

MARRIAGE LAW IN THE DISTRICT OF COLUMBIA

A REPORT BY THE GAY AND LESBIAN
ACTIVISTS ALLIANCE OF WASHINGTON, D.C.



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The Gay and Lesbian Activists Alliance of Washington, D.C., is a local, all-volunteer, non-partisan, non-profit political organization, founded in 1971 to advance the equal rights of gay men and lesbians in Washington, D.C. GLAA is the nation's oldest continuously active gay and lesbian civil rights organization.

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INTRODUCTION

Rep. John Lewis (D-GA) wrote in the *Boston Globe* on October 25, 2003, “We hurt our fellow citizens and our community when we deny gay people civil marriage and its protections and responsibilities. Rather than divide and discriminate, let us come together and create one nation. We are all one people. We all live in the American house. We are all the American family. Let us recognize that the gay people living in our house share the same hopes, troubles, and dreams. It’s time we treated them as equals, as family.”

The 212 rights and responsibilities listed in this report are rarely considered by couples seeking to marry. Couples—gay and straight—marry for the same reasons: love, companionship, public recognition of their relationship, bonding of families, and raising children, among others. Nonetheless, the D.C. Code defines what a civil marriage is and in doing so enumerates what is being denied to gay and lesbian couples.

This document may help us to better understand what marriage means in the D.C. Code and identify those areas that may be amended in the short term to expand the rights of domestic partners.

The Gay and Lesbian Activists Alliance (GLAA) has been working for more than thirty years to secure the rights and responsibilities encompassed by marriage. In 1988, after a considerable lobbying effort, Mayor Marion Barry appointed former GLAA president Lorri L. Jean as chairperson of D.C. Domestic Partnership Commission to study the possibility of providing benefits to non-married partners of city employees.

The Commission’s work came to fruition in

1992 with the passage of the Health Care Benefits Expansion Act, popularly known as the domestic partnership law. The law was vigorously pushed by a coalition of groups led by GLAA. Unfortunately, the U.S. Congress blocked implementation of the law until 2002. Since 1992, a few other laws have been passed to somewhat expand the original domestic partnership law. These other laws include protection of victims of domestic violence; order of priority for kin to claim human remains; care for people with HIV; and health care decision making for incapacitated people.

The laws provide domestic partners with 8 of the 212 rights and responsibilities of civil marriage in the D.C. Code. Domestic partners may visit each other in hospitals and make medical decisions if their partners are incapacitated. Employers are required to allow employees to take leave to care for their partners. If a partner dies, the survivor may claim the partner’s remains. Domestic partners are protected under the D.C. domestic violence law. District government employees may take sick leave to care for their partner or partner’s children, and may purchase health insurance for their partners at their own expense. D.C. employees may use their opportunity account funds for their partner’s education or business start-up.

However, none of the 1,049 federal rights and responsibilities of civil marriage are available to domestic partners. Consequently, GLAA remains committed to full and equal marriage rights for gay and straight couples. “Separate but equal” has an ugly history of failure in America which may very well be repeated. However, we recognize that the current political environment will not permit

full equality yet. In the meantime, gay couples should at least be afforded all 212 rights and responsibilities in the D.C. Code.

Much of the opposition to equal rights is a result of the muddle of religious, legal, romantic, historic and emotional understandings of marriage that has consequently placed great weight on the word “marriage” itself. The religious involvement in marriage is demonstrated in the legal requirement of a ceremony being officiated by clergy or a judge.

Under the law, marriage is a legally enforceable contract between two people to whom the government grants various rights, duties and obligations. Religious aspects of marriage are not affected by changes in the terms of civil marriage. When the Supreme Court struck down anti-miscegenation laws in 1967, no church was required to marry mix-raced couples. No church today is obligated to marry any couple and may—and do—deny their services, altars and sacraments to any couple that they believe should not be wed. The existence of civil divorce laws does not require any religion to grant or recognize divorces. The First Amendment guarantees this right absolutely. GLAA fully supports this separation of church and state as necessary for the protection of individual rights and the preservation of religious freedom.

Councilmember Jim Graham wrote in 1998, “[c]ivil marriage between partners of the same sex is one of the last barriers in our civil rights movement. I have long held that two people should have the right to declare their lifelong commitment to each other. In addition to the important benefits of mutual love, support and companionship, civil marriage has many very tangible economic and social benefits which will help promote stability in our society. All good things which lesbian & gay couples should certainly share in as equal citizens of our nation.”

The D.C. Code is scattered with marriage laws addressing a wide range of issues. Among these are:

- Children
- Age of majority
- Spousal immunity
- Ethical conduct of public officials
- Crime
- Taxation
- Property rights and obligations
- Inheritance
- Health care
- Government benefits and programs
- Retirement benefits for D.C. employees
- Protection from discrimination, domestic violence and hate crimes

Most of the D.C. Code in these areas could be easily amended to apply equally to domestic partners. The existing D.C. Code lags far behind California, Vermont, Hawaii and many cities in protecting and encouraging stable families. However, we can improve upon the existing framework and expand the rights of domestic partners so that there is greater equality in our laws for these families. The subject index in this report highlights related areas of law that should be amended to include domestic partners.

Society as a whole benefits from the expansion of marriage rights to gay and lesbian people. Children are more secure—and therefore become more successful as adults—when raised in homes with two loving parents who have a legal relationship and can share the responsibility of parenthood. Without the ability to establish a legal relationship to both parents, children are left without important protections, including inheritance rights, Social Security survivor benefits and child support guarantees.

The Social Security Administration looks to state laws to determine who is eligible for survivor benefits. Federal regulations say that a survivor is a minor who is dependent on the deceased person and who is considered an heir to the deceased person's property. D.C. must change the laws to

recognize the children as heir of their parents' domestic partners to avoid the loss of survivor benefits. Children must not be penalized by the government for having same-sex parents.

Civil marriage also protects partners from falling into poverty in bad times. Married couples are responsible for mutual support and responsible for each other's debts. Couples that assume the responsibility for each other relieve the state of the job of caring for single people without other family support. Such couplings help bring emotional calm to the people involved; they educate people into the mundane tasks of social responsibility and mutual caring. Without these responsibilities, many more people would become burdens on the government. D.C. should ease the way for citizens who seek to take responsibility for one another.

Many of these areas of the law use marriage to define who is a family member, next of kin, immediate family, household member, and other related terms. The definitions are inconsistent throughout the D.C. Code because they were added at various times with a narrow focus on the particular section of law. We have been left with a code that lacks a clear definition of family. A separate section of this report lists many of the sections of code which define family and related terms.

Adopting a common and inclusive definition of family, next of kin, and similar phrases would be a significant step forward in modernizing our laws to recognize the reality of families in D.C.

The regulation established to implement the Health Care Benefits Expansion Act of 1992 failed to recognize domestic partnerships and similar legal structures created in other jurisdictions. It is prudent to extend full faith and credit to other jurisdictions' domestic partnerships. Those legal rights should not disappear in the District, but rather visitors and tourists should be covered in the case of accident or injury. The rights of hospital visitation and medical determination are no less important to our visitors than to our citizens. Recognition of existing legal relationships also makes the District more attractive to potential residents. It demonstrates a recognition that we find their relationships valuable and worth supporting as a matter of public policy. At least four jurisdictions already recognize other partnerships: Cambridge, Massachusetts; Key West, Florida; Oakland, California; and West Hollywood, California. D.C. should do no less.

“THE FREEDOM TO MARRY HAS LONG BEEN RECOGNIZED AS ONE OF THE VITAL PERSONAL RIGHTS ESSENTIAL TO THE ORDERLY PURSUIT OF HAPPINESS BY FREE MEN.”

Justice Earl Warren
in *Loving v. Virginia*,
388 U.S. 1 (1967)

DEFINING FAMILIES IN THE D.C. CODE

Households, family, immediate family and related terms are sprinkled through the D.C. Code. These terms lack consistent definitions and are redefined in each area. All of these various definitions need to be modernized to create consistent, inclusive language that recognizes domestic partners.

Some relatively recent laws have broad definitions of family that include unmarried partners:

§ 7-1601. AIDS Health Care. Definitions.

(4) “Families” means persons who are related by blood, legal custody, marriage, having a child in common, or who share or have shared for at least 1 year a mutual residence and who maintain or have maintained an intimate relationship rendering the application of this chapter appropriate . . .

§ 32-501. Family and Medical Leave. Definitions.

(4) “Family member” means:

(A) A person to whom the employee is related by blood, legal custody, or marriage;

(B) A child who lives with an employee and for whom the employee permanently assumes and discharges parental responsibility; or

(C) A person with whom the employee shares or has shared, within the last year, a

mutual residence and with whom the employee maintains a committed relationship . . .

§ 16-1001. Intrafamily Proceedings Generally. Definitions.

(4) The term “family member” includes any individual in the relationship described in paragraph (5).

(5) The term “intrafamily offense” means an act punishable as a criminal offense committed by an offender upon a person:

(A) to whom the offender is related by blood, legal custody, marriage, having a child in common, or with whom the offender shares or has shared a mutual residence; or

(B) with whom the offender maintains or maintained a romantic relationship not necessarily including a sexual relationship. . . .

Older definitions of household and family fail to include cohabitating couples and domestic partners.

§ 1-1106.01. Election Campaigns; Lobbying; Conflict of interest.

(4) “Household” means the public official and his or her immediate family.

(5) “Immediate family” means the public official’s spouse and any parent, brother, or sister, or child of the public official, and

the spouse of any such parent, brother, sister, or child.

§ 1-1106.02. Election Campaigns; Lobbying; Disclosure of financial interest.

For the purpose of this subsection, the words “immediate family” shall have the same meaning as in § 1-1106.01. . . .

(5) “Immediate family” means the child, parent, grandparent, brother, or sister of an individual, and the spouse of such person. . . .

§ 42-3404.02. Tenant opportunity to purchase; “sale” defined.

(c) . . . For purposes of the preceding sentence, the term “member’s of the decedent’s family” means (i) a surviving spouse of the decedent, lineal descendants of the decedent, or spouses of lineal descendants of the decedent...

§ 3-1204.01. Health Occupations Boards. Qualifications of members.

(d) Within the meaning of subsection (c) of this section, the term “household member” means a relative, by blood or marriage, or a ward of an individual who shares the individual’s actual residence. . . .

Numerous laws enumerate the family members that are to be considered. Most do not include domestic partners.

§ 3-1320. Persons ineligible to purchase tickets or shares or receive prizes.

No ticket or share shall be purchased by, and no prize shall be paid to, any of the following persons: Any member or employee of the Board or any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any member or employee of the Board.

§ 42-3651.05. Tenant Receivership. Appointment of a receiver; continuation of ex parte appointment.

(c) The Court shall not appoint as a receiver:

(3) A parent, child, grandchild, spouse, sibling, first cousin, aunt, or uncle of the owner of the property being placed under receivership or a tenant of the property being placed under receivership, whether the relationship arises by blood, marriage, or adoption.

§ 44-1002.05. Nursing Homes And Community Residence Facilities Protections. Appointment of receiver; continuation of ex parte appointment.

(a)(3) The court shall not appoint as a receiver:

(C) A parent, child, grandchild, spouse, sibling, first cousin, aunt, or uncle of one of the facility’s residents, whether the relationship arises by blood, marriage, or adoption. . . .

§ 6-211. District of Columbia Housing Authority. Board of Commissioners.

(q) . . . no person shall serve as a Commissioner who is . . . a spouse of the head of a District department or agency; a spouse of an Authority employee; a spouse of an elected official; or a parent or child of any of the above persons.

Explicit inclusion of domestic partners in the law is rare, but the number of references is increasing:

§ 21-2210. Substituted consent.

(a) In the absence of a durable power of attorney for health care and provided that the incapacity of the principal has been certified in accordance with § 21-2204, the following individuals, in the order of priority set forth

below, shall be authorized to grant, refuse or withdraw consent on behalf of the patient with respect to the provision of any health-care service, treatment, or procedure:

- (1) A court-appointed guardian or conservator of the patient, if the consent is within the scope of the guardianship or conservatorship;
- (2) The spouse or domestic partner of the patient;
- (3) An adult child of the patient;
- (4) A parent of the patient;
- (5) An adult sibling of the patient;
- (5A) A religious superior of the patient, if the patient is a member of a religious order or a diocesan priest;
- (5B) A close friend of the patient; or
- (6) The nearest living relative of the patient.

Other laws mention degrees of kinship without defining the terms.

§ 3-1328. Persons ineligible for suppliers' license.

The Board, in its discretion, may determine the following persons not to be eligible to receive a suppliers' license: . . . a business in which a person disqualified under provisions of this section is employed or active or in which a person is married or related in the 1st degree of kinship to such person who has an interest of more than 10 percent in the business.

§ 19-701. Escheatment generally.

Where there is no surviving spouse or relations of the intestate within the fifth degree, reckoned by counting down from the common ancestor to the more remote, the surplus of

real and personal property escheats to the District of Columbia to be used by the Mayor of the District of Columbia for the benefit of the poor.

Finally there are laws that define familiar familial terms such as "parent," "brother and sister" and "step-parent." While these definitions are useful, they fail to recognize the reality of extended families with unmarried partners.

§ 32-1201. Parental Leave. Definitions.

(2) "Parent" means:

- (A) The natural mother or father of a child;
- (B) A person who has legal custody of a child;
- (C) A person who acts as a guardian of a child regardless of whether he or she has been appointed legally as such;
- (D) An aunt, uncle, or grandparent of a child; or
- (E) A person who is married to a person listed in subparagraphs (A) through (D) of this paragraph. . . .

§ 4-1301.02. Child Abuse and Neglect. Definitions.

. . . (12) "God parent" means an individual identified by a relative of the child by blood, marriage, or adoption, in a sworn affidavit, to have close personal or emotional ties with the child or the child's family, which pre-dated the child's placement with the individual.

§ 4-201.01. Actions for Support from Responsible Relatives. Definitions.

. . . (9) "Stepparent" means a person who is living in the home of a minor child for whom TANF or POWER is requested, and who is legally married to the natural or adoptive parent of the child.

§ 4-205.22. Availability of stepparent.

(a) A stepparent is not required by the law of the District to support his or her stepchildren, but is legally responsible for the support of his or her spouse.

(b)(1) When a child lives with a parent and a stepparent, the income of the stepparent shall be considered as available to the family in computing eligibility for public assistance according to the requirements of this subsection. When the child lives with a parent and another person, not a stepparent, who is maintaining a home with the parent, the financial resources of that person shall be considered to the extent to which that person is contributing to the support of the parent and the child. . . .

(d) For purposes of this section, a “deemed parent” is:

(1) The natural or adoptive parent of a minor dependent child, if the child is his- or herself the parent of a dependent child, and all three generations live in the same household; or

(2) The parent of a minor dependent child, if the parent lives in the same household with the dependent child and marries a person with whom the parent does not have a child in common.

§ 32-1501. Workers’ Compensation. Definitions.

(2) “Brother” or “sister” includes stepbrothers and stepsisters, half- brothers and half-sisters, and brothers and sisters by adoption, but does not include married brothers nor married sisters unless wholly dependent on the employee.

D.C. MARRIAGE LAW SUBJECT INDEX

In each of the categories below, we have grouped laws dealing with related issues. Because of their broad nature, many laws fall into more than one category. The categories may assist us in crafting legislation to address various related issues.

**** Designates code sections that include domestic partners.**

Age of Majority

In D.C., a person may consent to marriage at 16 years of age. In doing so they are considered a legal adult for a range of issues, from guardianship and health care issues to curfews. Domestic partners may register no earlier than the age of 18. These rights of emancipated adults can only be gained through marriage or by lowering the minimum age of consent for domestic partners to match the age of consent to marry.

§ 2-1542.	Juvenile Curfew. Definitions.
§ 7-1231.02.	Mental Health Consumers' Rights Protection. Definitions.
§ 21-104.	Guardianship of Infants. Termination of guardianship of the person.
§ 21-107.	Guardianship of Infants. Preferences in appointment of guardian of estate.
§ 21-109.	Guardianship of Infants. Spouse as guardian of estate.
§ 21-511.	Hospitalization of the Mentally Ill. Voluntary hospitalization and treatment.

§ 21-512.	Hospitalization of the Mentally Ill. Release of voluntary patients.
§ 22-3011.	Defenses to child sexual abuse.
§ 46-403.	Marriage. Marriages void from date of decree; age of consent.
§ 46-411.	Marriage. Consent of parent or guardian.

Children

Marriage is in part designed as an institution in which the rights of children are protected through support, access to survivor benefits and other instruments. However, children are frequently raised outside of marriage due in part to the current prohibition on same-sex marriages. These children lack the protections that otherwise would protect them in the case of divorce, death of a parent, poverty and a range of other situations. Domestic partners should be recognized as family members and given all of the rights and responsibilities for raising children. Anything less hurts the children whom the law is intended to protect.

§ 2-1542.	Juvenile Curfew. Definitions.
§ 4-201.01.	Actions for Support from Responsible Relatives. Definitions.
§ 4-205.22.	Actions for Support from Responsible Relatives. Availability of stepparent.
§ 4-213.01.	Actions for Support from Responsible Relatives. Action for support.
§ 4-1301.02.	Reporting Abuse and Neglect. Definitions.
§ 5-716.	Police and Firefighters Retirement and Disability. Survivor benefits and annuities.

§ 7-205.	Vital Records. Birth registration.
§ 16-308.	Investigations when prospective adoptee is adult or petitioner is spouse of natural parent.
§ 16-577.	Applicability of per centum limitations to judgment for support.
§ 16-907.	Parent and child relationship defined.
§ 16-908.	Relationship not dependent on marriage.
§ 16-909.	Proof of child's relationship to mother and father.
§ 16-910.	Assignment and equitable distribution of property.
§ 16-911.	Pendente lite relief.
§ 16-916.	Maintenance of spouse and minor children; maintenance of former spouse; maintenance of minor children; enforcement.
§ 16-2345.	New birth record upon marriage or determination of natural parents.
§ 19-101.01.	Rights of Surviving Spouse and Children. Applicable law.
§ 19-101.04.	Rights of Surviving Spouse and Children. Family allowance.
§ 19-101.05.	Rights of Surviving Spouse and Children. Source, determination, and documentation; equitable apportionment when minor children are not in custody of surviving spouse.
§ 19-318.	Intestates' Estates. Antenuptial children.
§ 21-102.	Guardianship of Infants. Testamentary guardians of the person.
§ 21-107.	Guardianship of Infants. Preferences in appointment of guardian of estate.
§ 21-108.	Guardianship of Infants. Selection of guardian by infant.
§ 21-113.	Guardianship of Infants. Enjoining spouse, parent, or testamentary guardian from interfering with minor's estate.
§ 32-1201.	Parental Leave. Definitions.
§ 46-301.01.	Interstate Family Support. Definitions.

Crime

A number of crimes in D.C. are dependant on a persons' marital status. Among these are adultery, bigamy, incest, hate crimes, HIV testing of sexual offenders, and "causing a spouse to live in prostitution." These laws should be modernized, repealed or expanded to include domestic partners as appropriate. Adultery is currently in the process of being repealed with other archaic laws. GLAA fully supports the repeal effort.

§ 22-201.	Adultery. Definition and penalty. (Repeal Pending)
§ 22-501.	Bigamy. Definition and penalty.
§ 22-1403.	False personation before court, officers, notaries.
§ 22-1901.	Incest. Definition and penalty.
§ 22-2708.	Causing spouse to live in prostitution.
§ 22-3701.	Bias-Related Crime. Definitions.
§ 22-3901.	HIV Testing of Certain Criminal Offenders. Definitions.

Death

Death of a partner can be one of the most traumatic events in a person's life. In times of need, marriage acts as a safety net for families. The difficulties involved in handling the deceased's estate with or without a will; access to retirement and other death benefits for the survivors of public servants; and the rights of dependent children to various support systems are all addressed for married couples. Most of these are unobtainable by unmarried couples and their non-biological children. Recognizing the reality of domestic partners and dependent children when a person dies is sorely needed. The federal government has already provided for the partners of people killed in the terrorist attacks on 9/11/2001. D.C. should catch up.

§ 1-623.33.	Compensation in case of death.	§ 19-305.	Intestates' Estates. Distribution of surplus after payment to surviving spouse.
§ 3-202.	Dead bodies for burial at public expense to be reported to Board; removal; exceptions.	§ 19-318.	Intestates' Estates. Antenuptial children.
§ 3-413.	Claim of human remains—Order of priority of next of kin. **	§ 19-602.11.	Nonprobate Transfers on Death; Uniform Law. Ownership during lifetime.
§ 5-701.	Police and Firefighters Retirement and Disability. Definitions.	§ 19-602.12.	Nonprobate Transfers on Death; Uniform Law. Rights at death.
§ 5-716.	Police and Firefighters Retirement and Disability. Survivor benefits and annuities.	§ 19-602.15.	Nonprobate Transfers on Death; Uniform Law. Community property and tenancy by the entireties.
§ 11-1566.	Judges of the District of Columbia Courts. Survivor annuity; election; relinquishment.	§ 19-701.	Escheatment generally.
§ 16-2701.	Negligence Causing Death. Liability; damages; prior recovery as precluding action.	§ 20-303.	Opening the Estate. Order of priority for appointment of personal representative; persons excluded.
§ 19-101.01.	Rights of Surviving Spouse and Children. Applicable law.	§ 21-102.	Guardianship of Infants. Testamentary guardians of the person.
§ 19-101.02.	Rights of Surviving Spouse and Children. Homestead allowance.	§ 21-107.	Guardianship of Infants. Preferences in appointment of guardian of estate.
§ 19-101.03.	Rights of Surviving Spouse and Children. Exempt property.	§ 21-108.	Guardianship of Infants. Selection of guardian by infant.
§ 19-101.04.	Rights of Surviving Spouse and Children. Family allowance.	§ 38-2021.09.	Retirement of Public School Teachers. Deferred annuity; annuity to survivors.
§ 19-101.05.	Rights of Surviving Spouse and Children. Source, determination, and documentation; equitable apportionment when minor children are not in custody of surviving spouse.	§ 38-2021.23.	Retirement of Public School Teachers. Increased annuities for certain surviving spouses.
§ 19-112.	Rights of Surviving Spouse and Children. Devise or bequest to spouse.	§ 38-2023.02.	Retirement of Public School Teachers. Annuity for unremarried widow or widower.
§ 19-113.	Rights of Surviving Spouse and Children. Renunciation of devises and bequests; election; time limitations; renunciation or election by guardian or fiduciary; maximum rights; effect of no devise or bequest or if nothing passes under either; antenuptial or postnuptial agreements.	§ 42-3404.02.	Rental Housing Conversion and Sale. Tenant opportunity to purchase; "sale" defined.
§ 19-114.	Rights of Surviving Spouse and Children. Rights of surviving spouse if there is no renunciation.		
§ 19-301.	Intestates' Estates. Course of descents generally.		
§ 19-302.	Intestates' Estates. Share of spouse.		

Discrimination, Domestic Violence and Hate Crimes

The advent of domestic partnerships has left the D.C. Human Rights Act with an outdated definition of “marital status.” This definition needs to be updated to include domestic partners. The Bias Crimes Act—commonly known as hate crimes—apparently uses the Human Rights Act’s definition of marital status. The Bias Crime Act should be altered to explicitly state that the definitions of categories can be found in the Human Rights Act.

§ 2-1401.02. Human Rights. Definition of “Marital Status.”

§ 16-1001. Proceedings Regarding Intrafamily Offenses. Definitions. **

§ 22-3701. Bias-Related Crime. Definitions.

Ethics

Public officials who may not marry their same-sex partner and others who choose not to marry are not required to disclose the finances, interests and entanglements of their partners. Their married counterparts must fully disclose these potential conflicts-of-interest. Domestic partners and household members should also be subject to these laws:

§ 1-1106.01. Election Campaigns; Lobbying; Conflict of interest.

§ 1-1106.02. Election Campaigns; Lobbying; Disclosure of financial interest.

§ 3-609. Boxing and Wrestling Commission. Liability of Commission members.

§ 3-1204.01. Health Occupations Boards. Qualifications of members.

§ 3-1320. Lottery and Charitable Games Control Board. Persons ineligible to purchase tickets or shares or receive prizes.

§ 3-1328. Lottery and Charitable Games Control Board. Persons ineligible for suppliers’ license.

§ 6-211. District of Columbia Housing Authority. Board of Commissioners.

§ 11-1530. Judges of the District of Columbia Courts. Financial statements.

§ 11-1561. Judges of the District of Columbia Courts. Definitions.

§ 21-582. Hospitalization of the Mentally Ill. Petitions, applications, or certificates of physicians or qualified psychologists.

§ 42-3651.05. Tenant Receivership. Appointment of a receiver; continuation of ex parte appointment.

§ 44-1002.05. Nursing Homes and Community Residence Facilities Protections. Appointment of receiver; continuation of ex parte appointment.

Health Care

One of the most important political issues today is health care. Uninsured patients cost the city enormous amounts of money. As a partial step in addressing this problem, the Health Care Benefits Expansion Act of 1992 was passed by the District, but blocked from implementation by the U.S. Congress for a decade. While District government employees now have the ability to buy insurance for their domestic partners, much more is needed to eliminate deficiencies in the law. The D.C. Council should immediately pass legislation to pay for the premiums of domestic partners just as the District does for any other family member of District government employees. The rights of the mentally ill must be expanded to recognize domestic partners and their role in treatment and recovery. Domestic partners also need to be recognized as having standing to be appointed power of attorney for each other so that they are able to handle the great number of legal and financial tasks involved in the case of incapacitation:

§ 1-529.04. Enrollment in health benefits plan.

§ 1-621.07. Election of coverage.

§ 1-623.10. Augmented compensation for dependents.

§ 7-622. Death. Declaration—Execution; form.

§ 7-1231.13. Mental Health Consumers’ Rights Protection. Retention of civil rights.

§ 7-1601.	AIDS Health Care. Definitions. **
§ 21-522.	Hospitalization of the Mentally Ill. Examination and admission to hospital; notice.
§ 21-527.	Hospitalization of the Mentally Ill. Examination and release of person; notice.
§ 21-564.	Hospitalization of the Mentally Ill. Exercise of property and other rights; notice of inability; persons hospitalized prior to September 15, 1964.
§ 21-565.	Hospitalization of the Mentally Ill. Statement of release and adjudication procedures and of other rights.
§ 21-582.	Hospitalization of the Mentally Ill. Petitions, applications, or certificates of physicians or qualified psychologists.
§ 21-2043.	Guardianship, Protective Proceedings, and Durable Power of Attorney. Who may be guardian; priorities.
§ 21-2065.	Guardianship, Protective Proceedings, and Durable Power of Attorney. Accounts.
§ 21-2068.	Sale, encumbrance, or transaction involving conflict of interest; voidable; exceptions.
§ 21-2113.	Uniform General Power of Attorney. Construction of power relating to personal and family maintenance.
§ 21-2202.	Health-Care Decisions. Definitions. **
§ 21-2208.	Health-Care Decisions. Revocation.
§ 21-2210.	Health-Care Decisions. Substituted consent.**
§ 31-3303.07.	Health Insurance Portability and Accountability. Limitation on preexisting condition exclusion period.
§ 32-501.	Family and Medical Leave. Definitions.**
§ 32-701.	Health Care Benefits Expansion. Definitions.**
§ 32-702.	Domestic partnership registration and termination procedures.**
§ 32-1501.	Workers' Compensation. Definitions.

Property

Property rights and responsibilities include many issues that also deal with children, death and taxes. Married people are responsible for their spouse's debts acquired during the marriage. Likewise, support of a spouse can give relief from garnishment of wages. These sections should be updated to include domestic partners:

§ 1-307.68.	Use of opportunity account funds. **
§ 6-321.04.	Housing Redevelopment. Lease of property by Agency; other transfers limited; priority of owner of displaced business concern.
§ 15-502.	Exemptions and Trial of Right to Seized Property. Mortgage or other instrument affecting exempt property.
§ 16-577.	Applicability of per centum limitations to judgment for support.
§ 16-910.	Assignment and equitable distribution of property.
§ 19-101.01.	Rights of Surviving Spouse and Children. Applicable law.
§ 19-101.03.	Rights of Surviving Spouse and Children. Exempt property.
§ 19-101.04.	Rights of Surviving Spouse and Children. Family allowance.
§ 19-101.05.	Rights of Surviving Spouse and Children. Source, determination, and documentation; equitable apportionment when minor children are not in custody of surviving spouse.
§ 19-112.	Devise or bequest to spouse.
§ 19-113.	Renunciation of devises and bequests; election; time limitations; renunciation or election by guardian or fiduciary; maximum rights; effect of no devise or bequest or if nothing passes under either; antenuptial or postnuptial agreements.
§ 19-114.	Rights of surviving spouse if there is no renunciation.
§ 19-602.11.	Nonprobate Transfers on Death; Uniform Law. Ownership during lifetime.

§ 19-602.15.	Nonprobate Transfers on Death; Uniform Law. Community property and tenancy by the entireties.
§ 19-701.	Escheatment generally.
§ 19-904.	Exclusions from statutory rule against perpetuities.
§ 21-113.	Guardianship of Infants. Enjoining spouse, parent, or testamentary guardian from interfering with minor's estate.
§ 28-4804.13.	Allocation of Receipts During Administration of Trust. Property not productive of income.
§ 42-1102.	Recordation Tax on Deeds. Deeds exempt from tax.
§ 42-3404.02.	Rental Housing Conversion and Sale. Tenant opportunity to purchase; "sale" defined.
§ 42-3651.05.	Tenant Receivership. Appointment of a receiver; continuation of ex parte appointment.
§ 46-601.	Property Rights. Rights enumerated.
§ 47-902.	Transfer Tax on Real Property. Enumeration of transfers exempt from tax.

Procedures

Many laws relate directly to the procedures under which a marriage license may be granted and a ceremony performed. These generally do not represent rights or responsibilities. If gay and lesbian people were given their fundamental rights to marriage, all of these areas would apply. Some areas such as prenuptial agreements should be expanded to recognize domestic partners and thereby allow for the legally contractable distribution of property should the domestic partnership be dissolved. At least one of these sections—"§ 46-415. Issue of marriages of colored persons"—is archaic and should be removed:

§ 7-215.	Vital Records. Marriage registration.
§ 7-219.	Vital Records. Confidentiality.
§ 11-1101.	Family Court of the Superior Court. Jurisdiction of the Family Court.
§ 15-717.	Marriage license and related fees.

§ 16-902.	Divorce, Annulment, Separation, Support, Etc. Residence requirements.
§ 16-903.	Decree annulling marriage.
§ 16-904.	Grounds for divorce, legal separation, and annulment.
§ 16-910.	Assignment and equitable distribution of property.
§ 16-911.	Pendente lite relief.
§ 16-913.	Alimony.
§ 16-915.	Change of name on divorce.
§ 16-916.	Maintenance of spouse and minor children; maintenance of former spouse; maintenance of minor children; enforcement.
§ 16-920.	Effective date of decree or judgment for annulment or absolute divorce.
§ 16-921.	Validity of marriage, action to determine.
§ 16-922.	Validity of marriages and divorces solemnized or pronounced before January 1, 1902.
§ 16-2501.	Change of Name. Application; persons who may file.
§ 16-2502.	Change of Name. Notice; contents.
§ 16-2503.	Change of Name. Decree.
§ 32-701.	Health Care Benefits Expansion. Definitions. **
§ 32-702.	Domestic partnership registration and termination procedures. **
§ 46-401.	Marriage. Marriages void ab initio—In general.
§ 46-402.	Marriage. Marriages void ab initio—Judicial decree.
§ 46-403.	Marriage. Marriages void from date of decree; age of consent.
§ 46-404.	Marriage. Persons allowed to institute annulment proceedings.
§ 46-405.	Marriage. Illegal marriages entered into in another jurisdiction.

§ 46-406.	Marriage. Persons authorized to celebrate marriages.
§ 46-407.	Marriage. Celebration of marriage by unauthorized persons.
§ 46-408.	Marriage. Celebration of marriage without license.
§ 46-409.	Marriage. Issuance of license—Waiting period.
§ 46-410.	Marriage. Issuance of license—Duty of Clerk; false swearing by applicant deemed perjury.
§ 46-411.	Marriage. Consent of parent or guardian.
§ 46-412.	Marriage. Form of license; return; coupons.
§ 46-413.	Marriage. Failure to make return.
§ 46-414.	Marriage. Record books.
§ 46-415.	Marriage. Issue of marriages of colored persons.
§ 46-416.	Marriage. Public inspection and examination of applications.
§ 46-416.01.	Marriage. Social security numbers to be filed with application.
§ 46-417.	Marriage. Premarital blood tests; statement regarding test to be filed with application.
§ 46-418.	Marriage. Waiver of certain requirements.
§ 46-419.	Marriage. Financial inability to pay for blood test or required statement.
§ 46-420.	Marriage. Confidential character of blood test information.
§ 46-501.	Premarital Agreements. Definitions.
§ 46-504.	Premarital Agreements. Effect of marriage.
§ 46-505.	Premarital Agreements. Amendment; revocation.
§ 46-507.	Premarital Agreements. Void marriage.
§ 46-508.	Premarital Agreements. Limitation of actions.

Public Assistance

While the lack of legal recognition of unmarried partners does benefit the poor who do not have the partner's income calculated as a factor in eligibility for public assistance, children do benefit by having their relationship with another adult recognized for support purposes. These laws should be modernized to reflect the reality of family structures:

§ 4-201.01.	Actions for Support from Responsible Relatives. Definitions.
§ 4-205.22.	Actions for Support from Responsible Relatives. Availability of stepparent.
§ 4-213.01.	Actions for Support from Responsible Relatives. Action for support.
§ 4-218.01.	Fraud in obtaining public assistance; repayment; liability of family members; penalties.

Retirement

A large percentage of an employee's compensation is in retirement programs. Married people benefit from their spouse's retirement survivor benefits, but domestic partners are not recognized for these important benefits. Consequently, married people earn far more than partnered people through their survivor benefits for the same work. These laws need to be modernized to provide for domestic partners of retired District government employees in the same manner that married spouses are treated:

§ 1-529.01.	Officers and Employees Generally. Spouse Equity. Application.
§ 1-529.03.	Officers and Employees Generally. Spouse Equity. Compliance with court orders.
§ 1-626.04.	Retirement. Definitions.
§ 1-702.	District of Columbia Employees Retirement Program Management. Definitions.
§ 1-901.02.	Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan. Definitions.

- § 5-131.03. Performing Police Band. Retirement of Director—Conditions; annuities.

- § 5-701. Police and Firefighters Retirement and Disability. Definitions.

- § 5-716. Police and Firefighters Retirement and Disability. Survivor benefits and annuities.

- § 38-2021.09. Retirement of Public School Teachers. Deferred annuity; annuity to survivors.

- § 38-2021.23. Retirement of Public School Teachers. Increased annuities for certain surviving spouses.

- § 38-2023.02. Retirement of Public School Teachers. Annuity for unremarried widow or widower.

Spousal Immunity

Spouses cannot be compelled to testify against each other in criminal proceedings and their private communications are protected, with certain exceptions. This is a fundamental right that is denied to unmarried couples and domestic partners. This group of laws should be amended to include domestic partnerships:

- § 14-306. Competency of Witnesses. Husband and wife.

- § 14-309. Competency of Witnesses. Clergy.

- § 22-3011. Defenses to child sexual abuse.

- § 22-3017. Defenses to sexual abuse of a ward, patient, or client.

- § 22-3019. Sexual Abuse. No spousal immunity from prosecution.

- § 22-3024. Sexual Abuse. Spousal privilege inapplicable.

Taxes

D.C. income taxes are largely based on the federal tax law. Couples filing jointly federal taxes may do the same in the District. However, in order to make D.C. joint filing an option, significant changes would have to be made to the tax law or full marriage rights would need to be granted. However, several laws could be easily amended to include domestic partners. Laws related to transfer of property taxes may be amended by a current bill to include domestic partners. GLAA fully supports that bill. These laws should be amended to include domestic partners:

- § 47-902. Transfer Tax on Real Property. Enumeration of transfers exempt from tax.

- § 42-1102. Recordation Tax on Deeds. Deeds exempt from tax.

- § 47-1805.01. Tax on Residents and Nonresidents. Returns—Forms.

- § 47-1805.02. Tax on Residents and Nonresidents. Returns—Persons required to file.

- § 47-1806.02. Tax on Residents and Nonresidents—Personal exemptions.

- § 47-1806.03. Tax on Residents and Nonresidents—Imposition and rates.

- § 47-4212. Interest and Penalties. Imposition of fraud penalty.

- § 47-4432. Interest and Penalties. Joint and combined returns; real property refund due to more than one owner.

- § 47-4509. College Savings Program. Local tax exemption.

- § 50-1501.02. Registration of Motor Vehicles. Motor vehicles and trailers; expiration; certificates and tags; sale or transfer; Mayor to issue rules.

MARRIAGE RIGHTS & RESPONSIBILITIES IN THE DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA OFFICIAL CODE 2001 EDITION

** Designates code sections that include domestic partners.

TITLE 1. GOVERNMENT ORGANIZATION.

CHAPTER 3. SPECIFIED GOVERNMENTAL AUTHORITY.

§ 1-307.68. Use of opportunity account funds.**

(a) An account holder may withdraw his or her opportunity account funds or matching funds for any of the following purposes, if approved by the administering organization:

- (1) To pay educational costs for the account holder or a spouse, domestic partner, father, mother, child, or dependent of the account holder at an accredited institution of higher education;
- (2) To pay job training costs for the account holder or a spouse, domestic partner, father, mother, child, or dependent of the account

holder at an accredited or licensed training program;

(3) To purchase a primary residence;

(4) To pay for major repairs or improvements to a primary residence;

(5) To fund start-up costs of a business for the account holder or a spouse, domestic partner, father, mother, child, or dependent of the account holder;

(6) To pay for costs associated with a medical emergency, to the extent that those costs are not covered by insurance; . . .

CHAPTER 5. OFFICERS AND EMPLOYEES GENERALLY.

SUBCHAPTER VI. SPOUSE EQUITY.

§ 1-529.01. Application.

This chapter shall apply to any District employee or District retiree who is covered by the retirement program defined under § 1-702(7), or the retirement program established by §§ 1-626.03 to 1-626.12, or an officer, member, or retiree of the United States Park Police Force, or an officer, member or retiree of the United States Secret Service to whom the District of Columbia Policemen and Firemen's Retirement and Disability Act (D.C. Code § 5-707 et seq.) applies.

§ 1-529.02. Definitions.

- (a) “Court order” means any judgment, decree, or property settlement issued by or approved by any court of any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Native American court in connection with, or incident to, the divorce, annulment of marriage, or legal separation of an employee or retiree.
- (b) “Employee” means an individual who performs a function of the District government and who receives compensation for the performance of the services, as provided in § 1-603.01(7) or an officer, member, or retiree of the United States Park Police Force or an officer, member, or retiree of the United States Secret Service to whom the District of Columbia Policemen and Firemen’s Retirement and Disability Act (D.C. Code § 5-707 et seq.) applies.
- (c) “Qualifying court order” means one that by its terms awards to a former spouse all or a portion of an employee’s or retiree’s retirement benefits, a payment from an employee’s or retiree’s retirement benefits, or a survivor annuity. The court order must state the former spouse’s share as a fixed amount, or a percentage or a fraction of the annuity, and shall indicate whether the former spouse should receive the amount awarded directly from the District. For purposes of awarding a survivor annuity, the court order must also either state the former spouse’s entitlement to a survivor annuity or direct the employee or retiree to provide a survivor annuity.

§ 1-529.03. Compliance with court orders.

- (a) For purposes of this section, “former spouse” means a living person whose marriage to an employee or retiree has been subject to a divorce, annulment, or legal separation resulting in a court order, except that with respect to an award of a survivor annuity, it additionally means a living person:

- (1) Who was married for at least 9 months to an employee or retiree who performed at least 18 months creditable service in a position covered by 1 or more of the retirement systems in § 1-529.01; and
- (2) Whose marriage to the employee or retiree was terminated prior to the death of the employee or retiree.

- (b) The Mayor shall comply with any qualifying court order that is issued prior to the employee’s retirement. Any qualifying court order that awards the entire amount the retirement system is responsible for with respect to that employee bars recovery by any other person.
- (c) The Mayor shall comply with any qualifying court order that is issued after the employee’s retirement only to the extent it is consistent with any election previously executed at the time of retirement by the employee regarding that former spouse. Any qualifying court order that awards the entire amount the retirement system is responsible for with respect to that employee bars recovery by any other person.
- (d) The Mayor is not obligated to comply with qualifying court orders issued prior to March 16, 1989.
- (e)(1) Any reduction in an employee’s annuity, made pursuant to the relevant retirement system in order to provide for a survivor annuity awarded by court order, shall cease upon remarriage of the former spouse if the remarriage occurs before age 55.

- (2) Payment of a survivor annuity to a former spouse pursuant to a court order shall cease upon the remarriage of the former spouse if the remarriage occurs before age 55.

§ 1-529.04. Enrollment in health benefits plan.

- (a) For purposes of this section, “former spouse” means a living person:

(1) Who was married for at least 9 months to an employee or retiree who performed at least 18 months creditable service in a position covered by 1 or more of the retirement systems referred to in § 1-529.01;

(2) Whose marriage to the employee or retiree was terminated prior to the death of the employee or retiree;

(3) Who was enrolled as a family member in a health benefits plan approved under the Federal Health Benefits Program or in a plan approved under §§ 1-621.05 through 1-621.13 at any time during the 18-month period before the dissolution of the marriage by divorce, annulment, or legal separation; and

(4) Who is receiving any portion of an annuity or survivor's annuity or is entitled to receive an annuity or survivor's annuity pursuant to an election by the employee at the time of retirement, a qualifying court order, or the provisions of the retirement system.

(b) Any former spouse of an employee or of a retiree may enroll in a health benefits plan approved under the Federal Employee Health Benefits Program or in a plan approved under §§ 1-621.05 through 1-621.13.

(c) Any former spouse who enrolls in a health benefits plan pursuant to subsection (b) of this section may elect to enroll either as an individual or for self and family, subject to an agreement by the former spouse to pay the full subscription charge of the enrollment, including any amount set aside for the administration of the health benefits plan and any necessary reserves as determined by the Mayor.

(d) Only former spouses whose marriages were dissolved after March 16, 1989 through divorce, annulment, or legal separation shall be eligible to enroll in the health benefits plans.

CHAPTER 6. MERIT PERSONNEL SYSTEM.

SUBCHAPTER XXI. HEALTH BENEFITS.

§ 1-621.07. Election of coverage.

(a) Unless an employee or annuitant affirmatively waives health insurance coverage, each employee or annuitant shall enroll in 1 of the approved health benefit plans under § 1-621.05 either as an individual or for self and family or provide evidence satisfactory to the Mayor that the employee or annuitant is covered under another health benefit plan.

(b) If an employee or annuitant has a spouse who is an employee or annuitant, either spouse but not both may enroll for self and family, or each spouse may enroll as an individual. An individual shall not be enrolled as an employee or annuitant and also as a member of a family.

§ 1-623.10. Augmented compensation for dependents.

(a) For the purpose of this section, and except as provided in subsection (a- 1) of this section, "dependent" means the following:

(1) A spouse, if:

(A) He or she is a member of the same household as the employee;

(B) He or she is receiving regular contributions from the employee for his or her support; or

(C) The employee has been ordered by a court to contribute to his or her support;

(2) An unmarried child, while living with the employee or receiving regular contributions from the employee toward his or her support, and who is:

(A) Under 18 years of age; or

(B) Over 18 years of age and incapable of self-support because of physical or mental disability; and

(3) A parent, while wholly dependent on and supported by the employee.

Notwithstanding paragraph (2) of this subsection, compensation payable for a child that would otherwise end because the child has reached 18 years of age shall continue if he or she is a student as defined by § 1-623.01 at the time he or she reaches 18 years of age for so long as he or she continues to be such a student or until he or she marries.

§ 1-623.33. Compensation in case of death.

(a) If death results from an injury sustained in the performance of duty, the District of Columbia government shall pay a monthly compensation equal to a percentage of the monthly pay of the deceased employee in accordance with the following schedule:

(1) To the widow or widower, if there is no child, 50 percent;

(2) To the widow or widower, if there is a child, 45 percent and in addition 15 percent for each child not to exceed a total of 75 percent for the widow or widower and children;

(3) To the children, if there is no widow or widower, . . .

SUBCHAPTER XXVI. RETIREMENT.

§ 1-626.04. Definitions.

For the purpose of §§ 1-626.05 through 1-626.12, the term:

(1)(A) “Creditable service” means the period of employment to be recognized for purposes of eligibility for retirement benefits, which shall be set forth in rules promulgated by the Mayor pursuant to § 1-626.08 . . .

(6) The term “party in interest” means:

(A) Any person having fiduciary responsibilities to the Trust;

(B) Any person providing services to the Trust;

(C) The government of the District of Columbia;

(D) An employee organization recognized as an exclusive representative of any participants in the Trust for purposes of collective bargaining pursuant to § 1-617.10; and

(E) A spouse, ancestor, lineal descendant, or spouse of a lineal descendant of any individual described in subparagraph (A) or (B) of this paragraph.

(7) The term “Trust” shall mean the Section 401(a) Trust established by § 1-626.11.

CHAPTER 7. DISTRICT OF COLUMBIA EMPLOYEES RETIREMENT PROGRAM MANAGEMENT.

§ 1-702. Definitions.

As used in this chapter: . . .

(7) The term “retirement program” means:

(A) The program of annuities and other retirement and disability benefits for members and officers of the Metropolitan Police force and the Fire Department of the District of Columbia, but does not include . . .

(9) The term “party in interest” means:

(A) Any person (including a member of the Board) having fiduciary responsibilities under this chapter;

(B) Any person providing services to a Fund;

(C) The government of the District of Columbia;

- (D) An employee organization; and
- (E) A spouse, ancestor, lineal descendant, or spouse of a lineal descendant of any individual described in subparagraph (A) or (B) of this paragraph.

(10) The term “Fund” means the . . .

**CHAPTER 9.
POLICE OFFICERS, FIRE FIGHTERS,
AND TEACHERS RETIREMENT
BENEFIT REPLACEMENT PLAN.**

§ 1-901.02. Definitions.

For the purposes of this chapter, the term:

(1) “Covered District employee” or “participant” means a teacher of the District of Columbia public schools, a member of the Metropolitan Police Department, or a member of the Fire and Emergency Medical Services Department. It does not include an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service, to whom the Police and Firemen’s Retirement Act applies . . .

(11) “Party in interest” means:

- (A) Any person (including a member of the Retirement Board) having fiduciary responsibilities for the administration of assets in the Funds;
- (B) Any person providing services to the Funds;
- (C) The government of the District of Columbia;
- (D) An employee organization; or
- (E) A spouse, ancestor, lineal descendant, or spouse of a lineal descendant of any individual described in subparagraph (A) or (B) of this paragraph.

**CHAPTER 11.
ELECTION CAMPAIGNS; LOBBYING;
CONFLICT OF INTEREST.**

§ 1-1106.01. Conflict of interest.

(a) The Congress declares that elective and public office is a public trust, and any effort to realize personal gain through official conduct is a violation of that trust.

(b) No public official shall use his or her official position or office to obtain financial gain for himself or herself, any member of his or her household, or any business with which he or she or a member of his or her household is associated, other than that compensation provided by law for said public official. This subsection shall not affect a vote by a public official: (1) On . . .

(3) “Business with which he or she is associated” means any business of which the person or member of his or her household is a director, officer, owner, employee, or holder of stock worth \$1,000 or more at fair market value, and any business which is a client of that person.

(4) “Household” means the public official and his or her immediate family.

(5) “Immediate family” means the public official’s spouse and any parent, brother, or sister, or child of the public official, and the spouse of any such parent, brother, sister, or child.

§ 1-1106.02. Disclosure of financial interest.

(a) Any candidate for nomination for election, or election, to public office at the time he or she becomes a candidate, who does not occupy any such office, shall file within one month after he or she becomes a candidate for such office, and the Mayor and the Chairman and each member of the Council of the District of Columbia holding office under the District of Columbia Home Rule Act, a Representative or Senator elected pursuant to § 1-123, the President and each member of the Board

of Education, and persons serving as subordinate agency heads or serving in positions designated as within the Legal Service, the Excepted Service, or the Management Supervisory Service (regardless of date of appointment) and paid at a rate of DS-13 or above, or MS-13 or above in case of the Management Supervisory Service, or designated in § 1-609.08, and each member of the District of Columbia Board of Accountancy, established by § 3-1503; the Board of Examiners and Registrars of Architects. . . .

(2) any outstanding individual liability in excess of \$1,000 for borrowing by such person or his or her spouse if such liability is joint, from anyone other than a federal or state insured or regulated financial institution (including any revolving credit and installment accounts from any business enterprise regularly engaged in the business of providing revolving credit or installment accounts) or a member of such person's immediate family;

(3) all real property located in the District of Columbia (and its actual location) in which such person or his or her spouse if such property is jointly titled, has an interest with a fair market value in excess of \$5,000; provided, however, that this provision shall not apply to personal residences actually occupied by such person or his or her spouse;

For the purpose of this subsection, the words "immediate family" shall have the same meaning as in § 1-1106.01. . . .

(5) "Immediate family" means the child, parent, grandparent, brother, or sister of an individual, and the spouse of such person. . . .

(7) "Gift" means a payment, subscription, advance, forbearance, rendering or deposit of money, services or any thing of value, unless consideration of equal or greater value is received, for the purpose of influencing the actions of a public official in making or influencing the making of an administrative

decision or legislative action; and shall not include a political contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a member of the person's immediate family . . .

TITLE 2. GOVERNMENT ADMINISTRATION.

CHAPTER 14. HUMAN RIGHTS.

§ 2-1401.02. Definitions.

. . . (17) "Marital status" means the state of being married, single, divorced, separated, or widowed and the usual conditions associated therewith, including pregnancy or parenthood.

CHAPTER 15. YOUTH AFFAIRS.

SUBCHAPTER III. JUVENILE CURFEW.

§ 2-1542. Definitions.

For the purposes of this subchapter, the term: . . .

(5) "Minor" means any person under the age of 17 years, but does not include a judicially emancipated minor or a married minor . . .

(8) "Parent" means a natural parent, adoptive parent or step-parent, or any person who has legal custody by court order or marriage, or any person not less than 21 years of age who is authorized by the natural parent, adoptive parent, step-parent or custodial parent of a child to be a caretaker for the child.

**TITLE 3.
DISTRICT OF COLUMBIA BOARDS
AND COMMISSIONS.**

**CHAPTER 2.
ANATOMICAL BOARD.**

§ 3-202. Dead bodies for burial at public expense to be reported to Board; removal; exceptions.

Every public officer, agent, and servant, and every officer, agent, and servant of any and every almshouse, prison, jail, asylum, morgue, hospital, and other public institutions and offices having charge or control of dead human bodies requiring to be buried at public expense, shall notify said Anatomical Board, or such person as may be designated by the said Board, whenever any dead human body comes into his possession. . . . But no such body shall be delivered if the deceased person, during his last illness, without suggestion or solicitation, requested to be buried or cremated; or if within the time specified above and before the actual delivery thereof any person claiming to be and satisfying the officer in charge of such body that he is of kindred or is related by marriage to the deceased shall claim the said body for burial or cremation, or request in writing that it be buried at public expense; or if within the time specified above and before actual delivery any person claiming to be and satisfying the officer in charge of said body that he is a friend of the deceased arranges to have the same properly buried or cremated without expense to the District; or if the deceased person was a traveler who died suddenly; but in any such case said body shall be buried or delivered to said applicant for burial.

**CHAPTER 4.
BOARD OF FUNERAL DIRECTORS.**

§ 3-413. Claim of human remains—Order of priority of next of kin. **

(a) Unless other directions have been given by the decedent, the right to control the disposition of the remains of a deceased person, the location and conditions of interment, and arrangements for funeral goods and services shall vest in the following in the order of priority named:

- (1) The competent surviving spouse, or domestic partner, as defined under § 32-701(3);
- (2) The sole surviving competent adult child of the decedent, or if there is more than one competent child of the decedent, the majority of the surviving competent adult children; provided, that less than a majority of the surviving competent adult children shall be vested with the rights and duties under this section if they have used reasonable efforts to notify all other surviving competent adult children of their instructions and are not aware of any opposition to those instructions by more than a majority of all surviving competent adult children;
- (3) The surviving competent parent or parents of the decedent; provided, that if one of the surviving competent parents is absent, the remaining competent parent shall be vested with the rights and duties under this section if reasonable efforts to locate the other parent are unsuccessful;
- (4) The surviving competent adult person in the next degrees of kindred; provided, that if there is more than one surviving competent adult person of the same degree of kindred, the rights and duties under this section shall be vested in the majority of those persons; provided further, that less than the majority of surviving competent adult persons of the same

degree of kindred shall be vested with the rights and duties of this section if those persons have used reasonable efforts to notify all other surviving competent adult persons of the same degree of kindred of their instructions and are not aware of any opposition to those instructions by more than a majority of all surviving competent adult persons of the same degree of kindred; and

(5) An adult friend or volunteer.

(b)(1) Any competent adult may decide the disposition of the individual's remains after death and without the pre-death or post-death consent of any other person by executing a document, in accordance with this section, which expresses the individual's wishes regarding the disposition of his or her body.

(2)(A) Notwithstanding any other provision of this section, any competent adult may designate an individual who shall be empowered to make decisions concerning the disposition of the human remains of the individual by executing a document in accordance with this section.

(B) The document shall include language that clearly communicates the individual's intent to have the person so designated make decisions regarding the disposition of the individual's human remains upon death. The document shall become effective upon the death of the individual choosing the representative.

(c) A document executed under subsection (b)(1) and (2) of this section shall be dated and signed by the individual delineating the disposition of his or her remains upon death under subsection (b)(1) of this section or designating a representative under subsection (b)(2) of this section.

(d) A person may revoke the document executed under this section in writing, at any time.

(e) A document executed under this section may be included as part of a document executed in

accordance with subchapter II of Chapter 15 of Title 7.

**CHAPTER 6.
BOXING AND WRESTLING
COMMISSION.**

§ 3-609. Liability of Commission members.

(a) A member of the Commission shall not knowingly participate in any action of the Commission if such member, or the member's spouse, parent, grandparent, child, grandchild, brother, sister, uncle, aunt, cousin, nephew or niece, has a financial or business interest in the action . . .

**CHAPTER 12.
HEALTH OCCUPATIONS BOARDS.**

§ 3-1204.01. Qualifications of members.

. . . (c) Each consumer member of a board, in addition to the requirements of subsection (a) of this section, shall:

- (1) Be at least 18 years old;
- (2) Not be a health professional or in training to become a health professional;
- (3) Not have a household member who is a health professional or is in training to become a health professional; and
- (4) Not own, operate, or be employed in or have a household member who owns, operates, or is employed in a business which has as its primary purpose the sale of goods or services to health professionals or health-care facilities.

(d) Within the meaning of subsection (c) of this section, the term "household member" means a relative, by blood or marriage, or a ward of an individual who shares the individual's actual residence . . .

**CHAPTER 13.
LOTTERY AND CHARITABLE GAMES
CONTROL BOARD.**

§ 3-1320. Persons ineligible to purchase tickets or shares or receive prizes.

No ticket or share shall be purchased by, and no prize shall be paid to, any of the following persons: Any member or employee of the Board or any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any member or employee of the Board.

§ 3-1328. Persons ineligible for suppliers' license.

The Board, in its discretion, may determine the following persons not to be eligible to receive a suppliers' license: . . . a business in which a person disqualified under provisions of this section is employed or active or in which a person is married or related in the 1st degree of kinship to such person who has an interest of more than 10 percent in the business.

**TITLE 4.
PUBLIC CARE SYSTEMS.**

**CHAPTER 2.
PUBLIC ASSISTANCE.**

**SUBCHAPTER XIII.
ACTIONS FOR SUPPORT FROM
RESPONSIBLE RELATIVES.**

§ 4-201.01. Definitions.

. . . (9) "Stepparent" means a person who is living in the home of a minor child for whom TANF or POWER is requested, and who is legally married to the natural or adoptive parent of the child.

§ 4-205.22. Availability of stepparent.

(a) A stepparent is not required by the law of the District to support his or her stepchildren, but is legally responsible for the support of his or her spouse.

(b)(1) When a child lives with a parent and a stepparent, the income of the stepparent shall be considered as available to the family in computing eligibility for public assistance according to the requirements of this subsection. When the child lives with a parent and another person, not a stepparent, who is maintaining a home with the parent, the financial resources of that person shall be considered to the extent to which that person is contributing to the support of the parent and the child. . . .

(d) For purposes of this section, a "deemed parent" is:

- (1) The natural or adoptive parent of a minor dependent child, if the child is his- or herself the parent of a dependent child, and all three generations live in the same household; or
- (2) The parent of a minor dependent child, if the parent lives in the same household with the dependent child and marries a person with whom the parent does not have a child in common.

§ 4-213.01. Action for support.

(a) Responsible relatives for any applicant or recipient of public assistance shall be limited to spouse for spouse, and parent for a child under the age of 21, and their financial responsibility shall be based upon their ability to pay. Any such applicant or recipient of public assistance or person in need thereof, or the Mayor, may bring an action to require such financially responsible spouse or parent to provide such support, and the Court shall have the power to make orders requiring such spouse or parent to pay such eligible applicant or recipient of public assistance such sums or sums of money in such installments as the Court in its

discretion may direct, and such orders may be enforced in the same manner as orders for alimony.

(b) The Mayor may, on behalf of the District, sue such spouse or parent for the amount of public assistance granted to such recipient under this chapter or under any act repealed by this chapter, or for so much thereof as such spouse or parent is reasonably able to pay. . . .

SUBCHAPTER XVIII. CRIMINAL PROVISIONS.

§ 4-218.01. Fraud in obtaining public assistance; repayment; liability of family members; penalties.

. . . (b) Any person who for any reason obtains any payment of public assistance to which he is not entitled, or in excess of that to which he is entitled, shall be liable to repay such sum, or if continued on assistance, shall have future grants proportionately reduced until the excess amount received has been repaid. In any case in which, under this section, a person is liable to repay any sum, such sum may be collected without interest by civil action brought in the name of the District. Any repayment of General Public Assistance required by this subsection may, in the discretion of the Mayor, be waived in whole or in part, upon a finding by the Mayor that such repayment would deprive such person, his spouse, parent, or child of shelter or subsistence needed to enable such person, spouse, parent, or child to maintain a minimum standard of health and well-being. Collections of overpayments from TANF, POWER, or former Aid to Families with Dependent Children or former GPA recipients shall be made in accordance with rules promulgated by the Mayor . . .

CHAPTER 13. CHILD ABUSE AND NEGLECT.

PART A. REPORTING ABUSE AND NEGLECT.

§ 4-1301.02. Definitions.

. . . (12) “God parent” means an individual identified by a relative of the child by blood, marriage, or adoption, in a sworn affidavit, to have close personal or emotional ties with the child or the child’s family, which pre-dated the child’s placement with the individual.

TITLE 5. POLICE, FIREFIGHTERS, AND CHIEF MEDICAL EXAMINER.

CHAPTER 1. METROPOLITAN POLICE.

SUBCHAPTER XVI. PERFORMING POLICE BAND.

§ 5-131.03. Retirement of Director— Conditions; annuities.

Notwithstanding the limitations of existing law, the person who is the Director of the Metropolitan Police Force band may elect to retire after having served 10 or more years in such capacity and having attained the age of 70 years. Upon such retirement, whether for age and service or for disability, said Director and his surviving spouse shall be entitled to receive annuities in amounts equivalent to, and under the conditions applicable to, the annuities which a captain in the Metropolitan Police force and his surviving spouse may be entitled to receive after such captain has retired from said force for substantially the same reason as that for which said Director may retire, whether for age and service or for disability, as the

case may be. If the said Director shall apply for retirement for disability, he shall not be eligible to retire under § 5-710, but he shall be eligible to apply for retirement under § 5-709, in like manner as if the said Director were an officer or member of the Metropolitan Police force. The annuities hereby authorized shall be in addition to any pension or retirement compensation which said Director may be entitled to receive from any other source, whether from the United States or otherwise. The annuities payable to said Director and his surviving spouse pursuant to this subchapter shall be payable from District of Columbia appropriations, but shall not be considered as annuities payable to an officer or member of the Metropolitan Police force or to the surviving spouse of such officer or member. Appropriations for the operations of the Metropolitan Police Department are made available for this purpose. Annuities authorized by this section shall be computed on the basis of compensated service rendered after July 11, 1947.

**CHAPTER 7.
POLICE AND FIREFIGHTERS
RETIREMENT AND DISABILITY.**

§ 5-701. Definitions.

Wherever used in this subchapter:

- (1) The term “member” means any officer or member of the Metropolitan Police force, of the Fire Department of the District of Columbia, of the United States Park Police force, of . . .
- (3) The term “widow” means the surviving wife of a member or former member if:
 - (A) She was married to such member or former member:
 - (i) While he was a member; or
 - (ii) For at least 1 year immediately preceding his death; or

(B) She is the mother of issue by such marriage.

(4) The term “widower” means the surviving husband of a member or former member if, in the case of a member who was an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, or the surviving husband of a member or former member who was a member or officer of the Metropolitan Police force or the Fire Department of the District of Columbia if:

(A) He was married to such member or former member:

- (i) While she was a member; or
- (ii) For at least 1 year immediately preceding her death; or

(B) He is the father of issue by such marriage.

(5)(A) The term “child” means an unmarried child, including:

- (i) An adopted child; and
- (ii) A stepchild or recognized natural child who lives with the member in a regular parent-child relationship, under the age of 18 years; or
- (iii) Such unmarried child regardless of age who, because of physical or mental disability incurred before the age of 18, is incapable of self- support.

(B) The term “student child” means an unmarried child who is a student between the ages of 18 and 22 years, inclusive, and who is regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, . . .

§ 5-716. Survivor benefits and annuities.

(a) If any member:

(1) dies in the performance of duty and the Mayor determines that:

(A) the member's death was the sole and direct result of a personal injury sustained while performing such duty;

(B) his death was not caused by his willful misconduct or by his intention to bring about his own death; and

(C) intoxication of the member was not the proximate cause of his death; and

(2) is survived by a survivor, parent, or sibling, a lump-sum payment of \$50,000 shall be made to his survivor if the survivor received more than one half of his support from such member, or if such member is not survived by any survivor (including a survivor who did not receive more than one half of his support from such member), to his parent or sibling if the parent or sibling received more than one half of his support from such member. If such member is survived by more than 1 survivor entitled to receive such payment, each such survivor shall be entitled to receive an equal share of such payment; or if such member leaves no survivor and more than 1 parent or sibling who is entitled to receive such payment, each such parent or sibling shall be entitled to receive an equal share of such payment.

(a-1) In the case of any member who dies in the performance of duty after December 29, 1993, and leaves a widow or widower entitled to all or a portion of the benefit described in subsection (a) of this section, an additional annuity shall be paid. This annuity shall be equal to 100% of the member's pay at the time of death. The annuity shall be increased at the same rate as the change in the Consumer Price Index, as described in § 5-721. This benefit shall be paid in lieu of benefits provided for by subsections (b) and (c) of this section. However, after benefits provided for in this paragraph end, as provided in subsection (e) of this section, any remaining benefit pursuant to

subsection (c) of this section shall commence to be paid.

(b) In case of the death of any member before retirement, of any former member after retirement, or of any member entitled to receive an annuity under § 5-717 (regardless of whether such member is receiving such annuity at the time of death), leaving a widow or widower, such widow or widower shall be entitled to receive an annuity in the greater amount of:

(1) Forty per centum of such member's average pay at the time of death, or 40%:

(A) Of the adjusted average pay of such former member in the case of a member who was an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division; or

(B) Of the adjusted average pay of such former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia; or

(2) Forty per centum of the corresponding salary for step 6 of salary class 1 of the District of Columbia Police and Firemen's Salary Act salary schedule currently in effect at the time of such member or former member's death; provided, that such annuity shall not exceed the current rate of compensation of the position occupied by such member at the time of death, or by such former member immediately prior to retirement.

(c) Each surviving child or student child of any member who dies before retirement, of any former member who dies after retirement, or of any member entitled to receive an annuity under § 5-717 (regardless of whether such member is receiving such annuity at the time of death), shall be entitled to receive an annuity equal to the smallest of:

(1) In the case of a member or former member who is survived by a wife or husband:

(A) Sixty per centum of:

(i) The member's average pay at the time of death; or

(ii) The adjusted average pay of the former member in the case of a member who was an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, divided by the number of eligible children;

(B) \$2,918.00, to be increased on an annual basis by the cost of living adjustment determined pursuant to § 5-718; or

(C) \$8,754.00, divided by the number of eligible children, to be increased on an annual basis by the cost of living adjustment determined pursuant to § 5-718, divided by the number of eligible children; and

(2) In the case of a member or former member who is not survived by a wife or husband:

(A) 75% of the member's average pay at the time of death, divided by the number of eligible children;

(B) In the case of a member who was an officer or member of the United States Park Police Force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, 75% of the adjusted average pay of the former member, divided by the number of eligible children; or

(C) In the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, 75% of the adjusted average pay of the former member, divided by the number of eligible children.

(d) Each widow or widower who, on the effective date of the Policemen and Firemen's Retirement and Disability Act Amendments of 1970, was receiving relief or annuity computed in accordance with the provisions of this section shall be entitled to receive an annuity in the greater amount of: (1) \$3,144; or (2) thirty-five per centum of the basis upon which such relief or annuity was computed. Each child who, on October 3, 2001, was receiving relief or annuity computed in accordance with the provisions of this section, shall be entitled to benefits computed in accordance with the provisions of subsection (c) of this section.

(e)(1) The annuity of the widow or widower under this section shall begin on the 1st day of the month in which the member or former member dies, and such annuity or any right thereto shall terminate upon the survivor's death or remarriage before age 60; provided, that any annuity terminated by remarriage may be restored if such remarriage is later terminated by death, annulment, or divorce.

(2) The annuity of any child under this section shall begin on the 1st day of the month in which the member or former member dies, and the annuity shall terminate upon whichever of the following occurs first:

(A) The child becomes 18 years of age or, if over 18 years of age and incapable of self-support, becomes capable of self-support;

(B) The child marries; or

(C) The child dies.

(3)(A) The annuity of any student child under this section shall begin on the 1st day of the month in which the member or former

member dies, and the annuity shall terminate upon whichever of the following occurs first:

- (i) The student child marries;
- (ii) The student child ceases to be a student;
- (iii) The student child reaches 22 years of age; or
- (iv) The student child dies.

(B) For the purposes of this paragraph, a student child whose 22nd birthday falls on or after July 1st shall not be considered to have reached 22 years of age until the June 30th following the student child's actual 22nd birthday.

(4) If the annuity of a child under paragraph (2) or paragraph (3) of this subsection terminates because of marriage and such marriage ends, the annuity shall resume on the first day of the month in which it ends, but only if the individual is not otherwise ineligible for the annuity.

(5) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, no annuity of a child or student of a widow or widower under subsection (a-1) of this section shall be paid while an annuity benefit to a widow or widower under subsection (a-1) of this section is being paid.

(f) Any member retiring under § 5-709, § 5-710, or § 5-712, may at the time of such retirement, and any member entitled to receive an annuity under § 5-717 may at the time such annuity commences, elect to receive a reduced annuity in lieu of full annuity, and designate in writing the person to receive an increased annuity after such member's death; provided, that the person so designated be the surviving spouse or child of such member. Whenever such an election is made, the annuity of the designee shall be increased by an amount equal to the amount by which the annuity of such member is reduced. The annuity payable to the member making such election shall be reduced

by 10% of the annuity computed as provided in § 5-709, § 5-710, or § 5-712. Such increase in annuity payable to the designee shall be reduced by 5% for each full 5 years the designee is younger than the member, but such total reduction shall not exceed 40%. The increase in annuity payable to the designee pursuant to this subsection shall be paid in addition to the annuity provided for such designee pursuant to subsection (b) or subsection (c) of this section and shall be subject to the same limitations as to duration and other conditions as the annuity paid pursuant to subsections (b), (c), and (e) of this section. If, at any time after such former member's election, the designee dies, and is survived by such former member, the annuity payable to such former member shall be increased to the amount computed as provided in § 5-709, § 5-710, § 5-712, or § 5-717, as the case may be.

TITLE 6. HOUSING AND BUILDING RESTRICTIONS AND REGULATIONS.

CHAPTER 2. DISTRICT OF COLUMBIA HOUSING AUTHORITY.

§ 6-211. Board of Commissioners.

(a) The powers of the Authority shall be vested in the Board. The Board shall consist of 9 voting Commissioners, to be appointed as follows: . . .

(q) Other than the ex officio Commissioner and the labor representative who is a Commissioner, no person shall serve as a Commissioner who is an employee of the Authority or of the District government; a member of any District board or commission (including those that are purely advisory); a spouse of the head of a District department or agency; a spouse of an Authority employee; a spouse of an elected official; or a parent or child of any of the above persons.

**CHAPTER 3.
HOUSING REDEVELOPMENT.**

**§ 6-321.04. Lease of property by Agency;
other transfers limited; priority of owner of
displaced business concern.**

(a) The Agency is hereby authorized, in accordance with subchapter I of Chapter 1 of this title, to lease to a redevelopment company or other lessee such real property as may be transferred to the Agency under the authority of this subchapter but may not otherwise dispose of such property except to the United States or any department or agency thereof, or to the District of Columbia, in accordance with § 6-321.05. In the event that real property acquired by the Agency from the United States pursuant to this subchapter is transferred to the District of Columbia or to any department or agency of the United States pursuant to this section, such transfer shall be without reimbursement or transfer of funds.

(b) In connection with the leasing of the real property transferred to the Agency under the authority of this subchapter, together with the leasing of any real property lying between such real property so transferred and the southerly or westerly line of Maine Avenue as the same may be relocated in connection with carrying out an urban renewal plan, the Agency is authorized and directed to provide to the owner or owners of any business concern displaced from the area described in § 6-321.01, a priority of opportunity to lease, either individually or as a redevelopment company solely owned by the owner or owners of 1 or more such business concerns, so much of such real property lying channelward of the southerly or westerly line of Maine Avenue as so relocated, at a rental based on the use-value of the real property so leased determined in accordance with the provisions of § 6-301.09, and § 1460(c)(4) of Title 42, United States Code, as may be required for the construction of commercial facilities at least substantially equal to the facilities from which such business concern was so displaced. The

priority of opportunity created by this section is a personal right of the owners of businesses displaced. In the event of the death of any such owner of any such displaced business, the spouse of such owner, or, if there is no spouse, the children of such owner shall be entitled to exercise the priority of such owner in accordance with the provisions of this section, but in no event shall any such priority be otherwise transferable; provided, however, that the spouse or the children, as the case may be, shall have no greater priority than the priority holder would have had if living. For the purposes of exercising such priority, the spouse or children, as the case may be, shall be deemed to be owner of such business concern so displaced. When the real property affected by the provisions of this subsection becomes available for leasing by the Agency, the Agency shall notify, in writing, the owners of the business concerns displaced, . . .

**TITLE 7.
HUMAN HEALTH CARE AND SAFETY.**

CHAPTER 2. VITAL RECORDS.

§ 7-205. Birth registration.

. . . (e) For the purposes of preparation and filing a birth certificate the following rules apply:

- (1) The certificate shall include the name of the mother of the child;
- (2) If the mother was married at the time of either conception or birth, or between conception and birth, the name of the husband shall be entered on the certificate as the father of the child, unless parentage has been determined otherwise by the Court pursuant to § 16-909;
- (3) If the mother was not married at the time of either conception or birth, or between conception and birth, the name of the father shall only be entered on the certificate if the

parents have signed a voluntary acknowledgment of paternity pursuant to § 16-909.1(a)(1) (or pursuant to the laws and procedures of another state in which the voluntary acknowledgment was signed), or a court or administrative agency of competent jurisdiction has adjudicated as the father the person to be named as the father on the certificate;

(4) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate; and

(5) The surname of the child shall be the surname of the mother at the time of birth, the surname of the father at the time of birth, or both, recorded in any order or in hyphenated or unhyphenated form, or any surname to which either the mother or father has a familial connection. If the chosen surname is not that of the mother or father, or a combination of all or part of both surnames, the mother or father shall provide an affidavit stating that the chosen surname was or is the surname of a past or current relative or has some other clearly stated familial connection. Submission of an affidavit containing false information shall be punishable under § 7-225. . . .

§ 7-215. Marriage registration.

(a) Each completed application and completed license for each marriage performed in the District on or after the effective date of this chapter shall be filed with the Registrar and shall be registered if it has been completed and filed in accordance with this chapter.

(b) The Court shall complete and forward to the Registrar on or before the 30th day of each calendar month the completed applications and completed licenses returned to the Court during the preceding calendar month.

(c) A marriage record not filed within the required time may be registered according to regulations issued by the Registrar.

§ 7-219. Confidentiality.

(a) No person may permit inspection of, disclose information contained in, or copy or issue a copy of any part of a vital record except as authorized by this chapter. . . .

(c) Except for certificates, reports, or other documents which are sealed or confidential by statute, 100 years after the date of birth, and 50 years after the date of death, marriage, divorce or annulment, records in the custody of the Registrar become public records.

**CHAPTER 6.
DEATH.**

§ 7-622. Declaration—Execution; form.

(a) Any persons 18 years of age or older may execute a declaration directing the withholding or withdrawal of life-sustaining procedures from themselves. . . .

In addition, a witness shall not be: . . .

(B) Related to the declarant by blood or marriage; . . .

**CHAPTER 12A.
MENTAL HEALTH CONSUMERS'
RIGHTS PROTECTION.**

§ 7-1231.02. Definitions.

. . . (18) “Minor” means a person under 18 years of age, but shall not include a person who is an emancipated minor or who is married.

§ 7-1231.13. Retention of civil rights.

Consumers shall be presumed legally competent and retain all civil rights, unless otherwise limited by order of the court. As used in this section, the term “civil rights” shall include, but not be limited to, the rights to:

- (1) Contract;
- (2) Hold a professional, occupational, or motor vehicle driver's license;
- (3) Marry or obtain a divorce, annulment, or dissolution of marriage;
- (4) Make a will;
- (5) Hold or dispose of property;
- (6) Vote;
- (7) Sue and be sued;
- (8) Serve on a jury; and
- (9) Enjoy all benefits and privileges guaranteed by law.

**CHAPTER 16.
AIDS HEALTH CARE.**

§ 7-1601. Definitions.**

For the purpose of this subchapter, the term:

- (1) "AIDS" means acquired immune deficiency syndrome or any AIDS-related condition. . . .
- (4) "Families" means persons who are related by blood, legal custody, marriage, having a child in common, or who share or have shared for at least 1 year a mutual residence and who maintain or have maintained an intimate relationship rendering the application of this chapter appropriate . . .

**TITLE 11.
ORGANIZATION AND JURISDICTION
OF THE COURTS.**

**CHAPTER 11.
FAMILY COURT OF THE
SUPERIOR COURT.**

§ 11-1101. Jurisdiction of the Family Court.

(a) In general.—The Family Court of the District of Columbia shall be assigned and have original jurisdiction over—

- (1) actions for divorce . . . and for support and custody of minor children; . . .
- (3) actions to enforce support of any person as required by law; . . .
- (5) actions to declare marriages void;
- (6) actions to declare marriages valid;
- (7) actions for annulments of marriage;
- (8) determinations and adjudications of property rights, both real and personal, in any action referred to in this section, irrespective of any jurisdictional limitation imposed on the Superior Court;
- (9) proceedings in adoption; . . .

**CHAPTER 15.
JUDGES OF THE DISTRICT OF
COLUMBIA COURTS.**

§ 11-1530. Financial statements.

(a) Pursuant to such rules as the Commission shall promulgate, each judge of the District of Columbia courts shall, within one year following the date of enactment of the District of Columbia Court Reorganization Act of 1970 and at least annually thereafter, file with the Commission the

following reports of the judge's personal financial interests:

(1) A report of the judge's income and the judge's spouse's income for the period covered by the report, the sources thereof, and the amount and nature of the income received from each such source. . . .

(3) The identity of each liability of \$5,000 or more owed by the judge or by the judge and the judge's spouse jointly at any time during such period.

(4) The source and value of all gifts in the aggregate amount or value of \$50 or more from any single source received by the judge during such period, except gifts from the judge's spouse or any of the judge's children or parents. . . .

§ 11-1561. Definitions.

For purposes of this subchapter—

(1) The term “judge” means any judge of the District of Columbia Court of Appeals or the Superior Court or any person with judicial service as described in paragraph (2) of this section. . . .

(4) The term “fund” means the District of Columbia Judicial Retirement and Survivors Annuity Fund established by section 11-1570.

(5) The term “widow” means a surviving wife of a judge who either (A) has been married to the judge for at least two years preceding his death or (B) is the mother of issue by the marriage and has not remarried.

(6) The term “widower” means a surviving husband of a judge who either (A) has been married to the judge for at least two years preceding her death or (B) is the father of issue by the marriage and has not remarried. . . .

(8) The term “child” means—

(A) an unmarried child under eighteen years of age, including (i) an adopted child, and (ii) a stepchild or recognized natural child who

lived with the judge in a regular parent-child relationship;

(B) such unmarried child regardless of age who is incapable of self-support because of mental or physical disability incurred before age eighteen; or

(C) such unmarried child between eighteen and twenty-two years of age who is a student regularly pursuing a full-time course. . . .

§ 11-1566. Survivor annuity; election; relinquishment.

(a) Any judge, whether or not subject to sections 11-1562 to 11-1565, may, by written election filed with the Secretary of the Treasury within six months after the date on which the judge takes office or is reappointed or recommissioned, or within six months after the judge marries, elect to be within the survivor annuity provisions of this subchapter.

(b) Any judge in regular active service or any retired judge, who shall have elected survivor annuity, and who after that election is unmarried and does not have a dependent child, may elect—

(1) to terminate the deductions and withholdings from the judge's salary under section 11-1567(a) and any installment payments elected to be made under section 11-1567(b); and

(2) to have paid to the judge the lump-sum credit for survivor annuity.

Any election under this subsection shall be made in writing and filed with the Secretary of the Treasury.

(c) If any judge who shall have elected survivor annuity resigns from office otherwise than under the provisions of this subchapter or is removed, the judge shall be entitled to be paid the lump-sum credit for survivor annuity.

(d) Payment of the lump-sum credit for survivor annuity as provided in this section shall extinguish all claims with respect to survivor annuity

**TITLE 14.
PROOF.**

**CHAPTER 3.
COMPETENCY OF WITNESSES.**

§ 14-306. Husband and wife.

(a) In civil and criminal proceedings, a husband or his wife is competent but not compellable to testify for or against the other.

(b) In civil and criminal proceedings, a husband or his wife is not competent to testify as to any confidential communications made by one to the other during the marriage.

§ 14-309. Clergy.

A priest, clergyman, rabbi, or other duly licensed, ordained, or consecrated minister of a religion authorized to perform a marriage ceremony in the District of Columbia or duly accredited practitioner of Christian Science may not be examined in any civil or criminal proceedings in the Federal courts in the District of Columbia and District of Columbia courts with respect to any—

(1) confession, or communication, made to him, in his professional capacity in the course of discipline enjoined by the church or other religious body to which he belongs, without the consent of the person making the confession or communication; or

(2) communication made to him, in his professional capacity in the course of giving religious or spiritual advice, without the consent of the person seeking the advice; or

(3) communication made to him, in his professional capacity, by either spouse, in connection with an effort to reconcile estranged spouses, without the consent of the spouse making the communication.

**TITLE 15.
JUDGMENTS AND EXECUTIONS;
FEES AND COSTS.**

**CHAPTER 5.
EXEMPTIONS AND TRIAL OF RIGHT
TO SEIZED PROPERTY**

**§ 15-502. Mortgage or other instrument
affecting exempt property.**

A mortgage, deed of trust, assignment for the benefit of creditors, or bill of sale upon exempted articles is not binding or valid unless it is signed by the spouse of a debtor who is married and living with his or her spouse.

**CHAPTER 7.
FEES AND COSTS.**

§ 15-717. Marriage license and related fees.

For each marriage license, the fee shall be \$2; for each certified copy of a marriage license return, the fee shall be \$1; for each certified copy of application for marriage license the fee shall be \$1; and for registering authorizations to perform marriages and issuing certificate, the fee shall be \$1. The Superior Court of the District of Columbia may, by rule of court, increase or decrease fees provided by this section.

**TITLE 16.
PARTICULAR ACTIONS,
PROCEEDINGS AND MATTERS.**

**CHAPTER 3.
ADOPTION.**

§ 16-308. Investigations when prospective adoptee is adult or petitioner is spouse of natural parent.

The court may dispense with the investigation, report, and interlocutory decree provided for by this chapter when:

- (1) the prospective adoptee is an adult; or
- (2) the petitioner is a spouse of the natural parent of the prospective adoptee and the natural parent consents to the adoption or joins in the petition for adoption.

In the circumstances specified in (2) above, the petition need not contain the information concerning race and religion specified by subparagraphs (4) and (5) of section 16-305.

**CHAPTER 5.
ATTACHMENT AND GARNISHMENT.**

§ 16-572. Attachment of wages; percentage limitations; priority of attachments.

Notwithstanding any other provision of subchapter II of this chapter, where an attachment is levied upon wages due a judgment debtor from an employer-garnishee, the attachment shall become a lien and a continuing levy upon the gross wages due or to become due to the judgment debtor for the amount specified in the attachment to the extent of:

- (1) 25 per centum of his disposable wages that week, or

(2) the amount by which his disposable wages for that week exceed thirty times the federal minimum hourly wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) in effect at the time the wages are payable, whichever is less. In the case of wages for any pay period other than a week, the Mayor of the District of Columbia shall by regulation prescribe a multiple of the federal minimum hourly wage equivalent in effect to that set forth in paragraph (2). The levy shall be a continuing levy until the judgment, interest, and costs thereof are fully satisfied and paid, and in no event may moneys be withheld, by the employer-garnishee from the judgment debtor, in amounts greater than those prescribed by this section. Only one attachment upon the wages of a judgment debtor may be satisfied at one time. Where more than one attachment is issued upon the wages of the same judgment debtor and served upon the same employer-garnishee, the attachment first delivered to the marshal shall have priority, and all subsequent attachments shall be satisfied in the order of priority set forth in section 16-507.

§ 16-577. Applicability of per centum limitations to judgment for support.

The per centum limitations prescribed by section 16-572 do not apply in the case of execution upon a judgment, order, or decree of any court of the District of Columbia for the payment of any sum for the support or maintenance of a person's spouse, or former spouse, or children, and any such execution, judgment, order, or decree shall, in the discretion of the court, have priority over any other execution which is subject to the provisions of this subchapter. In the case of execution upon such a judgment, order, or decree for the payment of such sum for support or maintenance, the limitation shall be 50 per centum of the gross wages due or to become due to any such person for the pay period or periods ending in any calendar month.

**CHAPTER 9.
DIVORCE, ANNULMENT,
SEPARATION, SUPPORT, ETC.**

§ 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.

§ 16-907. 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 . . .

§ 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 home-making 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 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.

(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 . . .

§ 16-913. 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: . . .

(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; . . .

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

(A) income;

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

§ 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

(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. . . .

§ 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.

**CHAPTER 10.
PROCEEDINGS REGARDING
INTRAFAMILY OFFENSES.**

**SUBCHAPTER I.
INTRAFAMILY PROCEEDINGS
GENERALLY.**

§ 16-1001. Definitions.

For purposes of this subchapter:

(1) The term "complainant" means an individual in the relationship described in paragraph (5) who is

the victim of an intrafamily offense and who files or for whom is filed a petition for protection under this subchapter. . . .

(4) The term “family member” includes any individual in the relationship described in paragraph (5).

(5) The term “intrafamily offense” means an act punishable as a criminal offense committed by an offender upon a person:

(A) to whom the offender is related by blood, legal custody, marriage, having a child in common, or with whom the offender shares or has shared a mutual residence; or

(B) with whom the offender maintains or maintained a romantic relationship not necessarily including a sexual relationship. A person seeking a protection order under this subparagraph shall reside in the District of Columbia or the underlying intrafamily offense shall have occurred in the District of Columbia.

(6) The term “respondent” means any person who is accused of having committed an intrafamily offense in a petition for protection filed under this subchapter.

CHAPTER 23. FAMILY DIVISION PROCEEDINGS.

§ 16-2345. New birth record upon marriage or determination of natural parents.

(a) When a certified copy of a marriage certificate is submitted to the Registrar, establishing that the previously unwed parents of a child born out of wedlock have intermarried subsequent to the birth of the child, and the parentage of the child has been judicially determined or acknowledged by each of the parents, or when the parenthood of a child born out of wedlock has been established by judicial process or by acknowledgement by the person whose parenthood is thus determined, or

when an agreement and affidavit that meet the requirements of section 16-909.01(a)(2) are submitted to the Registrar, a new certificate of birth bearing the original date of birth and the names of both parents shall be issued and substituted for the certificate of birth then on file. The new birth certificate shall nowhere on its face show that the parentage has been established by judicial process or by acknowledgement. The original certificate of birth and all papers pertaining to the issuance of the new certificate shall be placed under seal and opened for inspection only upon order of the Family Division.

CHAPTER 25. CHANGE OF NAME.

§ 16-2501. Application; persons who may file.

Whoever, being a resident of the District and desiring a change of name, may file an application in the Superior Court setting forth the reasons therefor and also the name desired to be assumed. If the applicant is an infant, the application shall be filed by his parent, guardian, or next friend.

§ 16-2502. Notice; contents.

Prior to a hearing pursuant to this chapter, notice of the filing of the application, containing the substance and prayer thereof, shall be published once a week for three consecutive weeks in a newspaper in general circulation published in the District.

§ 16-2503. Decree.

On proof of the notice prescribed by section 16-2502, and upon a showing that the court deems satisfactory, the court may change the name of the applicant according to the prayer of the application.

**CHAPTER 27.
NEGLIGENCE CAUSING DEATH.**

§ 16-2701. Liability; damages; prior recovery as precluding action.

When, by an injury done or happening within the limits of the District, the death of a person is caused by the wrongful act, neglect, or default of a person or corporation, and the act, neglect, or default is such as will, if death does not ensue, entitle the person injured, or if the person injured is married, entitle the spouse, either separately or by joining with the injured person, to maintain an action and recover damages, the person who or corporation that is liable if death does not ensue is liable to an action for damages for the death, notwithstanding the death of the person injured, even though the death is caused under circumstances that constitute a felony. The damages shall be assessed with reference to the injury resulting from the act, neglect, or default causing the death, to the spouse and the next of kin of the deceased person; and shall include the reasonable expenses of last illness and burial. Where there is a surviving spouse, the jury shall allocate the portion of its verdict payable to the spouse and next of kin, respectively, according to the finding of damage to the spouse and next of kin. If, in a particular case, the verdict is deemed excessive the trial judge or the appellate court, on appeal of the cause, may order a reduction of the verdict. An action may not be maintained pursuant to this chapter if the party injured by the wrongful act, neglect, or default has recovered damages therefor during his life.

**TITLE 19.
DESCENT AND DISTRIBUTION.**

**CHAPTER 1.
RIGHTS OF SURVIVING SPOUSE AND CHILDREN.**

§ 19-101.01. Applicable law.

Sections 19-101.01 to 19-101.06 apply to the estate of a decedent who dies domiciled in the District of Columbia. Rights to homestead allowance, exempt property, and family allowance for a decedent who dies not domiciled in the District of Columbia are governed by the law of the decedent's domicile at death.

§ 19-101.02. Homestead allowance.

A decedent's surviving spouse is entitled to a homestead allowance of \$15,000. If there is no surviving spouse, each surviving minor child and each surviving dependent child of the decedent is entitled to a homestead allowance amounting to \$15,000 divided by the number of surviving minor and surviving dependent children of the decedent. The homestead allowance is exempt from and has priority over all claims against the estate, except as provided in section 20-906. The homestead allowance is in addition to any share passing to the surviving spouse or surviving minor or surviving dependent child by the will of the decedent, unless otherwise provided by intestate succession, or by way of elective share.

§ 19-101.03. Exempt property.

In addition to the homestead allowance, the decedent's surviving spouse is entitled from the estate to a value, not exceeding \$10,000 in excess of any security interests therein, in household furniture, automobiles, furnishings, appliances, and personal effects. If there is no surviving spouse, the decedent's surviving children are entitled jointly to the same value. If encumbered chattels are selected

and the value in excess of security interests, plus that of other exempt property, is less than \$10,000, or if there is not \$10,000 worth of exempt property in the estate, the spouse or children are entitled to other assets of the estate, if any, except for real property, to the extent necessary to make up the \$10,000 value. Rights to exempt property have priority over all claims against the estate, except the homestead allowance, the family allowance, and as provided in section 20-906. These rights are in addition to any benefit or share passing to the surviving spouse or surviving children by the decedent's will, unless otherwise provided by intestate succession or by way of elective share.

§ 19-101.04. Family allowance.

(a) In addition to the right to homestead allowance and exempt property, the decedent's surviving spouse and minor children whom the decedent was obligated to support and children who were in fact being supported by the decedent are entitled to a reasonable allowance in money out of the estate for their maintenance during the period of administration. It is payable to the surviving spouse, if living, for the use of the surviving spouse and the decedent's surviving minor and dependent children; otherwise to the children, or persons having their care and custody. If a minor child or dependent child is not living with the surviving spouse, the allowance may be made partially to the child or his or her guardian, or other person having the child's care and custody, and partially to the spouse, as their needs may appear. The family allowance is exempt from and has priority over all claims, except the homestead allowance, and as provided in section 20-906.

(b) The family allowance is not chargeable against any benefit or share passing to the surviving spouse or children by the will of the decedent, unless otherwise provided, by intestate succession, or by way of elective share. The death of any person entitled to family allowance terminates the right to allowances not yet paid.

§ 19-101.05. Source, determination, and documentation; equitable apportionment when minor children are not in custody of surviving spouse.

(a) If the estate is otherwise sufficient, property specifically devised may not be used to satisfy rights to homestead allowance or exempt property. Subject to this restriction, the surviving spouse, guardians of minor children, or children who are adults may select property of the estate as homestead allowance and exempt property. The personal representative may make those selections if the surviving spouse, the children, or the guardians of the minor children are unable or fail to do so within a reasonable time, or there is no guardian of a minor child. The personal representative may execute an instrument or deed of distribution to establish the ownership of property taken as homestead allowance or exempt property. The personal representative may disburse the family allowance in a lump sum not exceeding \$15,000 in cash or in personalty at its fair value as the surviving spouse may elect. The personal representative or an interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which may include a family allowance other than that which the personal representative determined or could have determined.

(b) If there are minor or other dependent children of the decedent who are not in the custody of the surviving spouse, the personal representative shall equitably apportion the family allowance under this section between the surviving spouse, minor and dependent children, and other children of the decedent.

(c) The receipt by the recipient of the property distributed under this subchapter shall constitute a full release of the personal representative or administrator making the distribution.

§ 19-101.06. Penalties.

Whoever, with respect to the allowances or exemptions authorized by sections 19-101.01 to 19-101.05, (1) makes a false affidavit, (2) willfully violates an order of the Probate Division, or (3) willfully violates a provision of this chapter, shall be fined not more than \$2,500 for each offense.

§ 19-112. Devise or bequest to spouse.

Subject to section 19-114, and unless it is otherwise expressed in the will, a devise of real estate or an interest therein, or a bequest of personal estate or an interest therein, to the surviving spouse, bars his or her share in the decedent's estate.

§ 19-113. Renunciation of devises and bequests; election; time limitations; renunciation or election by guardian or fiduciary; maximum rights; effect of no devise or bequest or if nothing passes under either; antenuptial or postnuptial agreements.

(a) Subject to section 19-114, a surviving spouse is, by a devise or bequest specified in section 19-112, barred on any statutory rights or interest he has in the real and personal estate of the deceased spouse unless, within six months after the will of the deceased spouse is admitted to probate, he files in the Probate Court a written renunciation to the following effect: "I, A B, widow [or surviving husband] of ___ late of ___, deceased, renounce and quit all claim to any devise or bequest made to me by the last will of my husband [or wife] exhibited and proved according to law; and I elect to take in lieu thereof my legal share of the real and personal estate of my deceased spouse."

(b) Repealed.

(c) If, during the period of six months specified by subsection (a) of this section, a suit is instituted to construe the will of the deceased spouse, the period of six months for the filing of the renunciation or election commences to run from the date when the suit is finally determined. A renunciation or election may be made in behalf of a spouse

unable to act for himself by reason of infancy, incompetency, or inability to manage his property, by the guardian or other fiduciary acting for the spouse when so authorized by the court having jurisdiction of the person of the spouse. The time for renunciation by a spouse may be extended before its expiration by an order of the Probate Court for successive periods of not more than six months each upon petition showing reasonable cause and on notice given to the personal representative and to the other persons herein referred to in such manner as the Probate Court directs.

(d) Where a decedent has not made a devise or bequest to the spouse, or nothing passes by a purported devise or bequest, the surviving spouse is entitled to his legal share of the real and personal estate of the deceased spouse without filing a written renunciation.

(e) The legal share of a surviving spouse under subsection (a) or (d) of this section is such share or interest in the real or personal property of the deceased spouse as he would have taken if the deceased spouse had died intestate, not to exceed one-half of the net estate bequeathed and devised by the will.

(f) A valid antenuptial or postnuptial agreement entered into by the spouses determines the rights of the surviving spouse in the real and personal estate of the deceased spouse and the administration thereof, but a spouse may accept the benefits of a devise or bequest made to him by the deceased spouse.

§ 19-114. Rights of surviving spouse if there is no renunciation.

A surviving spouse who does not renounce as provided by section 19-113 is entitled to the benefit of all provisions in his favor in the will of the deceased spouse and shall share, in accordance with sections 19-301, 19-302, . . .

**CHAPTER 3.
INTESTATES' ESTATES.**

§ 19-301. Course of descents generally.

The real estate in the District of Columbia, of a deceased person, male or female, if not devised, shall descend in fee simple, and the surplus of the personal estate of a deceased resident of the District, if not bequeathed, shall be distributed, to the surviving spouse, children, and other persons in the manner provided by this chapter. The heirs specified by this section take the real estate as tenants in common in the same proportions as they take the surplus personal estate as provided by this chapter.

§ 19-302. Share of spouse.

The intestate share of a decedent's surviving spouse is:

- (1) The entire intestate estate, if no descendant or parent of the decedent survives the decedent;
- (2) Two-thirds of any balance of the intestate estate, if the decedent's surviving descendants are also descendants of the surviving spouse and there is no other descendant of the surviving spouse who survives the decedent;
- (3) Three-fourths of any balance of the intestate estate, if no descendant of the decedent survives the decedent, but a parent of the decedent survives the decedent;
- (4) One-half of any balance of the intestate estate, if all of the decedent's surviving descendants are also descendants of the surviving spouse and the surviving spouse has one or more surviving descendants who are not descendants of the decedent; or (5) One-half of any balance of the intestate estate, if one or more of the decedent's surviving descendants are not descendants of the surviving spouse.

§ 19-305. Distribution of surplus after payment to surviving spouse.

The surplus, above the share of the surviving spouse, or the whole surplus, when there is no surviving spouse, descends and is distributed as provided by this chapter and by section 19-701.

§ 19-318. Antenuptial children.

When a man has a child by a woman whom he afterwards marries, the child, if acknowledged by the man, is, in virtue of the marriage and acknowledgment, legitimated and capable in law of inheriting and transmitting heritable property as if born in wedlock.

**CHAPTER 6.
NONPROBATE TRANSFERS ON
DEATH; UNIFORM LAW.**

§ 19-602.11. Ownership during lifetime.

. . . (b) During the lifetime of all parties, an account belongs to the parties in proportion to the net contribution of each to the sums on deposit, unless there is clear and convincing evidence of a different intent. As between parties married to each other, in the absence of proof otherwise, the net contribution of each is presumed to be an equal amount.

(c) A beneficiary in an account having a POD designation has no right to sums on deposit during the lifetime of any party . . .

§ 19-602.12. Rights at death.

(a) Except as otherwise provided in this subchapter, on death of a party sums on deposit in a multiple-party account belong to the surviving party or parties. If 2 or more parties survive and one is the surviving spouse of the decedent, the amount to which the decedent, immediately before death, was beneficially entitled under section 19-602.11 belongs to the surviving spouse. If 2 or more parties survive and none is the surviving

spouse of the decedent, the amount to which the decedent, immediately before death, was beneficially entitled under section 19-602.11 belongs to the surviving parties in equal shares, and augments the proportion to which each survivor, immediately before the decedent's death, was beneficially entitled under section 19-602.11, and the right of survivorship continues between the surviving parties.

(b) In an account with a POD designation:

(1) On death of one of 2 or more parties, the rights in sums on deposit are governed by subsection (a) of this section. . . .

§ 19-602.15. Community property and tenancy by the entireties.

(a) A deposit of community property in an account does not alter the community character of the property or community rights in the property, but a right of survivorship between parties married to each other arising from the express terms of the account or section 19-602.12 may not be altered by will.

(b) This subchapter does not affect the law governing tenancy by the entireties.

CHAPTER 7. ESCHEAT

§ 19-701. Escheatment generally.

Where there is no surviving spouse or relations of the intestate within the fifth degree, reckoned by counting down from the common ancestor to the more remote, the surplus of real and personal property escheats to the District of Columbia to be used by the Mayor of the District of Columbia for the benefit of the poor.

CHAPTER 9. STATUTORY RULE AGAINST PERPETUITIES; UNIFORM LAW

§ 19-901. Statutory rule against perpetuities.

(a) A nonvested property interest is invalid unless:

(1) When the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual then alive; or

(2) The interest either vests or terminates within 90 years after its creation.

(b) A general power of appointment not presently exercisable because of a condition precedent is invalid unless:

(1) When the power is created, the condition precedent is certain to be satisfied or becomes impossible to satisfy no later than 21 years after the death of an individual then alive; or

(2) The condition precedent either is satisfied or becomes impossible to satisfy within 90 years after its creation.

(c) A nongeneral power of appointment or a general testamentary power of appointment is invalid unless:

(1) When the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than 21 years after the death of an individual then alive; or

(2) The power is irrevocably exercised or otherwise terminates within 90 years after its creation. . . .

§ 19-904. Exclusions from statutory rule against perpetuities.

Section 19-901 does not apply to:

(1) A nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of:

- (A) A premarital or postmarital agreement;
- (B) A separation or divorce settlement;
- (C) A spouse's election under section 19-113;
- (D) A similar arrangement arising out of a prospective, existing, or previous marital relationship between the parties; . . .

(6) A nonvested property interest in or a power of appointment with respect to a trust or other property arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral, or other current or deferred benefit plan for one or more employees, independent contractors, or their beneficiaries or spouses, to which contributions are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries or spouses the property, income, or principal in the trust or other property arrangement, except a nonvested property interest or a power of appointment that is created by an election of a participant or a beneficiary or spouse; . . .

**TITLE 20.
PROBATE AND ADMINISTRATION OF
DECEDENTS' ESTATES.**

**CHAPTER 3.
OPENING THE ESTATE.**

§ 20-303. Order of priority for appointment of personal representative; persons excluded.

(a)(1) General. — The Court shall, except as provided in subsections (b) and (d), appoint personal representatives, successor personal representatives, and special administrators according to the following order of priority, with all persons in any one of the following paragraphs considered as a class:

- (A) the personal representative or representatives named in a will admitted to probate;
- (B) the surviving spouse or children of an intestate decedent or the surviving spouse of a testate decedent;
- (C) the residuary legatees;
- (D) the children of a testate decedent;
- (E) the grandchildren of the decedent;
- (F) the parents of the decedent;
- (G) the brothers and sisters of the decedent;
- (H) the next of kin of the decedent;
- (I) other relations of the decedent;
- (J) the largest creditor of the decedent who applies for administration;
- (K) any other person.

(2)(A) Relations of whole blood shall be preferred to those of half-blood in equal degree. Relations of half-blood shall be preferred to those of whole blood in a remoter degree.

(B) Relations descending shall be preferred to relations ascending in a collateral line. A nephew or niece shall be preferred to an uncle or aunt.

(C) A person may not be preferred in the ascending line beyond a parent or in the descending line below a grandchild.

(b) Exclusions. — Letters shall not be granted to a person who, at the time any determination of priority is made:

- (1) has filed with the Register a declaration in writing renouncing the right to administer;
- (2) is under the age of 18;

(3) has a mental illness as defined in section 21-501 or is under conservatorship as defined in section 21-1501;

(4) has been convicted and not pardoned on the basis of innocence of a felony in the District of Columbia or of an offense in any other jurisdiction which, if committed in the District of Columbia, would be a felony and the sentence imposed for such conviction has not expired or has expired within the past 10 years;

(5) is an alien who has not been lawfully admitted for permanent residence;

(6) is a judge of any court established under the laws of the United States or is an employee of the Superior Court of the District of Columbia, the District of Columbia Court of Appeals or the District of Columbia Court System, unless such person is the surviving spouse of the decedent or is related to the decedent within the third degree; or

(7) is a nonresident of the District of Columbia, unless such person files an irrevocable power of attorney with the Register designating the Register and the Register's successors in office as the person upon whom all notices and process issued by a competent court in the District of Columbia may be served with the same effect as personal service, in relation to all suits or matters pertaining to the estate in which the letters are to be issued; in such cases the Register shall forward by registered or certified mail to the address of the personal representative, which shall be stated in the power of attorney, all notices and process served upon the Register pursuant to such designation.

(c) Appointment within class. — When there are several persons in a class eligible to receive letters, the Court may grant letters to one or more of them, as necessary or convenient for the proper administration of the estate; except that, subject to subsections (b) and (d), all personal representatives

named in a will admitted to probate are entitled to letters.

(d) Exception. — The Court may, for good cause shown, vary from the order of priority to letters set forth in subsection (a).

TITLE 21. FIDUCIARY RELATIONS AND THE MENTALLY ILL.

CHAPTER 1. GUARDIANSHIP OF INFANTS.

§ 21-102. Testamentary guardians of the person.

When one parent is dead, the other, whether of full age or not, may, by last will and testament, appoint a guardian of the person to have the care, custody, and tuition of his infant child, other than a married infant; and if the person so appointed refuses the trust, the Probate Court may appoint another person in his place.

§ 21-104. Termination of guardianship of the person.

A natural guardianship or an appointive guardianship of the person of an infant ceases when said infant becomes 18 years of age or marries.

§ 21-107. Preferences in appointment of guardian of estate.

In appointing a guardian of the estate of an infant, unless said infant be over 14 years of age as hereinafter directed in section 21-108, the court shall give preference to—

- (1) the parents, or either of them, if living; or
- (2) the spouse if the infant is married to a person 18 years of age or older—when in the judgment of the court the parent or spouse is a suitable person to have the management of the infant's estate.

§ 21-108. Selection of guardian by infant.

(a) When a guardian, either of the person or the estate, of an infant is appointed, the infant shall, if practicable, be brought before the court, and, if over 14 years of age, shall be entitled to select and nominate his or her guardian.

(b) When a guardian has been appointed before the infant has attained the age of 14 years, the infant, upon arriving at that age, may select a new guardian, notwithstanding the appointment before made.

(c) The court shall pass upon the character and competency of the guardian selected by the infant, and the guardian shall be:

- (1) required to give bond as in other cases;
- (2) subject to the control of the court; and
- (3) under the same obligations and discharge the same duties—as if selected by the court.

(d) When, after a guardian of the estate has been appointed, the infant selects a new guardian upon arriving at the age of 14 years, and the new selection is approved by the court, and the person selected is duly appointed and qualified, the guardian previously appointed shall settle his final account and turn over his ward's estate to the newly appointed guardian.

§ 21-109. Spouse as guardian of estate.

When an infant to whom a guardian of his or her estate has been appointed marries, he or she may select his or her spouse as the guardian of his or her estate, with the approval of the court; and after he is duly appointed and qualified by giving bond, as is required in other cases, the powers of the guardian previously appointed shall cease, and he shall settle his final account and turn over his ward's estate to his or her spouse, according to the order and directions of the court.

§ 21-112. Suits by ancillary guardian.

(a) Upon the granting of ancillary letters, the guardian may institute and prosecute to judgment any action in the courts of the District of Columbia, take possession of all property of his ward, and collect and receive all moneys belonging and due to him therein, give full receipt and acquittances for debts, and release all claims, liens, and mortgages belonging to the ward, on property in the District of Columbia, in the same manner as if his authority had been originally conferred by the Probate Court.

(b) The guardian shall give security for the costs which may accrue in an action brought by him, in the same manner as other nonresidents bringing suit in the courts of the District.

§ 21-113. Enjoining spouse, parent, or testamentary guardian from interfering with minor's estate.

On application of a friend of an infant entitled to real or personal estate, or in the exercise of its own discretion, the court may enjoin a parent or spouse or testamentary guardian from interfering with the infant's estate without being appointed and giving bond as guardian of the estate.

**CHAPTER 5.
HOSPITALIZATION OF THE
MENTALLY ILL.**

**SUBCHAPTER V.
RIGHT TO COMMUNICATION;
EXERCISE OF OTHER RIGHTS.**

§ 21-511. Voluntary hospitalization and treatment.

(a) A person may apply to a public or private hospital, the Department, or any mental health provider in the District of Columbia to become a voluntary patient for the purposes of observation, diagnosis, and care and treatment of a mental illness. Upon the request of a person 18 years of

age or over, or, in the case of a person under 18 years of age, of the person's spouse, parent, or legal guardian, the administrator of the public hospital to which application is made shall, or the administrator of a private hospital to which application is made may, admit the person as a voluntary patient to the hospital for the purposes described in this section, in accordance with this chapter, if an examination by an admitting psychiatrist or an admitting qualified psychologist reveals the need for hospitalization. . . .

§ 21-512. Release of voluntary patients.

(a) A person accepted for voluntary treatment by a hospital, the Department, or a provider, pursuant to section 21-511 may, at any time, if the person is 18 years of age or over, obtain his or her release from the hospital or other treatment by filing a written request with the chief of service or, in the case of the Department, the chief clinical officer. Within a period of 48 hours after the receipt of the request, the chief of service or the chief clinical officer shall ensure that discharge planning is completed and release the person making the request. A person admitted into treatment pursuant to section 21-511 who is under 18 years of age may, at any time, obtain his or her release from the hospital or other treatment in the same manner, upon the written request of the person's spouse, parent, or legal guardian. A person under 18 years of age who has sought voluntary outpatient treatment without the consent of a parent or legal guardian may obtain his or her release from that treatment by filing a written request with the chief of service or chief clinical officer.

§ 21-522. Examination and admission to hospital; notice.

(a) Subject to the provisions of section 21-523, the administrator of a private hospital may, and the administrator of a public hospital or the chief clinical officer of the Department or his designee shall, admit and detain for purposes of emergency observation and diagnosis a person . . .

(d) . . . Not later than 24 hours after the admission pursuant to this subchapter, the administrator of the hospital or the chief clinical officer of the Department shall serve notice of the admission to the Commission, the parent or legal guardian of a person under 18 years of age who was admitted pursuant to this subchapter, and, if authorized by the person who was admitted to the hospital or the Department consistent with the provisions of the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01 et seq.), to the spouse, parent of an admitted person who is 18 years of age or older, or legal guardian of the person.

§ 21-527. Examination and release of person; notice.

(a) The chief clinical officer of the Department or the chief of service of a hospital in which a person is hospitalized under a court order entered pursuant to section 21-524 shall, within 48 hours after the order is entered, have the person examined by a psychiatrist or qualified psychologist. If the psychiatrist or qualified psychologist, after his examination, certifies that in his opinion the person is not mentally ill to the extent that the person is likely to injure himself or others if not presently detained, the person shall be immediately released. The chief of service shall immediately notify the chief clinical officer of the Department of the results of the examination by telephone, telefax, or other electronic means, shall immediately send a copy of the results of the examination to the Commission, and shall, within 48 hours after the examination has been completed, send a copy of the results by mail to the spouse, parents, attorney, legal guardian, or nearest known adult relative of the person examined, if authorized by the person who was examined, consistent with the provisions of the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code §7-1201.01 et seq.).

(b) The chief clinical officer of the Department or the chief of service of a hospital in which a person is detained under a court order entered pursuant to section 21-524 or under section 21-526(c) shall immediately release the person from the emergency detention in a hospital if, at any time during the detention, a psychiatrist or qualified psychologist at the hospital or the Department certifies that, based on an examination, it is his opinion that the person is no longer mentally ill to the extent that the person is likely to injure himself or others if not presently detained or that the person could be treated in a less restrictive setting. The chief of service shall immediately notify the chief clinical officer of the Department of the results of the examination by telephone, telefax, or other electronic means, shall immediately send a copy of the results of the examination to the Commission, and shall, within 48 hours after the examination has been completed, send a copy of the results by mail to the spouse, parents, attorney, legal guardian, or nearest known adult relative of the person examined, if authorized by the person who was examined, consistent with the provisions of the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code §7-1201.01 et seq.).

§ 21-564. Exercise of property and other rights; notice of inability; persons hospitalized prior to September 15, 1964.

(a) A person admitted or committed for treatment pursuant to this chapter may not, by reason of the admission or treatment, be denied the right to dispose of property, execute instruments, make purchases, enter into contractual relationships, vote, and hold a driver's license, unless the person has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity. If the chief clinical officer of the Department or the chief of service for the public or private hospital, facility, or provider in which the committed person is housed is of the opinion that the person is unable to exercise any of the

rights referred to in this section, the chief clinical officer or chief of service shall immediately notify the person and the person's attorney, legal guardian, spouse, parents, or other nearest known adult relative, the Superior Court of the District of Columbia, the Commission, and the Mayor of that fact. . . .

§ 21-565. Statement of release and adjudication procedures and of other rights.

Upon the admission of a person to a hospital under a provision of this chapter, the administrator shall deliver to him, and to his spouse, parents, or other nearest known adult relative, a written statement outlining in simple, nontechnical language all release procedures provided by this chapter, setting out all rights accorded to patients by this chapter, and describing procedures provided by law for adjudication of incompetency and appointment of trustees or committees for the hospitalized person.

§ 21-582. Petitions, applications, or certificates of physicians or qualified psychologists.

(a) A petition, application, or certificate authorized under section 21-521, section 21-541(a), section 21-545.01, or section 21-548 may not be considered if made by a psychiatrist, physician, or qualified psychologist who:

- (1) Is related by blood or marriage to the person about whom the petition, application, or certificate is made; . . .

**CHAPTER 20.
GUARDIANSHIP, PROTECTIVE
PROCEEDINGS, AND DURABLE
POWER OF ATTORNEY.**

§ 21-2043. Who may be guardian; priorities.

(a) Any qualified person may be appointed guardian of an incapacitated individual.

(b) Unless lack of qualification or other good cause dictates the contrary, the court shall appoint a guardian in accordance with the incapacitated individual's current stated wishes or his or her most recent nomination in a durable power of attorney.

(c) Except as provided in subsection (b) of this section, the following persons are entitled to consideration for appointment in the order listed:

(1) The spouse of the incapacitated individual or a person nominated by will of a deceased spouse or by another writing signed by the spouse and attested by at least 2 witnesses;

(2) An adult child of the incapacitated individual or a person nominated by will of a deceased adult child or by other writing signed by the child and attested by at least 2 witnesses;

(3) A parent of the incapacitated individual or a person nominated by will of a deceased parent or by other writing signed by a parent and attested by at least 2 witnesses;

(4) Any relative of the incapacitated individual with whom he or she has resided for more than 6 months prior to the filing of the petition; and

(5) Any other person.

(d) With respect to persons having equal priority, the court shall select the person it deems best qualified to serve. The court, acting in the best interest of the incapacitated individual, may pass over a person having priority and appoint a person having a lower priority or no priority.

§ 21-2065. Accounts.

... (e) The court shall require that a copy of the individual conservatorship plan and a copy of the inventory be sent to:

(1) The incapacitated individual;

(2) The attorney of record for each party;

(3) The individual most closely related to the subject of the intervention proceeding by blood or marriage unless that individual's name or whereabouts is unknown and cannot be reasonably ascertained;

(4) The individual or facility, if any, having custody of the subject of the intervention proceeding;

(5) The individual, if any, proposed for appointment by a will as a guardian; and

(6) The individual, if any, appointed or proposed for appointment as guardian ad litem . . .

§ 21-2068. Sale, encumbrance, or transaction involving conflict of interest; voidable; exceptions.

Any sale or encumbrance to a conservator, the spouse, agent, attorney of a conservator, or any corporation, trust, or other organization in which the conservator has a substantial beneficial interest . . . is voidable, unless the transaction is approved by the court after a hearing as directed. Notice of the hearing shall be in the form and manner as prescribed in sections 21-2042(c) and 21-2031 (b) and shall be served on the following individuals:

(1) The incapacitated individual;

(2) The attorney of record for each party;

(3) The individual most closely related to the subject of the intervention proceeding by blood or marriage, unless that individual's name or whereabouts is unknown and cannot be reasonably ascertained;

(4) The individual or facility, if any, having custody of the subject of the intervention proceeding;

(5) The individual, if any, proposed for appointment by will as a guardian; and

(6) The individual, if any, appointed or proposed for appointment as guardian ad litem.

**CHAPTER 21.
UNIFORM GENERAL POWER OF
ATTORNEY.**

§ 21-2113. Construction of power relating to personal and family maintenance.

In a statutory power of attorney the language granting power with respect to personal and family maintenance empowers the agent to:

- (1) Do the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, children, and other individuals customarily or legally entitled to be supported by the principal, including providing living quarters by purchase, lease, or other contract, or paying the operating costs, including interest, amortization payments, repairs, and taxes on premises owned by the principal and occupied by those individuals;
- (2) Provide for the individuals described in paragraph (1) of this section normal domestic help; usual vacations and travel expenses; and funds for shelter, clothing, food, appropriate education, and other current living costs; (3) Pay for the individuals described in paragraph (1) of this section necessary medical, dental, and surgical care, hospitalization, and custodial care; (4) Continue any provision made by the principal, for the individuals described in paragraph (1) of this section, for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them;
- (5) Maintain or open charge accounts for the convenience of the individuals described in paragraph (1) of this section and open new accounts the agent considers desirable to accomplish a lawful purpose; and
- (6) Continue payments incidental to the membership or affiliation of the principal in a church, club, society, order, or other organization or to continue contributions to those organizations.

**CHAPTER 22.
HEALTH-CARE DECISIONS.**

§ 21-2202. Definitions. **

For the purposes of this chapter, the term:

- (1) "Attorney in fact" means the person who receives the power of attorney for health-care decisions pursuant to the provisions of this chapter.
- (1A) "Close Friend" means any adult who has exhibited a significant care and concern for the patient, and has maintained regular contact with the patient so as to be familiar with his or her activities, health, and religious and moral beliefs.
- (2) "District" means the District of Columbia.
- (2A) "Domestic partner" means an adult person living with, but not married to, another adult person in a committed, intimate relationship. The term "domestic partner" shall include any adult who has registered as a domestic partner under the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code 32-701 et seq.), as well as any adult who has registered as a domestic partner in a substantially equivalent program administered by another jurisdiction.
- (3) "Durable power of attorney for health care" means a legally enforceable document that:
 - (A) Is executed in the District in a manner consistent with this chapter or validly executed in another jurisdiction pursuant to similar provisions of the law of that jurisdiction; and
 - (B) Creates a power of attorney for health-care decisions, which is effective upon, and only during incapacitation and is unaffected by the subsequent disability or incapacity of the principal as defined in this chapter.
- (4) "Health-care provider" means any person or organizational entity, including health care facilities as defined in § 44-501, licensed or otherwise

authorized to provide health-care services in the District.

(5) “Incapacitated individual” means an adult individual who lacks sufficient mental capacity to appreciate the nature and implications of a health-care decision, make a choice regarding the alternatives presented or communicate that choice in an unambiguous manner.

(5A) “Member of a religious order or diocesan priest” means an unmarried adult who, by vow or other bond of commitment, voluntarily undertakes a style of living under the rule and direction of a religious order or community that has been established for religious purposes and has been recognized and approved as a religious order or community by a church.

(6) “Principal” means a person who is competent to make health-care decisions for his or her own benefit or on his or her own account.

(7) “Religious superior” means a bishop or a member of a religious order who, under the approved constitution, laws, statutes, bylaws, or rules of the religious order or community, exercises authority over the particular community or unit of the religious order to which the member of the religious order or community belongs.

§ 21-2208. Revocation.

(a) At any time that the principal has the capacity to create a durable power of attorney for health care, the principal may:

(1) Revoke the appointment of the attorney in fact under a durable power of attorney for health care by notifying the attorney in fact orally or in writing; or (2) Revoke the authority to make health-care decisions granted to the attorney in fact under a durable power of attorney for health care by notifying the health-care provider orally or in writing.

(b) If a health-care provider is notified of a revocation pursuant to subsection (a)(2) of this section, the health-care provider shall document

this fact in the patient-care records of the principal and make a reasonable effort to notify the attorney in fact of the revocation.

(c) There shall be a rebuttable presumption, affecting the burden of proof, that a principal has the capacity to revoke a durable power of attorney for health care.

(d) Unless it expressly provides otherwise, a valid durable power of attorney for health care revokes any prior durable power of attorney for health-care decisions only.

(e) Unless a durable power of attorney for health care expressly provides otherwise, and after its execution the marriage of the principal is dissolved or annulled, the dissolution or annulment shall automatically revoke a designation of the former spouse as an attorney in fact to make health-care decisions for the principal. If a designation is revoked solely on account of this subsection, it shall be revived by the remarriage of the principal to the former spouse but may be subsequently revoked by an act of the principal.

§ 21-2210. Substituted consent. **

(a) In the absence of a durable power of attorney for health care and provided that the incapacity of the principal has been certified in accordance with § 21-2204, the following individuals, in the order of priority set forth below, shall be authorized to grant, refuse or withdraw consent on behalf of the patient with respect to the provision of any health-care service, treatment, or procedure:

(1) A court-appointed guardian or conservator of the patient, if the consent is within the scope of the guardianship or conservatorship;

(2) The spouse or domestic partner of the patient;

(3) An adult child of the patient;

(4) A parent of the patient;

(5) An adult sibling of the patient;

(5A) A religious superior of the patient, if the patient is a member of a religious order or a diocesan priest;

(5B) A close friend or the patient; or

(6) The nearest living relative of the patient.

(b) A decision to grant, refuse or withdraw consent made pursuant to subsection (a) of this section shall be based on the known wishes of the patient or, if the wishes of the patient are unknown and cannot be ascertained, on a good faith belief as to the best interests of the patient.

(c) There shall be at least 1 witness present whenever a person specified in subsection (a)(2) through (6) of this section grants, refuses or withdraws consent on behalf of the patient.

(d) If no individual in a prior class is reasonably available, mentally capable and willing to act, responsibility for decisionmaking shall rest with the next reasonably available, mentally capable, and willing person on the priority list.

(e) Any person listed in subsection (a) of this section shall have legal standing to challenge in the Superior Court of the District of Columbia any decision made by a person of higher priority as listed within that subsection.

(f) The order of priority established in subsection (a) of this section creates a presumption that may be rebutted if a person of lower priority is found to have better knowledge of the wishes of the patient, or, if the wishes of the patient are unknown and cannot be ascertained, is better able to demonstrate a good-faith belief as to the interests of the patient.

(g)(1) An individual identified in subsection (a)(5B) of this section shall not be authorized to grant, refuse, or withdraw consent on behalf of the patient with respect to a decision regarding a health-care service, treatment, or procedure if the individual is:

(A) A health-care provider who is treating or providing services to the incapacitated patient at the time of the health-care decision; or

(B) An owner, operator, administrator, or employee of, or a person with decision-making authority for, a health-care provider treating or providing services to the incapacitated patient at the time of the health-care decision.

TITLE 22. CRIMINAL OFFENSES AND PENALTIES

CHAPTER 2. ADULTERY.

§ 22-201. Definition and penalty.

Whoever commits adultery in the District shall, on conviction thereof, be punished by a fine not exceeding \$500, or by imprisonment not exceeding 180 days, or both; and when the act is committed between a married person and a person who is unmarried both parties to such act shall be deemed guilty of adultery.

CHAPTER 5. BIGAMY.

§ 22-501. Definition and penalty.

Whoever, having a husband or wife living, marries another shall be deemed guilty of bigamy, and on conviction thereof shall suffer imprisonment for not less than 2 nor more than 7 years; provided, that this section shall not apply to any person whose husband or wife has been continually absent for 5 successive years next before such marriage without being known to such person to be living within that time, or whose marriage to said living husband or wife shall have been dissolved by a valid decree of a competent court, or shall have

been pronounced void by a valid decree of a competent court on the ground of the nullity of the marriage contract.

**CHAPTER 14.
FALSE PRETENSES; FALSE
PERSONATION.**

§ 22-1403. False personation before court, officers, notaries.

Whoever falsely personates another person before any court of record or judge thereof, or clerk of court, or any officer in the District authorized to administer oaths or take the acknowledgment of deeds or other instruments or to grant marriage licenses, with intent to defraud, shall be imprisoned for not less than 1 year nor more than 5 years.

**CHAPTER 19.
INCEST.**

§ 22-1901. Definition and penalty.

If any person in the District related to another person within and not including the fourth degree of consanguinity, computed according to the rules of the Roman or civil law, shall marry or cohabit with or have sexual intercourse with such other so-related person, knowing him or her to be within said degree of relationship, the person so offending shall be deemed guilty of incest, and, on conviction thereof, shall be punished by imprisonment for not more than 12 years.

**CHAPTER 27.
PROSTITUTION; PANDERING.**

§ 22-2708. Causing spouse to live in prostitution.

Any person who by force, fraud, intimidation, or threats, places or leaves, or procures any other person or persons to place or leave, a spouse in a

house of prostitution, or to lead a life of prostitution, shall be guilty of a felony, and upon conviction thereof shall be imprisoned not less than one year nor more than 10 years.

**CHAPTER 30.
SEXUAL ABUSE.**

§ 22-3008. First degree child sexual abuse.

Whoever, being at least 4 years older than a child, engages in a sexual act with that child or causes that child to engage in a sexual act shall be imprisoned for any term of years or for life and, in addition, may be fined an amount not to exceed \$250,000. However, the court may impose a prison sentence in excess of 30 years only in accordance with § 22-3020 or § 24-403.01(b-2). For purposes of imprisonment following revocation of release authorized by § 24-403.01(b)(7), the offense defined by this section is a Class A felony.

§ 22-3009. Second degree child sexual abuse.

Whoever, being at least 4 years older than a child, engages in sexual contact with that child or causes that child to engage in sexual contact shall be imprisoned for not more than 10 years and, in addition, may be fined in an amount not to exceed \$100,000.

§ 22-3010. Enticing a child.

Whoever, being at least 4 years older than a child, takes that child to any place, or entices, allures, or persuades a child to go to any place for the purpose of committing any offense set forth in §§ 22-3002 to 22-3006 and §§ 22-3008 and 22-3009 shall be imprisoned for not more than 5 years and, in addition, may be fined in an amount not to exceed \$50,000.

§ 22-3011. Defenses to child sexual abuse.

(a) Neither mistake of age nor consent is a defense to a prosecution under §§ 22-3008 to 22-3010,

prosecuted alone or in conjunction with charges under § 22-3018 or § 22-403.

(b) Marriage between the defendant and the child at the time of the offense is a defense, which the defendant must establish by a preponderance of the evidence, to a prosecution under §§22-3008 to 22-3010, prosecuted alone or in conjunction with charges under § 22-3018 or § 22-403, involving only the defendant and the child.

§ 22-3013. First degree sexual abuse of a ward.

Whoever engages in a sexual act with another person or causes another person to engage in or submit to a sexual act when that other person:

(1) Is in official custody, or is a ward or resident, . . .

§ 22-3014. Second degree sexual abuse of a ward.

Whoever engages in sexual contact with another person or causes another person to engage in or submit to sexual contact when that other person:

(1) Is in official custody, or is a ward or resident, . . .

§ 22-3015. First degree sexual abuse of a patient or client.

(a) A person is guilty of first degree sexual abuse who purports to provide, in any manner, professional services of a medical, therapeutic, or counseling (whether legal, spiritual, or otherwise) nature, and engages in a sexual act with another person who is a patient or client of the actor, or is otherwise in a professional relationship of trust with the actor; and

(1) The actor represents falsely that the sexual act is for a bona fide medical or therapeutic purpose . . .

§ 22-3016. Second degree sexual abuse of a patient or client.

(a) A person is guilty of second degree sexual abuse . . .

§ 22-3017. Defenses to sexual abuse of a ward, patient, or client.

(a) Consent is not a defense to a prosecution under §§ 22-3013 to 22-3016, prosecuted alone or in conjunction with charges under §22-3018.

(b) Marriage between the defendant and victim at the time of the offense is a defense, which the defendant must prove by a preponderance of the evidence, to a prosecution under §§ 22-3013 to 22-3016, prosecuted alone or in conjunction with charges under § 22-3018.

§ 22-3018. Attempts to commit sexual offenses.

Any person who attempts to commit an offense under this subchapter shall be imprisoned for a term of years not to exceed 15 years . . .

§ 22-3019. No spousal immunity from prosecution.

No actor is immune from prosecution under any section of this subchapter because of marriage or cohabitation with the victim; provided, however, that marriage of the parties may be asserted as an affirmative defense in a prosecution under this subchapter where it is expressly so provided.

§ 22-3024. Spousal privilege inapplicable.

Laws attaching a privilege against disclosure of communications between a husband and wife are inapplicable in prosecutions under subchapter II of this chapter where the defendant is or was married to the victim or where the victim is a child.

**CHAPTER 37.
BIAS-RELATED CRIME.**

§ 22-3701. Definitions.

For the purposes of this chapter, the term:

(1) “Bias-related crime” means a designated act that demonstrates an accused’s prejudice based on the actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibility, physical handicap, matriculation, or political affiliation of a victim of the subject designated act.

**CHAPTER 39.
HIV TESTING OF CERTAIN CRIMINAL
OFFENDERS.**

§ 22-3901. Definitions.

For the purposes of this chapter, the term:

(1) “Convicted” means having received a verdict, or a finding, of guilt in a criminal proceeding, adjudicated as being delinquent in a juvenile proceeding, or having entered a plea of guilty or nolo contendere.

(2) “HIV test” means blood testing for the human immunodeficiency virus (“HIV”) or any other identified causative agent of the acquired immune deficiency syndrome (“AIDS”).

(3) “Mayor” means the Mayor of the District of Columbia, or his or her designee.

(4) “Offense” means any prohibited activity involving a sexual act that includes contact between the penis and the vulva or the penis and the anus, however slight, or contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.

(5) “Victim” means a person injured by the commission of an offense, and includes the parent or legal guardian of a victim, if the victim is a minor,

or the spouse or child of a victim, if the victim is deceased or incapacitated.

§ 22-3902. Testing and counselling.

(a) Upon the request of a victim, the court shall order any individual convicted of an offense, as defined by § 22-3901, to furnish a blood sample to be tested for the presence of HIV.

(b) The court shall promptly notify the Mayor of any court order for an HIV test. Upon receipt of a court order for an HIV test, the Mayor shall promptly collect a blood sample from the convicted individual and conduct an HIV test on the blood sample.

(c) After conducting the HIV test, the Mayor shall promptly notify the victim and the convicted individual of the results of the HIV test. The Mayor shall not disclose the results of the HIV test without also providing, offering, or arranging for appropriate counselling and referral for appropriate health care and support services to the victim and the convicted individual.

(d) The victim may disclose the results of the HIV test to any other individual to protect the health and safety of the victim, the victim’s sexual partners, or the victim’s family.

(e) The result of any HIV test conducted under this section shall not be admissible as evidence of guilt or innocence in any criminal proceeding.

§ 22-3903. Rules.

(a) The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to implement this chapter.

(b) The rules shall include provisions regarding notification to the victim of his or her right to request an HIV test, confidentiality of the test results, free counselling for the victim and the convicted individual concerning HIV testing and HIV disease, and referral for appropriate health care and supportive services.

**TITLE 28.
COMMERCIAL INSTRUMENTS
AND TRANSACTIONS.**

**CHAPTER 48.
PRINCIPAL AND INCOME; UNIFORM
LAW.**

**SUBCHAPTER IV.
ALLOCATION OF RECEIPTS DURING
ADMINISTRATION OF TRUST.**

**PART C.
RECEIPTS NORMALLY
APPORTIONED.**

**§ 28-4804.13. Property not productive of
income.**

(a) If a marital deduction is allowed for all or part of a trust whose assets consist substantially of property that does not provide the spouse with sufficient income from or use of the trust assets, and if the amounts that the trustee transfers from principal to income under § 28-4801.04 and distributes to the spouse from principal pursuant to the terms of the trust are insufficient to provide the spouse with the beneficial enjoyment required to obtain the marital deduction, the spouse may require the trustee to make property productive of income, convert property within a reasonable time, or exercise the power conferred by § 28-4801.04(a). The trustee may decide which action or combination of actions to take.

(b) In cases not governed by subsection (a) of this section, proceeds from the sale or other disposition of an asset are principal without regard to the amount of income the asset produces during any accounting period.

**TITLE 31.
INSURANCE AND SECURITIES.**

**CHAPTER 33.
HEALTH INSURANCE PORTABILITY
AND ACCOUNTABILITY.**

**§ 31-3303.07. Limitation on preexisting
condition exclusion period.**

... (j) A health insurer is deemed to make coverage available with respect to a dependent of an individual if:

(1) The individual is a participant under the plan (or has met any waiting period applicable to becoming a participant under the plan and is eligible to be enrolled under the plan but for a failure to enroll during a previous enrollment period); and

(2) A person becomes such a dependent of the individual through marriage, birth, or adoption or placement for adoption, the group health insurer shall provide for a dependent special enrollment period during which the person (or, if not otherwise enrolled, the individual) may also be enrolled under the plan as a dependent of the individual, and in the case of the birth or adoption of a child, the spouse of the individual may also be enrolled as a dependent of the individual if such spouse is otherwise eligible for coverage.

(k) A dependent special enrollment period under subsection (j) of this section shall be a period of not less than 30 days and shall begin on the later of the date dependent coverage is made available, or the date of the marriage, birth, or adoption or placement for adoption (as the case may be).

(1) If an individual seeks to enroll a dependent during the first 30 days of such a dependent special enrollment period, the coverage of the dependent shall become effective:

(1) In the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

(2) In the case of a dependent's birth, as of the date of such birth; or

(3) In the case of a dependent's adoption or placement for adoption, the date of such adoption or placement for adoption.

**TITLE 32.
LABOR.**

**CHAPTER 5.
FAMILY AND MEDICAL LEAVE.**

§ 32-501. Definitions. **

For purposes of this chapter, the term: . . .

(4) "Family member" means:

(A) A person to whom the employee is related by blood, legal custody, or marriage;

(B) A child who lives with an employee and for whom the employee permanently assumes and discharges parental responsibility; or

(C) A person with whom the employee shares or has shared, within the last year, a mutual residence and with whom the employee maintains a committed relationship . . .

**CHAPTER 7.
HEALTH CARE BENEFITS EXPANSION.**

§ 32-701. Definitions. **

For the purposes of this chapter, the term:

(1) "Committed relationship" means a familial relationship between 2 individuals characterized by

mutual caring and the sharing of a mutual residence.

(2) "District government employee" means any employee eligible for the District of Columbia Employees Health Benefits Program.

(3) "Domestic partner" means a person with whom an individual maintains a committed relationship as defined in paragraph (1) of this section and who has registered under § 32-702(a). Each partner shall:

(A) Be at least 18 years old and competent to contract;

(B) Be the sole domestic partner of the other person; and

(C) Not be married.

(4) "Domestic partnership" means the relationship between 2 persons who become domestic partners by registering in accordance with § 32-702.

(5) "Employee" means any individual employed by an employer.

(6) "Employer" means any individual, firm, partnership, mutual company, joint stock company, association, corporation, unincorporated organization, incorporated society, labor union, receiver, trustee, agent or representative of any of the foregoing, and the District of Columbia government which, for compensation, employs an individual.

(7) "Family member" means:

(A) A domestic partner; or

(B) A dependent child of a domestic partner, which shall include, for the purposes of this section, an unmarried person under 22 years of age, an unmarried person under 25 years of age who is a full-time student, or an unmarried person regardless of age who is incapable of self-support because of a mental or physical disability that existed before age 22. A dependent child of a domestic partner shall include a natural child, adopted child,

stepchild, foster child, or child in the legal custody of a domestic partner.

§ 32-702. Domestic partnership registration and termination procedures.

(a) To establish the existence of a domestic partnership and to qualify for benefits under §§ 32-704, 32-705, and 32-706, persons shall register as domestic partners by executing a declaration of domestic partnership to be filed with the Mayor. For the purposes of this section, the declaration shall be signed by the domestic partners and shall affirm under penalty of perjury that each domestic partner:

- (1) Is at least 18 years old and competent to contract;
- (2) Is the sole domestic partner of the other person; and
- (3) Is not married . . .

**CHAPTER 12.
PARENTAL LEAVE.**

§ 32-1201. Definitions.

For purposes of this chapter, the term:

- (1) “Employer” means any individual, firm, association, corporation, the District of Columbia government, any receiver or trustee of any individual firm, association, or corporation, or the legal representative of a deceased employer, who uses the services of an individual (“employee”) for pay in the District. . . .
- (2) “Parent” means:
 - (A) The natural mother or father of a child;
 - (B) A person who has legal custody of a child;
 - (C) A person who acts as a guardian of a child regardless of whether he or she has been appointed legally as such;

(D) An aunt, uncle, or grandparent of a child; or

(E) A person who is married to a person listed in subparagraphs (A) through (D) of this paragraph . . .

**CHAPTER 15.
WORKERS’ COMPENSATION.**

§ 32-1501. Definitions.

When used in this chapter, the term:

- (1) “Adoption” or “adopted” means legal adoption prior to the time of the injury.
- (2) “Brother” or “sister” includes stepbrothers and stepsisters, half- brothers and half-sisters, and brothers and sisters by adoption, but does not include married brothers nor married sisters unless wholly dependent on the employee.
- (3) “Carrier” means any person or fund authorized under § 32-1534 to insure under this chapter and includes self-insurers.
- (4) “Child” includes a posthumous child, a child legally adopted prior to the injury of the employee, a child in relation to whom the deceased employee stood in loco parentis for at least 1 year prior to the time of injury, and a stepchild or acknowledged child born out of wedlock dependent upon the deceased, but does not include married children unless wholly dependent on the employee . . .
- (20) “Widow” or “widower” includes the decedent’s wife or husband living with or dependent for support upon the decedent at the time of his death; or living apart for justifiable cause or by reason of his or her desertion at such time . . .

**TITLE 38.
EDUCATIONAL INSTITUTIONS.**

**CHAPTER 20.
RETIREMENT OF PUBLIC SCHOOL
TEACHERS.**

§ 38-2021.09. Deferred annuity; annuity to survivors.

(a) Should any teacher to whom this part applies, after completing 5 years of eligible service and before becoming eligible for retirement, become separated from the service, such teacher may elect to receive a deferred annuity, computed as provided in § 38-2021.05, beginning at the age of 62 years and terminating on the date of his death; . . .

(b)(1) In the event any teacher to whom this part applies shall die subsequent to March 6, 1952, after completing at least 18 months of eligible service and is survived by a widow, or widower, such widow or widower shall be paid an annuity beginning the day after the teacher dies, equal to 55% of the amount of an annuity computed as provided in subsection (a) of § 38-2021.05 with respect to such teacher, except that in the computation of the annuity under such subsection the annuity of the teacher shall be at least the smaller of: (A) forty per centum of his average salary; or (B) the sum obtained under such subsection after increasing his eligible service of the type last performed by the period elapsing between the date of death and the date he would have become 60 years of age. Such annuity and any right thereto shall terminate on the last day of the month before: (A) the widow or widower dies; or (B) the widow or widower remarries before becoming 60 years of age. In the case of a widow or widower whose annuity under this paragraph is terminated because of remarriage before becoming 60 years of age, annuity at the same rate shall be restored commencing on the day the remarriage is dissolved by death, annulment, or divorce, if:

(i) The widow or widower elects to receive the annuity which was terminated instead of a survivor benefit to which the widow or widower may be entitled, under this part or another retirement system for employees of the federal or District government, by reason of the remarriage; and

(ii) Any lump sum paid on termination of the annuity is repaid to the Custodian of Retirement Funds (as defined in § 1-702(6)) for deposit in the District of Columbia Teachers' Retirement Fund established by § 1-713(a).

(2) If any teacher to whom this part applies shall die after completing at least 18 months of eligible service or after having retired under the provisions of §38-2021.03 or § 38-2021.04 and is survived by a wife or husband, each surviving child shall be paid an annuity equal to the smallest of: (A) sixty per centum of the teacher's average salary divided by the number of children; (B) \$900; or (C) \$2,700 divided by the number of children. If such teacher is not survived by a wife or husband, each surviving child shall be paid an annuity equal to the smallest of: (A) seventy-five per centum of the teacher's average salary divided by the number of children; (B) \$1,080; or (C) \$3,240 divided by the number of children. The child's annuity shall commence on the first day after the teacher dies. Such annuity and the right thereto terminate on the last day of the month before the child: (i) becomes 18 years of age unless he is then a student as described or incapable of self-support; (ii) becomes capable of self-support after becoming 18 years of age unless he is then such a student; (iii) becomes 22 years of age if he is then such a student and capable of self-support; (iv) ceases to be such a student after becoming 18 years of age unless he is then incapable of self-support; or (v) dies or marries; whichever first occurs. Upon the

death of the surviving wife or husband or termination of the annuity of the child, the annuity of any other child or children shall be recomputed and paid as though such wife, husband, or child had not survived the teacher.

(3) In the event any teacher to whom this part applies shall die subsequent to March 6, 1952, after completing at least 18 months of eligible service, and is not survived by a widow, a widower, and/or children, but is survived by dependent parents or a dependent father or a dependent mother, such surviving dependent parents or parent shall be paid an annuity, beginning the first day of the month following the death of the teacher, equal to 55% of the amount of an annuity computed as provided in subsection (a) of §38-2021.05 with respect to such teacher, except that, in the computation of the annuity under such subsection, the annuity of the teacher shall be at least the smaller of 40% of his average salary, or the sum obtained under such subsection after increasing his eligible service of the type last performed by the period elapsing between the date of death and the date he would have become 60 years of age; provided, that such payments shall be made jointly to surviving dependent parents and payment of such annuity shall continue after the death of either dependent parent; provided further, that all such payments or any right thereto shall cease upon the death of both dependent parents.

(c) As used in this section:

(1) The term “widow” means a surviving wife of an individual, who either shall have been married to such individual for at least 2 years immediately preceding his death, or is the mother of issue by such marriage.

(2) The term “child” means:

(A) An unmarried child under 18 years of age, including:

(i) An adopted child; and:

(ii) A stepchild or recognized natural child who lived with the teacher in a regular parent-child relationship;

(B) Such unmarried child regardless of age who is incapable of self-support because of mental or physical disability incurred before age 18; or

(C) Such unmarried child between 18 and 22 years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. For the purpose of this paragraph and paragraph (2) of subsection (b) of this section, a child whose 22nd birthday occurs before July 1st or after August 31st of a calendar year, and while he is regularly pursuing such a course of study or training, is deemed to have become 22 years of age on the 1st day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 5 months and if he shows to the satisfaction of the Mayor of the District of Columbia that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately after the interim.

(3) The term “dependent parents” means the natural parents of a teacher who were receiving one half or more of their total income from said teacher immediately preceding the death of said teacher.

(4) The term “dependent father” or “dependent mother” means the natural father or natural mother of a teacher who was receiving one half or more of his or her total income from

said teacher immediately preceding the death of said teacher.

(5) The term “widower” means the surviving husband of a teacher who was married to such teacher for at least 2 years immediately preceding her death or is the father of issue by such marriage.

(6) Questions of dependency and disability arising under this section shall be determined by the Board of Education and its decisions with respect to such matters shall be final and conclusive and shall not be subject to review.

§ 38-2021.23. Increased annuities for certain surviving spouses.

Effective on November 1, 1969, or the commencing date of the annuity, whichever is later, the annuity of each surviving spouse whose entitlement to annuity payable from the District of Columbia Teachers’ Retirement and Annuity Fund resulted from the death of: (1) a teacher prior to October 24, 1962; or (2) a retired teacher whose retirement was based on a separation from service prior to October 24, 1962; shall be increased by 20%.

§ 38-2023.02. Annuity for unremarried widow or widower.

The unremarried widow or widower of an employee: (1) Who had completed at least 10 years of service creditable for retirement purposes under part A of this subchapter; (2) who died before May 1, 1952; and (3) who was at the time of his death: (A) subject to an act under which annuities granted before May 1, 1952, were or are now payable from the District of Columbia Teachers’ Retirement and Annuity Fund; or (B) retired under such act; shall be entitled to receive an annuity. In order to qualify for such annuity, the widow or widower shall have been married to the employee for at least 5 years immediately prior to his death and must be not entitled to any other annuity from the District of Columbia Teachers’ Retirement and Annuity Fund based on the

service of such employee. Such annuity shall be equal to one half of the annuity which the employee was receiving on the date of his death if retired, or would have been receiving if he had been retired for disability on the date of his death, but shall not exceed \$750 per annum and shall not be increased by the provisions of this or any other prior law. Any annuity granted under this section shall cease upon the death or remarriage of the widow or widower.

**TITLE 42.
REAL PROPERTY.**

**CHAPTER 11.
RECORDATION TAX ON DEEDS.**

§ 42-1102. Deeds exempt from tax.

The following deeds shall be exempt from the tax imposed by this chapter: . . .

(7) Deeds between husband and wife, or parent and child, without actual consideration therefor;

**CHAPTER 34.
RENTAL HOUSING CONVERSION
AND SALE.**

§ 42-3404.02. Tenant opportunity to purchase; “sale” defined.

(a) Before an owner of a housing accommodation may sell the accommodation, or issue a notice of intent to recover possession, or notice to vacate, for purposes of demolition or discontinuance of housing use, the owner shall give the tenant an opportunity to purchase the accommodation at a price and terms which represent a bona fide offer of sale.

(b) For the purposes of this subchapter, the terms “sell” or “sale” include the execution of any agree-

ment that assigns, leases, or encumbers property, pursuant to which the owner:

- (1) Relinquishes possession of the property;
 - (2) Extends an option to purchase the property for a sum certain at the end of the assignment, lease, or encumbrance and provides that a portion of the payments received pursuant to the agreement is to be applied to the purchase price;
 - (3) Assigns all rights and interests in all contracts that relate to the property;
 - (4) Requires that the costs of all taxes and other government charges assessed and levied against the property during the term of the agreement are to be paid by the lessee either directly or through a surcharge paid to the owner;
 - (5) Extends an option to purchase an ownership interest in the property, which may be exercised at any time after execution of the agreement but shall be exercised before the expiration of the agreement; and
 - (6) Requires the assignee or lessee to maintain personal injury and property damage liability insurance on the property that names the owner as the additional insured.
- (c) For the purposes of this subchapter, the term “sell” or “sale” includes the transfer of 100% of all partnership interests in a partnership which owns the accommodation as its sole asset to 1 transferee or of 100% of all stock of a corporation which owns the accommodation as its sole asset to 1 transferee in 1 or more transactions occurring during a period of 1 year from the date of the first such transfer, and a master lease which meets some, but not all, of the factors described in subsection (b) of this section or which is similar in effect. For the purposes of this subchapter, the term “sell” or “sale” does not include a transfer, even though for consideration, by a decedent’s estate to members of the decedent’s family if the consideration arising from such transfer will pass

from the decedent’s estate to, or solely for the benefit of, charity. For purposes of the preceding sentence, the term “member’s of the decedent’s family” means (i) a surviving spouse of the decedent, lineal descendants of the decedent, or spouses of lineal descendants of the decedent, (ii) a trust for the primary benefit of the persons referred to in clause (i), and (iii) a partnership, corporation, or other entity controlled by the individuals referred to in clauses (i) and (ii). The term “sell” or “sale” does not include a foreclosure sale, a tax sale, or a bankruptcy sale. An owner who is uncertain as to the applicability of this subchapter is deemed to be an aggrieved owner for the purposes of seeking declaratory relief under §§ 42-3405.03 and 42-3405.03a. The tenant or tenant organization in such an accommodation is deemed to be an aggrieved tenant or tenant organization, as applicable, for these purposes. This subsection shall not apply to any transaction involving accommodations otherwise subject hereto expressly contemplated by a registration statement filed with the Securities and Exchange Commission prior to February 22, 1994.

**CHAPTER 36A.
TENANT RECEIVERSHIP.**

§ 42-3651.05. Appointment of a receiver; continuation of ex parte appointment.

- (a)(1) After a hearing, the Court may appoint a receiver for a rental housing accommodation . . .
- (c) The Court shall not appoint as a receiver:
 - (1) An employee of a District of Columbia government agency that licenses or provides a financial payment to the type of housing accommodation being placed in receivership;
 - (2) A person who has a financial interest in any other real property in common with the owner of the property being placed under receivership; or
 - (3) A parent, child, grandchild, spouse, sibling, first cousin, aunt, or uncle of the owner of the

property being placed under receivership or a tenant of the property being placed under receivership, whether the relationship arises by blood, marriage, or adoption.

**TITLE 44.
CHARITABLE AND CURATIVE
INSTITUTIONS.**

**CHAPTER 10.
NURSING HOMES AND COMMUNITY
RESIDENCE FACILITIES
PROTECTIONS.**

**SUBCHAPTER II.
RECEIVERSHIPS.**

**§ 44-1002.05. Appointment of receiver;
continuation of ex parte appointment.**

(a) After a hearing the court may appoint a receiver for the facility . . .

(3) The court shall not appoint as a receiver:

(A) An employee of a District government agency that licenses, operates, or provides a financial payment to the type of facility being placed in receivership;

(B) The owner, licensee, or administrator of the facility, or an affiliate of the owner, licensee, or administrator; or

(C) A parent, child, grandchild, spouse, sibling, first cousin, aunt, or uncle of one of the facility's residents, whether the relationship arises by blood, marriage, or adoption . . .

**TITLE 46.
DOMESTIC RELATIONS.**

**CHAPTER 3.
INTERSTATE FAMILY SUPPORT.**

§ 46-301.01. Definitions.

For the purposes of this chapter, the term:

. . . (4) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

. . . (13) "Law" includes decisional and statutory law and rules and regulations having the force of law.

. . . (21) "Spousal support order" means a support order for a spouse or former spouse of the obligor.

. . . (24) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief. . . .

**§ 46-303.01. Proceedings available under
this chapter.**

. . . (b) This chapter provides for the following proceedings:

(1) Establishment of an order for spousal support or child support pursuant to subchapter IV of this chapter;

(2) Enforcement of a support order and income-withholding order of another state without registration pursuant to subchapter V of this chapter;

(3) Registration of an order for spousal support or child support of another state for

enforcement pursuant to subchapter VI of this chapter;

(4) Modification of an order for child support or spousal support issued by a tribunal of the District pursuant to part B of subchapter II of this chapter; . . .

CHAPTER 4. MARRIAGE.

§ 46-401. Marriages void ab initio— In general.

The following marriages are prohibited in the District of Columbia and shall be absolutely void ab initio, without being so decreed, and their nullity may be shown in any collateral proceedings, namely:

- (1) The marriage of a man with his grandmother, grandfather's wife, wife's grandmother, father's sister, mother's sister, mother, stepmother, wife's mother, daughter, wife's daughter, son's wife, sister, son's daughter, daughter's daughter, son's son's wife, daughter's son's wife, wife's son's daughter, wife's daughter's daughter, brother's daughter, sister's daughter;
- (2) The marriage of a woman with her grandfather, grandmother's husband, husband's grandfather, father's brother, mother's brother, father, stepfather, husband's father, son, husband's son, daughter's husband, brother, son's son, daughter's son, son's daughter's husband, daughter's daughter's husband, husband's son's son, husband's daughter's son, brother's son, sister's son;
- (3) The marriage of any persons either of whom has been previously married and whose previous marriage has not been terminated by death or a decree of divorce.

§ 46-402. Marriages void ab initio— Judicial decree.

Any of such marriages may also be declared to have been null and void by judicial decree.

§ 46-403. Marriages void from date of decree; age of consent.

The following marriages in said District shall be illegal, and shall be void from the time when their nullity shall be declared by decree, namely:

- (1) The marriage of an idiot or of a person adjudged to be a lunatic;
- (2) Any marriage the consent to which of either party has been procured by force or fraud;
- (3) Any marriage either of the parties to which shall be incapable, from physical causes, of entering into the married state;
- (4) When either of the parties is under the age of consent, which is hereby declared to be 16 years of age.

§ 46-404. Persons allowed to institute annulment proceedings.

A proceeding to declare the nullity of a marriage may be instituted in the case of an infant under the age of consent by such infant, through a next friend, or by the parent or guardian of such infant; and in the case of an idiot or lunatic, by next friend. But no such proceedings shall be allowed to be instituted by any person who, being fully capable of contracting a marriage, has knowingly and willfully contracted any marriage declared illegal by the foregoing sections.

§ 46-405. Illegal marriages entered into in another jurisdiction.

If any marriage declared illegal by the foregoing sections shall be entered into in another jurisdiction by persons having and retaining their domicile in the District of Columbia, such marriage shall be deemed illegal, and may be decreed to be void in said District in the same manner as if it had been celebrated therein.

§ 46-406. Persons authorized to celebrate marriages.

- (a) For the purposes of this section, the term:

(1) "Religious" includes or pertains to a belief in a theological doctrine, a belief in and worship of a divine ruling power, a recognition of a supernatural power controlling man's destiny, or a devotion to some principle, strict fidelity or faithfulness, conscientiousness, pious affection, or attachment.

(2) "Society" means a voluntary association of individuals for religious purposes.

(b) For the purpose of preserving the evidence of marriages in the District of Columbia, every minister of any religious society approved or ordained according to the ceremonies of his religious society, whether his residence is in the District of Columbia or elsewhere in the United States or the territories, may be authorized by any judge of the Superior Court of the District of Columbia to celebrate marriages in the District of Columbia. Marriages may also be performed by any judge or justice of any court of record; provided, that marriages of any religious society which does not by its own custom require the intervention of a minister for the celebration of marriages may be solemnized in the manner prescribed and practiced in any such religious society, the license in such case to be issued to, and returns to be made by, a person appointed by such religious society for that purpose. The Clerk of the Superior Court of the District of Columbia or such deputy clerks of the Court as may, in writing, be designated by the Clerk and approved by the Chief Judge, may celebrate marriages in the District of Columbia.

§ 46-407. Celebration of marriage by unauthorized persons.

If anyone except a minister or other person authorized by § 46-406 shall on and after March 3, 1901, celebrate the rites of marriage in said District, he shall be subject to the penalty prescribed in §46-408.

§ 46-408. Celebration of marriage without license.

No person authorized hereby to celebrate the rites of marriage shall do so in any case without first having delivered to him a license therefor addressed to him issued from the Clerk's Office of said Superior Court of the District of Columbia under a penalty of not more than \$500, in the discretion of the Court, to be recovered upon information in the Superior Court of the District of Columbia.

§ 46-409. Issuance of license—Waiting period.

A license to marry shall not be issued until 3 days have elapsed from date of application for issuance of said license.

§ 46-410. Issuance of license—Duty of Clerk; false swearing by applicant deemed perjury.

It shall be the duty of the Clerk of the Superior Court of the District of Columbia before issuing any license to solemnize a marriage to examine any applicant for said license under oath and to ascertain the names and ages of the parties desiring to marry, and if they are under age the names of their parents or guardians, whether they were previously married, whether they are related or not, and if so, in what degree, which facts shall appear on the face of the application, of which the Clerk shall provide a printed form, and any false swearing in regard to such matters shall be deemed perjury.

§ 46-411. Consent of parent or guardian.

If any person intending to marry and seeking a license therefor shall be under 18 years of age, and shall not have been previously married, the said Clerk shall not issue such license unless a parent, or, if there be neither father nor mother, the guardian, if there be such, shall consent to such proposed marriage, either personally to the Clerk, or by an instrument in writing attested by a witness and proved to the satisfaction of the Clerk.

§ 46-412. Form of license; return; coupons.

Licenses to perform the marriage ceremony shall be addressed to some particular minister, magistrate, or other person authorized by § 46-406 to perform or witness the marriage ceremony and shall be in the following form:

Number _____

To _____, authorized to celebrate (or witness) marriages in the District of Columbia, greeting:

You are hereby authorized to celebrate (or witness) the rites of marriage between _____, of _____, and _____, of _____, and having done so, you are commanded to make return of the same to the Clerk's Office of the Superior Court of the District of Columbia within 10 days under a penalty of \$50 for default therein.

Witness my hand and seal of said Court this _____ day of _____, anno

Domini _____

_____ Clerk.

By _____ Assistant Clerk.

Said return shall be made in person or by mail on a coupon issued with said license and bearing a corresponding number therewith within 10 days from the time of said marriage, and shall be in the following form:

Number _____

I, _____, who have been duly authorized to celebrate (or witness) the rites of marriage in the District of Columbia, do hereby certify that, by authority of a license of corresponding number herewith, I solemnized (or witnessed) the marriage of _____ and _____, named therein, on the _____ day of _____, at _____, in said District. A 2nd coupon, of corresponding

number with the license, shall be attached to and issued with said license, to be given to the contracting parties by the minister or other person to whom such license was addressed, and shall be in the following form:

Number _____

I hereby certify that on this _____ day of _____, at _____, _____ and _____ were by (or before) me united in marriage in accordance with the license issued by the Clerk of the Superior Court of the District of Columbia.

Name _____,

Residence _____

§ 46-413. Failure to make return.

Any minister or other person, having solemnized or witnessed the rites of marriage under the authority of a license issued as aforesaid, who shall fail to make return as therein required, shall be liable to a penalty of \$50 upon conviction of said failure upon information in the Superior Court of the District of Columbia.

§ 46-414. Record books.

The Clerk of the said Court shall provide a record book in his office, consisting of applications and licenses in blank, to be filled up by him with the names and residences of the parties for whose marriage any license may have been issued, said applications and licenses to be numbered consecutively from 1 upward, and also a record book in which shall be recorded, in the order of their numbers, the certificates of the minister or other persons authorized, upon their return to said office, corresponding to said record book of licenses issued, and a copy of any license and certificate of marriage so kept and recorded, certified by the Clerk under his hand and seal, shall be competent evidence of the marriage.

§ 46-415. Issue of marriages of colored persons.

The issue of any marriage of colored persons contracted and entered into according to any custom prevailing at the time in any of the states wherein the same occurred shall, for all purposes of descent and inheritance and the transmission of both real and personal property within the District of Columbia, be deemed and held to be legitimate and capable of inheriting and transmitting inheritance, and taking as next of kin and distributees according to law, from and to their parents or either of them, and from and to those from whom such parents or either of them may inherit or transmit inheritance, anything in the laws of such state to the contrary notwithstanding; provided, that nothing herein shall be construed as implying that any such marriage is not valid or such issue legitimate for all other purposes.

§ 46-416. Public inspection and examination of applications.

All applications for marriage licenses shall be open to inspection as public records, except as limited by § 46-416.01. All such applications upon which licenses have not yet been issued shall be kept together in a separate file readily accessible to public examination.

§ 46-416.01. Social security numbers to be filed with application.

(a) Each applicant for a marriage license shall record on the application each social security number assigned to the applicant. If the applicants' social security numbers are not recorded on the face of the license, the agency shall keep on file each applicant's social security number and each applicant shall be so advised.

(b) The social security number shall be disclosed only:

(1) For a purpose directly related to the establishment of paternity, or the establish-

ment, modification, or enforcement of a support order; and

(2) To the applicant, the other spouse, the child of the applicant or spouse, . . .

§ 46-417. Premarital blood tests; statement regarding test to be filed with application.

No application for a marriage license shall be received unless there shall be filed therewith a statement or statements, upon a form prescribed by the Mayor of the District of Columbia, signed by: (1) a person in the District of Columbia certified by the Department of Human Services as duly qualified to administer and interpret a standard laboratory blood test; (2) a physician licensed to practice medicine or osteopathy in the District of Columbia, a state, or a territory or possession of the United States; or (3) a commissioned medical officer in the military service or in Public Health Service of the United States; that the applicant has submitted to a standard laboratory blood test within 30 days prior to the filing of such application, and that, in the opinion of such certified person, physician, or medical officer, based upon the result of that test, the applicant is not infected with syphilis in a stage of that disease in which it can be transmitted to another person. Such statement shall not disclose the technical data upon which it is based. Any such statement shall include the name of the person or laboratory administering the test, the name of the test administered, the exact name of the applicant, and the date of the test.

§ 46-418. Waiver of certain requirements.

If a judge of the Superior Court of the District of Columbia determines that public policy or the physical condition of either of the persons applying for a marriage license requires the intended marriage to be celebrated without delay, he may waive the provisions of §§ 46-409 and 46-417, and a license may be issued without regard to such sections.

§ 46-419. Financial inability to pay for blood test or required statement.

In any case in which a person is unable for financial reasons to obtain the services of: (1) a private physician; or (2) any other person in the District of Columbia, certified by the Department of Human Services as duly qualified to administer and interpret a standard laboratory blood test; to conduct such test or sign the statement required by § 46-417, any medical officer of the Department of Human Services of the District of Columbia is authorized to conduct such test and provide such statement at no cost to such person.

§ 46-420. Confidential character of blood test information.

Any information obtained from any laboratory blood test required under § 46- 417 shall be regarded as confidential by each person, agency, or committee who obtains, transmits, or receives such information.

**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.

§ 46-504. 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.

§ 46-507. Void marriage.

If a marriage is determined to be void, an agreement that would otherwise have been a prenuptial 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 prenuptial 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.

**CHAPTER 6.
PROPERTY RIGHTS.**

§ 46-601. Rights enumerated.

The fact that a person is or was married shall not, after October 1, 1976, impair the rights and responsibilities of such person, which are hereby granted or confirmed, to acquire from anyone, and to hold and dispose of, in any manner, as his or hers, property of any kind, or to accept and be bound by any covenant or agreement relating to any property or debt, or to contract or engage in any trade, occupation or business arrangement or in any civil litigation of any sort (whether in contract, tort or otherwise) with or against anyone including such person's spouse, to the same extent as an unmarried person, and neither the spouse of such person nor the spouse's property shall be liable because of any contract or tort by such person in which the spouse has not directly or indirectly participated, except that both spouses shall be liable on any debt, contract or engagement entered into by either of them during their mar-

riage for necessities for either of them or for their dependent children. A married minor shall be subject to the same disabilities, including the requirement for appointment of a guardian of the minor's estate, as an unmarried minor, except as otherwise provided by law. This section shall not be deemed to affect the law relating to ownership of property held by the husband and wife as tenants by the entireties, inheritance of property, actions for loss of consortium, family relations, or, except as to necessities purchased during marriage, obligations for marital support.

**TITLE 47. TAXATION, LICENSING,
PERMITS, ASSESSMENTS, AND FEES.**

**CHAPTER 9.
TRANSFER TAX ON REAL PROPERTY.**

**§ 47-902. Enumeration of transfers exempt
from tax.**

The following transfers shall be exempt from the tax imposed by this chapter: . . .

(5) Transfers between husband and wife, or parent and child, without actual consideration therefor; . . .

**CHAPTER 18.
INCOME AND FRANCHISE TAXES.**

**SUBCHAPTER VI.
TAX ON RESIDENTS AND
NONRESIDENTS.**

§ 47-1805.01. Returns—Forms.

. . . (e) Requirement to file joint federal returns. — Whenever a taxpayer is required by the Internal Revenue Code of 1986 to file a joint income tax return with his or her spouse in order to qualify for a tax benefit under the Internal Revenue Code of

1986, the taxpayer and spouse shall file either a joint return or separate returns on a combined individual form prescribed by the Mayor in order to qualify for a similar benefit afforded under this chapter.

**§ 47-1805.02. Returns—Persons required to
file.**

Each of the following persons shall file a return with the Mayor stating specifically the items of his gross income and the items claimed as deductions and credits allowed under this chapter, and such other information for the purpose of carrying out the provisions of this chapter as the Mayor may require:

(1) Residents and nonresidents. — Every nonresident of the District receiving income subject to tax pursuant to this chapter and every resident of the District, except a fiduciary, who is required to file a federal return under the provisions of § 6012 of the Internal Revenue Code of 1986.

(2) Fiduciaries. —

(A) Every individual, if single, or if married and not living with spouse, for whom he or she acts, having met the filing requirements of § 6012 of the Internal Revenue Code of 1986;

(B) Every individual, if married and living with spouse, for whom he or she acts, having met the filing requirements of § 6012 of the Internal Revenue Code of 1986, except that if the fiduciary elects to file a separate return, the provisions of § 6012 of the Internal Revenue Code of 1986, relating to filing requirements for separate returns, shall be followed; . . .

**§ 47-1806.02. Tax on residents and
nonresidents—Personal exemptions.**

(a) In the case of a resident, the exemptions provided by this section shall be allowed as deductions in computing taxable income.

(b) An exemption shall be granted for the taxpayer and an additional exemption for the spouse of the

taxpayer if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(c) There shall be allowed an additional exemption for a taxpayer who qualifies as a head of household.

(d) There shall be allowed an additional exemption for a taxpayer who is blind at the close of his or her taxable year, and an additional exemption for the spouse of the taxpayer if the spouse is blind at the close of the taxable year of the taxpayer and, if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer, except that if the spouse dies during such taxable year the determination regarding blindness shall be made as of the time of death.

(e) There shall be allowed an additional exemption for a taxpayer who has attained the age of 65 before the close of his or her taxable year, and an additional exemption for the spouse of the taxpayer if the spouse has attained the age of 65 before the close of his or her taxable year and, if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(f)(1) There shall be allowed an additional exemption for each dependent:

(A) Whose gross income for the calendar year in which the year of the taxpayer begins is less than \$885 for the taxable years beginning after December 31, 1986, less than \$1,025 for taxable years beginning after December 1, 1987, less than \$1,160 for taxable years beginning after December 31, 1988, less than \$1,270 for taxable years beginning after December 31, 1989, and less than \$1,370 for taxable years beginning after December 31, 1990; or

(B) Who is a child of the taxpayer and who:

(i) Has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins; or

(ii) Is a student.

(2) No exemption shall be allowed under this subsection for any dependent who has made a joint return with his or her spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(3) For purposes of this subsection:

(A) The term "child" means a child as defined in § 151(c)(3) of the Internal Revenue Code of 1986; and

(B) The term "student" means a student as defined in § 151(c)(4) of the Internal Revenue Code of 1986.

(g) In the case of a return made for a fractional part of a taxable year, the personal exemptions shall be reduced to amounts that bear the same ratio to the full exemptions provided as the number of months in the period for which the return is made bear to 12 months.

(h) In the case of an individual for whom a deduction under this section is allowable to another taxpayer for a taxable year in which the taxable year beginning in the calendar year in which the individual's taxable year begins, the exemption amount applicable to the individual for his or her taxable year shall be zero.

(i) For purposes of this section, the deduction for personal exemptions shall be as follows:

(1) For taxable years beginning after December 31, 1986, \$885;

(2) For taxable years beginning after December 31, 1987, \$1,025;

(3) For taxable years beginning after December 31, 1988, \$1,160;

(4) For taxable years beginning after December 31, 1989, \$1,270; and

(5) For taxable years beginning after December 31, 1990, \$1,370.

§ 47-1806.03. Tax on residents and nonresidents—Imposition and rates.

(a)(1) In the case of a taxable year beginning after December 31, 1986, there is imposed on the taxable income of every resident a tax determined in accordance with the following table: . . .

(c) An individual not living with a husband or wife on the last day of the taxable year, for the purposes of this chapter, shall be considered as a single person.

(d) This section shall not apply to any return filed by a fiduciary for an estate or trust or to any married resident living with his or her spouse at any time during the taxable year where such spouse files a return and computes the tax thereon without regard to this section.

(e) If a husband and wife living together file separate returns, each shall be treated as a single person for the purposes of this section.

**CHAPTER 42.
INTEREST AND PENALTIES.**

§ 47-4212. Imposition of fraud penalty.

(a) If a portion of an underpayment of tax required to be shown on a return is attributable to fraud, there shall be added to the tax imposed by this title an amount equal to 75% of the portion of the underpayment which is attributable to fraud.

(b) If the Mayor establishes that a portion of an underpayment is attributable to fraud, the entire underpayment shall be deemed to be attributable to fraud, except with respect to any portion of the underpayment which the taxpayer establishes, by a

preponderance of the evidence, is not attributable to fraud.

(c) In the case of a joint return, this section shall not apply with respect to a spouse unless a portion of the underpayment is attributable to the fraud of the spouse.

(d) Fraud is indicated where a taxpayer willfully:

(1) Fails to pay a tax imposed by this title; or

(2) Attempts to evade or defeat in any way the tax or the payment thereof.

§ 47-4432. Joint and combined returns; real property refund due to more than one owner.

If a joint income tax return is filed, the Mayor shall separate the amount due to the spouse who owes delinquent taxes from the spouse who does not owe delinquent taxes based upon the proportion of gross income of each spouse. In applying the tax refund against delinquent taxes owed by a spouse, the tax refund of the spouse who does not owe delinquent taxes shall not be credited against the liability of the spouse who owes delinquent taxes. If a separate income tax return on a combined individual form prescribed by the Mayor is filed, the tax refund of the spouse who does not owe delinquent taxes shall not be credited against the liability of the spouse who owes delinquent taxes. If a real property tax refund is due to more than one owner of real property, the Mayor shall separate the amount of tax refund of the owners who are liable for delinquent taxes from the owners who are not liable for delinquent taxes determined on the basis of each owner's ownership percentage in the real property.

**CHAPTER 45.
COLLEGE SAVINGS PROGRAM.**

§ 47-4509. Local tax exemption.

Contributions made by account owners to, and earnings on, accounts shall be exempt from District of Columbia income taxation.

(a) An account owner who files an income tax return in the District of Columbia may claim a deduction in an annual amount not to exceed \$3,000 for contributions made to all accounts under the Program. With respect to married individuals filing a joint return, each married individual may claim a deduction in an annual amount not to exceed \$3,000 for contributions made to all accounts under the Program for which the married individual is the account owner.

(b) If an amount greater than \$3,000 is contributed to one or more accounts in a tax year, the excess may be carried forward as a deduction, subject to the annual limit, for 5 years . . .

**TITLE 50.
MOTOR AND NON-MOTOR VEHICLES
AND TRAFFIC.**

**CHAPTER 15.
REGISTRATION OF MOTOR
VEHICLES.**

**§ 50-1501.02. Motor vehicles and trailers;
expiration; certificates and tags; sale or
transfer; Mayor to issue rules.**

(e)(4) The name of a spouse may be added as joint owner to the registration of a motor vehicle or trailer, subject to the applicable provisions of law relating to the titling of motor vehicles and trailers;