

UČNI NAČRT PREDMETA / COURSE SYLLABUS

Predmet: Osnove družinskega prava
Course title: Basics of Family Law

Študijski program in stopnja Study programme and level	Študijska smer Study field	Letnik Academic year	Semester Semester
Psihosocialno svetovanje, druga Psychosocial counselling, master, second	Psihosocialno svetovanje Psychosocial counselling	Prvi, drugi First, second	Drugi, četrty Second, fourth

Vrsta predmeta / Course type

Izbirni / Elective

Univerzitetna koda predmeta / University course code:

ODP / BFL

Predavanja Lectures	Seminar Seminar	Vaje Tutorial	Klinične vaje work	Druge oblike študija	Samost. delo Individ. work	ECTS
20		10			150	6

Nosilec predmeta / Lecturer:

izr. prof. dr. Petra Kleindienst / Assoc. Prof. Petra Kleindienst,
Ph.D.

**Jeziki /
Languages:**

**Predavanja /
Lectures:** Slovenski / Slovenian, Angleški / English
Vaje / Tutorial: Slovenski / Slovenian, Angleški / English

Pogoji za vključitev v delo oz. za opravljanje študijskih obveznosti:

Ni posebnih pogojev.

Prerequisites:

No special prerequisites.

Vsebina:

Content (Syllabus outline):

SPLOŠNI DEL

Ustavna izhodišča in osnovni pojmi družinskega prava

Viri družinskega prava

Pravna ureditev zakonske zveze

- Pojem zakonske zveze, sklenitev zakonske zveze, veljavnost zakonske zveze, pravne posledice zakonske zveze (osebne pravice in dolžnosti zakoncev, premoženjskopravna razmerja zakoncev), prenehanje zakonske zveze, razmerja med razvezanima zakoncema.

Pravna ureditev zunajzakonske skupnosti in registrirane istospolne partnerske skupnosti

- Pojem zunajzakonske skupnosti in pojem registrirane istospolne partnerske skupnosti, pogoji za priznanje zunajzakonske skupnosti ter pogoji in postopek za registracijo istospolne partnerske skupnosti, pravne posledice zunajzakonske skupnosti in registracije istospolne partnerske skupnosti, postopek ugotavljanja obstoja oziroma neobstoja zunajzakonske skupnosti, prenehanje zunajzakonske skupnosti in pravne posledice prenehanja istospolne partnerske skupnosti.

Pravna ureditev razmerij med starši in otroki

- Otrokove pravice na ravni nacionalnih in mednarodnih aktov, aktov Evropske unije in aktov Sveta Evrope (pravica do razvoja in varstva otrok; prepoved diskriminacije otrok; obveznost države), temeljna načela rodiljskega prava, pravice in dolžnosti staršev ter otrok (rodiljska pravica, dolžnost preživljanja), ugotavljanje in izpodbijanje očetovstva in materinstva.

Posvojitve

- Pojem, namen in vsebina posvojitve, oblike posvojitve, pogoji za posvojitve in postopek posvojitve, pravne posledice posvojitve,

GENERAL PART

Constitutional provisions and basic terminology of family law

Sources of family law

Legal regulation of marriage

- Definition of marriage, marriage, validity of marriage, legal consequences of marriage (personal rights and obligations of spouses, property relationships between spouses), termination of marriage, relationships between divorced spouses.

Cohabitation and registered same-sex civil partnerships

- Definition of cohabitation and registered same-sex civil partnerships, conditions for the recognition of cohabitation, conditions and procedure for registration of same-sex civil partnerships, legal consequences of both, procedure for establishing a cohabitation, termination of cohabitation and same-sex civil partnerships, legal consequences of cohabitation and same-sex civil partnerships.

Children and parental rights and responsibilities

- Children rights on the international level, the European Union level as well as level of the Council of Europe (right of children's development and protection; prohibition of children's discrimination; state obligations), basic principles of parental law, rights and obligations of parents and children (parental rights, responsibility for subsistence), establishing and impugning paternity or maternity.

Adoption

- Definition, purpose and the scope of adoption, different types of adoption, conditions and the procedure for adoption, legal consequences of adoption,

<p>prenehanje posvojitve, mednarodna posvojitve.</p> <p>Rejništvo in skrbništvo</p> <ul style="list-style-type: none"> - Pojem, namen in vsebina rejništva ter skrbništva, vrste rejništva in skrbništva, pogoji za rejništvo in rejniška pogodba, postopek postavljanja rejnika in skrbnika, prenehanje rejništva in skrbništva, pristojnosti centra za socialno delo na področju skrbništva. <p>Postopek v zakonskih sporih in sporih iz razmerij med starši otroki</p> <ul style="list-style-type: none"> - Ukrepi centra za socialno delo, ukrepi in pristojnosti sodišča, mediacija v družinskih zadevah. <p>POSEBNI DEL</p> <ul style="list-style-type: none"> - Pravice na podlagi EKČP s področja družinskega prava in relevantna sodna praksa ESČP s področja družinskega prava. - Nasilje v družini in pravne posledice tega. - Svobodno odločanje o rojstvu otrok in spočetje z biomedicinsko pomočjo. Vprašanje nadomestnega materinstva. - Tematike, ki so posredno povezane z družinskim življenjem: pravica do spremembe spola, evtanazija, dedovanje. 	<p>termination of adoption, international adoption.</p> <p>Foster care and guardianship</p> <ul style="list-style-type: none"> - Definition, purpose and content of fostering and guardianship, different types of fostering and guardianship, conditions for fostering and the foster care contract, procedure for the appointment of a foster parent and guardian, termination of foster care and guardianship, competences of centres of social work. <p>Family law proceedings</p> <ul style="list-style-type: none"> - Legal actions of centres for social work, legal actions and jurisdiction of the court, family mediation. <p>SPECIAL PART</p> <ul style="list-style-type: none"> - Family law rights based on the ECHR and relevant case-law of the European Court of Human Rights. - Family violence and its legal consequences. - Free decision for child birth and insemination with biomedical help. The question of surrogacy. - Topics connected to family life: right to change gender, euthanasia, inheritance.
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Temeljni literatura in viri / Readings:

NOVAK, Barbara. *Družinsko pravo po Družinskem zakoniku in Zakonu o nepravdnem postopku*. Ljubljana: Uradni list RS, 2022.

Osnovna zakonodaja s tega področja. / Basic legislation from this area.

Gradivo, obravnavano na predavanjih in vajah. / Materials discussed during lectures and tutorials.

Priporočena literatura / Advised readings:

AVBELJ, Matej (ur.). *Komentar Ustave Republike Slovenije*. Nova Gorica: Nova univerza, Evropska pravna fakulteta, 2019.

KMETOVIČ PRKAČIN, Karmen, MIJIĆ VULINOVIĆ, Ivana. *Vodnik skozi razvezo zakonske zveze: psihološko-pravni priročnik*. Založba Forma 7 d.o.o., 2017.

Cilji in kompetence:

Cilj predmeta je študentu približati polje pravne regulative na področju družinskih razmerij ter jih prek tega naučiti principov osnovne pravne analize pri obravnavi primerov pri njihovem nadaljnjem delu.

Pridobitev splošnih kompetenc:

- sposobnost uporabe znanja v praksi in izvirnega, kreativnega reševanja problemov v novih ali neobičajnih kontekstih
- sposobnost povezovanja znanja in obvladovanja kompleksnosti, s katero se študentje srečujejo pri strokovnem delu
- avtonomnost v strokovnem delu

Pridobitev predmetno-specifičnih kompetenc:

- sposobnost nadgrajevati zgrajeno kritično vrednotenje implikacije problemov kulture, rase, spola, seksualnih orientacij
- sposobnost uspešnega predvidevanja in obvladovanja posledic ustvarjenih rešitev
- zmožnost učenja tudi v smislu samostojno usmerjanega strokovnega izpopolnjevanja
- sposobnost timsko sodelovati tako s klientskimi sistemi kot strokovnjaki (tudi z eksperti drugih disciplin)
- zavedanje in izkazovanje etične in profesionalne odgovornosti biti svetovalec za psihosocialno pomoč, obvladovanje implikacij etičnih vprašanj in dilem, vezanih tudi na specifične psihoterapevtske pristope

Objectives and competences:

The objective of the course is to broaden the knowledge of students in the field of family law and thus to equip them with knowledge on how to conduct the necessary legal contemplation in future work cases.

Acquisition of general competences:

- ability to apply knowledge in practice as well as ability of original, creative problem-solving in new or unusual contexts
- ability to connect knowledge and manage the complexity that students face in professional work
- autonomy in professional work

Acquisition of course-specific competences:

- the ability to expand the existing critical evaluation of the implications of the problems of culture, race, gender, sexual orientation
- the ability to successfully anticipate and manage the consequences of created solutions
- the ability to learn in terms of self-directed professional development
- the ability of teamwork with both client systems and experts (including experts from other disciplines)
- awareness and demonstration of ethical and professional responsibility for psychosocial counselling; mastering the implications of ethical issues and dilemmas related to specific psychotherapy approaches

Predvideni študijski rezultati:

Znanje in razumevanje: Študent/ka:
<ul style="list-style-type: none"> - pozna in upošteva družbene vidike ter pravne podlage na področju razmerij med zakoncema/zunajzakonskima partnerjema ter razmerij med starši in otroki - osvoji znanje o temeljnih pravnih institutih na področju družinskega prava in relevantni pravni terminologiji - pridobi strokovno usposobljenost in senzibilnost za reševanje težav, povezanih z družinskim pravom - uporablja pravne instrumente in izbira ustrezna pravne poti na področju družinskega prava; upoštevajoč pravo EU in mednarodno pravo - strokovno presoja učinkovitost svojega dela in nenehno izboljšuje prakso

Intended learning outcomes:

Knowledge and understanding: Student:
<ul style="list-style-type: none"> - understands and considers the social aspects and legal bases in the field of relationships between spouses/cohabitants and relationships between parents and children - acquires knowledge on legal concepts and legal terminology in family law - acquires professional competences and sensitivity to solve problems, connected to family law - uses legal instruments and chooses legal remedies in the field of family law - considering the EU law and international law - professionally assesses the effectiveness of own work and continuously improves the practice

Metode poučevanja in učenja:

<ul style="list-style-type: none"> - predavanja z aktivno udeležbo študentov (razlaga, diskusija, vprašanja, primeri, reševanje problemov) - seminarske vaje (pisne refleksije strokovnih člankov, timsko delo, diskusija na obravnavane tematike vezane na predmet) - uporaba spletne učilnice oziroma drugih sodobnih IKT orodij - seminarske vaje, ki temeljijo na utrjevanju znanja, problemskem učenju, dodatni razlagi, diskusiji, kritičnem razpravljanju - individualne in skupinske konzultacije (diskusija, dodatna razlaga, obravnava specifičnih vprašanj)

Learning and teaching methods:

<ul style="list-style-type: none"> - lectures with active student participation (explanation, discussion, questions, examples, case-solving) - seminars (written reflections on scientific articles, team work, discussing presented themes) - use of online classroom or other contemporary ICT tools - tutorials based on knowledge (strengthening, problem-learning, additional explanation, discussion, critical debate) - individual and group consultations (discussion, additional explanation, consideration of specific issues)

Delež (v %) /

Weight (in %)

Načini ocenjevanja:**Assessment:**

Pisni izpit.	80	Written exam.
Obveznosti vaj.	20	Tutorials.
Ocenjevalna lestvica – skladno s Pravilnikom o preverjanju in ocenjevanju znanja,		Grading scale - in accordance with the Rules of examination and evaluation of knowledge.

Reference nosilca / Lecturer's references:

Praktične izkušnje iz področja / Practical experience in the field:

- Center za socialno delo (2010) / Center for Social Work (2010)
- Generalni sekretariat Republike Slovenije (2010) / General Secretariat of the Government of the Republic Slovenia (2010)

Izbrane publikacije / Selected publications:

KLEINDIENST, Petra. Komentar 21. in 34. člena Ustave Republike Slovenije. V: AVBELJ, Matej (ur.), *Komentar Ustave Republike Slovenije*. Nova Gorica: Nova univerza, Evropska pravna fakulteta, 2019.

KLEINDIENST, Petra. Understanding the different dimensions of human dignity: analysis of the decision of the Constitutional Court of the Republic of Slovenia on the "Tito street" case. *Danube: law and economics review*, ISSN 1804-6746, 2017, vol. 8, no. 3, pp. 117-147.

KLEINDIENST, Petra. Economic and Social Security in EU: Reforming Slovenian Law on Social Entrepreneurship. *Research in Social Change*, ISSN 1855 – 4202, 2019, vol. 11, no. 2, pp. 14-34.

GOLOB, Tea, KLEINDIENST, Petra, MAKAROVIC, Matej, MIKULAN KILDI, Janja. Challenges of migrant entrepreneurship in selected regions of Central Europe. *Comparative sociology*. 2020, vol. 19, iss. 4/5, str. 609-631.

KLEINDIENST, Petra. The role of Catholic schools in promoting human dignity. *British journal of religious education*. 2022, vol. 44, iss. 3, str. 348-360.

KLEINDIENST, Petra, TOMŠIČ, Matevž. Human dignity as the foundation of democratic political culture: legal and philosophical perspective. *Law, culture and the humanities: a publication of the Association for the study of law, culture and humanities*, 2022, vol. 18, iss. 2, pp. 385-404.

KLEINDIENST, Petra. Narava človekovega dostojanstva. *Raziskave in razprave*, ISSN 1855-4148, 2016, vol. 9, no. 1/3, pp. 195-232.

KLEINDIENST, Petra. School and enhancement of self-expression values. V: GARCIA LABORDA, Jesus (ur.). *Proceedings, 8th World Conference on Learning, Teaching and Educational Leadership (WCLTA-2017)*, 26 to 28 October 2017, Universidade Alberta, Lisbon, Portugal, (New trends and issues proceedings on humanities and social sciences, ISSN 2547-8818). Nicosia: Science Park Research Organization and Counseling (SPROC), 2017, vol. 4, no. 8, pp. 184-194.

KLEINDIENST, Petra. Comprehensive understanding of human dignity. V: FILEJ, Bojana (ur.). *Zbornik prispevkov z recenzijo = Proceeding book with peer review*, 5. Mednarodna znanstvena konferenca za človeka gre: interdisciplinarnost, transnacionalnost in gradnja mostov. Maribor: Alma Mater Europea - ECM. 2017, pp. 967-974.

KLEINDIENST, Petra, TOMŠIČ, Matevž. Človekovo dostojanstvo kot del politične kulture v novih demokracijah: postkomunistična Slovenija. *Bogoslovni vestnik: glasilo Teološke fakultete v Ljubljani*, ISSN 0006-5722, 2018, letn. 78, št. 1, str. 159-172.