

Washington D.C. Divorce Laws

TITLE 16 PARTICULAR ACTIONS, PROCEEDINGS AND MATTERS

§ 16-901. Definitions.

For the purposes of this chapter, the term:

- (1) "Court" means the Superior Court of the District of Columbia.
- (2) "IV-D agency" means the organizational unit of the District government, or any successor organizational unit, that is responsible for administering or supervising the administration of the District's State Plan under title IV, part D, of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C.S. § 651 et seq.), pertaining to parent locator services, paternity establishment, and the establishment, modification, and enforcement of support orders.
- (3) "IV-D case" means a case brought by the IV-D agency for the establishment of paternity or the establishment or enforcement of a child support obligation.
- (4) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief.

§ 16-902. Residence requirements.

No action for divorce or legal separation shall be maintainable unless one of the parties to the marriage has been a bona fide resident of the District of Columbia for at least six months next preceding the commencement of the action. No action for annulment of a marriage performed outside the District of Columbia or for affirmance of any marriage shall be maintainable unless one of the parties is a bona fide resident of the District of Columbia at the time of the commencement of the action. The residence of the parties to an action for annulment of a marriage performed in the District of Columbia shall not be considered in determining whether such action shall be maintainable. If a member of the armed forces of the United States resides in the District of Columbia for a continuous period of six months during his or her period of military service, he or she shall be deemed to reside in the District of Columbia for purposes of this section only.

§ 16-903. Decree annulling marriage.

A decree annulling the marriage as illegal and void may be rendered on any of the grounds specified by sections 46-401 and 46-403 as invalidating a marriage.

§ 16-904. Grounds for divorce, legal separation, and annulment.

- (a) A divorce from the bonds of marriage may be granted if:
 - (1) both parties to the marriage have mutually and voluntarily lived separate and apart without cohabitation for a period of six months next preceding the commencement of the action;
 - (2) both parties to the marriage have lived separate and apart without cohabitation for a period of one year next preceding the commencement of the action.
- (b) A legal separation from bed and board may be granted if:
 - (1) both parties to the marriage have mutually and voluntarily lived separate and apart without cohabitation; or
 - (2) both parties to the marriage have lived separate and apart without cohabitation for a period of one year next preceding the commencement of the action.
- (c) For purposes of subsections (1) and (2) of paragraphs (a) and (b) of this section, parties who have pursued separate lives, sharing neither bed nor board, shall be deemed to have lived separate and apart from one another even though:
 - (1) they reside under the same roof; or
 - (2) the separation is pursuant to an order of a court.
- (d) Marriage contracts may be annulled in the following cases:

- (1) where such marriage was contracted while either of the parties thereto had a former wife or husband living, unless the former marriage had been lawfully dissolved;
- (2) where such marriage was contracted during the insanity of either party (unless there has been voluntary cohabitation after the discovery of the insanity);
- (3) where such marriage was procured by fraud or coercion;
- (4) where either party was matrimonially incapacitated at the time of marriage without the knowledge of the other and has continued to be so incapacitated; or
- (5) where either of the parties had not attained the age of legal consent to the contract of marriage (unless there has been voluntary cohabitation after attaining the age of legal consent), but in such cases only at the suit of the party who had not attained such age.

§ 16-905. Revocation and enlargement of decree of legal separation.

- (a) The court may revoke its decree of legal separation at any time, upon the joint application of the parties to be discharged from the operation of the decree.
- (b) The court may enlarge its decree of legal separation to an absolute divorce upon application of the party to whom the decree of legal separation was granted, a copy of which application shall be duly served upon the adverse party, if the court finds on the basis of affidavits that no reconciliation has taken place or is probable and that a separation has continued voluntarily and without interruption for a six-month period or without interruption for a period of one year.

§ 16-906. Causes for absolute divorce arising after decree for separation.

Where a legal separation has been decreed the court may afterwards decree an absolute divorce between the parties for any cause arising since the first decree and sufficient to entitle the complaining party to the second decree.

§ 16-907. Parent and child relationship defined.

- (a) The term "legitimate" or "legitimated" means that the parent-child relationship exists for all rights, privileges, duties, and obligations under the laws of the District of Columbia.
- (b) The term "born out of wedlock" solely describes the circumstances that a child has been born to parents who, at the time of its birth, were not married to each other. The term "born in wedlock" solely describes the circumstances that a child has been born to parents who, at the time of its birth, were married to each other.

§ 16-908. Relationship not dependent on marriage.

A child born in wedlock or born out of wedlock is the legitimate child of its father and mother and is the legitimate relative of its father's and mother's relatives by blood or adoption.

§ 16-909. Proof of child's relationship to mother and father.

- (a) A child's relationship to its mother is established by its birth to her. A child's relationship to its father is established by proving by a preponderance of evidence that he is the father, and there shall be a presumption that he is the father:
 - (1) if he and the child's mother are or have been married and the child is born during the marriage, or within 300 days after the termination of marital cohabitation by reason of death, annulment, divorce, or separation ordered by a court; or
 - (2) if, prior to the child's birth, he and the child's mother have attempted to marry, and some form of marriage has been performed in apparent compliance with law, though such attempted marriage is or might be declared void for any reason, and the child is born during such attempted marriage, or within 300 days after the termination of such attempted marital cohabitation by reason of death, annulment, divorce, or separation ordered by a court; or
 - (3) if, after the child's birth, he and the child's mother marry or attempt to marry, (with the attempt involving some form of marriage ceremony that has been performed in apparent compliance with law), though such attempted marriage is or might be declared void for any reason, and he has acknowledged the child to be his; or
 - (4) if the putative father has acknowledged paternity in writing.

(b) If questioned, a presumption created by section 16-909(a)(1) through (4) may be overcome upon proof by clear and convincing evidence that the presumed father is not the child's father. The Superior Court shall try the question of paternity and shall determine whether the presumed father is or is not the father of the child.

(b-1) A conclusive presumption of paternity shall be created:

(1) Upon a result and an affidavit from a laboratory of a genetic test of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary of the U.S. Department of Health and Human Services that is performed by a laboratory approved by such a body indicating a 99% probability that the putative father is the father of the child; or

(2) If the father has acknowledged paternity in writing as provided in section 16-909.01(a)(1).

(c) The parent-child relationship shall be conclusively established:

(1) Upon a determination of the parentage of a child by the following:

(A) The Superior Court of the District of Columbia under the provisions of subchapter II of Chapter 23 of this title or subsection (b) of this section;

(B) Any other court of competent jurisdiction;

(C) The IV-D agency of another state, in compliance with jurisdictional and procedural requirements of that state; or

(D) Any entity of another state authorized to determine parentage, in compliance with jurisdictional and procedural requirements of that state;

(2) By a voluntary acknowledgment of paternity pursuant to section 16-909.01(a)(1), unless either signatory rescinds the acknowledgment pursuant to section 16-909.01(a-1); or

(3) By a voluntary acknowledgment of paternity in another state pursuant to the laws and procedures of that state, unless either signatory rescinds the acknowledgment pursuant to the laws and procedures of that state.

(c-1) A parent-child relationship that has been established pursuant to subsection (b-1)(1) of this section may be challenged upon the same grounds and through the same procedures as are applicable to a final judgment of the Superior Court. A parent-child relationship that has been established pursuant to subsection (b-1)(2) of this section or section 16-909.01(a)(1) may be challenged in the Superior Court after the rescission period provided by section 16-909.01(a-1) through the same procedures as are applicable to a final judgment of the Superior Court, but only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenging party. The legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment of parentage may not be suspended during the challenge, except for good cause shown.

(d) The parent-child relationship between an adoptive parent and a child may be established conclusively by proof of adoption.

§ 16-909.01. Establishment of paternity by voluntary acknowledgment and based on genetic test results

(a) Paternity may be established by:

(1) A written statement of the father and mother signed under oath (which may include signature in the presence of a notary) that acknowledges paternity; provided, that before the parents sign the acknowledgment, both have been given written and oral notice of the alternatives to, legal consequences of, and the rights and responsibilities that arise from signing the acknowledgment. (Oral notice may be given through videotape or audiotape.) The acknowledgment shall include the full name, the social security number, and date of birth of the mother, father, and child, the addresses of the mother and father, the birthplace of the child, an explanation of the legal consequences of the affidavit, a statement indicating that both parents understand their rights, responsibilities, and the alternatives and consequences of signing the affidavit, the place the affidavit was completed, signature lines for the parents, and any other data elements required by federal law. Nothing in this paragraph shall affect the validity of a voluntary acknowledgment of paternity executed before December 23, 1997, or preclude the submission of an acknowledgment of paternity that does not comply with the requirements of this paragraph as evidence of paternity in a judicial or administrative proceeding; or

(2) A result and an affidavit from a laboratory of a genetic test of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary of the U.S. Department of Health and Human Services that is performed by a laboratory approved by such a body, that affirms at least a 99% probability that the putative father is the father of the child.

(2) A result and an affidavit from a laboratory of a genetic test of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary of the U.S. Department of Health and Human Services that is performed by a laboratory approved by such a body, that affirms at least a 99% probability that the putative father is the father of the child.

(a-1) A signatory to a voluntary acknowledgment of paternity pursuant to subsection (a)(1) of this section may rescind the acknowledgment within the earlier of 60 days or the date of an administrative or judicial proceeding relating to the child in which the signatory is a party.

(b) An acknowledgment in accordance with subsection (a)(1) of this section, which has not been rescinded pursuant to subsection (a-1) of this section, or a genetic test and affidavit that meet the requirements of subsection (a)(2) of this section shall legally establish the parent-child relationship between the father and the child for all rights, privileges, duties, and obligations under the laws of the District of Columbia. The acknowledgment or genetic test and affidavit shall be admissible as evidence of paternity.

(c) A public or private agency or institution that operates in the District of Columbia shall accept as adequate proof of paternity a birth certificate issued by the District of Columbia after the effective date of the District of Columbia Paternity Establishment Temporary Act of 1991 [June 18, 1991] or other evidence that the requirements of subsection (a)(1) or (a)(2) of this section have occurred.

(d) In the absence of an acknowledgment, or if the probability of paternity shown by a genetic test is less than 99%, paternity may be established as otherwise provided in this chapter.

§ 16-909.02. Full faith and credit to paternity determinations by other states

The District of Columbia government shall give full faith and credit to the determinations of paternity made by other states, whether established through voluntary acknowledgment or through an administrative or judicial process.

§ 16-909.03. Paternity acknowledgment program requirements for birthing hospitals

(a) For the purposes of this section, the term "birthing hospital" means a hospital that has an obstetric care unit or provides obstetric services, or a birthing center.

(b) (1) Each public and private birthing hospital in the District of Columbia shall operate a program that, immediately before and after the birth of a child, provides to each unmarried woman who gives birth at the hospital and the alleged putative father, if present in the hospital:

(A) Written materials concerning paternity establishment;

(B) Forms necessary to acknowledge paternity voluntarily that meet the federal requirements;

(C) A written and oral description (the oral description may be videotaped or audiotaped) of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from, signing a voluntary acknowledgment of paternity;

(D) Written notice that a voluntary acknowledgment of paternity is not effectuated unless the mother and putative father each signs the form under oath and a notary authenticates the signatures;

(E) The opportunity to speak, either by telephone or in person, with hospital or IV-D agency staff who are trained to clarify information and answer questions about paternity establishment;

(F) Access to the services of a notary on the premises of the birthing hospital; and

(G) The opportunity to acknowledge paternity voluntarily in the hospital.

(2) The Mayor shall provide to each birthing hospital the materials described in paragraph (1)(A) through (D) of this subsection, in sufficient amounts to be distributed to each unmarried mother giving birth in the hospital and to each putative father present in the hospital.

(c) The birthing hospital shall transmit each completed voluntary acknowledgment of paternity form to the Registrar of Vital Records within 14 days of completion. The Registrar shall promptly record identifying information from the form and permit the IV-D agency timely access to the identifying information and any other documentation recorded from the form that the IV-D agency needs to determine if a voluntary acknowledgment of paternity has been recorded and to seek a support order on the basis of the recorded voluntary acknowledgment of paternity.

(d) The Mayor shall provide to the staff of each birthing hospital training, guidance, and written instructions necessary to operate the paternity acknowledgment program required by this section.

(e) The Mayor shall assess the program of each birthing hospital each year.

§ 16-909.04. Voluntary paternity acknowledgment program for birth records agency

(a) The Registrar of Vital Records shall offer to any person seeking to file or amend a birth certificate that does not include a father's name:

(1) Written materials concerning paternity establishment;

(2) Forms necessary to acknowledge paternity voluntarily that meet the federal requirements;

- (3) A written and oral description of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from, signing a voluntary acknowledgment of paternity (the oral description may be videotaped or audiotaped);
 - (4) Written notice that a voluntary acknowledgment of paternity is not effectuated unless the mother and putative father each signs the form under oath and a notary authenticates the signatures;
 - (5) The services of a notary on the premises;
 - (6) The opportunity to speak, by telephone or in person, with staff of the IV-D agency or Registrar who are trained to clarify information and answer questions about paternity establishment; and
 - (7) The opportunity to acknowledge paternity voluntarily at the birth records agency.
- (b) The Registrar of Vital Records shall establish procedures for the recording in the records of the Registrar, and for the transmittal to the IV-D agency of completed voluntary acknowledgments of paternity, and of information contained in an acknowledgment that may be used in the establishment or enforcement of a support order.

§ 16-909.05. Mayor authorized to designate other sites for paternity acknowledgment program

The Mayor is authorized to establish voluntary paternity establishment services at entities other than hospitals, or the Vital Records Office, by publishing a notice of such location in the D.C. Register. The Mayor may only designate entities that meet the applicable federal requirements and comply with the same requirements that apply to birthing hospitals as set forth in section 16-909.03.

§ 16-910. Assignment and equitable distribution of property.

Upon entry of a final decree of legal separation, annulment, or divorce, in the absence of a valid antenuptial or postnuptial agreement resolving all issues related to the property of the parties, the Court shall:

- (a) assign to each party his or her sole and separate property acquired prior to the marriage, and his or her sole and separate property acquired during the marriage by gift, bequest, devise, or descent, and any increase thereof, or property acquired in exchange therefor; and
- (b) value and distribute all other property and debt accumulated during the marriage that has not been addressed in a valid antenuptial or postnuptial agreement or a decree of legal separation, regardless of whether title is held individually or by the parties in a form of joint tenancy or tenancy by the entireties, in a manner that is equitable, just, and reasonable, after considering all relevant factors, including, but not limited to:
 - (1) the duration of the marriage;
 - (2) the age, health, occupation, amount, and sources of income, vocational skills, employability, assets, debts, and needs of each of the parties;
 - (3) provisions for the custody of minor children;
 - (4) whether the distribution is in lieu of or in addition to alimony;
 - (5) each party's obligation from a prior marriage or for other children;
 - (6) the opportunity of each party for future acquisition of assets and income;
 - (7) each party's contribution as a homemaker or otherwise to the family unit;
 - (8) each party's contribution to the education of the other party which enhanced the other party's earning ability;
 - (9) each party's increase or decrease in income as a result of the marriage or duties of homemaking and child care;
 - (10) each party's contribution to the acquisition, preservation, appreciation, dissipation, or depreciation in value of the assets which are subject to distribution, the taxability of these assets, and whether the asset was acquired or the debt incurred after separation;
 - (11) the effects of taxation on the value of the assets subject to distribution; and
 - (12) the circumstances which contributed to the estrangement of the parties.
- (c) The Court is not required to value a pension or annuity if it enters an order distributing future periodic payments.

§ 16-911. Pendente lite relief.

(a) During the pendency of an action for divorce, or an action by the husband or wife to declare the marriage null and void, where the nullity is denied by the other spouse, the court may:

(1) require the husband or wife to pay pendente lite alimony to the other spouse; require one party to pay pendente lite child support for his or her minor children committed to another party's care; and require the husband or wife to pay suit money, including counsel fees, to enable such other spouse to conduct the case. The Court may enforce any such order by attachment, garnishment, or imprisonment for disobedience and shall enforce support orders through withholding as required under § 46-207. In determining pendente lite alimony for a spouse, the Court shall consider the factors set forth in § 16-913(d) and may make an award of pendente lite alimony retroactive to the date of the filing of the pleading that requests alimony.

(2) enjoin any disposition of a spouse's property to avoid the collection of the allowances so required;

(3) if a spouse fails or refuses to pay the alimony or suit money, sequester his or her property and apply the income thereof to such objects;

(4) if a party under court order to make payments under this section is in arrears, order the party to make an assignment of part of his or her salary, wages, earnings or other income to the person entitled to receive the payments; and

(5) determine, in accordance with § 16-914, the care and custody of a minor child or children pending final determination of those issues.

(a-1), (a-2) Repealed.

(b) The attachment, garnishment, or assignment under paragraphs (1) and (4) of subsection (a) is binding on the employer, trustee, or other payor of salary, wages, earnings, or other income. No employer shall discharge or otherwise discipline an employee because of such attachment, garnishment, or assignment.

(c) The court may order, at any time, that maintenance or support payments be made to the Collection and Disbursement Unit, as defined in § 46-201(2A), for remittance to the person entitled to receive the payments, and shall order that such payments be made to the Collection and Disbursement Unit when the Collection and Disbursement Unit is responsible for collecting and disbursing these payments under § 46-202.01.

(d) The Court may order any other appropriate pendente lite relief.

§ 16-913. Alimony.

(a) When a divorce or legal separation is granted, the Court may require either party to pay alimony to the other party if it seems just and proper.

(b) The award of alimony may be indefinite or term-limited and structured as appropriate to the facts. The Court shall determine the amount and the time period for the award of alimony.

(c) An award of alimony may be retroactive to the date of the filing of the pleading that requests alimony.

(d) In making an award of alimony, the Court shall consider all the relevant factors necessary for a fair and equitable award, including, but not limited to, the:

(1) ability of the party seeking alimony to be wholly or partly self-supporting;

(2) time necessary for the party seeking alimony to gain sufficient education or training to enable that party to secure suitable employment;

(3) standard of living that the parties established during their marriage, but giving consideration to the fact that there will be 2 households to maintain;

(4) duration of the marriage;

(5) circumstances which contributed to the estrangement of the parties;

(6) age of each party;

(7) physical and mental condition of each party;

(8) ability of the party from whom alimony is sought to meet his or her needs while meeting the needs of the other party; and

(9) financial needs and financial resources of each party, including:

(A) income;

(B) income from assets, both marital and non-marital;

(C) potential income which may be imputed to non-income producing assets of a party;

(D) any previous award of child support in this case;

(E) the financial obligations of each party;

(F) the right of a party to receive retirement benefits; and

(G) the taxability or non-taxability of income.

§ 16-914. Custody of children.

(a) (1) (A) In any proceeding between parents in which the custody of a child is raised as an issue, the best interest of the child shall be the primary consideration. The race, color, national origin, political affiliation, sex, or sexual orientation of a party, in and of itself, shall not be a conclusive consideration. The Court shall make a determination as to the legal custody and the physical custody of a child. A custody order may include:

- (i) sole legal custody;
- (ii) sole physical custody;
- (iii) joint legal custody;
- (iv) joint physical custody; or
- (v) any other custody arrangement the Court may determine is in the best interest of the child.

(B) For the purposes of this paragraph, the term:

(i) "Legal custody" means legal responsibility for a child. The term "legal custody" includes the right to make decisions regarding that child's health, education, and general welfare, the right to access the child's educational, medical, psychological, dental, or other records, and the right to speak with and obtain information regarding the child from school officials, health care providers, counselors, or other persons interacting with the child.

(ii) "Physical custody" means a child's living arrangements. The term "physical custody" includes a child's residency or visitation schedule.

(2) Unless the court determines that it is not in the best interest of the child, the court may issue an order that provides for frequent and continuing contact between each parent and the minor child or children and for the sharing of responsibilities of child-rearing and encouraging the love, affection, and contact between the minor child or children and the parents regardless of marital status. There shall be a rebuttable presumption that joint custody is in the best interest of the child or children, except in instances where a judicial officer has found by a preponderance of the evidence that an intrafamily offense as defined in D.C. Code section 16-1001(5), an instance of child abuse as defined in section 102 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Code § 4-1301.02), an instance of child neglect as defined in section 2 of the Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993, effective October 5, 1993 (D.C. Law 10-56; D.C. Code § 4-1341.01), or where parental kidnapping as defined in D.C. Code section 16-1021 through section 16-1026 has occurred. There shall be a rebuttable presumption that joint custody is not in the best interest of the child or children if a judicial officer finds by a preponderance of the evidence that an intrafamily offense as defined in D.C. Code section 16-1001(5), an instance of child abuse as defined in section 102 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Code § 4-1301.02), an instance of child neglect as defined in section 2 of the Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993, effective October 5, 1993 (D.C. Law 10-56; D.C. Code § 4-1341.01), or where parental kidnapping as defined in D.C. Code section 16-1021 through section 16-1026 has occurred.

(3) In determining the care and custody of a child, the best interest of the child shall be the primary consideration. To determine the best interest of the child, the court shall consider all relevant factors, including, but not limited to:

- (A) the wishes of the child as to his or her custodian, where practicable;
- (B) the wishes of the child's parent or parents as to the child's custody;
- (C) the interaction and interrelationship of the child with his or her parent or parents, his or her siblings, and any other person who may emotionally or psychologically affect the child's best interest;
- (D) the child's adjustment to his or her home, school, and community;
- (E) the mental and physical health of all individuals involved;
- (F) evidence of an intrafamily offense as defined in section 16-1001(5);
- (G) the capacity of the parents to communicate and reach shared decisions affecting the child's welfare;
- (H) the willingness of the parents to share custody;
- (I) the prior involvement of each parent in the child's life;
- (J) the potential disruption of the child's social and school life;
- (K) the geographic proximity of the parental homes as this relates to the practical considerations of the child's residential schedule;
- (L) the demands of parental employment;

- (M) the age and number of children;
- (N) the sincerity of each parent's request;
- (O) the parent's ability to financially support a joint custody arrangement;
- (P) the impact on Temporary Assistance for Needy Families, or Program on Work, Employment, and Responsibilities, and medical assistance; and
- (Q) the benefit to the parents.

(a-1) For the purposes of this section, if the judicial officer finds by a preponderance of evidence that a contestant for custody has committed an intrafamily offense, any determination that custody or visitation is to be granted to the abusive parent shall be supported by a written statement by the judicial officer specifying factors and findings which support that determination. In determining visitation arrangements, if the judicial officer finds that an intrafamily offense has occurred, the judicial officer shall only award visitation if the judicial officer finds that the child and custodial parent can be adequately protected from harm inflicted by the other party. The party found to have committed an intrafamily offense has the burden of proving that visitation will not endanger the child or significantly impair the child's emotional development.

(a-2) Repealed.

(b) Notice of a custody proceeding shall be given to the child's parents, guardian, or other custodian. The court, upon a showing of good cause, may permit intervention by any interested party.

(c) In any custody proceeding under this chapter, the Court may order each parent to submit a detailed parenting plan which shall delineate each parent's position with respect to the scheduling and allocation of rights and responsibilities that will best serve the interest of the minor child or children. The parenting plan may include, but shall not be limited to, provisions for:

- (1) the residence of the child or children;
- (2) the financial support based on the needs of the child and the actual resources of the parent;
- (3) visitation;
- (4) holidays, birthdays, and vacation visitation;
- (5) transportation of the child between the residences;
- (6) education;
- (7) religious training, if any;
- (8) access to the child's educational, medical, psychiatric, and dental treatment records;
- (9) except in emergencies, the responsibility for medical, psychiatric, and dental treatment decisions;
- (10) communication between the child and the parents; and
- (11) the resolution of conflict, such as a recognized family counseling or mediation service, before application to the Court to resolve a conflict.

(d) In making its custody determination, the Court:

- (1) shall consider the parenting plans submitted by the parents in evaluating the factors set forth in subsection (a)(3) of this section in fashioning a custody order;
- (2) shall designate the parent(s) who will make the major decisions concerning the health, safety, and welfare of the child that need immediate attention; and
- (3) may order either or both parents to attend parenting classes.

(e) Joint custody shall not eliminate the responsibility for child support in accordance with the applicable child support guideline as set forth in § 16-916.01.

(f)

(1) An award of custody may be modified or terminated upon the motion of one or both parents, or on the Court's own motion, upon a determination that there has been a substantial and material change in circumstances and that the modification or termination is in the best interest of the child.

(2) When a motion to modify custody is filed, the burden of proof is on the party seeking a change, and the standard of proof shall be by a preponderance of the evidence.

(3) The provisions of this chapter shall apply to motions to modify or terminate any award of custody filed after April 18, 1996.

(g) The Court, for good cause and upon its own motion, may appoint a guardian ad litem or an attorney, or both, to represent the minor child's interests.

(h) The Court shall enter an order for any custody arrangement that is agreed to by both parents unless clear and convincing evidence indicates that the arrangement is not in the best interest of the minor child.

(i) An objection by one parent to any custody arrangement shall not be the sole basis for refusing the entry of an order that the Court determines is in the best interest of the minor child.

(j) The Court shall place on the record the specific factors and findings which justify any custody arrangement not agreed to by both parents.

§ 16-914.01. Retention of jurisdiction as to alimony, custody of children, and child support.

After the issuance of a judgment, decree, or order granting custody, child support, or alimony, the Court retains jurisdiction for the entry of future orders modifying or terminating the initial judgment, decree, or order to the extent the retention of jurisdiction does not contravene other statutory provisions.

§ 16-915. Change of name on divorce.

Upon divorce from the bond of marriage, the court shall, on request of a party who assumed a new name on marriage and desires to discontinue using it, state in the decree of divorce either the birth-given or other previous name which such person desires to use.

§ 16-916. Maintenance of spouse and minor children; maintenance of former spouse; maintenance of minor children; enforcement.

(a) Whenever a husband or wife shall fail or refuse to maintain his or her needy spouse, minor children, or both, although able to do so, or whenever any parent shall fail or refuse to maintain his or her children by a marriage since dissolved, although able to do so, the court, upon proper application and upon a showing of genuine need of a spouse, may decree, pendente lite and permanently, that such husband or wife shall pay reasonable sums periodically for the support of such needy spouse and of the children, or such children, as the case may be, and the court may decree that he or she pay suit money, including counsel fees, pendente lite and permanently, to enable plaintiff to conduct the case.

(b) Whenever a former spouse has obtained a foreign ex parte divorce, the court thereafter, on application of the other former spouse and with personal service of process upon such former spouse in the District of Columbia, may decree that he or she shall pay him or her reasonable sums periodically for his or her maintenance and for suit money, including counsel fees, pendente lite and permanently, to enable plaintiff to conduct the case.

(c) When a father or mother fails to maintain his or her minor child, the Court may decree that the father or mother pay reasonable sums periodically for the support and maintenance of the child, and that the father or mother pay Court costs, including counsel fees, to enable plaintiff to conduct the cases.

(c-1) A support order entered under this section shall contain terms providing for the payment of medical expenses for each child included in the support order, whether or not health insurance coverage is available to pay for those expenses. The court may order either or both parents to provide health insurance coverage for the child, or to pay the unreimbursed medical expenses of the child. In all cases where health insurance coverage is available to either or both parents at reasonable cost, the court shall order either or both parents with health insurance coverage available to provide the coverage, unless a party establishes that the provision of health insurance coverage would be contrary to the best interests of the child.

(c-2) In selecting among health insurance coverage options, the court shall consider, at a minimum, the cost, comprehensiveness, accessibility, and continuing availability of all health insurance coverage available to either parent.

(c-3) For the purposes of this section, health insurance coverage shall be considered reasonable in cost if it is employer-related or other group health insurance coverage, regardless of the service delivery mechanism.

(d) The court may enforce any decree entered under this section in the same manner as is provided in section 16-911.

(e) (1) In order to secure payment of overdue support as defined in section 466(e) of the Social Security Act approved August 16, 1984 (98 Stat. 1306; 42 U.S.C.S. 666(e)), after providing notice under subsection (b) of this section, the Court shall, where appropriate, require the parent to post security, bond, or give some other guarantee.

(2) The Court shall provide advance notice to the parent regarding the delinquency of the support payment and the requirement of posting security, bond, or guarantee. The notice shall inform the parent of the parent's rights and the methods available for contesting the impending action.

(3) Where the Clerk of the Court determines that a parent is delinquent in child support payments in an amount equal to at least 60 days of child support payments, the Clerk of the Court shall notify the Mayor of the parent's name, social security number, court docket number, and the amount of the support payment delinquency.

(f) Any court order that establishes a retroactive amount of child support or a judgment for unreimbursed public assistance shall be established in accordance with section 16-916.01 and shall take into consideration either the current earnings and income of the noncustodial parent at the time the order is set or the earnings and income of the noncustodial parent during the period for which retroactive child support or unreimbursed public assistance is sought. To overcome the presumptive support amount, the court may consider the obligor's ability to pay back support and concurrently maintain current payments.

§ 16-916.01. Child Support Guideline [Formerly § 16-916.1]

(a) In any case brought under paragraph (1), (3), (10), or (11) of section 11-1101 that involves the establishment or enforcement of child support, or in any case that seeks to modify an existing child support order, if the judicial officer finds that there is an existing duty of child support, the judicial officer shall conduct a hearing on child support, make a finding, and enter a judgment in accordance with the child support guideline ("guideline") established in this section.

(b) The guideline shall be based on the following principles:

(1) The guideline shall set forth an equitable approach to child support in which both parents share legal responsibility for the support of the child.

(2) The subsistence needs of each parent shall be taken into account in the determination of child support.

(3) A parent has the responsibility to meet the child's basic needs as well as to provide additional child support above the basic needs level. The relative standard of living of each household shall be considered in the child support award, and a child shall not bear a disproportionate share of the economic consequences of the existence of 2 households rather than 1. When child support is established, the child shall not live at a standard substantially below that of the noncustodial parent.

(4) Application of the guideline shall be gender neutral.

(5) The guideline shall take into consideration the existence of a prior child support order that is being paid by a parent or the obligation of a parent to support a dependent child who lives in the parent's household.

(6) The guideline shall take into account the difference in cost to raise children of different ages.

(7) The guideline shall be applied consistently whether or not the custodial parent is a Temporary Assistance for Needy Families, or Program on Work, Employment, and Responsibility recipient.

(8) The guideline shall be applied presumptively.

(c) For purposes of this section, the term "gross income" means income from any source, including, but not limited to:

(1) Salary or wages, including overtime, tips, or income from self-employment;

(2) Commissions;

(3) Severance pay;

(4) Royalties;

(5) Bonuses;

(6) Interest or dividends;

(7) Income derived from a business or partnership after deduction of reasonable and necessary business expenses, but not depreciation;

(8) Social Security;

(9) Veteran's benefits;

(10) Insurance benefits;

(11) Worker's compensation;

(12) Unemployment compensation;

(13) Pension;

(14) Annuity;

(15) Income from a trust;

(16) Capital gains from a real or personal property transaction, if the capital gains represent a regular source of income;

(17) Spousal support received from any person;

(18) A contract that results in regular income;

(19) A perquisite or in-kind compensation if the perquisite or in-kind compensation is significant and represents a regular source of income or reduces living expenses, such as use of a company car or reimbursed meals;

(20) Income from life insurance or an endowment contract;

(21) Regular income from an interest in an estate, directly or through a trust;

(22) Lottery or gambling winnings that are received in a lump sum or in an annuity;

(23) Prize or award;

(24) Net rental income after deduction of reasonable and necessary operating costs, but not depreciation; or

(25) Taxes paid on a party's income by an employer or, if the income is nontaxable, the amount of taxes that would be paid if the income were taxable.

(c-1) Spousal support paid by the party to the child support order to the other party shall be deducted from the gross income of the paying party.

(d) A prior child support order that is being paid shall be deducted from a parent's income before the child support obligation is computed in the instant case.

(e) (1) The guideline shall have 5 income levels with a different percentage applied at each level.

(2) In level 1, a noncustodial parent with income of \$7,500 or below shall be considered unable to contribute the guideline percentage. A noncustodial parent with gross income below \$7,500 shall be treated on an individual basis and, in nearly all cases, shall be ordered to pay at least a nominal sum of \$50 per month. If the individual circumstances permit, a noncustodial parent with an income below \$7,500 shall be ordered to contribute more.

(3) In level 2, a noncustodial parent with income that is not less than \$7,501 and not more than \$15,000 per year, and whose income with application of the guideline will not be below the poverty level, shall contribute the following percentage of income for basic child support:

One child	20%
Two children	26%
Three children	30%
Four or more children	32%

(4) In level 3, a noncustodial parent with income that is not less than \$15,001 and not more than \$25,000 per year, and whose income with application of the guideline will not be below the poverty level, shall contribute the following percentage of income for basic child support:

One child	21%
Two children	27%
Three children	31%
Four or more children	33%

(5) In level 4, a noncustodial parent with income that is not less than \$25,001 and not more than \$50,000 per year shall contribute the following percentage of income for basic child support:

One child	22%
Two children	28%
Three children	32%
Four or more children	34%

(6) In level 5, a noncustodial parent with income that is not less than \$50,001 and not more than \$75,000 per year shall contribute the following percentage of income for basic child support:

One child	23%
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Two children	29%
Three children	33%
Four or more children	35%

(7) In level 2, 3, 4, or 5, the child support percentage for older children shall be adjusted in accordance with this section. Further adjustments to offset medical insurance cost or income of the custodial parent shall be provided in accordance with this section.

(f) The guideline percentage shall not apply presumptively to a noncustodial parent with income that exceeds \$75,000. The amount available to a child of a noncustodial parent with income above \$75,000 shall not be less than the amount that would have been ordered if the guideline had been applied to a noncustodial parent with income of \$75,000.

(g) The basic child support order amount of the guideline is for a child 6 years of age or younger. The basic child support order shall be increased by 10% if the oldest child is not less than 7 years of age and not older than 12 years of age. The basic child support order shall be increased by 15% if the oldest child is not less than 13 years of age and not more than 21 years of age. For purposes of this subsection, the age of the oldest child shall be used for the computation of the entire child support order amount rather than to compute a separate amount for each child.

(h) (1) An offset from the child support order amount shall be allowed for the child's portion of a medical insurance premium if the noncustodial parent adds or has already added the child to the noncustodial parent's current medical insurance policy and the conditions described in this subsection are met. The offset shall be determined by the subtraction from the noncustodial parent's gross income of the amount of the premium attributable to coverage for the child measured on a per capita basis.

(2) The noncustodial parent shall present proof of the increase in a medical insurance premium incurred as a result of the addition of the child to the medical insurance policy. The proof provided shall identify clearly that the source of the increase of the medical insurance premium is the child who is the subject of the child support order. The cost shall be reasonable.

(3) If a noncustodial parent does not have medical insurance coverage, does not have a second family, and can obtain medical insurance coverage at a reasonable cost, the court may order the noncustodial parent to obtain medical insurance coverage for the child in accordance with federal law. The amount of the offset shall equal the difference between the premium for single coverage and the premium for family coverage. No offset shall be calculated by using the cost for the coverage for the noncustodial parent.

(4) If the noncustodial parent has family medical insurance coverage in the noncustodial parent's medical plan for a second family, the addition of the child who is the subject of the child support order need not result in an additional cost of medical insurance coverage to the parent. The noncustodial parent shall be required to provide proof that the child has been added to the medical insurance coverage and to provide a medical insurance card to the custodial parent. An offset shall not be given if there is no additional cost of medical insurance coverage to the noncustodial parent.

(h-1) For the purposes of this section, medical insurance coverage shall be considered reasonable in cost if it is employer-related or other group medical insurance coverage, regardless of the service delivery mechanism.

(i) The payment of an uninsured extraordinary medical or dental expense incurred by a minor child who is the subject of a child support petition shall be treated on a case by case basis, if payment of such expenses has not been addressed in the support order or in an agreement between the parties. If the court determines that the medical or dental expense is necessary and is in the best interest of the child, the court may reduce the child support order of the noncustodial parent for a portion of the payment that the noncustodial parent makes toward the medical or dental expense or may increase the child support order to reimburse the custodial parent for payments made by the custodial parent.

(j) The percentage of the noncustodial parent's gross income shall be reduced by a percentage that corresponds to the custodial parent's share of total parental gross income. The reduction shall be determined according to the following formula:

(1) Gross income of the custodial parent minus the appropriate threshold amount provided for in paragraph 2 of this subsection and day-care cost divided by gross income of the noncustodial

parent plus the custodial parent's gross income minus appropriate threshold amount and child care costs.

(2) The threshold amount to be used to apply the offset, and below which the custodial parent's income shall be disregarded, shall be \$16,500 gross income if there is 1 child. For each additional child, the threshold amount to be used to apply the offset shall increase by \$2,000.

(3) For the purposes of this subsection, the terms "day-care cost" and "child care costs" include work- or education-related child care expenses, including camp and before and after school care.

(k) (1) If the parties present a consent order, an agreement that is to become an order, or a written agreement that is to be merged in an order, the judicial officer shall examine the child support provisions of the agreement, and compare the child support provisions to the guideline. If the amount of child support agreed upon is outside of the range of child support that would be ordered presumptively upon application of the guideline, the judicial officer shall determine if the agreed upon level of child support is fair and just. If the parties are represented by counsel, the judicial officer shall inquire whether the attorney informed the clients of the guideline. If the clients have not been informed of the guideline, the judicial officer shall advise the attorneys to do so. If a party is not represented by an attorney, the judicial officer shall ensure that the party is aware of the child support amount that the court would order presumptively pursuant to the guideline.

(2) The propriety of any deviation from the guideline shall be justified in writing with a statement of the factors that form the basis for the judicial officer's finding that the deviation is fair and just. A transcript filed in the jacket shall suffice as a writing.

(l) Application of the guideline shall be presumptive. The guideline shall be applied unless application of the guideline would be unjust or inappropriate in the circumstances of the particular case. Departures shall be set forth and explained in writing. The factors that may be considered to overcome the presumption are:

(1) The needs of the child are exceptional and require more than average expenditures;

(2) The gross income of the noncustodial parent is substantially less than that of the custodial parent;

(3) A property settlement provides resources readily available for the support of the child in an amount at least equivalent to the formula amount;

(4) The noncustodial parent supports a dependent other than the child for whom the custodial parent receives credit in the formula calculation, and application of the guideline would result in extraordinary hardship;

(5) The noncustodial parent needs a temporary period of reduced child support payment to permit the repayment of a debt or rearrangement of his or her financial obligations; a temporary reduction may be included in a child support order if:

(A) The debt or obligation is for a necessary expenditure of reasonable cost in light of the noncustodial parent's family responsibilities;

(B) The time of the reduction does not exceed 12 months; and

(C) The child support order includes the amount that is to be paid at the end of the reduction period and the date that the higher payments are to commence;

(6) The custodial parent provides medical insurance coverage for the child at an additional cost to the custodial parent's medical insurance coverage and the additional cost is significant in relation to the amount of child support prescribed by the guideline;

(7) Children of more than 1 noncustodial parent live in the custodial parent's household, receive a child support payment from the noncustodial parent, and the resulting gross income for the custodial parent and the children in the household causes the standard of living of the children to be greater than that of the noncustodial parent; or

(8) Any other exceptional circumstance that would yield a patently unfair result.

(m) The formula established in subsection (q) of this section incorporates a variation of plus or minus 3% for each level. A variation within the plus or minus 3% limit need not be justified by written findings but specific findings are advisable. The factfinder shall consider at least the following factors in the application of a variation:

(1) A child has regular and substantial income that can be used for child support without impairment of the child's current or future education;

(2) The noncustodial parent has special needs that require additional subsistence cost;

(3) The noncustodial parent pays for certain expensive necessities for the child, such as tuition or orthodontia;

(4) The child has moderately more than average needs;

(5) High child care costs are involved; or

(6) There is no medical insurance coverage, medical insurance coverage does not cover dental or major medical items, or the medical insurance coverage has a high deductible, and the expenses are paid or are to be paid by the custodial parent.

(n) In a case in which shared custody is ordered or agreed to and the child spends 40% or more of the child's time with each parent, the guideline shall not apply presumptively. In such shared custody situations, the judicial officer shall have the authority to order either parent to pay a portion of the following expenses for the child: extracurricular activities and lessons, visitation, transportation, private school tuition, school fees, day care, camp, unreimbursed or uninsured health care expenses, and other such expenses. The payments may be in addition to any award of child support. For the purposes of this subsection, "shared custody" means actual visitation that exceeds 40% of the year. The guideline shall be considered advisory, and if, in the discretion of the judicial officer, application of the guideline would result in an unjust or inappropriate order in a particular circumstance, the following procedure shall be considered:

(1) (A) Calculate the amount that the father would pay the mother if the mother has sole custody, and multiply the amount by 1.5.

(B) Calculate the amount that the mother would pay the father if the father has sole custody, and multiply the amount by 1.5.

(2) (A) Multiply the father's obligation by the percentage of the time the mother has the child.

(B) Multiply the mother's obligation by the percentage of the time the father has the child.

(3) The difference between the amounts of paragraphs (2)(A) and (2)(B) of this subsection shall be the net transfer.

(4) Apply any necessary credit or debit. For example, if 1 parent pays all the day-care expense, he or she shall be entitled to a credit for the day-care expense attributable to the days the child is with the other parent.

(o) A child support order issued under this section or § 46-204, shall be subject to modification by application of the guideline subject to the following conditions or limitations:

(1) A party to a child support proceeding shall exchange relevant information on finances or dependents every 3 years and shall be encouraged to update a child support order voluntarily using the updated information and the guideline. Relevant information is any information that is used to compute child support pursuant to the guideline.

(2) Every 3 years, in cases being enforced under title IV, part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C.S. § 651 et seq.), the IV-D agency shall notify both the noncustodial and the custodial parent of the right to a review, and, if appropriate, a modification of their support order under the guideline. In cases where the IV-D agency conducts a review, the IV-D agency shall inform the noncustodial and custodial parent if a modification is warranted under the guideline. Upon the request of either parent or, if the obligee receives public assistance, upon the request of either parent or the IV-D agency, the Superior Court shall modify a support order without requiring any showing of a change in circumstances, notwithstanding any other provision of law, if the order differs by 15% or more from the central guideline figure calculated by applying the guideline to the parties' current circumstances. Nothing in this paragraph shall be construed to limit the ability of a party to seek a modification of a support order upon a showing of a material and substantial change in the needs of the child or the ability of the obligor to pay.

(2A) If a support order does not provide for the payment of medical expenses for each child included in the support order, at the request of a party or the IV-D agency, the court shall modify the support order to provide for the payment of such expenses in accordance with section 16-916.

(3) There shall be a presumption that there has been a substantial or material change of circumstances that warrants a modification of a child support order if application of the guideline to the current circumstances of the parties results in an amount of child support that varies from the amount of the existing child support order by 15% or more. A child support order shall not be modified based solely on the enactment of the guideline. The presumption may be rebutted by:

(A) Proof of special circumstances such as a circumstance that would take a case outside the guideline; or

(B) Proof of substantial reliance on the original child support order issued prior to adoption of the guideline, and that application of the guideline, would yield a patently unjust result.

(3A) In cases being enforced under title IV, part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2371; 42 U.S.C.S. § 651 et seq.), upon receipt of notice and documentation establishing that a parent is incarcerated in a specific facility, the IV-D agency shall review the circumstances of both parents and determine if a modification of the support order is appropriate under the guideline. If the IV-D agency determines that a parent's incarceration has resulted in a

change in financial circumstances warranting a modification of the support order, the IV-D agency may request the court to suspend or modify the support order pursuant to this subsection. Upon receipt of such a request, the court shall modify the support order in accordance with the guideline. The court may modify the support order from the date on which the IV-D agency received notice under this paragraph of the parent's incarceration.

(4) The central figure stated in the guideline shall be used to compute the amount of child support that the guideline would yield for modification and to apply the test for the presumption.

(5) If a child support order is issued after September 27, 1987, and the child support order is outside the guideline, by order of the court or by merged agreement of the parties, the presumption shall not apply within 1 year of the issuance of the child support order.

(6) If a petition to modify a child support order pursuant to this section is accompanied by an affidavit that sets forth sufficient facts and guideline calculations, and is accompanied by proof of service upon the respondent, the Family Court of the Superior Court may enter an order to modify the child support order in accordance with the guideline unless a party requests a hearing within 30 days of service of the petition for modification. No order shall be modified without a hearing if a hearing is timely requested.

(7) Notwithstanding paragraphs (3) through (6) of this subsection, a party may submit a praecipe with a certification of waiver and supporting documentation, as prescribed by the court, to modify the child support amount by agreement of the parties at any time. This agreement shall be treated and reviewed by the court for issuance of a revised decree in the same manner as an original agreement of the parties is reviewed.

(8) The judicial officer shall state the reasons for a departure from the guideline in writing. A transcript filed in the jacket shall suffice as a writing.

(9) Notwithstanding paragraph (3)(B) of this subsection, if a new child is born to the custodial and noncustodial parent, the guideline shall be applied to the entire family and 1 order shall be issued for all the children in the family. If possible, the 2 cases shall be consolidated if the child support of the last child is petitioned as a separate case.

(10) Nothing in this subsection shall preclude a party from moving to modify a child support order at any other time.

(p) (1) If a custodial parent has custody of children of more than 1 noncustodial parent, the judicial officer shall determine the standard of living of the custodial and noncustodial households. Standard of living is measured by dividing the gross income available to the household from all sources by the poverty level income (Chart 5) for the number of adults contributing income to the household, plus the number of children. If the standard of living for the custodial household is larger than the standard of living of the noncustodial household, the departure principle pursuant to subsection (l)(7) of this section may apply.

(2) If the noncustodial parent has other children living with him or her, the guideline shall be determined as follows:

(A) The guideline amount shall be determined for all of the children who live with the noncustodial parent and with the custodial parent for whom the noncustodial parent is responsible, except any child who is already the subject of a child support order.

(B) A per capita share of the guideline amount for a child who lives in the noncustodial parent's household shall be subtracted from the noncustodial parent's gross income. The remaining income shall be used as the noncustodial parent's gross income to calculate child support for a child before the court.

(3) If the judicial officer determines that the presumption has been overcome, the amount of child support ordered shall not reduce the standard of living of the child to less than that of the noncustodial parent. The precise amount of child support ordered is within the discretion of the judicial officer.

(q) The guideline percentages are established as follows:

CHART 1
CHILD SUPPORT ORDER FORMULA
FOR THE SUPERIOR COURT
ONE CHILD
AGES 0-6

ANNUAL GROSS
INCOME OF
NONCUSTODIAL

CHILD SUPPORT
ORDER

PARENT	
0 - \$7,500	Discretion - Minimum \$50/month
\$7,501 - 15,000	20% of Gross Income
15,001 - 25,000	21% of Gross Income
25,001 - 50,000	22% of Gross Income
50,001 - 75,000	23% of Gross Income

AGES 7-12

ANNUAL GROSS INCOME OF NONCUSTODIAL PARENT	CHILD SUPPORT ORDER
0 - \$7,500	Discretion - Minimum \$50/month
\$7,501 - 15,000	20% of Gross Income + 10% of Basic Order (22%)
15,001 - 25,000	21% of Gross Income + 10% of Basic Order (23.1%)
25,001 - 50,000	22% of Gross Income + 10% of Basic Order (24.2%)
50,001 - 75,000	23% of Gross Income + 10% of Basic Order (25.3%)

AGES 13-21

ANNUAL GROSS INCOME OF NONCUSTODIAL PARENT	CHILD SUPPORT ORDER
0 - \$7,500	Discretion - Minimum \$50/month
\$7,501 - 15,000	20% of Gross Income + 15% of Basic Order (23%)
15,001 - 25,000	21% of Gross Income + 15% of Basic Order (24.15%)
25,001 - 50,000	22% of Gross Income + 15% of Basic Order (25.3%)
50,001 - 75,000	23% of Gross Income + 15% of Basic Order (26.45%)

CHART 2
CHILD SUPPORT ORDER FORMULA
FOR THE SUPERIOR COURT
TWO CHILDREN
AGES 0-6 (oldest child)

ANNUAL GROSS INCOME OF NONCUSTODIAL PARENT	CHILD SUPPORT ORDER
0 - \$7,500	Discretion - Minimum \$50/month
\$7,501 - 15,000	26% of Gross Income
15,001 - 25,000	27% of Gross Income
25,001 - 50,000	28% of Gross Income
50,001 - 75,000	29% of Gross Income

AGES 7-12 (oldest child)

ANNUAL GROSS INCOME OF NONCUSTODIAL	CHILD SUPPORT ORDER
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PARENT	
0 - \$7,500	Discretion - Minimum \$50/month
\$7,501 - 15,000	26% of Gross Income + 10% of Basic Order (28.6%)
15,001 - 25,000	27% of Gross Income + 10% of Basic Order (29.7%)
25,001 - 50,000	28% of Gross Income + 10% of Basic Order (30.8%)
50,001 - 75,000	29% of Gross Income + 10% of Basic Order (31.9%)

AGES 13-21 (oldest child)

ANNUAL GROSS INCOME OF NONCUSTODIAL PARENT	CHILD SUPPORT ORDER
0 - \$7,500	Discretion - Minimum \$50/month
\$7,501 - 15,000	26% of Gross Income + 15% of Basic Order (29.9%)
15,001 - 25,000	27% of Gross Income + 15% of Basic Order (31.05%)
25,001 - 50,000	28% of Gross Income + 15% of Basic Order (32.2%)
50,001 - 75,000	29% of Gross Income + 15% of Basic Order (33.35%)

CHART 3
CHILD SUPPORT ORDER FORMULA
FOR THE SUPERIOR COURT
THREE CHILDREN
AGES 0-6 (oldest child)

ANNUAL GROSS INCOME OF NONCUSTODIAL PARENT	CHILD SUPPORT ORDER
0 - \$7,500	Discretion - Minimum \$50/month
\$7,501 - 15,000	30% of Gross Income
15,001 - 25,000	31% of Gross Income
25,001 - 50,000	32% of Gross Income
50,001 - 75,000	33% of Gross Income

AGES 7-12 (oldest child)

ANNUAL GROSS INCOME OF NONCUSTODIAL PARENT	CHILD SUPPORT ORDER
0 - \$7,500	Discretion - Minimum \$50/month
\$7,501 - 15,000	30% of Gross Income + 10% of Basic Order (33.0%)
15,001 - 25,000	31% of Gross Income + 10% of Basic Order (34.1%)
25,001 - 50,000	32% of Gross Income + 10% of Basic Order (35.2%)
50,001 - 75,000	33% of Gross Income + 10% of Basic Order (36.3%)

AGES 13-21 (oldest child)

ANNUAL GROSS
INCOME OF
NONCUSTODIAL
PARENT

CHILD SUPPORT
ORDER

0 - \$7,500	Discretion - Minimum \$50/month
\$7,501 - 15,000	30% of Gross Income + 15% of Basic Order (34.5%)
15,001 - 25,000	31% of Gross Income + 15% of Basic Order (35.65%)
25,001 - 50,000	32% of Gross Income + 15% of Basic Order (36.8%)
50,001 - 75,000	33% of Gross Income + 15% of Basic Order (37.95%)

CHART 4
CHILD SUPPORT ORDER FORMULA
FOR THE SUPERIOR COURT
FOUR OR MORE CHILDREN
AGES 0-6 (oldest child)

ANNUAL GROSS
INCOME OF
NONCUSTODIAL
PARENT

CHILD SUPPORT
ORDER

0 - \$7,500	Discretion - Minimum \$50/month
\$7,501 - 15,000	32% of Gross Income
15,001 - 25,000	33% of Gross Income
25,001 - 50,000	34% of Gross Income
50,001 - 75,000	35% of Gross Income

AGES 7-12 (oldest child)

ANNUAL GROSS
INCOME OF
NONCUSTODIAL
PARENT

CHILD SUPPORT
ORDER

0 - \$7,500	Discretion - Minimum \$50/month
\$7,501 - 15,000	32% of Gross Income + 10% of Basic Order (35.2%)
15,001 - 25,000	33% of Gross Income + 10% of Basic Order (36.3%)
25,001 - 50,000	34% of Gross Income + 10% of Basic Order (37.4%)
50,001 - 75,000	35% of Gross Income + 10% of Basic Order (38.5%)

AGES 13-21 (oldest child)

ANNUAL GROSS
INCOME OF
NONCUSTODIAL
PARENT

CHILD SUPPORT
ORDER

0 - \$7,500	Discretion - Minimum \$50/month
\$7,501 - 15,000	32% of Gross Income + 15% of Basic Order (36.8%)
15,001 - 25,000	33% of Gross Income + 15% of Basic Order (37.95%)
25,001 - 50,000	34% of Gross Income + 15% of Basic Order (39.1%)

50,001 - 75,000

35% of Gross Income + 15% of Basic
Order (40.25%)

CHART 5
1989 POVERTY LEVELS (ANNUALIZED)
FOR THE DISTRICT OF COLUMBIA

NUMBER OF PERSONS	POVERTY LEVEL GROSS INCOME
1	\$ 6,314
2	8,075
3	9,890
4	12,675
5	14,994
6	16,927
7	19,127
8	21,256
9 or more	25,296

STANDARD INCOME DISREGARD FOR
PETITIONER'S ADJUSTED GROSS INCOME

NUMBER OF CHILDREN	AMOUNT
1	\$16,500
2	18,500
3	20,500
4	22,500

For each additional child, add \$2,000.

(r) A child support order shall not be deemed invalid on the sole basis that the child support order was issued pursuant to the Superior Court of the District of Columbia Child Support Guideline and prior to the effective date of the Child Support Guideline Amendment Emergency Act of 1989, effective December 21, 1989 (D.C. Act 8-127, 37 DCR 3).

(s) Upon the occurrence of a substantial or material change in circumstances sufficient to warrant the modification of a support obligation pursuant to the child support guideline, the Court may modify any provision of an agreement or settlement relating to child support, without regard to whether the agreement or settlement is entered as a consent order or is incorporated or merged in a court order.

(t) If an order or agreement providing for child support does not set forth a date on which the support commences, the support shall be deemed to commence on the date the order was entered or the date the agreement was executed.

§ 16-916.02. Child Support Guideline Commission [Formerly § 16-916.2]

(a) There is established a Child Support Guideline Commission ("Commission"). The Commission shall study and make recommendations on the child support guidelines to the Mayor.

(b) The Commission shall consist of a chairperson and 8 members who are District of Columbia residents. The Chief Judge of the Superior Court of the District of Columbia may appoint 2 members. The Mayor shall appoint the chairperson as well as 2 members, one of whom shall be a member of the District of Columbia Bar ("Bar") and an expert in the fields of family law and child support. The Mayor shall also appoint one member to represent the Child Support Enforcement Division of the Office of the Attorney General ("CSED"). The Council shall designate one Councilmember to serve on the Commission and shall appoint 2 additional members, one of whom shall be a member of the Bar and an expert in the fields of family law and child support.

(c) (1) Of the Commission members first appointed after the effective date of the Child Support Guideline Commission Restructuring Emergency Act of 2002 ("Commission Restructuring Act") [July 23, 2002], one member appointed by the Chief Judge of the Superior Court of the District of Columbia, the non-Bar member appointed by the Council, the Bar member appointed by the Mayor, and the CSED representative appointed by the Mayor shall serve 2-year terms. All of the other

initial appointments after the effective date of the Commission Restructuring Act [July 23, 2002] shall serve 4-year terms. Thereafter, all Commission members shall serve for a term of 4 years from the date of appointment. A Commission member may be reappointed. A person appointed to fill a vacancy on the Commission occurring prior to the expiration of a term shall serve for the remainder of the term. A vacancy shall be filled in the same manner as the original appointment.

(2) A majority of the members shall constitute a quorum. A quorum shall be necessary for the Commission to conduct business.

(d) The functions of the Commission shall include:

(1) To review and recommend updates of the child support guidelines not less than once every 4 years.

(2) To review pertinent economic data, including poverty levels, and information on the functioning of the guidelines that the Commission gathers or that is brought to the attention of the Commission for the purpose of recommending changes to the guidelines.

(3) To hold a public meeting at least annually to receive oral or written comments from members of the Bar or the public. Thirty days public notice shall be given for a public meeting.

(4) To perform other tasks as necessary to develop, update, or monitor the guidelines and to ensure that the District of Columbia is in compliance with the federal mandates in section 467 of the Social Security Act, approved August 16, 1984 (98 Stat. 1321; 42 U.S.C.S. § 667).

(e) The Commission, as restructured pursuant to the Child Support Guideline Commission Restructuring Act of 2002 [D.C. Law 14-190, § 2901 et seq.], shall convene no later than December 31, 2002, and shall issue initial recommendations no later than December 31, 2003.

(f) Members of the Commission shall serve without compensation but shall be reimbursed for any reasonable expense associated with service on the Commission.

(g) The Mayor shall provide sufficient space for the Commission to operate and may detail personnel to assist the Commission. The Mayor shall also direct any agency contacted by the Commission to give full cooperation to the Commission.

§ 16-916.03. Proceedings in which child support matters may be considered

The court may consider child support matters, as it deems appropriate, in any proceeding to determine the care and custody of a minor child or children.

§ 16-918. Appointment of counsel; compensation; termination of appointment.

(a) In all cases under this chapter, where the court deems it necessary or proper, a disinterested attorney may be appointed by the court to enter his appearance for the defendant and actively defend the cause.

(b) In any proceeding wherein the custody of a child is in question, the court may appoint a disinterested attorney to appear on behalf of the child and represent his best interests.

(c) An attorney appointed under this section may receive such compensation for his services as the court determines to be proper, which the court may order to be paid by either or both of the parties.

(d) Notwithstanding any other provision of law or any rule of court, the appearance of an attorney in any action under this chapter before a court of original jurisdiction shall be deemed to have terminated for the purpose of service of any motion, process, or any other pleading, upon completion of the case ending in a judgment, adjudication, decree, or final order from which no appeal has been taken when the time allowed for an appeal expires, and, if notice of appeal has been entered, upon the date of the final disposition of the appeal. There shall be no action required of any person or attorney under this subsection, but the court having jurisdiction over the matter may suspend the termination of the appearance on its own motion, or on the motion of any party to the case prior to the expiration of the time for appeal.

§ 16-919. Proof required on default or admission of defendant.

A decree for a divorce, or a decree annulling a marriage, may not be rendered on default, without proof; and an admission contained in the answer of the defendant may not be taken as proof of the facts charged as the ground of the application, but shall be proved by other evidence in all cases.

§ 16-920. Effective date of decree or judgment for annulment or absolute divorce.

A decree or judgment annulling or dissolving a marriage, or granting an absolute divorce, shall become effective to dissolve the bonds of matrimony 30 days after the docketing of the decree or judgment unless either party applies for a stay with the Superior Court of the District of Columbia or the District of Columbia Court of Appeals. If the application for a stay is denied, the judgment will become final upon entry of the court's order denying the stay. If the application for a stay is granted, the stay shall continue in effect until the conclusion of the appeal. If the parties desire immediate finality, they may file a joint waiver of the right to appeal, which will make the decree or judgment final upon docketing of the joint waiver.

§ 16-921. Validity of marriage, action to determine.

When the validity of an alleged marriage is denied by either of the parties thereto the other party may institute an action for affirming the marriage, and upon due proof of the validity thereof the court shall decree it to be valid. The decree shall be conclusive upon all parties concerned.

§ 16-922. Validity of marriages and divorces solemnized or pronounced before January 1, 1902.

This chapter does not invalidate any marriage solemnized according to law before January 1, 1902, or any decree or judgment of divorce pronounced before that date.

§ 16-923. Abolition of action for breach of promise, alienation of affections, and criminal conversation.

Causes of action for breach of promise, alienation of affections, and criminal conversation are hereby abolished.

§ 16-924. Expedited judicial hearing for child support.

(a) In any case brought under § 11-1101(1), (3), (10), or (11), involving the establishment or enforcement of child support, or in any case seeking to modify an existing child support order, where a magistrate judge in the Family Court of the Superior Court finds that there is an existing duty of support, the magistrate judge shall conduct a hearing on support and, within 30 days from the conclusion of the hearing, the magistrate judge shall issue written findings of fact and conclusions of law that shall include, but not be limited to, the following:

- (1) The name and relationship of the parties;
- (2) The name, age, and any exceptional information about the child;
- (3) The duty of support owed;
- (4) The amount of monthly support payments;
- (5) The annual earnings of the parents;
- (6) The social security number of the parents;
- (7) The name, address, and telephone number of each parent's employer;
- (8) The name, address, and telephone number of any person, organization, corporation, or government entity that holds real or personal assets of the obligor; and
- (9) A statement that a responsible relative is bound by this order to notify the Court within 10 days of any change in address or employment.

(b) The alleged responsible relative may be represented by counsel at any stage of the proceedings.

(c) If in a case under subsection (a) of this section the magistrate judge finds that the case involves complex issues requiring judicial resolution, the magistrate judge shall establish a temporary support obligation and refer unresolved issues to a judge, except that the magistrate judge shall not establish a temporary support order if parentage is at issue.

(d) In cases under subsections (a) and (c) of this section in which the magistrate judge finds that there is a duty of support and the individual owing that duty has been served or given notice of the proceedings under any applicable statute or court rule, if that individual fails to appear or otherwise respond, the magistrate judge shall enter a default order.

(e) Subject to subsection (f) of this section, the findings of the magistrate judge shall constitute a final order of the Superior Court.

(f) A review of the magistrate judge's findings in a case under subsections (a) and (c) of this section may be made by a judge of the Family Court sua sponte and shall be made upon the

motion of 1 of the parties, which shall be filed within 30 days after the judgment. An appeal to the District of Columbia Court of Appeals may be made only after a hearing is held in the Superior Court.

§ 16-925. Privacy protection for victims of domestic violence.

(a) The Mayor shall promulgate rules and establish procedures to implement safeguards, applicable to all confidential information handled by the IV-D agency or executive branch agencies in cooperative agreements with the IV-D agency, to protect the privacy rights of parties in IV-D agency proceedings. These safeguards shall include the following:

(1) Prohibitions against the unauthorized use or disclosure of information relating to paternity, support, or custody actions in IV-D agency proceedings;

(2) Prohibitions against the release of information concerning the whereabouts of one party or a child to another party, if a protection order has been entered (in the District or in another jurisdiction) to protect the party or the child whose whereabouts are being sought from the party seeking disclosure;

(3) Prohibitions against release of information concerning the whereabouts of one party or a child to another party if the Mayor has reason to believe that the release of the information may result in physical or emotional harm to the party or the child whose whereabouts are being sought;

(4) Requirements to notify the Secretary of the U.S. Department of Health and Human Services when:

(A) The Mayor has reasonable evidence of domestic violence or child abuse against a party or a child; or

(B) The disclosure of information concerning the whereabouts of the party or the child could be harmful to the party or the child; and

(5) In cases where the Secretary of the U.S. Department of Health and Human Services ("Department") has informed the IV-D agency that the Department has been notified that there is reasonable evidence of domestic violence or child abuse, requirements to determine whether disclosure of information concerning a party's or child's whereabouts to any other person would be harmful to a party or the child, and if so, to prohibit the disclosure.

(b) The Superior Court shall establish procedures to implement safeguards, applicable to all confidential information possessed by the Superior Court, to protect the privacy rights of parties in paternity or support proceedings. These safeguards shall include:

(1) Prohibitions against unauthorized use or disclosure of information relating to paternity, support, or custody actions in Superior Court proceedings;

(2) Prohibitions against the release of information concerning the whereabouts of one party or a child to another party, if a protection order has been entered (in the District or in another jurisdiction) to protect the party or the child whose whereabouts are being sought from the party seeking disclosure;

(3) Prohibitions against release of information concerning the whereabouts of one party or a child to another party if the Superior Court has reason to believe that the release of information may result in physical or emotional harm to the party or the child whose whereabouts are being sought;

(4) Requirements to notify the Secretary of the U. S. Department of Health and Human Services when:

(A) The Superior Court has reasonable evidence of domestic violence or child abuse against a party or a child; or

(B) The disclosure of information concerning the whereabouts of the party or the child could be harmful to the party or the child; and

(5) In cases where the Secretary of the U.S. Department of Health and Human Services ("Department") has informed the Superior Court that the Department has been notified that there is reasonable evidence of domestic violence or child abuse, requirements to determine whether disclosure of information concerning a party's or child's whereabouts to any other person would be harmful to a party or the child, and if so, to prohibit the disclosure.

TITLE 46 DOMESTIC RELATIONS

CHAPTER 5 PREMARITAL AGREEMENTS

§ 46-501. Definitions.

For the purposes of this chapter, the term:

- (1) "Prenuptial agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.
- (2) "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

§ 46-502. Formalities.

A prenuptial agreement must be in writing and signed by both parties. It is enforceable without consideration.

§ 46-503. Content [Formerly § 30-143].

(a) Parties to a prenuptial agreement may contract with respect to:

- (1) The rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;
 - (2) The right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property;
 - (3) The disposition of property upon separation, marital dissolution, annulment, death, or the occurrence or nonoccurrence of any other event;
 - (4) The modification or elimination of spousal support;
 - (5) The making of a will, trust, or other arrangement to carry out the provisions of the agreement;
 - (6) The ownership rights in, and disposition of, the death benefit from a life insurance policy;
 - (7) The choice of law governing the construction of the agreement; and
 - (8) Any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.
- (b) The right of a child to support may not be adversely affected by a prenuptial agreement.

§ 46-504. Effect of marriage.

A prenuptial agreement becomes effective upon marriage.

§ 46-505. Amendment; revocation.

After marriage, a prenuptial agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement or the revocation is enforceable without consideration.

§ 46-506. Enforcement.

(a) A prenuptial agreement is not enforceable if the party against whom enforcement is sought proves that:

- (1) That party did not execute the agreement voluntarily; or
 - (2) The agreement was unconscionable when it was executed and, before execution of the agreement, that party:
 - (A) Was not provided a fair and reasonable disclosure of the property or financial obligations of the other party;
 - (B) Did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and
 - (C) Did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.
- (b) If a provision of a prenuptial agreement modifies or eliminates spousal support and that modification or elimination causes 1 party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, a court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.
- (c) An issue of unconscionability of a prenuptial agreement shall be decided by the court as a matter of law.

§ 46-507. Void marriage.

If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result, unless the agreement expressly provides that it shall be enforceable in the event that the marriage is later determined to be void.

§ 46-508. Limitation of actions.

Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

§ 46-509. Applicability.

This chapter applies to any premarital agreement executed on or after February 9, 1996.

§ 46-510. Application and construction.

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.