported cases in which the courts have construed or considered the validity of a surrogate parenting agreement. For the purposes of this annotation, the “surrogate parenting” or “surrogacy” agreement refers to a contract in which the natural or “surrogate” mother, for a fee, agrees to conceive a child through artificial insemination with the sperm of the natural father, to bear and deliver the child to the natural father, and to terminate all of her parental rights subsequent to the child’s birth. Although the parties to a surrogacy agreement generally anticipate the eventual adoption of the child by the natural father’s wife, this annotation will discuss all surrogacy agreements, regardless of whether they contain any provisions concerning such adoption. Moreover, the surrogate mother’s husband, or the natural father’s wife, assuming either parent is married, may be a party to the surrogacy agreements included within the scope of this annotation.

MARTINDALE-HUBBELL  The Martindale-Hubbell Law Directory contains a listing of the names and addresses of many of the practicing attorneys in the country. It also has a unit called the Martindale-Hubbell Law Digest. It contains brief summaries of the law of every state. Exhibit 1.9 contains an example of a page from the summary for New York on surrogacy parenting.

WORDS AND PHRASES  Words and Phrases is a multivolume legal dictionary published by West Group. Most of its definitions come from court opinions. Exhibit 1.10 presents an excerpt from the “S” volume of the dictionary, where the phrase “surrogate parentage contract” is defined. Note that the case defining this phrase is the same case we examined earlier in Exhibits 1.2 and 1.3, Doe v. Attorney General. One of the common features of different secondary authorities is that they often refer you to the same laws.

EXAMPLE OF A MARTINDALE-HUBBELL LAW DIGEST VOLUME

Text not available due to copyright restrictions
a. What is the name of the statutory code containing the statutes of your legislature? If more than one exists, list each one.

b. In this code, find any statute on divorce. Quote and cite the first line from this statute.

c. Find the court rules of any court in your state that can hear family law cases. Select any court rule on any family law topic. Quote and cite the first sentence of this rule.

d. What is the name of the regional reporter that contains the court opinions of the highest state court in your state?

e. How many West digests contain small paragraph summaries of the opinions of your state courts? Name each one.

f. Go to the “Descriptive Word Index” of any digest covering your state courts. List any three key topics and numbers on divorce.

g. Go to one of the three key topics and numbers in the main volumes of your digest. Under that key topic and number, find one case written within the last ten years by a state court of your state. What is the citation of this case? What key topics and numbers did you find it digested under?

h. Go to the reporter volume that contains the case you identified in question (g). What is the name of the court that wrote this opinion? Quote and cite the first line of the opinion.

i. What is the name of the legal newspaper most practitioners rely on in your state? In a recent issue of this newspaper, find any reference to a family law topic or case. Quote from and cite the reference.

j. Go to *American Jurisprudence, 2d*. Use the index volumes to find any topic on divorce. What topic did you select? Find that topic in the main volumes of *Am. Jur. 2d*. Quote and cite the first line of that topic in the encyclopedia.

k. In the footnotes for the topic you selected in *Am. Jur. 2d*, find a citation to an opinion written by a state court of your state. (Be sure to check the pocket part for the volume you are using.) If you cannot find such an opinion, pick another divorce topic until you can. What is the citation of the opinion?

l. Go to *Corpus Juris Secundum*. Use the index volumes to find any topic on divorce. What topic did you select? Find that topic in the main volumes of *C.J.S.*. Quote and cite the first line of that topic in the encyclopedia.

continued
m. In the footnotes for the topic you selected in C.J.S., find a citation to a court opinion written by a state court of your state. (Be sure to check the pocket part for the volume you are using.) If you cannot find such an opinion, pick another divorce topic until you can. What is the citation of the opinion?

n. Use the card or computer catalog to find any legal treatise that covers the law of your state alone. Go to the index in that treatise to find a discussion of any family law topic of your state. Quote and cite the first sentence of this discussion. If the legal treatise you selected does not cover the family law of your state, pick another treatise.

o. Find a legal periodical article that meets the following criteria: it covers a family law topic, and the name of your state appears in the title of the article. Quote and cite the first sentence of this article. If the legal periodical you selected does not cover the family law of your state, pick another periodical.

p. Go to the Index to Annotations. Use it to find any annotation on any family law topic in A.L.R., A.L.R.2d, A.L.R.3d, A.L.R.4th, A.L.R.5th, or A.L.R. Fed. Go to this annotation. Find a reference in the annotation to any court opinion written by a court of your state. What is the citation of the annotation? What is the citation of the court opinion you found in the annotation? If the annotation you select does not cite an opinion from your state, pick another annotation from the Index to Annotations.

q. Go to the "Martindale-Hubbell Law Digest" volume of Martindale-Hubbell Law Directory. Find the summary for your state. Find a discussion of any family law topic. Quote and cite the first sentence of this discussion.

r. Go to the legal dictionary, Words and Phrases. Look up the definition of one of the following words: adultery, antenuptial, domicile, joint custody, or alimony. Find a definition written by a state court of your state. What word did you select? What is the definition? What is the citation of the opinion from which this definition is taken?

Family Law Online

It is now possible to obtain a great deal of online information that is relevant to a family law practice. In addition to research into court opinions, statutes, and other primary authorities, a law firm often must do factual research. An example of factual research is to try to uncover personal and business assets that an estranged spouse may be trying to hide.

Three major commercial online databases, for which the firm pays a subscription fee, are WESTLAW, Lexis-Nexis, and Loislaw. In addition, you can obtain a great deal of information on the Internet through the World Wide Web. Most of it is free once you have the basic connection to the Internet. Greater caution is needed, however, when using information found on the Internet. Unlike the commercial database services, the Internet is not regulated or monitored. Consequently, you cannot have the same assurance as to the accuracy of materials obtained from Internet sites that you can for those obtained from the commercial services or, indeed, from traditional bound volumes. Nevertheless, the vast resources of the Internet are useful as starting points. Exhibit 1.11 presents the home pages of four sites of particular interest to a family law office.

Here is a list of additional relevant Internet addresses. Most of these sites consist of comprehensive links to other sites that will lead you to:

- family laws of particular states,
- practicing family law attorneys, and
- resources on the emotional dimension of many family law legal problems
At the end of each chapter in this book, you will find a list of Internet sites that are specifically related to the subject matter of particular chapters.

Finally, here are some additional sites that will provide extensive links (except where indicated in brackets):

About Divorce Support: Legalities
http://divorcesupport.about.com/cs/legalities/index.htm

American Bar Association: Family Law Quarterly
http://www.abanet.org/family/familylaw/home.html
[abstracts of scholarly articles on family law; links to good tables on state law]
CataLaw: Family and Juvenile Law
http://www.catalaw.com/topics/Family.shtml
Cornell Legal Information Institute (Divorce)
http://www.law.cornell.edu/topics/Table_Divorce.htm
Divorce Law Information
http://www.divorceinfo.com
[online advice]
Divorce Magazine
http://www.divorce.com
[magazine on emotional and legal issues involving divorce]
DivorceNet
http://www.divorcenet.com
[resource for finding family law attorneys in every state; interactive bulletin boards on divorce issues]
Electronic Reference Desk (Emory): Family Law
http://www.law.emory.edu/LAW/refdesk/subject/family.html
Find Forms: Legal Forms Search Engine
http://www.findforms.com
[covers approved forms for many states in family law and other areas of the law]
FindLaw: Family Law
http://www.findlaw.com/01topics/15family/index.html
Galaxy: Family Law Links
Georgetown Law Library: Family Law Links
http://www.ll.georgetown.edu/lr/rs/family.html
Hieros Gamos: Family Law
http://www.hg.org/family.html
Jurist: Law Guides: Family Law
http://jurist.law.pitt.edu/sg_fam.htm
[law professors teaching family law; family law resources]
LLRX (Law Library Resource Exchange): International Family Law
http://www.llrx.com/features/int_fam.htm
Megalaw: Family Law Links
My Counsel
http://www.mycounsel.com/content/familylaw
SplitUp
http://www.split-up.com
[emotional and legal issues of divorce]
United States Census Bureau
http://www.census.gov
[statistics on marriages, divorces, etc.]

**ASSIGNMENT 1.4**

**a.** Is your state statutory code on the Internet? If so, give its address (uniform resource locator or URL) and quote from any statute on this site that covers divorce.

**b.** Try to find the Internet address of the Web site of any law firm in your state that handles family law cases. If you cannot find one, select a neighboring state.
c. What adoption resources specifically geared to your state are on the Internet? Select any three, give their addresses, and describe their services.

d. Go to the main site for your state government and your county government. On these sites, how many state or county government agencies can you find that have authority over some aspect of child support? Pick any three, give their addresses, and describe their function. Be sure to include the major statewide agency responsible for child support.

SUMMARY

Family law defines relationships, rights, and duties in the formation, duration, and dissolution of marriage and other family units. Some of the major trends in the development of family law are the equality of the sexes, the federalization of family law, the increase in the role of contracts, the need for new laws to respond to scientific advances in childbearing, and the expansion of the family law rights of gays and lesbians. Someone working in a family law practice may encounter legal problems in a wide variety of areas in addition to basic family law. These other areas include criminal law, contract law, corporate and business law, real estate and property law, tort law, civil procedure law, evidence law, juvenile law, tax law, and estate law. Paralegals in family law perform many functions such as interviewing clients, drafting temporary orders and other court pleadings, preparing financial statements, preparing clients and witnesses for hearings and trials, maintaining the files, and assisting in discovery and trial. Because the cases handled in a family law practice can be emotionally charged, the need for professionalism and objectivity is clear, particularly if the office is representing a client who has done something that clashes with a worker's personal values. Do not give legal advice to friends and relatives who are seeking answers to legal questions concerning the facts of their specific legal problems. Violence is a concern in family law. Perhaps more than in any other area of law practice, there is a potential for violence among family members, and sometimes between defendant and opposing counsel.

Because family law is constantly changing, anyone working in this area must know how to keep current. The main resource for doing so is primary sources in traditional law books and online. The six most important legal publications for the family law practitioner are the state statutory code, court rules, court opinions, digests, practice manuals, and legal newspapers. There are two main ways to begin your research task. First, go directly to the primary sources, such as the statutory code (through their indexes), and the reporter volumes (through digests). You can also access these sources through computer databases such as WESTLAW, Lexis-Nexis, and Loislaw. Second, you could start with some of the main secondary sources, such as legal encyclopedias, legal treatises, legal periodicals, and annotations in the A.L.R. series. A great deal of information relevant to a family law practice is available online from commercial, fee-based services and from free sites on the Internet through the World Wide Web.

KEY CHAPTER TERMINOLOGY

family law
holding
common law
interrogatories
bias
objectivity
conflict of interest
primary authority

secondary authority
statutory code
court rules
court opinion
reporters
digest
practice manual
legal newspaper

legal encyclopedia
legal treatise
legal periodical
annotation
online
Internet
World Wide Web