

Contents

<i>Table of Cases</i>	xv
<i>Introduction to the Paperback Edition</i>	xxi
<i>Introduction</i>	1
1. FRIENDSHIP, MARRIAGE-LIKE RELATIONSHIPS, AND INFORMAL MARRIAGE	10
Introduction	10
Contract Cohabitation	11
Registered Domestic Partnership	17
Informal Marriage	23
Common Law Marriage and De Facto Marriage	23
Procedural Marriage and Other Informal Marriages for Limited Purposes	27
Putative Marriage and Marriage by Estoppel	29
Prenuptial Agreements	30
2. MARRIAGE	35
Introduction	35
The State's Role in Establishing the Marriage Relationship	37
Freedom to Marry as a Fundamental Human Right	38
The State's Efforts to Limit Marriage	40
Annulment	42
Age	45
Prisoner's Marriage	46
Mental Competence	47
Incestuous Marriage	48
Sex	52
Transsexualism	52
Same Sex	53
Number (Bigamy)	58
Maintaining the Marriage Relationship: From Inequality to Equality in Marriage	60
Property Ownership and Control	62
Regulating the Marriage through Private Contracts:	
Postnuptial Agreements	65
Interspousal Immunity	65
Personal Safety	67
Privacy, Equality, and Autonomy: Sexual Intimacy in Marriage	69

Sexual Intimacy Outside of Marriage	72
Individual Rights and Equality in Marriage	75
3. DIVORCE	76
Introduction	76
Divorce Procedure	78
Fault	78
Residency	80
No-Fault Divorce	82
Distribution of Economic Resources	86
Property Distribution	87
Alimony	94
Child Support	99
Child Custody	102
Judicial Discretion and Codification	102
The Primary Caretaker Preference	104
The Best Interests of the Child	106
The Lawyer for the Child and the Guardian ad Litem	108
A Child-Focused Inquiry	109
Alternative Custodial Dispositions	111
Joint or Shared Custody	111
Continuity of a Relationship with Both Parents: Relocation	113
Unilateral Removal of the Child from the Jurisdiction	117
Continuity of a Relationship with Others	118
Divorce and Decision-Making	123
Summary Dissolution	123
Summary Process and Divorce by Registration	124
Mediation	125
The Future of Divorce	128
4. CHILD PROTECTION	131
Introduction	131
The Concept of Punishment	133
The Definition of Child Abuse	137
The Role of the Federal Government	139
Model Mandatory Child Abuse Reporting Statute	140
Other Model Acts	143
Child Abuse Prevention and Treatment Act of 1974	144
The Adoption Assistance and Child Welfare Act of 1980	145
Adoption and Safe Families Act of 1997	146
Child Protection Process	147
DeShaney <i>v.</i> Winnebago County Department of Social Services	149
Following <i>DeShaney</i>	151

	<i>Contents</i>	xiii
5. ADOPTION		153
Introduction		153
Voluntary System		157
The Role of Personal Autonomy		157
Independent and Agency Adoptions		158
Surrogacy		161
Open Adoption: Visitation Rights for Birth Parents		167
Open Adoption: Access to Adoption Records		168
Placement		171
Step-parent and Second Parent Adoptions		174
Involuntary System		176
The Role of the Federal Government and the Absence of Personal Autonomy		176
Placement		179
Open Adoption		180
The Future of Adoption		181
Appendix		183
Uniform Marriage and Divorce Act		185
Uniform Pre-Marital Agreement Act		201
Uniform Parentage Act		204
Uniform Putative and Unknown Fathers Act		225
Uniform Child Custody Jurisdiction Act		230
Uniform Child Custody Jurisdiction and Enforcement Act		240
Parental Kidnapping Prevention Act		258
 <i>Index</i>		 261