

## **EXTRACT for QUESTION 4 and QUESTION 9**

**THIS EXTRACT IS TO BE USED FOR QUESTION 4 OF THE BOARD'S WRITTEN TEST. THIS EXTRACT CONTAINS SELECTED PROVISIONS OF THE ANNOTATED CODE OF MARYLAND, FAMILY LAW ARTICLE, TITLE 7. DIVORCE, TITLE 8. DEEDS, AGREEMENTS, AND SETTLEMENTS BETWEEN SPOUSES; PROPERTY DISPOSITION IN DIVORCE AND ANNULMENT, TITLE 11. ALIMONY, AND TITLE 12. CHILD SUPPORT.**

### **ANNOTATED CODE OF MARYLAND**

#### **FAMILY LAW**

\*\*\*\*

#### **TITLE 7. DIVORCE**

\*\*\*\*

#### **§ 7-102. Limited divorce.**

(a) Grounds for limited divorce.- The court may decree a limited divorce on the following grounds:

- (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; or
- (4) voluntary separation, if:
  - (i) the parties are living separate and apart without cohabitation; and
  - (ii) there is no reasonable expectation of reconciliation.

\*\*\*\*

#### **§ 7-103. Absolute divorce.**

(a) Grounds for absolute divorce.- The court may decree an absolute divorce on the following grounds:

- (1) adultery;
- (2) desertion, if:
  - (i) the desertion has continued for 12 months without interruption before the filing of the application for divorce;
  - (ii) the desertion is deliberate and final; and

- (iii) there is no reasonable expectation of reconciliation;
- (3) voluntary separation, if:
  - (i) the parties voluntarily have lived separate and apart without cohabitation for 12 months without interruption before the filing of the application for divorce; and
  - (ii) there is no reasonable expectation of reconciliation;
- (4) conviction of a felony or misdemeanor in any state or in any court of the United States if before the filing of the application for divorce the defendant has:
  - (i) been sentenced to serve at least 3 years or an indeterminate sentence in a penal institution; and
  - (ii) served 12 months of the sentence;
- (5) 2-year separation, when the parties have lived separate and apart without cohabitation for 2 years without interruption before the filing of the application for divorce;
- (6) insanity if:
  - (i) the insane spouse has been confined in a mental institution, hospital, or other similar institution for at least 3 years before the filing of the application for divorce;
  - (ii) the court determines from the testimony of at least 2 physicians who are competent in psychiatry that the insanity is incurable and there is no hope of recovery; and
  - (iii) 1 of the parties has been a resident of this State for at least 2 years before the filing of the application for divorce;
- (7) cruelty of treatment toward the complaining party or a minor child of the complaining party, if there is no reasonable expectation of reconciliation; or
- (8) excessively vicious conduct toward the complaining party or a minor child of the complaining party, if there is no reasonable expectation of reconciliation.

\*\*\*\*\*

## **TITLE 8. DEEDS, AGREEMENTS, AND SETTLEMENTS BETWEEN SPOUSES; PROPERTY DISPOSITION IN DIVORCE AND ANNULMENT.**

\*\*\*\*\*

### Subtitle 2. Property Disposition In Annulment And Divorce.

#### **§ 8-203. Marital property - Determination.**

(a) *Time of court action.*- In a proceeding for an annulment or an absolute divorce, if there is a dispute as to whether certain property is marital property, the court shall determine which property is marital property:

- (1) when the court grants an annulment or an absolute divorce;
- (2) within 90 days after the court grants an annulment or divorce, if the court expressly reserves in the annulment or divorce decree the power to make the determination; or

\*\*\*\*\*

#### **§ 8-204. Marital property - Valuation.**

(a) *Determination by court.*- Except as provided in subsection (b) of this section, the court shall determine the value of all marital property.

(b) *Retirement benefits.*- (1) The court need not determine the value of a pension, retirement, profit sharing, or deferred compensation plan, unless a party has given notice in accordance with paragraph (2) of this subsection that the party objects to a distribution of retirement benefits on an "if, as, and when" basis.

(2) If a party objects to the distribution of retirement benefits on an "if, as, and when" basis and intends to present evidence of the value of the benefits, the party shall give written notice at least 60 days before the date the joint statement of the parties concerning marital and nonmarital property is required to be filed under the Maryland Rules. If notice is not given in accordance with this paragraph, any objection to a distribution on an "if, as, and when" basis shall be deemed to be waived unless good cause is shown.

#### **§ 8-205. Marital property - Award.**

(a) *Grant of award.*- (1) Subject to the provisions of subsection (b) of this section, after the court determines which property is marital property, and the value of the marital property, the court may transfer ownership of an interest in property described in paragraph (2) of this subsection, grant a monetary award, or both, as an adjustment of the equities and rights of the parties concerning marital property, whether or not alimony is awarded.

(2) The court may transfer ownership of an interest in:

(i) a pension, retirement, profit sharing, or deferred compensation plan, from one party to either or both parties;

(ii) subject to the consent of any lienholders, family use personal property, from one or both parties to either or both parties; and

(iii) subject to the terms of any lien, real property jointly owned by the parties and used as the principal residence of the parties when they lived together, by:

1. ordering the transfer of ownership of the real property or any interest of one of the parties in the real property to the other party if the party to whom the real property is transferred obtains the release of the other party from any lien against the real property;

2. authorizing one party to purchase the interest of the other party in the real property, in accordance with the terms and conditions ordered by the court; or

3. both.

(b) *Factors in determining amount and method of payment or terms of transfer.*- The court shall determine the amount and the method of payment of a monetary award, or the terms of the transfer of the interest in property described in subsection (a)(2) of this section, or both, after considering each of the following factors:

- (1) the contributions, monetary and nonmonetary, 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 property described in subsection (a)(2) of this section, was acquired, including the effort expended by each party in accumulating the marital property or the interest in property described in subsection (a)(2) of this section, or both;
  - (9) the contribution by either party of property described in § 8-201(e)(3) of this subtitle to the acquisition of real property held by the parties as tenants by the entirety;
  - (10) 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
  - (11) 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 property described in subsection (a)(2) of this section, or both.
- (c) *Award reduced to judgment.*- The court may reduce to a judgment any monetary award made under this section, to the extent that any part of the award is due and owing.

**§ 8-206. Family home; family use personal property - Legislative policy.**

The court shall exercise its powers under §§ 8-207 through 8-213 of this subtitle:

- (1) to enable any child of the family to continue to live in the environment and community that are familiar to the child; and
- (2) to provide for the continued occupancy of the family home and possession and use of family use personal property by a party with custody of a child who has a need to live in that home.

**§ 8-207. Family home; family use personal property - Determination; order or decree; property not included.**

(a) *Determination.*- In a proceeding for an annulment or a limited or absolute divorce, the court may determine which property is the family home and family use personal property:

- (1) before the court grants an annulment or a limited or absolute divorce; or
- (2) when the court grants an annulment or a limited or absolute divorce.

(b) *Modification.*- A preliminary or pendente lite determination is subject to modification during the pendency of the proceeding.

(c) *Certain property to be treated as marital property.*- If the court determines that there is no need for an order or decree issued under this section regarding the family

home or all or any part of family use personal property, the property shall be treated as marital property if it otherwise would have been treated as marital property.

**§ 8-208. Family home; family use personal property - Award of possession and use; standards; order or decree; allocation of financial responsibilities.**

(a) *Award of possession and use.*- (1) When the court grants an annulment or a limited or absolute divorce, regardless of how the family home or family use personal property is titled, owned, or leased, the court may:

(i) decide that 1 of the parties shall have the sole possession and use of that property; or

(ii) divide the possession and use of the property between the parties.

(2) The court may exercise these powers pendente lite.

(b) *Required considerations.*- In awarding the possession and use of the family home and family use personal property, the court shall consider each of the following factors:

(1) the best interests of any child;

(2) the interest of each party in continuing:

(i) to use the family use personal property or any part of it, or to occupy or use the family home or any part of it as a dwelling place; or

(ii) to use the family use personal property or any part of it, or to occupy or use the family home or any part of it for the production of income; and

(3) any hardship imposed on the party whose interest in the family home or family use personal property is infringed on by an order issued under §§ 8-207 through 8-213 of this subtitle.

(c) *Allocation of financial responsibilities.*- The court may order or decree that either or both of the parties pay all or any part of:

(1) any mortgage payments or rent;

(2) any indebtedness that is related to the property;

(3) the cost of maintenance, insurance, assessments, and taxes; or

(4) any similar expenses in connection with the property.

(d) *Effect of award of sole possession and use.*- An order giving a party the sole possession and use of the family home under subsection (a) of this section does not affect the right of the other party to claim the family home as that party's principal residence for tax purposes.

\*\*\*\*

**TITLE 11. ALIMONY.**

\*\*\*\*

**§ 11-106. Award - Determination of amount and duration.**

(a) *Court to make determination.*- (1) The court shall determine the amount of and the period for an award of alimony.

(2) The court may award alimony for a period beginning from the filing of the pleading that requests alimony.

(3) At the conclusion of the period of the award of alimony, no further alimony shall accrue.

(b) *Required considerations.*- In making the determination, the court shall consider all the factors necessary for a fair and equitable award, including:

(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 nonmonetary, 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:

(i) all income and assets, including property that does not produce income;

(ii) any award made under §§ 8-205 and 8-208 of this article;

(iii) the nature and amount of the financial obligations of each party; and

(iv) the right of each party to receive retirement benefits; and

(12) whether the award would cause a spouse who is a resident of a related institution as defined in § 19-301 of the Health - General Article and from whom alimony is sought to become eligible for medical assistance earlier than would otherwise occur.

(c) *Award for indefinite period.*- The court may award alimony for an indefinite period, if the court finds that:

(1) due to 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.

\*\*\*\*

## **§ 11-110. Order to pay reasonable and necessary expenses.**

(a) *Definitions.*- (1) In this section the following words have the meanings indicated.

- (2) "Proceeding" includes a proceeding for:
  - (i) alimony;
  - (ii) alimony pendente lite;
  - (iii) modification of an award of alimony; and
  - (iv) enforcement of an award of alimony.
- (3) "Reasonable and necessary expense" includes:
  - (i) suit money;
  - (ii) counsel fees; and
  - (iii) costs.

(b) *Authority of court.*- At any point in a proceeding under this title, the court may order either party to pay to the other party an amount for the reasonable and necessary expense of prosecuting or defending the proceeding.

(c) *Required considerations.*- Before ordering the payment, the court shall consider:

- (1) the financial resources and financial needs of both parties; and
- (2) whether there was substantial justification for prosecuting or defending the proceeding.

(d) *Absence of substantial justification.*- Upon a finding by the court that there was an absence of substantial justification of a party for prosecuting or defending the proceeding, and absent a finding by the court of good cause to the contrary, the court shall award to the other party the reasonable and necessary expense of prosecuting or defending the proceeding.

(e) *Expenses paid previously.*- The court may award reimbursement for any reasonable and necessary expense that has previously been paid.

(f) *Counsel fees.*- As to any amount awarded for counsel fees, the court may:

- (1) order that the amount awarded be paid directly to the lawyer; and
- (2) enter judgment in favor of the lawyer.

\*\*\*\*

## **TITLE 12. CHILD SUPPORT.**

\*\*\*\*

### **Subtitle 2. Child Support Guidelines**

\*\*\*\*

#### **§ 12-204. Determination of child support obligation.**

(a) *Schedule to be used; division among parents; maintenance and alimony awards.*- (1) The basic child support obligation shall be determined in accordance with the schedule of basic child support obligations in subsection (e) of this section. The basic child support obligation shall be divided between the parents in proportion to their adjusted actual incomes.

(2) (i) If one or both parents have made a request for alimony or maintenance in the proceeding in which a child support award is sought, the court shall decide the issue

and amount of alimony or maintenance before determining the child support obligation under these guidelines.

(ii) If the court awards alimony or maintenance, the amount of alimony or maintenance awarded shall be considered actual income for the recipient of the alimony or maintenance and shall be subtracted from the income of the payor of the alimony or maintenance under § 12-201(c)(2) of this subtitle before the court determines the amount of a child support award.

(b) *Voluntarily impoverished parent.* - (1) Except as provided in paragraph (2) of this subsection, if a parent is voluntarily impoverished, child support may be calculated based on a determination of potential income.

(2) A determination of potential income may not be made for a parent who:

(i) is unable to work because of a physical or mental disability; or

(ii) is caring for a child under the age of 2 years for whom the parents are jointly and severally responsible.

.....

END OF EXTRACT



# EXTRACT FOR QUESTION 9

**THIS EXTRACT IS TO BE USED FOR QUESTION 9 OF THE BOARD'S WRITTEN TEST. THIS EXTRACT CONTAINS SELECTED PROVISIONS OF THE ANNOTATED CODE OF MARYLAND, COURTS AND JUDICIAL PROCEEDINGS ARTICLE, TITLE 1. TRIAL COURTS OF GENERAL JURISDICTION, TITLE 4. DISTRICT COURT—JURISDICTION, AND TITLE 6. PERSONAL JURISDICTION, VENUE, PROCESS AND PRACTICE.**

## ANNOTATED CODE OF MARYLAND COURTS AND JUDICIAL PROCEEDINGS

### TITLE 1. TRIAL COURTS OF GENERAL JURISDICTION.

\*\*\*\*

Subtitle 5. Trial Courts of General Jurisdiction.

#### **§ 1-501. Jurisdiction and powers in general.**

The circuit courts are the highest common-law and equity courts of record exercising original jurisdiction within the State. Each has full common-law and equity powers and jurisdiction in all civil and criminal cases within its county, and all the additional powers and jurisdiction conferred by the Constitution and by law, except where by law jurisdiction has been limited or conferred exclusively upon another tribunal.

### TITLE 4. DISTRICT COURT—JURISDICTION

\*\*\*\*

*Subtitle 2. Jurisdiction in General*

#### **§ 4-201. Extent of jurisdiction.**

The jurisdiction of the District Court extends to every case which arises within the State or is subject to the State's judicial power, and which is within the limitations imposed by this title or elsewhere by law. Exercise of this jurisdiction is subject to the restrictions of venue established by law.

\*\*\*\*

*Subtitle 4. Civil Jurisdiction.*

#### **§ 4-401. Exclusive original jurisdiction.**

Except as provided in § 4-402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(1) An action in contract or tort, if the debt or damages claimed do not exceed \$30,000, exclusive of prejudgment or postjudgment interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract;

\*\*\*\*

(6) A petition for injunction relating to the use, disposition, encumbrances, or preservation of property that is:

(i) Claimed in a replevin action, until seizure under the writ; or

(ii) Sought to be levied upon in an action of distress, until levy and any removal;

(7) A petition of injunction filed by:

(i) A tenant in an action under § 8-211 of the Real Property Article or a local rent escrow law; or

(ii) A person who brings an action under § 14-120, § 14-125.1, or § 14-125.2 of the Real Property Article;

(8) A petition filed by a county or municipality, including Baltimore City, for enforcement of local health, housing, fire, building, electric, licenses and permits, plumbing, animal control, consumer protection, and zoning codes for which equitable relief is provided;

\*\*\*\*

#### **§ 4-402. Exceptions.**

(a) *Equity cases.*- Except as provided in §§ 4-401 and 4-404 of this subtitle, the District Court does not have equity jurisdiction.

(b) *Land title cases.*- Except as provided in § 4-401 of this subtitle, the District Court does not have jurisdiction to decide the ownership of real property or of an interest in real property.

(c) *Declaratory judgment cases.*- The District Court does not have jurisdiction to render a declaratory judgment.

(d) *Concurrent jurisdiction cases.*-

(1) (i) Except in a case under paragraph (2), (4), (5), or (6) of § 4-401 of this subtitle, the plaintiff may elect to file suit in the District Court or in a trial court of general jurisdiction, if the amount in controversy exceeds \$5,000, exclusive of prejudgment or postjudgment interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract.

\*\*\*\*

(2) In a case under § 4-401(7) or (8) of this subtitle, the plaintiff may elect to file a petition for injunctive relief either in the District Court or the circuit court.

(3) In a case under § 4-401(16) of this subtitle, the plaintiff may elect to file a claim for a replacement motor vehicle in either the District Court or the circuit court.

(e) *Jury trial.*-

(1) In a civil action in which the amount in controversy does not exceed \$10,000, exclusive of attorney's fees if attorney's fees are recoverable by law or contract, a party may not demand a jury trial pursuant to the Maryland Rules.

(2) Except in a replevin action, if a party is entitled to and files a timely demand, in accordance with the Maryland Rules, for a jury trial, jurisdiction is transferred forthwith and the record of the proceeding shall be transmitted to the appropriate court.

\*\*\*\*

#### **TITLE 6. PERSONAL JURISDICTION, VENUE, PROCESS AND PRACTICE.**

*Subtitle 1. Bases of Personal Jurisdiction.*

\*\*\*\*

**§ 6-102. Persons domiciled in, organized under laws of, or maintaining principal place of business in State.**

(a) *Basis of personal jurisdiction.*- A court may exercise personal jurisdiction as to any cause of action over a person domiciled in, served with process in, organized under the laws of, or who maintains his principal place of business in the State.

(b) *Exercise of jurisdiction on other basis.*- This section does not limit any other basis of personal jurisdiction of a court of the State.

**§ 6-103. Cause of action arising from conduct in State or tortious injury outside State.**

(a) *Condition.*- If jurisdiction over a person is based solely upon this section, he may be sued only on a cause of action arising from any act enumerated in this section.

(b) *In general.*- A court may exercise personal jurisdiction over a person, who directly or by an agent:

(1) Transacts any business or performs any character of work or service in the State;

(2) Contracts to supply goods, food, services, or manufactured products in the State;

(3) Causes tortious injury in the State by an act or omission in the State;

(4) Causes tortious injury in the State or outside of the State by an act or omission outside the State if he regularly does or solicits business, engages in any other persistent course of conduct in the State or derives substantial revenue from goods, food, services, or manufactured products used or consumed in the State;

(5) Has an interest in, uses, or possesses real property in the State; or

(6) Contracts to insure or act as surety for, or on, any person, property, risk, contract, obligation, or agreement located, executed, or to be performed within the State at the time the contract is made, unless the parties otherwise provide in writing.

\*\*\*\*

*Subtitle 2. Venue.*

**§ 6-201. General rule.**

(a) *Civil actions.*- Subject to the provisions of §§ 6-202 and 6-203 of this subtitle and unless otherwise provided by law, a civil action shall be brought in a county where the defendant resides, carries on a regular business, is employed, or habitually engages in a vocation. In addition, a corporation also may be sued where it maintains its principal offices in the State.

(b) *Multiple defendants.*- If there is more than one defendant, and there is no single venue applicable to all defendants, under subsection (a), all may be sued in a county in which any one of them could be sued, or in the county where the cause of action arose.

**§ 6-202. Additional venue permitted.**

In addition to the venue provided in § 6-201 or § 6-203, the following actions may be brought in the indicated county:

- (1) Divorce - Where the plaintiff resides;
- (2) Annulment - Where the plaintiff resides or where the marriage ceremony was performed;
- (3) Action against a corporation which has no principal place of business in the State - Where the plaintiff resides;
- (4) Replevin or detinue - Where the property sought to be recovered is located;
- (5) Action relating to custody, guardianship, maintenance, or support of a child - Where the father, alleged father, or mother of the child resides, or where the child resides;
- (6) Suit on a bond against a corporate surety - Where the bond is filed, or where the contract is to be performed;
- (7) Action for possession of real property - Where a portion of the land upon which the action is based is located;
- (8) Tort action based on negligence - Where the cause of action arose;
- (9) Attachment on original process - Where the property is located or where the garnishee resides;
- (10) Nondelivery or injury of goods against master or captain of a vessel - Where the goods are received on board the vessel or where delivery is to be made under the contract;
- (11) Action for damages against a nonresident individual - Any county in the State;
- (12) Action against a person who absconds from a county or leaves the State before the statute of limitations has run - Where the defendant is found;
- (13) In a local action in which the defendant cannot be found in the county where the subject matter of the action is located - In any county in which the venue is proper under § 6-201.