

The American College of Trust and Estate Counsel  
State Survey of Asset Protection Techniques

SECTION 1  
General Exemptions

STATE	Opt-Out (Y/N) <small>Opt-out state debtor must use State not Federal exemptions under Bankruptcy Code §522.</small>	Homestead	Retirement Plan Assets	Retirement Plan – Inherited Beneficiary Protection	Cash Surrender Value Life Insurance and Life Insurance Proceeds	Annuities	Accumulations from Retirement Plans/Annuities Protected if Segregated (Y/N)	Tenants by the Entirety	Inter Vivos QTIP	529 College Plans + Other Tuition Plans + Other Similar	Self Settled Asset Protection Trusts (Y/N)
AK	N Can use either state exemptions or federal bankruptcy exemptions, whichever serves our client's purposes best.	Cap Statute \$54,000 adjusted for inflation (\$67,500) AS 09.38.010	Retirement plan assets and benefits are fully exempt from creditors of the participant AS 09.38.017 AS 13.33.101	A beneficiary's interest in a retirement plan or IRA is protected from the beneficiary's creditors AS 09.38.017(a)&(e)	\$500,000 of unmaturred life insurance is exempt from creditors' claims, and all life insurance proceeds are exempt from claims of creditors of the insured AS 09.38.025 AS 13.33.101	\$500,000 is exempt AS 09.38.025	Retirement plan assets and benefits are fully exempt from claims of creditors of the participant AS 09.38.017 AS 13.33.101	Debtor spouse's interest is not protected from claims of debtor spouse's creditors AS 09.38.100	Assets are protected from claims of creditors of either spouse AS 34.40.110	Assets are protected from claims of creditors of participant and claims of creditors of beneficiary AS 14.40.802(h)	Assets protected from creditors of beneficiaries, including a settlor who is a beneficiary AS 34.40.110
AL	Y	Cap Statute \$15,000 individual \$30,000 for married couple Ala. Code § 6-10-2	No cap Ala. Code § 19-3B-508	None Inherited IRAs are not specifically protected, but currently there is no Alabama Supreme Court case comparable to <i>Clark v. Rameker</i> , 714 F.3d 559 (U.S.) which settles this issue under Alabama law. See also <i>In re Navarro</i> , 332 B.R. 24, (Bankr. M.D. Ala. 2004).	No cap on life insurance proceeds Ala. Code § 6-10-8	\$250 per month Ala. Code § 27-14-32	N/A	See below <i>Durant v. Hamrick</i> , 409 So.2d 731 (Ala. 1982)  Alabama does not recognize this estate, but does recognize tenants in common with cross contingent remainder. Real property owned as tenants in common with cross contingent remainder is not subject to levy and execution by a creditor against only one spouse.	N/A	See below Ala. Code §§ 16-33C-1 et seq.  A child's right as a beneficiary under an Alabama Pre-paid Affordable College Tuition (PACT) contract are her own property, separate and apart from the property of his parents and under Alabama law parent has no legal or equitable right to the property. <i>In re Cheatham</i> , 309 B.R. 631 (2004).	Y During the lifetime of the settlor of a revocable trust, the settlor's creditors may reach the trust property. Ala. Code § 505(a)(1). The creditors of the settlor of an irrevocable trust who is also a trust beneficiary may reach the maximum amount that could be distributed to the settlor-beneficiary. Ala. Code § 505(a)(2). After the death of the settlor of a revocable trust, the property of the trust that was revocable immediately prior to death (minus costs of estate administration and certain other costs) is subject to the claims of the settlor's creditors. Ala. Code § 505(a)(3).
AR	N A.C.A. § 16-66-217. Option to select state or federal property exemption laws.	Cap Statute See below A.C.A. § 16-66-210. Must be married or head of the household. Exemption is unlimited, but urban AR residences cannot exceed 1/4 acre, and rural property is limited to between 80 to 160 acre, both classifications exempt up to \$2500.00. See <i>In re White</i> , 460 BR 744, 747 (8th Cir. BAP 2011) (if homestead exceeds \$2500.00 in value, the debtor may still claim homestead if property does not exceed acreage maximum for urban and rural respectively).  A.C.A. § 16-66-218. Personal property of person not married or head of family is exempt up to \$200.00 + all wearing apparels. Married or head of household is up to \$500.00 + wearing apparel of the debtor. Note, however, that no property is exempt from execution for debts contracted for the purchase money of the property. Ark. Const. Art. 9 § 1.  Additional Exemptions in Bankruptcy Proceedings: A.C.A. § 16-66-207 (publicly filed family or public burial place is exempt up to 5 acres); A.C.A. § 16-66-218 (a)(3), (4) (wedding bands, including diamonds mounted thereon not to exceed 1/2 carat weight) (up to \$750 in value for professional books, tools of the trade, or trade of dependent debtor). But see <i>In re Kelly</i> , 455 B.R. 710 (Bankr. E.D. Ark. 2011 (ruled unconstitutional any personal property exemption over \$200 [or \$500], per Ark. Const. Art. 9).	See below A.C.A. § 16-66-220(a)(1) protects IRAs and other retirement accounts from attachments, executions, and seizures regardless of the balances in or value of such accounts. See <i>Clinical Study Centers, Inc. v. Boellner</i> , 411 S.W.3d 695 (Ark. 2012). However, contributions to an individual retirement account that exceed the amount deductible under applicable provisions under the Internal Revenue Code and any accrued earnings on such contributions are not exempt under the exemption statute, A.C.A. § 16-66-220(b)(1), unless otherwise exempt by law. But, the limitations do not apply to IRAs established and qualified under I.R.C. 408(A).	Unclear A.C.A. § 16-66-220 protects "A person's right" to assets held in, or to receive payments from, a retirement plan. The statute does not specifically limit the right to a participant or refer to "a beneficiary" as protected nor does it address inherited retirement plans. Case law does not suggest any position on this issue.	See below for cap for CSV; No cap for proceeds A.C.A. § 16-66-209: Cash surrender value of life insurance is capped at the Arkansas constitutional limit for personal property exemption at \$200 to \$500, depending of the head of household or marital status of the claimant. See also <i>In re Holt</i> , 97 B.R. 997 (Bankr. W.D. Ark. 1988), aff'd. 894 F.2d. 1005 (8th Cir. 1990).  A.C.A. § 23-79-131(a)(1): The lawful beneficiary or assignee of the life insurance policy, other than the insured, or person effecting the insurance, shall be entitled to its proceeds and avails against the creditors and representative of the insured and those of the person effecting the policy whether or not the right to change the beneficiary is reserved or permitted and whether or not the policy is made payable to the person whose life is insured.  A.C.A. § 16-66-209(a): Life insurance proceeds exempt from seizure.	See below A.C.A. § 23-79-134: Generally, the benefits, rights, privileges, and options under any annuity or variable annuity contract are exempt. Note, however, that if the annuities due and payable exceed the personal property exemption provided for under law (\$200/\$500), a court could order the annuitant to pay to a judgement creditor the excess portion it finds just and proper. <i>Walker v. Walker</i> , 791 S.W.2d 710, 712 (Ark. 1990).	See below Arkansas has not taken a clear position under Arkansas exemption laws. But, by analogy, the Arkansas Supreme Court, applying federal law, held that "funds in a bank account which came from [federal] disability payments...were exempt from garnishment by judgment creditor." <i>Wagoner v. Game Sales Co., Inc.</i> , 702 S.W.2d 808 (Ark. 1986).	Unlimited Arkansas allows both real and personal property to be held as tenants by the entirety. A third party may execute against the debtor's spouse's interest in tenancy by the entirety, but the non-debtor spouse still retains the rights of possession, survivorship, and interest and half the rents and profits. See <i>Morris v. Solesbee</i> , 892 S.W.2d 281 (Ark. App. Ct. 1995); <i>Lowe v. Morrison</i> , 711 S.W.2d 833 (Ark. 1986). See e.g., <i>Ford v. Felts</i> , 624 S.W.2d 449 (Ark. Ct. App. 1981) ("Arkansas follows the rule that a homestead may be acquired in land held by a husband and wife as tenants by entireties.")	Unlimited A.C.A. § 28-73-505(c)	No, but see Federal exemption under 11 U.S.C. §541(b)(6) N/A	N No protection from creditors- A.C.A. § 28-73-505(a)(2)
AZ	Y Arizona Revised Statutes Section 33-1133 (A.R.S. Section 33-1133)	Cap Statute \$150,000 ARS 33-1101	Unlimited, but not exempt from an alternate payee under a QDRO ARS 33-1126(B)	Unlimited ARS 33-1126(B)  <i>In re Pacheco</i> , 537 B.R. 935 (Bankr.D. Ariz.2015)	Mixed (see below) Cap on Proceeds: unlimited as to owner's creditors: ARS 20-1131(A)  Cap on CSV: potentially unlimited as to owner's creditors depending on beneficiary [cited statutes are inconsistent]: ARS 20-1131(D); ARS 33-1126(A)6  \$20,000 as to beneficiary's creditors: ARS 33-1126(A)1	Unlimited, but successor beneficiary must be a dependent family member ARS 33-1126(A)7	N/A	N/A	Unlimited ARS 14-10505(E)1-4	Unlimited ARS 33-1126(A)10	N ARS 14-10505(A), except if special needs trust or to reimburse or pay income taxes on income of the trust or to pay taxes directly to taxing authorities. No common law reciprocal trust doctrine for gifts in trust between spouses: ARS 14-10505(E)4.

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CA	Y	Cap Statute \$75,000 to \$175,000 depending on the age, marital status and income of the property owner. See below. CCP Sections 704.720 - 704.730 Amount of exemption: The amount of the exemption varies, depending on the age, marital status, and income of the property owner. Under CCP Sections 704.720 - 704.730, the exemptions are: 1. \$75,000 unless the judgment debtor or their spouse who resides in the homestead is a person described below in (2) or (3). 2. \$100,000 if the judgment debtor or spouse is a member of a family unit, if at least one member of the family unit owns no interest in the homestead, or has only community property interest in the homestead with the judgment debtor. 3. \$175,000 if the judgment debtor who resides in the homestead is at the time of the sale either (a) a person 65 years old, (b) a person physically or mentally disabled and as a result of that disability unable to engage in substantial gainful employment, or (c) a person 55 years old with a gross annual income less than \$15,000, or, if the judgment debtor is married, a gross annual income, including that of the spouse, of not more than \$20,000, and the sale is involuntary.	Exempt, except as to judgments or orders for family, spousal, or child support for retirement plans covered by ERISA!! CCP Section 704.115	Unclear. See below. No statute The CA bankruptcy court, in <i>In re Sherr</i> (Bankr ND Cal. Sept. 27, 2016, No. 16-10283), has held that the exemption for "retirement funds" applies to inherited IRAs under California law. But it is unclear whether this decision would be followed or whether the US Supreme Court's decision in <i>Clark v. Rameker</i> would be followed.	An unmatured life insurance policy is exempt as to the policy, but not the loan amount. The loan amount on an unmatured policy is exempt up to \$9,700, but if the judgment debtor is married, each spouse may claim an exemption (totaling \$19,400). CCP Section 704.100	Same as life insurance cash value as long as annuity deemed insurance and not an investment. <i>In re Payne</i> , 323 B.R. 723 (9th Cir. BAP 2005)	Only to extent protected as stated above, for example, ERISA plan accumulations, but not IRA accumulations. As I understand this question, segregation doesn't seem to matter.	Not recognized N/A	Exempt N/A	Not exempt N/A	N
CO	Y	Cap Statute In 1981, Colorado passed legislation "opting out" of the federal bankruptcy exemptions. Colo. Rev. Stat. § 13-54-107 provides: "the exemptions provided in Section 533(d) of the federal bankruptcy code of 1978, title 11 of the United States Code, as amended, are denied to residents of this state. Exemptions authorized to be claimed by residents of this state shall be limited to those exemptions expressly provided by statutes of this State." \$75,000 of net equity in debtor's home (\$105,000 if debtor is 60 or older or if debtor is disabled) Colo. Rev. Stat. § 38-41-201(1)	Unlimited Colo. Rev. Stat. § 13-54-102(s) ("funds held in pensions, retirement plans, or other deferred compensation plans are generally exempt from claims of creditors." See also <i>Guidy v. Sheet Metal Workers National Pension Fund</i> , 39 F.3d 1078 (10th Cir. 1994) (debtor would not lose his exemption to his pension under Colorado law after such funds are paid to him and deposited into a non-commingled bank account.)	Uncertain Colo. Rev. Stat. § 13-54-102(s) exempts "any individual retirement account, as defined in 26 U.S.C. section 408." Arguably, under the plain terms of this statute, inherited IRAs are included and would be exempt. In 2016, the Trust & Estate Section of the Colorado Bar Association attempted to add a clarification to this statute with express coverage of "inherited IRAs" as part of the Probate Omnibus Bill. This clarification faced strong objection from the Colorado Trial Lawyers Association. The clarification was pulled from the 2016 Probate Omnibus Bill.	\$250,000 (cash surrender value of policies); unlimited (life insurance proceeds) for claims against the insured Colo. Rev. Stat. § 13-54-102(I)(A) provides exemption for: "The cash surrender value of policies or certificates of life insurance that have been owned by a debtor for a continuous, unexpired period of forty-eight months or more, to the extent of two hundred fifty thousand dollars for writs of attachment or writs of execution issued against the insured; except that there is no exemption for increases in cash value for extraordinary moneys contributed to a policy or certificate of life insurance during the forty-eight months prior to the issuance of the writ of attachment or writ of execution." Colo. Rev. Stat. § 13-54-102(I)(B) provides exemption for: "The proceeds of policies or certificates of life insurance paid upon the death of the insured to a designated beneficiary, without limitation as to amount, for writs of attachment or writs of execution issued against the insured."	Uncertain Colo. Rev. Stat. § 15-15-103 (Colorado Probate Code provides exemption for certain non-probate transfers at death.)	Uncertain Colo. Rev. Stat. § 13-54-102(s) exempts "any individual retirement account, as defined in 26 U.S.C. section 408." Arguably, under the plain terms of this statute, accumulations from retirement plan are included and would be exempt. See also <i>Guidy v. Sheet Metal Workers National Pension Fund</i> , 39 F.3d 1078 (10th Cir. 1994) (debtor does not lose his exemption to his pension under Colorado law after such pension funds are paid to him and deposited into a non-commingled bank account).	No such concept recognized under Colorado law Colo. Rev. Stat. §38-31-201	Not recognized Not recognized	Unlimited Colo. Rev. Stat. § 23-3-1-307.4 ("Moneys credited to or expended from the savings trust fund by or on behalf of the account owner, depositor, or designated beneficiary of a savings contract...are exempt from all claims of creditors of the account owner, depositor, designated beneficiary or the authority.")	N
CT	N	Cap Statute Debtor may elect between State and Federal exemptions. \$75,000 per exemption Conn. Gen. Stat. §52-352b(t)	No cap. Generally speaking (aside from e.g., limits set forth in Internal Revenue Code) Conn. Gen. Stat. §§52-321a (e.g. qualified plans and IRA's); §52-352b(m)	N/A No statute	\$4,000 Conn. Gen. Stat. §52-352b(s)	N/A No statute	No cap. Generally speaking (aside from e.g., limits set forth in Internal Revenue Code) Conn. Gen. Stat. §51-321a	N/A Not recognized	Creditors can claim an all income interest Conn. Gen. Stat. §§52-321	No cap Conn. Gen. Stat. §52-321a(b)(3)(E)	Y Creditors can reach. <i>Greenwich Trust vs. Tyson</i> , 129 Conn. 211

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DC	N <small>D.C. allows debtor to use exemptions in U.S. Bankruptcy Code or District of Columbia law, but debtor must choose one system or the other.</small>	Cap Statute Aggregate value of residence DC Code § 15-501(a)(14)	No cap if all contributions to plan were within the IRC maximum contribution limits, but only for plans qualifying under IRC 401(a), 403(a), 403(b), 408, 408A, 414(d), or 414(e) (Roth and traditional IRAs included) DC Code § 15-501(a)(9)	Could be included as an exemption with no cap under DC Code § 15-501(a)(9) as a plan qualifying under IRC 408. DC Code § 15-501(a)(9)	Any unmatured life insurance contract on life of debtor is exempt. DC Code § 15-501(a)(5)	No cap if DC Code § 15-501(a)(9) applies; otherwise, not exempt from bankruptcy DC Code § 15-501(a)(9)	N/A Not specifically addressed by statute	None The District of Columbia recognizes protection for estates by the entireties through case law. Estate of Wall, 142 U.S.App.D.C. 187, 440 F.2d 215 (1971). Under such an estate, there is an inability of one spouse to alienate his interests and there is a broad immunity from separate creditors. Id. Moreover, such an estate can be created in personalty as well as realty. <i>Flaherty v. Columbus</i> , 41 App. D.C. 525 (1914). Language in an instrument which would create a joint tenancy will make a husband and wife owners by the entireties. <i>Settle v. Settle</i> , 56 App.D.C. 50, 51, 8 F.2d 911, 912 (1925).	N/A Not specifically addressed by statute, but should be covered as a 3rd party discretionary trust under DC Code § 19-1305.03 if there is a spendthrift provision.	No. A person may not attach, ... garnish or otherwise seize a current or future benefit under a higher education tuition savings account. DC Code § 47-4510	N DC Code § 19-1305.05(a)(2)
DE	N	Cap Statute No	Unlimited 10 Del. C. § 4915	Unlimited 10 Del. C. § 4915	Unlimited 10 Del. C. § 4915	Unlimited 10 Del. C. § 4915	Unlimited 10 Del. C. § 4915	Yes-full exemption See: Fred Franke, "Asset Protection and Tenancy by Entirety" 34 ACTEC J 210 (2009)	Unlimited 12 Del. C. § 3536(c)(1)	See below 10 Del. C. § 4916 Exemption of Delaware College Investment Plan Accounts and Delaware Achieving a Better Life Experience Accounts amounts contributed exempt after one year - exemption applies only to such amount that does not exceed the total contributions permitted under IRC § 529(b)(6) with respect to any Plan Account or ABL Account <b>NOTE:</b> A revision has been submitted that should be enacted in June 2018 for 529 plans that will expand the DE exemption to all state 529 College and Hope plans and not just DE plan.	Y 12 Del. C. § 3570 et. seq.
FL	Y	Cap Statute Unlimited + qualified FL ½ acre within municipality, 160 acres outside of municipality, no valuation limit. Article X §4 Florida Constitution and FS 222.01	Unlimited FS 222.21	Unlimited FS 222.14	Unlimited FS 222.14 and 222.13	Unlimited FS 222.14	Protected Unlimited Annuities and proceeds protected as long as payable to Florida resident. FS 222.14 and <i>In Re Benedict</i> 88 BR 387 (Bankr M.D. Fla 1988) where Court said that annuity proceeds deposited into a checking account of debtor that can be traced to annuity and are readily accessible to debtor retain their exempt status.  Retirement Plan FL 222.21(2)(a) FS 222.21(1) Uncertain if retirement plan proceeds retain protection once received if segregated but see <i>In Re Benedict</i> .	Unlimited Common law	Unlimited FS 736.0505 (3)	Unlimited FS 222.22	N

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GA	Y I used creditor/garnishment exemptions; exemptions in bankruptcy are different. The AG is now required to maintain a list of exemptions from garnishment, but the fact that an exemption is not identified does not preclude a debtor from claiming an exemption.	Cap Statute Real and personal property up to \$5,000 or \$21,500 for real or personal property that is the debtor's primary residence O.C.G.A. § 44-13-1	See below O.C.G.A. § 18-4-6 (2016) Funds or benefits from a pension or retirement program or benefits from an individual retirement account shall be exempt from the process of garnishment until paid or otherwise transferred to a member of such program or beneficiary thereof. Such funds or benefits, when paid or otherwise transferred to the member or beneficiary, shall be exempt from the process of garnishment only to the extent provided in Code Section 18-4-5 for other disposable earnings, unless a greater exemption is otherwise provided by law. So, in effect, once paid, such funds or benefits are considered earnings subject to garnishment up to the limits set forth in Code Section 18-4-5 (up to the lesser of certain numerical calculations)	See below O.C.G.A. § 18-4-6 (2016) Funds or benefits from a pension or retirement program or benefits from an individual retirement account shall be exempt from the process of garnishment until paid or otherwise transferred to a member of such program or beneficiary thereof. Such funds or benefits, when paid or otherwise transferred to the member or beneficiary, shall be exempt from the process of garnishment only to the extent provided in Code Section 18-4-5 for other disposable earnings, unless a greater exemption is otherwise provided by law. So, in effect, once paid, such funds or benefits are considered earnings subject to garnishment up to the limits set forth in Code Section 18-4-5 (up to the lesser of certain numerical calculations).	See below O.C.G.A. § 33-25-11 The "cash value" of a life insurance policy is exempt from creditors. Proceeds of life insurance policies and annuity contracts are not liable to attachment, garnishment, or legal process in favor of creditors unless the proceeds are payable to insured's estate, executor, administrator, or assigns to become part of insured's estate.	See below O.C.G.A. § 33-28-7 The proceeds of annuity, reversionary annuity, or pure endowment contracts shall not in any case be liable to attachment, garnishment, or legal process in favor of any creditor of the person who is the beneficiary of such annuity contract.		Georgia does not recognize Tenants by the Entirety	I think this would be treated the same as a 3rd party support/discretionary trust as noted in SECTION 2 of this survey.	See below In bankruptcy, this depends on the time since contribution (funds contributed over two years before are fully protected, and funds contributed less than one year are not protected at all). But for creditor purposes, I would think that these could not be reached since they are no longer owned by the debtor.	N
HI	N	Cap Statute See below H.R.S. § 651-92 Cap: In general, (1) \$30,000 of the fair market value of one parcel of real property owned by a person who is either the head of a family or an individual sixty-five years of age or older; or (2)\$20,000 of the fair market value of one parcel of real property owned by a person.	See below H.R.S. § 561-124 Unlimited Exemption for a pension, annuity, retirement or disability allowance, death benefit, or other right accrued or accruing under any retirement plan or arrangement described in IRC Sections 401(a), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), or 414(e); provided, however, this does not apply to (1) qualified domestic relations orders under ERISA § 206(d), or (2) contributions made to a plan or arrangement within three years before the bankruptcy filing date (unless the contributions eliminate a state employee's retirement service credit).	N/A To date, no Hawaii court has determined whether inherited IRAs fall within the statutory definition of protected retirement funds and accounts; although, a Hawaii court may follow the rationale of the Supreme Court in <i>Clark v. Rameker</i> .	Unlimited for a spouse of the insured, child, parent, or other person dependent upon the insured. H.R.S. §§ 431:10-232	Unlimited H.R.S. §§ 431:10-232(b)	See below H.R.S. § 561-124 Unlimited Exemption for a pension, annuity, retirement or disability allowance, death benefit, or other right accrued or accruing under any retirement plan or arrangement described in IRC Sections 401(a), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), or 414(e); provided, however, this does not apply to (1) qualified domestic relations orders under ERISA § 206(d), or (2) contributions made to a plan or arrangement within three years before the bankruptcy filing date (unless the contributions eliminate a state employee's retirement service credit).	Hawaii recognizes tenancy by the entirety. A spouse's creditor cannot attach a property held in tenancy by the entirety to satisfy an individual debt. a. "The tenancy by the entirety is predicated upon the legal unity of husband and wife, and the estate is held by them in single ownership. They do not take by moieties, but both and each are seized of the whole estate." <i>Sawada v. Endo</i> , 57 Haw. 608, 613, 561 P.2d 1291, 1295 (1977) (citation omitted). b. "The indivisibility of the estate, except by joint action of the spouses, is an indispensable feature of the tenancy by the entirety." <i>Sawada v. Endo</i> , 57 Haw. 608, 614, 561 P.2d 1291, 1295-96 (1977) (citation omitted). c. "A tenancy by the entirety is a unique form of ownership in which both spouses are jointly seized of property such that neither spouse can convey an interest alone nor can one spouse's creditor attach the property to satisfy a debt." <i>Traders Travel Int'l, Inc. v. Howser</i> , 69 Haw. 609, 753 P.2d 244 (1988) (citation omitted); see also <i>Sawada v. Endo</i> , 57 Haw. 608, 615, 561 P.2d 1291, 1296 (1977) (quotation omitted).	N/A No specific statute	No creditor protection	Y H.R.S. §§ 554G et seq. "Permitted Transfers in Trust" contains Hawaii's self settled asset protection trust provisions.

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IA	Y	Cap Statute One half acre in a city plat otherwise forty (40) acres Iowa Code §§561.2, 561.16, 499A.18	See below Iowa Code §627.6(8)(f)(1)(d)  Cap: The exemption for contributions shall not exceed, for each tax year of contributions, the actual amount of the contribution deducted on the debtor's tax return or the maximum amount which could be contributed to an individual retirement account established under section 408(a) of the Internal Revenue Code and deducted in the tax year of the contribution, whichever is less.	N - N/A	See below Iowa Code §627.6(6)  Cap: Interest of an individual in any accrued dividend or interest, loan or cash surrender value of, or any other interest in a life insurance policy owned by the individual is exempt if the beneficiary of the policy is the individual's spouse, child, or dependent. However, the amount of the exemption shall not exceed \$10,000 in the aggregate of any interest or value in insurance acquired within two (2) years of the date execution is issued or exemptions are claimed, or for additions within the same time period to a prior existing policy which additions are in excess of the amount necessary to fund the amount of face value coverage of the policies for the two-year period.	See below Iowa Code §627.6(8)(f)(1)(d) & § 627.6(8)(e)  Cap: For "individual retirement annuities," the exemption for contributions shall not exceed, for each tax year of contributions, the actual amount of the contribution deducted on the debtor's tax return or the maximum amount which could be contributed to an individual retirement account established under section 408(a) of the Internal Revenue Code and deducted in the tax year of the contribution, whichever is less.  Non-qualified commercial annuities are not addressed in the Code unless the following would be applicable: A payment or a portion of a payment under a pension, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, unless the payment or a portion of the payment results from contributions to the plan or contract by the debtor within one year prior to the filing of a bankruptcy petition, which contributions are above the normal and customary contributions under the plan or contract, in which case the portion of the payment attributable to the contributions above the normal and customary rate is not exempt.	N/A	N/A	N/A Not addressed in code	N/A Not addressed in code	N Creditor may reach the maximum amount the trustee could pay to or for the settlor's benefit (633A.2304)
ID	Y	Cap Statute See below Idaho Code § 55-1003  The homestead exemption amount shall not exceed the lesser of (i) the total net value of the lands, mobile home, and improvements as described in section 55-1001, Idaho Code; or (ii) the sum of one hundred thousand dollars (\$100,000).	Unlimited Exemption Idaho Code § 11-604A; Idaho Code § 55-1011 (exempt from all claims of judgment creditors of the beneficiary or participant arising out of a negligent or otherwise wrongful act or omission of the beneficiary or participant resulting in monetary damages to the judgment creditor).  a. IRAs and Inherited IRAs are exempt under Idaho Code "and in fact are much broader than the statutes in states that have disallowed an exemption, and thus can be distinguished." <i>In re McClelland</i> , No. 07-40300, 2008 WL 89901, at 4 (Bankr. D. Idaho 2008).  b. This exemption is not available for claims arising from "an alternate payee under a qualified domestic relations order. However, the interest of any alternate payee under a qualified domestic relations order is exempt from all claims of any creditor, other than the department of health and welfare, or the alternate payee." Idaho Code § 55-1011(2); see also <i>Kesting v. Kesting</i> , 160 Idaho 214, 220, 370 P.3d 729, 735 (2016).  c. Assets held, payments made, and amounts payable under a stock bonus, pension, profit-sharing, or similar plan or contract providing benefits by reason of age, illness, disability, or length of service are exempt from attachment or levy to the extent reasonably necessary for the support of the debtor and the debtor's dependents. Idaho Code § 11-604A(3), (4).  d. For additional exceptions see Idaho Code § 11-607.	Unlimited Exemption Idaho Code Section § 11-604A; Idaho Code § 55-1011 (exempt from all claims of judgment creditors of the beneficiary or participant arising out of a negligent or otherwise wrongful act or omission of the beneficiary or participant resulting in monetary damages to the judgment creditor); see <i>In re McClelland</i> , No. 07-40300, 2008 WL 89901, at 4 (Bankr. D. Idaho 2008) ("The Idaho legislature chose not to limit the scope of protection to retirement account owners only. Rather, through the exemption statute, it extended protection to 'any citizen of the state of Idaho under any employee benefit plan.'").  Life Insurance Proceeds: Idaho Code § 41-1833; see also Idaho Code § 11-604(d) ("An individual is entitled to an exemption for proceeds or benefits paid or payable on the death of an insured, if the individual was the spouse or a dependent of the insured to the extent reasonably necessary for the support of the debtor and the debtor's dependents."); Idaho Code § 11-605(9); Idaho Code § 41-1835 (exemption of proceeds from group life insurance); <i>In re Gutke</i> , 528 B.R. 798 (Bankr. D. Idaho 2015) (holding debtors' interest in life insurance proceeds resulting from mother's death approximately one month after debtors filed petition was exempt under Idaho law).	Unlimited Exemption (see below) Cash Surrender Value Life Insurance: Idaho Code § 11-605(9); Idaho Code § 41-1833  Cap: Unlimited Exemption (excluding accrued dividends, interest, loan value, and/or cash surrender value resulting from premiums paid into the life insurance contract within six (6) months prior to the filing of a bankruptcy petition or the date of attachment or levy on execution).  Cash Surrender Value of Deferred Annuity: as to any deferred annuity contract having a cash surrender provision and from which no periodic payments are being made, the cash surrender value of the deferred annuity contract may not exceed premiums paid into the deferred annuity contract within six (6) months prior to the filing of bankruptcy petition or the date of attachment or levy on execution. Idaho Code § 41-1836(1)(d).	\$1250 The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under which he is an annuitant, shall not at any time exceed one thousand two hundred fifty dollars (\$1,250) per month.  Idaho Code § 41-1836; see also Idaho Code § 41-1836(2) (The beneficiary or assignee shall be treated the same as the annuitant with respect to exemptions and exceptions).  Cash Surrender Value of Deferred Annuity: as to any deferred annuity contract having a cash surrender provision and from which no periodic payments are being made, the cash surrender value of the deferred annuity contract may not exceed premiums paid into the deferred annuity contract within six (6) months prior to the filing of bankruptcy petition or the date of attachment or levy on execution. Idaho Code § 41-1836(1)(d).	N/A	N/A	See below Idaho Code § 15-7-502  Idaho statutes are silent on the issue of QTIP trusts, but the treatment of a QTIP trust should be analogous to a 3rd party support trust with a spendthrift clause. Accordingly, a spouse beneficiary's interest in an inter vivos QTIP that includes a spendthrift clause should be protected from creditors.	Unlimited Exemption Idaho Code § 11-604A(4)(b); see also <i>In re McFarland</i> , No. 04-01623, 2004 WL 4960367 (Bankr. D. Idaho 2004) (holding that the statutory exemption for employee benefit plans expressly includes Idaho's 529 college savings accounts).	N Idaho Code § 15-7-502(4); Idaho Code § 55-905

STATE	Opt-Out (Y/N) <small>Opt-out state debtor must use State not Federal exemptions under Bankruptcy Code §522.</small>	Homestead	Retirement Plan Assets	Retirement Plan – Inherited Beneficiary Protection	Cash Surrender Value Life Insurance and Life Insurance Proceeds	Annuities	Accumulations from Retirement Plans/Annuities Protected if Segregated (Y/N)	Tenants by the Entirety	Inter Vivos QTIP	529 College Plans +Other Tuition Plans +Other Similar	Self Settled Asset Protection Trusts (Y/N)
IL	Y	<p>Cap Statute</p> <p>\$15,000/\$30,000</p> <p>735 ILCS (Illinois Compiled Statutes) 5/12-901, and 12-906</p> <p>Real or personal property including a farm, lot and building, condo, co-op or mobile home to \$15,000; sale proceeds exempt 1 year from sale.</p> <p>Husband and Wife may double the exemption. <i>First National Bank v Mohr</i> 515 N.E. 2d 1356 (App. Ct. Ill. 1998).</p>	<p>ERISA-qualified benefits are exempt (without limitation) 735 ILCS 5/12-1006.</p> <p>In Illinois, there is no dollar limit on other types of tax-exempt, employer-sponsored pension plans, including a simplified employee pension or SEP, a 401(k), a profit-sharing plan or a SIMPLE plan.</p> <p>Public employee's retirement assets are exempted under various other provisions of the statutes.</p> <p>Illinois defaults to the federal guidelines on IRAs, which exempts IRAs up to \$1.095 million. Would apply to each of husband's and wife's traditional IRAs, and to Roth IRAs.</p>	<p>None</p> <p><i>In re Clark</i>, 714 F.3d 559 (7th Cir. 2013) (interpreting Wisconsin law). (This, of course, went on to become the USSCt decision.)</p>	<p>Life insurance, annuity proceeds or cash value is exempt if beneficiary is insured's child, parent, spouse or other dependent. 215 ILCS 5/238, 735 ILCS 5/12-1001(f)</p> <p>Life insurance proceeds are exempt if clause prohibits from being used to pay beneficiary's creditors. 215 ILCS 5/238</p> <p>Life insurance proceeds needed for support are exempt. 735 ILCS 5/12-1001(f), (g)(3)</p>		<p>Yes. The federal law governing IRA exemptions is found in U.S. Code 11 522(a)(C)(3). It covers "retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under ... the Internal Revenue Code." This includes funds that are rolled over from one tax-exempt IRA to another, or rolled over from an employer sponsored plan to an IRA. So believe the answer is yes.</p>	<p>Primary residence held between husband and wife only 765 ILCS 1005/1c</p> <p>Includes TBE in trust: "Where the homestead is held in the name or names of a trustee or trustees of a revocable inter vivos trust or of revocable inter vivos trusts made by the settlors of such trust or trusts who are husband and wife, and the husband and wife are the primary beneficiaries of one or both of the trusts so created, and the deed or deeds conveying title to the homestead to the trustee or trustees of the trust or trusts specifically state that the interests of the husband and wife to the homestead property are to be held as tenants by the entirety, the estate created shall be deemed to be a tenancy by the entirety." (Id.)</p> <p>Also, the Illinois Code of Civil Procedure at 735 ILCS 5/12-112, states: "Any real property, or any beneficial interest in a land trust, or any interest in real property held in a revocable inter vivos trust or revocable inter vivos trusts created for estate planning purposes, held in tenancy by the entirety shall not be liable to be sold upon judgment entered on or after October 1, 1990 against only one of the tenants, except if the property was transferred into tenancy by the entirety with the sole intent to avoid the payment of debts existing at the time of the transfer beyond the transferor's ability to pay those debts as they become due."</p>	<p>No specific statute.</p>	<p>Illinois College Savings Pool accounts invested more than 1 year before filing if below federal gift tax limit, or 2 years before filing if above, are exempt. 625 ILCS 45/3A-7; 735 ILCS 5/12-1001.</p>	<p>N</p> <p>"A self-settled trust is invalid as a spendthrift trust under Illinois law. <i>In re Simon</i>, 170 B.R. 999, 1002 (S.D. Ill. 1994). If a settlor creates a spendthrift trust for his or her own benefit, it is void as to existing or future creditors, and they can reach his or her interest under the trust. <i>In re Morris</i>, 151 B.R. 900, 906-07 (C.D. Ill. 1993)." <i>In re Chapman</i>, cited in next section.</p>
IN	Y	<p>Cap Statute</p> <p>\$19,300 (double for joint debtors on tenants by the entireties property)</p> <p>IC 34-55-10-2(c)(1), as modified by 750 IAC 1-1-1(c).</p>	<p>No cap, but exemption limited to: (a) contributions by debtor or spouse, (b) earnings on such contributions, and (c) roll-overs, qualified under IRC 408(a).</p>	<p>Not exempt (IRA inherited from someone other than spouse is not a "retirement plan" under Indiana law).</p> <p>IC 34-6-2-131 (defines "retirement plan"); See: <i>In Re: Klipsch</i> 435 B.R. 586 (Bankr.S.D.IN.2010). No.09-71922-BHL-7A.</p>	<p>No cap</p>	<p>No cap</p>	<p>N/A</p>	<p>No cap (Not applicable to debt for which debtor and spouse are jointly liable)</p>	<p>N/A</p>	<p>No specific cap. See below.</p> <p>1) IC 34-55-10(c)(9) – qualified tuition program (IRC 529); and IC 34-55-10-2(c)(10) – education savings account (IRC 530(b)).</p> <p>Cap: No specific cap, but limited to the extent the funds in the program are not attributable to: (a) excess contributions as defined in IRC 529(b)(6); (b) contributions made by debtor within 1 year of levy or bankruptcy filing, plus earnings; (c) the excess over \$5000 of aggregate contributions made by the debtor for all programs (including IRC 530 education savings accounts) having the same beneficiary: (i) not later than 1 year before; and (ii) not earlier than 2 years before; the date of levy or bankruptcy filing, plus the earnings on the aggregate contributions.</p>	<p>N</p> <p>No, not recognized in Indiana. IC 30-4-3-2(b). [One exception: a trust which (a) is qualified under 26 U.S.C. 401(a), and (b) the limitations on each beneficiary's interest in the trust complies with 29 U.S.C. 1056(d).]</p>

STATE	Opt-Out (Y/N) <small>Opt-out state debtor must use State not Federal exemptions under Bankruptcy Code §522.</small>	Homestead	Retirement Plan Assets	Retirement Plan – Inherited Beneficiary Protection	Cash Surrender Value Life Insurance and Life Insurance Proceeds	Annuities	Accumulations from Retirement Plans/Annuities Protected if Segregated (Y/N)	Tenants by the Entirety	Inter Vivos QTIP	529 College Plans + Other Tuition Plans + Other Similar	Self Settled Asset Protection Trusts (Y/N)
KS	Y	Cap Statute 160 acres of farming land or one acre within an incorporated town or city; unlimited value K.S.A. 60-2301	Unlimited K.S.A. 60-2308	Not protected <i>In re Mosby</i> , 532 B.R. 167 (Bankr. D. Kan. 2015)	See below K.S.A. 40-414  Life insurance proceeds, its reserves, and its present value, are protected to the extent they are paid to beneficiaries named in the policy so long as the beneficiary has an insurable interest in the life of the insured without a cap. The nonforfeiture value of the policy is NOT exempt from creditors of a policy holder who files bankruptcy within one year of the date the policy is issued or creditors if execution on judgment for the claim is issued within one year after the date the policy is issued.	Generally, not exempt. But, certain annuities and other pension, retirement, disability, death or other benefits for certain public employees are exempt without a cap.  K.S.A. 60-2312 and <i>Ortiz v. Rajala</i> , 2010, 436 B.R. 133; K.S.A. 6023-13 allows exemption for annuities as retirement benefits for certain public employees.	N - even if the distributions from a qualified retirement plan are held in a segregated account, uncommingled, such funds are no longer exempt  <i>In re Carbaugh</i> , 278 B.R. 512 (B.A.P. 10th Cir. 2002), interpreting KSA 60-2308 as not including distributions from a qualified retirement plan.	N/A	N/A	See below K.S.A. 60-2308  If the designated beneficiary of a family postsecondary savings account established pursuant to K.S.A. § 75-640 et seq., is a lineal descendant to the account owner, all moneys in the account are exempt from any claims of creditors of the account owner or designated beneficiary. This does not apply to: (a) creditors of an account owner as to amounts contributed within a one-year period preceding the date of the filing of a bankruptcy petition or execution on a judgment; or (b) creditors of an account owner as to amounts exceeding \$5,000 contributed more than one year but less than two years preceding the date of the filing of a bankruptcy petition or execution on a judgment.	N
KY	N  May use either the state exemptions or federal bankruptcy exemption, whichever serves the client's purposes best, but the client may not pick and choose from the state and federal bankruptcy exemptions.	Cap Statute \$5,000 KY/\$23,675 Fed KRS 427.060; KRS 427.090 Real or personal property used in the family residence up to \$5,000; or may use this exemption to protect proceeds of a burial lot. Alternatively, may elect federal bankruptcy exemption under 11 U.S.C. Section 522(b)(2). See KRS 427.170	ERISA –qualified benefits are exempt, without limitation, that are on deposit more than 120 days before filing for bankruptcy. Also there is no dollar limit on other types of tax-exempt, employer sponsored pension plans, including SEP and SIMPLE IRAs. KY defaults to Federal Bankruptcy Code for IRAs and Roth IRAs with current limit of #1,283,025	Federal Bankruptcy Code limits for IRAs and Roth IRAs KRS 427.150(2)(f)	Unlimited KRS 427.110	Unlimited until benefits are due and payable. Annuity payments are capped at \$350 per month KRS 304.14-330	N/A	N/A	KRS 386B.5-020(8)(a)(1)-(3)	N/A	N
LA	Y	Cap Statute \$35,000; however, if seizure judgment based on claims arising from catastrophic or terminable illness/injury, exemption equal to full value of home as of one year before judgment. La. R.S. 20:1(A)(2); La. Const. Art. VII, § 20	See below La. R.S. 13:3881(D)(1); La. R.S. 20:33  Exempt, <b>except for</b> : (i) alimony and child support; and (ii) contributions within 1 yr. of seizure or bankruptcy.	Not exempt <i>In re Everett</i> , 520 B.R. 498 (E.D. La. 2014)  (under Louisiana law, an inherited IRA is not exempt within meaning of the exemption statute (La. R.S. 13:3881(d)(1)))	See below La. R.S. 22:912(A)  Exempt, <b>except for</b> : cap of \$35,000 as to portion of CSV or loan value payable during insured's lifetime, if policy issued w/i 9 mos. of seizure or bankruptcy.	See below La. R.S. 22:912(B) and La. R.S. 13:3881(D)(1)  Exempt, <b>except for</b> : (i) alimony and child support; (ii) contributions within 1 yr. of seizure or bankruptcy; and (iii) cap of \$35,000 as to portion of CSV or loan value payable during annuitant's lifetime, if contract issued w/i 9 mos. of seizure or bankruptcy.	See below  As to annuities, exempt, <b>except for</b> : (i) alimony and child support; (ii) contributions within 1 yr. of seizure or bankruptcy; and (iii) cap of \$35,000 as to portion of CSV or loan value payable during annuitant's lifetime, if contract issued w/i 9 mos. of seizure or bankruptcy. La. R.S. 22:912(B) and La. R.S. 13:3881(D)(1). No specific exemption as to retirement plans.	N/A	N/A	Unlimited La. R.S. 17:3096(G); La. R.S. 22:912(C)	N

STATE	Opt-Out (Y/N) <small>Opt-out state debtor must use State not Federal exemptions under Bankruptcy Code §522.</small>	Homestead	Retirement Plan Assets	Retirement Plan – Inherited Beneficiary Protection	Cash Surrender Value Life Insurance and Life Insurance Proceeds	Annuities	Accumulations from Retirement Plans/ Annuities Protected if Segregated (Y/N)	Tenants by the Entirety	Inter Vivos QTIP	529 College Plans +Other Tuition Plans +Other Similar	Self Settled Asset Protection Trusts (Y/N)
MA	N May use either State or Federal exemptions.	Cap See below Statute M.G.L. Chapter 188, sections 1-10 (New homestead law effective March 16, 2011) Cap: There is an automatic \$125,000 exemption that does not require a recorded document. A homeowner may sign and record a homestead exemption to increase exemption to \$500,000. If both spouses are elderly (62 or older) or disabled, then the exemption may be increased to \$1,000,000. If one spouse is elderly or disabled and the other is not, then the exemption may be increased to \$750,000. The homestead protection applies only to a principal residence.	See below M.G.L. Chapter 235, section 34A Cap: In some circumstances. The state exemption does not apply to a court order regarding child support, divorce, or separate maintenance. It also does not apply to a court order requiring an individual convicted of a crime to satisfy a monetary penalty or to make restitution. Finally, the exemption does not apply to sums deposited in a retirement plan in excess of 7% of the total income of the individual within five years of the individual's declaration of bankruptcy or entry of judgment. The "7% Rule" does not apply to rollover IRAs.	There is no specific Massachusetts case addressing the inherited beneficiary issue as decided in <i>Clark v. Rameker</i> , 134 S. Ct. 2242, 189 L. Ed. 2d 157 (2014). A First Circuit opinion, in another context, did adopt the <i>Rameker</i> definition of "retirement funds" as "sums of money set aside for the day an individual stops working." See <i>In re Ortiz</i> , 558 B.R. 25 (2016). Prior to <i>Rameker</i> , the Massachusetts case of <i>In re Seeling</i> , 471 B.R. 320 (2012) provided protection to an inherited retirement plan.	See below M.G.L. Chapter 175, Section 125 Cap: None. Massachusetts law provides that a creditor of an owner of a life insurance policy may not reach the proceeds of that policy – the beneficiary of the life insurance policy enjoys the proceeds at the insured's death regardless of whether the owner or the insured owes a debt. And case law protects the owner's cash value of the policy, too. This general rule of protection is subject to two important exceptions. First, amounts paid in to the policy that are deemed to be fraudulent transfers (together with interest on such transfers) are reachable by the creditor. Second, Massachusetts cases have held that a change of beneficiary after the issuance of the policy can cause the protection to be lost. See <i>In re Caron</i> , 2004 Bankr. LEXIS 232 (MA 2004); <i>In re Volk</i> , ___ B.R. ___ (MA 2017 – Entered 8/10/2017)	None No protection for non-retirement plan annuities	No special rule None	None. But limited to spouses' principal residence and does not prohibit a creditor's lien against the property. M.G.L. Chapter 209, Sections 1 and 1A. A tenancy by the entirety created prior to February 11, 1980 does not receive the full protection of the law. To get the protection, an Election needs to be signed and recorded under Section 1A.	General third party spendthrift trust protection No special QTIP statute	Not protected. See <i>In re Sanchez</i> , 2006 Bankr. LEXIS 284 (Bankr. D. Mass. Feb. 14, 2006) None. But since Massachusetts is not an "opt out" state the bankruptcy protection for 529 Plans within the federal Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 is available if federal exemptions are chosen.	Massachusetts does not have specific legislation authorizing a DAPT. A creditor may reach into a self-settled irrevocable trust to access a trust asset to the extent such asset may be distributed to the settlor. <i>Ware v. Gulda</i> , 331 Mass. 68 (1954). Massachusetts Uniform Trust Code, M.G.L. Chapter 203E, section 505(a)(2)
MD	Y	Cap 23675 Statute CTS ART § 11-504(f) tracks 11 VSC 522 (d)(1) indexed	No cap CTS § 11-504(h) In re: Neil Solomon, MD, 67F3d 1128 (4th Cir 1995)	Likely CTS § 11-504(h) covers "participants" and "beneficiaries"	No cap Ins. ART § 16-111	Yes fbo spouse, children & dependents IRS § 16-111 Debtor may retain right to assign	No cap Yes. See: Fred Franke, "Asset Protection and Tenancy by Entirety" 34 ACTEC J 210 (2009) Also T/E Trusts protected E&T § 14.5-511	No cap E&T § 14.5-1003	No cap Md. 529 protected Ed. § 18-19A-06.1 State, however may attach	N (except T/E Trusts & inter vivos QTIP Trusts)	
ME	Y	Cap Generally \$47,500, but may be increased to \$95,000 in certain situations (including a minor dependent living in the home or a debtor or dependent over the age of 60) Statute 14 MRS § 4422(1)	See below 14 MRS § 4422 (13)(E) & (13-A) Recently passed legislation going into effect November 1, 2017 protects up to \$1,000,000 in retirement funds exempt from tax under IRC §§ 401, 403, 408, 408A, 414, 457 or 501(a) – this includes qualified retirement plans and IRAs (14 MRS §4422(13-A)). Nonqualified retirement plans are not protected (14 MRS § 4422(13)).	See below 14 MRS § 4422 (13)(E) & (13-A) Unclear. Recently passed legislation going into effect November 1, 2017 protects up to \$1,000,000 in retirement funds that are exempt from tax under IRC §§ 401, 403, 408, 408A, 414, 457 or 501(a) – this includes qualified retirement plans and IRAs (14 MRS §4422(13-A)). Nonqualified retirement plans are not protected (14 MRS § 4422(13)). There is no statute or reported case on whether the exemption applies to an inherited retirement plan, under the old or new statute. Query whether this statute reaches inherited retirement funds because they are exempt from tax; or are they no longer considered "retirement funds" in the hands of the inheriting beneficiary and thus not protected?	\$4,000 14 MRS § 4422 (10), (11)	No exemption for private annuities. Qualified Annuity Plans under IRC § 403(a) are exempt "to the extent reasonably necessary for the support of the debtor and any dependent of the debtor." 14 MRS § 4422(13)(E)	Unclear, but does not appear to be exempt. Maine does not recognize the concept of Tenants by the Entirety	Potentially subject to beneficiary's creditors depending on distribution standard of the trust. 18-B MRS §502(3); 18-B MRS § 504	Funds in a Maine College Savings Program are exempt for the account owner and beneficiary. 20-A MRS § 11478	N	
MI	N	Cap \$3,500 but \$30,000 in bankruptcy if Michigan exemptions are chosen (\$45,000 if the debtor or a dependent of the debtor is at least 65) and indexed for inflation with adjustment every 3 years. Statute MCL 600.6023(g) generally. MCL 600.5451(1)(m) if Michigan bankruptcy exemptions are chosen.	No cap MCL 600.6023(1)(j) for IRAs and MCL 600.5451(1)(k) for profit sharing plans, if Michigan bankruptcy exemption is chosen.	No cap Inherited IRAs are probably not protected unless structured as a trustee IRA (and has spendthrift provision in trust). See <i>In re Zott</i> , 225 BR 160 (Bankr ED Mich 1998). Also, one Michigan bankruptcy judge has held that only one IRA is protected under the Michigan statute. See <i>In re Spradlin</i> , 231 B.R. 254 (Bankr ED Mich 1999).	No cap MCL 500.2207(1) if beneficiary is the spouse or children, but court cases have held that the cash value of the policy may be reached.	No cap If paid because of disability or sickness, generally, MCL 600.6023(1)(f) and in bankruptcy MCL 600.5495(1)(j)	No cap MCL 600.2807(1), 600.6023a generally and MCL 600.5451(1)(n) if the Michigan bankruptcy exemption is chosen.	No cap MCL 700.7506(4)	No cap MCL 600.6023(1)(i)	Y See MCL 700.1041-700.1050	

The American College of Trust and Estate Counsel  
State Survey of Asset Protection Techniques

SECTION 1  
General Exemptions

STATE	Opt-Out (Y/N) <small>Opt-out state debtor must use State not Federal exemptions under Bankruptcy Code §522.</small>	Homestead	Retirement Plan Assets	Retirement Plan – Inherited Beneficiary Protection	Cash Surrender Value Life Insurance and Life Insurance Proceeds	Annuities	Accumulations from Retirement Plans/Annuities Protected if Segregated (Y/N)	Tenants by the Entirety	Inter Vivos QTIP	529 College Plans + Other Tuition Plans + Other Similar	Self Settled Asset Protection Trusts (Y/N)
MN	N Debtor may elect to use State or Federal exemptions.	Cap Statute See below Minn. Stat. § 510.01 and Minn. Stat. § 550.175(4)(e) Cap: Minnesota only exempts property located in Minnesota up to \$390,000, designated as the primary residents; if the property is not agricultural. If the property is primarily used for Agricultural purposes it is exempted up to \$975,000 (subject to limitations outlined in § 510.05). Sales of the property above and beyond the exemption are governed by Minn. Stat. § 550.175.	See below Minn. Stat. § 550.37 Cap: \$69,000 and any additional amounts reasonably necessary to support the debtor, spouse or dependents (IRA's, Roth IRA's are both exempted – and are exempted irrelevant of whether or not the debtor has unlimited access to the account balance).	If the beneficiary makes a trustee-to-trustee transfer of the funds, these are protected from creditors at no cap. If not, then there is no protection for inherited beneficiaries from creditors. Minnesota Case Law – <i>Doeling v. Nessa (In re Nessa)</i> , 426 B.R. 312; 2010 Bankr. LEXIS 931 (U.S. Bank. App. For 8th Cir. 2010).	See below Minn. Stat. § 550.37 (10); (23) and (39) Cap: Life Insurance Proceeds are exempted up to \$46,000, but the exemption shall be increased by \$11,500 for each dependent of the surviving spouse or child; Life insurance aggregate interest for the debtor is exempted up to \$9,200 in any accrued dividend or interest or loan value of any unmatrued life insurance contract owned by the debtor of an individual whom the debtor is a dependent; Net amount payable to any insured or any beneficiary under any policy of accident or disability for life insurance is exempt from any creditor.	See below Minn. Stat. § 550.37 Cap: \$69,000 and any additional amounts under all plans/contract to the extent reasonably necessary for the support of any spouse or dependent thereof. Minnesota Supreme Court notes that there is no difference between an annuity and an account (IRA). However, this statute is preempted by ERISA in the limits for employee benefit plans. Annuities from a fraternal benefit order are not exempted; but annuities which are issued by a for-profit commercial insurance company are exempted up to the adjusted limit.	Appreciation and dividends are treated the same way as initial contributions to the Retirement Plan. Minn. Stat. § 550.37	These are NOT exempted or protected	See below Minn. Stat. § 501C.0505, subd. 2 and Minn. Stat. § 501C.0814, subd. B (2) Cap: Settlor of a irrevocable trust has protection from creditors, even if the trust reverts back to the Settlor as a result of the death of the beneficiary. The beneficiary also has protection from creditors, as a trustee cannot be compelled to distribute funds in a discretionary trust.	If these plans are held in a separate Minnesota college savings plan account in the State treasury, these plans are completely exempt and are completely protected from creditors. Minn. Stat. § 136G.09, subd. 12.	N
MO	Y	Cap Statute 15000 Mo. Ann. Stat. § 513.475 But: Exemption for a mobile home used as a primary residence is limited to \$5,000. Mo. Ann. Stat. § 513.430.1(6)	Unlimited Mo. Ann. Stat. § 513.430.1(10)(f)	Unlimited Mo. Ann. Stat. § 513.430.1(10)(f)	Unlimited death benefit on unmatrued contracts owned by the debtor; up to \$15,000 of matured life insurance proceeds for actual funeral, cremation, or burial expenses where the deceased is the spouse, child, or parent of the beneficiary. (See below) Mo. Rev. Stat. 513.430.1(7)-(8) (1) The exemption for cash value of policies on the life of the debtor or individual of whom such person is a dependent in bankruptcy cases is limited to \$150,000 less any amount of property transferred to the debtor if the transfer is to pay a premium or to carry out a nonforfeiture insurance option and is required to be so transferred automatically under a life insurance contract that was entered into before commencement of such proceedings. (2) Cash value is NOT exempt from paying child support or if the policy was purchased within one year of the commencement of bankruptcy proceedings.	Limited to the amount reasonably necessary for the support of the debtor and any dependent of the debtor for qualifying annuities, which includes an annuity or similar plan or contract on account of illness, disability, death, age or length or service, unless such plan or contract was established by or under the auspices of an insider that employed such person at the time such person's rights under such plan or contract arose; such payment is on account of age or length of service; and such plan or contract does not qualify under §401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. 401(a), 403(a), 403(b), 408, 408A or 409). (See below) Mo. Ann. Stat. § 513.430.1(10)(e) and (11) Also exempted: The debtor's right to receive, or property that is traceable to, a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor (for example, an annuity purchased with the proceeds of a wrongful death settlement of a parent while the debtor remains a dependent). See <i>In re Slover</i> , 332 B.R. 400, 401 (Bankr. W.D. Mo. 2005).	Unclear (see below) Mo. Ann. Stat. § 513.430	Y Common law; See also Mo. Ann. Stat. § 456.950 recognizing the existence of tenancy by the entirety property.	N/A No specific statute	N/A No specific statute	Y

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MS	Y	Cap 160 acres/\$75,000 Statute Mississippi Code Ann. §85-3-21	Exempt without limitation Mississippi Code Ann. §85-3-1(e)	Exempt without limitation Mississippi Code Ann. §85-3-1(e)	Proceeds payable to named beneficiaries - Beneficiaries' interest is 100% exempt. (see NOTE below)  Proceeds payable to executor or administrator - \$50,000  Mississippi Code Ann. §§85-3-11 and 85-3-13  NOTE: Limited to \$50,000 as a result of premiums paid or premium deposits or other payments made within 12 months of issuance of a writ of seizure, attachment, garnishment, or other process or the filing of a voluntary or involuntary bankruptcy.	Exempt if the annuity contract states that nobody may commute, encumber, alienate, anticipate, or assign any part of the contract.  Mississippi Code Ann. §83-7-5	Exempt without limitation  Mississippi Code Ann. §85-3-1(e); Mississippi Code Ann. §§85-3-11 and 85-3-13	Exempt without limitation  11 U.S.C. §522(b)(3)(B); MS common law; Ayers, 417 So.2d at 913-14; Newton, 588 So.2d at 196	No inter vivos QTIP statute in MS; General spendthrift trust protection  Miss. Code Ann. §91-9-503	Exempt without limitation  Mississippi Code Ann. §85-3-1(f)	Y Exempt without limitation unless the action is brought pursuant to the provisions of the Uniform Fraudulent Transfer Act, Mississippi Code Sec. 15-3-101 et seq., and unless the qualified disposition was also made with actual intent to defraud the creditor. Notwithstanding the foregoing, the limitations on actions by creditors in law or equity shall not apply and shall not be extinguished if the transferor is indebted on account of an agreement, judgment, or order of a court for the payment of any item listed under Mississippi Code Sec. 91-9-707(i)(1).  Mississippi Code Ann. §§91-9-707(a) and 91-9-707(i)(1)
	OTHER: For a resident 70 or older, \$50,000 exemption for property of any kind. Miss. Code Ann. §85-3-1(h)										
MT	Y	Cap 250000 Statute MCA 70-32-101 through 107 and MCA 25-13-615	No cap MCA 25-13-608(1)(e)	Not exempt MCA 25-13-608(1)(e), In re Golz, 38 MONT 385, 360 P. 3d 1142, 2015	No cap MCA 33-15-511 and 512	\$350 per month MCA 33-15-514	No cap MCA 25-13-608(1)(e)	N/A  Not recognized in Montana. Both real and personal property treated as Joint Tenancy or Tenancy in Common. See <i>Clark v. Clark</i> , 143 MT 183 387 P. 2d 907 (1963), <i>Lurie v. Sheriff</i> , 2000 MT 105, 999 P. 2d 342 (2000)	N/A  Subject to general spendthrift trust protection if available. MCA 72-38-501 through 507.	No authority  529 College and Tuition Plans are likely not exempt per MCA 25-13-608. However, pursuant to the holding in a certified question to the Montana Supreme Court under in re Giacometto, decided June 29, 2017, the Montana Supreme Court allowed an exemption in bankruptcy for funds in a health savings account, created under 26 U.S.C.S. §223. See also section 25-13-608 MCA under Senate Bill No. 216, which adds contributions to certain health and medical savings accounts to the list of statutory exemptions that a judgment debtor is allowed to exclude from execution. The new legislation supersedes the applicability of MCA § 25-13-608(1)(f).	N
NC	Y	Cap Statute §1C-1601: \$35,000 (\$60,000 for an unmarried debtor who is 65 or older if the property was previously owned by the debtor as TBE or JTWRs and the former co-owner of the property is deceased). §1C-1602: \$1,000 for real property and \$500 for personal property. N.C.G.S. §1C-1601(a)(1) OR N.C.G.S. §1C-1602; N.C. Const. Art X, §2	Unlimited N.C.G.S. §1C-1601(a)(9)	Unlimited N.C.G.S. §1C-1601(a)(9)	Unlimited N.C.G.S. §1C-1601(a)(6); N.C. Const. Art X, §5; N.C.G.S. §58-58-95 Cash value and proceeds of life insurance policy is exempt if debtor is insured and policy is for the sole use and benefit of the debtor's spouse or children or both.	No exemption for non-retirement annuities.  IRC §408(b) individual retirement annuities are exempt under N.C.G.S. §1C-1601(a)(9).  In re Grubbs, 325 B.R. 151 (Bankr. M.D.N.C. 2005) extended exemption to IRC §403(b) annuities.	None  Real property owned as tenants by the entirety is not subject to a claim by a creditor against only one spouse. <i>In re Knapp</i> , 285 B.R. 176 (Bankr. M.D.N.C. 2002).	Unlimited  N.C.G.S. §36C-5-505(c)	Unlimited  N.C.G.S. §1C-1601(a)(10)	N  Exempt if for the debtor's child and actually used for the child's college or university expenses. 529 contributions made in preceding 12 months of a debtor's bankruptcy filing date are not exempt (unless made in the ordinary course of the debtor's financial affairs and consistent with debtor's past pattern of contributions).	

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ND	Y Debtor cannot opt into Federal Exemptions, must use ND – NDCC § 28-22-17 for Bankruptcy purposes only – can use non-bankruptcy federal exemptions for Federal retirement accounts and veteran's benefits)	Cap Statute	\$100,000 (this does apply to mobile homes or trailers, except those are not exempted from levy or sale for tax purposes under NDCC § 57-55) NDCC §28-22.02 (Homestead defined in NDCC § 47-18-01)	\$100,000 for any one account, or \$200,000 in aggregate for all accounts (see below) NDCC § 28-22-03.1(7) Cap: a. These limits do <b>not</b> apply to the extent this property is reasonably necessary for the support of the resident and their dependents; b. Any and all pensions, annuities or retirement stemming from Public arenas (or fraternal benefit orders) are exempted – NDCC § 28-22-19 (1) – Federal plans under ERISA are exempted in accordance with federal law; c. All unmatured life insurance contracts owned by the debtor are exempted NDCC § 28-22-03.1 (4) d. IRA's and Roth IRA's are exempted up to limits. The accounts must have been in effect for at least one year – dollar amount does not apply if the debtor can show the funds are reasonably necessary for support of the debtor, spouse or dependents (NDCC § 28-22-03.1 (3))	Clark v. Rameker applies and therefore no creditor protection for the Beneficiary N/A	See below NDCC §28-22-02 (9) and NDCC § 26.1-33-36 Cap: 1) All insurance benefits resulting from insurance covering any or all of the absolute benefits if they're in cash <b>OR</b> have been invested in other property capable of exemption under this chapter (annuities, retirement plans etc.)– No cap, all is exempted; a. Life insurance proceeds payable to the estate (deceased or a personal representative thereof) and not to a specific beneficiary are exempted (NDCC § 26.1-33-40); b. \$8,000 cap– in any accrued dividend or interest under, or loan value of any unmatured life insurance contract (NDCC §28-22-03.1 (5)); c. These insurance proceeds are absolutely exempt from the Policy Holder's creditors (NDCC § 26.1-33-36)	See below NDCC § 28-22-03.1(3) and applicable federal statutes (ERISA) [Annuities are defined for North Dakota purposes in NDCC § 26.1-34-01 et seq.] Cap: Protected to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless: 1) the plan/contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under that plan/contract arose; 2) that payment is on account of age or length of service; and 3) the plan/contract does not qualify under section 401(a), 403(a), 403(b), or 408 of the Internal Revenue Code of 1986. (ERISA protected plans are exempted as well); a. Protected up to \$100,000 payable to the insured's spouse, children or any other dependent, and an aggregate limit of \$200,000. However, limits do not apply if reasonably necessary for support of the dependents; b. IRA's and Roth IRA's are under NDCC § 28-22-03.1 (3)	Accumulations treated the same as initial contributions for everything but unmatured life insurance: N/A	Not protected NDCC § 47-02-08 (Classification of Ownership statute)	See below NDCC § 59-13-05 (505) Cap: During the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor's creditors to the extent the property would be subject to the creditors' claims if the property had not been placed in the trust; and the creditor can reach the maximum distribution the settlor would receive (which with a QTIP is nothing). a. Irrevocable trusts are completely protected from creditors; b. No statute or case law on QTIPs	See below NDCC § 6-09-38 and applicable Federal Exemptions Cap: a. Exempt all assets held in a 529 plan if account beneficiary is a child, stepchild, grandchild or step-grandchild of the debtor (any contribution made 720+ days prior to Bankruptcy is protected in its entirety); b. 529 Plans are protected from creditors of <b>both</b> the owner and the beneficiary – and all North Dakota Higher Education Plans are also protected in their entirety	N
		Cap Statute	\$60,000; the homestead exemption is a single exemption, so a single individual who owns a home is entitled to a \$60,000 exemption, and a married couple is entitled to a \$60,000 exemption, not a \$120,000 exemption Neb. Rev. Stat. § 40-101	See below Neb. Rev. Stat. § 25-1563.01. The following benefits are exempt from attachment, garnishment, or other legal or equitable process and from all claims of creditors, but only to the extent reasonably necessary for the support of the debtor and any dependent of the debtor: an interest held under a stock bonus, pension, profit-sharing, or similar plan or contract payable on account of illness, disability, death, age, or length of service, unless such plan or contract does not qualify under sections 401(a), 403(a), 403(b), 408, or 408A of the Internal Revenue Code. Courts have interpreted this statute to include IRAs as exempt, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor. <i>In re Bashara</i> , 293 B.R. 216 (Bankr. D. Neb. 2003); <i>Novak v. Novak</i> , 245 Neb. 366, 513 N.W.2d 303 (1994).	N/A	\$100,000 aggregate value in all loan values or cash values of all matured or unmatured life insurance contracts Neb. Rev. Stat. § 44-371	\$100,000 aggregate value in all proceeds, cash values, or benefits accruing under all annuity contracts Neb. Rev. Stat. § 44-371	N/A	Not recognized in Nebraska	N/A	No cap Neb. Rev. Stat. § 85-1809	N

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NH	N N.H. Rev. Stat. Ann. §511:2-a	Cap Statute \$120,000 per person N.H. Rev. Stat. Ann. §480:1	See below N.H. Rev. Stat. Ann. §511:2(XIX)  Cap: Subject to the Uniform Fraudulent Transfer Act, any interest in a retirement plan or arrangement qualified for tax exemption purposes under an act of Congress, including, but not limited to, defined contribution plans and defined benefit plans under the Internal Revenue Code (IRC), individual retirement accounts including Roth IRAs and education IRAs, individual retirement annuities, simplified employee pension plans, Keogh plans, IRC section 403(a) annuity plans, IRC section 403(b) annuities, and eligible state deferred compensation plans governed under IRC section 457.	N/A; not protected	Cash surrender value is not protected per case law (In re Monahan, 171 B.R. 710 (Bankr. D.N.H. 1994), but see Federal exemption under 11 U.S.C. §522(d)(8))  Life insurance proceeds have an unlimited protection	N/A; not protected	Unlimited. See below.	Tenants by the Entirety does not exist in NH, if such language is used in a deed, it defaults to a joint tenancy with rights of survivorship, which provides no additional creditor protection	Unlimited, settlor's creditors have no access, but need a spendthrift provision for complete protection against spouse's creditors	No, but see Federal exemption under 11 U.S.C. §541(b)(6)	Y N.H. Rev. Stat. Ann. §564-D
NJ		Cap Statute N/A New Jersey does not have a statute recognizing a homestead in the debtor/creditor context.	Fully protected N.J.S.A. § 25-2-1. Property held in a "qualifying trust" and distributions from a qualifying trust are exempt from all claims of creditor. Qualifying trust is a trust qualified and maintained pursuant to federal law, including IRC sections 401, 403, 408, 408A, 409, 529 or 530.	Fully protected N.J.S.A. § 25-2-1. Should qualify as distribution from qualifying trust.	Fully protected except - claims of alimony and perhaps child support. See <i>Hirko v. Hirko</i> , 166 N.J. Super. 111 (Ch. Div. 1979) for alimony exception.  N.J.S.A. § 17B:24-6	\$500 per month N.J.S.A. § 17B:24-7. Protected to extent of \$500/month.	Cap as to annuities of \$500/month N.J.S.A. § 25-2-1; N.J.S.A. § 17B:24-7	See <i>Servis v. Dorn</i> , 76 N.J. Eq. 241. Protection until death of one of the parties.	N.J.S.A. § 3B:31-35. Protected provided trust includes spendthrift provision.	N.J.S.A. § 25-2-1. Provides protection for plans under IRC 529 and 530 and other plans that are qualifying trusts.	No protection. See N.J.S.A. § 3B:31-39
NM	N	Cap Statute \$60,000 per individual owner, up to two joint owners NMSA § 42-10-9. Note that one of the two \$60,000 exemptions appears to be lost upon the death of the first joint owner to die. See NMSA § 45-2-406 (stating that the NM Uniform Probate Code family and personal property allowances for surviving spouse "are in lieu of the exemptions provided in Sections ... 42-10-9").	Unlimited NMSA §§ 42-10-1 (pensions and retirement funds for persons supporting another person); 42-10-2 (pensions and retirement funds for persons supporting only themselves). Note that retirement funds of a decedent appear to be subject to the claims of the decedent's creditors. NMSA §§ 45-2-406 (stating that the NM Uniform Probate Code's family and personal property allowances "are in lieu of the exemptions provided in Sections 42-10-1, [and] 42-10-2"); 45-6-102 (subjecting non-probate transfers to the claims of a decedent's creditors).	N/A Inherited retirement funds probably are not protected as they are not specifically addressed by statute. See NMSA §§ 42-10-1, 42-10-2. No reported New Mexico decision has addressed the issue.	Unlimited NMSA §§ 42-10-3 (cash value and proceeds), 42-10-5 (proceeds in context of the deceased insured).	Unlimited NMSA § 42-10-3	Possibly unlimited	N/A New Mexico is a community property state. See NMSA § 40-3-2 (spouses may hold property as joint tenants, tenants in common, or as community property.)	Unlimited (assuming a spendthrift clause and subject to claims by exception creditors as discussed for 3d party support and discretionary trusts) NMSA § 46A-5-502(C)	Unlimited, but only with respect to NM's "college savings program", which is a 529 College Plan. There is no protection, generally, for 529 College Plans established under the law of other states or other similar plans. NMSA § 21-21K-6(A)	N NMSA 46A-5-505(A)
NY	Y	Cap Statute \$550,000 NRS 115.010	\$1,000,000 in present value NRS 21.090(r) as modified by AB 314 Section 1, 79th Session (2017) not yet codified	\$1,000,000 in present value NRS 21.090(r) as modified by AB 314 Section 1, 79th Session (2017) not yet codified	Cash surrender value and proceeds are both fully protected NRS 21.090(k), NRS 687B.260 and NRS 111.779(12)(a)(2) as modified by AB 314 Section 3, 79th Session (2017) not yet codified	Unlimited except as to amounts paid for or as premium on any such annuity with intent to defraud creditors NRS 687B.290		Nevada recognizes tenants in common, community property and joint tenancy, but not tenants by the entirety See NRS 111.060, 111.064 and 111.065	General Spendthrift protection NRS 166.120	\$1,000,000 in present value NRS 21.090(r) as modified by AB 314 Section 1, 79th Session (2017) not yet codified	Y NRS Chapter 166 and <i>Klabacka v. Nelson</i> , 394 P.3d 940 (Nev. 2017)
NY	Y	Cap Statute Limited based on county where property located CPLR 5206	Unlimited Federal Law excepts federal taxes and QDROs. NY law excepts QDROs and orders for support or alimony contribution made within 90 days of money judgement and fraudulent conveyances. CPLR 5205(c)		Unlimited CPLR 5205(c) and (i) INS. Law 3212(b)	Unlimited CPLR 5205(c)	N	Unlimited Common law	Unlimited CPLR 5205(c)	Unlimited \$10K cap w/COLA adjustment. Exception: no cap if minor is both owner and beneficiary of account. CPLR 5205(j)	N

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OH	Y	Cap Statute \$136,925 per owner O.R.C. §2329.66(A)(1) as adjusted for inflation	Unlimited O.R.C. §2329.66(A)(1)(c)	Unlimited O.R.C. §2392.66(A)(10)(e)	Unlimited O.R.C. §3911.10	Unlimited O.R.C. §3911.10	0	0	Unlimited O.R.C. §5805.06(B)(3)	Unlimited (owner and beneficiary) O.R.C. §2329.66(A)(10)(c)	Y O.R.C. Chp. 5816 Note: no action on UVTA
OK	Y	Cap Statute Within city limits, limited to not more than one acre of land with no valuation cap (provided that if more than 25% of the square footage of improvements are used for business purposes, the value of the exemption is capped at \$5,000). Outside of city limits, limited to not more than 160 acres with no valuation cap. 31 O.S. § 1(A)(1), 2	Unlimited 31 O.S. § 1(A)(20); 60 O.S. § 327	Unlimited 31 O.S. § 1(A)(20); 60 O.S. § 327	Unlimited 31 O.S. § 1(A)(20); 36 O.S. § 3631.1	Unlimited 31 O.S. § 1(A)(20); 36 O.S. § 3631.1	Unlimited See 31 O.S. § 1(A)(20); 36 O.S. § 3631.1	N/A	N/A	Unlimited 70 O.S. § 3970 et seq.	N A grantor cannot create a spendthrift trust for his or her own benefit. However, the Oklahoma Wealth Preservation Act (31 O.S. § 10 et seq.) provides, among other things, that a preservation trust: (i) grantor cannot be a beneficiary of such trust, (ii) can be revocable, and (iii) is an exemption trust and not a spendthrift trust or a discretionary distribution trust. Subject to certain other requirements, such a trust attempts to protect trust assets from the claims of the grantor's creditors.
OR	Y	Cap Statute \$40,000 single owner, \$50,000 max for multiple owners ORS 18.395	N/A ORS 18.358(2)	N/A ORS 18.358(2)	N/A as long as beneficiary is someone other than the insured or his/her estate ORS 743.046(1),(3)	\$500/mo ORS 743.049	\$7,500 ORS 18.348(1)	Yes, but only for spouses ORS 93.180(1)(b)	N/A ORS 130.305(3)	N/A ORS 178.345(2)	N
PA	N Federal or state exemptions permitted.	Cap Statute N/A Pennsylvania does not recognize a homestead protection for creditor/debtor purposes. This should not be confused with the homestead tax exemption for property tax relief.	42 Pa.C.S. § 8124(b) Most retirement accounts described in Sections 401, 403, 409 and 530 of the Internal Revenue Code (such as IRAs, qualified pension and profit share plans, and the like), including appreciation and income earned in the account are exempt, provided, however, that (a) amounts contributed by the debtor during the year preceding filing bankruptcy; (b) amounts in excess of \$15,000 contributed a retirement account within any one-year period (other than by rollover); and (c) amounts deemed to be fraudulent transfers are not exempt.	N/A 42 Pa.C.S. § 8124(b) To date, no Pennsylvania court has determined whether inherited IRAs fall within statutory definition of protected retirement funds and accounts; unclear whether Pennsylvania court would adopt rationale in <i>Clark v. Rameker</i> .	N/A 42 Pa.C.S. § 8124(c) Certain insurance benefits, including workers' compensation, small annuities, group life insurance, annuity, and life insurance payments to spouses, children and dependent relatives, accident, or disability insurance and life insurance cash values, are exempt.	42 Pa.C.S. § 8124(b) Most annuity funds, including appreciation and income earned in the fund are exempt, provided, however, that (a) amounts contributed by the debtor during the year preceding filing bankruptcy; (b) amounts in excess of \$15,000 contributed an annuity within any one-year period, and (c) amounts deemed to be fraudulent transfers are not exempt.	N/A 42 Pa.C.S. § 8124(b) Tenants by the entirety - Yes (for real and personal property, whether titled or not)	N/A Case law; see, e.g., <i>Patwardhan v. Brabant</i> , 439 A.2d 784, 785 (Pa. Super. Ct. 1982)	N/A 24 Pa.C.S. § 6901.309.2 Yes. Tuition account or any legal interest therein is not subject to attachment, levy or execution by any creditor of an account owner or beneficiary, and shall not be used as security for a loan.	N	
RI	N	Cap Statute \$500,000 max for multiple owners RI Gen. Laws § 9-26-4.1	Unlimited. See below. Cap: Unlimited for IRAs and ERISA qualified plans, except that this exemption does not apply to a court order pursuant to a judgment of divorce or separate maintenance or child support. Further, the exemption does not apply to IRA contributions that constitute an excess contribution within the meaning of § 4973.	No exemption for inherited IRAs under <i>Clark v. Rameker</i> , 134 S. Ct. 2242 (2014).	Unlimited. Dependent on terms of life insurance policy. RI Gen. Laws § 27-4-12	Unlimited. Dependent on terms of annuity contract. RI Gen. Laws § 27-4-12	N/A Rhode Island law does not address accumulations from retirement plans or annuities if segregated.	Unlimited under <i>Bloomfield v. Brown</i> , 25 A.2d 354 (RI 1942). N/A	Unlimited There is no relevant Rhode Island law regarding QTIPs; however, the treatment of a QTIP trust should be analogous to a 3rd party support trust with a spendthrift clause. Therefore, a spouse's beneficiary interest in a QTIP trust with a spendthrift provision should be protected from creditors.	Unlimited, except that this exemption does not apply to a court order pursuant to a judgment of divorce or separate maintenance or child support. RI Gen. Laws § 9-26-4(15)	Y See RI Gen. Laws §§ 18-9.2-1 through 18-9.2-7.

STATE	Opt-Out (Y/N) <small>Opt-out state debtor must use State not Federal exemptions under Bankruptcy Code §522.</small>	Homestead	Retirement Plan Assets	Retirement Plan – Inherited Beneficiary Protection	Cash Surrender Value Life Insurance and Life Insurance Proceeds	Annuities	Accumulations from Retirement Plans/Annuities Protected if Segregated (Y/N)	Tenants by the Entirety	Inter Vivos QTIP	529 College Plans +Other Tuition Plans +Other Similar	Self Settled Asset Protection Trusts (Y/N)	
SC	Y	<p>Cap \$50,000 per owner, \$100,000 maximum (adjusted for inflation)</p> <p>Statute S.C. Code Ann. §15-41-30(A)(1)</p>	<p>SC cap tracks federal limitation (currently \$1,283,025)</p> <p>S.C. Code Ann. §15-41-30(A)(13)</p> <p>Claimed exemption may be reduced or eliminated by the amount of a fraudulent conveyance into the retirement account.</p>	<p>SC cap tracks federal limitation (currently \$1,283,025)</p> <p>S.C. Code Ann. §15-41-30(A)(13)</p>	<p>Unlimited (but if insurance purchased within 2 years of bankruptcy filing, exemption limited to \$4000 (adjusted for inflation) by S.C. Code Ann. §15-41-30(A)(9))</p> <p>S.C. Code Ann. §38-63-40(A);</p> <p>Proceeds and cash surrender value of life insurance is exempt if for the primary benefit of the debtor's spouse, children, or dependents.</p>	<p>Unlimited</p> <p>S.C. Code Ann. §15-41-30(A)(11)(e )</p> <p>A payment under an annuity on account of illness, disability, death, age or length of service is exempt under certain circumstances.</p> <p>S.C. Code Ann. §38-63-40(B)</p> <p>Proceeds of annuity contracts, by agreement, may be held by the insurer exempt from claims of the beneficiary's creditors.</p>	None	Not recognized in SC	<p>Unlimited</p> <p>S.C. Code Ann. §62-7-505(b)(2)</p> <p>S.C. Code Ann. §59-2-140</p>	N		
SD	Y	<p>Cap \$60,000; but for an owner age 70 or above (or the un-remarried surviving spouse of such a person), \$170,000</p> <p>Statute SDCL § 43-45-3(2)</p>	<p>\$1 million</p> <p>SDCL §§ 43-45-16, 17; see also SDCL § 3-12-115 (South Dakota Retirement System exemption) SDCL § 9-16-47 (municipal employees retirement \$1 million exemption)</p>	N/A	<p>Yes - see notes below</p> <p>Cap: It's complicated. (1) \$20,000 if payable to insured, surviving spouse, or children – free from claims against such persons; (2) \$20,000 of an endowment policy payable to the insured on attaining a certain age; (3) \$20,000 payable by a mutual aid or benevolent society to any member, spouse, or children of a member – free from claims against such persons; (4) proceeds payable to a named beneficiary are exempt from the decedent's creditors; and (5) \$10,000 even if payable to estate are exempt where insured is survived by a spouse or minor children.</p> <p>Statute: SDCL § 43-45-6; SDCL § 58-12-4; <i>In re Pliska</i>, 2006 WL 267137 (Bankr. D.S.D. Feb. 1, 2006) (holding that life insurance proceeds payable to a named beneficiary are not property of the decedent-bankrupt's estate)</p>	<p>\$250/mo. or a higher amount set by the court "after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him"</p> <p>SDCL §§ 58-12-6, 8, 9</p>	N/A	N/A	<p>No cap</p> <p>SDCL § 13-63-20</p>	<p>Y</p> <p>No cap</p> <p>Statute SDCL ch. 55-16</p>		
TN	Y	<p>Cap See below</p> <p>Statute T.C.A. § 26-2-301</p> <p>Value of Exemption in Principal Place of Residence: \$5,000 Owned and Used by Individual; \$7,500 Owned and Used Jointly; \$12,500 Unmarried Individual 62+; \$20,000 Married Couple, one 62+; \$25,000 Married Couple, both 62+; \$25,000- Individual and 1+ minor children in custody.</p> <p><i>In re Hogue</i>, 286 S.W. 3d 890 (Tenn. 2009) - married couple with 1 minor child had \$50,000 exemption.</p> <p>"Homestead" under study by TN General Assembly.</p>	<p>See below</p> <p>T.C.A. § 26-2-105</p> <p>Fully exempt from creditors of participant, except for claims of State of TN and claims under qualified domestic relations order. IRAs may have different exemptions under Federal Bankruptcy Code Sec. 522.</p>	<p>See below</p> <p>T.C.A. § 26-2-105</p> <p>but compare to T.C.A. § 26-2-111(1)(D)</p> <p>Fully exempt from creditors of beneficiary, except for claims of State of TN and claims under qualified domestic relations order. Inherited IRAs not exempt under Federal Bankruptcy Code Sec. 522. See, <i>Clark v. Rameker</i>, 134 S.Ct. 2242 (2014).</p>	<p>See below</p> <p>T.C.A. § 26-2-110(b)</p> <p>T.C.A. §§ 56-7-201, 202 - 203</p> <p>Net amount payable under life insurance policy, unless "specifically charged with debts in the will or trust agreement", and the cash value of a life insurance policy are fully exempt from creditors of insured if policy payable to or for benefit of surviving spouse, children or dependent relatives. Proceeds of life insurance are not exempt from beneficiary's creditors once in hands of beneficiary, T.C.A. § 26-2-111. See, <i>In re Huffines</i>, 57 B.R. 740, 742-743 (Bankr. M.D. Tenn. 1985).</p>	<p>See below</p> <p>T.C.A. §§ 26-2-110 - 111</p> <p>T.C.A. § 56-7-203</p> <p>Net payable amount under annuity contract to or for benefit of spouse, children or dependent relatives is fully exempt from creditors of the assured. Also, proceeds are fully exempt if payable to resident and citizen of TN contracts of accident, health, or disability insurance insuring assured against loss by reason of accidental personal injuries or insuring assured against loss by reason of physical disability resulting from disease.</p>	Y - See below	See below	<p>See below</p> <p>T.C.A. § 35-15-510</p> <p>T.C.A. § 66-1-109</p> <p>Since not vested, a debtor who owned real property jointly with spouse not entitled to homestead. See, <i>In re Arwood</i>, 289 B.R. 889, (Bankr. E.D. Tenn. 2003). Tenants by entirety only available to married couples. Property held as tenants by entirety exempt from any possessory interest of the separate (not joint) creditors of either spouse. Surviving spouse receives property at death of first spouse free of creditor claims of decedent spouse. See, <i>Robinson v. Trousdale County</i>, 516 S.W. 2nd 626, 652 (Tenn. 1974).</p> <p>Since 2014, T.C.A. § 35-15-510 has allowed married couples to create a new form of Joint Revocable Trust where assets held by the Trustee are to have the same immunities from claims of creditors as are provided generally to tenants by the entirety.</p>	<p>See below</p> <p>T.C.A. § 35-15-505(a)(2); T.C.A. § 35-15-505(d)</p> <p>Since 2010 with the addition of T.C.A. § 35-15-505(d), an Irrevocable Trust made with a qualified election pursuant to 26 U.S.C. § 2523 (f), which allows for distributions to or for the benefit of a settlor or to otherwise permit settlor to use or benefit from trust property following death of settlor's spouse, shall not be considered an amount that may be distributed to or for the settlor's benefit and may avoid the general rule of accessibility by settlor's creditors and loss of spendthrift trust protection due to such deemed distributions under T.C.A. § 35-15-505(a)(2).</p>	<p>Fully exempt</p> <p>T.C.A. § 49-7-822</p>	<p>Y</p> <p>Tennessee Investment Services Act of 2007 (T.C.A. § 35-16-101, et. seq.) established an exception to T.C.A. § 35-15-505 so as to prevent creditors of settlor from reaching assets transferred by settlor to trust with settlor as beneficiary. Sometimes referred to as a domestic asset protection trust, this type of self-settled trust, if all conditions are met, may provide exemption from most creditors. This type of trust does not extinguish rights of creditors for child support or alimony.</p> <p>T.C.A. § 35-16-101, et. seq. T.C.A. § 35-15-505</p>

STATE	Opt-Out (Y/N) <small>Opt-out state debtor must use State not Federal exemptions under Bankruptcy Code §522.</small>	Homestead	Retirement Plan Assets	Retirement Plan – Inherited Beneficiary Protection	Cash Surrender Value Life Insurance and Life Insurance Proceeds	Annuities	Accumulations from Retirement Plans/Annuities Protected if Segregated (Y/N)	Tenants by the Entirety	Inter Vivos QTIP	529 College Plans +Other Tuition Plans +Other Similar	Self Settled Asset Protection Trusts (Y/N)
TX	N Not an opt-out state. An out of state debtor is required to use their state's (not Federal) exemptions.	Cap Statute	HOMESTEAD Tex. Prop. Code 41.0029(a)-(b) No value cap. If used for the purposes of an urban home and a place to exercise a calling or business, the homestead of a family or single, adult person of, not otherwise entitled to a homestead shall consist of not more than 10 acres of land which may be in one or more contiguous lots, together with any improvements thereon. If used for the purposes of a rural home, the homestead shall consist of: (1) for a family, not more than 200 acres, which may be in one or more parcels, with the improvements thereon; or (2) for a single, adult person, not otherwise entitled to a homestead, not more than 100 acres, which may be in one or more parcels, with the improvements thereon.	See below	Yes they are exempt. See below.	See below	See previous Retirement Plan Sections	No. See preceding responses.			
		Statute	PERSONAL PROPERTY EXEMPTION Tex. Prop. Code 42.001 and Tex. Prop. Code 42.002 Cap: The Personal property described below is exempt from garnishment, attachment, execution, or other seizure if: the property is provided for a family and has an aggregate fair market value of not more than \$100,000, exclusive of the amount of any liens, security interests, or other charges encumbering the property; or the property is owned by a single adult, who is not a member of a family, and has an aggregate fair market value of not more than \$50,000, exclusive of the amount of any liens, security interests, or other charges encumbering the property. In addition, the following personal property is exempt from seizure and is not included in the aggregate limitations referenced above: current wages for personal services, except for the enforcement of court-ordered child support payments; professionally prescribed health aids of a debtor or a dependent of a debtor; alimony, support or separate maintenance received or to be received by the debtor for the support of the debtor or a dependent of the debtor; and a religious bible or other book containing sacred writings of a religion that is seized by a creditor other than a lessor of real property who is exercising the lessor's contractual or statutory right to seize personal property after a tenant breaches a lease agreement for or abandons the real property. Subject to the exception in the previous sentence, a secured creditor with a contractual landlord's lien or other security in the property to be seized is not prevent may seize such property, unpaid commissions for personal services not to exceed 25 percent of the aggregate limitations are exempt from seizure and are included in the aggregate and a religious bible or other book described above that is seized by a lessor of real property in the exercise of the lessor's contractual or statutory right to seize personal property after a tenant breaches a lease agreement for the real property or abandons the real property may not be included in the aggregate limitations. The following personal property is exempt under the aggregate limitations unless encumbered by a security interest under the Texas Business & Commerce Code or by a lien fixed by other law is exempt: home furnishings, including family heirlooms; provisions for consumption; farming or ranching vehicles and implements; tools, equipment, books, and apparatus, including boats and motor vehicles used in a trade or profession; wearing apparel; jewelry not to exceed 25 percent of the aggregate limitations; two firearms; athletic and sporting equipment, including bicycles; a two-wheeled, three-wheeled, or four-wheeled motor vehicle for each member of a family or single adult who holds a driver's license or who does not hold a driver's license but who relies on another person to operate the vehicle for the benefit of the nonlicensed person; two horses, mules, or donkeys and a saddle, blanket, and bridle for each; 12 head of cattle; 60 head of other types of livestock; 120 fowl; and household pets.	Tex. Prop. Code 42.0021 Except for contributions to an individual retirement account that exceed the amounts permitted under the applicable provisions of the Internal Revenue Code of 1986 and any accrued earnings on such contributions, unless otherwise exempt by law or as preempted by Federal law, a person's right to the assets held in or to receive payments, whether vested or not, under any stock bonus, pension, annuity, deferred compensation, profit-sharing, or similar plan, including a retirement plan for self-employed individuals, or a simplified employee pension plan, an individual retirement account or individual retirement annuity, including an inherited individual retirement account, individual retirement annuity, Roth IRA, or inherited Roth IRA, or a health savings account, and under any annuity or similar contract purchased with assets distributed from that type of plan or account, is exempt from attachment, execution, and seizure for the satisfaction of debts to the extent the plan, contract, annuity, or account is exempt from federal income tax, or to the extent federal income tax on the person's interest is deferred until actual payment of benefits to the person under Section 223, 401(a), 403(a), 403(b), 408(a), 408A, 457(b), or 501(a), Internal Revenue Code of 1986, including a government plan or church plan described by Section 414(d) or (e), Internal Revenue Code of 1986. Further, the interest of a person in a plan, annuity, account, or contract acquired by reason of the death of another person, whether as an owner, participant, beneficiary, survivor, coannuitant, heir, or legatee, is exempt to the same extent that the interest of the person from whom the plan, annuity, account, or contract was acquired was exempt on the date of the person's death.  Amounts qualifying as nontaxable rollover contributions under Section 402(a)(5), 403(a)(4), 403(b)(8), or 408(d)(3) of the Internal Revenue Code of 1986 before January 1, 1993, are treated as exempt amounts under Subsection (a). Amounts treated as qualified rollover contributions under Section 408A, Internal Revenue Code of 1986, are treated as exempt amounts under Subsection (a). In addition, amounts qualifying as nontaxable rollover contributions under Section 402(c), 402(e)(6), 402(f), 403(a)(4), 403(a)(5), 403(b)(8), 403(b)(10), 408(d)(3), or 408A of the Internal Revenue Code of 1986 on or after January 1, 1993, are treated as exempt amounts. Amounts qualifying as nontaxable rollover contributions under Section 223(f)(5) of the Internal Revenue Code of 1986 on or after January 1, 2004, are treated as exempt amounts. Amounts distributed from a plan, annuity, account, or contract entitled to an exemption under Subsection (a) are not subject to seizure for a creditor's claim for 60 days after the date of distribution if the amounts qualify as a nontaxable rollover contribution.	Tex. Ins. Code 1108.051 Except for a premium payment made in fraud of a creditor, a debt of the insured or beneficiary secured by a pledge of the insurance policy or the proceeds of the policy or a child support lien or levy under the Texas Family Code, any benefits, including the cash value and proceeds of an insurance policy or annuity contract issued by a life, health, or accident insurance company, including a mutual company or fraternal benefit society or an annuity or benefit plan used by an employer or individual are fully exempt from garnishment, attachment, execution, or other seizure; seizure, appropriation, or application by any legal or equitable process or by operation of law to pay a debt or other liability of an insured or of a beneficiary, either before or after the benefits are provided; and a demand in a bankruptcy proceeding of the insured or beneficiary.	Tex. Ins. Code 1108.002 For purposes of regulation under the Texas Insurance Code, an annuity contract is considered an insurance policy or contract if the annuity is issued by a life, health, or accident insurance company including a mutual company or fraternal benefit plan used by an employer or individual.	Tex. Fam. Code 3.001, Tex. Fam. Code 3.002 and Tex. Fam. Code 3.202 Texas is a Community Property state and does not recognize Tenants by the Entirety. Community property consists of the property, other than separate property, acquired by either spouse during marriage. A spouse's separate property consists of: the property owned or claimed by the spouse before marriage; the property acquired by the spouse during marriage by gift, devise, or descent; and the recovery for personal injuries sustained by the spouse during marriage, except any recovery for loss of earning capacity during marriage. A spouse's separate property is not subject to liabilities of the other spouse unless both spouses are liable by other rules of law. The general rule is the community property subject to a spouse's sole management, control, and disposition is not subject to any liabilities that the other spouse incurred before marriage; or any nontortious liabilities that the other spouse incurs during marriage. The community property subject to a spouse's sole or joint management, control, and disposition is subject to the liabilities incurred by the spouse before or during marriage. All community property is subject to tortious liability of either spouse incurred during marriage.	Tex. Prop. Code 422.0022 A person's right to the assets held in or to receive payments or benefits under any fund or plan established under Subchapter F, Chapter 54, Education Code, including the person's interest in a prepaid tuition contract, any fund or plan established under Subchapter G, Chapter 54, Education Code, including the person's interest in a savings trust account, or any qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986, as amended.	N Tex. Trust Code 112.035 If the settlor is also a beneficiary of the trust, a provision restraining the voluntary or involuntary transfer of the settlor's beneficial interest does not prevent the settlor's creditors from satisfying claims from the settlor's interest in the trust estate.		

The American College of Trust and Estate Counsel  
State Survey of Asset Protection Techniques

SECTION 1  
General Exemptions

STATE	Opt-Out (Y/N) <small>Opt-out state debtor must use State not Federal exemptions under Bankruptcy Code §522.</small>	Homestead	Retirement Plan Assets	Retirement Plan – Inherited Beneficiary Protection	Cash Surrender Value Life Insurance and Life Insurance Proceeds	Annuities	Accumulations from Retirement Plans/Annuities Protected if Segregated (Y/N)	Tenants by the Entirety	Inter Vivos QTIP	529 College Plans +Other Tuition Plans +Other Similar	Self Settled Asset Protection Trusts (Y/N)
UT	Y	Cap Statute See below Utah Code 78B-5-503 Cap: \$5,000 in value if property is not primary personal residence; \$30,000 if property claimed is the primary personal residence. If the property claimed is jointly owned, the values are \$10,000 if the property claimed is not the primary personal residence; and \$60,000 if the property claimed is the primary personal residence.	Exempt, except for, an alternate payee under a qualified domestic relations order; or amounts contributed or benefits accrued by or on behalf of a debtor within one year before the debtor files for bankruptcy. Utah Code 78B-5-505	Exempt, except for, an alternate payee under a qualified domestic relations order; or amounts contributed or benefits accrued by or on behalf of a debtor within one year before the debtor files for bankruptcy. Utah Code 78B-5-505	Proceeds and avails of any unmaturing life insurance contracts, excluding payments made within the year before filing Utah Code 78B-5-505(1)(a)(xiii)	N/A No specific statute	N/A No specific statute	A creditor may obtain a levy on and sale of the interest of the individual in the property. A creditor who has obtained a levy, or a purchaser who has purchased the individual's interest at the sale, may have the property partitioned or the individual's interest severed. Utah Code 78B-5-512	N/A No statute; subject to general spendthrift trust protection	N/A No specific statute	Y Utah Code 25-6-501, et seq.
VA	Y See Va. Code 34-3.1	Cap Statute \$5,000 (or \$10,000 if debtor is a disabled veteran or 65 or older), plus \$500 and statutory wage exemption per dependent. Exemption does not apply to spousal/child support obligations. Va. Code §§ 34-4, 34-4.1, 34.4.2, 34-5 Additional nominal exemptions for specific property (§§ 34-26, 34-27)	Same as under federal bankruptcy law Va. Code § 34-34, 20-113 Exempt from creditor claims except for QDROs, child/spousal support	Same as under federal bankruptcy law Va. Code § 34-34, 20-113 Exempt from creditor claims except for QDROs, child/spousal support	Unlimited Va. Code § 38.2-3122 All benefits are exempt from creditors of insured, owner, purchaser or beneficiary (if beneficiary is the insured, the owner or the spouse, intended spouse or dependent of the insured or owner), unless policy was purchased within 6 months prior to bankruptcy filing. If policy was purchased before then but with intent to defraud creditors, the premiums paid are not exempt. See also Va. Code § 38.2-3339 - group life policies and proceeds are exempt from creditors of insured (or insured's estate) or beneficiary.	Unlimited Va. Code § 38.2-3122 All benefits are exempt from creditors of annuitant, owner, purchaser or beneficiary (if beneficiary is the annuitant, the owner or the spouse, intended spouse or dependent of the annuitant or owner), unless policy was purchased within 6 months prior to bankruptcy filing. If policy was purchased before then but with intent to defraud creditors, the premiums paid are not exempt.	N/A	Unlimited Va. Code § 55-20.2 Applies to real and personal property owned by spouses if expressly held as "tenants by the entirety" or "tenants by the entirety." Similar protection for former TBE property conveyed by spouses to their joint or separate revocable or irrevocable trusts under certain conditions.	Unlimited Va. Code § 64.2-747(B)(3)	Unlimited Va. Code § 23.1-707(F) Prepaid tuition contracts, college savings accounts and ABLÉ accounts are exempt from creditors of purchaser, contributor or beneficiary (except state may reach assets remaining in ABLÉ account at beneficiary's death).	Y Va. Code §§ 64.2-745.1 and 64.2-745.2
VT	Y but debtor can still use federal non-bankruptcy exemptions.	Cap Statute \$125,000 27 V.S.A. § 101	Unlimited, except IRA limited to contributions which were deductible or excludable from gross income 12 V.S.A. § 2740 (16)	Uncertain 12 V.S.A. § 2740 (16)	Cash Surrender Value – Unlimited; Life Insurance Death Benefit Unlimited if passing to dependent 12 V.S.A. § 2740 (18) and (19) (H)	Unlimited if on account of death, disability, illness, or retirement from or termination of employment 12 V.S.A. § 2740 (19) (J)	Unlimited 12 V.S.A. § 2740 (16)	Unlimited None; Common Law: <i>In re Correta</i> , 16 B.R. 402 (1990)	Maximum amount that can be distributed to or for the Settlor's benefit 14A V.S.A. § 505 (a) (2)	Not exempt None	N
WA	Y	Cap Statute \$125,000 RCW 6.13.030 and 3.13.070	N/A RCW 6.15.020(3)	N/A RCW 6.15.020(3)	N/A as long as beneficiary is not insured or his/her estate RCW 48.18.410	\$3000/mo RCW 48.18.430(1)(a)-(b)	N/A 6.15.020(3)	Not allowed. Washington has community property Community property is defined in RCW 16.16.030	N/A but note that the property must be the separate property of the transferring spouse prior to funding the QTIP RCW 6.32.250	N/A but only applies to funds contributed at least two years prior to the claim RCW 6.15.010(1)(e)	N
WI	Y Can use either set of exemptions.	Cap Statute 75000 Wis. Stat. § 815.20 and § 815.18	No Cap – if the benefits qualify under (j) (2) they are exempt Wis. Stat. § 815.18 (3) (f) and (j)	<i>Clark v. Ramaker</i> applies and the inherited IRA disbursements are <i>not</i> exempted N/A Any traceable cash proceeds from one of the exempted property is not exempted unless specified (Wis. Stat. § 815.18(4)).	\$150,000/No cap (see below) Wis. Stat. § 815.18 (3)(f) Cap: \$150,000 for any unmaturing life insurance proceeds (insuring the debtor, the debtor's dependent or an individual of whom the debtor is a dependent) – not to exceed an aggregate value of \$150,000. No cap if it is <b>life insurance proceeds</b> meant to benefit the debtor (and reasonably necessary for the support of debtor or their dependents) it is exempted—and <b>any property traceable</b> to these payments are also exempted. (Wis. Stat. § 815.18 (3)(i)(1)(a)).	\$150,000 (see below) Wis. Stat. § 815.18 (3)(f) If contract was issued less than 24 months prior to the applicable date, then the exemption is only available up to \$4,000. If it was issued at least 24 months but funded less than 24 months before the applicable date – the exemption is limited to the value of the contract the day before the first funding (f)(3).	Accumulated dividends are treated the same as the initial contribution N/A	N/A – no protection for the debtor Wis. Stat. § 705.22 (transfer on death provision)	N/A (see below) Wis. Stat. § 701.0505 (2)(e) Cap: N/A – if the trust is <b>irrevocable</b> , the contributions to the trust are not considered to be contributions by the Settlor, and therefore, are exempted from creditors. <b>Revocable Trusts:</b> Do not have protection from creditors for the Settlor/ Debtor.	Any interest in a college savings account created under Wis. Stat. § 16.641 is exempted Wis. Stat. § 815.18 (3) (p) Other plans: under Wis. Stat. § 16.64 are exempted under Wis. Stat. § 815.18 (3)(o)	N

STATE	Opt-Out (Y/N) <small>Opt-out state debtor must use State not Federal exemptions under Bankruptcy Code §522.</small>	Homestead	Retirement Plan Assets	Retirement Plan – Inherited Beneficiary Protection	Cash Surrender Value Life Insurance and Life Insurance Proceeds	Annuities	Accumulations from Retirement Plans/Annuities Protected if Segregated (Y/N)	Tenants by the Entirety	Inter Vivos QTIP	529 College Plans +Other Tuition Plans +Other Similar	Self Settled Asset Protection Trusts (Y/N)
WV	Y W. Va. Code § 38-10-4	Cap Statute \$25,000 in real or personal property that debtor or a dependent uses as a residence W. Va. Code § 38-10-4(a)	Variable. See below. W. Va. Code § 38-10-4(j)(5)	None, if held in an individual retirement account (IRA) W. Va. Code § 38-10-4(j)(5)	None on unmeasured life insurance contract owned by the debtor, other than a credit life insurance contract W. Va. Code § 38-10-4(g)	N/A No provision under W. Va. Statute	None, if in IRA. See below. W. Va. Code § 38-10-4(j)(5)	N/A TBE does not exist in W. Va.	N/A No provision under W. Va. Statute	N/A No provision under W. Va. Statute	Y See, W. Va. Code §§ 44D-5-503a, 503b, and 503c
WY	Y	Cap Statute \$20,000 W.S. 1-20-101	No cap W.S. 1-20-110	No cap W.S. 1-20-110(d)(vi)	No cap W.S. 26-15-129 (life insurance); W.S. 26-15-130 (disability insurance); W.S. 26-15-131 (group insurance)	\$350 per month W.S. 26-15-132	Not specifically addressed by statute	No cap W.S. 34-1-140; W.S. 4-10-402(c) (immunity from separate creditors carries over to TBE property conveyed to joint or separate revocable or irrevocable trusts if certain conditions met)	No cap W.S. 4-10-506(e)(e)	Not specifically addressed by statute	Y

**The American College of Trust and Estate Counsel** **SECTION 2**  
**State Survey of Asset Protection Techniques** **3rd Party Created Irrevocable Trusts / Uniform Voidable Transactions Act (UVTA)**

STATE	3rd Party Support Trusts can creditor reach any of the following Trust assets if spendthrift clause included:			3rd Party Discretionary Trusts can creditor reach any of the following Trust assets if spendthrift clause included:			What remedies are permitted if Trust assets are vulnerable to creditors' claims?			Uniform Voidable Transactions Act		List Modifications to adoption that may affect ability of debtor to use laws of other than state of debtor	
	CHILD SUPPORT	ALIMONY	OTHER	CHILD SUPPORT	ALIMONY	OTHER	INVASION OF TRUST	GARNISHMENT OF DISTRIBUTIONS	ABILITY TO REACH PAYMENTS AUTHORIZED FOR BENEFIT OF BENEFICIARY	HAS YOUR STATE ADOPTED?	HAVE COMMENTS BEEN EXCLUDED?		
AK	Y/N Statute	Y - if at time of transfer settlor is in default by 30 days or more AS 34.40.110	N AS 34.40.110	N AS 34.40.110	N AS 34.40.110	N AS 34.40.110				N	N/A	N/A	
	Notes			For all discretionary interests in irrevocable trusts, AS 34.40.113 provides: a discretionary interest is not a property interest or an enforceable right. It is an expectancy that a creditor or beneficiary may not attach or otherwise reach.  A creditor of a beneficiary may not force a distribution; a creditor may not compel a trustee to exercise the trustee's discretion to make a distribution.  Even if a beneficiary has an outstanding creditor, a trustee may pay income or principal to a third party if the payment is for the benefit of the beneficiary. A trustee is not liable to a creditor for such a payment.  A creditor of a beneficiary may not maintain an action or a proceeding that interferes with the trustee's discretion to apply income or principal on behalf of the beneficiary.  A creditor of a beneficiary may not obtain an order of attachment or similar relief that would prevent a trustee from making a discretionary payment to a third party on behalf of the beneficiary.							Alaska has not adopted either the Uniform Voidable Transactions Act or the Uniform Fraudulent Transfers Act. Alaska's fraudulent transfer provisions are narrow and are limited to transfers made with an intent to defraud that creditor. A settlor's express intention to protect trust assets from a beneficiary's potential future creditors is not evidence of an intent to defraud.		
AL	Y/N Statute	Y - if distributions are mandatory Ala. Code §§ 19-3B-503 and 19-3B-504	Y - if distributions are mandatory Ala. Code §§ 19-3B-503	N/A	N - Creditors cannot reach trust assets or force distributions from purely discretionary trust unless the trustee has abused the discretion. Ala. Code § 19-3B-504	N - Creditors cannot reach trust assets or force distributions from purely discretionary trust unless the trustee has abused the discretion. Ala. Code § 19-3B-504	N/A	Y - assets may be reached by attachment Ala. Code § 19-3B-501	Y Ala. Code § 6-6-413	Y by attachment Ala. Code § 6-6-40	N - A modified version of the UVTA has been introduced in the legislature this session. It has not yet been enacted.  Proposed legislation Ala. Code 8-9B-1 et seq.	The current Alabama UVTA bill that has been introduced has modifications to the UVTA and comments.  The current Alabama Fraudulent Transfer Statute can be found at §§ 8-9A-1 et. seq.	The choice of law provision on the UVTA has been recommended to the legislature for adoption, but the bill has not been enacted into law yet.
	Notes												
AR	Y/N Statute	See below	See below	None	See below	See below	None	N A.C.A. § 28-73-501	Y A.C.A. § 28-73-501	Y	Y	N - comments included	None
	Notes	A.C.A. § 28-73-504(a): Support trust is treated the same as discretionary. The rights of a creditor are the same whether the distribution standard is discretionary, subject to a standard, or both. Arkansas did not adopt the Uniform Trust Code provisions relating to creditor recovery for child support or alimony in its 2005 Act, however the Arkansas Trust Code does not expressly exclude recovery for child support or alimony. However, there is a 2004 Supreme Court of Arkansas case creating a judicial exception for child support and alimony recognized for a nondiscretionary spendthrift trust. See <i>Council v. Owen</i> , 770 S.W.2d 193 (Ark. Ct. App. 1989). See also <i>Medical Park Hosp. v. Bancorp South Bank of Hope</i> , 166 S.W.3d 19 (Ark. 2004) (made the distinction that the judicial exception in <i>Council v. Owen</i> for child support and alimony were for a nondiscretionary trust) (a beneficiary has nothing more than a mere expectancy). The Chair of the Study Committee in charge of revising the Arkansas Trust Code in 2005 stated that it was not the intent of the Study Committee to weaken <i>Council v. Owens</i> .		A.C.A. § 28-73-504(a): Support trust is treated the same as discretionary. The rights of a creditor are the same whether the distribution standard is discretionary, subject to a standard, or both. Arkansas did not adopt the Uniform Trust Code provisions relating to creditor recovery for child support or alimony in its 2005 Act, however the Arkansas Trust Code does not expressly exclude recovery for child support or alimony. However, there is a 2004 Supreme Court of Arkansas case creating a judicial exception for child support and alimony recognized for a nondiscretionary spendthrift trust. See <i>Council v. Owen</i> , 770 S.W.2d 193 (Ark. Ct. App. 1989). See also <i>Medical Park Hosp. v. Bancorp South Bank of Hope</i> , 166 S.W.3d 19 (Ark. 2004) (made the distinction that the judicial exception in <i>Council v. Owen</i> for child support and alimony were for a nondiscretionary trust) (a beneficiary has nothing more than a mere expectancy). The Chair of the Study Committee in charge of revising the Arkansas Trust Code in 2005 stated that it was not the intent of the Study Committee to weaken <i>Council v. Owens</i> .				No spendthrift: To the extent a beneficiary's interest is not protected by a spendthrift provision, a court may authorize a creditor or assignee of the beneficiary's interest by attachment of present and future distributions to or for the benefits of the beneficiary or other means.  Spendthrift: A creditor or assignees of the beneficiary may not reach the interest or a distribution by the trustee before its receipt by the beneficiary.		A.C.A. § 4-59-201 et seq.	A.C.A. § 4-59-201 et seq.		
AZ	Y/N Statute	Y - except special needs trust ARS 14-10503(A) and (B); ARS 14-10504	N ARS 14-10503(A); ARS 14-10504	N - except a claim of AZ or US only to extent a statute of AZ or US so provides ARS 14-10503(C); ARS 14-10504	Y - except special needs trust ARS 14-10503(A) and (B); ARS 14-10504	N ARS 14-10503(A); ARS 14-10504	N - except a claim of AZ or US only to extent a statute of AZ or US so provides ARS 14-10503(C); ARS 14-10504	Y - if creditor of settlor and if revocable trust ARS 14-10505(A)	Y ARS 14-10501; ARS 14-10505(A)	Y ARS 14-10501; ARS 14-10505(A)	N	N/A	N/A
	Notes												

STATE	3rd Party Support Trusts can creditor reach any of the following Trust assets if spendthrift clause included:			3rd Party Discretionary Trusts can creditor reach any of the following Trust assets if spendthrift clause included:			What remedies are permitted if Trust assets are vulnerable to creditors' claims?			Uniform Voidable Transactions Act		List Modifications to adoption that may affect ability of debtor to use laws of other than state of debtor
	CHILD SUPPORT	ALIMONY	OTHER	CHILD SUPPORT	ALIMONY	OTHER	INVASION OF TRUST	GARNISHMENT OF DISTRIBUTIONS	ABILITY TO REACH PAYMENTS AUTHORIZED FOR BENEFIT OF BENEFICIARY	HAS YOUR STATE ADOPTED?	HAVE COMMENTS BEEN EXCLUDED?	
CA	Y/N											
	Statute	Cal. probate court section 15305(c) and (d)	Y, the court may, to the extent that the court determines it is equitable and reasonable under the circumstances of the particular case, order the trustee to satisfy all or part of the support judgment out of all or part of future payments that the trustee, pursuant to the exercise of the trustee's discretion, determines to make to or for the benefit of the beneficiary.	Y, the court may, to the extent that the court determines it is equitable and reasonable under the circumstances of the particular case, order the trustee to satisfy all or part of the support judgment out of all or part of future payments that the trustee, pursuant to the exercise of the trustee's discretion, determines to make to or for the benefit of the beneficiary.	Y, the court may, to the extent that the court determines it is equitable and reasonable under the circumstances of the particular case, order the trustee to satisfy all or part of the support judgment out of all or part of future payments that the trustee, pursuant to the exercise of the trustee's discretion, determines to make to or for the benefit of the beneficiary.	Y, the court may, to the extent that the court determines it is equitable and reasonable under the circumstances of the particular case, order the trustee to satisfy all or part of the support judgment out of all or part of future payments that the trustee, pursuant to the exercise of the trustee's discretion, determines to make to or for the benefit of the beneficiary.	15306.5 and Carmack case	15301-15307	15301-15307	CCC 3439 et seq.	Y	A new choice of law provision is added at CCC § 3439.10, which uses the location of the debtor, as defined in the section, at the time of the transfers to determine which state's law applies. An individual debtor is located at his or her principal residence.
			For restitution and damages in connection with beneficiary's felony (15305.5); for reimbursement to state or local public entity for public support of spouse or minor child (15306) unless beneficiary has a "substantial handicap" that makes beneficiary unable to provide for own care or custody; and for any judgment creditor (15306.5) out of the payments that the trustee, in the exercise of the trustee's discretion, has determined or determines in the future to pay to the beneficiary, up to 25% of the payment, except for payments actually needed for beneficiary's support.*	Cal. probate court section 15305(c) and (d)	Cal. probate court section 15305(c) and (d)	For restitution and damages in connection with beneficiary's felony (15305.5); for reimbursement to state or local public entity for public support of spouse or minor child (15306) unless beneficiary has a "substantial handicap" that makes beneficiary unable to provide for own care or custody; and for any judgment creditor (15306.5) out of the payments that the trustee, in the exercise of the trustee's discretion, has determined or determines in the future to pay to the beneficiary, up to 25% of the payment, except for payments actually needed for beneficiary's support.*						
			*In Carmack v. Reynolds, 391 P.3d 625, 628 (Cal. 2017), the CA Supreme Court held that the California Probate Code does not limit a general creditor's access to only 25% of a beneficiary's interest, but that, with limited exceptions for distributions explicitly intended or actually required for a beneficiary's support, a general creditor may reach a sum up to the full amount of any distributions that are currently due and payable to a beneficiary, even if they are still in the trustee's hands, and separately may reach a sum up to 25% of any payments that are anticipated to be made to the beneficiary.			*In Carmack v. Reynolds, 391 P.3d 625, 628 (Cal. 2017), the CA Supreme Court held that the California Probate Code does not limit a general creditor's access to only 25% of a beneficiary's interest, but that, with limited exceptions for distributions explicitly intended or actually required for a beneficiary's support, a general creditor may reach a sum up to the full amount of any distributions that are currently due and payable to a beneficiary, even if they are still in the trustee's hands, and separately may reach a sum up to 25% of any payments that are anticipated to be made to the beneficiary.						
			No, generally creditor cannot reach until Trustee actually pays except to extent money paid is actually needed for education or support (so long as the trust specifies that is the purpose of the funds). Cal. probate court section 15302			No, even if a standard exists for the exercise of the Trustee's discretion (Cal. probate court section 15303), and no, even if a distribution is made, but only to the extent it is in excess of a payment necessary for the beneficiary's education and support (section 15307).						
CO	Y/N	Unclear	Unclear	Unclear	N	N	Y	Y	Y	N/A	N/A	N/A
	Statute	No Colorado statute addresses this question. A Colorado court facing this issue likely could find the Restatements persuasive. Restatement (Second) Trusts § 157(1) and Restatement (Third) Trusts § 59 would allow creditors to reach for child support. But a broad reading of a Colorado Court of Appeals decision could support denial of a creditor's access. See <i>University National Bank v. Rhoardarmer</i> , 827 P.2d 461 (Colo. App. 1991).	No Colorado statute addresses this question. A Colorado court facing this issue likely could find the Restatements persuasive. Restatement (Second) Trusts § 157(1) and Restatement (Third) Trusts § 59 would allow creditors to reach for alimony. But a broad reading of a Colorado Court of Appeals decision could support denial of a creditor's access. See <i>University National Bank v. Rhoardarmer</i> , 827 P.2d 461 (Colo. App. 1991).	No Colorado statute addresses this issue. A Colorado court likely could find the Restatements persuasive. Restatement (Second) Trusts § 157(1) and Restatement (Third) Trusts § 59. These two restatements allow creditor access for "services or supplies provided for necessities or for the protection of the beneficiary's interest in the trust." Like the two other categories listed above, a broad application of the <i>Rhoardarmer</i> case could be argued to bar special claimants.	No Colorado statute addresses this question. Colorado case law supports the unavailability of discretionary trusts to satisfy creditor claims. In the 1991 case, <i>In re Marriage of David Jones</i> , 812 P.2d 1152 (Colo. 1991), the Colorado Supreme Court held that the assets held in a discretionary trust were beyond the reach of the beneficiary's creditors. Such case law likely would extend to child support.	No Colorado statute addresses this question. Colorado case law supports the unavailability of discretionary trust funds to satisfy creditor claims. In a 1991 case, <i>In re Marriage of David Jones</i> , 812 P.2d 1152 (Colo. 1991), the Colorado Supreme Court held that the assets held in a discretionary trust were beyond the reach of the trust beneficiary's creditors.	No Colorado statute addresses this issue. In a 2013 case, <i>In re Estate of Beren</i> , 321 P.3d 615 (Colo. App. 2013), the Colorado Court of Appeals allows invasion of a trust by a creditor if a beneficiary has the express right to receive distributions from the trust. The Court cited Restatement (Second) Trusts § 153(2).	Colorado Rule of Civil Procedure 103 (Garnishment). See also <i>In re Estate of Beren</i> , 321 P.3d 615 (Colo. App. 2013) (garnishment allowed if beneficiary has express right to receive distributions).	No Colorado statute addresses this issue. In 2013, the Colorado Court of Appeals upheld garnishment allowing creditors to reach assets of the judgment debtor in the hands of third parties. <i>In re Estate of Beren</i> , 321 P.3d 615, 622 (Colo. App. 2013).			
CT	Y/N	N/A	N/A	N/A	N/A	N/A	Y - as to all income interests	Y - as to all income interests	Y - as to all income interests	N	N/A	N/A
	Statute	No statute	No statute	No statute	No statute	No statute	Conn. Gen. Stat. §52-321(a)	Conn. Gen. Stat. §52-321(b)	Conn. Gen. Stat. §52-321			
DC	Y/N	Y	N	Yes - Spendthrift provision is unenforceable against a claim of the District of Columbia or the United States to the extent a statute of DC or federal law so provides.	Y	N	Perhaps. Code allows creditors to attach by "other means" besides attachment.	Yes, Creditor may attach present or future distributions to or for the benefit of the beneficiary or other means.	Yes, Creditor may attach present or future distributions to or for the benefit of the beneficiary or other means.	N	The Act is to be applied and construed to make uniform the law among the states enacting the Uniform Fraudulent Transfer Act.	N/A
	Statute	DC Code § 19-1305.03(b)	Not specified in a statute	DC Code § 19-1305.03(c)	DC Code § 19-1305.03(b)	Not specified in a statute	DC Code § 19-1305.03(c)	DC Code § 19-1305.01	DC Code § 19-1305.01	DC Code § 19-1305.01	D.C. has the Uniform Fraudulent Transfer Act at D.C. Code § 28-3101 et. seq.	DC Code § 28-3111
		These trusts are no different than 3rd party discretionary trusts under the D.C. Code - there is no statutory provision regarding third party support trusts.										

**The American College of Trust and Estate Counsel** **SECTION 2**  
**State Survey of Asset Protection Techniques** **3rd Party Created Irrevocable Trusts / Uniform Voidable Transactions Act (UVTA)**

**3rd Party Support Trusts**  
 can creditor reach any of the following Trust assets if spendthrift clause included:

**3rd Party Discretionary Trusts**  
 can creditor reach any of the following Trust assets if spendthrift clause included:

**What remedies are permitted**  
 if Trust assets are vulnerable to creditors' claims?

**Uniform Voidable Transactions Act**

**List Modifications**  
 to adoption that may affect ability of debtor to use laws of other than state of debtor

STATE	CHILD SUPPORT	ALIMONY	OTHER	CHILD SUPPORT	ALIMONY	OTHER	INVASION OF TRUST	GARNISHMENT OF DISTRIBUTIONS	ABILITY TO REACH PAYMENTS AUTHORIZED FOR BENEFIT OF BENEFICIARY	HAS YOUR STATE ADOPTED?	HAVE COMMENTS BEEN EXCLUDED?	
DE	Y/N Statute No case directly on point. But, see, 12 Del. C. §3536 and <i>Mennen v. Wilmington Trust Co.</i> , No. CV 8432-ML, 2015 WL 1897828 (Del. Ch. Apr. 24, 2015), adopted by, 2015 WL 3630508 (Del. Ch. June 10, 2015); confirmed on remand by <i>Mennen v. Wilmington Trust Co.</i> , C.A. No. 8432-VCL, 2017 WL 751201, at *1 (Del. Ch. Feb. 27, 2017), affirmed on final appeal by <i>Mennen v. Fiduciary Trust Int'l of Delaware</i> , No. 1, 2016, 2017 WL 2152478, at *1 (Del. May 17, 2017), refusing to create a public policy exception to the Delaware Spendthrift Statute.	See also, <i>Garretson v. Garretson</i> , 306 A.2d 737 (Del. 1973). Holding that a husband's mandatory income interest in a third party trust could be attached for the support of his wife and noting: "It of course remains to be seen, if the husband appears generally in this litigation and subjects himself to the jurisdiction of the Court of Chancery, whether, on final hearing, his contentions with regard to his Mexican divorce will be ultimately upheld in which event we assume that the wife would lose her status as wife, and there may be an entirely different situation..." <i>Garretson</i> at 742.	No case directly on point. But, see, 12 Del. C. §3536 and <i>Mennen v. Wilmington Trust Co.</i> , No. CV 8432-ML, 2015 WL 1897828 (Del. Ch. Apr. 24, 2015), adopted by, 2015 WL 3630508 (Del. Ch. June 10, 2015); confirmed on remand by <i>Mennen v. Wilmington Trust Co.</i> , C.A. No. 8432-VCL, 2017 WL 751201, at *1 (Del. Ch. Feb. 27, 2017), affirmed on final appeal by <i>Mennen v. Fiduciary Trust Int'l of Delaware</i> , No. 1, 2016, 2017 WL 2152478, at *1 (Del. May 17, 2017), refusing to create a public policy exception to the Delaware Spendthrift Statute.	No case directly on point. But, see, 12 Del. C. §3536 and <i>Mennen v. Wilmington Trust Co.</i> , No. CV 8432-ML, 2015 WL 1897828 (Del. Ch. Apr. 24, 2015), adopted by, 2015 WL 3630508 (Del. Ch. June 10, 2015); confirmed on remand by <i>Mennen v. Wilmington Trust Co.</i> , C.A. No. 8432-VCL, 2017 WL 751201, at *1 (Del. Ch. Feb. 27, 2017), affirmed on final appeal by <i>Mennen v. Fiduciary Trust Int'l of Delaware</i> , No. 1, 2016, 2017 WL 2152478, at *1 (Del. May 17, 2017), refusing to create a public policy exception to the Delaware Spendthrift Statute.	No case directly on point. But, see, 12 Del. C. §3536 and <i>Mennen v. Wilmington Trust Co.</i> , No. CV 8432-ML, 2015 WL 1897828 (Del. Ch. Apr. 24, 2015), adopted by, 2015 WL 3630508 (Del. Ch. June 10, 2015); confirmed on remand by <i>Mennen v. Wilmington Trust Co.</i> , C.A. No. 8432-VCL, 2017 WL 751201, at *1 (Del. Ch. Feb. 27, 2017), affirmed on final appeal by <i>Mennen v. Fiduciary Trust Int'l of Delaware</i> , No. 1, 2016, 2017 WL 2152478, at *1 (Del. May 17, 2017), refusing to create a public policy exception to the Delaware Spendthrift Statute.	No case directly on point. But, see, 12 Del. C. §3536 and <i>Mennen v. Wilmington Trust Co.</i> , No. CV 8432-ML, 2015 WL 1897828 (Del. Ch. Apr. 24, 2015), adopted by, 2015 WL 3630508 (Del. Ch. June 10, 2015); confirmed on remand by <i>Mennen v. Wilmington Trust Co.</i> , C.A. No. 8432-VCL, 2017 WL 751201, at *1 (Del. Ch. Feb. 27, 2017), affirmed on final appeal by <i>Mennen v. Fiduciary Trust Int'l of Delaware</i> , No. 1, 2016, 2017 WL 2152478, at *1 (Del. May 17, 2017), refusing to create a public policy exception to the Delaware Spendthrift Statute.	N/A	N/A	N/A	N	N/A	N/A
FL	Y/N Statute <i>Bacardi v. White</i> , 463 So. 2d 218 (Fla Sup. Ct. 1985); <i>Berlinger v. Casselberry</i> , Case No. 2D12-6470 at 6 (Fla. 2d DCA Nov 27, 2013) Florida Statutes §736.0502 and §736.0503	Y <i>Bacardi v. White</i> , 463 So. 2d 218 (Fla Sup. Ct. 1985); <i>Berlinger v. Casselberry</i> , Case No. 2D12-6470 at 6 (Fla. 2d DCA Nov 27, 2013) Florida Statutes §736.0502 and §736.0503	Y Other exception creditors include a creditor who provided services for protection of beneficiary's interest in a trust and claims by Florida or U.S. (736.0502(3)).	Y <i>Bacardi v. White</i> , 463 So. 2d 218 (Fla Sup. Ct. 1985); <i>Berlinger v. Casselberry</i> , Case No. 2D12-6470 at 6 (Fla. 2d DCA Nov 27, 2013) Florida Statute §736.0504	Y <i>Bacardi v. White</i> , 463 So. 2d 218 (Fla Sup. Ct. 1985); <i>Berlinger v. Casselberry</i> , Case No. 2D12-6470 at 6 (Fla. 2d DCA Nov 27, 2013) Florida Statute §736.0504	Y Based upon <i>Berlinger</i> even non-exemption creditors may try to get court ordered garnishment but doubtful they will succeed.	N	Y	Probably	N		
GA	Y/N Statute O.C.G.A. § 53-12-80(d) Yes, if the beneficiary is entitled to a current distribution under the standard.	Y O.C.G.A. § 53-12-80(d)	Y O.C.G.A. § 53-12-80(d)	N O.C.G.A. § 53-12-81	N O.C.G.A. § 53-12-81	N O.C.G.A. § 53-12-81		Y O.C.G.A. § 53-12-80		Y O.C.G.A. § 18-2-70	Y	None
HI	Y/N Statute See below <i>Welsh v. Campbell</i> , 41 Haw. 106. Spendthrift trusts are valid though no case law specifically indicates an exception to spendthrift protections for child support and spousal support claims. Where Hawaii statutes are silent, Hawaii courts look to the common law.	See below	See below	See below	See below	See below	N/A	N/A	Y - <i>Peterson v. Titcomb</i> , 11 Haw. 466 (1898) income that is payable but accrued in the trust was subject to garnishment.	N	N/A	N/A
IA	Y/N Statute 627.6(8)(d); 633A.2302(2); 633A.2305	N 627.6(8)(d); 633A.2302(2); 633A.2305	N 633A.2302(2); 633A.2305	N 627.6(8)(d); 633A.2305	N 627.6(8)(d); 633A.2305	N* 633A.2305	Y 633A.2301	Y 633A.2301	Y 633A.2301	Y Iowa Code Chapter 684	Uncertain	N/A

The American College of Trust and Estate Counsel SECTION 2  
 State Survey of Asset Protection Techniques 3rd Party Created Irrevocable Trusts / Uniform Voidable Transactions Act (UVTA)

STATE	3rd Party Support Trusts can creditor reach any of the following Trust assets if spendthrift clause included:			3rd Party Discretionary Trusts can creditor reach any of the following Trust assets if spendthrift clause included:			What remedies are permitted if Trust assets are vulnerable to creditors' claims?			Uniform Voidable Transactions Act		List Modifications to adoption that may affect ability of debtor to use laws of other than state of debtor	
	CHILD SUPPORT	ALIMONY	OTHER	CHILD SUPPORT	ALIMONY	OTHER	INVASION OF TRUST	GARNISHMENT OF DISTRIBUTIONS	ABILITY TO REACH PAYMENTS AUTHORIZED FOR BENEFIT OF BENEFICIARY	HAS YOUR STATE ADOPTED?	HAVE COMMENTS BEEN EXCLUDED?		
ID	Y/N Statute	See below Idaho Code § 15-7-502	See below Idaho Code § 15-7-502	See below Idaho Code § 15-7-502	See below Idaho Code § 15-7-502	See below Idaho Code § 15-7-502	See below Idaho Code § 55-916	See below Idaho Code § 11-201	See below Idaho Code § 55-916	Y	Y	None	
		Idaho statutes are silent. Where Idaho law is silent on an issue, Idaho courts look to the common law. See <i>In re Dias</i> , 37 B.R. 584, 586 (Bankr. D. Idaho 1984) ("Unfortunately, there is virtually no Idaho case law concerning beneficiaries' interests. However, nothing appearing in the statutes of Idaho to the contrary, it is reasonable to assume that the common law treatment of trusts and beneficial interests would be followed by the Idaho courts."); <i>Morrison v. Young</i> , 136 Idaho 316, 32 P.3d 1116 (2001) (warranty deed conveying property from grantors to grantees, and grantees' oral promise to reconvey property, were void as against public policy, where grantors made conveyance to avoid child support payments).	Idaho statutes are silent. Where Idaho law is silent on an issue, Idaho courts look to the common law. <i>In re Dias</i> , 37 B.R. 584, 586 (Bankr. D. Idaho 1984).	Idaho statutes are silent. See <i>In re Dias</i> , 37 B.R. 584, 586 (Bankr. D. Idaho 1984) See <i>In re Dias</i> , 37 B.R. 584 (Bankr. D. Idaho 1984) (where, by terms of trust, disbursements on behalf of beneficiary could occur only for support and only in discretion of trustee, creditors were not entitled to access to trust income or corpus, since even beneficiary had no access or ability to compel payment).	Idaho statutes are silent. Where Idaho law is silent on an issue, Idaho courts look to the common law. <i>In re Dias</i> , 37 B.R. 584, 586 (Bankr. D. Idaho 1984).	Idaho statutes are silent. Where Idaho law is silent on an issue, Idaho courts look to the common law. <i>In re Dias</i> , 37 B.R. 584, 586 (Bankr. D. Idaho 1984).	Idaho statutes are silent. See <i>In re Dias</i> , 37 B.R. 584, 586 (Bankr. D. Idaho 1984) See <i>In re Dias</i> , 37 B.R. 584 (Bankr. D. Idaho 1984) (where, by terms of trust, disbursements on behalf of beneficiary could occur only for support and only in discretion of trustee, creditors were not entitled to access to trust income or corpus, since even beneficiary had no access or ability to compel payment).	Idaho statutes do not expressly address invasion of trust as a remedy. See <i>In re Dias</i> , 37 B.R. 584 (Bankr. D. Idaho 1984) (where, by terms of trust, disbursements on behalf of beneficiary could occur only for support and only in discretion of trustee, creditors were not entitled to access to trust income or corpus, since even beneficiary had no access or ability to compel payment); <i>In re Bujak</i> , 2012 WL 3260352 (Bankr. D. Idaho 2012) (when property is held by a debtor in trust for a beneficiary, the trust property belongs to the beneficiary, and not the debtor, and it does not become part of the debtor's bankruptcy estate); <i>In re Clark</i> , 525 B.R. 107 (Bankr. D. Idaho 2014), <i>aff'd</i> , 548 B.R. 246 (B.A.P. 9th Cir. 2016), <i>aff'd</i> , No. 16-60025, 2017 WL 2963538 (9th Cir. 2017) (holding substantive consolidation of Chapter 7 debtor with trust and limited liability company (LLC) created by debtor was appropriate, where creditors generally dealt with debtor and LLC as a single economic unit, an approach encouraged and abetted by debtor's lack of clarity in conducting his and the LLC's business, neither creditors nor debtor gave much, if any, regard to trust and the trust's position as the sole member of the LLC).	Idaho statutes do not expressly address garnishment of distributions.	Idaho statutes do not expressly address reaching payments authorized for benefit of beneficiary. See <i>In re Dias</i> , 37 B.R. 584 (Bankr. D. Idaho 1984) (where beneficiary held remainder interest in corpus payable upon attaining age 25, the interest, equitably vested though contingent or subject to divestment, was alienable by her and was subject to attachment or levy by creditors in the absence of a spendthrift clause).	Idaho Code, Title 55, Chapter 9, Sections 55-901 - 55-922	N/A	
IL	Y/N Statute	Y	N	Safer creditors	Y-N	N	Safer creditors	Y	Y	Y	N	N/A	N/A
		<i>In re Matt</i> , 105 Ill.2d 330, 85 Ill.Dec. 505, 473 N.E.2d 1310 (1985), the Illinois Supreme Court held that income from a spendthrift trust is subject to garnishment to collect past-due child support under the Non-Support Act. The supreme court held that it "is the public policy of Illinois to ensure that support judgments are enforced by all available means." (Emphasis added.) <i>Matt</i> , 105 Ill.2d at 334, 85 Ill.Dec. 505, 473 N.E.2d 1310. Under the Illinois Code of Civil Procedure (Code), income from a spendthrift trust is generally exempt from invasion to satisfy judgments. 735 ILCS 5/2-1403 (West 1994). However, after <i>Matt</i> , section 2-1403 of the Code was amended (Pub. Act. 85-907, art. II, § 1, eff. November 23, 1987) to provide for the collection of child support:  "The income or principal of a trust shall be subject to withholding for the purpose of securing collection of unpaid child support obligations owed by the beneficiary as provided in Section 4.1 of the 'Non-Support of Spouse and Children Act' and similar Sections of other Acts which provide for support of a child as follows:  (1) income may be withheld if the beneficiary is entitled to a specified dollar amount or percentage of the income of the trust, or is the sole income beneficiary * * ." 735 ILCS 5/2-1403 (West 1994).  Note that only arrearages can be paid, not future child support. <i>In re Chapman</i> , (1st Dist, 1998) <a href="http://caselaw.findlaw.com/il-court-of-appeals/1196604.html">http://caselaw.findlaw.com/il-court-of-appeals/1196604.html</a>	Tax liens (usual super-creditors: IRS, SEC, likely can reach).	No: see <i>Matt</i> and the statute above: Beneficiary must be entitled to a specific dollar amount or be the sole income beneficiary. If a purely discretionary trust, there is no entitlement.  However, there are cases where "purely" discretionary trusts were pierced where the trustee gave the beneficiary whatever he wanted whenever he requested it. So "it depends". <i>In re Marriage of Sharp</i> , 369 Ill.App.3d 271, 860 N.E.2d 539, 307 Ill.Dec. 885 (2d Dist. 2006). In <i>Sharp</i> , a divorced man claimed that his interest in a trust created for his benefit by his grandfather should not be considered in determining whether he was in contempt of court for failing to make child support payments. The trust was the primary source of support for its beneficiary, and it was a spendthrift trust. In fact, the cotrustees were making generous monthly payments to the beneficiary, who was using the trust distributions to take trips, repair his Porsche, etc. The issue that the trust was a spendthrift trust was not timely raised by the beneficiary, so the court considered that it was not a spendthrift trust. In addition, the beneficiary had just reached a mandatory distribution age and had access to \$200,000. Finally, note that the court held the beneficiary in contempt. (Probably in more ways than one.)  In light of the beneficiary's actual recent access to mandatory distributions from the trust (\$200,000 when he reached age 35, shortly before the hearing).	Tax liens (usual super-creditors: IRS, SEC, likely can reach).								

STATE	3rd Party Support Trusts can creditor reach any of the following Trust assets if spendthrift clause included:			3rd Party Discretionary Trusts can creditor reach any of the following Trust assets if spendthrift clause included:			What remedies are permitted if Trust assets are vulnerable to creditors' claims?	Uniform Voidable Transactions Act	List Modifications to adoption that may affect ability of debtor to use laws of other than state of debtor					
	CHILD SUPPORT	ALIMONY	OTHER	CHILD SUPPORT	ALIMONY	OTHER	INVASION OF TRUST	GARNISHMENT OF DISTRIBUTIONS	ABILITY TO REACH PAYMENTS AUTHORIZED FOR BENEFIT OF BENEFICIARY	HAS YOUR STATE ADOPTED?	HAVE COMMENTS BEEN EXCLUDED?			
IN	Y/N Statute	N - Exception if trust contains mandatory distribution provisions. See <i>Clay v. Hamilton</i> 116 Ind.App. 214, 224 (1945). IC 30-4-3-2(a)	N - Exception if trust contains mandatory distribution provisions. See <i>Clay v. Hamilton</i> 116 Ind.App. 214, 224 (1945). IC 30-4-3-2(a)	N/A	N	IC 30-4-2.1-14 and IC 30-4-3-2(a)	IC 30-4-2.1-14 and IC 30-4-3-2(a)	N/A	N/A	Y	Y (in part)	Y	None	
							No specific statute	No specific statute	No specific statute, but if trust contains mandatory distribution provisions, these distributions can be attached. See <i>Clay v. Hamilton</i> 116 Ind.App. 214, 224 (1945).	IC 32-18-2-1 thru 23	IC 32-18-2-23			
KS	Y/N Statute	Unclear Prior to the adoption of the Uniform Trust Code, Kansas followed <i>State ex rel. Sec'y of Soc. &amp; Rehab. Servs. v. Jackson</i> , 249 Kan. 635, 822 P.2d 1033 (1991), which approved of the Restatement (Second) of Trust Section 157 which provided exceptions to a spendthrift trust's protection from creditors for a spouse or child for support and a spouse for alimony. However, Kansas did not adopt section 503 of the Uniform Trust Code, which renders a spendthrift provision unenforceable against a beneficiary's spouse, former spouse, or child who has a judgment or court order against the beneficiary for support or maintenance. The lack of adoption of such provision may be interpreted to reject such exception to the protections granted by a spendthrift trust.	Unclear Prior to the adoption of the Uniform Trust Code, Kansas followed <i>State ex rel. Sec'y of Soc. &amp; Rehab. Servs. v. Jackson</i> , 249 Kan. 635, 822 P.2d 1033 (1991), which approved of the Restatement (Second) of Trust Section 157 which provided exceptions to a spendthrift trust's protection from creditors for a spouse or child for support and a spouse for alimony. However, Kansas did not adopt section 503 of the Uniform Trust Code, which renders a spendthrift provision unenforceable against a beneficiary's spouse, former spouse, or child who has a judgment or court order against the beneficiary for support or maintenance. The lack of adoption of such provision may be interpreted to reject such exception to the protections granted by a spendthrift trust.	N K.S.A. 58a-502	Unlikely Prior to the adoption of the Uniform Trust Code, Kansas followed <i>In re Watts</i> , 160 Kan. 377, 162 P.2d 82 (1945), which prohibited a former spouse from reaching the principal of a discretionary trust because the beneficiary had no right to demand such payment. When the Uniform Trust Code was adopted in Kansas, section 504, which provides an exception for a spouse, former spouse, or child of the beneficiary with a judgment or court order to access the discretionary trust if the trustee has not complied with the standard for distribution or has abused the trustee's discretion, was not adopted, which likely indicates the <i>In re Watts</i> holding is intended to remain good law.	Unlikely Prior to the adoption of the Uniform Trust Code, Kansas followed <i>In re Watts</i> , 160 Kan. 377, 162 P.2d 82 (1945), which prohibited a former spouse from reaching the principal of a discretionary trust because the beneficiary had no right to demand such payment. When the Uniform Trust Code was adopted in Kansas, section 504, which provides an exception for a spouse, former spouse, or child of the beneficiary with a judgment or court order to access the discretionary trust if the trustee has not complied with the standard for distribution or has abused the trustee's discretion, was not adopted, which likely indicates the <i>In re Watts</i> holding is intended to remain good law.	N K.S.A. 58a-502	N - unless beneficiary has a present right to distributions KSA 58a-501	Y - as to both present and future distributions KSA 58a-501	Y - as to present or future distributions for the benefit of the beneficiary KSA 58a-501	N	N/A	N/A	
KY	Y/N Statute	Y KRS 386B.5-020(6)(a)	Y KRS 386B.5-020(6)(a)	Y KRS 386B.5-020(6)(b)&(c) By providers of necessary services rendered to the beneficiary or necessary supplies furnished to the beneficiary and by the US or Kentucky for taxes due from the beneficiary on account of the beneficiary's interest in the trust or the income therefrom.	Y, to the extent a trustee has not complied with a standard of distribution or has abused a discretion. KRS 386B.5-030(3)(a)	Y, to the extent a trustee has not complied with a standard of distribution or has abused a discretion. KRS 386.5-030(3)(b)	Y KRS 386B.5-020(6)(b)&(c) By providers of necessary services rendered to the beneficiary or necessary supplies furnished to the beneficiary and by the US or Kentucky for taxes due from the beneficiary on account of the beneficiary's interest in the trust or the income therefrom.	Y KRS 386B.5-030(3)	Y KRS 386.5-010	Y KRS 386.5-010	Y KRS 378A.005, et seq.	N	KRS 378A.100	
LA	Y/N Statute	Y La. R.S. 9:2005(1)	Y La. R.S. 9:2005(1)	Y La. R.S. 9:2005(2) (claims based on a judgment for nec. svcs. rendered or nec. supplies furnished to the beneficiary or person whom beneficiary is obligated to support); La. R.S. 9:2005(2) (damages arising from a felony criminal offense committed by the beneficiary resulting in conviction or guilty plea); IRS Tax Liens (See <i>Jackson v. D'Aubin</i> , 316 So. 2d 478 (La. Ct. App. 1st Cir. 1975)).	Y La. R.S. 9:2005(1)	Y La. R.S. 9:2005(1)	Y La. R.S. 9:2005(2) (claims based on a judgment for nec. svcs. rendered or nec. supplies furnished to the beneficiary or person whom beneficiary is obligated to support); La. R.S. 9:2005(2) (damages arising from a felony criminal offense committed by the beneficiary resulting in conviction or guilty plea); IRS Tax Liens (See <i>Jackson v. D'Aubin</i> , 316 So. 2d 478 (La. Ct. App. 1st Cir. 1975)).	Y, but very limited. See Notes Below La. R.S. 9:2004; 9:2005; 9:2115; Read v. U.S. ex rel. Dept of Treasury, 169 F.3d 243 (5th Cir. 1999). Neither a beneficiary nor the creditor of a beneficiary can obtain a court judgment forcing a trustee to make distributions of principal or income when such distributions are subject to trustee's discretion, except when necessary to prevent an abuse of discretion by the trustee.	Y La. R.S. 9:2004; La. R.S. 9:2005; La. Code Civ. Proc. arts. 2411-2417	Y La. R.S. 9:2004; La. R.S. 9:2005; La. Code Civ. Proc. arts. 2411-2417	N Louisiana has the "revocatory action," which gives creditor the right to annul an act of the debtor that causes or increases the debtor's insolvency. La. Civ. Code art. 2036.	N/A	N/A	

STATE	3rd Party Support Trusts can creditor reach any of the following Trust assets if spendthrift clause included:			3rd Party Discretionary Trusts can creditor reach any of the following Trust assets if spendthrift clause included:			What remedies are permitted if Trust assets are vulnerable to creditors' claims?			Uniform Voidable Transactions Act		List Modifications to adoption that may affect ability of debtor to use laws of other than state of debtor	
	CHILD SUPPORT	ALIMONY	OTHER	CHILD SUPPORT	ALIMONY	OTHER	INVASION OF TRUST	GARNISHMENT OF DISTRIBUTIONS	ABILITY TO REACH PAYMENTS AUTHORIZED FOR BENEFIT OF BENEFICIARY	HAS YOUR STATE ADOPTED?	HAVE COMMENTS BEEN EXCLUDED?		
MA	Y/N Statute	See below See below	See below See below	See below See below	See below See below	Y No. <i>Cohen v. Commissioner of Division of Medical Assistance</i> , 423 Mass. 399, 414, Footnote 22 (1996) (adopting in dicta the rule of Restatement (Second) of Trusts Section 157(b) that a beneficiary's interest in a spendthrift trust is available to those who render necessary services or furnish necessary supplies to the beneficiary)	See below See below	See below See below	See below See below	N N/A	N/A	N/A	
		<p>The "Marital Estate" subject to division is defined quite broadly in Massachusetts. M.G.L. Chapter 208, Section 34. If a beneficiary's interest in a spendthrift trust is "present, enforceable, and valuable" it may be considered an asset subject to equitable division in divorce. <i>Lauricella v. Lauricella</i>, 409 Mass. 211, 216-217 (1991). If the beneficiary's interest is remote and speculative, there is no inclusion in the Marital Estate. <i>D.L. v. G.L.</i>, 61 Mass. App. Ct. 488 (2004). However, the Court will consider such a non-reachable interest in making its equitable division, and may award the non-beneficiary spouse a larger percentage of the Marital Estate. <i>Comins v. Comins</i>, 33 Mass. App. Ct. 28 (1992); <i>D.L. v. G.L.</i>, supra; and <i>Ketterle v. Ketterle</i>, 61 Mass. App. Ct. 758 (2004)</p> <p>A discretionary interest in a spendthrift trust subject to an ascertainable standard is not reachable in divorce. The ascertainable standard is a limit on the trustee's discretion to distribute, not an enforceable right of the beneficiary. <i>Pfannenstiel v. Pfannenstiel</i>, 475 Mass. 105 (2016)</p> <p>Even where a beneficiary has an enforceable right, such as a presently exercisable general power of appointment over a majority of a spendthrift trust's assets, the trustee may, depending upon the terms of the trust, decant the trust into a new trust removing such an enforceable right. The trustee power to decant is a concurrent power with the beneficiary's power to appoint. <i>Ferri v. Powell-Ferri</i>, 476 Mass. 651 (2017). Note: This case did not address the issue of whether or not the trust was subject to division, child support, or alimony.</p> <p>Regarding child support and alimony, the Massachusetts legislature did not adopt Section 503 of the Uniform Trust Code (wherein the UTC creates so-called super creditors such as children, spouses, and former spouses with court orders who are not defeated by a spendthrift provision).</p> <p>The new 2017 Child Support Guidelines broadly define twenty-nine different types of "income" – including trust and estate distributions and income under Section 17 and Section 24 of the Guidelines. <a href="https://www.mass.gov/service-details/child-support-guidelines">https://www.mass.gov/service-details/child-support-guidelines</a>. The alimony statute adopts the income definition of the Child Support Guidelines. M. G. L. 208, Sections 53(b) and 53(c).</p> <p>In Massachusetts, the Court will look at the history of distributions from a spendthrift trust to see if the distributions were woven into the fabric of the marriage. While generally disfavored, when circumstances warrant a Court may order an "if and when" order, meaning if a distribution is made, a all or a portion must be transferred to the ex-spouse. See <i>L. v. R.L.</i>, 55 Mass. App. Ct. 880 (2002)</p>											
MD	Y/N Statute	Y E&T § 14.5-505	Y E&T § 14.5-505	Y Taxes Necessities § 14.5-505	N E&T § 14.5-502	N E&T § 14.5-502	N E&T § 14.5-502	N	Y E&T § 14.5-505(c)	Y E&T § 14.5-505(e) Power to withdraw only during period subject to w/d	N	N/A	N/A
ME	Y/N Statute	See below 18-B MRS § 502(3); 18 MRS § 504	See below 18-B MRS § 502(3); 18 MRS § 504		See below 18-B MRS § 502(3); 18 MRS § 504	See below 18-B MRS § 502(3); 18 MRS § 504		Y	Y	Y	N	N/A	N/A
		Unclear. Trusts and distributions from trusts are included in the calculation of appropriate child support (19-A MRS § 2001). But the Maine Trust Code provides that "a creditor or assignee of the beneficiary may not reach the interest or a distribution by the trustee before its receipt by the beneficiary" (18-B MRS § 502(3)); and "whether or not a trust contains a spendthrift provision, a creditor of a beneficiary may not compel a distribution that is subject to the trustee's discretion, <b>even if the discretion is expressed in the form of a standard of distribution</b> , or the trustee has abused the discretion" (18-B MRS § 504(1))(emphasis added). Note, however, that a creditor may reach a mandatory distribution of income or principal if the trustee has not made the distribution to the beneficiary within a reasonable time after the designated distribution date (18-B MRS § 506).	Unclear. Trusts and distributions from trusts are included in the calculation of appropriate spousal support (19-A MRS § 2001). But the Maine Trust Code provides that "a creditor or assignee of the beneficiary may not reach the interest or a distribution by the trustee before its receipt by the beneficiary" (18-B MRS § 502(3)); and "whether or not a trust contains a spendthrift provision, a creditor of a beneficiary may not compel a distribution that is subject to the trustee's discretion, <b>even if the discretion is expressed in the form of a standard of distribution</b> , or the trustee has abused the discretion" (18-B MRS § 504(1))(emphasis added). Note, however, that a creditor may reach a mandatory distribution of income or principal if the trustee has not made the distribution to the beneficiary within a reasonable time after the designated distribution date (18-B MRS § 506).		Unclear. Trusts and distributions from trusts are included in the calculation of appropriate child support (19-A MRS § 2001). But the Maine Trust Code provides that "a creditor or assignee of the beneficiary may not reach the interest or a distribution by the trustee before its receipt by the beneficiary" (18-B MRS § 502(3)); and "whether or not a trust contains a spendthrift provision, <b>a creditor of a beneficiary may not compel a distribution that is subject to the trustee's discretion</b> , even if the discretion is expressed in the form of a standard of distribution, or the trustee has abused the discretion" (18-B MRS § 504(1))(emphasis added). Note, however, that a creditor may reach a mandatory distribution of income or principal if the trustee has not made the distribution to the beneficiary within a reasonable time after the designated distribution date (18-B MRS § 506).	Unclear. Trusts and distributions from trusts are included in the calculation of appropriate spousal support (19-A MRS § 2001). But the Maine Trust Code provides that "a creditor or assignee of the beneficiary may not reach the interest or a distribution by the trustee before its receipt by the beneficiary" (18-B MRS § 502(3)); and "whether or not a trust contains a spendthrift provision, <b>a creditor of a beneficiary may not compel a distribution that is subject to the trustee's discretion</b> , even if the discretion is expressed in the form of a standard of distribution, or the trustee has abused the discretion" (18-B MRS § 504(1))(emphasis added). Note, however, that a creditor may reach a mandatory distribution of income or principal if the trustee has not made the distribution to the beneficiary within a reasonable time after the designated distribution date (18-B MRS § 506).	18-B MRS § 501 (To the extent a beneficiary's interest is not protected by a spendthrift provision, the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by attachment of present or future distributions to the beneficiary. The court may limit the award to such relief as is appropriate under the circumstances.)	18-B MRS § 501 (To the extent a beneficiary's interest is not protected by a spendthrift provision, the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by attachment of present or future distributions to the beneficiary. The court may limit the award to such relief as is appropriate under the circumstances.)	18-B MRS § 501 (To the extent a beneficiary's interest is not protected by a spendthrift provision, the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by attachment of present or future distributions to the beneficiary. The court may limit the award to such relief as is appropriate under the circumstances.)	N/A			
MI	Y/N Statute	Y MCL 700.7504	Y MCL 700.7504	Y MCL 700.7504	N MCL 700.7504	N MCL 700.7504	N MCL 700.7504	N MCL 700.7504	Y MCL 700.7504	Y MCL 700.7504	Y MCL 566.31 et seq.	N	MCL 566.40(2) looks to the law of the jurisdiction where the debtor was located at the time when the transfer was made or the obligation incurred.
MINN	Y/N Statute	N Minn. Stat. §501C.0504	N Minn. Stat. §501C.0504	N Minn. Stat. §501C.0504	N Minn. Stat. §501C.0504	N Minn. Stat. §501C.0504	N Minn. Stat. §501C.0504	N/A	N/A	N/A	N	N/A	N/A

**The American College of Trust and Estate Counsel** **SECTION 2**  
**State Survey of Asset Protection Techniques** **3rd Party Created Irrevocable Trusts / Uniform Voidable Transactions Act (UVTA)**

STATE	3rd Party Support Trusts can creditor reach any of the following Trust assets if spendthrift clause included:			3rd Party Discretionary Trusts can creditor reach any of the following Trust assets if spendthrift clause included:			What remedies are permitted if Trust assets are vulnerable to creditors' claims?	Uniform Voidable Transactions Act	List Modifications to adoption that may affect ability of debtor to use laws of other than state of debtor			
	CHILD SUPPORT	ALIMONY	OTHER	CHILD SUPPORT	ALIMONY	OTHER	INVASION OF TRUST	GARNISHMENT OF DISTRIBUTIONS	ABILITY TO REACH PAYMENTS AUTHORIZED FOR BENEFIT OF BENEFICIARY	HAS YOUR STATE ADOPTED?	HAVE COMMENTS BEEN EXCLUDED?	
MO	Y Statute Mo. Ann. Stat. 456.5-503	Y Mo. Ann. Stat. 456.5-503	Generally no, but a judgment creditor who has provided services for the protection of a beneficiary's interest in the trust Mo. Ann. Stat. 456.5-503	N Mo. Ann. Stat. 456.5-504	N Mo. Ann. Stat. 456.5-504	N	N – Only attachment of present and future income is permitted, not invasion of trust principal Mo. Ann. Stat. 456.5-503	Y Mo. Ann. Stat. 456.5-503	Y Mo. Ann. Stat. 456.5-503	N	N/A	N/A
MS	N (see below) Statute Miss. Code Ann. §91-9-503 No. Except where the settlor is a beneficiary of a trust created by the settlor, if the trust instrument provides that a beneficiary's interest in income or principal or both of a trust is not subject to voluntary or involuntary transfer, the beneficiary's interest in income or principal or both under the trust may not be transferred and is not subject to the enforcement of a money judgment until paid to the beneficiary. There is no stated statutory exception for child support creditors.	N (see below) Miss. Code Ann. §91-9-503 No. Except where the settlor is a beneficiary of a trust created by the settlor, if the trust instrument provides that a beneficiary's interest in income or principal or both of a trust is not subject to voluntary or involuntary transfer, the beneficiary's interest in income or principal or both under the trust may not be transferred and is not subject to the enforcement of a money judgment until paid to the beneficiary. There is no stated statutory exception for alimony creditors.	N (see below) Miss. Code Ann. §91-9-503 No. Except where the settlor is a beneficiary of a trust created by the settlor, if the trust instrument provides that a beneficiary's interest in income or principal or both of a trust is not subject to voluntary or involuntary transfer, the beneficiary's interest in income or principal or both under the trust may not be transferred and is not subject to the enforcement of a money judgment until paid to the beneficiary.	N (see below) Miss. Code Ann. §§91-9-503 and 91-9-507 No. Except where the settlor is a beneficiary of a trust created by the settlor, if the trust instrument provides that a beneficiary's interest in income or principal or both of a trust is not subject to voluntary or involuntary transfer, the beneficiary's interest in income or principal or both under the trust may not be transferred and is not subject to the enforcement of a money judgment until paid to the beneficiary. There is no stated statutory exception for child support creditors.	N (see below) Miss. Code Ann. §§91-9-503 and 91-9-507 No. Except where the settlor is a beneficiary of a trust created by the settlor, if the trust instrument provides that a beneficiary's interest in income or principal or both of a trust is not subject to voluntary or involuntary transfer, the beneficiary's interest in income or principal or both under the trust may not be transferred and is not subject to the enforcement of a money judgment until paid to the beneficiary. There is no stated statutory exception for alimony creditors.	N (see below) Miss. Code Ann. §§91-9-503 and 91-9-507 No. Except where the settlor is a beneficiary of a trust created by the settlor, if the trust instrument provides that a beneficiary's interest in income or principal or both of a trust is not subject to voluntary or involuntary transfer, the beneficiary's interest in income or principal or both under the trust may not be transferred and is not subject to the enforcement of a money judgment until paid to the beneficiary.	Uncertain. This remedy will depend on the facts and circumstances. N/A	Uncertain. This remedy will depend on the facts and circumstances. N/A	Uncertain. This remedy will depend on the facts and circumstances. N/A	N	N/A	N/A
MT	N Statute MCA 72-38-502	N MCA 72-38-502	N MCA 72-38-502	N MCA 72-38-504	N MCA 72-38-504	N MCA 72-38-504	Y MCA 72-38-501	Y MCA 72-38-501, MCA 25-13-501, writ of attachment required, see also MCA 40-4-207 re: assignment of trust income in divorce	Y MCA 72-38-501 and MCA 72-38-505(b), MCA-40-4-207	N	N/A	N/A
NC	Y Statute N.C.G.S. §36C-5-503(b)	N	N	Y N.C.G.S. §36C-5-503(b); N.C.G.S. §36C-5-504(d)	N	N	Y N.C.G.S. §36C-5-504(d) Only if a trustee has not complied with a standard of distribution or has abused a discretion.	Y N.C.G.S. §36C-5-503(b) Beneficiary's child may obtain a court order attaching present or future distributions to or for the benefit of the beneficiary.	Y N.C.G.S. §36C-5-503(b) Beneficiary's child may obtain a court order attaching present or future distributions to or for the benefit of the beneficiary.	Y Article 3A of Chapter 39 of the North Carolina General Statutes	N	N/A
ND	Y Statute NDCC § 59-13-03	Y NDCC § 59-13-03	N/A N/A	Y NDCC § 59-13-04	Y NDCC § 59-13-04	N/A N/A	N/A N/A	N/A N/A	N/A N/A	Y NDCC § 13-02.1	Y N/A	N/A
NE	Y Statute Neb. Rev. Stat. §§ 30-3848(b)(1). A spendthrift provision is unenforceable against a beneficiary's child who has a judgment or court order against the beneficiary for support or maintenance.	Y Neb. Rev. Stat. §§ 30-3848(b)(1). A spendthrift provision is unenforceable against a beneficiary's spouse or former spouse who has a judgment or court order against the beneficiary for support or maintenance.	N Neb. Rev. Stat. §§ 30-3848(b)(2)-(3). A spendthrift provision also is unenforceable against a judgment creditor who has provided services for the protection of a beneficiary's interest in the trust and a claim of the State of Nebraska or the United States to the extent a Nebraska statute or federal law so provides.	Y Neb. Rev. Stat. § 30-3849(c). To the extent a trustee has not complied with a standard of distribution or has abused a discretion, a distribution may be ordered by the court to satisfy a judgment or court order against the beneficiary for support or maintenance of the beneficiary's child, and the court shall direct the trustee to pay to the child such amount as is equitable under the circumstances but not more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion.	Y Neb. Rev. Stat. § 30-3849(c). To the extent a trustee has not complied with a standard of distribution or has abused a discretion, a distribution may be ordered by the court to satisfy a judgment or court order against the beneficiary for support or maintenance of the beneficiary's spouse or former spouse, and the court shall direct the trustee to pay to the spouse or former spouse such amount as is equitable under the circumstances but not more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion.	N Neb. Rev. Stat. §§ 30-3847, 30-3849(b)	Y Neb. Rev. Stat. § 30-3849(c). Only to the extent a trustee has not complied with a standard of distribution or has abused a discretion.	Y Neb. Rev. Stat. §§ 30-3846, 30-3848. Creditor can reach beneficiary's interest by attachment of present or future distributions. A claimant against which a spendthrift provision cannot be enforced may obtain from a court an order attaching present or future distributions to or for the benefit of the beneficiary. The court may limit the award to such relief as is appropriate under the circumstances.	Y Neb. Rev. Stat. §§ 30-3846, 30-3848. Creditor can reach beneficiary's interest by attachment of present or future distributions. A claimant against which a spendthrift provision cannot be enforced may obtain from a court an order attaching present or future distributions to or for the benefit of the beneficiary. The court may limit the award to such relief as is appropriate under the circumstances.	N Nebraska operates under the UVTA's predecessor, the Uniform Fraudulent Transfer Act, Neb. Rev. Stat. §§ 36-701 to 712.	N/A	N/A

**The American College of Trust and Estate Counsel** **SECTION 2**  
**State Survey of Asset Protection Techniques** **3rd Party Created Irrevocable Trusts / Uniform Voidable Transactions Act (UVTA)**

STATE	3rd Party Support Trusts can creditor reach any of the following Trust assets if spendthrift clause included:			3rd Party Discretionary Trusts can creditor reach any of the following Trust assets if spendthrift clause included:			What remedies are permitted if Trust assets are vulnerable to creditors' claims?	Uniform Voidable Transactions Act	List Modifications to adoption that may affect ability of debtor to use laws of other than state of debtor			
	CHILD SUPPORT	ALIMONY	OTHER	CHILD SUPPORT	ALIMONY	OTHER	INVASION OF TRUST	GARNISHMENT OF DISTRIBUTIONS	ABILITY TO REACH PAYMENTS AUTHORIZED FOR BENEFIT OF BENEFICIARY	HAS YOUR STATE ADOPTED?	HAVE COMMENTS BEEN EXCLUDED?	
NH	Y/N	Y				Yes, but only if the trustee has not complied with a distribution standard or has abused his/her discretion, and then the Court shall direct the trustee to pay to the spouse, or former spouse such amount as is equitable under the circumstances but not more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion and with respect to alimony, only for and to the extent that the judgment or court order expressly specifies the alimony amount attributable to the most basic food, shelter, and medical needs of the spouse or former spouse	N	Yes. Attachment of distributions is the claimant's exclusive remedy against the trust, and the court may limit that relief as is appropriate under the circumstances.	Yes, but only for discretionary trusts where the trustee has not complied with a distribution standard or has abused his/her discretion, and the claim is for unpaid child support or alimony, but even then it cannot be for more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion and with respect to alimony, only for and to the extent that the judgment or court order expressly specifies the alimony amount attributable to the most basic food, shelter, and medical needs of the spouse or former spouse.	N	N/A	N/A
	Statute	N.H. Rev. Stat. Ann. §564-B:5-503(b)(1)	N.H. Rev. Stat. Ann. §564-B:5-503(b)(2)	N.H. Rev. Stat. Ann. §564-B:5-503(b)(3),(4)	N.H. Rev. Stat. Ann. §564-B:5-504(c)	N.H. Rev. Stat. Ann. §564-B:5-504(c)	N.H. Rev. Stat. Ann. §564-B:5-504(b)	N.H. Rev. Stat. Ann. §564-B:5-503(b)(c)	N.H. Rev. Stat. Ann. §564-B:5-503(b)(c)	N.H. Rev. Stat. Ann. §564-B:5-504(c)		
NJ	Y/N	N	N	N	N	N	No, unless trustee abuses discretion or fails to comply with standard for distribution.	No, unless trustee abuses discretion or fails to comply with standard for distribution.	No, unless trustee abuses discretion or fails to comply with standard for distribution.	N		Not clear
	Statute	N.J.S.A. § 3B:31-38	N.J.S.A. § 3B:31-38	N.J.S.A. § 3B:31-38	N.J.S.A. § 3B:31-38	N.J.S.A. § 3B:31-38	N.J.S.A. § 3B:31-38	N.J.S.A. § 3B:31-38	N.J.S.A. § 3B:31-38	N.J.S.A. § 3B:31-38	Introduced May 19, 2016; not adopted.	
NM	Y/N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	NONE
	Statute	NMSA §§ 46A-5-503(B); 46A-5-504(C)	NMSA §§ 46A-5-503(B); 46A-5-504(C)	NMSA §§ 46A-5-503(B) (in addition to above, spendthrift provisions are unenforceable against judgments for spousal support or maintenance, services for the protection of the beneficiary's interest in the trust, and claims of the State of New Mexico or the United States to the extent another statute so provides). But such claims are not enforceable in the context of a trustee failing to comply with a standard of distribution or abusing its discretion regardless of whether there is a spendthrift provision. NMSA § 46A-5-504(B).	NMSA §§ 46A-5-503(B); 46A-5-504(C)	NMSA §§ 46A-5-503(B); 46A-5-504(C)	NMSA § 46A-5-503(B) (in addition to above, spendthrift provisions are unenforceable against judgments for spousal support or maintenance, services for the protection of the beneficiary's interest in the trust, and claims of the State of New Mexico or the United States to the extent another statute so provides). But such claims are not enforceable in the context of a trustee failing to comply with a standard of distribution or abusing its discretion regardless of whether there is a spendthrift provision. NMSA § 46A-5-504(B).	NMSA § 46A-5-502(C) (except as otherwise provided by Article 5 of the New Mexico Uniform Trust Code, a creditor may not reach the beneficiary's interest in a trust subject to a spendthrift clause).	NMSA § 46A-5-503(C) (order attaching present or future distributions is exclusive remedy for exception creditors).	NMSA § 46A-5-504(C)(1) (in context of i) a child or spousal support creditor, only; and ii) a trustee failing to follow a standard of distribution or for abusing its discretion, the court shall order the trustee to pay the creditor an amount "equitable under the circumstances but not more than the amount that the trustee would have been required to distribute ... had the trustee complied with the standard [of distribution] or not abused the [trustee's] discretion).	NMSA §§ 56-10-14 - 56-10-29	But see NMSA § 56-10-26 (adopting two specific comments as law: 1) the UVTA is not the exclusive law on the subject; and 2) the UVTA operates independently of the organic statutes applicable to a business organization that limit distributions by the organization to its equity owners).
NY	Y/N	N	N	N	N	N	N/A	N/A	N/A	N	N/A	N/A
	Statute	NRS 166.080 and NRS 166.090	NRS 166.080 and NRS 166.090	NRS 166.120	NRS 166.110	NRS 166.110	NRS 166.110					
NY	Y/N	Y	Y	Y	Y	Y	Y	Y	Y	N	N/A	N/A
	Statute	CPLR 5205(c)4	CPLR 5205(c)4	CPLR 5205(c)5	CPLR 5205(c)4	CPLR 5205(c)4	CPLR 5205(c)5	Maybe under case law	5205(d)1	Maybe under case law	Bill pending	
	These items are not protected by the non self settled trust exemption for money judgments under NY CPLR 5205(c)(1). One or more of such items may be protected under case law.											

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	CHILD SUPPORT	ALIMONY	OTHER	CHILD SUPPORT	ALIMONY	OTHER	INVASION OF TRUST	GARNISHMENT OF DISTRIBUTIONS	ABILITY TO REACH PAYMENTS AUTHORIZED FOR BENEFIT OF BENEFICIARY	HAS YOUR STATE ADOPTED?	HAVE COMMENTS BEEN EXCLUDED?	
OH	Y/N Statute	Y O.R.C. §5805.02(B)(1)	Y O.R.C. §5805.02(B)(1)	Y Ohio and U.S.A. may reach; O.R.C. §5805.02(B)(2)  Any creditor may reach if distribution is mandatory. O.R.C. §5805.05(B)	N O.R.C. §5805.03 (if "wholly discretionary")	N O.R.C. §5805.03 (if "wholly discretionary")	N O.R.C. §5805.03 (if "wholly discretionary")  Unless trustee has not complied with a standard or abused a discretion and claim is for spousal or child support O.R.C. §5805.04(D)(1)	Y O.R.C. §5805.02(D)	Y O.R.C. §5805.05(B)	N	N/A	N/A
	Y/N Statute	Y 60 O.S. § 175.25	Y 60 O.S. § 175.25	Y - if a creditor has a claim for necessary services rendered or necessary supplies furnished to the beneficiary, all income due or to accrue in the future to the beneficiary can be reached by the creditor. For all other creditor claims, all income due or to accrue in the future to the beneficiary in excess of \$25,000 per calendar year is subject to garnishment by those creditors.	Y - with respect to any sums which the trustee determined shall be paid to or for the beneficiary, the creditor can reach all income due or to accrue in the future to the beneficiary.	Y - with respect to any sums which the trustee determined shall be paid to or for the beneficiary, the creditor can reach all income due or to accrue in the future to the beneficiary.	Y - with respect to any sums which the trustee determined shall be paid to or for the beneficiary, a creditor with a claim for necessary services rendered or necessary supplies furnished to the beneficiary can reach all income due or to accrue in the future to the beneficiary. For all other creditor claims, all income due or to accrue in the future to the beneficiary in excess of \$25,000 per calendar year is subject to garnishment by those creditors.	N	Y 12 O.S. § 1170 et seq.	N - Oklahoma has adopted a prior version of the Uniform Fraudulent Transfers Act, but it has not yet adopted the revised Uniform Voidable Transactions Act.	N/A	N/A
OR	Y/N Statute	Y ORS 130.310(2)	Y ORS 130.310(2)	Y See ORS 130.310(2) (permits collection efforts by "a judgment creditor who has provided services for the protection of a beneficiary's interest in the trust..."); ORS 130.310(3) ("A spendthrift provision is unenforceable against a claim of this state or the United States to the extent a statute of this state or federal law so provides.")	Y ORS 130.210(2)	Y ORS 130.210(2)	Y See ORS 130.310(2) (permits collection efforts by "a judgment creditor who has provided services for the protection of a beneficiary's interest in the trust..."); ORS 130.310(3) ("A spendthrift provision is unenforceable against a claim of this state or the United States to the extent a statute of this state or federal law so provides.")	Y ORS 130.310(2)	Y ORS 130.310(2)	N		N/A
	Y/N Statute	Y 20 Pa.C.S. § 7743(b)(1)	Y 20 Pa.C.S. § 7743(b)(2)	Y 20 Pa.C.S. § 7743(b)(3), (4)  A spendthrift provision also is unenforceable against (1) a judgment creditor or has provided services for the protection of the beneficiary's interest in the trust; and (2) a claim of the United States or Pennsylvania to the extent Federal law or Pennsylvania statute provides.	Y 20 Pa.C.S. § 7744(c)(1)  To the extent a trustee has not complied with a standard of distribution or has abused a discretion, a distribution from the trust's income, principal or both may be ordered by the court to satisfy a judgment or court order against the beneficiary for support or maintenance of the beneficiary's child to the extent of the beneficiary's interests in the trust's income, principal or both, and the court shall direct the trustee to pay the child from the trust an amount as is equitable under the circumstances, but not more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion.	Y 20 Pa.C.S. § 7744(c)(2)  To the extent a trustee has not complied with a standard of distribution or has abused a discretion, a distribution from trust income may be ordered by the court to satisfy a judgment or court order against the beneficiary for support or maintenance of any person other than the beneficiary's child to the extent of the beneficiary's interest in the income of the trust, and the court shall direct the trustee to pay the child from the income of the trust as is equitable under the circumstances, but not more than the amount of income the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion.	N  Yes, under principles of equity and by statute See, e.g., 20 Pa.C.S. § 7744(c)	Y Pa. R. Civ. P. 3101(b)(3)	Y Yes, under principles of equity and by statute See, e.g., 20 Pa.C.S. § 7743(c)	N	N/A	N/A
PA	Y/N Statute	Y 20 Pa.C.S. § 7743(b)(1)  A spendthrift provision is unenforceable against a beneficiary's child who has a judgment or court order against the beneficiary for support or maintenance, to the extent of the beneficiary's interests in the income and principal of the trust.	Y 20 Pa.C.S. § 7743(b)(2)  A spendthrift provision is unenforceable against any person (other than the beneficiary's child) who has a judgment or court order against the beneficiary for support or maintenance, to the extent of the beneficiary's interests in the trust's income. (Note: See above re: beneficiary's child, who has access to principal as well).	Y 20 Pa.C.S. § 7743(b)(3), (4)  A spendthrift provision also is unenforceable against (1) a judgment creditor or has provided services for the protection of the beneficiary's interest in the trust; and (2) a claim of the United States or Pennsylvania to the extent Federal law or Pennsylvania statute provides.	Y 20 Pa.C.S. § 7744(c)(1)  To the extent a trustee has not complied with a standard of distribution or has abused a discretion, a distribution from the trust's income, principal or both may be ordered by the court to satisfy a judgment or court order against the beneficiary for support or maintenance of the beneficiary's child to the extent of the beneficiary's interests in the trust's income, principal or both, and the court shall direct the trustee to pay the child from the trust an amount as is equitable under the circumstances, but not more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion.	Y 20 Pa.C.S. § 7744(c)(2)  To the extent a trustee has not complied with a standard of distribution or has abused a discretion, a distribution from trust income may be ordered by the court to satisfy a judgment or court order against the beneficiary for support or maintenance of any person other than the beneficiary's child to the extent of the beneficiary's interest in the income of the trust, and the court shall direct the trustee to pay the child from the income of the trust as is equitable under the circumstances, but not more than the amount of income the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion.	N  Yes, under principles of equity and by statute See, e.g., 20 Pa.C.S. § 7744(c)	Y Pa. R. Civ. P. 3101(b)(3)	Y Yes, under principles of equity and by statute See, e.g., 20 Pa.C.S. § 7743(c)	N	N/A	N/A

STATE	3rd Party Support Trusts can creditor reach any of the following Trust assets if spendthrift clause included:			3rd Party Discretionary Trusts can creditor reach any of the following Trust assets if spendthrift clause included:			What remedies are permitted if Trust assets are vulnerable to creditors' claims?	Uniform Voidable Transactions Act	List Modifications to adoption that may affect ability of debtor to use laws of other than state of debtor				
	CHILD SUPPORT	ALIMONY	OTHER	CHILD SUPPORT	ALIMONY	OTHER	INVASION OF TRUST	GARNISHMENT OF DISTRIBUTIONS	ABILITY TO REACH PAYMENTS AUTHORIZED FOR BENEFIT OF BENEFICIARY	HAS YOUR STATE ADOPTED?	HAVE COMMENTS BEEN EXCLUDED?		
RI	Y/N Statute	Unclear Rhode Island has not addressed this specifically; however, the trend in Rhode Island, including in the case of 3rd party discretionary trusts and self-settled asset protection trusts, is that creditors can reach the trust for alimony and child support.	Unclear Rhode Island has not addressed this specifically; however, the trend in Rhode Island, including in the case of 3rd party discretionary trusts and self-settled asset protection trusts, is that creditors can reach the trust for alimony and child support.	N/A	Y - under <i>Pansey v. Pansey</i> , 340 A.2d 120 (R.I. 1975)	N/A	N/A	Unclear. Remedy will depend on the facts and circumstances.	Unclear. Remedy will depend on the facts and circumstances.	N	N/A	N/A	
	Y/N Statute	Y S.C. Code Ann. §62-7-503	N	N	Y S.C. Code Ann. §62-7-503; S.C. Code Ann. §62-7-504(c)	N	Y S.C. Code Ann. §62-7-504(c), (e) Only if a trustee has not complied with a standard of distribution or has abused a discretion. But cannot compel a distribution from insurance proceeds payable to the trustee to the extent they are exempt under state law.	Y S.C. Code Ann. §62-7-503 Beneficiary's child may obtain a court order attaching present or future distributions to or for the benefit of the beneficiary. Exception for special needs trust or supplemental needs trust.	Y S.C. Code Ann. §62-7-503 Beneficiary's child may obtain a court order attaching present or future distributions to or for the benefit of the beneficiary. Exception for special needs trust or supplemental needs trust.	N	N/A	N/A	
SD	Y/N Statute	N SDCL § 55-1-42	N SDCL § 55-1-42	N SDCL § 55-1-42	N SDCL § 55-1-41	N SDCL § 55-1-41	N SDCL § 55-1-41	N SDCL § 55-1-26	N SDCL § 55-1-26; SDCL Ch. 21-18 (garnishment); SDCL Ch. 15-18 (levy on property to execute judgment)	N	N/A	N/A	
	Y/N Statute	N T.C.A. § 35-15-502 T.C.A. § 35-15-503 and comments T.C.A. § 35-15-506	N T.C.A. § 35-15-502 T.C.A. § 35-15-503 and comments T.C.A. § 35-15-506	Y - Limited T.C.A. § 35-15-503 State of TN to the extent a statute of TN so provides. No statutory exemptions for U.S. Gov. See, 11 U.S.C. § 541(c)(2)	N T.C.A. § 35-15-502 T.C.A. § 35-15-503 and comments T.C.A. § 35-15-506 T.C.A. § 35-15-504 For Trustee/Beneficiary: See, T.C.A. § 35-15-504(b)(5)	N T.C.A. § 35-15-502 T.C.A. § 35-15-503 and comments T.C.A. § 35-15-506 T.C.A. § 35-15-504 For Trustee/Beneficiary: See, T.C.A. § 35-15-504(b)(5)	Y - Limited T.C.A. § 35-15-503 State of TN to the extent a statute of TN so provides. No statutory exemptions for U.S. Gov. See, 11 U.S.C. § 541(c)(2). Claim of State of TN on discretionary interests may not be enforceable. T.C.A. § 35-15-504	N T.C.A. § 35-15-503 does allow for certain claims of the State of Tennessee	N T.C.A. § 35-15-501 T.C.A. § 35-15-502 T.C.A. § 35-15-506 For Trustee/Beneficiary: See, T.C.A. § 35-15-504(b)(5)	Y - TN Limited T.C.A. § 35-15-501 T.C.A. § 35-15-502 T.C.A. § 35-15-506 For Trustee/Beneficiary: See, T.C.A. § 35-15-504(b)(5)	N	N/A	N/A
TX	Y/N Statute	Y Tex. Fam. Code 154.005 The court may order the trustees of a spendthrift trust or other trust to the extent the trustees are required to make payments to a beneficiary who is required to make payments to beneficiary who is required to make child support payments provided by Chapter 154 of the Texas Family Code.	No direct authority. None. <i>State v. Rubion</i> , 308 S.W.2d 4 (Tex. 1957)	N None. <i>Kolpack v. Torres</i> , 829 S.W.2d 913 (Tex. App. – Corpus Christi 1992 Writ Denied)	N None. <i>Kolpack v. Torres</i> , 829 S.W.2d 913 (Tex. App. – Corpus Christi 1992 Writ Denied)	N None. <i>Kolpack v. Torres</i> , 829 S.W.2d 913 (Tex. App. – Corpus Christi 1992 Writ Denied)	Y See Section 2 responses	N See Survey Section 1 "Personal Property Exemption" under "Homestead".	Y See Section 2 responses	N	N/A	N/A	
	Y/N Statute	Y - Even if a trust includes a spendthrift provision, a beneficiary's child who has a judgment or court order against the beneficiary for support or maintenance, may obtain from a court an order attaching present or future distributions to or for the benefit of the beneficiary Utah Code 75-7-503	No stated statutory exception for alimony	Y Utah Code 75-7-503 Judgment creditor who has provided services for the protection of a beneficiary's interest in the trust, may obtain from a court an order attaching present or future distributions to or for the benefit of the beneficiary; Spendthrift is unenforceable against a claim from Utah or the United States, to the extent a statute so provides.	Y - Even if a trust includes a spendthrift provision, a beneficiary's child who has a judgment or court order against the beneficiary for support or maintenance, may obtain from a court an order attaching present or future distributions to or for the benefit of the beneficiary Utah Code 75-7-503	N/A No stated statutory exception for alimony	Y Utah Code 75-7-503 Utah Code 75-7-501: "The court may limit the award to relief as is appropriate under the circumstances"	Y 75-7-501: "The court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by attachment of present or future distributions to or for the benefit of the beneficiary or other means. The court may limit the award to relief as is appropriate under the circumstances"	Y 75-7-501: "The court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by attachment of present or future distributions to or for the benefit of the beneficiary or other means. The court may limit the award to relief as is appropriate under the circumstances"	Y	Y	N/A	
VA	Y/N Statute	Y Va. Code § 64.2-744(B) May reach present or future distributions made to or for the benefit of the beneficiary	N See generally Va. Code § 64.2-743(C)	Y Va. Code § 64.2-744(B) Judgment creditors who have provided services for the protection of a beneficiary's interest in the trust may attach present or future distributions; Va. Code §§ 64.2-744(C), 64.2-745 – federal, state or local governments may reach present or future distributions to pay taxes, reimbursement for public assistance, etc. under certain conditions	Y - but only if trustee has not complied with distribution standard or abused discretion Va. Code § 64.2-746(C)	N Va. Code § 64.2-746(B) Subject only to exceptions for child support and public assistance reimbursements, creditor may not compel discretionary distributions, even if no spendthrift clause and trustee has abused discretion or ignored distribution standard. If beneficiary is also trustee, discretion must be limited to ascertainable standard. Va. Code § 64.2-746(E).	Y Va. Code §§ 64.2-745, 64.2-746(B) Federal, state or local governments may reach present or future distributions to pay taxes, reimbursement for public assistance, etc. under certain conditions	Y Va. Code § 64.2-745(B)(1) Court may order trustee to reimburse state for public assistance from amounts beneficiary is entitled to receive, whether presently or in the future; Va. Code § 64.2-746(C) – court may order distribution for support of beneficiary's child, if trustee has not complied with distribution standard or has abused discretion	Y Va. Code §§ 64.2-744(B) Child support; judgment creditor who has provided services for the protection of the beneficiary's interest in the trust; 64.2-744(D) – government; 64.2-745(B)(2) – public assistance	See notes under "Invasion of Trust"	N	N/A	N/A

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	CHILD SUPPORT	ALIMONY	OTHER	CHILD SUPPORT	ALIMONY	OTHER	INVASION OF TRUST	GARNISHMENT OF DISTRIBUTIONS	ABILITY TO REACH PAYMENTS AUTHORIZED FOR BENEFIT OF BENEFICIARY	HAS YOUR STATE ADOPTED?	HAVE COMMENTS BEEN EXCLUDED?	
VT	Y/N Statute 14A V.S.A. § 503	N 14A V.S.A. § 503 (Vermont comments)	N 14A V.S.A. § 501	Y 14A V.S.A. § 503	N 14A V.S.A. § 503 (Vermont comments)	N 14A V.S.A. § 501	Y 14A V.S.A. § 504 (c) (1)	Y 14A V.S.A. § 504 (c) (2)	Y 14A V.S.A. § 504 (c) (2)	Y 9 V.S.A. § 2285 et seq. (eff. July 1, 2017)	Uncertain 9 V.S.A. § 2285 et seq.	None
WA	Y/N Statute RCW 11.96A.190	No stated statutory exception for alimony; Washington common law may permit recovery by alimony creditor	Y RCW 11.96A.190 (Exception for debts incurred for necessities of life and upon termination of the trust)	Y RCW 11.96A.190	No stated statutory exception for alimony; Washington common law may permit recovery by alimony creditor	Y RCW 11.96A.190 (Exception for debts incurred for necessities of life and upon termination of the trust).	N	Y RCW 11.96A.190	Y RCW 11.96A.190	No, but a bill has been submitted to the legislature to adopt it	N/A	N/A
WI	Y/N Statute Wis. Stat. § 701.0503 (1)	Y Wis. Stat. § 701.0503 (2)	N/A N/A	N/A N/A	N/A N/A	N/A N/A	N/A N/A	No if spendthrift provision; yes if no provision Wis. Stat. § 701.0502 (3)	Yes IF no spendthrift provision Wis. Stat. § 701.0501 (2)	Y Wis. Stat. § 242.01 et seq.	Y - comments are not in the statute but it is to be construed in accordance with other state's enactments of the UVTA Wis. Stat. § 242.11	N/A
WV	Y/N Statute W. Va. Code § 44D-5-503(b)(1)	N W. Va. Code § 44D-5-502, 503	Y - See below W. Va. Code § 44D-5-503(b)(2) and (3) Yes. A judgment creditor who has provided services for the protection of a beneficiary's interest in the trust can reach spendthrift trust assets. The State of W. Va. or the United States to the extent a statute of W. Va. or federal law so provides can reach spendthrift trust assets.	Y - See below W. Va. Code § 44D-5-504(c) Yes. To the extent a trustee has not complied with a standard of distribution or has abused a discretion, a distribution may be ordered by the court to satisfy a judgment or court order against the beneficiary for child support of the beneficiary's child.	N W. Va. Code § 44D-5-504(b)	N W. Va. Code § 44D-5-504(b)	Possibly. See below. W. Va. Code § 44D-5-501 Possibly. The court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest in a trust by execution or other process against the present or future distributions to or for the benefit of the beneficiary. The court may limit the award to relief as appropriate under the circumstances.	Possibly. See below. W. Va. Code § 44D-5-501 Possibly. The court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest in a trust by execution or other process against the present or future distributions to or for the benefit of the beneficiary. The court may limit the award to relief as appropriate under the circumstances.	Possibly. See below. W. Va. Code § 44D-5-501 Possibly. The court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest in a trust by execution or other process against the present or future distributions to or for the benefit of the beneficiary. The court may limit the award to relief as appropriate under the circumstances.	N/A	N/A	N/A
WY	Y/N Statute W.S. 4-10-503; W.S. 4-10-520(a)(i)	N W.S. 4-10-502	Y W.S. 4-10-520(a)(ii) (financial institution with which settlor has listed qualified trust property on application or financial statement to obtain or maintain credit); W.S. 4-10-520(a)(iii) (property that was transferred by settlor who received the property by a fraudulent transfer)	N W.S. 4-10-504(b); W.S. 4-10-506(c)	N W.S. 4-10-504(b); W.S. 4-10-506(c)	N W.S. 4-10-504(b); W.S. 4-10-506(c)	N - unless action brought pursuant to Uniform Fraudulent Transfers Act W.S. 4-10-514	Y - child support only W.S. 4-10-503(b)	Y - child support only W.S. 4-10-503(b)	N	N/A	N/A

**FOOTNOTES:**  
<sup>1</sup>Pennsylvania has adopted the Uniform Trust Code, upon which the following provisions are based.

We would like to kindly acknowledge the efforts of our volunteers in completing this survey.

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