

DOMESTIC RELATIONS
MULTIJURISDICTIONAL GUIDE
District of Columbia, Maryland & Virginia

Prepared & Distributed by:



Ain & Bank P.C.
1900 M. Street NW
Suite #600
Washington, DC 20036

TABLE OF CONTENTS

This outline is a reference tool only and is intended to point the reader in the direction of applicable case law. It does not purport to be a comprehensive listing of current cases in the relevant jurisdictions. The statutes and cases cited herein are believed to be correct through September 2020; however, the reader should independently verify any information upon which they intend to rely.

ANTENUPTIAL AGREEMENTS	1
Statute	1
Leading Case Law.....	1
Valid Upon Death	1
Valid Upon Divorce.....	1
Requirements for Validity.....	2
MARRIAGE.....	3
License Required	3
Waiting Period	3
Ceremony.....	3
Blood Test, Syphilis Test, Aids Test	3
Minimum Age.....	3
Same-Sex Marriage Recognized.....	3
Common Law Marriage Recognized	4
Prohibited Marriages.....	4
Children Of Void Or Voidable Marriages	5
Grounds For Annulment	5
SEPARATION AGREEMENTS.....	6
Public Policy	6
Statute	6
Requirements For Validity.....	7
Effect Of Legal Representation	7
Effect Of Reconciliation	8
Relationship To Decree And Power Of Court	8
Modification of Payments Per Unincorporated Agreement.....	9
DIVORCE.....	11
Jurisdiction.....	11
Venue	11
Domicile And Residence Requirements	11
Corroboration Of Grounds Requirement	12
Grounds For Absolute Divorce.....	12
Separate Lives Doctrine.....	13
Defenses To Grounds For Absolute Divorce.....	13
Grounds For Limited Divorce Or Legal Separation	14
Merger Or Enlargement Of Limited Divorce Or Legal Separation.....	14
Revocation Of Limited Divorce Or Legal Separation	14
When Divorce Decree Final.....	15
Change Of Name.....	15

Same-Sex Divorce	15
SPOUSAL SUPPORT, ALIMONY AND/OR MAINTENANCE	16
Factors Considered In Arriving At The Amount Of Award	16
Types Of Alimony Awards And Availability	17
Termination.....	18
Modification Of Court-Ordered Alimony.....	19
Alimony Pendente Lite	21
Separate Maintenance Not An Incident Of Divorce	21
Uniform Interstate Family.....	21
DISTRIBUTION OF MARITAL PROPERTY	22
Jurisdiction.....	22
Procedure	22
Definition Of Separate Or Non-Marital Property	23
Income From Or Increase In Value Of Separate Property	23
Definition Of Marital Property	24
Definition Of “Family-Use” Property.....	25
Use And Possession Of Marital Home	26
Transmutation	27
Wages Or Salary Earned By Spouse.....	27
Pensions	28
Stock Options And Deferred Compensation Benefits	29
Professional Goodwill.....	30
Licenses And Degrees*	30
Personal Injury Awards And Worker’s Compensation Benefits	31
Special Valuation Considerations	31
Cut Off For Accumulation Of Marital Property	32
Power Of Court To Convey Property	32
Equitable Distribution Factors	33
Marital Debt	34
CHILD SUPPORT AND MAINTENANCE	35
Jurisdiction.....	35
Venue	35
Amount Of Support In General.....	35
Guidelines	36
Factors Considered In Deviating From The Guidelines	36
Retroactive Support For Initial Support Order	37
When Child Support Terminates	37
Modification Jurisdiction.....	38
Standards For Modification Of Court Ordered Child Support	39
Retroactive Modification Of Child Support	39
Voluntary Impoverish-Ment	40
Effect Of Subsequent Children	40
Life Or Health Insurance For The Benefit Of A Child.....	40
Educational Expenses	40
CHILD CUSTODY AND VISITATION	41
Jurisdiction.....	41

Uniform Child Custody Jurisdiction And Enforcement Act.....	41
Factors To Be Considered In Making An Award	41
Joint Custody	43
Visitation.....	44
Parental Relocation Issues	45
Custody Modification	46
ATTORNEY’S FEES	47
When Available	47
Pendente Lite Awards	47

ANTENUPTIAL AGREEMENTS			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
STATUTE	Uniform Premarital Agreement Act of 1995, D.C. Code §46-501 et seq., enacted 1996.	None.	VA Premarital Agreement Act Va. Code Ann. § 20-147 <u>et. seq.</u>
SELECTED LEADING CASE LAW	<p><u>Critchell v. Critchell</u>, 746 A.2d 282 (D.C. 2000).</p> <p>Lump sum payment in lieu of alimony per antenuptial agreement was enforceable. <u>Burtoff v. Burtoff</u>, 418 A.2d 1085 (D.C. 1980)</p> <p>Valid antenuptial agreement can create property interest in spouse who does not hold title to property. D.C.C.E. § 16-910. <u>Brice v. Brice</u>, 411 A.2d 340 (D.C. 1980).</p>	<p>Court reviews antenuptial agreements under the objective law of contract interpretation. <u>Cannon v. Cannon</u> 865 A.2d 563 (Md. 2005); <u>Herget v. Herget</u>, 573 A.2d 798 (Md. 1990); <u>Harbom v. Harbom</u>, 760 A.2d 272 (Md. 2000).</p> <p>Waiver of alimony in antenuptial agreement not void per se. <u>Frey v. Frey</u>, 471 A.2d 705 (Md. 1984). Oral agreement invalid. <u>Golden v. Golden</u>, 695 A.2d 1231 (Md. 1997.)</p>	<p><u>Carpenter v. Carpenter</u>, 449 S.E.2d 502 (Va. App. 1994) (regarding agreements executed prior to the Premarital Agreement Act); <u>Batleman v. Rubin</u>, 98 S.E.2d 519 (Va. 1957); <u>Cumming v. Cumming</u>, 102 S.E. 572 (Va. 1920); <u>Suhor v. Gooch</u>, 244 F. 361 (4th Cir. 1917); <u>Smith v. Smith</u>, 597 S.E.2d 250 (Va. Ct. App. 2004); <u>Rogers v. Yourshaw</u>, 448 S.E. 2d 884 (Va. Ct. App. 1994).</p>
VALID UPON DEATH	Yes. D.C. Code § 19-113(f).	Yes. <u>Hartz v. Hartz</u> , 234 A.2d 865 (Md. 1967).	Yes, if elected in agreement. Va. Code Ann. § 20-150(6).
VALID UPON DIVORCE	Yes. <u>Burtoff v. Burtoff</u> , 418 A.2d 1085 (D.C. 1980).	Yes. <u>Frey v. Frey</u> , 471 A.2d 705 (Md. 1984).	Yes. Va. Code Ann. § 20-150.

ANTENUPTIAL AGREEMENTS

REQUIREMENTS FOR VALIDITY

- (1) In writing and signed by both parties; D.C. Code § 46-502.
- (2) Voluntarily executed; D.C. Code §§ 46-506.
- (3) Not unconscionable when executed; D.C. Code § 46-506.
- (4) Either fair and reasonable disclosure of the property or financial obligations of the other party, voluntary and express written waiver of right to disclosure beyond that provided, or adequate knowledge of the property or financial obligations of the other party; D.C. Code § 46-506.
- (5) Valid marriage or domestic partnership (if void marriage or domestic partnership, enforceable only to the extent to avoid an inequitable result – unless the agreement expressly provides it is enforceable in the event the marriage or domestic partnership is later determined to be void). D.C. Code § 46-507.

- (1) Complies with traditional contract requirements (e.g., not entered by reason of fraud, duress, coercion, mistake, undue influence, party's incompetence);
 - (2) Not unconscionable when entered;
 - (3) Full, frank, and truthful disclosure of assets – or adequate knowledge.
- Cannon v. Cannon, 865 A.2d 563 (Md. 2005); Hartz v. Hartz, 234 A.2d 865 (Md. 1967).

- (1) In writing and signed by both parties; enforceable without consideration and effective upon marriage. Va. Code Ann. § 20-149.
- (2) Voluntary execution; Va. Code Ann. § 20-151(A) (1).
- (3) Not unconscionable when executed, or either (i) fair and reasonable disclosure of property and financial obligations or (ii) voluntary and express written waiver of disclosure. Va. Code Ann. § 20-151(A)(2).
- (4) Valid marriage (if void marriage, enforceable only to the extent to avoid an inequitable result) Va. Code Ann. § 20-151(C).

MARRIAGE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
LICENSE REQUIRED	Yes. D.C. Code § 46-410, 46-412, 46-416.	Yes. Md. Code Ann., Fam. Law § 2-401, et seq.	Yes. Va. Code Ann. § 20-13, et seq.
WAITING PERIOD	None.	License not effective until 6 am on second calendar day after license issued, unless authorized by judge. Md. Code Ann., Fam. Law § 2-405(d).	None. Va. Code Ann. §20-14.1 (license valid for 60 days after issuance).
CEREMONY	Yes. Performed by a minister authorized by Superior Court judge; any judge or justice of court of record; the Clerk of the Superior Court or such deputies designated in writing by the Clerk and approved by the Chief Judge; Civil Celebrant; Temporary officiant; Members of the Council; the DC Mayor; Parties to the marriage. D.C. Code §46-406.	Yes. Performed by any official of a religious order/body authorized by that order/body to perform a marriage; any clerk; any deputy clerk authorized; any judge. Md. Code Ann., Fam. Law Code § 2-406.	Yes. Performed by minister; person as authorized by courts; judge or justice. Va. Code Ann. § 20-13 and 20-23 through 20-26.
BLOOD TEST, SYPHILIS TEST, AIDS TEST	No.	No.	No. Information regarding availability of AIDS testing to be furnished to applicants. Va. Code Ann. § 20-1 through 20-12; Premarital Syphilis Tests and Examinations Repealed by Act 1984.
MINIMUM AGE	Without consent of parent or guardian – 18. D.C. Code §46-411. With consent – 16. D.C. Code §46-403.	Without consent –18. Md. Code Ann., Fam. Law § 2-301. With consent or pregnant –16. Md. Code Ann., Fam. Law § 2-301. With consent and pregnant – 15. Md. Code Ann., Fam. Law § 2-301.	Without consent – 18. Va. Code Ann. § 20-49.
SAME-SEX MARRIAGE RECOGNIZED	Yes, since March 2010, D.C. Code § 46-401. Same-sex marriages performed in other jurisdictions recognized since 2009.	Yes, since January 1, 2013. <i>See</i> Md. Code Ann., Fam. Law § 2-201 (amendment effective January 1, 2013). Same-sex marriages performed in other jurisdictions recognized since 2010.	Yes, since October 6, 2014 per case law. <i>Bostic v. Schaefer</i> , 760 F.3d 352, (4th Cir. 2014).

MARRIAGE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
COMMON LAW MARRIAGE RECOGNIZED	<p>Yes- <u>Matthews v. Britton</u>, 303 F.2d 408 (D.C. Cir. 1962).</p> <p>A party claiming that a common law marriage exists must prove the existence of that common law marriage by a preponderance of the evidence. <u>Cerovic v. Stojkov</u>, 134 A.3d (D.C. 2016)</p>	<p>No- except that common law marriages created elsewhere will be recognized. <u>Henderson v. Henderson</u>, 87 A.2d 403 (Md. 1952).</p>	<p>No- except that common law marriage created elsewhere will be recognized if consummated in a state where valid and between parties not forbidden to marry under Virginia law. <u>Metropolitan Life Ins. Co. v Holding</u>, 293 F. Supp. 854 (E.D. Va 1968); <u>Kelderhaus v. Kelderhaus</u>, 467 S.E. 2d 303 (Va. Ct. App. 1996).</p>
<p>PROHIBITED MARRIAGES</p> <p>(See Also Grounds For Annulment, <u>Infra</u>)</p>	<p>Yes – D.C. Code §46-401; § 16-904(d).</p> <p><u>Void Ab Initio</u> Pre-existing marriage not terminated by death or divorce; Marriage of man and woman who are on a detailed list of relations by blood and marriage, as set forth in statute. D.C. Code §46-401.1.</p> <p><u>Voidable</u> (1) Marriage of a person adjudged to be, or to have been at the time a marriage was performed, unable by reason of mental incapacity to give valid consent to marriage; (2) Where consent is procured by force or fraud; (3) Repealed; (4) Where either party is under the age of 16. D.C. Code §46-403.</p>	<p>Yes - Md. Code Ann., Fam. Law § 2-202; Common law via case law.</p> <p><u>Void Ab Initio</u> Pre-Existing marriage; Marriages within three degrees of direct lineal consanguinity, within first degree of collateral consanguinity, or within certain other degrees of affinity or consanguinity listed in statute (Md. Code Ann., Fam. Law § 2-202); One or both parties lacked mental capacity to marry.</p> <p><u>Voidable</u> Impotence <u>See Kline v. Kline</u>, 182 A. 329 (1936).; Fraud, coercion or duress <u>see Townsend v. Morgan</u>, 63 A.2d 743 (Md. 1949). False statement on marriage certificate; Lacked age of consent.</p> <p>Marriage neither void nor voidable where both parties are aware of false statements on marriage certificate despite no parental consent for minor. <u>Picarella v. Picarella</u>, 20 Md. App. 499316 A.2d 826 (1974).</p>	<p>Yes - Va. Code Ann. § 20-38.1, 20-45.1.</p> <p><u>Void Ab Initio</u> Pre-existing marriage; Marriage between an ancestor and descendant, brother and sister, whether by half blood, whole blood, or adoption, uncle and niece, aunt and nephew, whether by half blood or by whole blood; Marriage where parties are under age 18 and no consent; Same sex prohibition is unconstitutional. Marriage where there is a lack of consent due to mental incapacity or infirmity.</p> <p><u>Voidable</u> Spouse physically or incompetent (impotent); Fraudulent marriage; Marriage under duress; Marriage to felon or prostitute; Pregnant with someone else’s child at the time of the marriage. Va. Code Ann. § 20-89.1.</p>

MARRIAGE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
CHILDREN OF VOID OR VOIDABLE MARRIAGES	No specific statutory provision.	Children of a void marriage shall be legitimized in a court decree of criminal or civil annulment, or when a court decrees an absolute divorce on grounds making the marriage void ab initio. Md. Code Ann., Fam. Law § 5-202.	Legitimate by statute. Va. Code Ann. § 20-31.1.
GROUND FOR ANNULMENT	<p>(1) Either party has a former spouse living and the marriage has not been dissolved;</p> <p>(2) Marriage was contracted during the insanity of either party (unless voluntary cohabitation after discovery of the insanity);</p> <p>(3) Marriage was procured by fraud or coercion;</p> <p>(4) Either party was matrimonially incapacitated at time of marriage without the knowledge of the other and has continued to be so incapacitated;</p> <p>(5) Either party had not attained age of legal consent (unless there has been voluntary cohabitation after attaining age of legal consent) – but only at suit of underage party. D.C. Code § 16-904(d) (1-5).</p>	<p>Court authority granted in Md. Code Ann., Fam. Law § 1-203.</p> <p>See list of Prohibited Marriages <u>supra</u> for grounds for annulment.</p>	<p>(1) Marriage is alleged void or voidable for any cause specified in Va. Code Ann. §20-13, 20-38.1 or 20-45.1, or by fraud or duress (see Prohibited Marriages, <u>supra</u>);</p> <p>(2) Natural or incurable impotency of body existing at time of marriage;</p> <p>(3) One party convicted of felony prior to marriage without the knowledge of other;</p> <p>(4) Wife pregnant by someone else at time of marriage without husband's knowledge;</p> <p>(5) Husband fathered child born to another woman born 10 months after marriage without wife's knowledge;</p> <p>(6) Either party has been a prostitute before marriage without other's knowledge.</p> <p>Va. Code Ann. § 20-89.1.</p>

SEPARATION AGREEMENTS			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
PUBLIC POLICY	<p>Settlement agreements are encouraged to settle the financial arrangements of parties. <u>Lanahan v. Nevius</u>, 317 A.2d 521 (D.C. 1974); <u>Davis v. Davis</u>, 268 A.2d 515 (D.C. 1970); <u>Le Bert-Francis v. Le Bert-Francis</u>, 194 A.2d 662 (D.C. 1963).</p> <p>Agreements regarding custody of children are another matter entirely. <u>Spires v. Spires</u>, 743 A.2d 186 (D.C. 1999).</p> <p><i>But see</i> § 16-914 (h): “The Court shall enter an order for any custody arrangement that is agreed to by both parents unless clear and convincing evidence indicates that the arrangement is not in the best interest of the minor child.”</p>	<p>Agreements relating to alimony, support, property and personal rights are valid and enforceable. Md. Code Ann., Fam. Law § 8-101.</p>	<p><u>Historically Disfavored</u> Separation agreements used as devices to facilitate divorce are illegal and void. <u>Arrington v. Arrington</u>, 82 S.E.2d 548 (Va. 1954); <u>Ryan v. Griffin</u>, 103 S.E.2d 240 (Va. 1958); <u>Cooley v. Cooley</u>, 263 S.E.2d 49 (Va. 1980).</p> <p><u>Modern View</u> <i>See</i> Va. Code Ann. § 20-155. Voluntary agreements which promote prompt resolution of disputes are favored by public policy. <u>Morris v. Morris</u>, 219 S.E.2d 864 (Va. 1975); <u>Cooley v. Cooley, Supra. Shoup v. Shoup</u> 556 S.E.2d 783 (Va. Ct. App. 2001); <i>See</i> <u>Pillow v. Pillow</u>, 410 S.E.2d 407 (Va. App. 1991).</p>
STATUTE	<p>D.C. Code § 16-910: Court has power to divide property and debt “in the absence of a valid...post-nuptial agreement...” resolving all property issues.</p>	<p>Md. Code Ann., Fam. Law §8-101, <u>et seq.</u></p>	<p>Va. Code Ann. § 20-109.1 and 20-155.</p>

SEPARATION AGREEMENTS			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
REQUIREMENTS FOR VALIDITY	<p>Good faith; mutuality; voluntariness; no fraud, duress, concealment or overreaching. <u>Cooper v. Cooper</u>, 472 A.2d 878 (D.C. 1984); <u>Davis v. Davis</u>, <i>supra</i>; <u>Rosenbaum v. Rosenbaum</u>, 210 A.2d 5 (D.C. 1965).</p> <p>Where separation agreement is fair and reasonable and is intended as a final disposition regarding property rights or support, parties will be bound. <u>Swift v. Swift</u>, 566 A.2d 1045 (D.C. 1989).</p> <p>An oral agreement which conforms to the general requirements of contract law is enforceable, and if involving real property, may be outside of the statute of frauds where certain rights are relinquished during the course of legal proceedings, such as the abandonment of appeal rights or withdrawal of countersuit. <u>Brown v. Brown</u>, 343 A.2d 59 (D.C. 1975).</p>	<p>Separation agreements are contracts subject to the same general rules governing creation, termination and revision as other contracts. <u>Eckstein v. Eckstein</u>, 379 A.2d 757 (Md. 1978).</p> <p>Duress, fraud and undue influence basis to avoid agreement. <u>Saggese v. Saggese</u>, 290 A.2d 794 (Md. 1972).</p> <p>Agreement may be set aside if it is “without reasonable consideration and is unjust and inequitable”. <u>Eaton v. Eaton</u>, 366 A.2d 121, 163 (Md. 1976).</p> <p>Oral agreements may be valid but terms must be specific. <u>Golden v. Golden</u>, 695 A.2d 1231, cert. denied, 702 A.2d 290 (Md. 1997).</p>	<p>Separation agreements are valid upon execution. Va. Code Ann. § 20-155.</p> <p>Separation agreements for the purposes of settling the rights and obligations of the spouses need not be in writing and are considered signed by the parties if the terms of the agreement are (i) contained in a court order endorsed by counsel or the parties or (ii) recorded and transcribed by a court reporter and affirmed personally by the parties on the record. Va. Code Ann. § 20-155.</p> <p>Must meet general requirements for any contract’s formation, validity, and interpretation. <u>Smith v. Smith</u>, 351 S.E. 2d 593 (Va. App. 1986); <u>Bergman v. Bergman</u>, 487 SE.2d 264 (Va. App. 1997).</p> <p>Mutuality. <u>Capps v. Capps</u>, 219 S.E.2d 901 (Va. 1975).</p> <p>When bargaining at arm’s length, no requirement to disclose infidelity. <u>Barnes v. Barnes</u>, 340 S.E.2d 803 (Va. 1986).</p>
EFFECT OF LEGAL REPRESENTATION	<p>In absence of fraud, duress or concealment, a separation agreement is valid despite lack of legal counsel or waiving the right. <u>Reynolds v. Reynolds</u>, 415 A.2d 535 (D.C. 1980).</p>	<p>Legal representation is only one factor to be considered; lack of representation is not dispositive of validity. <u>McClellan v. McClellan</u>, 451 A.2d 334 (Md. 1982).</p>	<p>Receipt of independent legal advice is one factor to consider. <i>See, e.g.</i>, <u>Morris v. Morris</u>, 219 S.E.2d 864 (Va. 1975).</p> <p>When husband and wife separate and employ attorneys to negotiate an agreement in settlement of property rights, they become adversaries and their former or confidential relationship ends. <u>Derby v. Derby</u>, 378 S.E.2d 74 (Va. App. 1989).</p> <p>Failure to retain counsel during negotiations and signing do not invalidate the agreement in given facts. <u>Drewry v. Drewry</u>, 383 S.E.2d 12 (Va. App. 1989)</p>

SEPARATION AGREEMENTS			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
EFFECT OF RECONCILIATION	<p>Subsequent cohabitation of parties to an agreement has effect of voiding the agreement only if the intent to do so is manifested. <u>Wood v. Wood</u>, 309 A.2d 103 (D.C. 1973).</p>	<p>Reconciliation and resumption of cohabitation will not automatically terminate or invalidate provisions dealing with disposition of property. <u>Mach v. Baranowski</u>, 136 A. 34 (Md. 1927);</p> <p>SA should specify if cohabitation nullifies the agreement. <u>Frana v. Frana</u>, 278 A.2d 94 (Md. 1971); <u>Kaouris v. Kaouris</u>, 603 A.2d 1350 (Md. 1992).</p>	<p>Reconciliation of the parties after the signing of a separation or property settlement agreement shall abrogate such agreement unless otherwise expressly set forth in the agreement. Va. Code Ann. § 20-155</p>
RELATIONSHIP TO DECREE AND POWER OF COURT	<p>Court can incorporate a separation agreement into decree. Any breach thereof is not a breach of contract but a violation of the decree and subject to the contempt powers of the court. <u>Mohler v. Mohler</u>, 302 A.2d 737 (D.C. 1973).</p> <p>However, in D.C., it is unclear if incorporation without merger preserves the integrity of the contract. A few cases suggest that incorporation of an agreement into a decree does not keep the agreement as an independent contract. <i>See</i> <u>Brown v. Dyer</u>, 489 A.2d 1081, 1083, fn. 1 (D.C. 1985); <u>Grand v. Grand</u>, 163 A.2d 556, 557 (D.C. 1960).</p>	<p>Customarily, Md. agreements are approved at the divorce hearing and are “incorporated without merger.” Such an agreement may be enforced (a) through the contempt powers of the court, or (b) in a separate breach of contract action, as the agreement survives as an independent contract between the parties. <u>Boucher v. Shomber</u>, 501 A.2d 97 (Md. 1985); <u>Hamilos v. Hamilos</u>, 450 A.2d 1316 (Md. 1982).</p>	<p>Court can “affirm, ratify, and incorporate by reference” agreement into decree of divorce. Va. Code Ann. § 20-109.1. <u>Rodriguez v. Rodriguez</u>, 334 S.E.2d 595 (Va. App. 1985); <u>Shoup v. Shoup</u> 556 S.E.2d 783 (Va. Ct. App. 2001)</p> <p><i>E.g., Hering v. Hering</i>, 33 VA. App. 368 (2000): Court may:</p> <ul style="list-style-type: none"> -Ratify and confirm validity of agreement. (Agreement enforceable through breach of contract action.) -Merge agreement. (Agreement enforceable through contempt power only.) -Incorporate but not merge agreement. (Agreement enforceable through breach of contract action and/or contempt power.)

SEPARATION AGREEMENTS

	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
<p>MODIFICATION OF PAYMENTS PER UN-INCORPORATED AGREEMENT</p>	<p><u>Alimony</u> Court cannot modify amount of alimony provided for in agreement unless the agreement provides for modification. <i>See Norris v. Norris</i>, 473 A.2d 380, 381 (D.C. 1984)</p> <p><u>Child Support</u> D.C. Code § 16-916.01(t): Upon the occurrence of a substantial and material change in circumstances sufficient to warrant the modification of a child support obligation pursuant to the guideline, a judicial officer may modify any provision of an agreement or settlement relating to child support, without regard to whether the agreement or settlement is entered as a consent order or is incorporated or merged in a court order.</p> <p>Per D.C. Code § 16-916.01(v) a court <i>may</i> award retroactive child support.</p> <p>However, the Court of Appeals has found it unnecessary to consider the retroactive application of D.C. Code § 16-916.01(t). <i>See Mazza v. Hollis</i>, 947 A.2d 1177, fn. 5 (D.C. 2008).</p>	<p><u>Alimony</u> Court may modify agreement with respect to spousal support unless there is a provision that specifically states that the provisions with respect to spousal support are not subject to court modification or if there is a waiver of alimony which waiver is expressly non-modifiable under the agreement. Md. Code Ann., Fam. Law § 8-103(c).</p> <p>Parties’ agreement to modify alimony under limited circumstances is enforceable. <i>Shapiro v. Shapiro</i>, 697 A.2d 1342 (Md. 1997).</p> <p>Court may modify alimony retroactive to date preceding filing of request for modification. <i>Langston v. Langston</i>, 784 A.2d 1086 (Md. 2001).</p> <p><u>Child Support</u> Court may modify any provision in an agreement with respect to the care, custody, education, or support of any minor child if the modification would be in the best interest of the child. Md. Code Ann., Fam. Law § 8-103(a). <i>Kovacs v. Kovacs</i>, 633 A.2d 425 (Md. 1993); <i>Corry v. O’Neill</i>, 658 A.2d 1155 (Md. 1995).</p> <p>Even if court may not modify support provision of an incorporated agreement, it may still enforce the agreement by contempt proceedings. <i>Stancill v. Stancill</i>, 408 A.2d 1030 (Md. 1979); <i>McClure v. McClure</i>, 289 A.2d 610 (Md. App. 1972); <i>Stern v. Horner</i>, 324 A.2d 134 (Md. App. 1974).</p> <p><u>Continued...</u></p>	<p><u>Alimony</u> Va. Code Ann. § 20-109: Court order must be in accordance with agreement between the parties if filed with court. <i>Pendleton v. Pendleton</i>, 471 S.E.2d 783 (Va. Ct. App. 1996).</p> <p>Va. Code Ann. § 20-109: Upon petition of either party the court may increase, decrease or terminate the amount or duration of any spousal support and maintenance as the circumstances make proper. Upon clear and convincing evidence that the spouse receiving support has been habitually cohabitating with another person in a relationship analogous to marriage for 1 year or more commencing on or after July 1, 1997, the court <u>shall</u> terminate support unless: (i) otherwise provided by contract, or (ii) termination of support is unconscionable.</p> <p><u>Child Support</u> The court may modify an agreement the parties reach regarding minor children “from time to time. . . as the circumstance of the parents and the benefit of the children may require.” <i>Kaplan v. Kaplan</i>, 466 S.E.2d 111 (Va. App. 1996).</p> <p>“The parties may not, by agreement prevent the court from exercising its power to change, modify, or enforce its decree concerning the custody and maintenance of minor children” <i>Shoup v. Shoup, supra</i>.</p> <p>The parties’ agreement is a factor to be considered by the court. Va. Code Ann. § 20-108.1.</p>

SEPARATION AGREEMENTS

	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
MODIFICATION OF PAYMENTS PER UN-INCORPORATED AGREEMENT		<i>See also <u>Ruppert v. Fish</u>, 581 A2d 828 (Md App 1990). Absent some defect that would make the agreement invalid or unenforceable, the agreement should be given effect because parents would not ordinarily agree in writing to act in a manner detrimental to their children.</i>	

DIVORCE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
JURISDICTION	The Family Court of the Superior Court of the District of Columbia has original jurisdiction over actions for divorce and separation. D.C. Code § 11-1101 (a) (1).	Equity court has jurisdiction over divorce. Md. Code Ann., Fam. Law § 1-201(b)(4).	Jurisdiction lies in the circuit court. Va. Code Ann. § 20-96.
VENUE	Not an issue – only one local court within jurisdiction.	County where plaintiff resides, Md. Code Ann., Cts & Jud. Proc. §6-202(1) or where defendant resides, is regularly employed or has place of business, Md. Code Ann., Cts & Jud. Proc. § 6-201. P was “Regularly employed” where he has his principle office, and “attends for regular business transaction” but did not get paid for the work. <u>Cromwell v. Willis & Homer</u> , 53 A. 1116 (Md. 1903)	Preferred venue: (1) where parties last cohabitated; or (2) at option of plaintiff, county or city where defendant resides; (3) if defendant is not a resident, in county or city where plaintiff resides. Va. Code Ann. § 8.01-261(19): Venue in divorce cases is no longer jurisdictional. <u>Decker v. Decker</u> , 405 S.E.2d 12 (Va. App. 1991).
DOMICILE AND RESIDENCE REQUIREMENTS	6 mos. residency of one of the parties. D.C. Code § 16-902(a). Same-sex exception: Non-resident, same-sex spouses may divorce in DC if (a) married in DC and (b) neither spouse now lives in a state that will dissolve their marriage. D.C. Code § 16-902(b). Member of armed services residing in DC for a continuous period of 6 mos. during his or her period of military service shall be deemed to reside in DC for this purpose only. D.C. Code § 16-902(e).	Residency of one of the parties at time complaint filed, if grounds occurred in Maryland. <u>Fletcher v. Fletcher</u> , 619 A.2d 561 (Md. 1993). 6 month residency, if grounds occurred outside of Maryland. Md. Code Ann., Fam. Law §7-101(a). Member of armed services who establishes a domicile in MD will continue to have domicile in MD until facts establish an intent to abandon that domicile. <u>Wamsley v. Wamsley</u> , 635 A.2d 1322 (Md. 1994). Long arm personal jurisdiction over non-resident defendant in child support and alimony cases. Md. Code Ann., Cts & Jud. Proc. § 6-103.1	Va. Code Ann. § 20-97. 6 mos. domicile/residency of one of the parties. Member of the armed services domiciled and resident of VA if: (1) stationed in VA and lived with spouse 6 or more months next preceding the commencement of the suit; or (2) stationed in a territory or foreign country at the time the suit is commenced and was domiciled in VA for the 6 month period immediately preceding being stationed in that territory or country.

DIVORCE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
CORROBORATION OF GROUNDS REQUIREMENT	Not required. However, pursuant to D.C. Code §16-919, a decree for divorce or annulment may not be rendered on default without proof; and an admission contained in the answer of the defendant may not be taken as proof of the facts, but shall be proved by other evidence.	Not statutorily. Case law rules. Rule requiring corroboration in divorce cases applies only to testimony of plaintiff or counter plaintiff; testimony of defendant or of any nonparties stands same in divorce cases as in any other case. Md. Code Ann., Cts & Jud. Proc. § 10-901. <u>Sami v. Sami</u> , 347 A.2d 888 (Md. 1975). Every element necessary for divorce a vinculo matrimonii on ground of voluntary separation must be corroborated. <u>Smith v. Smith</u> , 262 A.2d 762 (1970).	Required. Va. Code Ann. § 20-99(1). No divorce shall be granted on the uncorroborated testimony of the parties or either of them. <u>Collier v. Collier</u> , 341 S.E.2d 827 (Va. App. 1986) (where it is apparent that there is no collusion, corroboration needs only be slight). Every element or charge does not need to be corroborated. Corroboration has to give sufficient strength to the complainant's testimony for it to be believed. <u>Bchara v. Bchara</u> , 563 S.E.2d 398 (Va. Ct. App. 2002).
GROUNDS FOR ABSOLUTE DIVORCE	D.C. Code § 16-904 (a): <u>No Fault Grounds</u> (a) 6 month mutual and voluntary separation - parties have mutually and voluntarily lived separate and apart without cohabitation for a period of six months preceding commencement of the action; (b) 1 year separation - parties have lived separate and apart without cohabitation for a period of one year preceding commencement of the action. There are no fault based grounds for divorce in the District.	Md. Code Ann., Fam. Law § 7-103 lists but don't assign fault, fault stems from court of equity: <u>No Fault Grounds</u> 12 month separation Mutual consent, if: (i) the parties do not have any minor children in common; (ii) the parties execute and submit to the court a written agreement signed by both parties that resolves all issues relating to (1) alimony and (2) distribution of property; (iii) neither party files a pleading to set aside the settlement agreement prior to the divorce hearing; and (iv) both parties appear before the court for the divorce hearing. <u>Fault Grounds</u> (a) Adultery; (b) Desertion for 12 months, actual or constructive; (c) Imprisonment for 12 months under conviction of felony or misdemeanor; (d) Insanity if insane spouse is confined for three years; (e) Cruelty of treatment; (f) Excessively vicious conduct. The grounds must exist at the	Va. Code Ann. § 20-91: <u>No Fault Grounds</u> (A)(9)(a) 1 year separation - parties have lived separate and apart for one year without interruption; (A)(9)(a) 6 month separation, if separation agreement and no minor children. <u>Fault Grounds</u> (A)(1) Adultery; Sodomy or buggery committed outside of marriage; (A)(3) Conviction of felony with more than one year imprisonment; (A)(6) cruelty; reasonable apprehension of bodily harm; or desertion (after a period of one year). Married woman cannot commit adultery by engaging in sexual relationship, particularly sodomy, with another woman. <u>Glaze v. Glaze</u> , 46 Va. Cir. 333 (.1998).

DIVORCE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
		time the suit is filed.	
SEPARATE LIVES DOCTRINE	Yes. D.C. Code § 16-904 (a), (b) and (c). Parties who have pursued separate lives sharing neither bed nor board shall be deemed to have lived separate and apart even though they reside under the same roof; or the separation is pursuant to an order of a court.	No. <u>Carney v. Carney</u> , 295 A.2d 792 (Md. 1972).	Yes. Under certain circumstances, parties who continue to reside under the same roof can be found to be living separate and apart. <u>Bchara v. Bchara</u> , 563 S.E.2d 398 (Va. Ct. App. 2002) (upheld the grant of a divorce based on a one year separation where the parties still lived in the same marital residence). <i>But see</i> <u>Catalano v. Catalano</u> 68 Va. Cir. 80 (Va. Cir. Ct. 2005) (parties found not living separate and apart when living under the same roof in separate bedrooms with no sexual relations but attending social functions together, taking some meals together, wife continued to do the house chores for both and husband continued to financially support all the family activities).
DEFENSES TO GROUNDS FOR ABSOLUTE DIVORCE	Voluntary property settlement must be voluntary on the part of both parties and fair. <u>Henderson v. Henderson</u> , 206 A.2d 267 (D.C. 1965).	<p>Recrimination – not a bar, but is a factor to be considered by the court in a case involving adultery. Md. Code Ann., Fam. Law § 7-103(b).</p> <p>Condonation – not a bar, but is a factor in adultery cases. Md. Code Ann., Fam. Law § 7-103(d).</p> <p>Limited divorce not a bar to absolute divorce. Md. Code Ann., Fam. Law § 7-103(e).</p>	<p>Recrimination - <u>Bchara v. Bchara</u>, 563 S.E.2d 398 (Va. Ct. App. 2002).</p> <p>Condonation & Cohabitation – <u>Hollis v. Hollis</u> 427 S.E.2d 233 (Va. Ct. App. 1993).</p> <p>Connivance – <u>Hollis v. Hollis, supra</u>.</p> <p>Justification – <u>Kerr v. Kerr</u> 371 S.E.2d 30 (Va. Ct. App. 1988).</p> <p>Defenses to adultery, sodomy, buggery: voluntary cohabitation after knowledge of act, passage of 5 years before suit, or act committed by procurement or connivance of other party. Va. Code Ann. § 20-94.</p>

DIVORCE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
 GROUNDS FOR LIMITED DIVORCE OR LEGAL SEPARATION	<p><u>Legal Separation:</u></p> <p>D.C. Code § 16-904 (b): (a) Mutual and voluntary Both parties have mutually and voluntarily lived separate and apart without cohabitation. (b) Both parties have lived separate and apart without cohabitation for a period of one year preceding commencement of the action.</p>	<p><u>Limited Divorce:</u></p> <p>Md. Code Ann. Fam. Law § 7-102: (a) Cruelty towards spouse or minor child of spouse; (b) Excessively vicious conduct toward spouse or minor child of spouse; (c) Desertion, constructive or actual; (d) Separation.</p> <p>Limited divorce can be obtained even when the parties live under the same roof if the lack of marital relations is involuntary and amounts to constructive desertion. <u>Ricketts v. Ricketts</u>, 393 Md. 479 (2006).</p>	<p><u>Divorce from Bed and Board:</u></p> <p>Va. Code Ann. § 20-95: (a) Cruelty; (b) Reasonable apprehension of bodily hurt; (c) Willful desertion or abandonment (may be constructive).</p> <p>Single act of sexual intercourse following desertion does not constitute “matrimonial cohabitation” sufficient to defeat charge of desertion. <u>Petachenko v. Petachenko</u>, 350 S.E.2d 600 (Va. 1986).</p>
 MERGER OR ENLARGEMENT OF LIMITED DIVORCE OR LEGAL SEPARATION	<p>Upon application by the party who was granted a legal separation the court may enlarge its decree to an absolute divorce by submission of affidavits showing no reconciliation has taken place or is probable, and six month’s continued voluntary and uninterrupted separation after legal separation decree is issued, or one year’s separation without interruption after legal separation is issued. D.C. Code § 16-905 (b).</p>	<p>Limited divorce based on desertion may be enlarged when 12 month requirement met. Md. Code Ann., Fam. Law §7-103(e).</p>	<p>Merger allowed one year after date of separation. However, if no minor children and parties have entered into separation agreement then merger possible after 6 months if separated without interruption and no reconciliation probable. Va. Code Ann. § 20-121.</p>
 REVOCATION OF LIMITED DIVORCE OR LEGAL SEPARATION	<p>The court may revoke its decree of legal separation at any time, upon joint application of the parties. D.C. Code § 16-905 (a).</p>	<p>The court may revoke the decree at any time upon joint application of the parties. Md. Code Ann., Fam. Law § 7-102(d).</p>	<p>Decree shall be revoked upon submission of an order endorsed by both parties or counsel. Va. Code Ann. §20-120.</p>

DIVORCE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
WHEN DIVORCE DECREE FINAL	When time for appeal has run (30 days from docketing of judgment) or upon final disposition of any appeal noted. If application for a stay is denied, judgment becomes final upon entry of order denying stay. Parties may file joint waiver of the right to appeal. D.C. Code § 16-920.	Upon entry on docket. <u>Sullivan v. Commissioner of Internal Revenue</u> , 256 F.2d 664 (4 th Cir. 1958)(decree of divorce not stayed pending appeal challenging validity of divorce); <u>see also</u> Md. Rule 9-208(h)(A)(court may not direct entry of order or judgment based on master’s recommendations until expiration of 10 day period for filing exceptions; parties may waive).	Upon entry of Decree, but Court can modify for 21 days after entry. Va. Sup. Ct. R. 1:1 <u>Decker v. Decker</u> , 471 S.E.2d 775 (Va. Ct. App. 1996).
CHANGE OF NAME	Yes. D.C. Code § 16-915: Upon request of party who assumed a new name in marriage, court shall state in its decree the birth-given or previous name desired to be used.	Yes. Md. Code Ann., Fam. Law §7-105: Upon request, court shall change name if party took a new name on marriage and no longer wishes to use it.	Yes. Va. Code Ann. § 20-121.4 Original name shall be restored upon motion of party changing name as part of final decree or by separate order.
SAME-SEX DIVORCE	Yes.	Yes.	Yes.

SPOUSAL SUPPORT, ALIMONY AND/OR MAINTENANCE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
<p>FACTORS CONSIDERED IN ARRIVING AT THE AMOUNT OF AWARD</p> <p>(continued next page)</p>	<p>All relevant factors necessary for a fair and equitable award, including, but not limited to:</p> <ol style="list-style-type: none"> 1. Ability of the party seeking alimony to be wholly or partly self-supporting; 2. time necessary for the party seeking alimony to gain sufficient education or training to enable that party to secure suitable employment; 3. marital or domestic partnership standard of living, giving consideration to the fact that there are now 2 households to maintain; 4. duration of the marriage or domestic partnership; 5. circumstances which contributed to the estrangement of the parties; 6. age of each party; 7. physical and mental condition of each party; 8. ability of alimony payor to meet his/her needs while meeting the payee's needs; 9. financial needs and resources of each party, including: income, income from marital, domestic partnership and non-marital assets; potential income which may be imputed to non-income producing assets; previous award of child support in this case, financial obligations of each party; right of a party to receive retirement benefits; and taxability or non-taxability of income. <p>D.C. Code §16-913; <u>see also</u> DC Code §16-911 (a) (1) (alimony <i>pendente lite</i> – refers to §16-913 (d) factors).</p> <p>Maintenance of spouse and minor children. D.C. Code §16-916 (upon showing of genuine need).</p>	<p>Required Considerations:</p> <ol style="list-style-type: none"> 1. Ability of seeking party to be wholly or partly self-supporting. 2. Time necessary to gain sufficient education or training to enable party to find suitable employment. 3. Standard of living during marriage. 4. Duration of marriage. 5. Contributions, monetary and non-monetary, of each party to the well-being of the family. 6. Circumstances contributing to estrangement of the parties. 7. Age of each party. 8. Physical and mental condition of each party. 9. Ability of party from whom alimony is sought to meet own needs and other party's needs. 10. Any agreement between parties. 11. Financial needs and resources of each party 12. Whether the award would cause a spouse to become eligible certain for medical assistance. <p>Md. Code Ann., Fam. Law § 11-106(b).</p> <p>Court must consider all factors plus those not expressly listed, here the other factor is tax liability. <u>Solomon v. Solomon</u>, 857 A.2d 1109 (Md. 2004).</p> <p>Other recognized factors:</p> <ol style="list-style-type: none"> 1. Sharing of expenses in subsequent "marriage-type" relationship. <u>Whittington v. Whittington</u>, 172 Md. App 317 (2007). 2. Unjustified rejection of reconciliation offer may be accepted as evidence of fault which is relevant in regard to any claim for alimony even in cases where a divorce is granted on a nonculpable ground. <u>Rhoad v. Rhoad</u>, 330 A.2d 192 (Md. 1975); <u>Roginsky v. Blake-Roginsky</u>, 740 A.2d 125 (Md. 	<p>Barred from receiving support if guilty of adultery (unless manifest injustice). Va. Code Ann. § 20-107.1(B). Court shall also consider any marital fault in determining whether to award spousal support. Va. Code Ann. § 20-107.1(B).</p> <p>Va. Code Ann. § 20-107.1(E) Factors:</p> <ol style="list-style-type: none"> 1. The obligations, needs and financial resources of the parties; 2. Standard of living established during the marriage; 3. Duration of the marriage; 4. Age and physical and mental condition of the parties; 5. Special circumstances of a child of the parties making it appropriate that a party not seek employment outside the home; 6. Monetary and non-monetary contributions of each party to the well-being of the family; 7. Property interests of the parties, real and personal, tangible and intangible; 8. Provisions made for marital property (under § 20-107.3); 9. Earning capacity, including the skills, education and training of the parties and the present employment opportunities . . . ; 10. Opportunity for, ability of, and the time and costs involved for a party to acquire . . . skills needed to enhance his or her earning ability; 11. Decisions regarding employment, career, economics, education and parenting arrangements during the marriage and their effect of present and future earning potential, including the length of time absent from the job market; 12. Extent to which either party has contributed to the attainment of education, training, career position or profession of the other party ; 13. Other factors, including the tax consequences, to consider the

SPOUSAL SUPPORT, ALIMONY AND/OR MAINTENANCE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
		App. 1999).	equities of the parties.
<p>continued from above</p> <p>FACTORS CONSIDERED IN ARRIVING AT THE AMOUNT OF AWARD</p>		<p>...</p> <p>AAML Guidelines may be consulted as a guide when making an alimony award and it is proper to consider a spouse's need for savings and retirement funding in making an award of alimony. <u>Boemio v. Boemio</u>, 994 A.2d 911 (Md. 2010)</p>	
<p>TYPES OF ALIMONY AWARDS AND AVAILABILITY</p> <p>continued next page</p>	<p><i>Pendente Lite</i> – D.C. Code §16-911 (a) (1); refers to factors set forth in §16-913 (d).</p> <p>Upon granting a divorce, separation or termination of domestic partnership – D.C. Code §16-913 (a) to (c).</p> <p>The alimony award may be indefinite or term-limited and structured as appropriate to the facts. The Court must determine an amount and time period for the award. <i>See also</i> D.C. Code § 16-916...the Court may order, <i>pendente lite</i> or permanently, that one spouse “shall pay reasonable sums periodically for the support of such needy spouse or domestic partner may be retroactive to date of filing”. D.C. Code § 16-913 (c).</p>	<p><i>Pendente Lite</i> – Md. Code Ann. Fam. Law § 11-102.</p> <p>Rehabilitative alimony and indefinite alimony allowed, but not alimony in gross. <u>McAlear v. McAlear</u>, 469 A.2d 1256 (Md. 1984).</p> <p>However, the trial court can make an award of <u>compound alimony</u> - simultaneous awards of rehabilitative and indefinite alimony. <u>Coviello v. Coviello</u>, 605 A.2d 661 (Md.. 1992); <u>Francz v. Francz</u> 853 A.2d 839 (Md. 2004).</p> <p>Indefinite alimony awarded where: (1) the party seeking alimony, by reason of age, illness, infirmity, or disability, cannot reasonably be expected to make substantial progress toward becoming self-supporting; or (2) unconscionably disparate standard of living. Md. Code Ann., Fam. Law §11-106(c). <u>Tracey v. Tracey</u>, 614 A.2d 590 (Md. 1992); <u>Long v. Long</u>, 743 A2d 281 (Md. 2000); <u>Innerbichler v. Innerbichler</u>, 752 A.2d 291 (Md. 2000).</p>	<p><i>Pendente Lite</i> – Va. Code Ann. § 20-103.</p> <p>The court, in its discretion, may decree that maintenance and support of a spouse be made in periodic payments for a defined duration, or in periodic payments for an undefined duration, or in a lump sum award, or in any combination thereof. Va. Code Ann. § 20-107.1(C).</p> <p>“<i>Defined duration</i>” means a period of time (i) with a specific beginning and ending date or (ii) specified in relation to the occurrence or cessation of an event or condition other than death or remarriage. Va. Code Ann. § 20-107.1(G).</p> <p>In addition to or in lieu of an award . . . the court may reserve the right of a party to receive support in the future. . . . [T]here shall be a rebuttal presumption that the reservation will continue for a period equal to 50% of the length of time between the date of marriage and the date of separation. Va. Code Ann. § 20-107.1(D).</p> <p>(cont.)</p>

SPOUSAL SUPPORT, ALIMONY AND/OR MAINTENANCE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
<p>continued from above</p> <p>TYPES OF ALIMONY AWARDS AND AVAILABILITY</p>			<p>...</p> <p>In determining whether to award spousal support, a court shall also consider adultery or sodomy ; felony conviction and confinement, cruelty, willful desertion, or abandonment, and reasonable apprehension of bodily hurt. Va. Code Ann. § 20-107.1(E).</p> <p>No permanent support or maintenance to a spouse if that spouse is guilty of adultery, sodomy or buggery committed outside of the marriage, unless the court determines from clear and convincing evidence that it would be a manifest injustice to deny support to that party taking into consideration the respective degrees of fault during the marriage and relative economic circumstances of the parties. Va. Code Ann. § 20-107.1(B). This rule applies even if adultery, e.g., is not the grounds on which divorce is sought or granted. <u>Chaney v. Karabaic-Chaney</u>, 71 Va. App. 431 (2020).</p>
<p>TERMINATION</p> <p>See also Internal Revenue Code.</p> <p>continued next page</p>		<p>Unless parties agree otherwise, alimony terminates: on death of either party, remarriage of recipient, or where court finds it necessary to avoid harsh or inequitable result. Md. Code Ann., Fam. Law §11-108</p> <p>Where parties agree that alimony terminates upon cohabitation, “cohabitation” is defined to require more than joint living arrangements. <u>Gordon v. Gordon</u>, 675 A.2d 540 (Md. 1996), <u>Whittington v. Whittington</u>, 914 A.2d 212 (Md. 2007).</p> <p>Separation Agreement may require continued payment of support after remarriage of recipient. <u>Campitelli v. Johnson</u>, 761 A2d 369, cert. denied, 768</p>	<p>Cessation upon cohabitation, death and remarriage. Court may increase, decrease or terminate the amount or duration of support upon clear and convincing evidence of habitual cohabitation with another person in a relationship analogous to a marriage for one year or more, commencing on or after July 1, 1997, unless 1) otherwise provided by stipulation or contract or 2) the spouse receiving support proves by a preponderance of the evidence that termination of such support would be unconscionable. Va. Code Ann. § 20-109.</p> <p><u>Bergman v. Bergman</u>, 487 S.E.2d 264 (Va. Ct. App. 1997) (unlike the word “reside,” “cohabit” encompasses a personal</p>

SPOUSAL SUPPORT, ALIMONY AND/OR MAINTENANCE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
		A2d 54 (Md. 2001).	relationship between the individuals); . . . (cont.)
continued from above TERMINATION			. . . <u>Rubio v. Rubio</u> , S.E.2d 610 (Va. Ct. App. 2001) (discussing application of § 20-109(A)); The provisions of § 20-109(D) control, and absent a specific and express provision in an Agreement that the support would continue after remarriage, the obligation would be terminated upon remarriage of the wife. <u>Hardesty v. Hardesty</u> , 581 S.E.2d 213 (Va. Ct. App. 2003)
MODIFICATION OF COURT-ORDERED ALIMONY Continued next page	Court retains jurisdiction to modify or terminate, to the extent the retention of jurisdiction does not contravene other statutory provisions. D.C. Code § 16-914.01	Court may extend period of alimony and modify the amount of alimony, upon petition of either party, as circumstances and justice requires. Md. Code Ann., Fam. Law § 11-107. <u>Odunukwe v. Odunukwe</u> , 633 A.2d 418 (Md. 1993); <u>Ridgeway v. Ridgeway</u> , 910 A.2d 503 (Md. 2006), Court may increase rehabilitative alimony to indefinite. <u>Blaine v. Blaine</u> , 646 A.2d 413 (Md. 1994). Indefinite alimony is not “permanent” alimony, and court can reduce or terminate. <u>Long v. Long</u> , 743 A.2d 281 (Md. . 2000).	Upon petition of either party, the court may increase, decrease, or cause to cease, any support and maintenance for the spouse and maintenance for the spouse that may thereafter accrue...as the circumstances may make proper. Va. Code Ann. § 20-109(A). Court may decrease or terminate upon clear and convincing evidence of habitual cohabitation with another person in a relationship analogous to a marriage for one year or more commencing on or after July 1, 1997, unless 1) otherwise provided by stipulation or contract or 2) the spouse receiving support previously or preponderance of the evidence that termination of such support would be unconscionable Va. Code Ann. § 20-109(B): The court may consider modification of spousal support for a defined duration upon petition of either party if filed within the time covered by the duration of the award. Upon consideration of the factors . . . the court may increase, decrease or terminate the amount or duration of the award upon finding that. . . . (cont.)

SPOUSAL SUPPORT, ALIMONY AND/OR MAINTENANCE

	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
<p>continued from above</p> <p>MODIFICATION OF COURT-ORDERED ALIMONY</p>			<p>...</p> <p>(i) there has been a material change in the circumstances of the parties, not reasonably in the contemplation of the parties when the award was made or (ii) an event which the court anticipated would occur during the duration of the award and which was significant in the making of the award, does not in fact occur through no fault of the party seeking modification.</p> <p>Reservation – Once granted, the duration of such a reservation shall not be subject to modification. Va. Code Ann. § 20-107.1(D).</p> <p>The Petitioner must show a material change in circumstances occurring after the most recent judicial review that warrant a modification of support. <u>Moreno v. Moreno</u>, 480 S.E. 2d 792 (Va. Ct. App. 1997).</p>

SPOUSAL SUPPORT, ALIMONY AND/OR MAINTENANCE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
ALIMONY PENDENTE LITE	<p>During the pendency of an action for divorce, termination of a domestic partnership or an action to declare the marriage null and void, where the nullity is denied by the other spouse, the court may require the spouse or domestic partner to pay <i>pendente lite</i> alimony to the other spouse or domestic partner for the maintenance of himself or herself including counsel fees, to enable such other spouse to conduct the case and enforce any order relating thereto by attachment, garnishment or imprisonment for disobedience, and enforceable by withholding per § 46-207 and § 46-251.07. D.C. Code § 16-911(a) (1).</p> <p>The Court shall consider the factors set forth in §16-913(d), the factors considered in making an award upon granting a divorce or separation, termination of domestic partnership.</p> <p>An award of pendente lite support is not a collateral order from which an interlocutory appeal can be taken. <u>Bowie v. Nicholson</u>, 705 A. 2d 290 (D.C. 1998).</p>	<p>In proceeding for divorce, alimony or annulment of marriage, the court may award alimony pendente lite to either party. Md. Code Ann., Fam. Law § 11-102.</p> <p>The purpose of <i>pendente lite</i> alimony is to maintain the status quo and provide funds to pursue claim. <u>James v. James</u>, 625 A.2d 381 (Md. 1993).</p> <p>Merits are not considered at <i>pendente lite</i> hearing. <u>Guarino v. Guarino</u>, 684 A.2d 23 (Md. 1996).</p>	<p>Trial court may make orders in its discretion for the support and maintenance of petitioning spouse in a suit for divorce. Va. Code Ann. § 20-103.</p> <p>The petitioning spouse should also be granted allowances for reasonable attorneys' fees and the costs of litigation of these sums necessary to permit the petitioner to carry on or defend suit. <u>Rowlee v. Rowlee</u>, 179 S.E.2d 461 (Va. 1971) (holding such an award is discretionary).</p>
SEPARATE MAINTENANCE NOT AN INCIDENT OF DIVORCE	Yes. D.C. Code § 16-916.	Yes. Md. Code Ann. Fam. Law § 11-101(a)(l).	Yes. Va. Code Ann. § 20-107.1.
UNIFORM INTERSTATE FAMILY SUPPORT ACT	Yes. D.C. Code 46-351.01 <u>et seq.</u>	Yes. Md. Code Ann., Fam. Law § 10-301 <u>et seq.</u>	Yes. Va. Code Ann. § 20-88.32 to 20-88.82.

DISTRIBUTION OF MARITAL PROPERTY			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
JURISDICTION	<p>The Family Court of the Superior Court of the District of Columbia has original jurisdiction. D.C. Code § 11-1101 (a) (1), (5), (6), (7) and (8).</p> <p>Court rules on property rights upon the entry of a final decree of annulment, divorce, legal separation or termination of a domestic partnership in the absence of a valid antenuptial or post-nuptial agreement disposing the property rights of the spouses. D.C. Code § 16-910.</p>	<p>By-product of power of divorce or annulment – jurisdiction of equity court. Md. Code Ann., Fam. Law § 8-202.</p>	<p>Court has the authority to decree equitable distribution of property upon decreeing the dissolution of marriage; upon decreeing a divorce from the bond of matrimony; or upon the filing of a foreign divorce decree. Va. Code Ann. § 20-107.</p> <p>Personal jurisdiction over respondent required for court to enter order affecting marital property of such a spouse. Va. Code Ann. § 20-107.3 (J).</p> <p>Such relief must be at the specific request of either party. Va. Code Ann. § 20-107.3(A).</p>
PROCEDURE	<p>The Court shall (a) assign to each party his or her sole and separate property; and (b) value and distribute all other property and debt accumulated during the marriage or domestic partnership...in a manner that is equitable, just and reasonable after consideration of all relevant factors (factors set forth in statute). D.C. Code § 16-910(b). See also <u>Young-Jones v. Bell</u>, 905 A.2d 275 (D.C. 2006).</p>	<ol style="list-style-type: none"> 1. Court determines ownership of personal and real property. 2. Court determines what is marital property. 3. Court determines value of all marital property. 4. Court may grant monetary award as an adjustment of the equities and rights of the parties concerning marital property. Md. Code Ann., Fam. Law § 8-202 - 8-213 <p>Court may transfer title to real property if all criteria in Md. Code Ann., Fam. Law § 8-205(a)(2)(iii) are met.</p>	<p>Va. Code Ann. § 20-107.3:</p> <ol style="list-style-type: none"> 1. Court shall determine the legal title as between parties; 2. Court shall determine ownership and value of all property, real or personal, tangible or intangible; 3. Court shall consider which of such property is marital and which is separate, and which is part separate and part marital in accordance with A3. 4. Court shall determine the value of any such property as of the date of the evidentiary hearing on the evaluation issue. 5. Based upon the equities and rights and interests of each party in the marital property, the court may grant a monetary award payable either in a lump sum or over a period of time in fixed amounts, to either party.

DISTRIBUTION OF MARITAL PROPERTY			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
CLASSIFICATION OF SEPARATE OR NON-MARITAL PROPERTY	<p>Separate Property -</p> <p>(a) Acquired before marriage or domestic partnership;</p> <p>(b) Acquired by gift, bequest, devise, or descent;</p> <p>(c) Excluded by valid antenuptial or postnuptial agreement;</p> <p>(d) Any increase thereof, or property acquired in exchange therefor.</p> <p>D.C. Code § 16-910(a).</p>	<p>Property -</p> <p>(a) Acquired before marriage;</p> <p>(b) Acquired by inheritance or gift from a third party,</p> <p>(c) Excluded by valid agreement; or</p> <p>(d) Directly traceable to any of these sources.</p> <p>Md. Code Ann., Fam. Law § 8-201(e)(3).</p>	<p>Property -</p> <p>(a) Acquired before marriage;</p> <p>(b) Acquired by bequest, devise, descent, survivorship or gift from a source other than the other party;</p> <p>(c) Acquired during the marriage in exchange for or from proceeds of sale of separate property, provided that such property acquired during the marriage is maintained as separate property;</p> <p>(d) That part of property classified as separate pursuant to Va.'s dual classification amendments.</p> <p>Va. Code Ann. § 20-107.3 (A)(1).</p>
INCOME FROM OR INCREASE IN VALUE OF SEPARATE PROPERTY	<p>Increases in value of separate property may also be separate. See D.C. Code § 16-910(a) and <u>McDiarmid v. McDiarmid</u>, 649 A.2d 810 (D.C. 1994).</p>	<p>Active vs. passive approach. Where the efforts of a spouse during the marriage contribute to the increase, that increase in value for even a nonmarital asset is marital property. <u>Brodak v. Brodak</u>, 447 A.2d 847 (Md. 1982).</p> <p>Passive income from separate property is not marital property. <u>Innerbichler v. Innerbichler</u>, 752 A.2d 291 (Md. 2000); <u>McNaughton v. McNaughton</u>, 538 A.2d 1193 (Md. 1988); <u>Merriken v. Merriken</u>, 590 A.2d 566 (Md. 1991).</p> <p>“Active” participation cannot be “too tenuous and speculative”. <u>Schweizer v. Schweizer</u>, 462 A.2d 562 (Md. 1983)</p>	<p>Income from or increase in value of separate property during the marriage is separate property; it is only marital property to the extent that significant personal efforts resulted in such income or increase. Va. Code Ann. § 20-107.3(A)(3)(a). Where separate property is commingled but traceable, an increase in value is presumed proportionately separate unless non-owning spouse proves that the increase in value was a result of personal effort or contributions from marital property. <u>Martin v. Martin</u>, 501 S.E.2d 450 (Va. Ct. App. 1998). For property to be hybrid, value must be generated by significant personal effort; amount of funds or effort expended are not dispositive. See <u>Moran v. Moran</u>, 512 S.E.2d 834 (Va. Ct. App. 1999)</p>

DISTRIBUTION OF MARITAL PROPERTY			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
CLASSIFICATION OF MARITAL PROPERTY	<p>Marital property: All property and debt accumulated during the marriage or domestic partnership (other than defined separate property) that has not been addressed in a valid antenuptial or postnuptial agreement or a decree of separation, regardless of whether title is held individually or by the parties in a form of joint tenancy or tenancy by the entireties. D.C. Code § 16-910(b).</p> <p>Jointly titled property is marital property even though a percentage of the jointly titled property was purchased with proceeds attributable to separate property. <u>Turpin v. Turpin</u>, 403 A.2d 1144 (D.C. App. 1979).</p> <p>Court can consider all expenditures made during the marriage in dividing marital property existing at time of divorce. <u>Bowser v. Bowser</u>, 515 A.2d 1128 (D.C. 1986); <u>Turner v. Turner</u>, 471 A.2d 1010 (D.C. 1984).</p>	<p>Marital property means: (a) Property, however titled, acquired by one or both parties during the marriage, (except property defined as separate property); (b) Real property deeded as tenants by the entirety, unless excluded by valid agreement. Md. Code Ann., Fam. Law § 8-201(e).</p> <p>Dissipated property treated as existing marital property. <u>Jeffcoat v. Jeffcoat</u>, 649 A.2d 1137 (Md. 1994), <u>Simonds v. Simonds</u>, 886 A.2d 158 (Md. 2005). <u>Turner v. Turner</u>, 809 A.2d 18 (Md. 2002)</p>	<p>Marital property is: (i) all property titled in the names of both parties, whether as joint tenants, tenants by the entireties, or otherwise; (ii) all other property acquired during the marriage which is not separate property as defined above. (iii) part of any property classified as marital pursuant to (A)(3). Va. Code Ann. § 20-107.3(A)(2).</p> <p>Statutory presumption that all property acquired by either spouse during the marriage and before the last separation of the parties where at least one party intends the separation to be permanent is marital property. Va. Code Ann. § 20-107.3(A)(2). Presumption is rebuttable. <u>Dietz v. Dietz</u>, 436 S.E.2d 463 (Va. Ct. App. 1993).</p> <p>Income generated from marital property and property purchased with such funds is marital property. <u>Stroop v. Stroop</u>, 394 S.E.2d 861 (Va. Ct. App. 1990). Va. Code Ann. § 20-107.3(A)(3).</p>

DISTRIBUTION OF MARITAL PROPERTY			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
DEFINITION OF “FAMILY-USE” PROPERTY	None.	<p>(a) “Family home” is property in Maryland that was used as principal family residence, owned or leased by one or both parties at time of proceeding, and is or will be used as principal residence by one or both parties and a minor child – excluding property acquired before marriage, acquired by inheritance or gift, or excluded by agreement;</p> <p>(b) “Family use personal property” is tangible property acquired during marriage, owned by one or both parties, and used primarily for family purposes – excluding property acquired by inheritance or gift, or excluded by agreement.</p> <p>Md. Code Ann., Fam. Law § 8-201(c) and (d).</p> <p>But payment of mortgage is marital acquisition. <u>Hughes v. Hughes</u>, 560 A.2d 1145 (Md. 1989).</p>	None.

DISTRIBUTION OF MARITAL PROPERTY			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
USE AND POSSESSION OF MARITAL HOME	<p>Incident to divorce: No express authority to award use and possession. <i>But see</i>, D.C. Code § 16-1001 <u>et. seq.</u>, permitting use and possession pursuant to a civil order of protection order.</p> <p>Incident to civil protection order: Court may order temporary use and possession pursuant to D.C. Code § 16-1005(c)(4).</p>	<p>Incident to divorce: Court may award use and possession of family use property for a maximum period up to three years from date of court order at pendente lite stage and then again from date of divorce. Md. Code Ann., Fam. Law § 8-208, 8-210.</p> <p>Factors considered in awarding family home in Md. Code Ann., Fam. Law § 8-208(b).</p> <p>The spouse seeking pendente lite use and possession need not establish a ground for divorce but must allege one in the complaint. <u>Pitsenberger v. Pitsenberger</u>, 410 A.2d 1052 (Md. 1980).</p> <p>Court's power to award use and possession of family home for 3 years in absolute divorce decree is not limited by prior pendente lite order of use and possession. <u>John O. v. Jane O.</u>, 601 A.2d 149 (Md. 1992). (Abrogated on other grounds)</p> <p>Incident to civil protection order: Court may award temporary use and possession pursuant to Md. Code § 4-506(d)(4)</p>	<p>Incident to divorce: In order to preserve the marital residence pursuant to Va. Code Ann. § 20-103 and upon a showing of reasonable apprehension of physical harm to party by spouse, court may exclude spouse from jointly owned or rented family dwelling during pendency of suit. See <u>Pinkard v. Pinkard</u>, 407 S.E.2d 339 (Va. Ct. App. 1991).</p> <p>Incident to civil protection order: Court may award temporary use and possession pursuant to Va. Code § 16.1-279.1.</p>

DISTRIBUTION OF MARITAL PROPERTY			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
TRANSMUTATION	There may be ‘transformation’ of sole and separate property into marital property upon significant contribution by non-owner spouse to that sole and separate property. <u>Darling v. Darling</u> , 444 A.2d 20 (D.C. 1982); <u>Brice v. Brice</u> , 411 A.2d 340 (D.C. 1980); <u>Araya v. Kelata</u> , 65 A.2d 40(D.C. 2013).	Only when spouse commingles marital and non-marital funds to the point where direct tracing is impossible does his or her property lose its nonmarital status. <u>Melrod v. Melrod</u> , 574 A.2d 1 (Md. 1990); <u>Merriken v. Merriken</u> , 590 A.2d 566 (Md. 1991). Inability to trace property acquired during the marriage directly to a non-marital source means that all property acquired was marital. <u>Long v. Long</u> , 743 A2d 281 (Md. 2000).	Dual classification permitted. <i>See</i> Va. Code Ann. § 20-107.3(A)(3). Commingling an asset will transmute it unless it is retraceable by preponderance of evidence to its original classification. <u>Robinson v. Robinson</u> , 621 S.E.2d 147 (Va. Ct. App. 2005). <i>But See</i> <u>Duva v. Duva</u> , 685 S.E.2d 842 (Va. Ct. App. 2009) Source of funds does not determine the original classification. Separate property may be transmuted into marital property by the manner in which it is maintained, but marital property may become separate only by an express agreement of the parties or as provided in § 20-107.3(A)(3)(d) regarding commingling. <u>McDavid v. McDavid</u> , 451 S.E.2d 713 (Va. Ct. App. 1994).
WAGES OR SALARY EARNED BY SPOUSE	Wages or salaries earned by a spouse during the marriage are marital property.	Wages or salary earned by spouse during marriage is marital property. <i>See</i> Md. Code Ann., Fam. Law § 8-201(e)(1)	Wages or salary earned by spouse during marriage is marital property. <u>Taylor v. Taylor</u> , 387 S.E.2d 797 (Va. App. 1990).

DISTRIBUTION OF MARITAL PROPERTY			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
PENSIONS	<p>Pension benefits to the extent that they were acquired during the marriage, should be deemed marital property. <u>Barbour v. Barbour</u>, 464 A.2d 915 (D.C. 1983); <u>Sanders v. Sanders</u>, 602 A.2d 663 (D.C. 1992).</p> <p>Dissipated pension can be awarded. <u>Herron v. Johnson</u>, 714 A.2d 783 (D.C. 1998).</p> <p>D.C. Code §16-910 (c): “The Court is not required to value a pension or annuity if it enters an order distributing future periodic payments.”</p> <p>An unambiguous waiver of all pension, annuity, and survivor benefits suffices with respect to a Foreign Service pension. <u>Oshinaike v. Oshinaike</u>, 140 A.3d 1206 (D.C. 2016).</p>	<p>Portion of pension (or disability plan) accruing during marriage is marital property, <u>Conteh v. Conteh</u>, 392 Md. 436 (2006); <u>Lockingbill v. Lookingbill</u>, 483 A.2d 1 (Md. 1984); <u>Hoffman v. Hoffman</u>, 614 A.2d 988 (Md. 1992); <u>Allen v. Allen</u>, 2008 Md. App. Lexis 10.</p> <p>“If, as and when” valuation. <u>Bangs v. Bangs</u>, 475 A.2d 1214 (Md. 1984); <u>Ohm v. Ohm</u>, 431 A.2d 1371 (Md. 1981); <u>Imagnu v. Wodajo</u>, 582 A.2d 590 (Md. 1990). Distinctions between benefit type should be reserved for the valuation or apportioning process. <u>Deering v. Deering</u>, 437 A.2d 883 (Md. 1981)</p>	<p>Pensions earned during the marriage are personal property subject to equitable distribution. See Va. Code Ann. § 20-107.3(G); <u>Sawyer v. Sawyer</u>, 335 S.E.2d 277 (Va. App. 1985); <u>Mann v. Mann</u>, 470 S.E.2d 605 (Va. App. 1996).</p> <p>Va. Code Ann. §§ 20-107.3(A)(2) Pensions, profit sharing or deferred compensation or retirement plans acquired during the marriage are presumed to be marital property Va. Code Ann. § 20-107.3(G). The court may direct payment of a percentage of any pension, profit-sharing or deferred compensation or retirement plan, either vested or not vested, that is marital property, but the court shall only direct that payment be made as such time the benefits are payable.</p>

DISTRIBUTION OF MARITAL PROPERTY			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
STOCK OPTIONS AND DEFERRED COMPENSATION BENEFITS*	Has yet to be addressed.	<p>Deferred compensation is marital property. <u>Klingenberg v. Klingenberg</u>, 675 A.2d 551 (Md. 1996).</p> <p>Stock options acquired during marriage are marital property. <u>Green v. Green</u>, 494 A.2d 721 (Md. 1985).</p> <p>However, a pre-emptive right to purchase stock which is acquired during marriage, but not exercised prior to the termination of the marriage, is not marital property subject to equitable distribution.</p> <p><u>Ross v. Ross</u>, 600 A.2d 891 (Md. 1992). This opinion was vacated by <u>Ross v. Ross</u>, 607 A.2d 933 (Md. 1992) for technical reasons.</p> <p>Unexercised and unvested stock options can constitute marital property. <u>Otley v. Otley</u>, 810 A2d 1 (Md. 2002).</p>	<p>Stock options granted during the marriage as deferred compensation are treated as marital property under the provisions of Va. Code Ann. § 107.3(G) even where the options have not been exercised during the marriage. The marital portion of the unvested options granted during the marriage but maturing after the date of separation is a fraction, the numerator of which is the number of months the owner of the option was covered by the identified plan during the marriage to the date of separation, and the denominator of which is the total number of months the option owner is covered by the plan. <u>Dietz v. Dietz</u>, 436 S.E.2d 463. (Va. Ct. App. 1993).</p> <p>Grant of stock option received after separation for services performed during the marriage are subject to equitable distribution. <u>Ott v. Ott</u>, 2001 Va. App. LEXIS 10, 2001 WL 32675, (Va. Ct. App. 2001).</p> <p>The full value of employee stock options should be treated as marital property if, during the marriage, the spouse earned the options and became fully vested of the unconditional right to exercise the options. <u>Donohue v. Donohue</u>, No. 2675-96-2, 1997 Va. App. Lexis 450 (Va. Ct. App.1997).</p>

* See related article “Divorce—The Valuation and Division of Stock Options” by Sanford K. Ain, Esquire and Darryl A. Feldman, Esquire at www.ainbanklaw.com. and www.aaml.org.

DISTRIBUTION OF MARITAL PROPERTY			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
PROFESSIONAL GOODWILL*	<p>Goodwill of a professional practice acquired during a marriage is marital property subject to valuation and distribution. However, under the facts of a given case, a professional practice may have no goodwill value, e.g., if the express terms of a partnership agreement make goodwill nonsalable, and there are no other factors that may make the goodwill valuable. <u>McDiarmid v. McDiarmid</u>, 649 A.2d 810 (D.C. 1994).</p>	<p>Professional goodwill is marital property if it has a value independent of the continued presence or reputation of a particular individual. <u>Skrabak v. Skrabak</u>, 673 A.2d 732 (Md. 1996). <u>Prahinski v. Prahinski</u>, 540 A.2d 833 (Md. 1988).</p> <p>A single person law firm has no goodwill. <u>Prahinski v. Prahinski</u>, 582 A.2d 784 (Md. 1990).</p> <p>A dental practice can have goodwill that is separate from the reputation of the dentist, and is, therefore, properly characterized as marital property. <u>Hollander v. Hollander</u>, 597 A.2d 1012 (Md. 1991).</p> <p>Goodwill, an intangible asset that may be added to a business entity may be marital property unless uniquely personal. <u>Strauss v. Strauss</u>, 647 A.2d 818 (Md. 1994).</p>	<p>Goodwill may be an asset of a professional practice, and if it is, it is subject to valuation for equitable distribution purposes. The value of the marital property is its intrinsic worth to the parties. A property's intrinsic value must be translated into a monetary amount. The item may still have a value even if sale may be restricted or forbidden. <u>Howell v. Howell</u>, 523 S.E.2d 514 (Va. Ct. App. 2000); <u>Hoebelheinrich v. Hoebelheinrich</u>, 600 S.E.2d 152 (Va. Ct. App. 2004). <u>See also Patel v. Patel</u>, 740 S.E.2d 35 (2013).</p>
LICENSES AND DEGREES*	<p>No. <u>See Hill v. Hill</u>, 114 WLR 2209 (Super. Ct. 1986) (husband's law degree obtained primarily through his own efforts and work not subject to equitable distribution). (To locate: Westlaw > § 16-910 > "notes of decisions" > #13)</p>	<p>No. Professional degrees and licenses are not marital property. However, court is empowered under Md. Code Ann., Fam. Law 11-105 to take into account the spouse's earning capacity when making the award. <u>Archer v. Archer</u>, 493 A.2d 1074 (Md. 1985); <u>Solomon v. Solomon</u>, 857 A.2d 1109 (Md. 2004).</p>	<p>No. Professional degrees and licenses are not property and not subject to equitable distribution. <u>Palmer v. Palmer</u>, 21 Va. Cir. 112 (1990). <u>Marion v. Marion</u>, 401 S.E.2d 432 (1991).</p>

* See related article "Professional, Personal & Celebrity Goodwill Valuation: Forecasting an Uncertain Future" by Sanford K. Ain, Esquire and Anne Marie Jackson, Esquire, American Academy of Matrimonial Lawyers Annual Meeting, November 1998 at www.aaml.org and www.ainbanklaw.com.

DISTRIBUTION OF MARITAL PROPERTY			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
PERSONAL INJURY AWARDS AND WORKER'S COMPENSATION BENEFITS	<p>Personal injury award for injuries sustained after parties separated deemed marital property. <u>Boyce v. Boyce</u>, 541 A.2d 614 (D.C. 1988).</p>	<p>Personal injury claims are not marital property. <u>Unkle v. Unkle</u>, 505 A.2d 849 (Md. 1986). <i>But See</i> <u>Conteh v. Conteh</u>, 897 A.2d 810, 819 (Md. 2006). The right to a disability pension plan is a property right so it is marital property when the right vested during the marriage.</p> <p>Liquidated personal injury proceeds can have both marital and nonmarital elements. <u>Blake v. Blake</u>, 670 A.2d 472 (Md. 1996).</p> <p>Worker's compensation benefits for lost wages during marriage are marital property. <u>Lowery v. Lowery</u>, 688 A.2d 65 (Md. 1997).</p>	<p>Va. Code Ann. § 20-107.3(A)(3)(c) and Va. Code § 20-107.3(H): Court may award percentage of marital share of personal injury awards attributable to lost wages or unreimbursed medical expenses if accrued during marriage and before date of last separation, payable in lump sum or over a period of time. <u>Thomas v. Thomas</u>, 408 S.E.2d 596 (1991).</p>
SPECIAL VALUATION CONSIDERATIONS	<p>Trial court has discretion as to date of valuation and valuation method. Court can revalue marital assets when they have materially changed in value during substantial period of time that had elapsed between trial and entry of court order and distributing marital property. The valuation method must be based on the evidence and result in an equitable, just and reasonable distribution. <u>McDiarmid v. McDiarmid</u>, 649 A.2d 810 (DC 1994); <i>see also</i> <u>Murphy v. Murphy</u>, 46 A.3d 1093 (DC 2011). <u>Barnes v. Sherman</u>, 758 A.2d 936 (D.C. App. 2000)</p>	<p>If value of property is negative, property is valued at zero. "Marital property cannot have a negative value." <u>Kline v. Kline</u>, 581 A.2d 1300 (Md. 1990). <i>See</i> <u>Goldberg v. Goldberg</u>, 626 A.2d 1062 (Md. 1993).</p>	<p>In order for the court to make a monetary award, the parties must provide sufficient evidence of the property's value. <u>Hodges v. Hodges</u>, 347 S.E.2d 134 (Va. Ct. App. 1986) Property with negative value is not subject to monetary award. <u>Kaufman v. Kaufman</u>, 375 S.E.2d 374 (Va. Ct. App. 1988) An offset for total value of a marital estate based on the negative value of one asset is "not recognized in Virginia law...if the subtraction of marital debt from the value of a marital estate leaves a negative total, the value of the asset is zero." <u>Patel v. Patel</u>, 2013 Va. App. LEXIS 110, (2013)</p>

DISTRIBUTION OF MARITAL PROPERTY			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
CUT OFF FOR ACCUMULATION OF MARITAL PROPERTY	<p>Date of termination of marriage.</p> <p>D.C. Code § 16-910: All property acquired from the date of marriage or domestic partnership through the date of divorce, legal separation annulment or termination of domestic partnership.</p>	<p>Date of termination of marriage.</p> <p>All property acquired between the time of the commencement of the marriage and its dissolution by death, annulment or issuance of a decree of absolute divorce is marital property. <u>Campolattaro v. Campolattaro</u>, 502 A.2d 1068 (Md. 1986); <u>Alston v. Alston</u>, 629 A.2d 70 (Md. 1993); <u>Prahinski v. Prahinski</u>, 540 A.2d 833 (Md. 1988).</p>	<p>Date of separation.</p> <p>Va. Code Ann. § 20-107.3(A)(2): All property acquired from the date of marriage through the date of the last separation of the parties if at least one of the parties intended the separation to be permanent.</p> <p>The character of property at the date of acquisition governs where the issue is the proper classification of property that has been transmuted from separate property, the date of classification will be the date of the actions causing the transmutation. <u>Stratton v. Stratton</u>, 433 S.E.2d 920 (Va. Ct. App. 1993).</p>
POWER OF COURT TO CONVEY PROPERTY	<p>Yes, D.C. Code § 16-910(b) provides that the court may convey real and personal marital property or proceeds derived from its sale, irrespective of how it is titled. <i>See</i> <u>Hemily v. Hemily</u>, 403 A.2d 1139 (D.C. 1979). <u>Young-Jones v. Bell</u>, 967 A.2d 1262 (D.C. App. 2009)</p> <p><i>But see</i> <u>Fleet v. Fleet</u>, 158 A.3d 486 (D.C. App. 2017). Separate property retitled to include both partners is dispositive factor supporting marital property classification.</p>	<p>Sometimes. Md. Code Ann., Fam. Law § 8-202(a)(3) by reference to § 8-205 provides that the court may transfer the ownership of certain personal or real property from one party to the other under certain circumstances. Court may transfer ownership of an interest in a pension retirement, profit sharing or deferred compensation plan from one party to either or both, and Court may also transfer title to real property where the statutory criteria are satisfied Md. Code Ann., Fam. Law § 8-205 (a)(2).</p> <p><i>See also</i>, <u>Pleasant v. Pleasant</u>, 632 A.2d 202 (Md. 1993).</p>	<p>Sometimes. Pursuant to Va. Code Ann. § 20-107.3(C), the court can only order the transfer or division of jointly owned marital property. The statute does not authorize the division or transfer of marital property that is not jointly titled, except court may transfer ownership of an interest in a pension, profit sharing or other retirement plan from one party to the other.</p>

DISTRIBUTION OF MARITAL PROPERTY			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
<p>EQUITABLE DISTRIBUTION FACTORS</p> <p>continues on next page</p>	<p>D.C. Code § 16-910(b): Court shall value and distribute all property and debt in a manner that is equitable, just, and reasonable, after considering all relevant factors, including, but not limited to: (1) the duration of the marriage or domestic partnership; (2) the age, health, occupation, amount, and sources of income, vocational skills, employability, assets, debts, and needs of each of the parties; (3) provisions for the custody of minor children; (4) whether the distribution is in lieu of or in addition to alimony; (5) each party's obligation from a prior marriage, a prior domestic partnership, or for other children; (6) the opportunity of each party for future acquisition of assets and income; (7) each party's contribution as a homemaker or otherwise to the family unit; (8) each party's contribution to the education of the other party which enhanced the other party's earning ability; (9) each party's increase or decrease in income as a result of the marriage, the domestic partnership or duties of homemaking and child care; (10) each party's contribution to the acquisition, preservation, appreciation, dissipation, or depreciation in value of the assets which are subject to distribution, the taxability of these assets, and whether the asset was acquired or the debt incurred after separation; (11) the effects of taxation on the value of the assets subject to distribution; and (12) the circumstances which contributed to the estrangement of the parties. . . . (cont.)</p>	<p>Md. Code Ann., Fam. Law § 8-205(b):</p> <ol style="list-style-type: none"> 1. The contributions, monetary and non-monetary, of each party to the well-being of the family. 2. The value of all property interests of each party. 3. The economic circumstances of each party at the time the award is to be made. 4. The circumstances that contributed to the estrangement of the parties. 5. The duration of the marriage. 6. The age of each party. 7. The physical and mental condition of each party. 8. How and when specific marital property or an interest in pension deferred compensation, etc. was acquired, including the effort expended by each party. 9. Contributions to the acquisition of real property held as tenants by the entirety. 10. Any award of alimony and any award that the court has made as to use and possession of family home or personal property. 11. Any other factors as the court deems necessary or appropriate to consider in order to arrive at a fair and equitable monetary award or transfer an interest in pension, retirement, profit sharing or deferred compensation. 	<p>Va. Code § 20-107.3(E): The amount of the award and the method of payment shall be determined by the court after consideration of the following factors:</p> <ol style="list-style-type: none"> 1. The contributions, monetary and nonmonetary, to the well-being of the family; 2. The contributions, monetary and nonmonetary of each party in the acquisition and care and maintenance of such marital property of the parties; 3. The duration of the marriage; 4. The ages and physical and mental conditions of the parties; 5. The circumstances which contributed to the dissolution of the marriage, specifically any fault grounds; 6. How and when specific items of such marital property were acquired; 7. The debts and liabilities of each spouse, the basis for such debts and liabilities, and the property which may serve as security for such debts and liabilities; 8. The liquid or nonliquid character of all marital property; 9. The tax consequences to each party; 10. The use or expenditure of marital property for a non-marital separate purpose or the dissipation of funds when done in anticipation of divorce or separation or after the last separation of the parties. 11. Such other factors as the court deems necessary or appropriate to consider in order to arrive at a fair and equitable monetary award.

DISTRIBUTION OF MARITAL PROPERTY			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
<p>continued from above</p> <p>EQUITABLE DISTRIBUTION FACTORS</p>	<p>... No presumption of equal distribution. <u>Burwell v. Burwell</u>, 700 A.2d 219 (D.C. 1997); <u>Young-Jones v. Bell</u>, 905 A.2d 275 (D.C. 2006).</p>		
<p>Marital Debt</p>	<p>D.C. Code §16-910(b) permits the trial court to equitably distribute debt accumulated during the marriage.</p> <p>Attorneys' fees incurred in the divorce proceeding are not to be considered marital debt to be distributed under DC Code §16-910 (b), but may be awarded under D.C. Code §16-911(a)(1). Once a party meets the threshold showing of need for suit fees during the pendency of an action for divorce, the trial court may—but is not required to—award fees. <u>Cerovic v. Stojkov</u>, 134 A.3d 766 (D.C. 2016).</p>	<p>Debt directly traceable to the acquisition of marital property. <u>Freedenburg v. Freedenburg</u>, 720 A.2d 948 (Md. 1998).</p>	<p>VA Code Ann. 20-107.3(A)(5) provides generally that all debts incurred during the marriage and up until the last permanent separation date of the parties, whether incurred jointly or in the sole name of one of the parties to the marriage, are presumptively marital. Likewise, per VA Code § 20-107.3(A)(4), debts incurred prior to marriage or after separation are presumptively separate. To the extent that a party can prove that a separate debt was incurred for the benefit of the marriage or the family, the court has the authority to classify all or part of the debt as marital. Conversely per VA Code Ann § 20-107.3(A)(5),, if it is proved that a presumptively marital debt was incurred for entirely non-marital reasons, the court can designate all or part of that debt as separate.</p>

CHILD SUPPORT AND MAINTENANCE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
JURISDICTION	The Family Court of the Superior Court of the District of Columbia has original jurisdiction. D.C. Code § 11-1101 (a) (1) and (3).	Equity court has jurisdiction over support of a child. Md. Code Ann., Fam. Law § 1-201(b)(9).	<p>Petitioner in a suit for child support and maintenance has the option to proceed in circuit court or juvenile and domestic relations J&DR Court. However, when a suit for divorce has been filed in circuit court and a hearing is scheduled in circuit court, the J&DR Court will be divested of its jurisdiction on that matter unless both parties agree to a referral to the J&DR Court. Va. Code Ann. §16.1-244.</p> <p>Circuit court in a divorce proceeding may upon its own initiative transfer enforcement of support to J&DR Court, or place the entire support matter before the J&DR Court upon motion of the parties. Va. Code Ann. § 20-113. If circuit court retains jurisdiction, it can modify support as well. Va. Code Ann. § 20-108.</p>
VENUE	Not an issue – only one local court within jurisdiction.	Suit must be brought in a county where defendant lives or works; where either parent lives; or where child lives. Md. Code Ann., Cts. & Jud. Proc. §§ 6-201 and 6-202	Generally commenced in the city or county where either party resides or where the respondent is present when the proceeding commences. Va. Code Ann. 16.1-243 (A)(2).
SUPPORT OBLIGATION GENERALLY	A parent has the responsibility to meet the child's basic needs as well as to provide additional child support above the basic needs level. D.C. Code §16-916.01(c) (3); §16-916.01 (p).	Parents are child's natural guardians and, quite apart from the moral obligations of parenthood, owe the child a legal, statutory obligation of support. <u>Walker v. Grow</u> , 170 Md. App. 255 (2006); Md. Code Ann., Fam. Law § 5-203(b).	General rule that amount of support depends not solely upon the child's needs but also upon the ability of a parent to pay. <u>Conway v. Conway</u> , 395 S.E.2d 464 (Va. Ct. App. 1990).

CHILD SUPPORT AND MAINTENANCE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
GUIDELINES	<p>D.C. Code § 16-916.01.</p> <p>Presumptive below \$15,654 and up to \$240,000 combined AGI, unless application of the guidelines would be unjust or inappropriate in the circumstances of the particular case. D.C. Code §16-916.01(g)(1). D.C. Code §16-916.01(h).</p> <p>Above guidelines: Obligation shall not be less than amount if guideline had been applied to adjusted gross of \$240,000; in judge’s discretion to order more based on child’s reasonable needs based on actual family experience. D.C. Code §16-916.01(h). Extrapolation above guidelines: <u>See Holland v. Holland</u>, 2010 DRB 3062 (June 13, 2012 and July 19, 2012 orders).</p>	<p>Md. Code Ann., Fam. Law § 12-201 <u>et. seq.</u></p> <p>Rebuttable presumption that guideline amount is correct, schedule caps at \$15,000 payment. Md. Code Ann., Fam. Law § 12-202 (a)(2)(i) § 12-204(e)</p> <p>Guidelines mandatory in most instances. <u>In re Katherine C.</u>, 390 Md. 554 (2006).</p> <p>Below guidelines: Rarely within the best interest of the child. <u>Shrivastava v. Mates</u>, 612 A.2d 313 (Md. 1992).</p> <p>Above guidelines: Court may use its discretion in setting amount of child support. § 12-201(d). Child’s needs control when parent’s income exceeds guidelines. <u>Voishan v. Palma</u>, 609 A.2d 319 (Md. 1992); <u>Lemly v. Lemly</u>, 649 A.2d 1119 (Md.1994); <u>Walker v. Grow</u>, 907 A.2d 255 (Md. 2006).</p>	<p>Va. Code Ann. § 20-108.2.</p> <p>No income limit.</p>
FACTORS CONSIDERED IN DEVIATING FROM THE GUIDELINES	<p>Factors to rebut the presumption listed in D.C. Code § 16-916.01 (p).</p>	<p><i>See</i> Md. Code Ann., Fam. Law § 12-202(a)(2)(ii-v).</p>	<p><i>See</i> Va. Code Ann. § 20-108.1.</p> <p>Even when parties decide different amount, they still must use statutory factors to determine amount – “allows for agreement ... to different amount, not different process.” <u>Saleem v. Saleem</u>, 494 S.E.2d 883 (Va. App. 1998)</p>

CHILD SUPPORT AND MAINTENANCE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
RETROACTIVE SUPPORT FOR INITIAL SUPPORT ORDER	Court may award child support retroactive for a period not to exceed 24 months preceding filing. D.C. Code § 16-916.01 (v). However, under specific circumstances retroactive award may be permitted as of the birth of the child. <i>J.A.W. v. D.M.E.</i> , 591 A.2d 844, 847-49 (D.C.1991).	Court required to award child support retroactively to the time of the initial pleading requesting support. Md. Code Ann., Fam. Law § 12-101; <u>But See Caccamise v. Caccamise</u> , 747 A.2d 221 (Md. 2000) (Father not entitled to retroactive support because he made considerably more than the mother)	Liability for support shall be determined retroactively for the period measured from the date that the proceeding was commenced by the filing of an action with the court provided the complainant exercised due diligence in the service of the respondent or, if earlier, the date an order of the Department of Social Services entered pursuant to Title 63.2 and directing payment of support was delivered to the sheriff or process server for service on the obligor. Va. Code Ann. § 20-108.1(B)
WHEN CHILD SUPPORT TERMINATES	Age 21. <i>Butler v. Butler</i> , 496 A.2d 621 (D.C. 1985); D.C. Code § 16-916 (a) (“minor children); D.C. Code §46-101.	Age 18, unless the child is still in high school, in which case child support extends to age 19 or graduation from high school, whichever occurs first. Md. Code Ann., Fam. Law § 1-401 (“age of majority”). Obligations may continue for mentally disabled children. <i>Trembow v. Schonfeld</i> , 393 Md. 327 (2006); <i>Sininger v. Sininger</i> , 479 A.2d 1354 (Md. 1984). Obligations also may continue for a destitute adult child. Md. Code Ann., Fam. Law § 13-102(b). <i>Corby v. McCarthy</i> , 840 A.2d 188 (Md. 2003)	Age 18, or 19 if in high school. Va. Code Ann. §§ 16.1-278.15(A).

CHILD SUPPORT AND MAINTENANCE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
MODIFICATION JURISDICTION	<p>Court retains jurisdiction to modify or terminate court-ordered child support to the extent retention of jurisdiction does not contravene other statutory provisions. D.C. Code §16-916.01. <i>See also</i> D.C. Code § 46-204.</p>	<p>Court retains jurisdiction to modify. Md. Code Ann., Fam. Law § 1-201(c)(4). <i>See also</i> Md. Code Ann., Fam. Law § 10-308</p>	<p>Court retains authority to modify in correspondance with the changing financial circumstances of parties. Va. Code Ann. § 20-108.</p> <p>Va. Code Ann. § 20-109.1 states that provisions for future modification of child support in agreements shall be valid and enforceable.</p> <p>An agreement incorporated into a divorce decree providing for self-executing child support modifications enforced. <u>Shoup v. Shoup</u>, 556 S.E.2d 783 (Va. App. 2001). Furthermore, child support can be modified without returning to court where the parties agreement includes a formula for child support to be “self-executing.” <u>Virostko v. Virostko</u>, 59 Va. App. 816 (Va. Ct. App. 2012).</p>

CHILD SUPPORT AND MAINTENANCE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
STANDARDS FOR MODIFICATION OF COURT ORDERED CHILD SUPPORT	<p>Modification by application of the guideline subject to conditions or limitations in D.C. Code § 16-916.01 (r).</p> <p>Any order requiring payment of an amount of child support, regardless of whether the amount of the child support was the subject of a voluntary agreement of the parties, may be modified upon a showing that there has been a substantial and material change in the needs of the child or the ability of the responsible relative to pay since the day on which the order was issued. A showing or proof of a change in circumstances shall not be required to modify a support order that is being reviewed pursuant to § 16-916.01 (r) (3) or (r) (4). D.C. Code § 46-204.</p> <p>Upon occurrence of substantial and material change in circumstances sufficient to warrant modification, judicial officer may modify any provision of an agreement or settlement relating to child support, regardless of whether the agreement or settlement is entered as consent order or is incorporated or merged into order. D.C. Code § 16-916.01 (t).</p>	<p>Material change in circumstances. Md. Code Ann., Fam. Law § 12-104.</p> <p>“[A] change in circumstances must be shown to sustain a modification of child support contained in a divorce decree.” <u>Reese v. Huebschman</u>, 440 A.2d 1109 (Md. 1982)..</p> <p>Court permitted to modify the amount of support upon material change of circumstances, but it is not required to so automatically; “it ought not do so unless it finds (1) that the provision in question does not serve the child’s best interest and (2) the proposed modification does.” <u>Petitto v. Petitto</u>, 808 A.2d 809 (Md. App. 2002)</p> <p><i>Pendente lite</i> order – modification in best interest of the child; material change of circumstances not required. <u>Knott v. Knott</u>, 806 A.2d 768 (Md. App. 2002).</p>	<p>Petition must set forth the reasons for the relief sought, revise and alter such decree concerning the care, custody, and maintenance of the children and make a new decree concerning the same, as the circumstances of the parents and the benefit of the children may require. Va. Code Ann. § 20-108</p> <p>Party must demonstrate: (1) material change in circumstances; and(2) the change justifies modification of the amount. <u>Kaplan v. Kaplan</u>, 466 S.E.2d 111 (Va. Ct. App. 1996).</p> <p>To decrease, payor must show a change in ability to pay that is not due to payer’s voluntary act or neglect. <u>Hammers v. Hammers</u>, 216 S.E.2d 20 (Va. 1975) <i>See Conway, Supra.</i></p> <p>To increase, must show that increased support will be spent. <u>Young v. Young</u>, 348 S.E. 2d 46 (Va. Ct. App. 1986).</p> <p><u>In Riggins v. O’Brien</u>, the parties’ Agreement provided that child support shall be renegotiated or submitted to a court for adjudication on the occurrence of a specific and certain event, meaning that upon agreement of the parties, a consent decree could be presented to the court for entry or, it would adjudicate the matter and enter an order.</p>
RETROACTIVE MODIFICATION OF CHILD SUPPORT	<p>No retroactive modification except for period during which petition is pending. The modification may then be permitted from the date on which the opposing party was given notice of the petition for modification according to statute or court rule. D.C. Code § 46-204(c).</p>	<p>No retroactive modification except for period during which petition is pending and is then discretionary. Md. Code Ann., Fam. Law § 12-104(b).</p>	<p>No retroactive modification except for period during which petition pending and is then discretionary. Va. Code Ann. § 20-74.</p>

CHILD SUPPORT AND MAINTENANCE			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
VOLUNTARY IMPOVERISHMENT	<p>Where a parent is voluntarily underemployed or unemployed, the court may impute income and calculate the child support obligation. D.C. Code § 16-916.01(d)(10).</p> <p>A voluntary decrease in income will not justify a reduction in support payments. <u>Guyton v. Guyton</u>, 602 A.2d 1143 (D.C. 1992).</p>	<p>A spouse is not allowed to voluntarily impoverish himself to reduce support and is chargeable with provable potential income. Md. Code Ann., Fam. Law § 12-204(b). <u>Wagner v. Wagner</u>, 674 A.2d 1 (Md. App. 1996). <u>Moore v. Tseronis</u>, 664 A.2d 427 (Md. App. 1995); <u>Reuter v. Reuter</u>, 649 A.2d 24 (Md. App. 1994); <u>Goldberger v. Goldberger</u>, 624 A.2d 1328 (Md. App. 1993); <u>Wills v. Jones</u>, 667 A.2d 331 (Md. 1995); <u>Gordon v. Gordon</u>, 174 Md. App. 583 (2007).</p>	<p>Court is required to impute income to a parent who is found to be voluntarily underemployed with consideration of good faith and reasonableness of employment decisions. Va. Code Ann. § 20-108.1(B)(3). <u>Broadhead v. Broadhead</u>, 655 S.E.2d 748 (Va. Ct. App. 2008) Payor assumes risk that voluntary career change which was expected to result in increased income but instead results in a decrease in income. <u>Antonelli v. Antonelli</u>, 409 S.E.2d 117 (Va. 1991).</p>
EFFECT OF SUBSEQUENT CHILDREN	<p>Deduction available for each additional child living in the parent's home for which a legal duty to support exists. D.C. Code § 16-916.01(d) (5).</p>	<p>The presence of other children in household is consideration but may not be sole basis to rebut presumption that guidelines apply. Md. Code Ann., Fam. Law § 12-202(A)(2).</p> <p>Usually considered a material change.</p>	<p>Under guidelines, court is required to consider actual monetary support for other children, other family members and former family members. Va. Code Ann. § 20-108.1(B)(1).</p>
LIFE OR HEALTH INSURANCE FOR THE BENEFIT OF A CHILD	<p>Yes, all orders shall contain terms providing for the payment of medical expenses for the child. D.C. Code § 16-916.01(i).</p>	<p>Yes, as to health insurance through employer. Md. Code Ann., Fam. Law § 12-102.</p>	<p>Yes, court may order a party to maintain all or part of existing life insurance and/or health insurance for the benefit of a child. Va. Code Ann. § 20-108.1(D).</p>
EDUCATIONAL EXPENSES	<p>Support sufficient to provide for the child's future education needs is one factor. D.C. Code § 16-916.01(p)(7).</p>	<p>Court may order expenses for attending special or private elementary or secondary school to meet particular educational needs of the child. Md. Code Ann., Fam. Law § 12-204(i).</p>	<p>Court may order a parent to pay for private educational expenses, even though such expenses exceed the child support guidelines, when there is a demonstrated need for the child to attend private school and the parent has the ability to pay. <u>Oley v. Branch</u>, 762 S.E.2d 790 (Va. App. 2014)</p>

CHILD CUSTODY AND VISITATION			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
JURISDICTION	Family Court of the Superior Court of the District of Columbia has original jurisdiction. D.C. Code § 11-1101 (a) (1) and (4).	Equity court has jurisdiction over custody of child and visitation of child. Md. Code Ann., Fam. Law § 1-201(b)	Custody proceedings may be brought in either the Circuit Court or the J&DR general district court depending upon the status of the parties and whether custody is ancillary to some other proceeding. Va. Code Ann. §§ 16.1-244 and 20-103.
UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT	Yes, D.C. Code § 16-4601.01 <u>et seq.</u>	Yes, Md. Code Ann., Fam. Law § 9.5-101 <u>et seq.</u>	Yes, Va. Code Ann. § 20-146.1 <u>et seq.</u>
FACTORS TO BE CONSIDERED IN MAKING DETERMINATION continued next page	Primary consideration is best interests of the child. Court shall consider all relevant factors, including but not limited to: (A) the wishes of the child as to his or her custodian, where practicable; (B) the wishes of the child's parent or parents as to the child's custody; (C) the interaction and interrelationship of the child with his or her parent or parents, his or her siblings, and any other person who may emotionally or psychologically affect the child's best interest; (D) the child's adjustment to his or her home, school, and community; (E) the mental and physical health of all individuals involved; (F) evidence of an intrafamily offense as defined in section 16-1001(5); ... (cont.)	Primary consideration is best interests of the child. Factors include but are not limited to: (a) fitness of parent; (b) the character and reputation of the parties; (c) the requests of each parent and the sincerity of the requests; (d) any agreement between them; (e) the potentiality of maintaining natural family relations; (f) the capacity of parents to communicate and reach shared decisions affecting child; (g) the preference of the child, when child is of sufficient age; (h) any material opportunities affecting the child; (i) the age, health and sex of the child; (j) the suitability of the residence of the parents; (k) length of separation of the parents; ... (cont.)	Primary consideration is the best interest of the child. Court shall consider: 1) age and physical and mental condition of child...; 2) age and physical and mental condition of each parent; 3) relationship existing between each parent and each child...; 4) needs of child...; 5) the role which each parent has played and will play in the future, in the upbringing and care of the child or children; 6) the propensity of each parent to actively support the child's contact and relationship with the other parent, including whether a parent has unreasonably denied the other parent access to or visitation with the child...; 7) the relative willingness and demonstrated ability of each parent to cooperate in and resolve disputes re: matters affecting the child; ... (cont.)

CHILD CUSTODY AND VISITATION			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
<p>continued from above</p> <p>FACTORS TO BE CONSIDERED IN MAKING AN AWARD</p>	<p>...</p> <p>(G) the capacity of the parents to communicate and reach shared decisions affecting the child's welfare;</p> <p>(H) the willingness of the parents to share custody;</p> <p>(I) the prior involvement of each parent in the child's life;</p> <p>(J) the potential disruption of the child's social and school life;</p> <p>(K) the geographic proximity of the parental homes as this relates to the practical considerations of the child's residential schedule;</p> <p>(L) the demands of parental employment;</p> <p>(M) the age and number of children;</p> <p>(N) the sincerity of each parent's request;</p> <p>(O) the parent's ability to financially support a joint custody arrangement;</p> <p>(P) the impact on Temporary Assistance for Needy Families, or Program on Work, Employment, and Responsibilities, and medical assistance; and</p> <p>(Q) the benefit to the parents.</p> <p>D.C. Code §16-914 (a) (3).</p> <p>Rebuttable presumption that custody with parent is in the child's best interests. D.C. Code § 16-831.05(a).</p>	<p>...</p> <p>(l) the effect of any prior voluntary abandonment or surrender of custody of the child;</p> <p>(m) willingness of each parent to share custody;</p> <p>(n) psychological fitness of each parent;</p> <p>(o) Strength of relationship between child and each parent;</p> <p>(p) potential disruption of child's social life and school;</p> <p>(q) geographic proximity of parents' homes;</p> <p>(r) demands of parental employment;</p> <p>(s) age and number of children involved;</p> <p>(t) financial status of parents;</p> <p>(u) impact on state or federal assistance;</p> <p>(v) Benefit to parents;</p> <p>(w) Other factors that court considers relevant.</p> <p><u>Taylor v. Taylor</u>, 508 A.2d 964 (Md. 1986); <u>Best v. Best</u>, 613 A.2d 1043 (Md. 1992); <u>Montgomery County v. Sanders</u>, 381 A.2d 1154 (Md.. 1977).</p> <p>Presumption that the best interests of a child are served by giving custody to parent over a third party. <u>Wagner v. Wagner</u>, 674 A.2d 1 (Md. 1996); <u>Koshko v. Haining</u>, 921 A.2d 171 (Md. 2007) (presumption applies against grandparents).</p> <p><i>De facto</i> parents have standing to contest custody or visitation and need not show parental unfitness or exceptional circumstances before a trial court can apply the best interest standard. <u>Conover v. Conover</u>, 146 A.3d 433 (Md. 2016)</p>	<p>...</p> <p>8) the reasonable preferences of the child;</p> <p>9) history of family abuse;</p> <p>10) such other factors as are necessary.</p> <p>Va. Code Ann..</p> <p>Presumption that the best interests of a child are served by giving custody to the natural parent. <u>Smith v. Pond</u>, 360 S.E.2d 885 (Va. Ct. App. 1987); <u>Ferris v. Underwood</u>, 348 S.E.2d 18 (Va. Ct. App. 1986) (presumption applies against grandparents); <u>Carter v. Carter</u>, 546 S.E.2d 220 (Va. Ct. App. 2001) (no presumption of custody in favor of a biological parent over adoptive parent because adoptive parent obtains all legal rights and obligations of natural parent when adoption order becomes final).</p>

CHILD CUSTODY AND VISITATION			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
JOINT CUSTODY	<p>Rebuttable presumption that joint custody is in the best interest of the child, except in instances where a judicial officer has found by a preponderance of the evidence the occurrence of intrafamily offense, child abuse, child neglect, or parental kidnapping. D.C. Code §16-914 (a)(2).</p> <p>Courts have authority to determination as to the legal custody and the physical custody of a child. A custody order may include: (i) sole legal custody; (ii) sole physical custody; (iii) joint legal custody; (iv) joint physical custody; or (v) any other custody arrangement the Court may determine is in the best interest of the child. D.C. Code §16-914 (a)(1).</p>	<p>Courts have authority to award joint custody, but only if in child's best interests, even when parties do not request it. <u>Kerns v. Kerns</u>, 474 A.2d 925 (Md. 1984); <u>Taylor v. Taylor</u>, 508 A.2d 964 (Md. 1986).</p>	<p>Courts have wide discretion and fashioning joint or shared custody arrangements for children if it is in best interests of the children. <u>Crounse v. Crounse</u>, 151 S.E.2d 412 (Va. 1966); <u>Andrews v. Geyer</u>, 104 S.E.2d 747 (Va. 1958).</p> <p>Courts shall assure minor children of frequent and continuing contact with both parents, when appropriate, and encourage parents to share in the responsibilities of rearing their children. The court may award joint custody or sole custody. Va. Code Ann. § 20-124.2(B).</p>

CHILD CUSTODY AND VISITATION			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
VISITATION	<p>D.C. Code § 16-831.01 <u>et seq.</u> addresses Third Party Custody and defines <i>de facto</i> parent.</p> <p>Court may award custody to a third party upon determining:</p> <p>(1) presumption in favor of parental custody has been rebutted; and</p> <p>(2) custody with the third party is in the child's best interests.</p> <p>D.C. Code §16-831.06(a).</p>	<p><i>De facto</i> parents have standing to contest custody or visitation and need not show parental unfitness or exceptional circumstances before a trial court can apply the best interest standard. <u>Conover v. Conover</u>, 146 A.3d 433 (Md. 2016)</p> <p>Grandparent visitation codified in statute, Md. Code Ann., Fam. Law § 9-102, but still requires threshold showing of parental unfitness or exceptional circumstances indicating that the lack of grandparental visitation has a significant deleterious effect on child. <u>Koshko v. Haining</u>, 921 A.2d 171 (Md. 2007) .; <u>Bradenburg v. LaBarre</u>, 996 A.2d 939 (Md. 2010) (no “exceptional circumstances” found); <u>Barrett v. Ayres</u>, 186 Md. App. 1 (2009) (Mother’s desire to modify is “material change” warranting modification); <u>Troxel v. Granville</u>, 530 U.S. 57 (2000) (parent’s fundamental right to rear children).</p>	<p>Scope of court’s power to award visitation extends to any person with legitimate interest, including grandparents, stepparents, former stepparents, blood relatives and family members. Va. Code Ann. § 20-124.1 and 20-124.2(B).</p>

CHILD CUSTODY AND VISITATION

	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
<p>PARENTAL RELOCATION ISSUES</p>	<p>Factors relevant and appropriate including those made at the time a custody petition is filed: (1) strength of the relationship of the child with each parent (2) the individual resources, temperament, and special development needs of the child (3) psychological stability of the relocating parent and the parenting effectiveness of both parents (4) success of the current custody arrangement and the effect the proposed relocation will have on its stability and continuity (5) advantages & disadvantages of the proposed relocation, including the potential disruption of the child's social and school life and a comparison of the educational, health, and extracurricular opportunities the child would have in each location (6) any benefits to the child likely to be derived from the parents' improved circumstances (7) feasibility of an alternative visitation and access schedule, including the geographic proximity of and travel time between the parental homes as this relates to the practical considerations of the child's residential schedule (8) motivations of the parents in proposing and opposing relocation (9) effect the move will have on the child's relationship with the noncustodial parent, considering the extent to which visitation rights have been allowed and exercised, the level of support the custodial parent has shown for the continuation and growth of the child's relationship with the non-custodial parent, and whether there is any established pattern of promoting or thwarting that relationship (10) the extent of any conflict between the parents and the recentness of the marital separation. Cont....</p> <p style="text-align: right;">45</p>	<p>Change to custody agreement require two step consideration: (1) Material change in circumstance (2) best interest of the child. <u>McMahon v. Piazze</u>, 875 A.2d 807 (Md. 2005) Desire to relocate is a factor properly considered in custody award where probability that relocation would cut off parent-child relations. <u>Sewell v. Sewell</u>, 145 A.2d 422 (Md. 1958). Relocation may warrant chance of custody. <u>Domingues v. Johnson</u>, 593 A.2d 1133 (Md. 1991).</p> <p>Court may require 90 days advance written notification of intent to relocate. Md. Code Ann. Fam. Law § 9-106.</p>	<p>Best interest of the child remains paramount consideration in relocation cases. Court cannot predetermine effect of hypothetical future relocation, but relocation may be a material change in circumstances to justify modification of custody. <u>Wheeler v. Wheeler</u>, 591 S.E.2d 698 (Va. App. 2004)</p> <p>30 days advance written notice must be given to court and other party by party intending to relocate. Va. Code Ann. § 20 124.5.</p>

CHILD CUSTODY AND VISITATION			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
	<u>Estopia v. O'Brian</u> , 68 A.3d 790 (DC. App. 2013)		
CUSTODY MODIFICATION	<p>Award of custody may be modified or terminated upon the motion of one or both parents, or on the Court's own motion, upon a determination that:</p> <p>(1) there has been a substantial and material change in circumstances, and</p> <p>(2) the modification or termination is in the best interest of the child.</p> <p>D.C. Code § 16-914 (f) (1).</p> <p>The judicial standard of review governing the modification of custody arrangements established by agreement of the parties depends on whether the original custody arrangements were determined by:</p> <p>(1) private agreement (not reviewed or ratified by the Court)</p> <p>Standard: best interest of the child, see <u>Owen v. Owen</u>, 427 A.2d 933 (D.C. 1981) and <u>Spires v. Spires</u>, 743 A.2d 186 (D.C. 1999); or</p> <p>(2) private agreement that was subsequently reviewed and ratified by the Court (through incorporation or merger)</p> <p>Standard: best interest of the child, changed circumstances not contemplated by the parties at the time of the agreement, and the terms of the agreement are afforded due deference, see <u>Rice v. Rice</u>, 415 A.2d 1378 (D.C. 1980) and <u>Galbis v. Nadal</u>, 626 A.2d 26 (D.C. 1993).</p> <p>Modification must conform to requirements of the UCCJEA. D.C. Code § 16-4602.03.</p>	<p>Court has power to modify:</p> <p>(1) where change of circumstances affecting the parties or the children has occurred since the filing of the original decree,</p> <p>(2) but should not disturb custody unless there is some strong reason affecting the welfare of the children. <u>Taylor v. Taylor</u>, 229 A.2d 131 (Md. 1967); <u>Sartoph v. Sartoph</u>, 354 A.2d 467 (Md.. 1976); <u>McCready v. McCready</u>, 593 A.2d 1128 (Md. 1991).</p> <p>Modification must conform to requirements of the UCCJEA, <u>supra</u>.</p>	<p>Two part test:</p> <p>(1) Has there been a change in circumstances?;</p> <p>(2) Would change be in the best interests of the child?</p> <p><u>Keel v. Keel</u>, 303 S.E.2d 917 (Va. 1983); <u>Surles v. Mayer</u>, 628 S.E.2d 563 (Va. Ct. App. 2006).</p> <p>Modification must conform to requirements of the UCCJEA, <u>supra</u>.</p>

ATTORNEY'S FEES			
	DISTRICT OF COLUMBIA	MARYLAND	VIRGINIA
WHEN AVAILABLE	<p>Divorce actions - <i>pendente lite</i>. D.C. Code §16-911 (a) (1).</p> <p>Alimony, child support, enforcement – <i>pendente lite</i> and permanently. D.C. Code §16-916 (a) and (c).</p> <p>Custody – compensation for attorney for the child. D.C. Code §16-918.</p> <p>Moving party must make a showing that he or she has a need for requested “suit money”. <u>McClintic v. McClintic</u>, 39 A.3d 1274 (D.C. 2012).</p> <p>Factors for determining amount: quality of the services rendered, the skills of counsel, the result of litigation, the difficulty of the case, and the ability to pay attorneys’ fees, as well as the respective capacity of the parties. <u>Rachal v. Rachal</u>, 489 A.2d 476 (D.C. 1985).</p>	<p>Divorce actions –award of suit money and counsel fees “at any point.” Md. Code Ann., Fam. Law §7-107.</p> <p>Enforcement of agreements – award of suit money and counsel fees “at any point.” Md. Code Ann. Fam., Law § 8-214</p> <p>Child support actions – costs and counsel fees available if lack of substantial justification. Md. Code Ann., Fam. Law § 12-103.</p> <p>To award legal fees, court must articulate an explanation in the record. <u>Bagley v. Bagley</u>, 632 A.2d 229 (Md. 1993). ”Costs” includes suit money, travel expenses, etc. <u>Bracone v. Bracone</u>, 295 A.2d 798 (Md. 1972).</p>	<p>Divorce actions; discretionary. Va. Code Ann. § 20-79.</p> <p>Contempt proceeding to enforce child support order. <u>Edwards v. Lowery</u>, 348 S.E.2d 259 (Va. 1986).</p>
PENDENTE LITE AWARDS	<p>Yes. D.C. Code § 16-911(a) (1) allows suit money including counsel fees, <i>pendente lite</i>.</p>	<p>Yes, for alimony. Md. Code Ann., Fam. Law § 11-110 (a)(3)</p> <p>Support in general – court has authority to award reasonable expenses, including suit money and counsel fees “at any point” <u>Guarino v. Guarino</u>, 684 A.2d 23 (Md. 1996).</p>	<p>Yes. Va. Code Ann. §§ 20-79, 20-103(A).</p>