2015

Virginia Practice Series: Family Law: Theory, Practice, and Form

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Family Law, also referred to as Domestic Relations Law, basically involves the legal relationships between husband and wife and parent and child, as a social, political, and economic unit.

The interrelated legal aspects of this family relationship necessarily include principles of tort law, criminal law, civil procedure, constitutional law, conflict of laws, statutory regulation of marriage and divorce, equitable remedies, and property and support rights.

American family law has been involved in a dramatic change and transition over the last two decades. Increasingly, the practice of family law has been shifting from moral to economic issues, including important aspects of property law, contract law, partnerships, and trusts. Indeed, a general practitioner or business lawyer must now understand and master important family law principles separate and apart from any divorce litigation.

Virginia family law likewise is currently in a state of flux and transition based upon the dynamic interplay of three interrelated forces: (1) the Virginia legislature, which regulates by statute many important family relationships; (2) the Virginia state courts, which interpret these statutes or determine equitable remedies in the absence of such statutes; and (3) the Virginia family law practitioner, who must ultimately decide what strategic legal alternatives exist in favor of his or her client, and who must persuasively plead and prove these remedies before the court, based upon the law and facts of each particular case.

The title of this treatise, Family Law: Theory, Practice, and Forms, is indicative of the approach taken by its three authors—one academic lawyer and two family law practitioners—who have extensively written, lectured, and practiced throughout the Commonwealth in family law matters.

The intent of this family law treatise is not merely to present the existing Virginia “black letter law,” but also to discuss the law’s underlying rationale and its practical application in court. In addition, when Virginia precedent is outdated or lacking, the family law trends in other jurisdictions will also be discussed; and on various occasions, your authors have not been shy in suggesting where Virginia family law ought to be in the future.
The quest will continue to determine which family law principles are obsolete and which family law principles are still relevant to the changing needs of our society. But while embarking on this legitimate quest, the legislator, jurist, and family law practitioner ought not to be too hasty, in the absence of empirical data, to throw the baby out with the bath water in assessing and reassessing present and future Virginia family law needs and goals.

Finally, it is only fitting that the authors dedicate this family law treatise, with love, to their respective families, who still constitute "the most important relation in life, as having more to do with the morals and civilization of a people than any other institution." Maynard v. Hill, 125 U.S. 190, 205, 8 S.Ct. 723, 726, 31 L.Ed. 654 (1888).

This treatise includes legislation and selected cases decided through late 2014.

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January 2015
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