



**DALHOUSIE
UNIVERSITY**

SCHULICH SCHOOL OF LAW

FAMILY LAW

Fall 2018

LAWS 2210 (4 credits)

Professor Jodi Lazare

SYLLABUS

Mondays 9:30-11:30 AM Room 105

Wednesdays 9:30-11:30 AM Room 105

Email: jodi.lazare@dal.ca

Office Hours: Wednesday 1:00-3:00 PM or by appointment. (Note that, as a general matter, substantive questions are best dealt with in person, rather than by email.)

Office: 426

COURSE DESCRIPTION

This is an introductory survey of the basic procedural and substantive elements of the law as it affects families. It covers the basic principles of constitutional jurisdiction over the family and family courts, followed by a series of family law topics, in the order that they are typically resolved between spouses, partners, or parents. These include: marriage and domestic partnerships; separation; divorce; parenting; adoption; family violence; division of property; child support, and; spousal support.

REQUIRED MATERIALS

Family Law Casebook (Thompson & Chewter) and a *Statutory Supplement* 2018-2019, posted to Brightspace, plus occasional articles and cases posted on Brightspace. I will advise you when I post additional materials.

PEDAGOGICAL APPROACH

The course will consist of a blend of lectures, in-class discussions, and problem-based learning exercises. The approach to classroom interaction is based on the assumption that students have done the readings assigned for the day.

We will do four problems, which will be posted on Brightspace, at the beginning of our coverage of the relevant topic. (For example, the problem on Relocation will be posted prior to Class 5, when we will start looking at Parenting/Custody; the problem on Division of Property, prior to class 9.)

CLASSROOM ENVIRONMENT

We will discuss some challenging subjects. Accordingly, the course is premised on the understanding that we all come to class with a variety of experiences and various levels of familiarity with the different subjects covered. As such, please keep in mind the following principles (borrowed and adapted from Professor Tracey Lindberg at the University of Ottawa):

1. We have the right to make kind mistakes. We will make mistakes and it is our responsibility to be as informed as possible when we get to class in order that our mistake is kind.
2. It actually does hurt us, as humans, to hear stereotypes, generalizations and negative understandings about one's race, gender or subject position. While we can all make kind mistakes, let us also be fully informed and gentle as we are talking about other people in the room.
3. You have the right to ask any question. While you are encouraged to speak freely, if you are shy or uncomfortable, please write it down and I will answer it during / as part of a lecture.
4. The goal of these principles is to acknowledge that we have continuing relationships with each other. These relationships must be respectful and reciprocal in order for us to share space and ideas (inside the classroom and out).

EVALUATION

Final exam worth 100%.

The exam is closed-book, with the exception of the Statutory Supplement, which may be highlighted and/or underlined and tabbed, with each tab containing no more than five words, and referring only to other parts of the Statutory Supplement. No marginal annotations or notes are permitted.

The exam will take place on **Monday, December 10, 2018**.

COMMUNICATION

I will communicate with the class via BrightSpace 'Announcements' and email to students' Dalhousie accounts. Students are deemed to have received all email sent to their official university addresses.

As stated above, substantive questions are best answered in person, and not by email. I am happy to answer questions after class, during my office hours, or at a mutually convenient time if you cannot make it to my office hours.

ACCOMMODATION

Requests for special accommodation for reasons such as illness, injury or family emergency will require an application to the Law School Studies Committee. Such requests (for example, for assignment extensions) must be made to Associate Dean, Academic Michael Deturbide or the Director of Student Services and Engagement Dana-Lyn Mackenzie as soon as possible, before a scheduled exam or a deadline for an assignment, and will generally require documentation. Retroactive accommodation will not be provided. Please note that individual professors cannot entertain accommodation requests.

Students may request accommodation for either classroom participation or the writing of tests and exams due to barriers related to disability, religious obligation, or any characteristic under the Nova Scotia *Human Rights Act*. Students who require such accommodation must make their request to the Advising and Access Services Center (AASC) at the outset of the regular academic year. Please visit www.dal.ca/access for more information and to obtain the Request for Accommodation – Form A. Students may also contact the Advising and Access Services Centre directly at (902) 494-2836.

PLAGIARISM

All students must read the University policies on plagiarism and academic honesty <http://academicintegrity.dal.ca/> and the Law School policy on plagiarism <http://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>. Any paper or assignment submitted by a student at the Schulich School of Law may be checked for originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree. It is essential that there be correct attribution of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above and should consult with the instructor if they have any questions. Ignorance of the policies on plagiarism will not excuse any violation of those policies.

COURSE SCHEDULE*†

Class no. / Date	Topic	Reading
<u>Class 1</u> Wednesday, Sept. 5	Introduction; Legal Regulation of the Family; Constitutional Issues	Preface; Chapter I; Chapter II
<u>Class 2</u> Monday, Sept. 10	Marriage; Domestic Contracts	Chapter III; Chapter IV pp. 1, 13-16, 23-25. Stat Supp: <i>Judicature Act; Family Court Act; Solemnization of Marriage Act; Civil Marriage Act; Marriage (Prohibited Degrees) Act.</i>
<u>Class 3</u> Wednesday, Sept. 12	Separation; Negotiation; Consensual (Alternative) Dispute Resolution; Separation Agreements	Chapter IV pp. 17-23 Handout: <i>Rick v Brandsema</i>
<u>Class 4</u> Monday, Sept. 17	Divorce	Chapter V Stat Supp: <i>Divorce Act, Civil Procedure Rule 59 & forms; Family Division Practice Memo</i>
<u>Class 5</u> Wednesday, Sept. 19	Custody/Parenting I <ul style="list-style-type: none"> • Overview/Basics 	Chapter VI pp. 1-32, 42-45 Stat Supp: <i>Parenting and Support Act</i>

* I am grateful to Professors Rollie Thompson and Cynthia Chewter for their assistance in creating this schedule.

† Schedule is subject to change as the semester unfolds.

<p><u>Class 6</u> Monday, Sept. 24</p>	<p>Custody/Parenting II</p> <ul style="list-style-type: none"> • Relocation <p>Problem: Relocation</p>	<p>Chapter VI pp. 46-82</p> <p>Stat Supp: <i>Liberty of the Subject Act</i>; <i>Criminal Code</i>, ss 280-286</p> <p>Handout: <i>BC Family Law Act</i></p>
<p><u>Class 7</u> Wednesday, Sept. 26</p>	<p>Custody/Parenting III</p> <ul style="list-style-type: none"> • Access; • Variation; • Appeals <p>Adoption</p>	<p>Chapter VI, pp. 83-111</p> <p>Chapter XI</p> <p>Stat Supp: <i>Child and Family Services Act</i>, ss 67-87 (on adoption); <i>Civil Procedure Rules</i> 60A & 61</p>
<p><u>Class 8</u> Monday, Oct. 1</p> <p>Guest: Prof. Cynthia Chewter</p>	<p>Domestic Violence</p>	<p>Chapter IV pp. 2-12; Chapter VI pp. 33-41</p> <p>Stat Supp: <i>Criminal Code</i> ss.810-11; <i>Domestic Violence Intervention Act</i></p>
<p>*Please note: Professor Chewter will play audio associated with an incident of domestic violence. Students are free to discreetly arrive after the audio, five minutes after the usual start time.</p>		
<p><u>Class 9</u> Wednesday, Oct. 3</p>	<p>Division of Property I</p> <ul style="list-style-type: none"> • Overview/Basics 	<p>Chapter VII pp. 1-31, 107-112</p> <p>Stat Supp: <i>Matrimonial Property Act</i></p>
<p>***Monday, Oct. 8 – Thanksgiving – No class***</p>		

<p><u>Class 10</u> Wednesday, Oct. 10</p>	<p>Division of Property II</p> <ul style="list-style-type: none"> • Pensions 	<p>Chapter VII pp. 32-47</p> <p>Stat Supp: <i>Pension Benefits Act & Regs; Pension Benefits Standards Act; Pension Benefits Division Act</i></p> <p>Handout: CPP</p>
<p><u>Class 11</u> Monday, Oct. 15</p>	<p>Division of Property III</p> <ul style="list-style-type: none"> • Business Assets; • Debts; • Unequal Division of Property 	<p>Chapter VII pp. 48-80</p>
<p>***Wednesday, Oct. 17 – Class cancelled***</p>		
<p><u>Class 12</u> Monday, Oct. 22</p>	<p>Division of Property IV</p> <ul style="list-style-type: none"> • Common Law Partners 	<p>Chapter VII pp 81-107, (review pp 107-112)</p> <p>Stat Supp: <i>Vital Statistics Act, Regs, Forms</i></p>
<p><u>Class 13</u> Wednesday, Oct. 24</p>	<p>Problem: Division of Property</p>	<p>N/A</p>
<p><u>Class 14</u> Monday, Oct. 29</p>	<p>Child Support I</p> <ul style="list-style-type: none"> • Overview/Basics; • Income; • Tables 	<p>Chapter VIII pp 1-28</p> <p>Stat Supp: <i>Parenting and Support Act; Provincial Child Support Guidelines; Administrative Recalculation of Child Support Regulations; Federal Child Support Guidelines and Tables</i></p>

<u>Class 15</u> Wednesday, Oct. 31	Child Support II <ul style="list-style-type: none"> • Section 7 (Special) Expenses; • Split Custody • Shared Custody; • Undue Hardship 	Chapter VIII pp 29-69
<u>Class 15</u> Monday, Nov. 5	Child Support III <ul style="list-style-type: none"> • High-Income Parents; • Support for Adult Children; • <i>In Loco Parentis</i> (step-parents) 	Chapter VIII pp 70-107
<u>Class 16</u> Wednesday, Nov. 7	Child Support IV <ul style="list-style-type: none"> • Contracting Out; • Variation; • Retroactive Support; • Enforcement 	Chapter VIII pp 108-136 Stat Supp: <i>Maintenance And Enforcement Act</i>
November 12 & 14 – Reading week – No class		
<u>Class 17</u> Monday, Nov. 19	Problem: Child Support	N/A
<u>Class 18</u> Wednesday, Nov. 21	Spousal Support I <ul style="list-style-type: none"> • Entitlement 	Chapter IX pp 1-48 Stat Supp: (Review re. spousal support) <i>Divorce Act; Parenting and Support Act</i>
<u>Class 19</u> Monday, Nov. 26	Spousal Support II <ul style="list-style-type: none"> • <i>The Spousal Support Advisory Guidelines (SSAG)</i> 	Chapter IX pp 49-75 Handout: <i>SSAG</i> breakdown

<p><u>Class 20</u> Wednesday, Nov. 28</p>	<p>Spousal Support III</p> <ul style="list-style-type: none"> • Variation; • Review; • Retroactive Support; • Support Agreements <p>Tax & Income Assistance</p>	<p>Chapter IX pp 76-120</p> <p>Chapter XII</p>
<p><u>Class 21</u> Monday, Dec. 3</p>	<p>Problem: Spousal Support</p>	<p>N/A</p>