

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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*Codification  
District of  
Columbia  
Official Code*

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To amend Chapter 9 of Title 16 of the District of Columbia Official Code to reorganize and clarify the domestic relations laws concerning divorce, alimony, child support, and child custody, to require the consideration of tax consequences in the distribution of property and award of child support upon divorce, to allow the granting of term-limited alimony, to consolidate the provisions dealing with child custody into a single statutory section, and to allow a divorce to become final immediately upon entry of the decree or judgment and a joint waiver of appeal.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Domestic Relations Laws Clarification Act of 2002".

Sec. 2. Chapter 9 of Title 16 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended as follows:

(1) Strike the phrase "16-910. Dissolution of property rights; jurisdiction of court." and insert the phrase "16-910. Assignment and equitable distribution of property." in its place.

(2) Strike the phrase "16-911. Alimony pendente lite; suit money; enforcement; custody of children." and insert the phrase "16-911. Pendente lite relief." in its place.

(3) Strike the phrase "16-912. Permanent alimony; enforcement." and insert the phrase "16-912. Permanent alimony; enforcement. [Repealed]" in its place.

(4) Strike the phrase "16-913. Alimony when divorce is granted." and insert the phrase "16-913. Alimony." in its place.

(5) Strike the phrase "16-914. Retention of jurisdiction as to alimony and custody of children." and insert the phrase "16-914. Custody of children." in its place.

(6) Add the phrase "16-914.01. Retention of jurisdiction as to alimony, custody of children, and child support." after the phrase "16-914. Custody of children."

(7) Strike the phrase "16-917. Co-respondents as defendants; service of process." and insert the phrase "16-917. Co-respondents as defendants; service of process. [Repealed]" in its place.

**ENROLLED ORIGINAL**

(8) Strike the phrase "16-920. Effective date of decree for annulment or absolute divorce." and insert the phrase "16-920. Effective date of decree or judgment for annulment or absolute divorce" in its place.

(9) Strike the phrase "16-924. Expedited judicial hearing." and insert the phrase "16-924. Expedited judicial hearing for child support." in its place.

(b) Section 16-904(b) is amended as follows:

**Amend  
§ 16-904**

(1) Paragraph (1) is amended by striking the semicolon at the end and inserting the phrase "; or" in its place.

(2) Paragraph (2) is amended by striking the semicolon at the end and inserting a period in its place.

(3) Paragraph (3) is repealed.

(4) Paragraph (4) is repealed.

(c) Section 16-905(a) is amended by striking the phrase "divorce from bed and board" and inserting the phrase "legal separation" in its place.

**Amend  
§ 16-905**

(d) Section 16-906 is amended by striking the phrase "divorce from bed and board" and inserting the phrase "legal separation" in its place.

**Amend  
§ 16-906**

(e) Section 16-910 is amended as follows:

**Amend  
§ 16-910**

(1) The section heading is amended by striking the phrase "Dissolution of property rights; jurisdiction of court." and inserting the phrase "Assignment and equitable distribution of property." in its place.

(2) The lead-in language is amended to read as follows:

"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:"

(3) Subsection (b) is amended to read as follows:

"(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."

(4) A new subsection (c) is added to read as follows:

"(c) The Court is not required to value a pension or annuity if it enters an order distributing future periodic payments."

(f) Section 16-911 is amended as follows:

(1) The section heading is amended by striking the phrase "Alimony pendente lite; suit money; enforcement; custody of children." and inserting the phrase "Pendente lite relief." in its place.

(2) Subsection (a) is amended as follows:

(A) Paragraph (1) is amended to read as follows:

"(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 section 46-207. In determining pendente lite alimony for a spouse, the Court shall consider the factors set forth in section 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."

Amend  
§ 16-911

(B) Paragraph (5) is amended to read as follows:

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

(3) Subsections (a-1) and (a-2) are repealed.

(4) Subsection (c) is amended to read as follows:

"(c) The Court may order, at any time, that maintenance or support payments be made to the clerk of the court for remittance to the person entitled to receive the payments, and shall order that such payments be made to the clerk of the court when required to implement withholding under section 46-207."

(5) A new subsection (d) is added to read as follows:

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

(g) Section 16-912 is repealed.

(h) Section 16-913 is amended to read as follows:

"§ 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.

**ENROLLED ORIGINAL**

"(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:

**Repeal  
§ 16-912  
Amend  
§ 16-913**

"(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."

(i) Section 16-914 is amended as follows:

(1) The section heading is amended by striking the phrase "Retention of jurisdiction as to alimony and custody of children." and inserting the phrase "Custody of children." in its place.

(2) Subsection (a) is amended as follows:

(A) Paragraph (1) is amended to read as follows:

"(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:

**Amend  
§ 16-914**

"(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."

(B) Paragraph (3) is amended as follows:

(i) The lead-in language is amended by striking the phrase "infant children" and inserting the phrase "a child" in its place.

(ii) Subparagraph (K) is amended by striking the phrase "or children's".

(3) Subsection (a-2) is repealed.

(4) New subsections (c), (d), (e), (f), (g), (h), (i), and (j) are added to read as follows:

"(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 section 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."

(j) A new section 16-914.01 is added to read as follows:

"§ 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."

(k) Section 16-916.01 is amended as follows:

(1) Subsection (c) is amended as follows:

(A) Paragraph (17) is amended to read as follows:

"(17) Spousal support received from any person;"

(B) Paragraph (23) is amended by striking the word "or" at the end.

(C) Paragraph (24) is amended by striking the period at the end and inserting the phrase "; or" in its place.

(D) A new paragraph (25) is added to read as follows:

"(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."

(2) A new subsection (c-1) is added to read as follows:

"(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."

Amend  
§ 16-914-.01

(3) Subsection (j) is amended by adding a new paragraph (3) to read as follows:

"(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."

Amend  
§ 16-916.01

(4) Subsection (n) is amended by adding the following language after the first sentence: "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."

(5) New subsections (s) and (t) are added to read as follows:

"(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."

(l) Section 16-917 is repealed.

(m) Section 16-920 is amended to read as follows:

"§ 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."

(n) Section 16-924 is amended by adding the phrase "for child support" after the phrase "Expedited judicial hearing" in the section heading.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Repeal  
§ 16-917  
Amend  
§ 16-920

Sec. 4. Effective date.

**ENROLLED ORIGINAL**

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

**Amend  
§ 16-924**

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia