

21st Century Trends in American Family Law

Sometimes it's fun to speculate about what the future might bring. Here are some thoughts about certain directions in American family law:

Marriage/divorce rates. Both continue to fall, although so far not dramatically. Will these trends continue? If so, with what effect on families?

Bureaucracy. Family law keeps getting more bureaucratic. Do bureaucracies ever start to shrink?

Antiquated concepts. The majority of American states still style divorce cases in outdated adversarial formats. This is changing, but slowly.

Inappropriate terminology. Only about 15 states have yet purged the misleading and emotionally charged terms "custody" and "visitation." The use of more modern terms such as "parenting plans" keeps expanding.

The impact of technology. Divorce practice has not kept pace with the huge advances in technology. Most preliminary hearings could be done by video conference. Civil discovery has mostly overlooked the possible ways to use technology to update a flawed system. There is a need for better disclosure guidelines for the cases that are not resolved by courts.

ADR modes. The use of mediation and collaborative practice in family law cases continues to grow and to become more professional. The ADR concepts of teamwork and cooperation are being used with increasing frequency even in the cases that lawyers handle in the traditional manner.

Divorce-related professionals. Financial specialists and mental health professionals, among others, will increasingly be involved in divorce settlements. Divorce is becoming less of a private domain for lawyers.

Divorce reform movements. Joe Sorge's Divorce Corp will continue to be the most important anti-establishment group for law reform.

Unmarried cohabitation. Unmarried parents are subject to legal oversight for parenting plans and child support when they separate. As such unions become more common, will other legal standards also apply?

Polygamy/polyandry. Plural marriages may possibly be legalized in some places in this century and polyamory is becoming more common.

Legal drafting. Now that we're well into the 21st century, will more lawyers finally get rid of archaic, constipated & extraneous drafting forms?