FAMILY LAW

MATERIALS

- Enough copies of Appendix A to distribute to the class
- Whiteboard/markers (or, if available, can use classroom board)

TAKEAWAYS

- Students will learn about the legal definition of parentage (including child support and custody). They will also have a chance to consider the consequences of conviction and incarceration for people with children.

QUICK INTRO

(Time Check: 1 minute)

Tell the class: Your names, that you’re law students from Stanford Law School, and you’re there to teach a StreetLaw class.

- Remind the students about StreetLaw rules: don’t talk about the specifics of your case, respect your classmates and your teachers.
- Note: You may want to check with the supervising teacher at the beginning of class to see if they’re okay with you handing out the appendix for students to keep later in the lesson
ICEBREAKER – (5 min.)

Going around the room, ask each student (and teacher) to say a word or phrase that describes what he or she thinks it means to be a parent.

- Examples to get people started: caring, teacher, provider

Thank the students and tell them that today we’re going to be talking about how the law defines parenthood. Tell them we’ll also be talking about how being in prison or having a criminal conviction affects a parent’s ability to do or be all the things we just listed.

LECTURE/DISCUSSION – Parentage/Paternity (10 min.)

Tell the students that in the first part of the lesson, we’ll be talking about how the law defines parenthood, or what is called parentage. Ask the students if they have ideas of how the law determines a child’s parents.

Tell them that there are three main ways a person can establish parentage in California (write these on the board):

- In certain circumstances there is a legal “presumption” of parentage
- Someone can voluntarily sign a Declaration of Parentage
- A court order can establish parentage

Ask: Does anyone know what a presumption is?

- A presumption means accepting something as true, unless it is proven otherwise

Tell them that for women, birth mothers are pretty much always considered the legal parent. But establishing paternity, or fatherhood, is more complicated. There are three cases in which there is a presumption of paternity (in other words, the law automatically considers someone a child’s father).

Ask: Does anyone have ideas of what these are?

- A man is married (or thinks he is married) to the child’s mother at the time of conception or birth
- A man married the mother after the child’s birth but agreed to put his name on the birth certificate or to support the child
- A man welcomed the child into his home and openly acted as if the child was his own (this applies regardless of biological parenthood)

Tell them that the second way of establishing parentage, a declaration of parentage, allows unmarried parents to sign a legal document establishing themselves as the legal parents of a child.

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1 Note: this includes cases where the parents attempted to get married but didn’t enter a legally valid marriage
Finally, tell them that if someone doesn’t voluntarily sign a legal document establishing him/her as the parent, he or she might still become the legal parent through a court order. So, for example, a mother who believes that a certain man is the father of her child could go to court to get an order establishing him as the parent.

Ask: What if the man isn’t sure he’s the father? What do you think he can do?
  o Answer: He can request a genetic (DNA) test to determine whether the child is really his → if not, then he can use this to avoid a court order establishing his parentage

Ask: Now that we know how parentage is established, why do you think this all matters? Why would parents want their parenthood recognized by the law?

Answers include:
  o **Custody/visitation:** The legal parents can ask for a court order to see their children or be their primary caretaker. This is especially important where the parents aren’t in a relationship
  o **Child support:** A legal parent may be required to pay child support to help raise his or her child. Even if one parent doesn’t have an income at the time parentage is established, they could still be required to contribute down the road
  o **Right to inheritance:** A child can inherit from their legal parents when they die
  o **Benefits/insurance coverage:** For example, if a parent has health insurance or receives veterans’ benefits, their child might also be covered as well
  o **Access to medical records:** A child might need access to both parents’ medical records, in order to screen for inherited medical conditions

**ACTIVITY 1 – Hypotheticals (5-10 min.)**

Tell the students you have a few hypotheticals to see how much they remember of what they just learned (you can split them into teams and keep score or just do this as a large group):

1. Alex and Tammy meet in Vegas and decide to get married in a 24-hour Vegas wedding chapel as a joke. They get their marriage annulled a month later, but soon after that Tammy discovers she’s four weeks pregnant. Will Alex be considered the legal father of the child?
   o Probably yes, the presumption of paternity applies because they were married when the child was conceived.

2. Tracey and Sandra are engaged when Sandra finds out she’s pregnant. But a couple months later they break off the engagement because they decide they aren’t meant to be together. Sandra keeps the baby anyway – is Tracey the legal father?
o Not automatically. No presumption applies since they were never married, so he’d have to sign a voluntary declaration or Sandra would have to get a court order establishing paternity.

3. Jon and Nicole are not married but have lived together for five years. Nicole already had a son when she met Jon (she doesn’t know who the biological father is), but Jon has always taken care of the boy and treated him like his own kid. Jon and Nicole split up, and she goes to court asking Jon for child support. Could the court award child support?
   o Probably. The presumption of paternity applies here as well, because Jon took the boy in and treated him like a son for a significant amount of time. So he could technically be asked for child support even after he and Nicole break up.

4. Trey and Lisa went out a few times but never got too serious and kept seeing other people. After almost a year of not speaking, Trey gets a message from Lisa saying that she had a baby and is planning on going to court to name him as the father unless he takes responsibility on his own. Trey isn’t sure that he is actually the father. What can he do?
   o Of course, he could voluntarily accept responsibility as the father if he wanted to. But if he isn’t sure that he’s the child’s biological parent, he can request a genetic test as part of the court proceedings to establish paternity.

5. Ashley and Maria are in a domestic partnership and decide to have a child together. Ashley uses a sperm donor to get pregnant. Will Maria be a legal parent of the child?
   o Yes. It’s a tough question because we didn’t talk about this exact scenario, but as of 2005 all the presumptions that apply to married couples also apply to same-sex couples in domestic partnerships. Since they were in a domestic partnership at conception and birth, both Ashley and Maria are legal parents.

**ACTIVITY 2 – Parenting and Criminal Convictions Quiz (10 min.)**

Tell the students that for this next part of the lesson we’ll be talking about the consequences of adult criminal convictions or prison time for parents.

What percentage of people in prison has minor children?

a) 25%
b) 45%
c) 55%
d) 75%
o **Answer:** c. 52 percent of state inmates and 63 percent of federal inmates are parents of minor children. Roughly 1.7 million children have at least one incarcerated parent.²

What percentage of incarcerated parents report that they have not had any contact with their children since they went to prison?

a) 5%
b) 10%
c) 15%
d) 20%

o **Answer:** d. **20 percent** of state prisoners report having no contact with their kids, and **half** have never been visited by their children.³

o **Ask:** why do you think that might be?
  - Answers might include: distance/transportation (a majority of prisoners are housed over 100 miles from their former homes), stigma, parent/child/guardian choosing not to have visits

**True or false:** A criminal conviction or incarceration may cause a parent to lose custody of their child.

o **True.** When a custodial parent is incarcerated a court may transfer legal guardianship over his or her child to someone else (whether a family member or foster parent). While in many circumstances the parent can apply for reunification services after their release, **violent felony convictions** or a **history of untreated drug and alcohol abuse** may preclude a released parent from being reunited with his or her child.⁴ Also, courts are permitted to **consider a parent’s criminal history** when deciding custody disputes.⁵

Which of the following might be a consequence of a felony conviction?

a) Difficulty securing employment
b) Ineligibility for food stamps
c) Ineligibility for temporary public assistance or welfare
d) Inability to live in public or affordable housing
e) All of the above

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Answer: All of these are possible consequences of adult felony convictions, and especially affect a parent’s ability to provide for his or her children or maintain custody. Employers are allowed to ask about prior felony convictions and may refuse to hire someone on that basis. In California, drug felonies make people ineligible for food stamps and welfare assistance unless they are in (or have completed) treatment. Public Housing Authorities are also allowed to consider any arrests or convictions that occurred in the past five years, and may reject housing applications for drug or violent crimes.

**DISCUSSION – (10-15 min.)**

For this section you can split the class into small discussion circles or remain in one group.

Tell the class: As we just heard, incarceration and felony convictions have a lot of negative consequences for people with children. Especially with drug convictions, a parent may have a hard time housing and feeding their kids even after they are released from prison.

Ask students to discuss the following questions:

1. Why do you think the law is this way? Or what reasons do you think a lawmaker would give for keeping people convicted of drug crimes from using welfare, food stamps, or public housing?

2. Do you think these policies are fair? (You might break this question down into three policies: custody for incarcerated parents or parents with felony conviction; employment; access to housing and public benefits)

3. What would you change if you were in charge? What sort of laws should there be to help parents or children of people with criminal convictions?

If the class was in small groups, ask them to come back together and share out ideas.

**CONCLUSION – (5 min.)**

1. Thank the class for their participation

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2. Remind the class that today we talked about how the law defines parenthood, as well as the consequences of criminal convictions for people with children.

3. Tell the class that even though we’ve been focusing on what happen after someone has a child, we all also have control over whether or when we have kids. Hand out Appendix A to the class, and explain that it is a list of providers who will provide free or low cost family planning services (make sure to check with the teacher/staff to see whether they can keep these).

4. Any questions?
Appendix A

Family Planning and Reproductive Health Services

This list includes local clinics and organizations that will provide free or low-cost family planning and reproductive health services to low-income clients or people without health insurance.

Services include: contraceptives, emergency contraceptives, pregnancy testing and counseling, STD testing, cancer screening, sterilization, and some infertility treatment.

SAN MATEO CLINIC  222 WEST 39TH AVENUE  SAN MATEO, CA, 94403 (650) 573-2851

PLANNED PARENTHOOD MAR MONTE  29 BAYWOOD AVENUE  SAN MATEO, CA, 94402 (650) 235-7940

COLLEGE OF SAN MATEO/HEALTH CENTER  1700 WEST HILLSDALE BOULEVARD BUILDING 1, ROOM 147 SAN MATEO, CA, 94402 (650) 574-6396

RAVENSWOOD FAMILY HEALTH CENTER AT BELLE HAVEN  100 TERMINAL AVENUE  MENLO PARK, CA, 94025 (650) 321-0980

LUCILE SALTER PACKARD  725 WELCH ROAD  PALO ALTO, CA, 94304 (650) 497-8000

RAVENSWOOD FAMILY HEALTH CENTER  1798-A BAY ROAD  EAST PALO ALTO, CA, 94303 (650) 330-7400

MAYVIEW COMMUNITY HEALTH  270 GRANT AVENUE  PALO ALTO, CA, 94306 (650) 327-8717

HAYWARD SISTERS HOSPITAL  27200 CALAROGA AVENUE  HAYWARD, CA, 94545 (510) 782-4470

TIBURCIO VASQUEZ HEALTH  22331 MISSION BOULEVARD  HAYWARD, CA, 94541 (510) 471-5907

LA CLINICA DE LA RAZA  50 EAST LEWELLING BOULEVARD ROOM S-5 SAN LORENZO, CA, 94580 (510) 317-3167

ALAMEDA COUNTY NEWARK HEALTH CENTER  6066 CIVIC TERRACE AVENUE  NEWARK, CA, 94560 (510) 795-2414

TIBURCIO VASQUEZ HEALTH CENTER  33255 9TH STREET  UNION CITY, CA, 94587 (510) 471-5907

PLANNED PARENTHOOD MAR MONTE  225 SAN ANTONIO ROAD  MOUNTAIN VIEW, CA, 94040 (650) 948-0807
ALTOS OAKS MEDICAL GROUP  2485 HOSPITAL DRIVE  SUITE
330 MOUNTAIN VIEW, CA, 94040 (650) 988-7470

NORTH EAST MEDICAL SERVICES EASTMOOR  211 EASTMOOR AVENUE
DALY CITY, CA, 94015 (650) 550-3923

NORTH COUNTY HEALTH CENTER SAN MATEO  380 90TH STREET  DALY
CITY, CA, 94015 (650) 301-8600

PLANNED PARENTHOOD SHASTA PACIFIC  1650 VALENCIA STREET
SAN FRANCISCO, CA, 94110 (415) 821-1282

NORTH EAST MEDICAL SERVICES LELAND AVENUE  82 LELAND AVENUE
SAN FRANCISCO, CA, 94134 (415) 391-9686

SILVER AVENUE HEALTH CENTER #3  1525 SILVER AVENUE  SAN
FRANCISCO, CA, 94134 (415) 657-1700

LIFELONG MEDICAL CARE  9933 MACARTHUR BOULEVARD  OAKLAND, CA,
94605 (510) 568-3206

LA CLINICA DE LA RAZA  1515 FRUITVALE AVENUE  OAKLAND, CA,
94601 (510) 535-4000

WEST OAKLAND HEALTH CENTER  700 ADELINE STREET  OAKLAND, CA,
94607 (510) 835-9610