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Gradual Marriage

The time has come to reform the law governing marriage. In determining the rights and obligations between spouses arising from marriage, current law does not adequately account for the way in which spousal behaviors and expectations change over the course of a marriage. With regard to intact marriages, under the existing legal framework the spousal rights and obligations enjoyed by couples in intact marriages arise all at once, at the moment a couple is granted a marriage license, and do not change as the years of marriage pass or as children are born to the marriage. In terms of dissolving marriages, with few exceptions, all marriages are subject to the same broad default rules for determining post-dissolution spousal rights and obligations without regard to the length of the marriage or the presence of children within the marriage. Moreover, the substantial discretion granted to judges in the marital dissolution context often leads to unpredictable and inconsistent results. Perhaps as a result of the law's problematic approach to determining spousal rights and obligations, marriage rates have declined significantly over the past several decades and the institution of marriage has come to occupy an increasingly perilous place in U.S. society. This Article sets forth a comprehensive proposal for an improved legal framework governing marriage that is based upon the concept of spousal rights and obligations arising gradually over the course of a marriage. Under the proposed system, various marriage levels would be established, each providing a package of spousal rights and obligations tailored to marriages that had reached that particular level under the default rules. Ascension among the levels would be based primarily upon the length of the marriage and the presence of children within the marriage, factors which play a strong role in shaping spousal conduct and expectations. Implementation of the proposal would result in a significantly improved legal framework governing marriage.