

# LOCAL LAWS GUIDE

## DISTRICT OF COLUMBIA, MARYLAND, VIRGINIA

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### SECTION I. SPECIAL PROTECTIONS FOR SERVICE MEMBERS

#### A. SERVICE MEMBER'S CIVIL RELIEF ACT

The Service Members' Civil Relief Act (SCRA) was signed into law on December 19, 2003. It replaced the Soldiers' and Sailors' Civil Relief Act (SSCRA), which was first passed by Congress in 1918. The SCRA clarifies and updates protections to military personnel whose legal rights or financial obligations are affected by military service. It protects active duty service members, reservists, and National Guard personnel who are called to active duty (starting on the date active duty orders are received), and, in limited situations, dependents of service members.

#### B. NEW PROTECTIONS

Significant new protections in the SCRA include:

- An automatic 90-day stay of civil proceedings upon application by a service member -- applicable to all judicial and administrative hearings.

- Clarification that the 6 percent limitation on interest rates for pre-service debts requires a reduction in monthly payments, and that any interest in excess of 6 percent is forgiven, not deferred.
- Expansion of protection against eviction. (Under the SCRA service members and their dependents who entered into a lease for \$ 1,200 or less could not be evicted without a court order. The SCRA increases the maximum lease amount to \$2,400 and adds an annual adjustment for inflation. For 2004, the maximum will be \$2,465.)
- For service members who receive permanent-change-of-station orders or who are being deployed for not less than 90 days, the right to terminate a housing lease with 30 days' written notice. (Prior to the SCRA, service members could, when not protected by state law on specific lease provisions, be required to pay for housing they were unable to occupy.)
- Ability to terminate certain motor vehicle leases. (Any active duty service member who receives PCS orders outside the continental United States, or who is being deployed for not less than 180 days, may terminate a motor vehicle lease - without early termination charges.)

Brief references to various protections of the SCRA are made throughout this pamphlet. In some situations, the protections of the SCRA are not automatic, but require specific action. If you think that you have rights under the SCRA that have been violated, or that you are entitled to be shielded from a legal proceeding or financial obligation by the protections of the SCRA, discuss the matter with a legal assistance attorney or a civilian lawyer as soon as possible.

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## SECTION II. COURTS

### A. SMALL CLAIMS COURTS

Small claims courts are intended for resolution of minor disputes with a minimum of time and expense and usually without the assistance of an attorney. Court costs are low, and the court procedures are simplified and relatively informal. Small claims courts commonly hear landlord-tenant, debtor-creditor, contractual, and motor vehicle property damage disputes.

#### 1. DISTRICT OF COLUMBIA.

The Small Claims Division of the Superior Court of D.C. hears cases which are only for the recovery of money up to \$5,000.00, not including interest, attorneys fees, and court costs. If both parties to an action agree, a Superior Court judge may settle a case by arbitration, regardless of the amount of the claim. DC Code § 11-1321,1322; McCray v. McGee, 504 A.2d 1128 (App D.C. 1986).

2. MARYLAND. Maryland does not have a specific small claims court but the District Court does

have simplified procedures for small claims if the claim is (1) for \$5,000 or less; and (2) is for money only; and (3) you are not planning to ask for any discovery. If you meet all three conditions, you may file a small claim. A complete guide to small claims may be found at <http://www.courts.state.md.us/district/brochures/dccv01br.html>.

3. VIRGINIA. The Small Claims Court has concurrent jurisdiction with the General District Court for all cases involving claims up to \$5,000. Cases involving claims between \$4,500.00 and \$15,000.00 may be heard either in the General District Court or in the Circuit Court. VA. Code § 16.1-122.1 and 122.2; VA. Code § 16.1-77(1).

To resolve a dispute using small claims court, contact the appropriate Clerk of Court. Clerks of Court are generally very helpful and can provide information on the court process. They may have available a small claims "packet" with the information and forms you will need to file a claim and take it through to trial. Your local legal assistance attorney can assist you in preparing a case for trial, but cannot represent you in court.

## B. OTHER COURTS

### 1. DISTRICT OF COLUMBIA

The District of Columbia court system consists of one trial court, the Superior Court of the District of Columbia, and one appeals court, the District of Columbia Court of Appeals. DC Code § 11-101.

a. SUPERIOR COURT OF D.C. The Superior Court of the District of Columbia consists of a Civil Division, Criminal Division, Family Division, Probate Division, and Tax Division. The Superior Court is the court of general jurisdiction for any civil action or other matter at law or in equity brought in the District of Columbia. The Superior Court has jurisdiction for all criminal cases. DC Code §§ 11-921 and 11-923.

b. DISTRICT OF COLUMBIA COURT OF APPEAL. The highest court of the District of Columbia is the Court of Appeals. It was established to function in a manner similar to a state supreme court. This court has jurisdiction for appeals from all final orders and judgments, interlocutory orders of the Superior Court of D.C., and change of rulings of the Superior Court of D.C. appealed by the United States or the District of Columbia. D.C. Code 11-721. The D.C. Court of Appeals also has jurisdiction to review orders and decisions of the Commissioner (mayor) of D.C., the D.C. Council, any agency in the District, and the D.C. Redevelopment Land Agency. D.C. Code 11-722. The D.C. Court of

Appeals may answer questions of law certified to it by the Supreme Court of the United States, a Court of Appeals of the United States, or the highest appellate court of any state on questions of the law of the District of Columbia. D.C. Code § 11-723.

c. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA. Not part of the local court system, the Federal District Court has jurisdiction over criminal offenses if joined with a Federal offense. DC Code § 11-502(3).

## 2. MARYLAND COURTS

a. DISTRICT COURTS. These are trial courts of special and limited jurisdiction over both civil and criminal cases. The District Courts have exclusive jurisdiction in all civil tort and contract cases where the matter in controversy is less than \$30,000. There are no criminal jury trials in District Court and a jury is allowed in civil cases only where the amount in controversy exceeds \$5,000. The District Courts' criminal jurisdiction is limited to misdemeanors, larceny cases, violations of local ordinances, traffic cases, and preliminary hearings in felony cases. Since a jury trial is authorized in DWI/DUI cases, such a case may be moved to the Circuit Court. MD CJ § 4-401.

b. CIRCUIT COURTS. These are trial courts of general jurisdiction over both civil and criminal cases. Circuit Courts have exclusive jurisdiction in all jury cases, and in all cases involving declaratory judgments, equity (domestic relations), land titles, and amounts in controversy exceeding \$30,000 (except landlord/tenant and repossession of property actions). Circuit Courts share concurrent jurisdiction with District Courts when the amount in controversy lies between \$5,000 and \$30,000, at the election of the plaintiff. Circuit Courts also exercise appellate jurisdiction over District Court cases. MD CJ §§ 1-501 and 4-402(e).

c. PROBATE COURTS. Probate, administration and guardian matters are handled by Orphans Court in Baltimore City and most counties. In Harford and Montgomery counties, probate matters are heard in the Circuit Court. MD ET § 2-102.

d. COURT OF SPECIAL APPEALS. This is the Intermediate Appellate Court, which reviews appeals of cases decided by the Circuit Courts and the Orphans Court. The Court has exclusive initial appellate jurisdiction over final judgments in both civil and criminal cases, except as provided for death penalty cases, and certain interlocutory matters. MD CJ §§ Code 12-301, 12-308.

e. COURT OF APPEALS. The Court of Appeals is the highest court in Maryland. This court

exercises appellate jurisdiction, and has exclusive jurisdiction in death penalty cases and certified questions of law. The Court of Appeals also reviews cases pending in or decided by the Court of Special Appeals and certain cases decided by the Circuit Courts. MD CJ § 12-307.

### 3. VIRGINIA COURTS

a. DISTRICT COURTS. These courts are non-jury courts and are divided into a Civil Division, Criminal Division, General District Court (with jurisdiction over certain civil and criminal matters), and the Juvenile and Domestic Relations District Court. In civil matters, the General District Court has exclusive original jurisdiction for civil actions when the amount does not exceed \$4,500; and concurrent jurisdiction with the Circuit Court when the amount exceeds \$4,500 but does not exceed \$15,000. For an action not exceeding \$2,000.00, the General District Court may also establish a separate Small Claims Court. The General District Court handles misdemeanors and traffic-related charges. It also conducts preliminary hearings in potential felony cases. The Juvenile and Domestic Relations District Court exercises jurisdiction over juveniles under 18 years old, and over family matters, such as guardianship, custody, and support issues. VA Code §§ 16.1-77; 16-122.1 and 16-122.2; 16.1-123.1 through 16.1-137; 16.1-226 through 16.1-361.

b. CIRCUIT COURTS. The Circuit Courts have original jurisdiction over all civil and criminal jurisdiction cases (including reviewing actions of county governments) and appellate jurisdiction over District Court judgments. All actions for divorce or annulment are heard in this court, as are cases concerning debts, breach of contract, injury to a person or property, and recovery of specific property. The Circuit Courts hear jury trials, except that jury trials are not generally available in divorce cases and other Chancery (equity) actions. Claims involving amounts in excess of \$15,000 are heard only by the Circuit Court. VA Code § 17.1-513.

c. COURT OF APPEALS. The Court of Appeals has jurisdiction over decisions of administrative agencies and Circuit Court decrees involving divorce, custody, spousal or child support, and adoption. It also has jurisdiction over Circuit Court convictions of traffic offenses and crimes, with the exception of those cases in which a death sentence has been imposed. VA Code §§ 17.1-405 and 17.1-406.

d. SUPREME COURT. The Supreme Court of Virginia is the highest court in the state. It considers appeals from the judgments of the Circuit Courts and appeals from decisions of the Court of Appeals. Original Jurisdiction - VA Const., Art. VI, Sec. 1; VA Code § 17.1-411; VA. Code § 17.1-309 Appellate Jurisdiction - VA. Code § 17.1-310.

#### 4. FEDERAL MAGISTRATE'S COURT

Civilians who are apprehended for violation of minor offenses while on military reservations and other property under federal jurisdiction, to include state offenses "assimilated" by federal statute (e.g., traffic offenses), are subject to the jurisdiction of U.S. Magistrate's Courts. Federal magistrates may assess imprisonment up to and including one year, and assess fines. Individuals may choose to be tried before the U.S. District Court for the district in which the offense was allegedly committed. The U.S. Attorney has primary responsibility for prosecution. Defendants can be charged with and tried for offenses under both Federal and State law in the Magistrate's Court.

#### C. SERVICEMEMBERS CIVIL RELIEF ACT (SCRA) PROTECTIONS

The SCRA allows a service member to request a stay, or postponement, of civil (not criminal) legal proceedings, if the service member can show the court that military service has a "material effect" which prevents the service member from appearing in court to represent him/herself. If the service member can show the court such material effect, the court must postpone legal proceedings until such time as the service member is reasonably able to appear before the court.

In addition, if a default judgment is entered against a service member during his or her active duty service, or within 60 days thereafter, the SCRA allows the service-member to reopen that default judgment and set it aside. In order to set aside default, the service member must show that he or she was prejudiced by not being able to appear in person and that he or she has good and legal defenses to the claims against him/her. Civil Relief Act of 1940; 50 App. U.S.C. § 521.

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### SECTION III. FAMILY LAW

#### A. MARRIAGE

##### 1. DISTRICT OF COLUMBIA

a. MARRIAGE REQUIREMENTS: (1) Age - 18 without parental consent. D.C. Code § 46-101. Age 16 with parental consent. D.C. Code §§ 46-411, 46-403

(2) Medical Examination – None required. Marriage Amendment Act of 2008. DC Law 17-222

(3) Marriage License Application Fee - \$35.00. Certificate of Marriage Fee \$10.

(4) Waiting Period - License may be issued 3 days after application for license. D.C. Code § 46-409. May be waived by a Judge of the Superior Court of the District of Columbia. D.C. Code § 46-418.

(5) Solemnization - Any minister of a "religious society" authorized by any judge of the Superior Court of D.C. may perform a marriage. In addition, any judge clerk, or deputy clerk authorized by a judge may perform the ceremony. A marriage may also be solemnized by any judge or justice of any court of record without a minister and in a manner prescribed by a "religious society". Documents solemnizing a marriage must be returned to the Clerk of Superior Court by the person solemnizing the marriage within 10 days of the ceremony, or a penalty of \$50.00 may be imposed. DC Code § 30-106 to 108.

b. ALTERNATIVE MARRIAGE FORMS:

(1) Common Law Marriage - Recognized. *Matthews v. Britton*. 303 F.2d 408 (D.C. Cir. 1962).

(2) Marriage by Proxy - Not recognized.

(3) Marriage by Contract - Not recognized.

c. PROHIBITED MARRIAGES. All marriages between parents and children, ancestors and descendants, brothers and sisters, uncles and nieces, aunts and nephews, step-relations, in-laws, and bigamous marriages. D.C. Code § 46-401.

d. GROUNDS FOR ANNULMENT. Mental incompetence, physical incapacity, bigamy, consent obtained by force, fraud or duress, underage, and any reason listed under "Prohibited Marriages." D.C. Code §§ 46-403, 16-904.

## 2. MARYLAND

a. MARRIAGE REQUIREMENTS:

(1) Age - 18 without parental consent. 16 or 17 with parental consent or a physician's certificate that the female is pregnant or has given birth. Age 15, with parental consent and a physician's certificate that the female is pregnant or has given birth. Minors under 15 cannot marry. MD FL § 2-301.

(2) Medical Examination - None required.

(3) License Fee - \$10.00. Additional fees may be required depending on the county in which the license is issued. MD FL § 2-404.

(4) Waiting Period - The license is not valid until 6am 2 days after issuance. (Waiver by judge of

Circuit Court for good cause if one party is in the military. MD FL § 2-405.)

(5) Solemnization - Any official of a religious order or body authorized by the rules and customs of that order or body to perform a marriage ceremony, any clerk, or any deputy clerk designated by the county administrative judge or the circuit court for the county, may perform a marriage ceremony. The solemnization must occur within 6 months of issuance of the license. The person solemnizing the marriage must return documents solemnizing a marriage to the Clerk of Superior Court within 10 days of the ceremony, or a penalty of \$50.00 may be imposed. MD FL § 2-406.

#### b. ALTERNATIVE MARRIAGE FORMS

(1) Common Law Marriage - Not recognized, unless valid in state where contracted. MD FL § 2-401

(2) Marriage by Proxy - Not recognized.

(3) Marriage by Contract - Not recognized.

c. PROHIBITED MARRIAGES. Marriages within three degrees of kindred, marriages between parents and children, ancestors and descendants, brothers and sisters, uncles and nieces, aunts and nephews. Also, a man may not marry his stepmother, stepdaughter, grandfather's wife, grandson's wife, mother-in-law, wife's grandmother, wife's granddaughter, or daughter-in-law. A woman may not marry the same relations in the alternative. Only marriages between men and women are valid. MD FL § 2-202.

d. GROUNDS FOR ANNULMENT. Marriages within prohibited degrees of kindred, bigamy, and any reason listed under "Prohibited Marriages." If there is a criminal conviction for marrying within any prohibited degree, then the judgment of conviction may serve as annulment of the unlawful marriage. Hall v. Hall, 32 Md. App. 363, 362 A.2d 648 (1976). Conaway v. Deane, 401 Md. 219, 932 A.2d 571 (2007).

### 3. VIRGINIA

#### a. MARRIAGE REQUIREMENTS

(1) Age - 18 without parental consent. Age 16 with consent of parent or guardian. If either party is under 16, with a doctor's certificate that female is pregnant or has been pregnant within 9 months of the examination and with the consent of parent or judicial officer. VA Code § 20-48.

(2) Medical Examination - None required.

(3) License Fee/Tax - \$10.00/\$35.00. VA Code § 17.1-275.5/20-15.

(4) Waiting Period - None. VA Code § 20-14.1. Sixty (60) days for solemnization or the license will expire.

(5) Solemnization - Any ministers with proper statutory bonding, appointee of court clerks, and other individuals authorized by competent judicial authority may perform marriages in a religious setting. Ministers - VA Code § 20-23; Other than Ministers - VA Code § 20-25. Requires License and Solemnization - VA Code § 20-13.

#### b. ALTERNATIVE MARRIAGE FORMS

(1) Common Law Marriage - Not recognized, unless the marriage occurred before moving to Virginia in a state that recognizes common law marriages.

(2) Marriage by Proxy / Marriage by Contract - Not recognized.

c. PROHIBITED MARRIAGES. Marriages between ancestors and descendants, brothers and sisters, whether half or whole blood, uncles and nieces, aunts and nephews, marriages between underage persons or those without mental capacity, bigamous marriages, and same-sex marriages. VA Code §§ 20-38.1, 45.1 and 45.2.

d. GROUNDS FOR ANNULMENT. Mental incompetence, physical incapacity, bigamy, that either party had been a convicted felon or a prostitute prior to marriage, and any reason listed under "Prohibited Marriages." Must bring suit within 2 years of marriage, or immediately upon knowledge of such facts, with no cohabitation after obtaining such knowledge. VA Code §§ 20-89.1 and 20-43 - All marriages that are prohibited are void without any decree of divorce, or any other legal process.

## B. ADOPTION

### 1. GENERAL

Adoption is the legal process of terminating an existing relationship between a biological parent or parents and a child, and substituting a new parent or parents in their place. Adoption usually eliminates any and all rights a biological parent may have, absolutely and forever, and gives those rights without qualification or exception to the adopting parents. Any person, whether a minor or

adult, may be adopted. Unless there are exceptional circumstances, e.g. fraud, adoptions are irreversible.

There are two methods for proceeding with adoption: a private adoption and an agency adoption. A private adoption typically involves an adopting parent or parents and a child whose identity is previously known to them. The most common private adoptions are the stepparent adoption, where a stepparent adopts his or her spouse's children by a previous relationship, and the adoption by grandparents of a grandchild. Agency adoptions are varied. They can be accomplished using state welfare offices, foster care programs, church organizations, commercial agencies, and placement services.

To adopt through an agency, prospective adopting parents register with an agency, which then conducts a sociological survey to determine their suitability as parents and the best type of child for them. Once a child that matches the parents is found, the child will live with the adopting parents for a period of time under supervision of the agency to ensure that everything is working out. Only after this period of time has passed can the adoption be accomplished.

## 2. LEGAL PROCESS

In order for an adoption to be accomplished, several steps must be followed. The parental rights of the natural parents must be terminated, a hearing must be conducted to determine whether the adopting parents are suitable parents, and the court must enter a final decree of adoption.

Only a court can terminate parental rights and only when there is "clear and convincing evidence" that it is in the best interests of the child. Parental rights may be terminated by voluntary consent of the natural parents. A consent signed by the natural parents is not binding upon them until the court approves it and the adoption is finalized. Parental rights may be terminated involuntarily if a court is satisfied a parent has abandoned the child, has failed to support the child, has abused the child, or has otherwise neglected parental responsibilities. Death terminates the parental rights of the deceased parent, but does not terminate the right of the child to share in the estate of the deceased parent. Once the child is adopted, however, any right to inherit from the natural parents is normally terminated.

In addition to determining whether parental rights should be terminated, the court must determine if the adoptive parents are suitable parents for the child. The court may make this determination in open court, but more commonly will ask an appropriate agency to investigate the home environment

and return a confidential report to the judge. An agency investigation may be waived under certain circumstances.

After appropriate notice is given to all who might have an interest in the case, the court conducts a final hearing. Following the hearing, the judge will either approve or disapprove the adoption. Once an adoption is approved, a new birth certificate with the adoptee's new name will be issued.

### 3. DISTRICT OF COLUMBIA

a. WHO CAN PETITION FOR ADOPTION. Any adult person. Spouse must join in petition (or consent if natural parent of prospective adoptee), DC Code § 16-302.

b. WHO MUST CONSENT TO THE ADOPTION. For a child under age 18, all living parents or the adoptee's court-appointed guardian. Consent is not required if the parent cannot be located or if the parent has abandoned the adoptee and has voluntarily failed to contribute to the adoptee's support for six months prior to filing of the petition. An adoptee 14 years or older must consent to the adoption. DC Code § 16-304.

c. TIME BETWEEN FILING PETITION AND FINAL ADOPTION. At least six months. Final decree may not be entered unless the adoptee has been living with the petitioners for at least six months. DC Code § 16-309.

### 4. MARYLAND

a. WHO CAN PETITION FOR ADOPTION. Any person over age 18. Spouses must file joint petitions (unless spouse is natural parent of prospective adoptee). MD FL § 5-313

b. WHO MUST CONSENT TO THE ADOPTION. Both natural parents (except in certain circumstances) and a child over 10 years of age. MD FL §§ 5-311, 312, 313.

c. TIME BETWEEN FILING PETITION AND FINAL ADOPTION. Not less than two months. MD FL § 5-324.

### 5. VIRGINIA

a. WHO CAN PETITION FOR ADOPTION. Any person. Spouses must file joint petitions (unless spouse is natural parent of prospective adoptee). VA Code § 63.2-1201.

b. WHO MUST CONSENT TO THE ADOPTION. A child over 14 years of age. If a child was born during a marriage, that child's parents or surviving parent must consent. If the child was born out of wedlock, consent of his mother and his father (only if the father can be identified) must be given. Where a child is in the custody of a child-placing agency or a public welfare organization, consent of such a group is necessary. VA Code § 63.2-1202.

c. MINIMUM TIME BETWEEN FILING PETITION AND FINAL ADOPTION. Six (6) months from interlocutory order, VA Code § 63.2-1213. Time of entry of interlocutory order can vary depending upon existing relationship of adopter to adoptee, age of adoptee and type of placement.

### C. DOMESTIC VIOLENCE AND NEGLECT

Any physical abuse by one person against another member of his or her household is "domestic violence." It is as illegal as assault and battery against a stranger would be. "Neglect" may come in many forms, including physical neglect and emotional neglect. Both, like actual violence, are illegal. If you believe you or someone you know is being abused in any way - physically or emotionally then contact the Department of Social Services in your area or your local police department. In addition, many counties and communities have shelters for the temporary lodging of abused family members, such as the House of Ruth.

#### 1. DISTRICT OF COLUMBIA

Upon showing of good cause, the court may issue a "protective order," effective for up to one year, to a complainant who is related to the respondent by blood, legal custody, marriage, having a child in common, or with whom the complainant has shared a mutual residence within the last year. The order can direct one of the parties to refrain from committing certain conduct or threatened conduct, to avoid the presence of the other person, to move out of the dwelling of the person filing the complaint or give up the possession of certain personal property. The order can also award temporary custody of minor children. DC Code § 16-1001 to 1006.

The police or the Child Protective Services Division of the Department of Human Services investigates all reports of child abuse or neglect. The District Attorney may also file a complaint alleging neglect. If a child is found to be neglected, the court may permit the child to remain with the parent, guardian or custodian or may transfer custody to a relative or other individual or to a public or private agency. DC Code §§ 16-2301 et seq.

#### 2. MARYLAND

Spouse/family abuse consists of any one of the following acts between household members: an act that causes serious bodily harm, an act that places another in fear of imminent serious bodily harm, sexual abuse of a child, assault of any kind, or false imprisonment. MD FL § 4-501.

When evidence of spouse/family abuse exists, a petition for protection or a peace order may be filed in either District or Circuit Court. Either court may order an offender to refrain from abuse of a household member and/or to vacate the family home and may also award temporary custody of a minor to another or order that all family members participate in a professional counseling program. MD FL § 4-506(d). Each county has a Social Services Department, which administers programs to assist battered spouses and children.

### 3. VIRGINIA

The Department of Welfare administers funds for community groups to establish service programs for victims of spouse abuse, maintains a list of available resources, provides a clearing house for informal exchange, and provides technical assistance to establish service programs.

Each local Department of Welfare is also responsible for investigating reports of child abuse and neglect. Petitions may be filed alleging abuse or neglect. If a child is found to be abused or neglected, the court may permit the child to remain with the parent, guardian or custodian, or it may transfer legal custody to a relative, another individual or to a public or private agency. VA Code § 63.2-1611 et seq.

### D. DIVORCE AND SEPARATION AGREEMENTS

Divorce is the severing of a marriage relationship through the civil court system. Generally, there are two types of divorce, a complete and final divorce, and a divorce "from bed and board," also called a "legal separation" in some jurisdictions (both are imposed by court order). With the first type, when it is final, the legal relationship of marriage that existed between the parties is abolished and both parties are free to remarry someone else if they wish. A divorce "from bed and board" does not completely end the relationship. Neither party is free to remarry but they are free to live separate and apart from each other without interference in their day to day lives by the other party. If you are considering a divorce, you should see a legal assistance attorney or civilian family law attorney to discuss which might be better for your specific situation.

A separation agreement is not a divorce, but rather is a contract between the parties in which each

party agrees to do or not to do certain things. A separation agreement is entered into voluntarily; neither party can be forced against his or her will to sign a separation agreement. If a separation agreement is signed, it can be incorporated into a future divorce decree. If one of the parties breaks the agreement, that party has "breached the contract" and the law of contracts must then be used to enforce any remedy that may be available. Sexual relations between a service member and a non-spouse during a separation (whether "legal" or "by contract") may, depending on the circumstances, lead to administrative and/or criminal action. Separated service members are well advised to discuss this carefully with a legal assistance attorney.

#### 1. DISTRICT OF COLUMBIA

a. RESIDENCY REQUIREMENTS FOR DIVORCE. One party must be a resident of the District of Columbia for at least 6 months before filing for divorce. Members of the armed forces qualify as residents upon physically residing in the District for 6 months before filing for divorce. DC Code § 16-902.

b. SUBSTANTIVE REQUIREMENTS FOR DIVORCE. Grounds - no fault on the basis of involuntary separation for 1 year or voluntary separation for 6 months. DC Code § 16-904(a).

c. SEPARATION. Court may grant a decree of legal separation from bed and board for adultery or cruelty as well as the grounds for divorce. DC Code § 16-904(b).

d. TIME REQUIRED BEFORE REMARRIAGE. Must wait 30 days after docketing of the decree unless an appeal has been filed in which case it is when the final result of appeal is obtained. DC Code 16-920. *Jay v. Jay*, 212 A.2d 331 (1965).

e. ALIMONY AND CHILD SUPPORT. The court may order a spouse to pay temporary or permanent alimony and child support, and will retain jurisdiction of support issues after the divorce has been granted. There is no requirement for alimony to end upon remarriage of the party receiving alimony. Temporary Alimony and Child Support - DC Code §16-911; Continuing Alimony and Child Support - DC Code § 16-913.

f. PROPERTY DISTRIBUTION. Equitable distribution of marital property. The court will consider such factors as the duration of the marriage, age, health, occupation, employability, assets, debts, and provisions for custody of minor children. Military retirement pay is treated as marital property under some circumstances. DC Code § 16-910.

g. DETERMINATION OF CHILD CUSTODY. Best interests of the child. DC Code § 16-914.

## 2. MARYLAND

a. RESIDENCY REQUIREMENTS FOR DIVORCE. If grounds for divorce occurred outside of the State, than one party must have resided in the state for 1 year prior to filing for divorce. Even if grounds occurred within the State, one party must be a "bona fide" resident when the complaint is filed. It is difficult to establish residency if you have been in Maryland for less than a year. MD FL § 7-101.

### b. SUBSTANTIVE REQUIREMENTS FOR DIVORCE

(1) Limited Divorce (does not allow remarriage): Cruelty to complaining party or minor child, excessively vicious conduct, desertion, or voluntary separation if living apart with no reasonable hope of reconciliation. MD FL § 7-102.

(2) Absolute Divorce (does allow remarriage): Adultery, desertion for 12 months, voluntary separation for 12 months, involuntary separation for 24 months, felony conviction with a sentence of at least 3 years (and at least 12 months already served), insanity with institutional confinement of at least three years, and cruelty or vicious conduct toward complainant. MD FL § 7-103.

c. SEPARATION: Court may grant a limited divorce, or divorce from bed and board. MD FL § 7-102.

d. TIME REQUIRED BEFORE REMARRIAGE: No waiting period.

e. ALIMONY AND CHILD SUPPORT. The court may order a spouse to pay temporary or permanent alimony and child support. Alimony must end on the remarriage of the party receiving it or upon the death of either party unless the parties agreed otherwise. MD FL §§ 11-101, 11-108, and 12-101.

f. PROPERTY DISTRIBUTION. Equitable distribution of marital property. The court will consider such factors as the duration of the marriage, age, health, occupation, employability, assets, debts, and provisions for custody of minor children. Military retirement pay is treated as marital property. MD FL § Code 8-203; Retirement Pay - MD FL § 8-204. Limited right to order transfer of title. MD FL § 8-202.

g. DETERMINATION OF CHILD CUSTODY. Best interests of the child. MD FL § 1-201; Denial of Custody or Visitation Rights in cases of abuse of child. MD FL § 9-101; Grandparent Visitation Rights - MD FL § 9-102.

### 3. VIRGINIA

a. RESIDENCY REQUIREMENTS FOR DIVORCE. One party must be a resident of the state and actually be domiciled in the state for at least 6 months before filing for divorce. Military members and spouses are considered to meet this requirement if the military member has lived in Virginia for 6 months before filing for divorce. VA Code § 20-97.

b. SUBSTANTIVE REQUIREMENTS FOR DIVORCE. Grounds - separation for 1 year with no cohabitation, or separation for 6 months with no cohabitation, if the parties have entered into a signed separation agreement and there are no minor children of the marriage. Other grounds for divorce are adultery, cruelty, willful desertion or abandonment, conviction of a felony and confinement for more than one year after marriage. VA Code § 20-91.

c. SEPARATION. Decree of divorce from bed and board. VA Code § 20-95.

d. TIME REQUIRED BEFORE REMARRIAGE. No waiting period unless an appeal has been filed and a stay granted. Then must wait until the final result of appeal. VA Code § 20-118.

e. ALIMONY AND CHILD SUPPORT: The court may order a spouse to pay temporary or permanent alimony and child support. Temporary Spousal and Child Support Pending Suit for Divorce - VA Code § 20-103; Alimony and Spousal Support upon Decree of Divorce - VA Code § 20-107.1; Child Support and Custody Order upon Decree of Divorce - VA Code § 20-107.2. Maintenance and Support for Spouse shall cease on Remarriage - VA Code § 20-110. Determination of Child or Spousal Support Factors to Consider - VA Code § 20-108.1.

f. PROPERTY DISTRIBUTION. Equitable distribution of marital property. Military retirement pay is treated as marital property. VA Code § 20-107.3.

g. DETERMINATION OF CHILD CUSTODY. Best interests of the child. VA Code § 20-124.3 - Best Interests of the Child; Joint and Physical Custody as Court deems to be in the best interests of Child - VA Code § 20-124.1; 20-124.2. Temporary Custody Order Pending Suit for Divorce - VA Code § 20-103.

## E. SUPPORT OF DEPENDENTS

All service members are required to provide sufficient financial support to their dependents. This obligation continues even if the service member is separated from the non-service member spouse. Failure to provide adequate support subjects the service member to a variety of administrative actions, non-judicial punishment, and even to court-martial. The services have differing regulations defining the amount of support that is necessary to constitute adequate support. In most cases, the minimum necessary is an amount at least equal to the basic allowance for quarters (BAQ) at the with-dependents rate. Service members who have questions as to whether they are providing sufficient financial support to their dependents should contact a legal assistance attorney for advice.

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## SECTION IV. PROPERTY (LANDLORD/TENANT)

### A. SCRA PROTECTION

The SCRA contains a provision that allows a service member to terminate a lease covering premises occupied for dwelling, professional, business, agricultural or similar purposes. This provision is applicable if the lease was executed by the service member prior to entering the service, or if the service member has PCS orders or orders to deploy for a time period greater than 90 days. The service member must notify the landlord in writing and with a copy of the orders. The termination will be effective 30 days after the first date that the next rental payment is due for monthly payments. In the case of other leases termination is effective on the last day of the month in which the notice was given. 50 App. U.S.C.A. § 535

### B. RENTAL PROPERTY REGULATIONS

#### 1. DISTRICT OF COLUMBIA

The District of Columbia has enacted rent control legislation that authorizes the Housing Rent Commission to stabilize and regulate rents. Inquiries may be directed to the D.C. Rent Commissioner, 618 H Street, N.W., Room 505, Washington, D.C. 20001. The telephone number is (202) 727-7400. DC Code 45-2501 et seq.

Security deposits may not exceed one month's rent. The owner must return the deposit and any interest due on the deposit to the tenant without demand within 45 days after the termination of the tenancy. If the owner withholds a portion of the security deposit to defray the cost of expenses incurred under the terms of the security deposit agreement, the owner must refund the balance of the deposit, including interest, to the tenant. The landlord must notify the tenant of his or her intent to

withhold the deposit within 45 days. 14 DCMR §§ 308-09.

When real estate is leased for a certain term, no notice to quit is necessary, and the landlord is entitled to possession without notice immediately upon the expiration of the term. DC Code § 42-3201. However, a tenancy from month to month may be terminated by a thirty day notice to quit, in writing, from either party to the lease. DC Code § 42-3202. A tenant who refuses to surrender possession of the property after giving notice is liable for double the rent. DC Code § 42-3207. The parties may agree to alternative notice provisions. DC Code § 42-3208.

## 2. MARYLAND

Security deposits may not exceed 2 months rent and the landlord must provide the tenant with a receipt (which can be a provision in the lease). When a security deposit is required, the tenant may request, and is entitled to receive, a list of damages from the landlord within 30 days of ending occupancy. Tenants may be present at the final inspection of the premises. Security deposits must be maintained in an interest-bearing account and returned (with simple interest at the rate of 3% per annum) to the tenant within 45 days of the end of the tenancy less any amount withheld for damages. A security deposit may be withheld for unpaid rent, damage to the premises, or damages stemming from a breach of lease. If a landlord wrongfully withholds a security deposit, the tenant may recover an amount equal to triple the original deposit as damages plus attorney fees. MD RP § 8-203.

The Maryland Code allows military personnel to terminate a lease early under certain circumstances. "If a person on active duty . . . enters into a residential lease and subsequently receives a temporary duty order for a period exceeding 3 months or PCS orders, that person's liability for rent under a lease will not exceed: (1) 30 days rent after written notice and proof of the assignment is given to the landlord; and (2) the cost of repairing any damage to the premises caused by an act or omission of the tenant." (MD RP § 8-212.1).

## 3. VIRGINIA

The Virginia Residential Landlord and Tenant Act will generally apply to units in larger apartment complexes and other residential rental property owned by a business entity. The Virginia Act does not apply to occupancy of single family-residences owned by individuals who own and rent no more than ten such residences or who own and rent no more than four condominiums (unless the lease contains a provision incorporating the Virginia Act). Virginia Residential Landlord and Tenant Act, VA. Code § 55-248.5:10.

Where the Virginia Act applies, security deposits cannot exceed two months' rent. Within 45 days of termination of the lease, the landlord must return the full security deposit (with interest if the property was rented for more than thirteen months), or provide a written explanation of why any portion is withheld. Failure to do this will entitle the tenant to sue the landlord to recover the security deposit, any actual damages, and reasonable attorney fees. VA Code § 55-248.15:1.

A statutory military clause is in effect in Virginia permitting the tenant to terminate the lease on thirty days notice, but no earlier than 60 days prior to a permanent change of station. It allows a landlord to charge liquidated damages depending upon the period of tenancy completed of up to 1 month's rent (plus any existing arrearages). The provisions of the statutory military clause may not be waived or weakened by the terms of the lease. Virginia Residential Landlord and Tenant Act, VA Code § 55-248.21:1.

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## SECTION V. TAXES

### A. RESIDENCE VS. DOMICILE

Before you can determine what income and personal property taxes are properly assessable to you and members of your family, you must understand the distinction between the terms "residence" and "domicile" and the protections that may be afforded by the SCRA.

Under the SCRA, only your state of domicile has the right to tax your military pay and your personal property when you are absent in compliance with military orders. Furthermore, the SCRA requires all states to recognize your automobile registration, if issued by your state of domicile. In these areas, the SCRA applies only to you and not to members of your family.

Residence is generally defined as "a factual place of abode at a particular time" or "that place where a service member is currently living; that is, his temporary home under military orders." However, a great deal of confusion exists in defining this term because various state laws define the words "residence" or "resident" differently. As you will see, the definition of "resident" in the tax laws of the District of Columbia, Maryland, and Virginia differs from the one above. Whenever a word is specifically defined in a particular statute, that definition is, of course, controlling.

Domicile (legal residence) may be defined in legal terms as "that place where a person has his true, fixed, permanent home and principal establishment, and to which, whenever he is absent therefrom,

he has the intention of returning." To understand the issue of domicile, you must first understand that there are two types generally applicable to the military and family members, namely: (1) domicile of origin or birth, and (2) domicile of choice. It is legally impossible not to have a domicile, and an old domicile is not lost until a new one is acquired.

Domicile of origin is the domicile automatically acquired by every child at birth and is identical with the domicile of the parents. The actual place of birth does not determine domicile of origin. For example, a child born to American parents while stationed in Virginia does not necessarily become a domiciliary of Virginia. If, at the time of the child's birth, the military parent was domiciled in Colorado, the child also becomes a domiciliary of Colorado.

Domicile of choice is the place that a person has voluntarily elected and chosen to replace the previous domicile. To change your domicile there must be a simultaneous occurrence of these elements: (1) actual residence (bodily presence in the new locality); (2) an intention to remain there permanently or indefinitely; and (3) an intention to abandon the old domicile.

Once the above elements have occurred simultaneously, you have changed your domicile. However, proving the requisite intent, particularly if the change of domicile gives you a tax advantage, may be difficult. In this event, your word, though considered, will not necessarily satisfy taxing authorities. They may properly demand evidence of some overt acts on your part indicative of the requisite intent. In short, your actions speak louder than your words. One of the clearest indications that you consider a state to be your domicile is by registering to vote and voting there. For this reason, you are cautioned NOT to register to vote or vote in a state that is not your state of domicile unless you intend to abandon your old domicile and establish that state as your new domicile.

Some service members are tempted to change their domicile in order to avoid the income tax of a particular state. Before doing so, you should remember that domicile not only determines your liability for income and personal property taxes, but also may affect the following important rights and duties:

(1) Liability for state inheritance taxes;

(2) The location where your Will would be probated; and who may act as executor and testamentary guardian of your minor children;

- (3) The right to vote;
- (4) Bonuses for wartime service;
- (5) The right to hold public office;
- (6) The right to homestead, veteran's claims, or tax exemptions;
- (7) Whether you or your children may attend a State University without paying higher fees required of non-domiciliary residents;
- (8) Where you may obtain a divorce.

In short, before attempting to change your domicile, take a good long look at the overall picture and discuss the matter with a legal assistance attorney or local civilian attorney.

#### **B. TAXATION OF FAMILY MEMBERS**

The tax protection afforded by the SCRA does NOT apply to spouses and dependents of service members unless they are also in the service. The income and personal property of civilian spouses and dependents can be taxed by the state in which they are temporarily residing as well as by their state of domicile and the state where the income is derived.

#### **C. REAL PROPERTY TAXES**

The tax protection of the SCRA does NOT apply to real property. If you buy a house or land (real property), whether in your home state or elsewhere, you will have to pay all taxes assessed against it by the jurisdiction in which the property is located. The tax due remains unpaid the court may stay a proceeding where military service affected the service member's ability to pay.

#### **D. INCOME TAX LAWS OF VIRGINIA, MARYLAND, AND THE DISTRICT OF COLUMBIA**

Legal residents of Virginia, Maryland, and the District of Columbia are taxed on their entire income from all sources. Nonresidents of Virginia and Maryland can be taxed on nonmilitary wages earned in those jurisdictions unless they qualify under the special provisions described below. Each of these jurisdictions has provisions for withholding tax, filing a declaration of estimated taxes and making quarterly payments of such taxes.

The following are brief definitions of the term "resident" for income tax purposes in the three local taxing jurisdictions. If literally applied, they would include non-domiciliary service members. The SCRA, however, provides that service members and their dependents are not deemed to become local residents (for tax purposes) while absent from their state of legal residence or domicile solely by reason of compliance with military orders. Thus, the following definitions of "resident" are of significance primarily for spouses and civilian dependents and for service members whose domicile is in one of these jurisdictions.

(Note: For easy access to websites for Virginia, Maryland, and the District of Columbia income tax offices, as well as those of the other 48 states, go to [www.sisterstates.com](http://www.sisterstates.com).)

### 1. DISTRICT OF COLUMBIA

"The word resident means every individual domiciled within the District on the last day of the taxable year, and every other individual who maintains a place of abode within the District for 183 days or more during the taxable year, whether domiciled in the District or not..." DC Code § 47-1801.04(17).

Spouses and dependents are taxable residents if they qualify under the above definition. Military personnel and dependents who are not certain as to their liability for payment of D.C. income tax may obtain a ruling by submitting completed Form D-40B, D.C. Non-Resident Request for Ruling.

### 2. MARYLAND

"Resident means an individual domiciled in this State on the last day of the taxable year, and every other individual who, for more than six months of the taxable year maintained a place of abode within this State, whether domiciled in this State or not..." MD TG § 10-101.(h)

Spouses and dependents of members of the Armed Forces become residents subject to taxes if they meet the "six month" residency test. They are liable for filing a resident Maryland income tax return, but the spouse can claim the service member's personal exemption. They are also taxable if living in Maryland for less than six months if they work in or have income from Maryland sources. MD TG §§ 10-101(h) and 10-201.

### 3. VIRGINIA

"Resident ... includes, for the purpose of determining liability to the taxes ... every person who was domiciled in Virginia at any time during the taxable year and every other person who, for an aggregate of more than 183 days of taxable year, maintained his or her place of abode within Virginia, whether domiciled in Virginia or not." VA Code § 58.1-302.

The spouse of a member of the armed services who meets the residence test will be classified as a resident for Virginia income tax purposes and may claim his or her own exemptions, deductions, and those dependents claimed on the federal return. VA Code § 58.1-302.

#### **E. EXEMPTIONS FOR DEPENDENT CHILDREN (STUDENTS)**

Federal tax laws permit a parent to claim as a dependent any child under age 24 who is a full time student, regardless of the amount of income the child may have, provided the parent contributed more than one-half of the child's total support, the child is a member of the parent's household, is a citizen, and did not file a joint return. To qualify as a student, the child must have been, during some part of five calendar months of the year (not necessarily consecutive), a full-time student at an educational institution, which maintains a regular faculty and curriculum, or was otherwise engaged in an acceptable training program. For state income tax purposes, Virginia, Maryland, and the District of Columbia adopt the Federal rule. DC Code § 47-1801.04(19); MD TG § 10-211; VA Code § 58.1-301.

#### **F. PERSONAL PROPERTY TAX LAWS OF VIRGINIA, MARYLAND, AND D.C.**

Personal property tax is a tax on the value of the property that is imposed periodically, but at least annually. Virginia permits these taxes on a number of types of tangible personal property such as farm animals and machinery, motor vehicles, aircraft, and watercraft. However, these items are taxed at the local level, rather than at the state level, and many local jurisdictions tax only motor vehicles. VA Code § 58.1-100. Maryland has a business personal property tax. The District of Columbia does not tax tangible personal property unless used in a trade or business.

The SCRA protects service members by providing that personal property is deemed to be located in the domiciliary state of the service member. Thus, only that state can tax the personal property. The SCRA does NOT relieve dependents from paying tax on personal property. Thus, in Virginia, if taxable personal property (such as an automobile) is owned jointly by a military member and a non-military spouse, the property will be taxed. Most local jurisdictions treat a joint interest as an interest in the whole, thereby subjecting the entire property to taxation.

#### **G. TAX EXEMPTION PROCEDURES**

If you have a place of abode within Virginia, Maryland, or the District of Columbia, the taxing authorities will presume that you are subject to their taxes. When you claim an exemption, the burden is on you to prove that you are entitled to it and that you are absent from your state of

domicile solely by reason of compliance with military orders.

It is in your interest to ensure that essential information for this purpose is furnished promptly. If you are asked to submit tax returns on income or personal property or to submit proof that you are exempt, do not ignore the communication. Failure to reply may result in an arbitrary assessment or a summons to appear and explain why you have not filed a return. Forms for claiming exemptions are distributed by many of the local taxing jurisdictions.

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## SECTION VI. MOTOR VEHICLES

### A. DISTRICT OF COLUMBIA

#### 1. REGISTRATION

Unless subject to an exemption, all motor vehicles operated in the District of Columbia must be registered in the District. Non-residents of D.C. who have complied with the laws of any state of the United States, or of a foreign country, have a 30-day grace period. After this grace period has expired, an owner must either register the vehicle in D.C., or obtain a reciprocity permit which indicates the vehicle is properly registered in the state of domicile. Non-resident service members are exempt from the normal reciprocity procedures and may obtain a reciprocity permit from year to year for a \$10.00 fee. This permit may be obtained from Motor Vehicle Services, 301 C Street, N.W., Room 1063, telephone: (202) 727-2487, or from its branch office at 1616 H Street, N.E. Service members must bring a copy of orders, proof of residence in another state, and valid motor vehicle documentation. D.C. Code § 50-1401.02.

#### 2. DRIVER'S LICENSE

Anyone, at least 16 years of age, may obtain a learner's permit valid for one year. A driver's permit may be obtained by anyone, at least 16 and one-half years of age, who has complied with D.C. licensing regulations. D.C. driver's permits are not required for those who are entitled to reciprocity permits. D.C. Code § 50-1401.01.

#### 3. TITLE REQUIREMENTS

If an individual desires to register a vehicle in the District of Columbia, there is an excise tax of 6 to 7 per cent of the vehicle value assessed only if the vehicle is purchased by the service member after coming into and establishing or maintaining a residence in the District of Columbia. D.C. Code § 50-2201.03.

#### 4. INSURANCE

Owners of motor vehicles required to be registered in D.C., or for which reciprocity permits are required, must maintain adequate insurance on those vehicles. Drivers are required to carry property damage insurance of at least \$10,000 per accident; third-party personal liability coverage of at least \$25,000 per person injured in any one accident; and \$50,000 for all persons injured in any one accident. Insurers are required to offer underinsured motorist protection and personal injury protection insurance. D.C. Code § 31-2404 and 2406.

#### 5. INSPECTIONS

An annual safety inspection is required for all motor vehicles registered in D.C. There is a \$300.00 penalty for using a vehicle whose registration has been revoked for failure of a safety inspection. D.C. Code §§ 50-1101 and 50-1106.

#### 6. ACCIDENT REPORTS

Accidents involving injury to any person, death, or substantial property damage must be reported to the police at once. Garages and repair shops in D.C. are required to report to the police, within 24 hours, any motor vehicle which shows evidence of having been involved in an accident or struck by bullets. D.C. Code § 50.2201.06.

#### 7. MOTOR VEHICLE REPAIRS

D.C. requires written estimates. Total charges may not exceed the estimate by 20% for repairs costing \$300 or less or 10% for repairs costing more than \$300. DCMR § 16-633 (2003).

#### 8. CHILD RESTRAINT

Children less than 3 years of age must be properly restrained in a child restraint seat. Simply buckling up your child under the age of three in the vehicle's standard restraints is not sufficient. Children between the ages of 3 and 8 must be seated in a booster child safety seat. DC Code § 50-1703.

#### 9. MANDATORY SEAT BELTS

The driver and all passengers are required to wear a properly adjusted and fastened safety belt. There is an exemption for motor vehicles manufactured before July 1, 1966. Violation of this rule is a civil infraction subject to a fine of \$50.00. DC Code § 50-1806.

#### 10. LEMON LAW

If a new vehicle does not conform to all warranties in the first 18,000 miles of operation or during the period of two years following the date of delivery of the vehicle to the original purchaser, whichever is earlier, and the failure is reported to the manufacturer or its agent, the problem must be corrected without charge. The problem must significantly impair the use or value of the vehicle. The consumer can elect to exchange the vehicle or receive a full refund (less statutory allowance for use):

- (1) if the same non-safety-related problem has been subject to repair four or more times;
- (2) if the same safety-related problem has been subject to repair one or more times; or
- (3) if the repairs keep the vehicle out of service for 30 cumulative days during the warranty period.

A "safety-related defect" is one that reduces the ability to control the vehicle or causes a risk of fire, explosion, or other life-threatening malfunctions.

The consumer must seek claims arbitration prior to filing suit. Subsequent purchasers of a vehicle returned under these provisions must be informed of that fact. DC Code § 50-502 et seq.

## **B. MARYLAND**

### **1. REGISTRATION**

Non-resident service members stationed in Maryland need not register their personal passenger vehicles if the vehicles are registered in the service member's state of residence. MD TR § 13-402.1(c)

### **2. DRIVER'S LICENSE**

All drivers on Maryland roads must have a valid driver's license, either from Maryland or their state of residence. Service members and their family members returning from overseas may drive on an Armed Forces license for 30 days after return to the U.S. MD TR § 16-102.

Certain restrictions apply to minors obtaining a Maryland driver's license. Minors between the ages of 16 and 18 may be issued a "provisional driver's license" for 12 months; a parent may be required to co-sign the application for this license. With this license, driving is not allowed between 1:00 a.m. and 6:00 a.m. unless the driver is accompanied by a licensed driver at least 21 years of age. Completion of a driver's education course is required before a minor may receive a permanent license. A minor's license may be suspended on request of the license co-signer. MD TR §§ 16.103 thru 16.107.8.

### 3. TITLE AND SALE REQUIREMENTS

Certificates of title are not required for non-resident service members' vehicles. Non-resident service members may register vehicles in Maryland after paying an excise tax. The tax is either 6% of a new vehicle price or \$640.00, whichever is greater. The tax on used vehicles is 6% of the "blue book" price. Transfers between certain relatives, not involving money, are tax exempt. MD TR §§ 13-102 and 13.809.

### 4. INSURANCE

Owners of vehicles registered in Maryland must have vehicle liability insurance with minimum limits of \$20,000 for death or bodily injury to one person; \$40,000 for two or more persons; and \$15,000 for property damage. MD TR 17-103. Motorists who are unable to purchase private insurance may apply for coverage from the Maryland Auto Insurance Fund (MAIF). MD INS §§ 17-103 and 104.

### 5. INSPECTIONS

No regular inspection is required, but a used car must be inspected within 30 days prior to its sale if the car is to be registered in Maryland. No inspection is required if the transfer is between spouses, or between parents and children. MD TR §§ 23-101, 106 and 107. Biannual exhaust emissions test required in certain circumstances, MD TR § 23-202.

### 6. ACCIDENT REPORTS

A written accident report must be made to the police immediately when an accident caused bodily injury or property damage. A written report must be made to the Motor Vehicle Administration within 15 days if there was bodily injury. MD TR § 20-104.

### 7. MOTOR VEHICLE REPAIRS

Before work is begun on repairs expected to cost more than \$50.00, the repairer must provide the owner with a written estimate. The ultimate cost may not exceed 10% of the estimate. A repair facility may not charge for work not authorized by the customer. Any parts removed must be returned to the customer unless returned to the manufacturer under a warranty. MD CL §§ 14-1001 to 09.

### 8. CHILD RESTRAINTS

A child under the age of four or weighing less than forty pounds is required to be seated in a safety seat or child restraint that is manufactured in accordance with the 1981 Federal Motor Vehicle Safety Standards. Simply buckling up your child under the age of four in the vehicle's standard restraints is

not sufficient.

A child weighing at least forty pounds between four and sixteen years of age may use a child safety seat or a properly fastened seat belt.

A fine of \$25.00 may be imposed for a violation of this law. MD TR § 22-412.2.

#### **9. MANDATORY SEAT BELT USE**

A person may not operate a motor vehicle unless that person and each front seat passenger are restrained by a seat belt (or child safety device, as appropriate; see preceding section). MD TR § 22-412.3.

#### **10. LEMON LAW**

If a new vehicle purchased after July 1, 1984 fails to conform to all applicable warranties during the first 24 months or 18,000 miles, and the failure is reported to the manufacturer or agent (dealer/seller), the problem must be corrected without charge. If the problem cannot be corrected and substantially impairs the use or value of the vehicle, the consumer may elect to either exchange the vehicle or receive a full refund (less a reasonable allowance not to exceed 15%). Any agreement to limit these consumer rights is void. The rights must be enforced within three years and the consumer must first utilize informal dispute resolution methods before filing suit. Subsequent purchasers of a vehicle returned under the above-noted provisions must receive notice of this fact. Substantial impairment exists in three cases:

- (1) if the manufacturer or agent attempts to repair the same problem four or more times during the warranty period;
- (2) if repairs keep the vehicle out of service for 30 cumulative days during the warranty period; or
- (3) if a problem in the braking or steering system has not been successfully repaired after the first attempt.

MD CL §§14-1501 *et seq.*

### **C. VIRGINIA**

#### **1. REGISTRATION AND COMMUNITY STICKERS**

If living in Virginia, service members must register their cars in Virginia within 6 months of arrival, but need not do so if their state of legal residence grants reciprocity to Virginia residents. VA Code §§ 46.2-655 to 657. Many cities and counties in Virginia require vehicles to be registered annually with

local city or county governments and to display a city or county sticker. VA Code § 46.2-752. This requirement applies to vehicles garaged within the city or county, whether bearing Virginia license plates or license plates from another state. These city and county jurisdictions may couple this registration requirement with the assessment of an annual personal property on the vehicle.

Service members who are exempt from paying personal property taxes on their solely-owned vehicles in Virginia (by virtue of having their legal residence or domicile outside of Virginia) nevertheless must register those vehicles if the city or county in which the vehicles are garaged so require. In those cases, service members can satisfy the requirement and obtain the city or county sticker, either free or for a nominal processing fee, by visiting the appropriate local government office and displaying their military identification card and current state vehicle registration. Failure to register your vehicle and display the sticker is not recommended - police routinely set up roadblocks to check for missing or expired stickers, and you will be issued a ticket and lined if your car is not in compliance with the law. The tags/windshield stickers are renewable each year between 15 March and 15 April.

a. *City of Alexandria*. A windshield sticker must be obtained within 30 days upon moving into Alexandria. Service members are exempt from the decal fee as long as the vehicle is titled only in the name of the service member or spouse. Stickers for service personnel may be obtained from the City Hall, Room 1410, 301 King Street, Alexandria (telephone (703) 746-3995). To secure the sticker, service personnel are required to present their certificate of registration and military identification card.

b. *City of Falls Church*: A windshield sticker must be obtained within 30 days after moving into Falls Church. The sticker may be obtained at the Commissioner of the Revenue, City Hall, 300 Park Avenue Suite 104 East, Falls Church (703) 248-5065). The stickers are also available at the Treasurer's Office (703) 248-5046 or an online form is available at [www.fallschurchva.gov](http://www.fallschurchva.gov). The form may be faxed with supplemental documents to (703) 248-5212.

c. *Arlington County*: A windshield sticker must be obtained within 60 days after moving into Arlington County. There is no fee for vehicles registered in the names of service personnel who are not legal residents of Virginia. Military members may obtain their stickers at the Fort Myer Provost Marshall's Office. All others must go to the Commissioner of Revenue, 2100 Clarendon Boulevard, Suite 218, Arlington (telephone (703) 228-3080).

d. *Fairfax County*: There are no decal requirements but service members must still register their car with the county within 60 days. Within the county certain towns such as Clifton and Herndon do require decals.

e. *City of Fairfax*: A windshield sticker should be obtained within 30 day upon moving into the City of Fairfax. It may be obtained at the City Hall, Room 210, Fairfax (telephone (703) 385-7900). There is no fee for stickers issued for cars registered solely in the names of non-resident service members. All others must pay \$33 for cars and \$18 for motorcycles.

## 2. DRIVER'S LICENSE

Service members and non-resident dependents may drive a motor vehicle in Virginia with a valid license from their home state, even if they register a motor vehicle in Virginia. Minor dependents who work must get a Virginia driver's license and must complete a Virginia driver's education course, which is offered in all high schools. Certain restrictions apply to drivers under the age of 19 years. Any civilian who is employed in Virginia must get a Virginia driver's license within thirty days of the date of employment. VA. Code §§ 46.2-306, 307 and 308, and 46.2-334.

## 3. TITLE AND SALE REQUIREMENTS

Motor vehicle titles are issued by the Virginia Department of Motor Vehicles (DMV). Virginia law requires the correct mileage of a vehicle to be certified on the title when it is transferred. In most cases, unless a sales/use tax has been paid on the vehicle at the time of its purchase and proof of payment is provided, the DMV will collect this tax at the time of registration. VA Code §§ 46.2-600 et seq.

## 4. INSURANCE

Proof of liability insurance is not required to register a vehicle in Virginia. The minimum amount of insurance which should be obtained is \$25,000 for death or bodily injury to one person; \$50,000 for death or bodily injury to two or more persons; and \$20,000 for property damage. An uninsured motor vehicle can be registered in the state for an annual fee of \$500.00; this fee is paid to the state and does not provide any insurance protection. VA Code §§ 46.2-472, 46.2-706.

## 5. INSPECTION

An annual inspection is required for all vehicles licensed in Virginia. A vehicle which does not pass inspection will be issued a rejection sticker allowing 15 days for repair. A fine may be assessed for driving without a valid passing sticker. VA Code § 46.2-1158.

## 6. ACCIDENT REPORTS

Accidents must be reported to the police or the DMV immediately if there is any property damage or personal injury involved. A driver's license and vehicle registration may be revoked for failure to file the appropriate accident forms. VA Code §§ 46.2-371 to 373.

## 7. MOTOR VEHICLE REPAIRS

If requested by the customer, an estimate for repairs is required for a cost of not more than \$25.00; the actual cost of repairs cannot exceed the estimate by more than 10%. The customer has the right to inspect repaired parts. VA Code §§ 59.1-207.2 et seq.

## 8. CHILD RESTRAINT

Children under 8 years of age must be properly restrained with a child restraint device approved by the U.S. Department of Transportation. Those who are financially unable to provide a child restraint device may apply to the DMV to borrow a child restraint device for as long as the child requires it. Failure to properly secure a child under 4 years of age will result in a civil penalty of \$50.00. A medical exemption may be granted by the DMV in certain circumstances. Children between ages 4 and 16 must wear seatbelts. Rear-facing child seats must be placed in the backseat unless the passenger side airbag is turned off. VA Code §§ 46.2-1095 and 1096.

## 9. MANDATORY SEAT BELTS

The driver and front seat passengers under 16 are required to wear a properly fastened safety belt. There is an exemption for motor vehicles manufactured before 1968. A citation will not be issued for a violation of this law unless the vehicle is stopped for another reason. Violators are subject to a civil penalty of \$50.00. VA Code §§ 46.2-1092, 1094.

## 10. LEMON LAW

The Motor Vehicle Warranty Enforcement Act provides a method for consumers to get either a new vehicle or their money back when a new vehicle cannot be "brought into conformity with the express warranty issued by the manufacturer". The manufacturer gets a chance to repair a "lemon", but the vehicle is presumed to be a lemon if, within 18 months of delivery, it is taken to the dealer to be fixed for the same problem three or more times (only once if a serious safety defect exists), or if it's in the shop for repairs for 30 days or more in a year. This law applies not only to the original purchaser, but to others who buy the car while it's still under warranty. The customer may, but need not, avail himself any informal resolution procedure provided by the manufacturer. A manufacturer must be

given written notice of the defect and any legal action brought under the law must be started within 18 months of original delivery (or 12 months after decision in the informal resolution procedure). VA Code §§ 59.1-207.9 et seq.

#### **D. MOTORCYCLE SAFETY HELMETS**

**1. STATE LAWS:** The District of Columbia, Maryland and Virginia all require motorcycle operators to wear some form of headgear. In Maryland, a minor may not operate or ride on a motorcycle unless the minor is wearing protective headgear approved by the state and headgear for all operators/riders must meet state standards. The operator of a motorcycle must wear eye protection or have his or her motorcycle equipped with a wind screen. In Virginia, every person operating a motorcycle must wear a face shield, safety glasses/goggles, or have his or her motorcycle equipped with safety glass or a windshield. Operators and passengers must wear protective helmets unless they are riding in motorcycles with wheels of eight inches or less in diameter, or in three-wheeled motorcycles which have non-removable roofs, wind shields and enclosed bodies. MD TR § 21-1306; VA Code § 46.2-910.

**2. MILITARY INSTALLATIONS:** Usually, military installations have traffic safety programs that apply to persons who drive on that installation, and typically those programs include a requirement to wear a motorcycle safety helmet. Check with your installation's provost marshal or base safety office for more information. The Navy has a worldwide Navy Traffic Safety Program, OPNAVINST 5100. 12F, that applies to all Navy personnel at all times, whether on or off a Navy installation. The instruction contains regulations affecting motor vehicle operators, passengers, and pedestrians. This instruction requires each motorcycle operator to successfully complete the Motorcycle Safety Foundation's Motorcycle Rider Course - Riding and Street Skills, or other training approved by the Naval Safety Center. The instruction requires use of a "properly fastened (under the chin) protective helmet that meets U.S. Department of Transportation standards; the operator is also required to wear eye protection and hard-soled shoes with heels. The instruction further recommends that a minimum of four square inches of retro-reflective material be attached to the back and each side of the helmet.

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### **SECTION VII. TRAFFIC LAWS**

#### **INTRODUCTION**

A license to operate a motor vehicle on a public highway is a privilege granted by states and is not a guaranteed right. Persons whose driving records indicate they are a hazard to themselves or others will be subject to official suspension or revocation of their operator's license. The District of

Columbia, Maryland, and Virginia will suspend or revoke driving privileges automatically upon conviction of certain offenses. For example, in Virginia a conviction of reckless driving may result in the loss of your operator's license for a specified period of time. Two or more convictions of moving violations within a 12-month period may also result in revocation of driving privileges. In all three jurisdictions, a point system has been established whereby your driving privileges will be automatically suspended after an accumulation of a certain number of traffic violation points. There is also a reciprocal agreement among all three jurisdictions honoring any traffic citations, including parking tickets.

Most states keep permanent and detailed files of all convictions of motorists within the state. A conviction of a non-resident in one state is usually filed not only in the state where the offense occurred, but also in the motorist's home state, where it becomes a part of the motorist's permanent record.

In D.C., Maryland, and Virginia, the owner or operator of a motor vehicle is liable for injuries to a passenger if the injuries resulted from negligent operation of the vehicle. Negligence is the failure to do what a reasonable and prudent person would ordinarily have done under the circumstances of the situation. Some insurance policies exempt the insurance company from liability if the insured vehicle is used to transport passengers for compensation. Persons involved in carpools should contact their insurance agents to determine if they are adequately protected.

Radar detectors are permitted in Maryland. Virginia and D.C. prohibit their use. VA Code § 46.2-1079; DC Code § 1-319 (by regulation).

#### A. DISTRICT OF COLUMBIA

1. **POINT SYSTEM:** A driver's permit will be suspended for 90 days if 10 or 11 traffic points are accumulated. Accumulation of 12 points will result in license revocation.

[www.dmv.dc.gov/info/points](http://www.dmv.dc.gov/info/points)

2. **DRIVING UNDER THE INFLUENCE (DUI):** Any person who operates a motor vehicle within the District of Columbia is deemed to consent to two chemical tests of blood, urine, or breath, for the purpose of determining blood-alcohol content or blood-drug content. It is illegal in D.C. to operate a motor vehicle if the ability to do so is impaired by intoxicating liquor or if any of the following three conditions are met (a) 0.08 or more by weight of alcohol (blood/breath); or (b) 0.10 or more, by weight of alcohol (urine); or (c) under the influence of intoxicating liquor, or any drug or combination thereof; or (d) any measurable amount if under 21 years of age. Those who refuse to submit to

chemical testing will have their license revoked. DC Code §§ 50-1901 thru 50-1907; 50-2201.05 and 50-2205.02

## **B. MARYLAND**

1. **POINT SYSTEM:** A license will be suspended from 2 to 30 days if 8 traffic violation points are accumulated in any 2-year period. A license will be revoked if 12 traffic violation points are accumulated in any 2-year period. MD TR §§ 16-401 to 16-407. The civilian courts may defer to military tribunals to try military personnel but points would still be assessed if convicted. MD TR § 16-403. Convictions of non-residents are reported to the state of residence which may impose points under its system. MD TR § 16-202.

2. **DRIVING WHILE INTOXICATED (DWI) :** In Maryland, a driver is deemed to consent to a blood or breath alcohol level test if stopped for suspected driving while intoxicated. Refusal to submit to a test will result in a suspension of driving privileges for up to 120 days for a first offense and one year for subsequent offenses. Alcohol level of 0.08 and higher is prima facie evidence of intoxication. MD TR § 16-205.

## **C. VIRGINIA**

1. **POINT SYSTEM:** Virginia assesses demerit points against traffic violators holding Virginia licenses. The number of demerits assessed depends upon the severity of the offense. All moving violations carry a minimum of 3 points and offenses such as reckless driving and speeding 20 MPH over the limit carry 6 points. A driver may be put on probation if a total of 9 points are accumulated over any 12-month period or 12 points are accumulated over any 2-year period; thereafter, the license can be suspended. Demerit points expire after 2 years. Virginia cannot assess points against those holding out-of-state licenses, but will report traffic violations to the appropriate authorities in their home states. VA Code §§ 46.2-491 to 46.2-495.

2. **DRIVING WHILE INTOXICATED OR WHILE IMPAIRED:** In Virginia, a driver on the state highways is deemed to consent to have his or her blood analyzed if charged with driving while intoxicated. VA Code § 18.2-268.2. Conviction of a first offense for driving while intoxicated will automatically result in revocation of the operator's license of 6 months, in addition to a fine and/or imprisonment. An unreasonable refusal to submit to a blood test may also cause loss of operator's license. A person whose level of intoxication may be insufficient to warrant conviction of driving while intoxicated (0.08 or above) may be convicted of "driving while impaired". VA Code §§ 18.2-266 to

#### D. MILITARY INSTALLATIONS

1. OVERVIEW. All personnel, military or civilian, are subject to Department of Defense guidelines when driving on a military installation. Installation commanders are authorized to establish local procedures for suspension of driving privileges. DoDD 1010.7, para 5.2.

2. DRIVING WHILE INTOXICATED OR WHILE IMPAIRED. Department of Defense Directive 1010.7, Drunk and Drugged Driving by DoD Personnel, (DoDD 1010.7) established DoD policy regarding drunk and drugged driving by DoD personnel. Military personnel and their family members, retired members of the military services, DoD civilian personnel, and others with installation driving privileges may have those driving privileges suspended, regardless of the location of an intoxicated driving incident. DoDD 1010.7, para 5.2.1.

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### SECTION VIII. LIABILITY FOR A MINOR, AND MISCELLANEOUS MATTERS

#### A. LIABILITY FOR ACTS OF A MINOR

1. OVERVIEW: Under D.C., Maryland, and Virginia laws, minor children are liable for damages caused by their negligence. The age of the minor child however, is taken into consideration as a mitigating factor in determining liability. The rules of negligence are not applied with the same severity to a child as to an adult because of the child's limited ability to exercise judgment. In all three jurisdictions, a child is required to exercise that degree of care that an ordinary child of comparable age, knowledge, and experience would exercise.

Under certain circumstances, both the parent and the child may be liable for the child's negligence. In D.C. and Maryland, parents are liable for damages incurred if they permit, encourage, or fail to discourage conduct of minor children which is inherently dangerous to others or prohibited by laws promoting public safety, and such conduct results in injury to the person or property of another. These jurisdictions impose a legal duty on the parent to restrain or control certain conduct of their children. Thus, a parent who permits an infant child to use a dangerous "instrumentality" such as a rifle, and whose use of it causes injury to another's person or property, will be liable. A parent is also liable where a minor child is negligent in the course of performing business for the parent. In Virginia, this is the sole basis of a parent's liability for their child's negligence; there is no legal duty on the parent to restrain or control the conduct of minor children. However, both Maryland and Virginia impose liability on the parent for the child's willful or malicious destruction, theft, or damage to

property. MD Art. 27, Sec. 640 (restitution for criminal acts); VA Code §§ 8.01-43 and 44.

The age of majority in D.C., Maryland, and Virginia is 18. DC Code § 46-101; MD Art. 1, Sec. 24; VA Code § 1-13-42. Where negligence is concerned, keep in mind that the law of the place where the injury or damage was incurred determines liability.

## 2. DISTRICT OF COLUMBIA

A minor, who applies graffiti in D.C., is responsible for abatement of the graffiti, or payment for the abatement. Parents or legal guardians of the minor are liable only if the minor is unable to pay for the abatement. DC Code §§ 22-3312.03a, 22-3312.04.

In some instances, parents are liable for damages that a minor is required to pay for injury to a person or property, if any action or omission by the parent contributed to the destructive behavior by the minor. DC Code § 22-3704.

## 3. MARYLAND

Parents are held liable for contracts entered into by a minor for the purchase of necessities. MD FL § 5-203.

Parental liability for a minor's negligence is discussed in the preceding section. In addition, parents may be held liable for the act(s) of a minor child who steals or damages the property of another or inflicts personal injury on another. This liability, however, may not exceed \$10,000. The court may also order a child to make restitution and then hold the parent secondarily liable. In any case, this liability may only be imposed by the court, at its discretion, in a juvenile proceeding. There is no independent cause of action. MD CJ § 3-8A-28.

## 3. VIRGINIA

As noted in section 1 above, parents are not, except under limited business circumstances, liable for the negligent torts of their minor children. However, one or both parents may be liable for damages not exceeding \$2,500 due to the willful or malicious destruction of property, both public or private, by a minor child. VA Code §§ 8.01-43, 8.01-44.

A minor may be liable for his or her own tort. Generally, the age of the child at the time of a alleged tort is of importance. An infant under the age of seven is conclusively presumed to be incapable of negligence. Between the ages of seven and fourteen, a refutable presumption of incapacity exists.

Over the age of fourteen, a child is as liable as an adult for his negligence.

Minors can disaffirm (repudiate) most contracts made by them, subject to the requirement of making restitution. Statutory exceptions exist, such as VA Code §§ 8.01-43 and 8.01-278(A). Other exceptions are:

a. Minors may deposit funds in bank accounts and issue valid checks, orders or receipts. VA Code § 6.1-74.

b. A minor 16 years of age or older is liable for repayment of a loan for his college education at specified educational institutions. VA Code § 8.01-27(B).

## **B. REGULATION OF AND LIABILITY FOR DOGS**

The regulation of dogs is within the police power of the states and the District of Columbia. Every jurisdiction imposes a license tax on the ownership of a dog. Payment of the tax is evidenced by a receipt, and a metallic tag which the dog must wear at all times. Failure to purchase and display the tag subjects the owner to a fine and may result in the dog being impounded.

Dog owners should carefully observe local leash laws since they generally impose fines and strict liability for unleashed dogs.

The familiar adage "every dog is entitled to one bite" is not an entirely accurate statement of the law. The basis for liability for injuries caused by a dog is substantially the same in Virginia, Maryland, and the District of Columbia. The person injured must show that the owner of the dog knew, or in the exercise of reasonable diligence should have known, that his dog had vicious or mischievous propensities. A cross and savage disposition on the part of the dog is not necessary in order to impose liability on its owner for its attack; the owner is equally responsible if he or she knew the dog has a propensity to bite or jump upon a person in play. Further, if a dog is not always dangerous, but is likely to bite under particular circumstances, the owner may be responsible for injury or damage.

It is very important for service members to contact the appropriate local agency in their area to find out the requirements for keeping a dog or other animal.

## **C. HANDGUN LAWS**

Maryland and Virginia statutes state that any person who shall wear, carry, or transport any handgun without a permit, with few exceptions, shall be guilty of a misdemeanor and subject to imprisonment

and/or fine.

The District of Columbia requires registration of firearms. A person must be 21 years of age (if between 18 and 21 years a parent or guardian's signature is required) and must meet the qualification set forth in the statute. Firearms must be registered before purchase or immediately upon transport into the District. The owner must personally communicate with the Metropolitan Police Department and supply such information as required. Any theft, loss, transfer, or destruction of a registered firearm must be immediately reported in writing to the Chief of Police. Additionally, all States and the Federal Government have statutes affecting the mailing, selling, and use of weapons. Anyone using or purchasing firearms should carefully check local laws. DC Code §§ 7-2502.1, 22-4501-4517; MD Art. 27, Sec. 36B to 36K; VA Code §§ 18.2-308 to 18.2-311.2.

#### **D. IDENTIFICATION, PROOF OF AGE AND ADDRESS**

Some local businesses require two pieces of identification, at least one of which contains a local address, to negotiate a check (even one drawn on a local bank) or to make a purchase with a national credit card (VISA, Master card, etc.). Military and dependent I.D. cards have a photograph but not an address; major credit cards generally do not carry an address; some local credit cards do not bear a photograph or a signature. As a result, persons who do not have a local (Virginia, Maryland, or D.C.) driver's license may occasionally experience difficulty cashing checks or using credit cards.

#### **E. TUITION FOR VIRGINIA STATE COLLEGES AND UNIVERSITIES**

Virginia state tuition rules are technical, somewhat confusing, and subject to varying interpretation from school to school. The following general discussion does not attempt a full explanation of the subject; a legal assistance attorney should review questions in this area.

Generally, the dependent child of a non-domiciliary service member may enroll in a state college or university at an in-state tuition rate immediately upon establishing residence (not domicile) in Virginia. This status lasts for one year even if the service member remains domiciled in some other state. At the conclusion of the first year, eligibility for in-state tuition will be lost, unless the service member has become domiciled in Virginia. VA Code § 23-7.4:2. An emancipated, independent student can qualify for in-state tuition by becoming a Virginia domiciliary, but there is a one-year waiting period built into the statute. VA Code § 23-7.4.

## SECTION IX. CONSUMER PROTECTION

### A. GENERAL CONSUMER PROTECTION LAWS AND AGENCIES

Consumer protection laws cover almost all aspects of consumer transactions, including door-to-door sales, extension of credit, collection methods, balloon payments, interest rates, service charges and billing errors, credit card transactions, misleading advertising, warranties and guarantees. For example, specific federal and state statutes provide that unordered merchandise received in the mail may be treated as a gift and the recipient has the right to retain, use or discard such merchandise without obligation to the sender. Similar legislation permits the purchaser of goods from a door-to-door salesman to cancel the transaction without obligation any time within three days. The Federal Truth In Lending Law requires complete disclosure of the terms of a credit sale before the transaction is finalized.

The District of Columbia, Maryland and Virginia have consumer protection laws, and agencies charged with enforcing them. A comprehensive listing of all state laws, agencies and services provided is beyond the scope of this limited guide. Please see the back of this guide for a limited listing of consumer-oriented agencies.

### B. ARMED FORCES DISCIPLINARY CONTROL BOARD

The Armed Forces Disciplinary Control Board (AFDCB) is an investigative committee composed of members from each of the services and civilian advisers who seek to protect the interests and welfare of service members when off post.

Disreputable car dealers, magazine and photo salesmen, clip-joint bars and hotels, pool rooms, and other unsavory individuals and businesses make a practice of preying on service members, especially those new to the service. The AFDCB, working in close cooperation with local law enforcement agencies, civic organizations, and legitimate business establishments, tries to prevent unfair and criminal practices against military personnel.

Those wishing to submit a complaint in writing to the AFDCB should address their complaint to: President of the Armed Forces Disciplinary Control Board, Military District of Washington, Fort Leslie J. McNair, Washington, DC 20319-5050. It is very important that such a complaint be specific (i.e., names, dates, circumstances).

When an individual reports a place of business to the AFDCB for unethical or unsatisfactory

practices, it is inspected and, if considered substandard by the AFDCB, it receives a letter of warning advising of the unsatisfactory conditions or practices. The manager is asked to answer the complaint against him or to notify the AFDCB of efforts he has made to correct the conditions. Should the manager fail to respond in writing, the Board requests that he appear at a formal hearing. This hearing will determine whether the Board recommends that an establishment be declared OFF LIMITS. A list of OFF LIMITS establishments is placed on unit bulletin boards.

### **C. CREDIT AND CREDIT CARD PROTECTION**

To protect those seeking credit, Congress adopted the Consumer Credit Protection Act (CCPA). The CCPA requires the disclosure of the cost of credit to all potential borrowers, and provides a number of other protections for consumers. For example, the CCPA states that no credit card may be issued to an individual unless he requests or applies for it. 15 U.S.C. §§ 1673 et seq.

A credit card holder may be liable up to \$50.00 for the unauthorized use of the card, unless he or she notifies the card issuer of loss before the unauthorized use occurs. Before any liability can be incurred, however, the card issuer must have notified the cardholder of the potential liability and provided the cardholder with a description of a means by which the card issuer may be notified of any loss or theft of the card. Finally, unless the card itself provided some means of identifying the holder, such as a photograph or signature, no liability will be incurred for unauthorized use.

Other provisions of the CCPA require disclosure of information concerning interest rates in credit transactions, limit the techniques that can be used in advertising credit, require the establishment of procedures to settle disputes about credit billing and prohibit restriction of credit availability because of sex or marital status.

Those who encounter problems with credit are protected by the Fair Credit Reporting Act (FCRA), 15 U.S.C. §§ 1681 et seq., which allows access to credit reports and an opportunity to correct inaccuracies in them, and the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §§ 1692 et seq., which limits the methods creditors can use to collect debts.

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## **SECTION X. WILLS AND ESTATE PLANNING**

Estate planning is the continual process of coordinating your financial affairs to ensure financial security for you and your family. A well designed estate plan should provide not only for the orderly

transfer of assets at your death, but also take into account the need for retirement income and the possibility of mental or physical disability. A legal assistance attorney can provide advice on effective estate planning, particularly for estates of limited value; high-value estates may require use of estate planning specialists.

#### A. WILLS

A will is a document that allows you to make provisions for the distribution of your assets and property upon your death. It also allows you to determine who will be responsible for distributing your property, and who will be responsible for the care of minor children upon your death. A person who dies without a will is considered to have died "intestate." If you die intestate, state law will determine who will inherit your property, who will settle your estate, and who will care for your children. Each state has its own particular laws regarding intestate descent and distribution, and the distribution scheme may not be one you would choose for yourself.

Each state has statutes that establish the requirements for a valid will. The District of Columbia, Maryland, and Virginia all require a testator (the person whose will it is) to be at least 18 years of age and of sound mind at the time the will is executed. Sound mind requires that the testator know that he/she is executing a will; know the general nature and extent of his/her property; and know his/her decedents or other relatives that would ordinarily be expected to share in his/her estate. In D.C., Maryland, and Virginia, a will must be signed in the presence of at least two witnesses, who are not beneficiaries under the will, in order to be valid. DC Code §§ 18-102 et seq.; MD ET §§ 4-101 and 102; VA Code §§ 64.145 et seq.

#### B. LIFE INSURANCE

Life insurance is an important tool for providing financial security for your family members. Through life insurance, you can create an immediate estate of sufficient size to assure adequate income for your family members upon your death. In determining your life insurance needs, consider the desired monthly income you would like your survivors to have, as well as the various military benefits available for military survivors, including the Survivors Benefit Plan and Social Security. Service members contemplating the purchase of commercial insurance should look closely to determine whether the policy will carry a "war clause." Such clauses typically allow insurance companies to avoid payment on a contract of insurance if the service member is killed in war or by a "military service hazard."

You have the right to name any person(s) you choose as the beneficiary(ies) of your life insurance

policy(ies). You should review your life insurance policies regularly to ensure the persons you desire to receive your insurance benefits are named as beneficiaries. When naming beneficiaries under your Servicemen's Group Life Insurance policy, consider carefully before making your beneficiary designation "by law." The "by law" designation requires the insurance proceeds to be paid in the following order: surviving spouse; surviving children; surviving parents; your estate; next of kin determined by your state of domicile.

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## SECTION XI. ADVANCE MEDICAL DIRECTIVES

### A. LIVING WILLS

A living will is an "advance medical directive" that expresses your desire that medical treatment be withheld or stopped in the event of a terminal medical condition. The document states your wish to be allowed to die a natural death and not be kept alive by medicines, heroic measures, or artificial means. The District of Columbia, Maryland, and Virginia all have living will statutes which provide that a competent adult may express in writing his or her wishes concerning whether life-sustaining treatment should be provided or withheld if they are no longer able to make treatment decisions. Your local legal assistance office can assist you in preparing a living will. DC Code §§7-621 et seq.; MD HG §§ 5-601 et seq.; VA Code §§ 54.1-2981, et seq.

### B. DURABLE POWER OF ATTORNEY

A durable power of attorney for health care, another type of advance medical directive, is a document that delegates certain future health care decision-making powers to another individual, known as an agent. The agent has the same power to make health care decisions as the principal. The health care power of attorney is similar to the living will in that the agent may have the ability to withdraw life-support treatment; however, it may authorize much broader powers beyond the removal of life-support. In some states, court approval may have to be obtained prior to withdrawing life-support treatment. Some forms direct agents to take specific courses of action while others merely authorize the agents to act.

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## SECTION XII. POWERS OF ATTORNEY

A Power of Attorney (POA) is a written instrument that allows you (the "principal") to authorize your agent (the "attorney in-fact") to conduct certain business on your behalf. It is one of the strongest legal documents that you can give to another person. There are two types of POA "general" and "special" (or limited). A general POA gives your agent very broad powers to act on your behalf; and a special POA limits your agent's authority to act only on certain matters. Every act performed by your

agent within the authority of the POA is legally binding upon you. Since a POA is such a powerful document, it should be given only to a trustworthy person, and only when absolutely necessary. Your local legal assistance office can advise you about, and prepare for you, the appropriate type of POA needed for your situation.

#### **A. GENERAL POWER OF ATTORNEY**

A General POA gives your agent (attorney-in-fact) the authority to do most things you could do yourself such as write checks, pay bills, borrow money, and sign contracts in your name. It does not, however, give your agent authority to perform certain actions, which require your personal attention, such as taking an oath.

#### **B. SPECIAL (LIMITED) POWER OF ATTORNEY**

A special, or limited, POA authorizes your agent to do only a specified act, such as sell your car, ship your household goods, or cash your paycheck. Some acts may only be accomplished with a special POA. For example, authorizing someone to buy or sell real estate in your name requires a special POA that describes, in detail, the property and the specific acts to be done by your agent.

#### **C. SPECIAL POWER OF ATTORNEY TO ACT "IN LOCO PARENTIS"**

This is a common type of special power of attorney. The phrase "in loco parentis" means "in the place of the parent." This type of special POA grants parental authority to another (such as a baby-sitter) to perform a range of functions which can include picking up a child from school, buying food and clothing, and consenting to medical treatment of the child in the event of illness or injury.

Without this type of special POA a day care center, school, store, hospital or clinic, fearing legal repercussions, may refuse to follow the directives of the baby-sitter or other agent, and require the specific authorization of the actual parent. This grant of authority will assist the agent in the daily business of looking after the child, and can avoid unnecessary delays in emergencies. Furthermore, the special POA provides legal protection for the facility, and also for the agent who might otherwise fear taking action on behalf of the child.

#### **D. GENERAL CONSIDERATIONS**

1. Many financial institutions and other businesses have their own POA forms - which they prefer to be used to conduct business. It is a good idea to show your POA to all known third parties who may be dealing with your named attorney-in-fact to ensure that your POA is acceptable to them.

2. A POA becomes void upon the death of the principal.
  
3. A POA normally is void if the principal becomes physically or mentally incapacitated. However, appropriate "durability" language may be added to the POA that will ensure that it remains valid during any period of incapacity.
  
4. Any third party has the right to refuse to accept a POA.
  
5. A POA should be given for only a limited time period (such as six months during a deployment). A third party is more likely to accept a POA with a recent date than one that is many months or years old.
  
6. Never give a General POA when a Special POA will accomplish the mission. There is less opportunity for abuse when only limited powers are given.
  
7. A Special POA should be as specific as possible. For example, if you are authorizing an attorney in-fact to sell a vehicle on your behalf, specify the vehicle, license number, vehicle identification number, the make/model/year of the vehicle, and any specific terms you will require. Your legal assistance attorney can help you tailor the POA to suit your precise needs.
8. You may revoke a POA before its expiration date by executing a revocation of the POA. Notice of the revocation must be delivered to the attorney-in-fact, as well as to all third parties who you know relied on the POA. If possible, recover from the attorney-in-fact and destroy the original and all copies of the POA. Even though the POA has been revoked, you may be responsible to any third party who did not receive notice of the revocation.

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### A. SMALL CLAIMS COURTS

#### 1. District of Columbia

Small Claims and Conciliation Branch

Superior Court of the District of Columbia

Room JM260, 500 Indiana Avenue N.W.

Washington, DC 20001

(202) 879-1120

**2. Maryland**

Montgomery County

27 Court House Square  
Rockville, MD 20850  
(301) 279-1500

8552 Second Avenue  
Silver Spring, MD 20910  
(301) 563-8500

Prince George's County

14735 Main St.  
Upper Marlboro, MD 20772  
(301) 952-4080

4990 Rhode Island Avenue  
Hyattsville, MD 20781

**3. Virginia**

Alexandria General District Court

520 King Street  
Alexandria, VA 22320  
(703) 746-4021

City of Falls Church General District Court

City Hall  
300 Park Avenue  
Falls Church, VA 22046  
(703) 248-5157

Arlington General District Court

1425 N. Court House Road, Suite 2500  
Arlington, VA 22201  
(703) 228-4590

Fairfax County General District Court

4110 Chain Bridge Road  
Fairfax, Virginia 22030  
(703) 246-3012

Prince William General District Court

9311 Lee Avenue  
Manassas, VA 20110  
(703) 792-6149

**B. SOCIAL AND FAMILY SERVICE AGENCIES**

**1. Military**

Walter Reed Army Medical Center

Department of Social Work  
Washington, DC 20307  
(202) 782-7761  
<http://www.wramc.amedd.army.mil/Patients/healthcare/social/Pages/welcome.aspx>

Rader Clinic (Family Health Center of Fort Myer)

Behavioral Health  
Fort Myer, VA 22211  
(703) 696-3456  
<http://dewitt.narmc.amedd.army.mil/fhcs/fhcsmyer/default.aspx>

Dewitt Army Community Hospital

Behavioral Health  
(703) 805-0110  
Fort Belvoir, VA, 22060  
<http://www.dewitt.wramc.amedd.army.mil/default.aspx>

Fort Myer

Army Community Service  
(703) 696-3510  
<http://www.fmmc.army.mil/sites/services/community.asp>

Marine Corps Family Resource Center

Henderson Hall, Bldg. 12

(703) 614-7200

<http://www.mccshh.com/MFS/MFS.html>

<http://www.marinefamily.com/resource.html>

Navy-Marine Corps Relief Society

875 North Randolph Street, Suite 225

Arlington VA 22203

(703) 696-4904

<http://www.nmcrcs.org/>

**2. Non-Military**

American Red Cross

National Capitol Chapter

<http://www.redcrossdc.org/>

**Alexandria**

123 North Alfred Street

Alexandria, VA 22314

(703) 549-8300

**Arlington County**

4333 Arlington Boulevard

Arlington, VA 22203

(703) 527-3010

**Fairfax County**

8550 Arlington Boulevard

Fairfax, VA 22031

(703) 584-8400

(703) 573-0503

**Fort Belvoir**

9716 Middleton Road

(Between 15th and 16th Street)

Fort Belvoir, VA 22060

(703) 805-2057

**Loudoun County**

604 South King Street # 006

Leesburg, VA 20175

(703) 777-7171

**Prince William**

9934 Liberia Ave

Manassas, VA 20110

(703) 368-4511

**Quantico Marine Base**

2034 Barrett Avenue

Quantico, VA 22134

(703) 784-3113

**Montgomery County**

2020 East West Highway

Silver Spring, MD 20910

(301) 588-2515

**Prince George's County**

6206 Belcrest Road

Hyattsville, MD 20782

(240) 487-2100

**District of Columbia**

2025 E Street, NW

Suite SE 1068

Washington, DC 20037

(202) 243-7200

**Walter Reed Army Medical Center**

Building 2 (Heaton Pavilion)

3rd Floor, Room 3E05

6900 Georgia Avenue, NW

Washington, DC 20307-5001

(202) 782-6362

**3. Other Resources**

Family Matters of Greater Washington

1509 16th Street NW

Washington, DC 20036

(202) 289-1510

<http://www.familymattersdc.org>

Family Service Agencies Inc.

610 East Diamond Ave. Suite 100

Gaithersburg, MD 20877

(301) 840-2000

<http://www.familyservicesagency.org/>

Family Service Foundation

5301 76th Avenue

Landover Hills, MD 20784

(301) 459-2121

<http://www.fsfinc.org/>

Northern Virginia Family Service

<http://nvfs.org/>

**Alexandria**

5249 Duke Street

Alexandria, VA 22304

(703) 370-3223

**Arlington**

3401 Columbia Pike

Suite 300

Arlington, VA 22204

(703) 769-4600

**Woodbridge**

2200 Opitz Boulevard

Woodbridge, VA 22191

(703) 490-3646

**Manassas**

9842 Business Way

Manassas, VA 20110

(703) 392-4901

Maryland Child Support Enforcement Administration

311 W. Saratoga Street

Baltimore, MD 21201

(301) 599-0550

<http://www.dhr.state.md.us/csea/index.htm>

Maryland Department of Human Resources

311 W. Saratoga Street

Baltimore, MD 21201

1-800-332-6347

<http://www.dhr.state.md.us/index.php>

**C. TAX OFFICES**

**1. Federal**

1-800-829-1040

<http://www.irs.gov/>

**2. District of Columbia**

Individual Income Tax

1101 4th Street, SW, Suite W270

Washington, DC 20024

(202) 727-4829

**3. Maryland**

Maryland State Income Tax

<http://individuals.marylandtaxes.com/incometax/default.asp>

**Landover**

Treetops Bldg.

8181 Professional Place, Suite 101

Landover, MD 20785-2226

(301) 459-9195

**Upper Marlboro**

Prince George's County Courthouse

14735 Main Street, Room 083B

Upper Marlboro, MD 20772-9978

(301) 952-2810

**Wheaton**

Wheaton Park Office Complex

11510 Georgia Avenue, Suite 190

Wheaton, MD 20902-1958

(301) 949-6030

Maryland State Comptroller

1-800-MD-TAXES

<http://www.comp.state.md.us/>

4. **Virginia**

<http://www.tax.virginia.gov>

Commissioner of the Revenue

2100 Clarendon Blvd. Ste 200

Arlington, Virginia 22201

(703) 228-3033

Division of Finance

Fairfax County, Drawer B

4110 Chain Bridge Road

Fairfax, Virginia 22030

(703)222-8234

Commissioner of Revenue-City of Fairfax

City Hall

10455 Armstrong Street, Room 210

Fairfax, Virginia 22030

(703) 385-7885

Director of Finance

Revenue Administration-City of Alexandria

301 King St., Room 1700

Alexandria, Virginia 22314

(703) 838-4560 (Personal Property)

(703) 838-4570 (State Income Tax)

Commissioner of the Revenue-City of Falls Church

City Hall, 300 Park Avenue

Falls Church, Virginia 22046

(703) 248-5023

## D. VEHICLE REGISTRATION/LICENSES

### District of Columbia Department of Motor Vehicles

(202) 737-4404

[www.dmv.dc.gov](http://www.dmv.dc.gov)

### Maryland Motor Vehicle Administration

(301) 729-4550

[www.mva.maryland.gov](http://www.mva.maryland.gov)

### Virginia Department of Motor Vehicles

Licensing: (703) 845-6011

Registration: (703) 845-6008

<http://www.dmv.state.va.us/>

## E. CONSUMER PROTECTION

### 1. District of Columbia

#### DC Housing Regulation Administration

(202) 442-9505

#### Department of Housing and Community Development

1800 Martin Luther King, Jr. Avenue, SE

Washington, DC 20020

(202) 442-9505

<http://dhcd.dc.gov/dhcd/>

#### Department of Consumer and Regulatory Affairs

1100 4th Street, SW

Washington, DC 20024

(202) 442-4400

<http://dcra.dc.gov/dcra/>

### 2. Maryland

#### Greater Maryland Better Business Bureau

1414 Key Highway, Ste. 100

Baltimore, MD 21230

(410) 347-3990

<http://greatermd.bbb.org/>

Maryland Attorney General Consumer Protection Division

200 St. Paul Place

Baltimore, MD 21202

(410) 576-6550

1-888-743-0023

<http://www.oag.state.md.us/consumer/>

Maryland Attorney Generals' Office- Western Maryland

Consumer Protection Division

44 N. Potomac St., Suite 104

Hagerstown, MD 21740

(301) 791-4780

Maryland Attorney General's Office- Eastern Shore

Consumer Protection Division

201 Baptist St., Suite 30

Salisbury, MD 21801-4976

(410) 713-3620

County Offices

Howard County Office of Consumer Affairs

6751 Columbia Gateway Dr.

Columbia, MD 21046

(410) 313-6420

[www.howardcountymd.gov](http://www.howardcountymd.gov)

Montgomery County Office of Consumer Protection

100 Maryland Ave., Suite 330

Rockville, MD 20850

(240) 777-3636

[www.montgomerycountymd.gov/consumer](http://www.montgomerycountymd.gov/consumer)

Attorney Grievance Commission

People's Resource Center, Suite 3301

100 Community Place

Crownsville, MD 21032  
(410) 514-7051  
1-800-492-1660

Maryland State Bar Association

520 W. Fayette St  
Baltimore, MD 21201  
(410) 685-7878  
1-800-492-1964  
<http://www.msba.org/>

Maryland Insurance Administration

200 St. Paul Place Suite 2700  
Baltimore, MD 21202  
(410) 468-2000  
1-800-492-6116  
<http://www.mdinsurance.state.md.us/>

Maryland Department of Veteran Affairs

16 Francis Street, 4th Floor  
Annapolis, MD 21401  
(410) 260-3838  
<http://www.mdva.state.md.us/>

Maryland Department of Agriculture

50 Harry S. Truman Pkwy  
Annapolis, MD 21401  
(410) 841-5700  
(410) 841-5790 (weights and measures office)  
<http://www.mda.state.md.us/>

Maryland Public Service Commission

William Donald Schaefer Tower  
6 St. Paul St., 16th Floor  
Baltimore, MD 21202  
(410) 767-8000  
1-800-492-0474

<http://webapp.psc.state.md.us/>

Maryland Office of the Commissioner for Financial Regulation

500 North Calvert Street #401

Baltimore, MD 21202

(410) 230-6001

<http://www.dlr.state.md.us/finance/>

**3. Virginia**

Office of Consumer Affairs, VDAC

102 Governor Street

Richmond, Virginia 23219

(804) 786-2042

1 (800) 552-9963

<http://www.vdacs.virginia.gov/consumers/index.shtml>

Alexandria Office of Consumer Affairs

301 King St., Room 1900

Alexandria, VA 22314

(703) 746.4350

<http://alexandriava.gov/Consumers>

Arlington Department of Consumer Affairs

(703) 222-8435

Fairfax Department of Cable Communications and Consumer Affairs

Fairfax County Government Center

12000 Government Center Parkway

Fairfax, VA 22035

(703) 222-8435

<http://www.fairfaxcounty.gov/consumer/>

**4. Armed Forces Disciplinary Control Board**

President of the AFDCB

Military District of Washington

Fort Leslie J. McNair

Washington, DC 20319-5050

## F. LOCAL LAWYER REFERRAL SERVICES

General: <http://www.abanet.org/legalservices/lris/>

### 1. District of Columbia

Bar Association of the District of Columbia

1016 16th Street NW

Washington, DC 20036

(202) 296-7845

<http://www.badc.org/i4a/pages/index.cfm?pageid=3325>

DC Bar Advice and Referral Clinic

(walk-in clinic held 2<sup>nd</sup> Saturday of every month from 10am-12pm)

Bread for the City—Northwest Center

1525 7th Street NW

Bread for the City—Southeast Center

1640 Good Hope Road SE

[http://www.dcbar.org/for\\_the\\_public/programs\\_and\\_services/advice.cfm](http://www.dcbar.org/for_the_public/programs_and_services/advice.cfm)

### 2. Maryland

Maryland Bar Association Lawyer Referral

<http://www.msba.org/public/referral.htm>

Montgomery County

(301)-279-9100

Prince George County

(301) 952-1440

Baltimore County

(410) 337-9100

Maryland Volunteer Lawyers Service

(410) 547-6537

1-800-510-0050

<http://www.mvlslaw.org/>

3. Virginia

Virginia Lawyer Referral Service

707 East Main Street, Suite 1500

Richmond, Virginia 23219-2800

(804) 775-0808

(800) 552-7977

<http://www.vsb.org/site/public/lawyer-referral-service/>

Alexandria Bar Association Lawyer Referral Service

520 King Street, Suite 202

Alexandria VA 22314

(703) 548-1105

<http://www.alexandriabarva.org/lrs.html>

Arlington Bar Association Lawyer Referral Service

1425 N. Courthouse Rd.

Suite 1800/1st Floor

Arlington, VA. 22201

(703) 228-3390

<http://arlingtonbar.org/lawyer-referral>

Fairfax County Bar Lawyer Referral Service

4110 Chain Bridge Road, Suite 216

Fairfax, VA 22030

(703) 246-3780

<http://www.fairfaxbar.org/>