

# TABLE OF CONTENTS

---

PREFACE .....	V
ACKNOWLEDGMENTS .....	IX
TABLE OF CASES .....	XXXVII
<b>Chapter 1. The Status, Rights, and Obligations of Children .....</b>	<b>1</b>
1. Childhood in America.....	1
A. Contemporary Conditions .....	1
Carnegie Council on Adolescent Development, Carnegie Corporation of New York.....	2
National Academies of Sciences, Engineering, and Medicine .....	2
Notes.....	5
Federal Interagency Forum on Child and Family Statistics, America's Children in Brief: Key National Indicators of Well- Being.....	8
Notes.....	9
B. The Vital Roles of Lawyers .....	13
Catherine J. Ross, Including Law in the Mix: The Role of Law, Lawyers, and Legal Training in Child Advocacy.....	13
C. Contemporary Juvenile and Family Court Systems .....	15
1. Juvenile Courts.....	15
2. Unified Family Courts.....	16
3. Problem-Solving Courts .....	17
2. The Law's Evolving Conception of Children's Status, Rights, and Obligations.....	18
A. The Status of Childhood: An Introduction.....	18
B. <i>Parens Patriae</i> , Parental Prerogatives, and the Child's Obligation to Obey .....	20
1. The Common Law Foundation .....	20
Douglas E. Abrams, A Very Special Place in Life: The History of Juvenile Justice in Missouri.....	20
Notes.....	22
Problem 1-1 .....	24
2. Developing the American Conception .....	25
a. The Traditional Roles of Parents and the Government ..	25
Meyer v. Nebraska.....	25
Pierce v. Society of Sisters.....	28
Note and Questions.....	30
b. Moving Toward "Children's Rights" .....	30
Prince v. Massachusetts .....	31
Notes and Questions .....	35
Problem 1-2 .....	36

	A Note on <i>Brown v. Board of Education</i> (1954) and <i>In re Gault</i> (1967).....	37
c.	<i>Tinker</i> : The High-Water Mark of Children's Rights.....	39
	<i>Tinker v. Des Moines Independent Community School District</i> .....	39
	Notes and Questions .....	46
	Problem 1-3 .....	49
d.	Retreating from <i>Tinker</i> .....	49
	<i>Morse v. Frederick</i> .....	50
	Notes and Questions .....	59
	A Note About the Fourth Amendment Search and Seizure and Drug-Testing Decisions.....	60
	Notes and Questions .....	62
	Problem 1-4 .....	64
	Problem 1-5 .....	65
	Problem 1-6 .....	66
e.	Reconciling Parents' Rights and Children's Rights .....	66
	<i>Troxel v. Granville</i> .....	66
	Notes and Questions .....	75
	Problem 1-7 .....	75
C.	May Children Articulate Their Own Interests? .....	76
1.	The General Question .....	76
	<i>Wisconsin v. Yoder</i> .....	76
	Notes and Questions.....	79
2.	The Mature Minor Doctrine.....	80
	<i>Bellotti v. Baird</i> .....	80
	Notes and Questions.....	86
D.	Non-Constitutional Influence .....	89
	<i>Endrew F. v. Douglas County School District RE-1</i> .....	90
	Notes and Questions .....	99
E.	An International-Law Basis for Children's Rights?.....	103
	United Nations Convention on the Rights of the Child .....	105
	Notes and Questions .....	111
3.	Perspectives on Children's Rights.....	113
	Michael S. Wald, Children's Rights: A Framework for Analysis .....	113
	Bruce C. Hafen, Children's Liberation and the New Egalitarianism: Some Reservations about Abandoning Youth to Their "Rights" ...	114
	Katherine Hunt Federle, Children, Curfews and the Constitution.....	116
	Barbara Bennett Woodhouse, Hatching the Egg: A Child-Centered Perspective on Parents' Rights .....	117
	David D. Meyer, The Modest Promise of Children's Relationship Rights .....	118
	Eugene Volokh, Parent-Child Speech and Child Custody Speech Restrictions .....	120
	Anne C. Dailey, Children's Constitutional Rights .....	120
	Note and Questions .....	122
	Problem 1-8.....	123

---

<b>Chapter 2. Defining the Child-Parent Relationship .....</b>	<b>125</b>
1. Establishing Paternity and Maternity.....	125
A. The Importance of Marriage .....	125
1. Historical Background on Children Born to Unmarried Parents .....	126
James Kent, <i>Commentaries on American Law</i> .....	126
Note .....	128
2. What's in a Name?: Surnames.....	128
3. Unmarried Parents: The Contemporary Context.....	129
a. "Illegitimacy" .....	129
June Carbone & Naomi Cahn, <i>The Triple System of Family Law</i> .....	130
Notes and Questions.....	132
b. Constitutional and Legislative Reform .....	133
i. Constitutional Reform .....	133
ii. Legislative Reform .....	134
c. Intestate Succession .....	135
d. Citizenship .....	136
e. Posthumous Parenthood.....	136
f. The Federal Response to Rising Nonmarital Birth Rates .....	138
Notes and Questions .....	139
B. Who Is a "Father"?.....	139
Michael H. v. Gerald D.....	142
Notes and Questions .....	149
Problem 2-1 .....	151
C. Who Is a "Mother"?.....	151
In re C.K.G.....	151
Notes and Questions .....	158
Problem 2-2 .....	159
2. Expanding the Concept of "Parent".....	159
A. Developing the Law.....	160
SooHoo v. Johnson.....	160
Notes and Questions .....	164
Wendy G-M. v. Erin G-M. ....	167
Questions .....	171
B. Parenthood: A Non-Exclusive Status? .....	171
Katharine T. Bartlett, <i>Rethinking Parenthood as an Exclusive Status: The Need for Legal Alternatives When the Premise of the Nuclear Family Has Failed</i> .....	171
Notes and Questions .....	173
Problem 2-3 .....	174
Problem 2-4 .....	175
Problem 2-5 .....	176
Problem 2-6 .....	177

---

3.	Guardianship .....	177
A.	Contested Guardianship .....	177
	Guardianship of Phillip B. ....	178
	Notes and Questions .....	186
B.	The Guardian's Role.....	188
	Meryl Schwartz, Reinventing Guardianship: Subsidized Guardianship, Foster Care, and Child Welfare.....	188
	Notes and Questions .....	190
	Problem 2-7 .....	192
4.	Emancipation: The Hastening of Adulthood .....	192
	In re Thomas C. ....	192
	Notes and Questions .....	196
	Calgaro v. St. Louis County .....	198
	Problem 2-8 .....	200
<b>Chapter 3. Representing Children .....</b>		<b>203</b>
1.	Introduction .....	203
	Leonard P. Edwards & Inger J. Sagatun, Who Speaks for the Child? .....	204
	Annette R. Appell, Children's Voice and Justice: Lawyering for Children in the Twenty-First Century .....	204
	Leonard P. Edwards, A Comprehensive Approach to the Representation of Children: The Child Advocacy Coordinating Council.....	206
	Notes .....	208
2.	Children's Abilities and Legal Disabilities .....	209
A.	Child Development Research.....	210
	Wallace J. Mlyniec, A Judge's Ethical Dilemma: Assessing a Child's Capacity to Choose.....	210
	Elizabeth S. Scott & Thomas Grisso, Developmental Incompetence, Due Process, and Juvenile Justice Policy .....	214
	Notes and Questions .....	217
B.	Interviewing Children.....	220
	Nancy W. Perry and Larry L. Teply, Interviewing, Counseling, and in Court Examination of Children: Practical Approaches .....	220
	Notes and Questions .....	223
C.	The Child's Right to Sue .....	224
	Kingsley v. Kingsley .....	225
	Notes and Questions .....	227
3.	The Role of the Child's Counsel.....	228
A.	Children's Ability to Advise Counsel.....	228
	Martin Guggenheim, A Paradigm for Determining the Role of Counsel for Children .....	229
	Katherine Hunt Federle, The Ethics of Empowerment: Rethinking the Role of Lawyers in Interviewing and Counseling the Child Client.....	230

---

Sarah H. Ramsey, Representation of the Child in Protection Proceedings: The Determination of Decision-Making Capacity.....	233
Jean Koh Peters, The Roles and Content of Best Interests in Client-Directed Lawyering for Children in Child Protective Proceedings .....	235
Questions .....	236
B. The Traditional Role of Children's Lawyers.....	237
Problem 3-1 .....	240
C. Counsel's Role in Abuse, Neglect, and Adoption Cases .....	240
Kenny A. ex rel. Winn v. Perdue .....	240
Notes and Questions .....	245
In re A.D.....	249
Notes and Questions .....	256
Problem 3-2 .....	259
A Note on Guidelines for Lawyers for Children in Maltreatment Cases.....	259
Problem 3-3 .....	260
A Note on the Child's Counsel in Adoption Proceedings .....	260
Jessica Feierman & Lauren Fine, Trauma and Resilience: A New Look at Legal Advocacy for Youth in the Juvenile Justice and Child Welfare Systems .....	261
D. Counsel's Role in Delinquency and Status Offense Cases.....	264
Notes and Questions .....	268
Juvenile Law Center, Luzerne Kids-for-Cash Scandal and Lessons from "Kids for Cash," All Children Must Have Access to Legal Representation in Court .....	272
Problem 3-4 .....	275
A Note on Counsel for the Child in Status Offense Proceedings...	275
E. Counsel's Role in Appeals .....	277
Katherine Hunt Federle, The Future of Juvenile Appeals in the United States .....	277
Notes and Questions .....	279
F. Counsel's Role When Youth Are Tried in Adult Court .....	279
Mees v. Hurley .....	279
Notes and Questions .....	281
<b>Chapter 4. Abuse and Neglect .....</b>	<b>283</b>
1. Introduction .....	283
2. Discovering Abuse and Neglect: Reporting Statutes .....	287
Humphries v. County of Los Angeles.....	289
Los Angeles County v. Humphries .....	296
Notes and Questions .....	298
Problem 4-1.....	302

3.	The Child Welfare Court Process .....	302
	U.S. Dep’t of Health and Human Services, Children’s Bureau, Child Welfare Information Gateway, Understanding Child Welfare and the Courts .....	303
4.	Limits on Intervention .....	305
	In re Juvenile Appeal.....	306
	Note and Questions .....	311
	Problem 4-2.....	312
5.	Patterns of Abuse and Neglect .....	313
	A. Neglect.....	313
	In re S.T. .....	313
	Notes and Questions .....	320
	B. Psychological Maltreatment .....	321
	Problem 4-3 .....	325
	C. Abuse.....	325
	1. The Battered Child Syndrome .....	325
	2. The Shaken Baby Syndrome.....	329
	3. The Target Child.....	329
	D. Why Do Parents Maltreat Their Children? .....	330
	David Thomas et al., Emerging Practices in the Prevention of Child Abuse and Neglect.....	330
	Carol Taylor et al., Diagnosed Intellectual and Emotional Impairment Among Parents Who Seriously Mistreat Their Children: Prevalence, Type, and Outcome in a Court Sample .....	332
	Notes and Questions .....	333
	E. Corporal Punishment .....	334
	In the Interest of T.A.....	335
	Notes and Questions .....	337
	Problem 4-4 .....	341
	F. Sexual Abuse.....	342
	1. Failure to Protect.....	344
	In re T.G. .....	344
	Notes and Questions.....	347
	Problem 4-5 .....	349
	G. Newborns with Positive Toxicologies .....	350
	Laura Radel, et al., U.S. Department of Health and Human Services, Substance Use, the Opioid Epidemic, and the Child Welfare System: Key Findings from a Mixed Methods Study .....	350
	In re Dante M. .....	352
	Notes and Questions .....	355
6.	Duty to Investigate.....	358
	DeShaney v. Winnebago County Department of Social Services.....	358
	Notes and Questions .....	365
7.	The Reasonable Efforts Requirement .....	366
	In re N.M.W. .....	368

Notes and Questions .....	372
Problem 4-6.....	374
Problem 4-7.....	375
8. Termination of Parental Rights .....	375
A. Due Process Protections for Parents .....	376
<i>Alma S. v. Ariz. Dep't of Public Safety</i> .....	376
Notes and Questions .....	384
A Note on <i>Lassiter v. Department of Social Services</i> and the Right to Counsel .....	385
A Note on <i>M.L.B. v. S.L.J.</i> and the Right to Appeal .....	386
B. When Should Parental Rights Be Terminated? .....	387
<i>In re R.I.S.</i> .....	387
Notes and Questions .....	394
9. Social Class, Ethnic, and Racial Bias .....	400
A. Overview .....	401
<i>Tanya Asim Cooper, Racial Bias in American Foster Care: The             National Debate</i> .....	401
Notes and Questions .....	407
B. The Indian Child Welfare Act.....	409
<i>Adoptive Couple v. Baby Girl</i> .....	410
Note and Questions .....	412
C. Disproportionality, Disparity and Cultural Competence in Practice.....	416
<i>Karen Aileen Howze, Making Differences Work: Cultural             Context in Abuse and Neglect Practice for Judges and             Attorneys</i> .....	416
Children's Bureau Child Welfare Information Gateway, Racial Disproportionality and Disparity in Child Welfare.....	417
Notes and Questions .....	419
10. Finding a Cure.....	421
Matthew W. Stagner & Jiffy Lansing, Progress Toward a Prevention Perspective .....	421
Fred Wulczyn, Epidemiological Perspectives on Maltreatment Prevention .....	425
Notes and Questions .....	428
Josh Gupta-Kagan, Toward a Public Health Legal Structure for Child Welfare.....	428
Notes and Questions .....	431
<b>Chapter 5. Foster Care.....</b>	<b>433</b>
1. Introduction .....	433
A. The Beginnings .....	433
<i>Douglas E. Abrams, A Very Special Place in Life: The History of             Juvenile Justice in Missouri</i> .....	434
B. Twentieth Century Developments .....	435
2. Federal Legislative Reforms.....	438
In the Interest of T.G. .....	442

---

Note and Questions .....	444
3. Challenges for Youth in Foster Care .....	444
Susan Vivian Mangold, Catherine Cerulli, Gregory Kapcar, Crystal Ward Allen, Kim Kaukeinen, and Hua He, Using Community- Based Participatory Research to Study the Relationship Between Sources and Types of Funding and Mental Health Outcomes for Children Served by the Child Welfare System in Ohio .....	444
Sandra Stukes Chipungu & Tricia B. Bent-Goodley, Meeting the Challenges of Contemporary Foster Care.....	446
Jennifer Pokempner, Kacey Mordecai, Lourdes Rosado & Divya Subrahmanyam, Promoting Normalcy for Children and Youth in Foster Care .....	449
Notes and Questions .....	451
4. The Court's Role in Permanency Planning.....	454
Mark Hardin, Child Protection Cases in a Unified Family Court .....	454
Note .....	457
5. The Foster Child's Right to a "Family" .....	459
Smith v. Organization of Foster Families for Equality and Reform....	459
Notes and Questions .....	466
In re Interest of Meridian H. ....	471
Notes and Questions .....	478
Problem 5-1.....	478
6. The Child's Right to Services and Protection from Harm .....	479
M.D. v. Abbott.....	480
Notes and Questions .....	490
Problem 5-2.....	496
7. Types of Placements.....	497
A. Foster Parents .....	497
1. Foster Placements with Non-Relatives .....	497
2. Kinship Care: Relatives as Foster Parents .....	497
Rob Geen, The Evolution of Kinship Care Policy and Practice .....	497
Notes and Questions.....	500
Problem 5-3 .....	502
3. Racial and Ethnic Matching .....	503
4. Religious Matching .....	504
B. Institutional Care.....	504
1. Placements and Poverty.....	505
Sarah Ramsey & Daan Braverman, "Let Them Starve": Government's Obligation to Children in Poverty .....	505
Notes and Questions.....	508
2. Types of Facilities .....	509
C. Guardianship .....	510
Meryl Schwartz, Reinventing Guardianship: Subsidized Guardianship, Foster Care, and Child Welfare.....	511
New Jersey Division of Youth and Family Services v. P.P.....	514

---

Notes and Questions .....	517
Problem 5-4 .....	518
8. Permanency Planning for Older Youth.....	519
Children's Bureau, Promoting Permanency for Older Youth in Out-of-Home Care .....	519
Notes .....	525
<b>Chapter 6. Criminal Abuse and Neglect .....</b>	<b>527</b>
1. Abuse, Neglect, and Child Endangerment .....	528
Commonwealth v. Ogin.....	528
Notes and Questions .....	534
Problem 6-1.....	538
Problem 6-2.....	538
Problem 6-3.....	539
Problem 6-4.....	539
State v. Crawford .....	540
Notes and Questions .....	545
Problem 6-5.....	545
A Note on Parental Responsibility Statutes.....	546
Problem 6-6.....	547
A Note on the "Cultural Defense" .....	547
Problem 6-7.....	548
2. Sexual Abuse .....	549
A. The Nature of the Problem .....	550
William Winslade et al., Castrating Pedophiles Convicted of Sex Offenses Against Children: New Treatment or Old Punishment? .....	550
Donald C. Bross, Terminating the Parent-Child Relationship as a Response to Child Sexual Abuse.....	551
Notes and Questions .....	552
B. The Basis for Criminal Intervention .....	554
Ferris v. Santa Clara County .....	554
Notes.....	555
C. The Prosecutorial Decision .....	557
Donald C. Bross, Terminating the Parent-Child Relationship as a Response to Child Sexual Abuse.....	557
Notes and Questions .....	559
Problem 6-8 .....	560
Problem 6-9 .....	561
D. Proving the Case.....	562
1. General Difficulties of Proof.....	562
Lisa R. Askowitz and Michael H. Graham, The Reliability of Expert Psychological Testimony in Child Sexual Abuse Prosecutions.....	562
2. Expert Testimony .....	564
John E.B. Myers et al., Expert Testimony in Child Sexual Abuse Litigation.....	564

---

3.	Recent Efforts to Facilitate the Child Victim's Testimony ....	571
	Robert P. Mosteller, Remaking Confrontation Clause and	
	Hearsay Doctrine Under the Challenge of Child Sexual	
	Abuse Prosecutions .....	571
	Note .....	572
E.	Hearing the Child Abuse Victim: Special Issues.....	573
1.	If the Child Abuse Victim Testifies .....	573
	<i>Maryland v. Craig</i> .....	573
	Notes and Questions.....	579
	Problem 6-10 .....	583
	Problem 6-11 .....	583
	Problem 6-12 .....	584
2.	If the Child Victim Does Not Testify .....	584
	<i>In the Interest of J.C.</i> .....	585
	Note .....	596
	Problem 6-13 .....	596
F.	Prospective Restraints on Sex Offenders.....	596
1.	Civil Commitment .....	597
	<i>In re State v. Shannon S.</i> .....	597
	Note and Questions .....	603
2.	Registration and Community Notification.....	603
	Notes and Questions.....	606
3.	Child Pornography.....	608
	<i>New York v. Ferber</i> .....	609
	Notes and Questions.....	615
	Problem 6-14 .....	618
<b>Chapter 7. Adoption.....</b>		<b>621</b>
1.	Historical Background and the Contemporary Landscape .....	621
A.	Historical Background .....	621
	Jamil S. Zainaldin, The Emergence of a Modern American	
	Family Law: Child Custody, Adoption, and the Courts,	
	1796–1851 .....	621
B.	The Contemporary Landscape.....	623
2.	How May a Child Be Adopted?.....	624
A.	Public Agencies, Private Agencies, and Private Placements.....	624
	Barbara Fedders, Race and Market Values in Domestic Infant	
	Adoption .....	624
	Notes and Questions .....	625
	A Note on the Interstate Compact on the Placement of	
	Children.....	627
B.	Consent and Notice .....	628
	1. Consent.....	628
	2. Notice.....	630
C.	The Rights of Unwed Parents.....	630
	<i>Stanley v. Illinois</i> .....	631
	Notes and Questions .....	635

---

Lehr v. Robertson .....	636
Notes and Questions .....	643
A Note on <i>Michael H. v. Gerald D.</i> (1989) .....	644
Notes and Questions .....	648
Problem 7-1 .....	649
Problem 7-2 .....	649
Problem 7-3 .....	649
D. Eligibility to Adopt .....	649
B.L. v. J.S. ....	650
E. The Best Interests Standard .....	652
Note and Questions .....	659
Problem 7-4 .....	660
Problem 7-5 .....	661
A Note on "Equitable Adoption" .....	661
3. Issues in Contemporary Adoption Law and Policy .....	662
A. Transracial Adoption.....	663
1. Historical Background.....	663
2. The Ongoing Debate.....	664
Note and Questions .....	665
B. Native American Adoption.....	666
C. Religious Identity .....	667
D. International Adoption.....	668
Notes.....	670
E. Baby Selling .....	671
State v. Brown .....	672
Notes and Questions .....	674
Kimberly D. Krawiec, Altruism and Intermediation in the Market for Babies .....	675
Note .....	677
4. The Aftermath of Adoption .....	677
A. Post-Adoption Disputes.....	677
Note and Questions .....	679
B. The Rise and Decline of Closed Adoption .....	680
1. Closed Adoption .....	680
2. Open Adoption .....	682
Adoption of Ilona.....	682
Notes and Questions.....	685
3. Adoptees' Rights to "Learn Their Roots" .....	686
Notes and Questions.....	687
<b>Chapter 8. Medical Decision-Making.....</b>	<b>689</b>
1. Decision-Making Authority .....	689
Parham v. J. R. ....	689
Notes and Questions .....	701
Problem 8-1.....	706
A Note on the Mature Minor Doctrine.....	706
Notes and Questions .....	707

---

Problem 8-2.....	708
Problem 8-3.....	709
2. Medical Neglect .....	709
In re D.K. ....	709
Notes and Questions .....	712
Newmark v. Williams/DCPS .....	714
Notes and Questions .....	721
Problem 8-4.....	726
Problem 8-5.....	726
3. Childhood Immunizations .....	727
Brown v. Smith.....	729
Note and Questions .....	733
4. Withholding Medical Care.....	734
A. Infants .....	734
Kathleen Knepper, Withholding Medical Treatment from Infants: When Is It Child Neglect?.....	734
Notes and Questions .....	736
B. Older Children .....	739
Rosebush v. Oakland County Prosecutor.....	739
Note and Questions .....	743
Problem 8-6 .....	744
5. Bone Marrow and Organ Donation .....	744
Curran v. Bosze .....	744
Notes and Questions .....	751
Problem 8-7 .....	752
6. Pediatric Research and Experimentation.....	752
In re Nikolas E. .....	752
Notes and Questions .....	756
7. Sexual Orientation and Gender Identity .....	759
Doe v. Christie .....	759
Notes and Questions .....	763
Problem 8-8.....	765
8. Who Pays for the Child's Medical Care?.....	766
 <b>Chapter 9. Financial Responsibility and Control .....</b>	<b>769</b>
1. The Child Support Obligation .....	769
A. Historical Background .....	769
Daniel L. Hatcher, Child Support Harming Children: Subordinating the Best Interests of Children to the Fiscal Interests of the State .....	769
B. The Parental Obligation.....	771
1. The Importance of Biology .....	772
LeClair v. Reed ex rel. Reed.....	772
Notes and Question .....	775
Brad Michael L. v. Lee D. .....	777
Notes and Questions.....	780

---

2.	Divorced Parents .....	782
	McLeod v. Starnes .....	782
	Note and Questions .....	785
3.	Stepparents .....	785
	In re A.C.H. ....	786
	Notes and Questions.....	789
	Problem 9-1 .....	790
C.	The Government's Role .....	791
	In re Ryan W.....	794
	Williams ex rel. Ricard v. Humphreys .....	798
	Notes and Questions .....	802
	A Note on Teenage Parents .....	805
	Robert G. Wood & John Burghardt, Office of the Assistant Secretary for Planning Evaluation, Health & Human Services, Implementing Welfare Reform Requirements for Teenage Parents: Lessons from Experience in Four States.....	805
	Notes and Questions .....	806
D.	The Child's Responsibilities.....	807
	Oeler v. Oeler.....	808
	Notes and Questions .....	810
	Problem 9-2 .....	811
E.	Amount.....	812
	Monica Hof Wallace, Child Support Savings Accounts: An Innovative Approach to Child Support .....	812
	Note and Questions .....	815
F.	Collection.....	815
	Paul K. Legler, The Coming Revolution in Child Support Policy: Implications of the 1996 Welfare Act .....	815
	Notes and Questions .....	817
2.	Capacity to Contract .....	819
	Mitchell v. Mizerski.....	819
	Notes and Questions .....	822
	Problem 9-3.....	828
3.	The Child's Property .....	828
	A. Uniform Transfers to Minors Act .....	829
	B. Using the Child's Assets .....	830
	Sutliff v. Sutliff.....	830
	Notes and Questions .....	833
	Problem 9-4 .....	835
4.	Torts and Family Relations .....	835
	A. Liability .....	836
	Standard v. Shine.....	836
	Notes and Questions .....	838
	Problem 9-5 .....	843
	B. Immunity .....	844
	Zellmer v. Zellmer .....	844

---

Notes and Questions .....	848
Problem 9-6 .....	848
C.    Release, Waiver, Settlement, and Indemnification.....	848
Miller as Next Friend of E.M. v. House of Boom Kentucky, LLC .....	849
Notes and Questions .....	852
Claire's Boutiques v. Locastro .....	852
Notes and Questions .....	857
Problem 9-7 .....	858
<b>Chapter 10. Regulation of Children's Conduct .....</b>	<b>861</b>
1.    Child Labor Laws .....	861
A.    The Historical Background and the Contemporary Situation .....	862
1.    The Historical Background .....	862
Barbara Bennett Woodhouse, "Who Owns the Child?": <i>Meyer and Pierce</i> and the Child as Property.....	862
Notes.....	865
2.    The Contemporary Situation .....	866
United States Government Accountability Office, Working Children: Federal Injury Data and Compliance Strategies Could Be Strengthened .....	867
B.    The Sources of Regulation .....	869
Introductory Problem .....	869
1.    State Regulation .....	870
Michigan Compiled Laws.....	870
Notes and Questions.....	873
2.    Federal Regulation .....	876
Fair Labor Standards Act .....	876
Notes and Questions.....	879
3.    Private Enforcement.....	883
<i>Henderson v. Bear</i> .....	884
Notes and Questions.....	886
2.    Alcohol Regulation .....	887
A.    The Effects of Underage Drinking.....	888
U.S. Department of Health and Human Services, The Surgeon General's Call to Action to Prevent and Reduce Underage Drinking .....	888
Notes.....	890
B.    The National Minimum Legal Drinking Age.....	890
Michael P. Rosenthal, The Minimum Drinking Age for Young People: An Observation .....	891
Notes and Questions .....	893
Problem 10-1 .....	895
A Note on Dram-Shop and Social-Host Acts.....	895
Problem 10-2.....	896
3.    Tobacco Regulation .....	897
Notes .....	898

---

**TABLE OF CONTENTS****xxxiii**

Problem 10-3.....	902
4. Driving Privileges.....	903
Insurance Institute for Highway Safety, Fatality Facts 2017:	
Teenagers .....	903
Notes and Questions .....	903
Problem 10-4.....	905
5. Health, Safety, and Welfare Regulation.....	905
A. Highway Safety .....	905
Problem 10-5.....	907
Problem 10-6.....	907
B. Gambling.....	908
C. Firearms.....	909
D. Other Harmful Conduct.....	910
6. Juvenile Curfews.....	911
A. The Historical Background .....	911
B. The Contemporary Situation .....	912
Anonymous v. City of Rochester.....	913
Notes and Questions .....	923
Problem 10-7.....	924
7. Status Offenses.....	924
A. The Nature of Status Offense Jurisdiction .....	924
1. Overview.....	924
Ohio Revised Code Annotated .....	925
2. Ungovernability .....	926
In the Matter of Leif Z.....	926
Note and Questions .....	928
3. Truancy .....	929
a. General Causes .....	929
b. Bullying .....	931
4. Running Away .....	933
a. The Scope of the Problem .....	933
b. Federal and State Legislation.....	935
B. The Deinstitutionalization Mandate .....	935
C. The Future of Status Offense Jurisdiction .....	937
Notes and Questions .....	938
<b>Chapter 11. Delinquency .....</b>	<b>941</b>
1. Evolving American Attitudes About Juvenile Crime.....	942
A. The Early Years.....	942
Douglas E. Abrams, A Very Special Place in Life: The History of Juvenile Justice in Missouri .....	942
B. The Rise of the Get-Tough Response.....	944
C. Departing from the Get-Tough Response .....	945
1. Foundations for Change .....	945
2. The Public's Second Thoughts .....	947
3. Lawmakers' Second Thoughts .....	947
4. Outlook .....	949

---

2.	The Juvenile Court as an Institution.....	950
A.	The Juvenile Court's Original Conception.....	950
1.	Individualized Rehabilitation and Treatment.....	951
2.	Civil Jurisdiction .....	952
3.	Informal Procedure.....	953
4.	Confidentiality .....	955
5.	Incapacitation of Children Separate from Adults .....	956
B.	The Contemporary Juvenile Court.....	956
	Notes and Questions .....	957
3.	The Contours of Delinquency .....	963
	Introductory Problem.....	963
A.	Culpability .....	963
	Gammons v. Berlat.....	963
	Notes and Questions .....	966
B.	The Insanity Defense .....	967
	Golden v. State .....	968
	Note and Questions .....	970
C.	Transfer: The "Adultification" of Juvenile Justice.....	970
1.	The General Framework .....	970
	Notes and Questions.....	971
2.	A Representative Example.....	976
	In re J.R.L. ....	977
	Problem 11-1 .....	981
	Problem 11-2 .....	981
	Problem 11-3 .....	982
4.	Delinquency Procedure .....	982
A.	Overview .....	982
	President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Juvenile Delinquency and Youth Crime.....	982
B.	Arrest and Custody .....	984
1.	Arrest.....	984
	Notes and Questions.....	985
2.	Search and Seizure.....	985
	New Jersey v. T.L.O. ....	986
	Notes and Questions.....	990
	Safford Unified School District v. Redding .....	994
	Notes and Questions.....	1002
	Problem 11-4 .....	1003
	Problem 11-5 .....	1004
	Problem 11-6 .....	1004
	Problem 11-7 .....	1004
	Problem 11-8 .....	1005
3.	Interrogation and Confession .....	1005
a.	General Standards.....	1005
b.	<i>Miranda</i> in Delinquency Proceedings .....	1006

---

c.	"In Custody" .....	1006
d.	"Knowing, Intelligent, and Voluntary" .....	1008
	<i>In re Joseph H.</i> .....	1009
	<i>In re Joseph H.</i> .....	1015
	Notes and Questions.....	1019
	Problem 11-9 .....	1023
4.	Intake and Diversion.....	1024
	Notes and Questions.....	1024
	A Note on Diversion to Youth Courts or Teen Courts.....	1025
5.	Preventive Detention.....	1026
	<i>Schall v. Martin</i> .....	1026
	Notes and Questions.....	1035
C.	The Adjudicatory Hearing .....	1038
1.	<i>Gault</i> and the "Constitutional Domestication" of Delinquency .....	1038
	<i>In re Gault</i> .....	1040
	Notes and Questions.....	1055
2.	Competency to Participate in the Proceeding.....	1065
	<i>Matter of Welfare of D.D.N.</i> .....	1065
	Notes and Questions.....	1068
3.	Jury Trial .....	1069
	<i>McKeiver v. Pennsylvania</i> .....	1070
	Notes and Questions.....	1076
4.	Speedy Trial .....	1079
	<i>In the Matter of Benjamin L.</i> .....	1080
	Note .....	1084
D.	Disposition .....	1085
1.	General Standards.....	1085
	<i>John J. Wilson &amp; James C. Howell, Serious and Violent         Juvenile Crime: A Comprehensive Strategy</i> .....	1085
	Notes and Questions.....	1088
	A Note on Restorative Juvenile Justice .....	1095
	A Note on the Role of Delinquency Prevention and the Costs of Juvenile Incarceration.....	1097
2.	The Right to Treatment.....	1099
a.	Private Litigation.....	1099
	Note.....	1101
b.	U.S. Justice Department Initiatives.....	1101
	Notes and Questions .....	1103
	A Note on the Juvenile Death Penalty and Life Imprisonment Without Parole .....	1113
E.	Appeal.....	1114
	Notes and Questions .....	1115
	Problem 11-10 .....	1116
	A Note on Federal Delinquency Jurisdiction.....	1116

Postscript: Your Professional Future in Children and the Law .....	1119
Problem 11-11 .....	1119
INDEX.....	1121