



OFFICE OF THE STAFF JUDGE ADVOCATE

Family Law Issues: New Developments



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Client Services Division:

A consolidated legal office offering free legal services to Soldiers, Retirees, and their Family Members.

Location: Building 4305, 3rd Floor
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Normal Operating Hours: 9:00 a.m. – 1:00 p.m.

Monday through Thursday

Closed Friday





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Agenda

- Divorce
- Estate Planning issues
- Custody & Child Support Order Modifications
- Protective Orders Jurisdiction
- Probate Practice
- Pension Division and Alimony



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Divorce

- Residency Rules for Maryland
 - 6 Months Maryland residency for Circuit Court to have jurisdiction

- New Ground for Divorce: Mutual Consent
 - Maryland Bill 472, passed 13 Apr 15, effective 1 Oct 15
 - Immediate Divorce if:
 - No children
 - Written Separation agreement
 - Joint Filing & appearance at hearing
 - Prior grounds: desertion, adultery, criminal conviction, insanity, cruelty, vicious conduct or 1 year separation (no fault)



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DIVORCE (CONTINUED)

- Custody of Military Parents
- No state has rule disfavoring Military service when awarding custody
 - Several States have positive rules saying military service cannot be used as a negative factor: CA, CO, GA, KA, LA, MO, OK, TX, VA, WA
 - Maryland does not, but does require emergency orders based on deployment to return to status pro ante after deployment. Maryland Statutes, Family Law § 9-108



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Divorce (continued)

- Custody Based on Best interests of children
 - Primary Care Giver
 - Fitness
 - Character and Reputation
 - Agreements
 - Ability to Maintain Family Relationships
 - Child Preference
 - Material Opportunity
 - Age, Health and Gender of Child
 - Residences of Parents and Opportunity for
 - Length of Separation
 - Any Prior Abandonment or Surrender of Custody
 - Religious Views



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Estate Planning Changes

- Maryland Estate Exemption Amount increased
 - Was \$1 mil, now 1.5 mil, will increase until matches Fed \$5 mil
- Can stack exemption amounts for married couples
- Statutory POAs required to be accepted in MD (Loretta's Law)
 - Hospitals, Doctors, Banks, other regulated businesses
 - Additionally, certain enumerated people can review the designated agent's conduct
 - Principal's guardian
 - Spouse
 - Or other potential beneficiaries



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Custody and Child Support Order Modifications

- Which court to use?
 - Original action in Court where child resides, or has “significant ties”
 - Once order issued, Court with original jurisdiction retains forever
 - Unless parties AND ORIGINAL JUDGE consent to transfer
 - Or no one remains in original state
- Criteria for Changes
 - Called for in Original Order/Agreement
 - Best interests of the Child
 - Existing Custody puts Child at Risk
 - Non Custodial Parent has life back together
 - Change in Circumstance
 - More/Less Money
 - Change in Location



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Protective Order Jurisdiction Expanded

- Old Rule:
 - Potential Perpetrator had to live in Maryland for MD Court to issue orders
- New Rule:
 - MD Court has jurisdiction if either Perpetrator or Potential Victim live in Maryland



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Probating Estates

- Testate vs. Intestate
- Simplified Probate for Small Estates (Under \$50,000.00)
 - Probate Assets
- Estate Taxes
 - Federal Exemption \$5 million
 - Maryland Exemption \$1.5 Million (Effective 1 Jan 15)
- Forum State
 - Domicile
 - Property Location



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Probate (continued)

- Fiduciaries Appointed
 - Executor/Administrator/Personal Representative
 - Guardians
 - Minor/incompetent children
 - Property Guardians
 - Trustees



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Pension Division and Alimony

- Under Jurisdiction of State Court
 - Federal Govt-DOD not directly involved
 - Military Branch may be involved in non-support
- Military Pensions Divisible Under State Law
- Disability not Divisible
 - But Can be Counted when Setting Alimony
- 20-20-20 Spouse Benefits
- Direct Payment of Pension Division
 - Payment directly from DFAS to Spouse
 - 10 years of Marriage
 - Filing of Conforming Order with DFAS within One Year for Survivor Benefit Plan



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Questions?