

# Family Law III

## Course Outcomes

Upon completion of Family Law III students will have the skills and confidence to issue spot and identify issues outside of the LLLT scope of practice, the ability to apply ethics rules to the practice of law, and the capacity to complete legal forms and provide legal services to clients.

Within Family Law III, students will complete the following units.

### NONPARENTAL CUSTODY ACTIONS

Upon completion of the unit on Nonparental Custody Actions students will have the skills and confidence to identify a non-parental custody action, the ability to apply the applicable statutes, and the capacity to define the scope of services permitted for an LLLT under APR 28.

In particular, students will be able to:

1. Explain the elements of RCW 26.10.010 – 910 and how SB 5604 (eff. 01/01/21) may affect an LLLTs ability to practice in the area of nonparental custody.
2. Identify and apply REGULATION 2.B(3)(b)(ix):
  - a. *Prohibited Acts*. In addition to the prohibitions set forth in APR 28(H), in the course of rendering legal services to clients or prospective clients, LLLTs licensed to practice in domestic relations:
  - b. shall not render legal services in:
  - c. xi. ...nonparental custody actions beyond the adequate cause hearing unless the terms are agreed to by the parties or one party defaults.
3. Describe how a Nonparental Custody action is commenced and how notice must be provided (26.10.030).
4. Discuss the elements required for a party to Petition for nonparental custody (RCW 26.10.030-032).
5. Explain the importance of adequate cause and how adequate cause is established.
6. Select and draft the appropriate mandatory court form(s) consistent with 26.10.020.

1. Assist clients with service of the Petition, etc., consistent with RCW 26.10.030, CR 4, etc.
2. Assist clients with scheduling an adequate cause hearing and other potentially applicable hearings.
3. Discuss the anticipated course of a legal proceeding following service of a Petition for Nonparental Custody.

## **PUBLIC BENEFITS**

Upon completion of the unit on Public Benefits students will have the skills and confidence to identify what are public benefits, the ability to determine when a person is eligible for and/or receiving public benefits, and the capacity to understand whether and how receipt of public benefits intersects with domestic relations law.

In particular, students will be able to:

1. Explain the legislative intent of public benefits.
2. Identify the public benefits that may be available to a client.
3. Discuss how the receipt of public benefits may affect a domestic relations matter.

## **CHILD ADVOCACY AND WELFARE**

Upon completion of the unit on Child Advocacy and Welfare students will have the skills and confidence to identify when a child may need protection, the ability to apply the applicable statutes and administrative procedures, and the capacity to define the scope of services permitted for an LLLT under APR 28.

In particular, students will be able to:

1. Explain the elements of RCW 26.44.010 – 030 and 9A.16.100 and the intent of the legislature in enacting the statutes.
2. Identify and apply RCW 9A.16.100 and describe how WAC 38-15-009 interacts with the statute.
3. Describe what constitutes child abuse per the statutes and WAC, and distinguish between child abuse and neglect.

4. Explain the elements of RCW 13.34.030 and how the court determines abandonment.
5. Identify who is and who is not a mandatory reporter under the statutes.
6. Describe the process for reporting child abuse and how DSHS may become involved.
7. Know the LLLTs requirements for reporting child abuse.
8. Explain the elements of RCW 13.04.030, 13.34.030 – 13.34.200 and the intent of the legislature on enacting these statutes.
9. Describe the process for filing a dependency petition and any limitations on whether an LLLT may assist a client in such an action.

## **INDIAN CHILD WELFARE ACT**

Upon completion of the unit on Indian Child Welfare Act (ICWA) students will have the skills and confidence to identify when ICWA applies to a case, the ability to apply the applicable statutes, and the capacity to define the scope of services permitted for an LLLT under APR 28 in relation to ICWA.

In particular, students will be able to:

1. Explain the elements of RCW 13.38 and how it may affect an LLLTs ability to practice, particularly in the area of nonparental custody.
2. Identify and apply REGULATION 2.B(3)(b)(i):
  3. *Prohibited Acts*. In addition to the prohibitions set forth in APR 28(H), in the course of rendering legal services to clients or prospective clients, LLLTs licensed to practice in domestic relations:
    - b. shall not render legal services in:
      - ii. actions that involve 25 U.S.C. chapter 21, the Indian Child Welfare Act of 1978, or chapter 13.38 RCW, the Washington State Indian Child Welfare Act.
3. Describe the intent of ICWA.
4. Explain jurisdiction over an Indian child and the right of a tribe to intervene.
5. Explain how Indian status is determined consistent with RCW 13.38.050.

6. Describe the procedure for determination of Indian status consistent with 13.38.070 and, specifically, when Indian status should be determined consistent with 13.38.070(2).
7. Explain the importance of determining Indian status and in what types of cases ICWA is applicable.
8. Discuss the anticipated course of a legal proceeding when ICWA applies.

## **ETHICAL ISSUES IN FAMILY LAW & LLLT RPCs**

Upon completion of the unit on Ethical Issues in Family Law and LLLT RPCs students will have the skills and confidence to identify ethical issues presented in the practice of family law, the ability to apply the applicable RPCs, and the capacity to define the ethical requirements for an LLLT under the LLLT RPCs.

In particular, students will be able to:

1. Explain the primary elements of the following RPC categories:
  - a. Regulation of the Profession
  - b. The LLLT-Client Relationship
  - c. Client Confidentiality
  - d. Conflicts of Interest
  - e. Competence, Malpractice, and Other Civil Liability
  - f. Role in Advocacy and Proceedings
  - g. Transactions and Communications with Persons Other than Client
  - h. Safekeeping Funds and Other Property
  - i. Communications about LLLT Services
  - j. Other: Sale of a Law Practice, Serving as a 3<sup>rd</sup> Party Neutral, Professional Misconduct
2. Define an LLLT's ethical obligations in each of the above categories to the LLLT's client and other persons.
3. Understand the general scope of permitted practice for LLLTs authorized in APR 28.
4. Distinguish between confidentiality, privilege and work product.
5. Discuss the importance of ethics in the practice of law.
6. Describe what is and is not the practice of law under GR 24.
7. Explain the differences and similarities between attorney and LLLT RPCs.

8. Identify and apply applicable RPCs to hypothetical situations, including when an LLLT may break client confidentiality.
9. Describe how to obtain assistance with ethics questions.

## **LLLT SCOPE AND PRACTICE ISSUES**

Upon completion of the unit on LLLT Scope and Practice Issues students will have the skills and confidence to define the LLLT scope, the ability to determine whether an issue is within the LLLT scope, and the capacity to describe services permitted for an LLLT under APR 28.

In particular, students will be able to:

1. Identify issues outside of the LLLT scope under APR 28.
2. Define a non-parental custody or de facto parentage action and what actions a LLLT may take in respect to each issue.
3. Discuss the Indian Child Welfare Act (ICWA) and when an LLLT should refer a client to an attorney.
4. Explain how bankruptcy proceedings may affect a family law matter.
5. Define any limitations on an LLLT representing more than one party in a family law matter.
6. Explain the limits of a LLLT's involvement at a hearing.
7. Discuss the LLLTs ability to negotiate on the client's behalf and required documentation of negotiation parameters.

## **LIMITATIONS AND REFERRALS**

Upon completion of the unit on Limitations and Referrals students will have the skills and confidence to identify LLLT limitations, the ability to apply how limitations affect the LLLT scope of practice, and the capacity to define the ethical requirements and elements of referrals to other counsel for an LLLT under the LLLT RPCs.

In particular, students will be able to:

1. Discuss APR 28 and the limitations on the LLLT license.

2. Explain how to notify a client of issues outside of an LLLT's scope.
3. Describe the process for referring a client to an attorney and how the rules of confidentiality apply when doing so.
4. Identify relevant RPCs relating to the referral of clients to other counsel.
5. Describe a reciprocal referral agreement and whether an LLLT may receive payment for making referrals to other legal professionals.

## **WASHINGTON FAMILY LAW FORMS**

Upon completion of the unit on Washington Family Law Forms students will have the skills and confidence to identify Washington Family Law Forms, the ability to obtain the forms, and the capacity to correctly use the forms.

In particular, students will be able to:

1. Demonstrate how to obtain the Washington Family Law pattern forms.
2. Explain the difference between mandatory and optional forms.
3. Identify which form to use for a particular issue.
4. Demonstrate the ability to correctly fill out pattern forms.

## **IN PERSON SKILLS TRAINING**

Upon completion of the unit on In Person Skills Training students will have the skills and confidence to advise and assist a client at a hearing, tribunal, deposition or mediation, the ability to negotiate on behalf of a client and the capacity to perform these functions at a skilled level.

In particular, students will be able to:

1. Define an LLLT's role at a hearing, tribunal, deposition or mediation under APR 28.
2. Explain how the LLLT RPCs and APR 28 inform and define the LLLT's role.
3. Demonstrate the ability to respond to factual and procedural questions from the court.
4. Discuss negotiation strategies and documentation of parameters.