

Table of Contents

PART I. DOMESTIC TORTS OVERVIEW AND PSYCHOSOCIAL PERSPECTIVES

CHAPTER 1. DOMESTIC TORTS

A. INTRODUCTION

- § 1:1 Definitions
- § 1:2 Domestic torts as an emerging field of law
- § 1:3 The cost of domestic torts: Damages
- § 1:4 Domestic tort claims may dramatically change the outcome of divorces
- § 1:5 The problem: Family law attorneys failing to address clients' rights
- § 1:6 The benefit to attorneys in representing domestic injury claims
- § 1:7 Use of this book by family law attorneys
- § 1:8 Use of this book by law schools

B. HISTORICAL CONTEXT

- § 1:9 Common law prohibition of domestic tort actions
- § 1:10 Seminal case—*Thompson v. Thompson* and the suppression of victim's rights
- § 1:11 The emergence of domestic torts actions
- § 1:12 —Maryland
- § 1:13 The cost of domestic torts—Damages

C. BRINGING DOMESTIC TORT ACTIONS

- § 1:14 First and third party domestic tort claims
- § 1:15 Raising claims in divorce proceedings or in separate civil actions—Considerations in favor of separate actions
- § 1:16 —Single or entire controversy doctrine

D. PRACTICE CONSIDERATIONS

- § 1:17 Need for attorneys to understand domestic torts
- § 1:18 Malpractice risk for failure to inform clients of domestic torts claims
- § 1:19 Conclusion

CHAPTER 2. PSYCHOSOCIAL PERSPECTIVES OF VIOLENCE IN DOMESTIC RELATIONSHIPS

I. INTRODUCTION

- § 2:1 Violence in domestic relationships
- § 2:2 A psychological and historical overview of domestic violence

II. PSYCHOSOCIAL PERSPECTIVES

- § 2:3 Introduction to theories of domestic violence
- § 2:4 Feminist theory
- § 2:5 Systems theory
- § 2:6 Sociocultural theory
- § 2:7 Psychological theories
- § 2:8 —Psychodynamics
- § 2:9 —Self psychology
- § 2:10 —Learned helplessness
- § 2:11 —Walker cycle theory of violence
- § 2:12 Power and control wheel—Duluth model

III. PSYCHOLOGICAL PROFILE OF THE ABUSER

- § 2:13 Men who abuse
- § 2:14 Women who abuse
- § 2:15 —Premenstrual syndrome
- § 2:16 —Postpartum psychosis
- § 2:17 Alcohol and other drugs

IV. PSYCHOLOGICAL PROFILE OF THE VICTIM

- § 2:18 Battered woman syndrome
- § 2:19 —Posttraumatic stress disorder

TABLE OF CONTENTS

- § 2:20 —Stockholm syndrome
- § 2:21 Battered husbands
- § 2:22 Children: the silent victims of domestic violence
- § 2:23 The battered undocumented immigrant

V. CONCLUSION

- § 2:24 Popular culture reflecting society's changing attitudes regarding domestic violence—Movies
- § 2:25 —Music
- § 2:26 Conclusion

PART II. DOMESTIC TORT ACTIONS AGAINST FIRST PARTY OFFENDERS

CHAPTER 3. VIOLENT DOMESTIC TORTS

I. GENERALLY

- § 3:1 Violent domestic torts covered in other chapters
- § 3:2 Violence and the courts
- § 3:3 Common law causes of action

II. CIVIL CAUSES OF ACTION

A. ASSAULT

- § 3:4 Civil cause of action
- § 3:5 Elements
- § 3:6 Cases

B. BATTERY

- § 3:7 Civil cause of action
- § 3:8 Elements
- § 3:9 Cases

C. FALSE IMPRISONMENT

- § 3:10 Civil cause of action
- § 3:11 Elements

§ 3:12 Cases

D. INTENTIONALLY PREVENTING ASSISTANCE

§ 3:13 Civil cause of action

§ 3:14 Elements

§ 3:15 Cases

E. CAUSING BATTERED WOMAN SYNDROME

§ 3:16 Civil cause of action

§ 3:17 Elements

§ 3:18 Cases

F. USE OF EXCESSIVE FORCE

§ 3:19 Civil cause of action

§ 3:20 Elements

§ 3:21 Cases

G. ACTS INTENDING TO AFFECT CONDUCT OF ANOTHER OR ANIMAL WITH UNREASONABLE RISK

§ 3:22 Civil cause of action

§ 3:23 Elements

§ 3:24 Cases

H. DESTRUCTION OF PROPERTY

§ 3:25 Civil cause of action

§ 3:26 Elements

§ 3:27 Cases

I. OTHER POSSIBLE TORT CLAIMS ARISING FROM VIOLENT ACTS

§ 3:28 Other possible tort claims arising from violent acts

III. STATUTORY CAUSES OF ACTION AND REMEDIES

A. WRONGFUL DEATH (HOMICIDE AND MURDER)

§ 3:29 Civil cause of action

TABLE OF CONTENTS

§ 3:30 Elements

§ 3:31 Cases

B. FEDERAL STATUTORY REMEDIES

§ 3:32 Federal Violence Against Women Act (VAWA)

§ 3:33 Federal Victims of Crime Act (VOCA)

C. STATE STATUTORY REMEDIES

§ 3:34 Domestic violence protective orders

§ 3:35 Injunctions and temporary restraining orders

IV. DEFENSES

§ 3:36 Introduction

§ 3:37 Interspousal immunity

§ 3:38 Limitation of actions and laches

§ 3:39 Self-defense

§ 3:40 Defense of others or property

§ 3:41 Consent

§ 3:42 Mistake and unavoidable accident

§ 3:43 Res judicata and collateral estoppel

§ 3:44 Equitable estoppel and waiver

§ 3:45 Single or entire controversy doctrine

§ 3:46 Release of liability

V. THIRD PARTY LIABILITY

§ 3:47 Third party liability

§ 3:48 Conclusion

CHAPTER 4. SEXUAL DOMESTIC TORTS

I. GENERALLY

§ 4:1 Sexual torts covered in this chapter and other chapters

§ 4:2 Introduction—Sexual domestic torts

II. SEXUAL ASSAULT

§ 4:3 Sexual battery

§ 4:4 Rape

- § 4:5 Marital rape and involuntary deviate sexual intercourse
- § 4:6 “Stealthing”—Nonconsensual removal of condom during sex

III. SEXTING

- § 4:7 Introduction
- § 4:8 Violation of federal child pornography law
- § 4:9 Violation of state law prohibiting teen sexting
- § 4:10 Civil cause of action arising from sexting

IV. REVENGE PORN

- § 4:11 Introduction
- § 4:12 State laws prohibiting revenge porn
- § 4:13 Social media user agreements prohibiting revenge porn
- § 4:14 Civil cause of action

V. TRANSMISSION OF SEXUAL DISEASES

A. GENERALLY

- § 4:15 Types of sexually transmitted diseases

B. LEGAL THEORIES

- § 4:16 Background
- § 4:17 Relevant causes of action
- § 4:18 Negligence
- § 4:19 Battery
- § 4:20 Deceit and fraudulent misrepresentation
- § 4:21 Intentional infliction of emotional distress
- § 4:22 Causation

C. DEFENSES

- § 4:23 Consent
- § 4:24 Interspousal tort immunity
- § 4:25 Limitation of actions
- § 4:26 Illegality
- § 4:27 Right to privacy
- § 4:28 Assumption of the risk
- § 4:29 Contributory or comparative negligence

TABLE OF CONTENTS

**CHAPTER 5. INFLICTION OF
EMOTIONAL DISTRESS AND INJURY TO
REPUTATION**

I. INFLICTION OF EMOTIONAL DISTRESS

§ 5:1 Introduction

**A. INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS**

§ 5:2 Civil cause of action

§ 5:3 Elements

§ 5:4 Cases

§ 5:5 —Outrageous conduct within the confines of
marriage or other intimate relationships

§ 5:6 —Actions against third parties for interference
with the marital relationship

§ 5:7 —Actions based on conduct towards others

§ 5:8 —Actions involving the paternity of children

§ 5:9 Advisability of bringing a claim

**B. NEGLIGENT INFLICTION OF EMOTIONAL
DISTRESS**

§ 5:10 Civil cause of action

§ 5:11 Elements

§ 5:12 Cases

C. STALKING

§ 5:13 Stalking

II. INJURY TO REPUTATION

A. DEFAMATION OF CHARACTER

§ 5:14 Civil cause of action

§ 5:15 Elements

§ 5:16 Slander and libel distinguished

B. SLANDER

§ 5:17 Civil cause of action

§ 5:18 Elements

§ 5:19 Cases

C. LIBEL

§ 5:20 Civil cause of action

§ 5:21 Elements

§ 5:22 Cases

D. DEFENSES TO DEFAMATION

§ 5:23 Truth

§ 5:24 Constitutionally protected activity

§ 5:25 Immunity

§ 5:26 —Absolute immunity

§ 5:27 —Qualified immunity

CHAPTER 6. INVASION OF PRIVACY

I. GENERALLY

A. GENERALLY

§ 6:1 Introduction

II. COMMON LAW CAUSES OF ACTION

A. GENERALLY

§ 6:2 Invasion of privacy—Four causes of action

B. INTRUSION UPON SECLUSION

§ 6:3 Civil cause of action

§ 6:4 Elements

§ 6:5 Cases

§ 6:6 Eavesdropping and visual prying

§ 6:7 Unsolicited telephone calls and other forms of communication

§ 6:8 Surveillance by shadowing

§ 6:9 Surveillance by global positioning system (GPS)

§ 6:10 Invasion into domestic privacy

C. APPROPRIATION OF NAME OR LIKENESS

§ 6:11 Civil cause of action

§ 6:12 Elements

TABLE OF CONTENTS

§ 6:13 Cases

D. PUBLICITY GIVEN TO PRIVATE LIFE

§ 6:14 Civil cause of action

§ 6:15 Elements

§ 6:16 Cases

E. PLACING ANOTHER IN FALSE LIGHT

§ 6:17 Civil cause of action

§ 6:18 Elements

§ 6:19 Cases

III. STATUTORY CAUSES OF ACTION

A. FEDERAL WIRETAPPING AND USE OF ELECTRONIC DEVICES

§ 6:20 Omnibus Crime Control and Safe Streets Act
(Federal Wiretap Act)

§ 6:21 Cases

B. STATE WIRETAPPING STATUTES

§ 6:22 State statutes

§ 6:23 —Cases

IV. DEFENSES

§ 6:24 Consent

§ 6:25 Privilege

§ 6:26 Legitimate public concern

§ 6:27 Truth

§ 6:28 Interception not a willful act

§ 6:29 Defendant's actions not secret

§ 6:30 Extension telephone exception

§ 6:31 Good faith reliance

§ 6:32 Lack of subject matter jurisdiction

§ 6:33 Statute of limitations

CHAPTER 7. FRAUD, ABUSE OF PROCESS, ECONOMIC TORTS

I. GENERALLY

§ 7:1 Introduction

II. FRAUD IN THE INDUCEMENT

- § 7:2 Civil cause of action
- § 7:3 Fraudulent inducement to admit paternity
- § 7:4 Fraudulent misrepresentation of birth control practice
- § 7:5 Fraudulent promise to impregnate or that unable to become pregnant
- § 7:6 Fraudulent inducement to obtain consent for in vitro fertilization
- § 7:7 Fraudulent inducement to cohabit
- § 7:8 Fraudulent inducement to marry
- § 7:9 Fraudulent inducement to continue the marital relationship
- § 7:10 Fraudulent inducement to procure settlement agreement or divorce or fraudulently secreting marital assets
- § 7:11 —Violations of federal and state security laws
- § 7:12 Fraud on the community, breach of fiduciary duty between spouses with respect to marital property

III. ABUSE OF PROCESS

- § 7:13 Abuse of process
- § 7:14 Malicious prosecution
- § 7:15 Vexatious litigation
- § 7:16 Intentional spoliation of evidence

IV. ECONOMIC TORTS

- § 7:17 Conversion
- § 7:18 Racketeering Influenced Corrupt Organization Acts (RICO claims)
- § 7:19 Tortious interference with equitable or community property distribution rights (fraudulent conveyances)
- § 7:20 Tortious interference with business or contractual relationship
- § 7:21 Interference with a prospective business relationship
- § 7:22 Interference with inheritance
- § 7:23 Reimbursement of child support
- § 7:24 Failure to pay alimony

V. EQUITABLE REMEDIES

- § 7:25 Constructive trust and unjust enrichment

TABLE OF CONTENTS

**CHAPTER 8. INTERFERENCE WITH
FAMILY RELATIONSHIPS**

I. COMMON LAW CAUSES OF ACTION

A. HEART BALM OFFENSES

- § 8:1 Introduction
- § 8:2 Current status of heart balm offenses—Permitted jurisdictions
- § 8:3 Four primary heart balm causes of action

B. ALIENATION OF SPOUSE’S AFFECTION

- § 8:4 Civil cause of action
- § 8:5 Elements
- § 8:6 Cases

C. CRIMINAL CONVERSATION (ADULTERY)

- § 8:7 Civil cause of action
- § 8:8 Elements
- § 8:9 Cases

D. BREACH OF PROMISE TO MARRY

- § 8:10 Civil cause of action
- § 8:11 Elements

E. SEDUCTION

- § 8:12 Civil cause of action
- § 8:13 Elements
- § 8:14 Cases

**II. ALIENATION OF AFFECTIONS OF PARENT
OR CHILD**

- § 8:15 Child’s right to recover
- § 8:16 Parent’s right to recover

III. OTHER CAUSES OF ACTION

- § 8:17 Loss of consortium—Spousal relationship
- § 8:18 —Parent-child relationship
- § 8:19 Enticement, abduction, and harboring spouse

- § 8:20 Refusal to cooperate in obtaining a religious divorce

IV. DEFENSES TO HEART BALM OFFENSES

- § 8:21 Generally
- § 8:22 Statutory prohibition
- § 8:23 Privilege
- § 8:24 Procedural defenses

CHAPTER 9. INTERFERENCE WITH PARENT-CHILD RELATIONSHIP

I. BACKGROUND

- § 9:1 Introduction
- § 9:2 Parental alienation syndrome

II. INTERFERENCE WITH CUSTODIAL RIGHTS

- § 9:3 Intentional interference with parental custody rights
- § 9:4 Kidnapping, child snatching, and abduction
- § 9:5 Child enticement and harboring
- § 9:6 False imprisonment
- § 9:7 Intentional infliction of emotional distress
- § 9:8 Negligent infliction of emotional distress
- § 9:9 Prima facie tort
- § 9:10 Civil conspiracy

III. INTERFERENCE WITH OTHER PARENTAL RIGHTS

- § 9:11 Interference with visitation rights

IV. ALTERNATIVE JUDICIAL REMEDIES

- § 9:12 Generally
- § 9:13 Changing custody
- § 9:14 Contempt
- § 9:15 Fines
- § 9:16 Suspending child support payments
- § 9:17 Restitution under criminal statutes

TABLE OF CONTENTS

- § 9:18 Forfeiture of equitable interest in marital property

V. DEFENSES

- § 9:19 Generally
§ 9:20 Domestic relations exception to exercise of jurisdiction by federal courts
§ 9:21 Lack of personal jurisdiction
§ 9:22 Limitations of actions
§ 9:23 Lack of knowledge of court order
§ 9:24 Good faith reliance on a foreign unlawful custody decree
§ 9:25 Privilege

VI. THIRD PARTY LIABILITY

- § 9:26 Third-party liability

CHAPTER 10. THE PHYSICALLY AND EMOTIONALLY ABUSED CHILD

I. PSYCHOLOGICAL PERSPECTIVES

A. BACKGROUND

- § 10:1 Prevalence of child abuse and neglect

B. PHYSICAL ABUSE

- § 10:2 The battered child syndrome
§ 10:3 Munchausen syndrome by proxy
§ 10:4 Failure to thrive
§ 10:5 Characteristics of parents who batter
§ 10:6 —Alcohol and other drug (AOD) problems
§ 10:7 The role of the child
§ 10:8 When discipline becomes abusive
§ 10:9 Effects of physical abuse on the child

C. EMOTIONAL AND PSYCHOLOGICAL ABUSE

- § 10:10 The emotionally/psychologically abused child
§ 10:11 Characteristics of parents who emotionally abuse

§ 10:12 Effects of emotional abuse on the child

D. SIBLING ABUSE

§ 10:13 Generally

II. CIVIL TORT LIABILITY: ACTIONS BY THE ABUSED CHILD

§ 10:14 Recognition of actions by the abused child

§ 10:15 Types of abuse

§ 10:16 Legal theories

§ 10:17 Action for unintentional infliction of prenatal injuries

III. CIVIL TORT LIABILITY: ACTIONS BY THE PARENT

§ 10:18 Wrongful death of child

IV. DEFENSES

§ 10:19 Generally

§ 10:20 Privilege to discipline

§ 10:21 Parental tort immunity

§ 10:22 Consent

§ 10:23 Limitation of actions

CHAPTER 11. SEXUALLY ABUSED CHILDREN

I. BACKGROUND

§ 11:1 Prevalence of child sexual abuse

§ 11:2 Definitions

II. PERPETRATORS OF SEXUAL ABUSE

§ 11:3 Generally

§ 11:4 Preferential versus situational child molesters

§ 11:5 The incestuous family

§ 11:6 —Father-child incest

§ 11:7 —Mother-child incest

§ 11:8 —Sibling incest

TABLE OF CONTENTS

III. EFFECTS OF SEXUAL ABUSE ON CHILDREN

- § 11:9 Generally
- § 11:10 Posttraumatic stress disorder
- § 11:11 Emotional effects
- § 11:12 Behavioral effects
- § 11:13 Sexual effects

IV. CIVIL TORT LIABILITY: ACTIONS BY THE SEXUALLY EXPLOITED CHILD

- § 11:14 Practical issues
- § 11:15 Tort theories
- § 11:16 Assault and battery
- § 11:17 Intentional infliction of emotional distress
- § 11:18 Negligent infliction of emotional distress
- § 11:19 Violation of criminal statutes—Implied cause of action
- § 11:20 Wrongful death

V. DEFENSES

- § 11:21 Standard defenses
- § 11:22 Adult sexual abuse survivors and the statute of limitations

PART III. DOMESTIC TORT ACTIONS AGAINST THIRD PARTY OFFENDERS AND INSURANCE

CHAPTER 12. THIRD-PARTY LIABILITY: PERSONS

I. GENERALLY

- § 12:1 Introduction

II. FAMILY OR FRIENDS OF THE PERPETRATOR

A. ASSAULT, SEXUAL ASSAULT

- § 12:2 The other parent

DOMESTIC TORTS

- § 12:3 —Spouse of the perpetrator
- § 12:4 —Other relatives: Accomplice to abusive conduct
- § 12:5 Party host's duty to supervise

B. INVASION OF PRIVACY

- § 12:6 Liability under the Federal Wiretap Act—
Spouse's coconspirators
- § 12:7 Liability under the Wiretap Act: Third-party
interceptions

C. CHILD ABUSE (PHYSICAL, EMOTIONAL, SEXUAL)

- § 12:8 Generally
- § 12:9 Actions against the nonabusive parent
- § 12:10 Actions against the nonparent spouse of the
perpetrator
- § 12:11 Actions against the owners of the child's
residence
- § 12:12 Liability as an accomplice to abusive conduct
- § 12:13 Liability for abuse suffered in foster placements
- § 12:14 Reporters of suspected child abuse
- § 12:15 —Actions against those who fail to report
- § 12:16 —Actions for filing an erroneous report
- § 12:17 Claims related to investigation of child abuse
allegations

D. INTERFERENCE WITH PARENTAL RIGHTS

- § 12:18 Relatives or friends who assist the abducting
parent

III. SPOUSES OTHER SEXUAL PARTNERS— SEXUALLY TRANSMITTED DISEASES

- § 12:19 Liability of spouse's other sexual partner

IV. PARENTAL LIABILITY FOR TORTS COMMITTED BY CHILDREN

- § 12:20 Generally
- § 12:21 Liability of parents for acts of a child
- § 12:22 Statutory liability of parents for willful and
malicious acts of children

TABLE OF CONTENTS

- § 12:23 Negligence liability of parents for acts of child
- § 12:24 Negligence of child's parent or parents—Duty
- § 12:25 Failure to exercise reasonable care of child
- § 12:26 Parents duty to warn
- § 12:27 Immunity, parental

**CHAPTER 13. THIRD-PARTY
LIABILITY—PROFESSIONALS AND
BUSINESS**

I. MENTAL HEALTH PROFESSIONALS

A. FAILURE TO WARN

- § 13:1 Victims of violent acts
- § 13:2 Statutory duty to warn

B. NEGLIGENCE

- § 13:3 Mental health professionals

**C. INTERFERENCE WITH FAMILY
RELATIONSHIPS**

- § 13:4 Mental health professionals whose conduct interferes with custodial/visitation rights
- § 13:5 Mental health professionals whose conduct interferes with parent's relationship with adult child
- § 13:6 Mental health professionals who have sex with patients
- § 13:7 Therapist-client privilege of children
- § 13:8 Expert witnesses rendering recommendations concerning custodial placement or supervision of children

**II. PHYSICIANS, DOCTORS, AND HEALTH
PROFESSIONALS**

A. FAILURE TO WARN

- § 13:9 Duty to warn on the part of physicians, hospitals, and laboratories
- § 13:10 Doctor's perjury
- § 13:11 Negligent communication

- § 13:12 Victims of contagious disease
- § 13:13 Persons required to report communicable diseases
- § 13:14 Cases—Persons required to report communicable diseases
- § 13:15 Testing agencies' failure to inform or counsel

B. FAILURE TO REPORT EVIDENCE OF CHILD ABUSE

- § 13:16 Reporting statutes—Duty
- § 13:17 —Duty
- § 13:18 —Private cause of action
- § 13:19 —Immunity
- § 13:20 Physicians and hospitals

C. INTERFERENCE WITH FAMILY RELATIONSHIPS

- § 13:21 Physicians who have sex with patient or patient's spouse
- § 13:22 Effect of anti-heart balm statutes

D. TORTIOUS DISCLOSURE OF CONFIDENTIAL INFORMATION

- § 13:23 Medical records—Federal and state regulations
- § 13:24 Tortious disclosure of confidential information

III. SOCIAL WORKERS AND MARRIAGE COUNSELORS

- § 13:25 Social workers and marriage counselors
- § 13:26 —Immunity

IV. ATTORNEYS

A. FAILURE TO WARN

- § 13:27 Attorneys who fail to warn foreseeable victims of a client's intended assault or abuse
- § 13:28 Attorneys for the abducting spouse

B. MALPRACTICE

- § 13:29 Attorneys who commit malpractice

TABLE OF CONTENTS

- § 13:30 Attorneys who fail to recognize, investigate, inquire about, or protect a client's domestic tort claim
- § 13:31 Attorneys who fail to properly advise of or obtain protective orders
- § 13:32 Attorneys who recommend mental health professionals
- § 13:33 Adoption malpractice

V. BUSINESSES

A. INVASION OF PRIVACY

- § 13:34 Manufacturers, distributors, and advertisers of intercepting devices
- § 13:35 Users and disseminators of illegal wiretap evidence
- § 13:36 Private investigators or detectives

B. OTHER CAUSES OF ACTION

- § 13:37 Airline liability
- § 13:38 Professional associations or colleagues
- § 13:39 Insurance companies
- § 13:40 Adoption agencies
- § 13:41 —Causing wrongful birth defects of adopted child
- § 13:42 Artificial insemination fraud
- § 13:43 Surrogacy business
- § 13:44 Liability of rehabilitative facility to parent for molestation of child
- § 13:45 Expert witnesses in property disputes
- § 13:46 Civil RICO claims involving property rights

VI. PRIVATE SCHOOLS AND TEACHERS

A. GENERAL

- § 13:47 School districts, teachers and other personnel
- § 13:48 Private schools, teachers and school officials
- § 13:49 Private day care centers and workers

B. FAILURE TO REPORT EVIDENCE OF CHILD ABUSE

- § 13:50 School liability for failure to report abuse

VII. RELIGIOUS COUNSELORS AND CHURCHES

A. INTERFERENCE WITH FAMILY RELATIONSHIPS

- § 13:51 Spiritual, pastoral, and religious counselors
- § 13:52 Religious intrusion into domestic privacy
- § 13:53 Spiritual, pastoral, and religious counselors who interfere with parent's relationship with child
- § 13:54 Religious entities and duty to protect and help victims of child abuse

CHAPTER 14. THIRD PARTY LIABILITY—GOVERNMENT

- § 14:1 Introduction
- § 14:2 Immunity

I. FAILURE TO ENFORCE JUDICIAL PROTECTIVE ORDERS AND PROTECT WITNESSES

A. BREACH OF DUTY CREATED BY "SPECIAL RELATIONSHIP"

- § 14:3 Duty created by "special relationship"
- § 14:4 Cases—Breach of duty created by "special relationship"

B. VIOLATION OF EQUAL PROTECTION LAWS

- § 14:5 The Equal Protection clause
- § 14:6 Cases—Violation of equal protection clause

II. NEGLIGENCE

A. NEGLIGENCE ARISING FROM CHILD ABUSE

- § 14:7 State's liability for negligent investigation of child abuse allegations
- § 14:8 State liability for children taken into custody of state
- § 14:9 Negligent supervision or abuse prevention of abused child

TABLE OF CONTENTS

§ 14:10 Negligent certification of day care center

§ 14:11 Related issues

B. NEGLIGENCE ARISING FROM GOVERNMENT PRISONS

§ 14:12 Negligent failure to warn

§ 14:13 Negligent release from incarceration

§ 14:14 Negligent supervision of parolees

C. NEGLIGENCE ARISING FROM GOVERNMENT MENTAL HOSPITALS

§ 14:15 Negligent failure to warn

D. NEGLIGENCE OF PUBLIC SCHOOL DISTRICTS, TEACHERS, AND OTHER PERSONNEL

§ 14:16 School districts, teachers and other personnel

E. NEGLIGENCE IN PERFORMING COURT APPOINTED DUTIES

§ 14:17 Guardian ad litem

§ 14:18 Expert witnesses rendering recommendations
concerning custodial placement or supervision
of children

III. SECTION 1983 CIVIL RIGHTS VIOLATION

§ 14:19 Section 1983 civil rights actions

§ 14:20 Violation of civil rights (§ 1983 claim) for post-
release supervision of parolee and placement of
children

§ 14:21 Violation of family's civil rights (§ 1983 claim) in
placement of foster children

§ 14:22 Violation of foster child's civil rights (§ 1983
claim) in child's placement

§ 14:23 Violation of civil rights (§ 1983 claim) for
removing and holding children pending
investigation

§ 14:24 Violation of civil rights (§ 1983 claim) for
unnecessarily intrusive investigations by
protective agencies

§ 14:25 Violation of civil rights (§ 1983 claim) for
unreasonable arrest in abusive abuse cases

- § 14:26 Violation of civil rights (§ 1983 claim) for school district failure to keep student free from sexual abuse in school
- § 14:27 Violation of civil rights (§ 1983 claim) for gender and sexual orientation discrimination
- § 14:28 § 1983 claims arising from sex with law enforcement officer

IV. INTERFERENCE WITH PARENTAL RIGHTS

- § 14:29 Interference with parent-child relationship
- § 14:30 Failure of government to reunite parent with child prior to termination of parental rights
- § 14:31 Local law enforcement officers
- § 14:32 Witness protection programs

CHAPTER 15. INSURANCE COVERAGE

I. STANDARD LIABILITY INSURANCE

- § 15:1 Standard comprehensive general liability and homeowner's insurance policies
- § 15:2 Resident of home or named insured exclusion
- § 15:3 Expected or intentional act exclusion
- § 15:4 —Specific subjective intent to cause injuries
- § 15:5 —Court-inferred intent
- § 15:6 —Mistaken belief
- § 15:7 —Objective normative standard of intent or expectation
- § 15:8 —Collateral estoppel
- § 15:9 —Not an *occurrence* under the homeowner's policy
- § 15:10 Single versus multiple occurrences
- § 15:11 Vicarious liability
- § 15:12 Business exclusion
- § 15:13 Automobile liability coverage

II. LIFE INSURANCE

- § 15:14 Life insurance and accidental death policies
- § 15:15 Slayer statutes—Disqualification of a killer as an heir
- § 15:16 Lawful killing of the insured by the beneficiary
- § 15:17 Accidental death benefits

TABLE OF CONTENTS

§ 15:18 Tort liability for insurance company's actions or inactions in administering its policies

III. PROFESSIONAL MALPRACTICE INSURANCE

§ 15:19 Coverage for sexual assault

§ 15:20 Coverage cap for sexual misconduct

APPENDICES

Appendix A. Domestic Violence Protective Orders

Appendix B. Present Status and Decisions on Interspousal Tort Immunity

Appendix C. Slayer Statute Comparison by State

Appendix D. Heart Balm Statutes

Appendix E. Reporting Statutes—Child Abuse or Neglect

Appendix F. Sampling of Some States That Make Transmission of Sexually Transmitted Disease a Criminal Offense

Appendix G. Parental Tort Immunity (as to suits by unemancipated children in their custody, or supported by them)

Appendix H. Tolling of Statute of Limitations During Minority

Appendix I. Implication of Cause of Action from Criminal Statute

Appendix J. Glossary

Table of Laws and Rules

Table of Cases

Index

