

Family Law II

Law 643 (2:00 to 3:30, M & W)

Professor Michael J. Broyde

- **Textbook:** LESLIE J. HARRIS AND LEE E. TEITELBAUM, *CHILDREN, PARENTS, AND THE LAW* (2d ed. 2007).
- **Additional Reading:** Supplement

The United States Census Bureau estimates that in 2000 there were over 281 million people living in the United States.¹ Nearly 72.3 million of those counted were under the age of 18 years old.² Approximately one in every four Americans is a child.³ Like adults, children fall under the jurisdiction of both federal and state law. However, understanding how the law governs children is a unique and fascinating study in federalism, paternalism, and democracy. Exploration into the world of children and the law warrants a closer inspection than currently offered in Family Law I. Overall, the voice of the child remains reticent in Family Law I and as such demands an independent forum in which children and the law could be analyzed. Family Law II is that course.

According to the National Vital Statistics Report, there were 4,143,000 children born in the United States in 2005.⁴ When do children begin to have rights? What are the constructs of these rights? Where do they derive and how are they afforded protection? What rights do parents have over their children and from where do these rights surface? What interest does the state have in children and what are its limits? This is where the discussion of children and the law begins. Whose rights triumph when the interests of the state conflict with those of the parent? What boundaries does the Constitution provide? What rights does the common law grant to parents? To children? To the state? These are just some of the questions that Family Law II will begin to address.

What will be covered? This course will consist of four units: (1) Parent, Child, and State: Rights and Interests; (2) Juvenile Courts and Delinquency; (3) Child Abuse and Neglect; and (4) Child in the International Arena.

I DO RECOGNIZE THAT THE READINGS ARE SOMETIMES TOO LARGE FOR THE SINGLE CLASS THEY ARE BUDGETED FOR, AND THAT IS WHY WE HAVE FOUR CLASSES LABELED “BREATHING ROOM” AND A MAKE-UP DAY IF NEEDED. FALLING BEHIND IS EXPECTED.

My office is in G315 in the Center for the Study of Law and Religion suite, and my office hours are Monday from 12:00 to 1:30 pm and Tuesday and Thursday from 10 am to noon. My office telephone number is 404-727-7546, my cell phone number is 917-208-5011, and my email address is mbroyde@law.emory.edu. For an urgent matter, you may call me at home at 404-728-9117.

The examination will be a five hour take home examination on Monday, April 28, 2008 at 9:00 a.m. Class participation can be a component of one’s final grade.

¹ POPULATION DIV., U.S. CENSUS BUREAU, ANNUAL ESTIMATES OF THE POPULATION FOR THE UNITED STATES AND STATES, AND FOR PUERTO RICO: APRIL 1, 2000 TO JULY 1, 2005 (NST-EST2005-01) *available at* <http://www.census.gov/popest/states/NST-ann-est.html> (last visited November 29, 2006).

² POPULATION DIV., U.S. CENSUS BUREAU, ANNUAL ESTIMATES OF THE POPULATION BY SELECTED AGE GROUPS AND SEX FOR THE UNITED STATES: APRIL 1, 2000 TO JULY 1, 2005 (NC-EST2005-02) *available at* <http://www.census.gov/popest/national/asrh/NC-EST2005-sa.html> (last visited November 29, 2006).

³ At common law, a “child” was a person who had not reached the age of 14. BLACK’S LAW DICTIONARY 232 (8th ed. 2004). For the purposes of this discussion, “child” means a person under the age of 18 years old.

⁴ Nat’l Ctr. for Health Stat., U.S. Dept. of Health and Hum. Services, *Births, Marriages, Divorces, and Deaths: Provisional Data for 2005*, 54 NAT’L VITAL STAT. REP. 20, *available at* http://www.cdc.gov/nchs/data/nvsr/nvsr54/nvsr54_20.pdf (last visited November 29, 2006).

Syllabus for Family Law II

REVISED

Date	Reading	Topic	Problems
Class 1: Jan. 7	CB pp. 3–39	Introduction and the Child’s “Right” to Education	Pages 23–24, 34, and 38–39
Class 2: Jan. 9	CB pp. 39–64	Parental Authority and the Right to Education	Page 64
Class 3: Jan. 14	CB pp. 64–111	The Public School Curriculum	Pages 71–72, 83
Class 4: Jan. 16	CB pp. 113–162	Autonomy Claims—The Speech Rights of Minors	Pages 144. 152–153
Jan. 21 – MLK HOLIDAY			
Class 5: Jan. 23	CB pp. 162–201	Autonomy Claims—Reproductive Decision-making	Pages 177, 190–191
Class 6, Jan. 28	<i>No readings</i>	<i>Breathing room</i>	
Class 7, Jan. 30	Supplement 23–30	Statutory Rape and the Adolescent	
Class 8, Feb. 4	CB pp. 203–236	Medical Care—the Constitution and the State	Pages 235–236
Class 9, Feb. 6	CB pp. 236–269	Medical Care—Adolescences and Infants	Page 244
Class 10, Feb. 11	CB pp. 273–367	Juvenile Court Theory and Jurisdiction	Pages 315, 338, 366
Class 11: Feb. 13	CB pp. 367–401	Where do minors belong?	Pages 397–398
Class 12: Feb. 18	<i>No readings</i>	<i>Breathing room</i>	
Class 13: Feb 20	CB pp. 403–478	The Juvenile Court I: Investigation and Pretrial Process	Pages 418–420, 456
Class 14: Feb. 25	CB pp. 479–499	The Juvenile Court II: Adjunction	No Problems
Class 15: Feb. 27	CB pp. 499–540	The Juvenile Court III: Disposition	Page 508
Class 16: Mar. 3	CB pp. 541–572	The Juvenile Court IV: Counsel for Children & Parents	Pages 566–572
Class 17: Mar. 5	<i>No readings</i>	<i>Breathing Room</i>	
Class 18: Mar. 17	CB pp. 575–627	What is “Child Abuse”?	All the problems
Class 19: Mar. 19	CB pp. 629–661	The Child Welfare System I	Pages 652–653
Class 20: Mar. 24	CB pp. 661–715	The Child Welfare System II	Pages 685–686
Class 21: Mar. 26	CB pp. 717–749	Criminal Prosecution of Child Abuse and Neglect	Page 726
Class 22: Mar. 31	<i>No readings</i>	<i>Breathing Room</i>	
Class 23: Apr. 2	Supplement 2–22	United Nations Convention on the Rights of the Child; Child Labor Law	
Class 24: Apr. 7	Supplement 31–61	International Law Issues: General Issues	
Class 25: Apr. 9	TBA	International Law Issues: Returning Kidnapped Children	
Class 26: Apr. 14	No Readings	Conclusion	
Class 27: Apr. 16	<i>No Readings</i>	<i>Make-up Day</i>	
Apr. 21 – NO CLASS			