

*A Layperson's Guide to the Law of Divorce  
In Maryland*

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# Introduction

I have spoken with numerous persons who have become divorced in Maryland. While many opinions about the divorce process have been expressed, I have heard the following comments all too frequently: the divorce process is unwieldy; it is time consuming; often, it is unbelievably expensive; and, its adversarial nature makes the bad feelings already present, worse.

Recognizing these problems, I have sought to offer an improved way for couples to terminate their marriages. By jointly reaching decisions with the help of a highly trained and knowledgeable professional, a mediator, couples have consistently been able to terminate marriages fairly, more decently, and without many of the concerns stated above, or at least with a diminished level of such concerns. This process is known as divorce mediation.

In an effort to continue assisting couples in making better decisions about divorce, I have written this Guide. It is my belief that couples, with sufficient information, are generally able to make appropriate and fair decisions about the matters facing them in divorce. This Guide, therefore, is an effort to give couples who are considering separation and divorce the information they need about the legal system and laws of divorce in Maryland.

I hope you find it useful and informative.

# Types of Divorce in Maryland

## Limited Divorce and Absolute Divorce

There are actually two kinds of divorce under Maryland law: Limited Divorce and Absolute Divorce. While this Guide is intended primarily for couples who intend to fully terminate their marriages, and who therefore seek an Absolute Divorce, a few words about Limited Divorce are appropriate.

### Limited Divorce

Limited Divorce under Maryland law may be granted under certain circumstances. The grounds for Limited Divorce are:

1. Cruelty of treatment of the complaining party or of a minor child of the complaining party;
2. Excessively vicious conduct to the complaining party or to a minor child of the complaining party;
3. Desertion;
4. Voluntary separation, if the parties are living separate and apart without cohabitation, and there is no reasonable hope of reconciliation.

The granting of a Limited Divorce authorizes a spouse to live separate and apart from the other party and to obtain orders relating to certain financial and child custody issues. The parties still remain as husband and wife, and there is no severance of the marital bonds. For this reason, most persons who seek a divorce, petition the Courts for an Absolute Divorce. Limited Divorce is sometimes helpful for religious purposes.

In the financial arena, when a Limited Divorce is granted, a court may: order spousal and child support, award use and possession of the marital home and certain types of personal property (such as an automobile). The court may decide the ownership of personal property, but not real property (real property is land and permanent structures on it; personal property is generally tangible possessions and effects, other than real property). The court may also determine the temporary custody of minor children.

The orders which may be obtained in the Court process relating to a Limited Divorce can also be achieved directly by the spouses when they enter into what is known as a 'Temporary Agreement. Couples who are recently separated or who are contemplating a separation in the near future often seek to achieve such agreements without having to go to court and are able to do so in a mediation setting. I find that couples who are not ready either for practical or emotional reasons to enter into a final agreement, look to a Temporary Agreement as an

appropriate intermediate step in the divorce process.

They see a Temporary Agreement as a way to separate in a controlled and civilized way and to provide for the immediate financial needs of the family and the care of the children,

## **Absolute Divorce**

Unlike a Limited Divorce, an Absolute Divorce does officially end the marriage. The following are the grounds for Absolute Divorce in Maryland.

1. Adultery
2. Desertion for more than 12 months
3. Voluntary separation, if such separation has continued for at least 12 continuous months prior to the filing of the divorce and the separation was by mutual and voluntary consent of both spouses
4. Conviction of a felony or misdemeanor (if the sentence is for at least three years, and one year has been served)
5. Two year separation, when the parties have lived separate and apart for two continuous years prior to the filing for the divorce (there is no need to prove that the separation was by mutual and voluntary consent of the parties if two years has passed)
6. Insanity, if
  - (a) the insane spouse has been confined in a mental institution, hospital or other similar institution for at least three years before the filing for the divorce;
  - (b) and the Court determines that the insanity is incurable and there is no hope of recovery and;
  - (c) at least one of the spouses has resided in Maryland for at least two years before the filing for the divorce.
7. Cruelty of treatment toward the complaining party if there is no reasonable expectation of a reconciliation
8. Excessively vicious conduct toward the complaining party, if there is no reasonable expectation of a reconciliation.

When an Absolute Divorce is granted, all the rights and obligations of the parties are decided and determined. Such matters include division and distribution of marital property, alimony, child custody, the right to counsel fees, and which party may use the family home and other family property (limited to three years). Further, the bonds of marriage are ended.

## No Fault Divorce

Of the grounds for Absolute Divorce indicated in the previous section, two are considered no-fault. They are:

1. 12 month continuous and uninterrupted separation by the mutual and voluntary consent of the parties, and;
2. two year continuous and uninterrupted separation whether or not the separation was initially mutual and voluntary.

Both of these grounds for Absolute Divorce require that a separation between Husband and Wife has actually occurred. A separation, to be recognized by the Courts, means that a Husband and Wife have actually taken different and separate residences; living separately under the same roof is not considered a 'separation'. Similarly, if the parties have had sexual relations during the period of separation it will be deemed to have broken the separation.

A question also arises as to what is meant by mutual and voluntary consent and how it can be proven in Court. Mutual and voluntary consent means that there was intent, at the time of separation, by both spouses to separate and both spouses believed that a separation was right for them at that time. At a divorce hearing, such intent can be established in one of two ways:

First, one of the spouses testifies as to the mutual and voluntary agreement to separate and then a witness is called to corroborate those facts by testifying that he or she personally heard from each of the parties, at about the time of the separation, that it was their mutual intent to separate; and,

Second, the law states that a Separation Agreement together with the testimony of one of the parties may establish the mutual and voluntary nature of the separation. For this to occur, the Agreement must:

- a. state that the separation was by the mutual and voluntary consent of the parties and the date the separation began;
- b. state that the separation has been continuous since the date of separation, and,
- c. have been signed and notarized prior to the filing of the divorce action.

The two no-fault grounds for divorce are very widely used in Maryland Courts today. The perception that fault plays a large role in judicial decision making has been eroded over the years. It is now well recognized that the pre-eminent factors which will be considered by Maryland judges in a divorce proceeding are those relating to the economic circumstances of the parties. Under these conditions, no-fault divorce has gained in prominence and use.

In mediation, discussions about fault are not encouraged. Such discussions rarely play a useful role in cooperative decision making. If the spouses are able to focus on the financial aspects of their separation, and carefully consider what is in the best interests of their children,

without regard to fault, mediation is much more likely to succeed. It is my belief that most marriages end for a number of reasons, but the most significant is the fact that the spouses are no longer compatible mates. When this is the reality of the situation, it seems logical to abandon the concept of fault and deal with those issues which are truly relevant.

## **What is a Legal Separation**

One of the questions I am most often asked is to define a “Legal Separation”. It is clear that there is great confusion about this term. Legal separations result from one of two situations:

1. A Court Order has been issued which is not a Final Judgment of Divorce, but which does recognize that the parties are living apart, or
2. The parties have signed a proper agreement which recognizes that they are living apart, and they are, in fact, living apart.

There is a common misunderstanding with regard to “Legal Separation”. Many people believe that when they have a legal separation there are no further marital obligations, particularly the obligation of fidelity. This is not accurate. In Maryland, you are obligated to be faithful to your spouse while you are married and may be sued for adultery if you are not, even if you have a “Legal Separation”.

Legal separations are important. Not only do the Orders or Agreements relating to them informally deal with financial and child related matters, but legal separations have certain tax implications in terms of the way a spouse is authorized to file income tax returns. For instance, a legal separation may entitle a spouse to claim ‘head of household’ status, recognized by the internal Revenue Service.

# Mediation and the Divorce Process

The same matters which may be contained in a judicial order arising from litigation may be decided between the spouses directly and placed into written form, commonly known as a “Marital Settlement Agreement”. This document, once signed, becomes a contract between the spouses. Mediation is an excellent way for the spouses to reach these agreements and create their own Marital Settlement Agreement, and thus their own divorce decree, without going through the tedious and difficult court process. The issues which are typically addressed in mediation are: division of marital property, alimony, custody, child support, allocation of marital debt and tax considerations. The mediator, an expert in family law, guides the spouses through a comprehensive discussion and negotiation of these issues. When a tentative agreement is reached, the mediator drafts a proposed Marital Settlement Agreement. The spouses are then encouraged to have the Agreement reviewed by independent counsel to ensure that the Agreement is fair, thorough, and legally sufficient.

Once a Marital Settlement Agreement is reached, the actual process of obtaining a divorce decree is simplified. The hearing is not adversarial and is generally accomplished in a 10 to 15 minute hearing before a Master. The Master (who is appointed by the Court to make findings of fact and recommendations to the Court) accepts the Marital Settlement Agreement and takes sufficient testimony to assure himself or herself that one of the grounds for Absolute Divorce does exist. A Judgment of Absolute Divorce is then issued by the Court approximately 30 days after the hearing.

The balance of this Guide is devoted to a discussion of the substantive issues noted above in the hope that the information provided will assist you in reaching a non-adversarial Marital Settlement Agreement. If you are able to do so, you will have saved a great deal of money and spared your family, and particularly your children, if you have children, of the very harsh consequences of litigation.

# How Property is Divided Under Maryland Law

The term “property” is very broad. It includes virtually any interest in something of value even if there is no immediate benefit in the property. For instance, pension rights are property even though the right to receive benefits under the pension may be years away. The fact, however, that a spouse has an interest in property does not necessarily mean that both spouses have an interest in that property. For this to occur, it is necessary that the property be “marital property”.

## Understanding Marital Property

Under Maryland law, Marital Property is any property acquired by either spouse since the date of the marriage, except:

1. Property which was a gift only to one spouse (from a third party), or
2. Property which was received as an inheritance by one spouse, or
3. Property which was excluded from marital property by a proper agreement between the spouses (i.e. a pre nuptial agreement or a settlement agreement between the spouses which states which property belongs to which spouse), or
4. Property which can be directly traced to any of the three sources, above.

Also, Marital Property had to have been acquired since the date of marriage. Property which one spouse had prior to the marriage is not marital property, even if the property had been a gift between the spouses, such as an engagement ring.

Sometimes, property can be partially marital and partially non-marital. For instance, if one spouse owned a house prior to the marriage, but after the marriage both spouses jointly contributed to the upkeep of the house and used their marital funds to pay the mortgage, then the property will be viewed as being both marital and non-marital. It is then necessary to determine how much of the equity in the house is marital and how much is non-marital, based on the respective contributions of each spouse to obtain and maintain the house.

*Note:* Special rules apply to real property titled as “tenants by the entireties”, even if one spouse owned the property solely prior to the marriage. Now, all real property titled as “tenants by the entireties” is marital property; however, a monetary award may be granted in favor of a Party who has made a non-marital contribution to the acquisition of the real property.

A further question arises when after the marriage title to the Marital Home is changed from only one spouse to both spouses-does this automatically create an equal interest in the house? Recent legislation provides that when a Marital Home is jointly titled (usually tenants by the entireties) the property is automatically ‘marital property’. Judges always have discretion as to the percentage of interest each spouse has in marital property. Typically, judges begin with a

presumption that all marital property shall be equally divided between the spouses; however, if there are compelling reasons, usually economic in nature, judges in Maryland can deviate from the fifty-fifty standard.

Generally, the following categories of property must be reviewed to determine if either spouse has an interest in such property at the time of the divorce and whether the property is “marital property” under the law:

- Real estate
- Stocks, bonds, mutual funds
- Bank accounts
- Business interests
- Cash value in life insurance policies
- Pension and retirement interests
- Notes payable to one or both spouses
- Executive benefits such as stock options and deferred compensation plans
- Patents, copyrights and future royalty interests
- Personal property, including household effects and automobiles
- Any other property not listed above

Once the parties are able to identify which property is Marital Property and which is not, then the next step is to value the Marital Property. Valuing Marital Property is sometimes very simple and at other times, more complex. The amounts in bank accounts, CDs, IRAs, and other similar interests are very specific and no special valuation is required. Other assets may need the services of professionals to undertake a proper valuation such as real estate or the value of a spouse’s interest in a business or pension plan.

In mediation, the steps of determining which property is Marital Property and valuing such property are done carefully and with the full knowledge and participation of both spouses. If outside expertise is required, the parties jointly choose an expert who is neutral.

## **How Marital Property is Divided**

Once Marital Property is identified and valued, then the next step is to divide it. Some states’ laws require that marital property be divided equally. Maryland is not such a state. In Maryland, the Courts are bound to use the standard of “equitable distribution”. Judges and Masters are given the opportunity, in Maryland, to determine how much of the marital estate is to go to each

spouse based on a number of factors, and the outcome is not necessarily an equal division. Set forth below is the list of factors which Judges and Masters are required to consider when dividing Marital Property according to equitable distribution.

- (1) the contribution, monetary and non-monetary, of each party to the well-being of the family;
- (2) the value of all property interests of each party;
- (3) the economic circumstances of each party at the time the award is to be made;
- (4) the circumstances that contributed to the estrangement of the parties;
- (5) the duration of the marriage;
- (6) the age of each party;
- (7) the physical and mental condition of each party;
- (8) how and when specific marital property or interest in the pension, retirement, profit sharing, or deferred compensation plan, was acquired, including the effort expended by each party in accumulating the marital property or the interest in the pension, retirement, profit sharing, or deferred compensation plan, or both;
- (9) any award of alimony and any award or other provision that the court has made with respect to family use personal property or the family home, and
- (10) any other factor that the court considers necessary or appropriate to consider in order to arrive at a fair and equitable monetary award or transfer of an interest in the pension, retirement, profit sharing or deferred compensation plan, or both.

*NOTE:* Courts are able to practically implement their view of equitable distribution by their ability to grant a “monetary award” in favor of one spouse against the other and to transfer ownership between spouses in pension and retirement plans and other deferred compensation plans. A recent change in Maryland law also allows courts, under some circumstances, to order that a Marital Home which is jointly titled be re titled to one of the spouses. Courts are not otherwise able to transfer title of property between spouses.

It should be obvious to anyone who reviews the above list of factors, that the process of a court determining equitable distribution is a trial lawyers dream come true. Since Judges and Masters are required to consider all of these factors in applying the doctrine of equitable distribution, then the opposing sides in an adversarial divorce must produce as much evidence as possible on each of the issues which each side considers important. This court process alone can take days as witnesses are called on each point by each side.

In mediation, couples review the circumstances of their property interests themselves, with the mediator. Typically, couples begin that process by making a presumption that Marital Property will be divided equally between them, unless there are strong, compelling, economic

circumstances why the property should not be divided equally. With this as a guidepost, most couples are able to reach a fair agreement with respect to the division of their marital assets.

## **Use and Possession Orders**

Maryland law allows Courts to grant certain Use and Possession Orders for a limited period of time. Use and possession orders allow one spouse or the other to continue to live in the marital home or use other personal property for a period not to exceed three years from the date of the Order. The primary purpose of these orders is to protect children from a sudden and significant disruption to their lives. When Use and Possession Orders are granted, such Orders delay the division of the marital property subject to the Order until the period of use and possession expires. Use and possession orders can also include provisions as to which spouse will be responsible for any financial obligations associated with the property subject to the Order (i.e. who will pay the mortgage on the marital home).

In mediation, couples often are concerned about the welfare of minor children and agree between themselves to a time period during which the children and one spouse may remain in the marital home or have use of other property. Further agreements are then reached regarding the financial obligations associated with the property. Unlike Courts, however, which are limited to awarding use and possession to a maximum period of three years, couples in mediation are free to agree to any period of time during which the use and possession will occur.

## **A Word About Debts**

Courts do not have the ability to determine which spouse will be responsible for which marital debts after the divorce. The only exception to this occurs where a Use and Possession Order has been issued and, as part of that Order, the Court requires that the financial obligations associated with the property be paid in a certain manner.

More often than not, there are some family debts. Such debts typically relate to credit card charges, automobile loans, personal lines of credit and loans from family members. Often, the issue of debt repayment is an integral and very important part of a divorce settlement. When couples mediate, this issue is specifically addressed so that there is a fair allocation of debt responsibility.

# Alimony and Spousal Support

Maryland law clearly recognizes that either spouse in a marriage may be entitled to support and maintenance (i.e. alimony) upon a termination of the marriage or even prior to a termination of the marriage if a separation has occurred and one spouse needs assistance to pay his or her obligations (in litigation, this is called *pendente lite* alimony).

When alimony is requested prior to the actual divorce hearing (*pendente lite*), the only considerations are the financial needs of the person requesting alimony and ability of the other spouse to pay alimony. In a proceeding for an Absolute Divorce, the legal considerations for alimony are quite different.

The following factors are to be taken into consideration by the Court in determining the amount and duration of an alimony award in an Absolute Divorce proceeding:

- (1) the ability of the party seeking alimony to be wholly or partly self-supporting;
- (2) the time necessary for the party seeking alimony to gain sufficient education or training to enable that party to find suitable employment;
- (3) the standard of living that the parties established during their marriage;
- (4) the duration of the marriage;
- (5) the contributions, monetary and non-monetary, of each party to the well-being of the family;
- (6) the circumstances that contributed to the estrangement of the parties;
- (7) the age of each party;
- (8) the physical and mental condition of each party;
- (9) the ability of the party from whom alimony is sought to meet that party's needs while meeting the needs of the party seeking alimony;
- (10) any agreement between the parties;
- (11) the financial needs and financial resources of each party, including:
  - (a) all income and assets, including property that does not produce income;
  - (b) any monetary award which is an adjustment of marital property or any use and possession order granted in the proceeding;
  - (c) the financial obligations of each party; and (d) the right of each party to receive retirement benefits.

Alimony in Maryland is generally rehabilitative in nature; that is the primary purpose of alimony is to assist the economically dependent spouse to become economically independent. Maryland law requires each spouse to support themselves to the extent they are able. As a result, alimony is typically limited to a specific period of time and this is known as rehabilitative alimony.

Courts may award what is known as indefinite alimony (alimony terminates only upon the death of either spouse or the remarriage of the spouse receiving alimony), but must find that one of the following reasons exists for doing so:

- (1) due to a party's age, illness, infirmity or disability, the party seeking alimony cannot reasonably be expected to make substantial progress toward becoming self-supporting; or,
- (2) even after the party seeking alimony will have made as much progress toward becoming self-supporting as can reasonably be expected, the respective standards of living of the parties will be unconscionably disparate.

As with the court process regarding equitable distribution of Marital Property, litigation regarding alimony is a trial lawyer's dream. A review of the above factors quickly leads to the conclusion that litigation over alimony can be extremely time consuming and expensive.

On the other hand, when a couple understands the factors which are to be considered and is able to discuss those factors between themselves in a mediation setting, decisions regarding alimony can be made fairly and appropriately. In mediation, parties prepare budgets which are discussed with the mediator and among themselves. The budgets allow both parties to gain a full and clear understanding of each other's needs after the divorce. This information, together with other financial information available to the parties and the mediator, allow for a complete and thorough investigation of the alimony issue. It has been my experience that couples are usually able to arrive at an alimony plan that is appropriate, reasonable and consistent with Maryland law.

Also, when a couple mediates, other issues are often discussed which relate to alimony. Such issues include health and life insurance and assistance to pay any educational expenses which will help secure a more stable future for the party who is to receive alimony.

Finally, there are various tax considerations, which have an impact on the alimony issue. The Courts make decisions without regard to such considerations. In mediation, a couple reviews the tax options jointly to decide how best to allocate any benefits or burdens.

NOTE: Unless the parties otherwise agree, alimony terminates automatically:

- (1) on the death of either party; or
- (2) on the marriage of the recipient. The law also allows the Court to terminate alimony in order to avoid a harsh and inequitable result.

# Child Custody

The issue of child custody can be very difficult. When it is litigated, typically one spouse seeks sole custody and the other spouse responds with a claim for sole custody or joint custody. The spouses either initially or shortly into the litigation begin to make allegations against one another regarding the fitness of the other spouse to be the custodial parent. As each spouse and their lawyers mount such an offensive, the child is often placed in the untenable position of watching the battle between his or her parents rage. Of course, the child too is a participant in this battle as a result of having to deal with both parents during the process. Children do not thrive in such circumstances, and, in fact, there is evidence that custody battles can leave emotional scars that last for years, if not lifetimes.

It has been my experience that Judges and Masters do not allow themselves to be placed in the position of the biblical figure Solomon. Unless it is clear that a child's health or safety is threatened by one parent, Judges and Masters are more often than not, in my experience, finding that the best interests of the child are served by awarding joint custody, regardless of the intensity of the courtroom battle. On the other hand, when it is clear that the parties are not able to communicate and cooperate effectively regarding their children, sole custody may be the result.

## **Sole Custody and Joint Custody; Maryland's Age of Majority**

At this point, it would be useful to more fully explain the differences between sole custody and joint custody. Also, it is useful to know that the age of majority in Maryland is 18. After this age, the issue of custody is not relevant, unless there are exceptional circumstances.

When a parent has sole custody, that parent has full and complete authority over all decisions regarding the welfare of the child. The parent having sole custody has the legal right to make all decisions regarding the child, including those relating to health, education, religious training and disciplinary matters. The other parent has a right of visitation strongly protected by the courts, but has no right to participate in significant parenting decisions. Joint custody is quite different.

When joint custody is either awarded or agreed to between the parties, the parents are obligated to communicate and cooperate with each other and make a good faith effort to reach mutually agreeable decisions about the major matters affecting their child's welfare. Neither parent has the legal right to unilaterally make such decisions.

There is a misconception, however, that joint custody requires that the child divide his or her time equally between the households of each parent. This is not necessarily the case. The Courts view the living arrangements regarding the child as a separate issue from joint legal custody (which is joint decision making). Primary physical custody can be awarded to either parent or the parents can agree between themselves as to the amount of time the child will spend in each household.

## **Custody and Mediation**

It should be obvious that mediation, as a means of resolving child custody issues, is clearly a superior approach in most cases. In fact the Maryland Rules of Court require that all cases involving custody are sent to mediation before they are litigated. Unfortunately, mediation under the Rules often begins after divorce litigation has been initiated and the parties are already caught in a legal tug of war on a variety of issues. Mediation is much less likely to succeed under these circumstances.

If a couple begins mediation prior to commencing the litigation process, they are much more likely to cooperate and reach joint decisions not only in the custody area, but on all other matters as well.

A skilled mediator will raise a number of issues with the couple relating to custody that may not be addressed in Court. A detailed parenting plan may be negotiated which includes such issues as regular visitation, holiday visitation, summer vacation periods, birthdays, and what the procedure will be in the event of a difference of opinion about matters affecting the child. Sometimes, parents wish to discuss how decisions relating to college will be made, and how college financial obligations will be shared. In the tax area, dependency exemptions relating to the children are addressed.

## **Grandparents Have Rights Too**

Under Maryland law, grandparents have the right to petition for visitation. If such a petition is filed and the Court finds that the visitation is in the best interests of the child, then a visitation order can issue. Needless to say, this issue can also be addressed in mediation, if desired by either party.

## **Law and the Maternal Preference Doctrine**

Before leaving the subject of custody, I think it is important to discuss the 'maternal preference' doctrine. Prior to 1979, the Courts of Maryland applied what was then known as the maternal preference doctrine. Under this common law standard, it was presumed that in custody disputes between parents, mothers were better fit to be custodial parents. In 1978, the Maryland Court of Special Appeals abolished that presumption.

The Annotated Code of Maryland also addresses this issue and others. I believe it is worth setting forth the entire section of the Family Law Article, Annotated Code of Maryland, Section 5-203:

(A) Natural guardianship.

(1) The parents are the joint natural guardians of their minor child.

- (2) A parent is the sole natural guardian of the minor child if the other parent:
  - (i) dies
  - (ii) abandons the family
  - (iii) is incapable of acting as a parent

(B) Powers and duties of parents. The parents of a minor child:

- (1) are jointly and severally responsible for the child's support, care, nurture, welfare and education, and
- (2) have the same powers and duties in relation to the child.

(C) Award of custody to parent.

- (1) If the parents live apart, a court may award custody of a minor child to either parent or joint custody to both parents.
- (2) Neither parent is presumed to have any right to custody that is superior to the right of the other parent.

# **Child Support**

At one point there were no guidelines in Maryland for Judges and Masters to follow when deciding child support awards. This resulted in wide differences in such awards even when similar financial circumstances existed. To remedy this situation, the Maryland Legislature passed a child support law which now requires Judges and Masters to follow a specific formula in arriving at child support awards, where the combined incomes of the spouses does not exceed \$120,000 per year. Where the combined incomes of the spouses exceeds \$120,000 per year, the formula does not apply and a more traditional needs and resources analysis takes place. Clearly, the law has standardized child support awards where the combined incomes of the parents is up to \$120,000 per year.

There are actually two basic formulas for child support. One is designed for those situations where one parent will be the primary physical custodian and the other formula is used when the parents will share custody (i.e. each parent has the child overnight at least 35% of the time or 128 overnights per year).

The law is founded on the premise that a child is entitled to a certain level of support based on the combined incomes of the parents and the number of children in the family. The total support to which a child is entitled is then apportioned between the parents based on the ratio of each of their incomes to the combined income of the spouses.

In mediation, couples review the Guidelines and understand what would occur if they were to litigate the issue of child support. However, in mediation couples have the flexibility to carefully review all matters affecting child support and to make adjustments to the Guidelines if both parents are in agreement and any adjustment is justified under the circumstances.

## **Other Child Support Issues**

There may be other issues regarding support which a couple wishes to address in mediation. Such matters include costs of private schooling, non-reimbursable medical and dental expenses and the cost of future college educations.

# Conclusion

I hope that this Guide has answered many of your questions about divorce in Maryland. Needless to say, it is not possible to analyze every law relating to divorce in great detail. I have attempted to set forth the most significant laws which regulate divorce in Maryland, and to explain them in a fashion which is hopefully understandable.

I have also attempted to explain why the process of divorce mediation can be effective in assisting couples to reach fair and appropriate decisions. Mediation is a highly recommended way for most couples to proceed in separation and divorce, but it is not best for everyone. Where, however, a couple is able to sit in the same room with a professional mediator and rationally discuss the issues which must be addressed, mediation is often a less expensive, more efficient way of obtaining a divorce agreement than the more traditional adversarial approach.

I urge you to carefully consider all of your options and to choose the one which best suits the needs of your family.

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## About the author

Jack J. Shapiro has been a member of the Bar of Maryland since 1971. He received mediation training in 1981 and since that time has assisted many hundreds of couples reach non-adversarial divorce settlements. He is one of the most experienced family and divorce mediator in the country.

Mr. Shapiro is a former Assistant Attorney General for the State of Maryland and has more than 30 years of trial and mediation experience. He is a certified mediator for the Circuit Courts of Baltimore City, Baltimore County and Howard County.

Mr. Shapiro has also co-authored **PARTING SENSE: A Complete Guide to Divorce Mediation** as well as this Guide.