1. **Course Materials**: The book for the course is D. Kelly Weisberg and Susan Freligh Appleton, *Modern Family Law: Cases and Materials* (1998). I have prepared additional materials, which are available in the Records Office or which can be downloaded; these are referred to on the syllabus as the “Cahn Supplement.” For those of you who would like to do additional reading on family law, I recommend *Family Matters* (Martha Minow ed. 1993), which is an interdisciplinary collection of materials, including fiction and law review articles, for basic backgrounds on family law, you may want to consult *Domestic Relations Law* by Homer Clark (West, 2d ed. 1988), which is the standard (although somewhat dated) treatise on family law; and *Family Law: Essential Terms and Concepts* by Randy Kandel (2000) or *Understanding Family Law* by John De Witt Gregory, Peter Swisher, and Sheryl Scheible (1993), which are guides to family law.

2. **Professor's Office Hours**: My e-mail address is ncahn@main.nlc.gwu.edu. My office hours will be on Wednesday from 12:50 p.m. - 2:30 p.m. in Old Main (1922 F Street, NW), Room 403. Because many of you are not at the school during the day, please feel free to call me if you would like to schedule an appointment for another time. I can be reached at (202) 994-6025. I invite any student who wants to discuss further any issues that we have (or have not) discussed in class to speak with me after class or to set up another time to talk. You can also access information through your e-mail log-in system.

3. **Requirements for the course**:

   a. **Class participation**: I expect everyone to prepare for class, to attend, and to participate regularly. Where there are problems in the casebook, please think carefully about your answers. I encourage each of you to view this class as a seminar and as an opportunity for you to discuss your thoughts on the readings. We will be focusing on the policy rationales underlying the cases, as well as on images of men, women, and the family.

      In order to stimulate class discussion, I plan to use a volunteer system and many small-group exercises. If, however, after a few weeks, this system is ineffective, I will change the class participation system. Moreover, students who recurrently miss class without excuse will not be permitted to take the final examination.

      Class participation can affect your grade positively or negatively; it can raise or lower your grade by one grade step (e.g., from B to B+).

   b. **Exam**: There will be a take-home, open book exam on Thursday, December 13. I will distribute additional instructions as the exam date approaches.
I. Private Family Choices: Constitutional Protection for the Family and Its Members

A. Evolution of the Right to Privacy
   1. The Birth of Privacy
      a. Meanings of Privacy
      b. Griswold v. Connecticut
         Eisenstadt v. Baird
      c. Roots of Privacy
         Meyer v. Nebraska
         Pierce v. Society of Sisters
         Troxel v. Granville

B. The Limits of Privacy
   1. Privacy versus Morality
      Bowers v. Hardwick

C. When Privacy Rights Conflict
   1. Wives and Husbands
      Planned Parenthood of Southeastern Pennsylvania v. Casey
   2. Children and Parents
      Hodgson v. Minnesota

II. Getting Married

A. Premarital Contracts
   Simeone v. Simeone
   In re Marriage of Greenwald

B. Getting Married: Substantive and Procedural Regulations
   1. Constitutional Limits on State Regulation of Entry into Marriage
      Loving v. Virginia
      Zablocki v. Redhail
      Turner v. Safley
      Wisconsin v. Oakley
   2. State Regulation of Entry into the Marital Relationship
      170, 181-211; Supp. pp. 25-50
      a. Substantive Restrictions
         (i) Capacity to Marry
            (1) Same Sex
               Baker v. Vermont
            (2) Incest
               State of Missouri ex rel. Miesner v. Geile
               Note: Void verses Voidable Distinction
            (3) Bigamy
               Potter v. Murray City
               Prosecution of Tom Green
III. Being Married: Regulation of the Intact Marriage

A. Introduction: The Changing Nature of Marriage
   241
   241-248

B. Roles and Responsibilities in Marriage
   248-263, 285-293
   1. The Common Law View
   2. Marital Property Regimes
   3. Duty of Support
      McGuire v. McGuire
   4. Parenting
      a. Pregnancy Leave
         Cleveland Board of Education v. LaFleur
   5. Domestic Violence: Wife Beating
      357-361, Supp. pp. 57-96

IV. Alternative Families

A. The Extended Family
   Moore v. City of East Cleveland
   408-416

B. Cohabitation: Unmarried Couples
   416-418, 423-445
   1. Introduction
   2. Unmarried Couples’ Rights Inter Se
      Marvin v. Marvin
      Hewitt v. Hewitt

C. Parents’ and Children’s Rights in the Nonmarital Family
   505-534
   1. Support Rights of Nonmarital Children
      Clark v. Jeter
      In re L. Pamela P. v. Frank S.
   2. Limitations on Unmarried Parents’ Rights
      Stanley v. Illinois
      Michael H. v. Gerald D.

V. Divorce

A. Introduction
   535-541
   1. Divorce as a Historical Phenomenon
   2. Divorce as a Social Phenomenon

B. Fault-Based Grounds for Divorce
   542-557
   1. Adultery
      Lickle v. Lickle
   2. Cruelty
      Muhammad v. Muhammad
   3. Desertion
Reid v. Reid

C. Fault-Based Defenses 557-564
   1. Recrimination
      Parker v. Parker
   2. Condonation
      Haymes v. Haymes

D. No-Fault Divorce 564-590, Supp. pp. 100-101, 139-153
   1. Divorce Reform
   2. Legal Problems Raised by No-Fault Divorce
      a. What Is No Fault?
         In re Marriage of McKim
         Nieters v. Nieters
         Bennington v. Bennington
      b. What Role for Fault?
         Twyman v. Twyman
   3. Assessment of the No-Fault “Revolution”
      a. Divorce Reform in the United States
      b. Divorce Reform: The Comparative Law Perspective

E. Access to Divorce 590-597
   1. Economic Obstacles
      Boddie v. Connecticut

F. The Role of Counsel 608-613, 616-623
   1. Emotional Aspects of Divorce
   2. Conflicts of Interest

G. Divorce Jurisdiction 629-646
   1. Over the Plaintiff and Defendant
      In re Marriage of Kimura
   2. Durational Residency Requirements
      Sosna v. Iowa
   3. Domestic Relations Exception to Diversity Jurisdiction
      Ankenbrandt v. Ankenbrandt

VI. Financial Consequences of Dissolution 649
A. Introduction: The Demise of Fault? 650-653
B. Property Distribution: From Title Theory to Contribution 654-667, Supp. p. 103, 154

   Ferguson v. Ferguson
   Uniform Marriage and Divorce Act §307
   American Law Institute, Principles of the Law of Family Dissolution: Analysis and Recommendations §4.18

C. Spousal Support: Theories of Need, Self-Sufficiency, and Beyond 666-677, 704-729, Supp. pp. 112
Uniform Marriage and Divorce Act §308
American Law Institute, Principles of the Law of Family Dissolution: Analysis and Recommendations §5.05

a. Pensions and Employee Benefits
   Cohen v. Cohen

b. Investments in a Spouse’s Future Success:
   Degrees, Earning Capacity, and Goodwill
   In re Marriage of Roberts

c. Taxation
   (i) Spousal Support
   (ii) Transfers of Property to Spouse
   (iii) Child Support
   (iv) Other Tax Considerations


1. Imposing Support Obligations: From Discretion to Guidelines
   Mehra v. Mehra
   Cassano v. Cassano

2. Postmajority Support
   Curtis v. Kline

3. Modification of Child Support
   a. Remarriage and New Families
      Feltman v. Feltman
   b. Employment Changes
      Antonelli v. Antonelli

E. Enforcement 755-784

1. Traditional Remedies: Contempt
   Hicks ex rel. Feiock v. Feiock

2. New Approaches: From Private to Public Responsibility
   a. Background
   b. Modern Remedies
      (i) Income Withholding
      (ii) Tax Refund Interceptions, Automatic Seizures, and Administrative Procedures
      (iii) License and Passport Suspension
   c. Evaluation: “Small Change?”

3. The Challenge of Multistate Cases
   a. Jurisdictional Limitations
      Kulko v. Superior Court
      Lozinski v. Lozinski
   b. Rethinking Jurisdiction and Enforcement: UIFSA
      Deltoro v. McMullen

F. Separation Agreements 787-797

1. The Policy of Favoring Settlement
   Uniform Marriage and Divorce Act §306
II. Child Custody

A. Introduction: Effects of Parental Divorce
   800-801

B. Parental Disputes Concerning Child Custody
   801-933, Supp. pp. 113-115

1. Standards for Selecting the Custodial Parent: What Should Be the Standard?
   a. Presumptions?
      (i) Tender Years Presumption
          Devine v. Devine
      (ii) Primary Caretaker Presumption
          Shearer v. Shearer
   b. Best Interests of the Child?
      (i) Introduction
          Uniform Marriage and Divorce Act §402
      (ii) Constitutional Factors
          (1) Race
              Palmore v. Sidoti
          (2) Religion
              Abbo v. Briskin
      (iii) Fitness
          (1) Sexual Orientation
              Tucker v. Tucker
          (2) Careers
              Rowe v. Franklin
          (3) Domestic Violence
              Dschaak v. Dschaak
              Note: Physical Disability
   c. Joint Custody: Presumption, Preference, or Option?
      Bell v. Bell

2. Standards Governing the Noncustodial Parent
   Visitation
   a. Restrictions on Visitation
      Hanke v. Hanke
   b. Denial of Visitation
      Turner v. Turner

3. Standards Governing Parent versus Non-Parent
   Disputes
   Painter v. Bannister
   Alison D. v. Virginia M.

4. The Role of Special Participants
   a. The Child’s Preference
      McMillen v. McMillen
   b. Representation for the Child
      Leary v. Leary
c. Role of Experts
   *In re Rebecca B.*

5. Modification
   a. Standard
      *In re Marriage of Rosenfeld*
   b. Relocation
      *Tropea v. Tropea*

6. Jurisdiction and Enforcement
   *Schwartz v. Schwartz*
   *California v. Superior Court (Smolin)*
   *In re Mendel*

C. What Process Should Govern Custody Disputes? 934-949
   1. The Adversary System versus Mediation Process
      *McLaughlin v. Supreme Court*
   2. Coin Flipping