

IDAHO FAMILY LAW HANDBOOK

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WITH SPECIAL THANKS TO MARY SHEA, CAROLE WESENBURG, AND THEIR STUDENTS AT THE IDAHO STATE UNIVERSITY PARALEGAL STUDIES PROGRAM

Preface to 2017 Supplement

This Supplement to the 2015 Sixth Edition of the Family Law Handbook contains three (3) substantive editions. Nathan Palmer has kindly contributed a new article entitled, “Spouse Maintenance In Lieu of Property Division”. Mary Shea has updated her article from 2011 entitled, “Trying to Fit a Square Peg Into a Round Hole? Applying Idaho Rules of Evidence and Procedure to Child Custody Evaluation,” and Fred Zundel has updated his 2013 article entitled, “Domestic Violence.”

Mary Shea, Carole Wesenberg, and students in the Paralegal Studies Program at Idaho State University continue to monitor and improve the electronic edition of the Family Law Handbook. We would once more give our thanks to Mary, Carole, and the ISU paralegal students for their essential work.

Since the 2015 edition of the Handbook, there have been a number of case law, statutory, and rule developments. The most significant case law development was the United States Supreme Court decision in *Obergefell v. Hodges*, 135 St. Ct. 2584. In a 5-4 decision, the Supreme Court held that the fundamental right to marry is guaranteed to same-sex couples by both the Due Process Clause and the Equal Protection Clause of the Fourteen Amendment to the United States Constitution. States are now required to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex when their marriage is lawfully licensed and performed out-of-state. Some significant changes were made to the guardianship statutes at Idaho Code § 15-5-207 (two co-guardians can now be appointed in a minor guardianship proceeding, and criteria and procedure for appointment of a temporary guardian of a minor are provided); § 15-5-304 (two co-guardians may be appointed in guardianship for an incapacitated person); § 15-5-308 along with new Idaho Court Administrative Rule 54.4 (provides for the qualifications and responsibilities of a Visitor in an adult guardianship case); and § 15-5-310 (criteria for temporary guardianship over an incapacitated person). There is also a new Idaho Court Administrative Rule 54.5 providing the responsibilities and content of the report by the Health and Welfare Evaluation Committee in developmental disability guardianships. Practitioners should also be aware of new additions to the Idaho Rules of Family Law Procedure at Rule 720 (Brief Focused Assessment); 201.D (commencement of action to obtain a money judgment); 204.C (summons allows 21 days to respond); 908.A (attorney fees pursuant to Idaho Code § 12-121 allowed only when case pursued or defended frivolously, unreasonably, or without foundation).

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