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

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# VIRGINIA PRACTICE SERIES™

Volume 9

## FAMILY LAW: THEORY, PRACTICE, AND FORMS

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By

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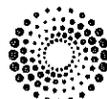
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## PREFACE

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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.

PETER NASH SWISHER  
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January 2015

# Summary of Contents

## **PART I. INCIDENTS OF MARRIAGE**

- Chapter 1. Marriage
- Chapter 2. Marital Impediments and Annulment of Marriage
- Chapter 3. Nonmarital, Premarital, and Postmarital Agreements
- Chapter 4. Property and Support Rights During Marriage
- Chapter 5. Unique Family Law Issues

## **PART II. DIVORCE**

- Chapter 6. Jurisdiction and Venue
- Chapter 7. Bed and Board Divorce (Divorce a Mensa Et Thoro)
- Chapter 8. Absolute Divorce (Divorce a Vinculo Matrimonii)
- Chapter 9. Spousal Support and Maintenance
- Chapter 10. Child Support and Maintenance
- Chapter 11. Equitable Distribution of Marital Property
  - Appendix 11A. Comments and Analysis of Amendments to Va. Code Ann. § 20-107.3 Relating to Definition of Marital and Separate Property in Equitable Distribution Proceedings
- Chapter 12. Tax Consequences of Divorce

## **PART III. PATERNITY, ADOPTION, AND CHILD CUSTODY ISSUES**

- Chapter 13. Paternity and Legitimacy
- Chapter 14. Adoption and Termination of Parental Rights
  - Appendix 14A. Procedure for Termination of Parental Rights
- Chapter 15. Child Custody and Visitation

**PART IV. FORMS**

Chapter 16. Pleading and Practice Forms

**Table of Laws and Rules**

**Table of Cases**

**Index**

## Table of Contents

### PART I. INCIDENTS OF MARRIAGE

#### CHAPTER 1. MARRIAGE

- § 1:1 Introduction
- § 1:2 Statutory marriage requirements
- § 1:3 Common law marriage
- § 1:4 Putative marriage
- § 1:5 Marriage by proxy
- § 1:6 De facto "marriage"
- § 1:7 "Marriage" by estoppel
- § 1:8 The last-in-time marriage presumption
- § 1:9 Proof of marriage
- § 1:10 State vs. federal regulation of marriage
- § 1:11 Nonmarital cohabitation and domestic partnerships

#### CHAPTER 2. MARITAL IMPEDIMENTS AND ANNULMENT OF MARRIAGE

- § 2:1 Introduction
- § 2:2 Jurisdiction
- § 2:3 Annulment: In general
- § 2:4 Void vs. voidable marriages
- § 2:5 Same sex marriage
- § 2:6 Bigamous marriage
- § 2:7 Incestuous marriage
- § 2:8 Underage marriage
- § 2:9 Mental and physical incompetence
- § 2:10 Marriage to a felon or prostitute or having a child by another person
- § 2:11 Fraudulent marriage
- § 2:12 Marriage under duress
- § 2:13 Sham marriage
- § 2:14 Marriage in jest
- § 2:15 Support and property rights on annulment
- § 2:16 Defenses to annulment
- § 2:17 Affirmation of marriage

#### CHAPTER 3. NONMARITAL, PREMARITAL, AND POSTMARITAL AGREEMENTS

- § 3:1 Breach of promise to marry actions and fraud actions

- § 3:2 Gifts and contracts conditioned on marriage
- § 3:3 Nonmarital or "cohabitation" agreements
- § 3:4 Premarital agreements
- § 3:5 Postmarital and separation agreements
- § 3:6 Reconciliation agreements
- § 3:7 Judicial recognition of religious contracts

#### **CHAPTER 4. PROPERTY AND SUPPORT RIGHTS DURING MARRIAGE**

- § 4:1 Marriage as an "economic partnership"
- § 4:2 Feme sole estates and the Married Women's Property Acts
- § 4:3 Tenancy by the entirety
- § 4:4 Dower and curtesy rights and the augmented estate system
- § 4:5 Community property issues
- § 4:6 Interspousal contracts and creditors' rights
- § 4:7 The doctrine of necessities
- § 4:8 Common law separate maintenance
- § 4:9 Loss of consortium
- § 4:10 Statutory spousal and child support obligations
- § 4:11 Relative responsibility statutes
- § 4:12 Support enforcement remedies

#### **CHAPTER 5. UNIQUE FAMILY LAW ISSUES**

- § 5:1 Introduction
- § 5:2 Intrafamily tort immunity and liability
- § 5:3 Parental discipline of the child
- § 5:4 Parental liability for the child's acts
- § 5:5 Medical care for the child and spouse
- § 5:6 Wrongful death, wrongful life, and wrongful birth
- § 5:7 Regulation of a child's education
- § 5:8 Domestic violence
- § 5:9 Testimony by the spouses
- § 5:10 Children in need of supervision
- § 5:11 Contraception
- § 5:12 Abortion
- § 5:13 Voluntary and involuntary sterilization
- § 5:14 Artificial insemination
- § 5:15 Surrogate motherhood
- § 5:16 In vitro fertilization
- § 5:17 Family vs. individual rights

ge

**SUPPORT**

n's Property

nted estate

ts

ations

**LAW ISSUES**

ful birth

TABLE OF CONTENTS

**PART II. DIVORCE**

**CHAPTER 6. JURISDICTION AND VENUE**

- § 6:1 Introduction
- § 6:2 Jurisdiction for divorce
- § 6:3 Venue
- § 6:4 Service on the defendant
- § 6:5 Collateral attack on a void divorce

**CHAPTER 7. BED AND BOARD DIVORCE (DIVORCE A MENSA ET THORO)**

- § 7:1 Introduction
- § 7:2 Difference from an absolute divorce
- § 7:3 Grounds for a bed and board divorce
- § 7:4 Economic effects of a bed and board divorce
- § 7:5 Defenses to a bed and board divorce
- § 7:6 Effect of reconciliation
- § 7:7 Merger into an absolute divorce

**CHAPTER 8. ABSOLUTE DIVORCE (DIVORCE A VINCULO MATRIMONII)**

- § 8:1 Introduction
- § 8:2 Difference from a bed and board divorce
- § 8:3 Grounds for absolute divorce
- § 8:4 Defenses to absolute divorce
- § 8:5 Divorce practice and procedure
- § 8:6 Ethical issues on divorce
- § 8:7 Alternative dispute resolution

**CHAPTER 9. SPOUSAL SUPPORT AND MAINTENANCE**

- § 9:1 In general
- § 9:2 Jurisdiction, pleading, and practice
- § 9:3 Pendente lite spousal support
- § 9:4 Fault as affecting entitlement to support
- § 9:5 Determining amount of spousal support award
- § 9:6 Lump sum vs. periodic payment award
- § 9:7 1998 spousal support amendments; Rehabilitative alimony
- § 9:8 Application of statutory criteria to award
- § 9:9 Consideration of equitable distribution award as factor in determining amount of spousal support

- § 9:10 Reservation of right to spousal support
- § 9:11 Duration of award: In general
- § 9:12 Effect of post-divorce cohabitation of dependent spouse
- § 9:13 Effect of death of either party
- § 9:14 Effect of remarriage of dependent spouse
- § 9:15 Interpretation and effect of incorporation of terms of separation agreement in final decree
- § 9:16 Modification of award
- § 9:17 Enforcement of award and arrearages
- § 9:18 Contempt
- § 9:19 Revised Uniform Reciprocal Enforcement of Support Act
- § 9:20 Full faith and credit of foreign support award
- § 9:21 Attorney's fees
- § 9:22 Effects of bankruptcy on spousal support orders
- § 9:23 Appeals

## **CHAPTER 10. CHILD SUPPORT AND MAINTENANCE**

- § 10:1 In general
- § 10:2 Jurisdiction, pleading and practice
- § 10:3 Parent's responsibility to pay
- § 10:4 Pendente lite child support
- § 10:5 Amount of support: In general
- § 10:6 Child support guidelines
- § 10:7 Computation of gross income
- § 10:8 Effect of spousal support order on computation of gross income
- § 10:9 Deviations from support guidelines: In general
- § 10:10 Effect of split custody, joint custody, or other variations in custodial arrangements
- § 10:11 Effect of prior child support order
- § 10:12 Effect of support for new or other family members
- § 10:13 Other statutory factors in deviating from support guidelines
- § 10:14 Duration of child support: In general
- § 10:15 Duration of child support: Post-emancipation obligation
- § 10:16 Emancipation of child: Age
- § 10:17 Emancipation of child: Other grounds
- § 10:18 Death of payor
- § 10:19 Effect of and compliance with order
- § 10:20 Effect of unitary award or order of support
- § 10:21 Effect and interpretation of written agreements of parties

TABLE OF CONTENTS

§ 10:22 Modification of child support: Jurisdiction  
 § 10:23 Modification of child support: Application of child support guidelines  
 § 10:24 Modification of child support: Standard and proof  
 § 10:25 Enforcement of child support orders: In general  
 § 10:26 Garnishments, wage assignments, and payroll deduction orders  
 § 10:27 Administrative support liens on property  
 § 10:28 Administrative enforcement mechanisms  
 § 10:29 Fraudulent conveyances  
 § 10:30 Contempt: In general  
 § 10:31 Contempt: Defenses  
 § 10:32 Revised Uniform Reciprocal Enforcement of Support Act  
 § 10:33 Uniform Interstate Family Support Act  
 § 10:34 Full faith and credit of foreign support award  
 § 10:35 Attorney's fees  
 § 10:36 Effects of bankruptcy on child support orders  
 § 10:37 Appeals

**CHAPTER 11. EQUITABLE DISTRIBUTION OF MARITAL PROPERTY**

§ 11:1 History: In general  
 § 11:2 Jurisdiction, pleading and practice  
 § 11:3 General statutory requirements for equitable distribution of property  
 § 11:4 Classification of property: Marital property  
 § 11:5 Classification of property: Separate property  
 § 11:6 Classification of property: Hybrid property  
 § 11:7 Presumption of gift by joint titling or commingling into joint account  
 § 11:8 Increase in value of premarital business: Evidence and burden of proof  
 § 11:9 Doctrine of transmutation and the unitary theory of property classification  
 § 11:10 Time of classification  
 § 11:11 Presumptions on classification  
 § 11:12 Gifts, bequests, and inheritances  
 § 11:13 Increases in value of separate property  
 § 11:14 Income from separate property  
 § 11:15 Property acquired in exchange for separate property  
 § 11:16 Pensions and deferred compensation benefits  
 § 11:17 Disability benefits  
 § 11:18 Personal injury and workers' compensation awards

- § 11:19 Professional goodwill
  - § 11:20 Licenses and degrees
  - § 11:21 Agreement of the parties
  - § 11:22 Third party claims in property
  - § 11:23 Valuation of property: In general
  - § 11:24 Valuation of property: Date of valuation
  - § 11:25 Valuation of property: Proof and evidence
  - § 11:26 Factors in equitable distribution: In general
  - § 11:27 Equal presumption vs. equal starting point
  - § 11:28 Application of specific statutory factors
  - § 11:29 Fault as a factor
  - § 11:30 The catchall factor
  - § 11:31 Consideration of post-separation or post-divorce events
  - § 11:32 Powers of court in ordering monetary award, division or transfer of property
  - § 11:33 Partition of property
  - § 11:34 Division of pension benefits; QDROs
  - § 11:35 Marital debt
  - § 11:36 Dissipation, encumbrances, and waste of assets
  - § 11:37 Use of marital home
  - § 11:38 Judgments and decrees
  - § 11:39 Tax effects of distribution
  - § 11:40 Enforcement of decrees; Contempt power
  - § 11:41 Equitable distribution based upon foreign decree
  - § 11:42 Effects of post-divorce bankruptcy on equitable distribution awards
  - § 11:43 Relationship between equitable distribution decree and spousal/child support awards
  - § 11:44 Appeals
- Appendix 11A. Comments and Analysis of Amendments to Va. Code Ann. § 20-107.3 Relating to Definition of Marital and Separate Property in Equitable Distribution Proceedings

## **CHAPTER 12. TAX CONSEQUENCES OF DIVORCE**

- § 12:1 Introduction
- § 12:2 Alimony or spousal support payments
- § 12:3 Child support payments
- § 12:4 Dependency exemptions for children and child tax credit
- § 12:5 Transfer of property
- § 12:6 Deductibility of legal fees

§ 12:7 Other related tax issues

### PART III. PATERNITY, ADOPTION, AND CHILD CUSTODY ISSUES

#### CHAPTER 13. PATERNITY AND LEGITIMACY

- § 13:1 Introduction
- § 13:2 Presumption of legitimacy
- § 13:3 Children of void or voidable marriages
- § 13:4 Paternity actions: Jurisdiction
- § 13:5 Paternity actions: Substantive grounds
- § 13:6 Scientific testing in paternity proceedings
- § 13:7 Inheritance rights
- § 13:8 Artificial insemination
- § 13:9 Custody issues
- § 13:10 Claims and defenses in paternity suits

#### CHAPTER 14. ADOPTION AND TERMINATION OF PARENTAL RIGHTS

- § 14:1 Introduction
- § 14:2 Voluntary limitation or relinquishment of parental rights
- § 14:3 Involuntary limitation or termination of parental rights
- § 14:4 Direct placement adoptions
- § 14:5 Agency adoption
- § 14:6 Adoption of children with special needs
- § 14:7 Close Relative Adoption
- § 14:8 Adult adoption
- § 14:9 Consent issues
- § 14:10 Equitable adoption
- § 14:11 Single parent adoption
- § 14:12 Homosexual parent adoption
- § 14:13 Miscellaneous factors considered
- § 14:14 Foster parents' rights
- § 14:15 Contact and communication after adoption
- § 14:16 Inheritance rights
- § 14:17 Access to adoption records
- § 14:18 Foreign adoptions
- § 14:19 Adoption practice and procedure
- § 14:20 Miscellaneous aspects of appellate practice

Appendix 14A. Procedure for Termination of Parental Rights

**CHAPTER 15. CHILD CUSTODY AND VISITATION**

- § 15:1 Introduction
- § 15:2 Virginia's statutory custody and visitation scheme for minor children
- § 15:3 Pendente lite custody awards
- § 15:4 Habeas corpus actions
- § 15:5 Uniform Child Custody Jurisdiction and Enforcement Act
- § 15:6 Parental Kidnapping Prevention Act of 1980
- § 15:7 State child custody kidnapping statutes and related federal laws
- § 15:8 Factors in determining child custody
- § 15:9 Visitation rights
- § 15:10 Custody modification: Change in circumstances and child's best interests
- § 15:11 Removal of the child to another location
- § 15:12 Change of name
- § 15:13 Enforcement of custody decrees
- § 15:14 Child custody, pleading and practice, and trial considerations
- § 15:15 Virginia Military Parents Equal Protection Act

**PART IV. FORMS**

**CHAPTER 16. PLEADING AND PRACTICE FORMS**

- § 16:1 Introduction

**A. MARITAL AGREEMENTS**

- § 16:2 Sample nonmarital agreement
- § 16:3 Sample premarital agreement: Long form
- § 16:4 Sample separation agreement checklist and agreements
- § 16:5 Sample reconciliation agreement

**B. INTAKE FORMS, WORKSHEETS, AND RETAINER AGREEMENT**

- § 16:6 Sample family law intake form
- § 16:7 Sample support form: Income and expense worksheet

Parental Rights

**PROPERTY AND**

Division scheme for

Enforcement

1980  
and related

Circumstances and

and trial

Division Act

**PRACTICE**

**AND**

Worksheet

TABLE OF CONTENTS

- § 16:8 Sample child support guidelines worksheet
- § 16:9 Equitable distribution of marital property: Summary charts and worksheet
- § 16:10 Sample family law retainer agreement

**C. COMPLAINTS**

- § 16:11 Sample complaint alleging adultery; Demurrer and order
- § 16:12 Complaint alleging cruelty; Temporary restraining order; Answer and counterclaim
- § 16:13 Complaint alleging separation grounds
- § 16:14 Complaint alleging separation grounds with a nonresident defendant

**D. DISCOVERY**

- § 16:15 General interrogatories
- § 16:16 Interrogatories for a business or medical practice
- § 16:17 Interrogatories in an adultery/wiretap case
- § 16:18 Request for production of documents
- § 16:19 Motion to compel; Order to compel discovery

**E. NOTICES, MOTIONS, AND ORDERS**

- § 16:20 Notice of deposition
- § 16:21 Stipulation appointing judge pro tempore pursuant to Va. Code § 17.1-110
- § 16:22 Order appointing judge pro tempore
- § 16:23 Notice of commissioner's hearing
- § 16:24 Notice for taking of depositions for final decree of divorce in lieu of ore tenus or commissioner's hearing
- § 16:25 Affidavit and petition for rule to show cause
- § 16:26 Rule to show cause
- § 16:27 Order of dismissal
- § 16:28 Mutual restraining order
- § 16:29 Protective order
- § 16:30 Ex parte order preventing waste of assets pendente lite
- § 16:31 Motion for different valuation date per Va. Code Ann. § 20-107.3(A)
- § 16:32 Emergency petition for change in custody
- § 16:33 Order of withdrawal
- § 16:34 Spousal and child support order
- § 16:35 Child custody and child support order: Contested case
- § 16:36 Affidavit pursuant to Va. Code Ann. § 20-146.20(A)

- § 16:37 Order of child support only
- § 16:38 Payroll deduction order
- § 16:39 Final decree of divorce
- § 16:40 Final divorce decree: Bifurcation of property
- § 16:41 Final divorce decree: Equitable distribution award  
with credits for dissipation and waste of assets
- § 16:42 Final divorce decree: Equitable distribution award  
with transmutation findings
- § 16:43 Final divorce decree: With QDRO provisions
- § 16:44 Qualified domestic relations order
- § 16:45 Qualified medical child support order

**F. ADOPTION FORMS**

- § 16:46 Petition for adoption: Agency adoption
- § 16:47 Order sealing the court file
- § 16:48 Petition for adoption: Private placement
- § 16:49 Petition for adoption: Stepparent adoption
- § 16:50 Consent to adoption: Birth father
- § 16:51 Consent to adoption: Birth mother
- § 16:52 Consent to adoption: Child placing agency
- § 16:53 Order for hearing pursuant to Va. Code Ann.  
§ 63.2-1202
- § 16:54 Interlocutory adoption order pursuant to Va. Code  
Ann. § 63.2-1209
- § 16:55 Order of publication pursuant to Va. Code Ann.  
§ 63.2-1203
- § 16:56 Adoption order of reference pursuant to Va. Code  
Ann. § 63.2-1208
- § 16:57 Final adoption order pursuant to Va. Code Ann.  
§§ 63.2-1208, 63.2-1243, and 63.2-1244
- § 16:58 Final adoption order pursuant to Va. Code Ann.  
§ 63.2-1210
- § 16:59 Final adoption order pursuant to Va. Code Ann.  
§ 63.2-1213
- § 16:60 Final adoption order pursuant to Va. Code Ann.  
§ 63.2-1241(A)
- § 16:61 Final adoption order pursuant to Va. Code Ann.  
§ 63.2-1241(B)
- § 16:62 Final adoption order pursuant to Va. Code Ann.  
§ 63.2-1241(C)
- § 16:63 Adult Adoption—Final Order of Adoption
- § 16:64 Petition for adoption of adult child
- § 16:65 Consent under oath by adult adoptee

**Table of Laws and Rules**

TABLE OF CONTENTS

Table of Cases

Index

erty  
ion award  
of assets  
ion award

ions

on

cy  
Ann.

o Va. Code

de Ann.

Va. Code

de Ann.

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