

Virginia

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Virginia adopted the U.P.A.A. in 1995. The Virginia Premarital Agreement Act (Virginia Annotated Code 20-148) is virtually identical to the U.P.A.A. Therefore, it is unclear from the statutory law whether a couple's choice of law will apply to validity or enforceability. Unfortunately, Virginia common law does not provide clarification. According to *Shenk v. Shenk*, the couple can contract for the choice of law that governs the construction of the agreement. It is unclear from the case whether this excludes the couple's right to choose the law governing validity and enforcement. For conflict of law decisions, Virginia applies a *lex loci* approach. In *Black v. Powers*, the court held that the laws of the jurisdiction in which the parties signed the agreement (Virgin Islands) would apply.

Conclusion

The law on prenuptial agreements in the United States is murky at best. As seen above, states all have different approaches to conflict of law, choice of law and the U.P.A.A. This diversity can be tricky for couples to understand. Thus, couples who want a prenuptial agreement to be valid in the United States should be cautious and seek legal counsel. It is imperative the counsel is experienced in all three of these areas of U.S. law.