

By Senator Sullivan

22-1408-02

See HB 315

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A bill to be entitled

An act relating to the equitable distribution of marital assets and liabilities; amending s. 61.075, F.S.; providing for the unequal distribution of marital assets and liabilities when one spouse forges or intentionally uses the unauthorized signature of the other spouse; providing an effective date.

WHEREAS, it is the intent of chapter 61, Florida Statutes, to provide for the equitable distribution of marital assets, and

WHEREAS, s. 61.075(1), Florida Statutes, provides in part that "in distributing the marital assets and liabilities between the parties, the court must begin with the premise that the distribution should be equal, unless there is a justification for an unequal distribution based on all relevant factors," and

WHEREAS, s. 673.4031(1), Florida Statutes, provides in part that "an unauthorized signature is ineffective except as the signature of the unauthorized signer" in order to protect the person whose signature was forged as well as the good faith receiver of the instrument or document, and

WHEREAS, there is a justification for an unequal distribution of marital assets and liabilities in the event that a spouse has forged or otherwise entered into any liability with the unauthorized use of his or her spouse's name or signature, and

WHEREAS, it is too often the case that courts hear during dissolution proceedings that a spouse forged or otherwise misused without authority the signature of the other

1 spouse to cash joint instruments, to open credit card or other  
2 credit accounts, or to encumber or otherwise dispose of a  
3 marital asset or assets without the knowledge or consent of  
4 the other spouse, and

5 WHEREAS, the State of Florida no longer follows the  
6 doctrine of interspousal tort immunity, NOW, THEREFORE,

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8 Be It Enacted by the Legislature of the State of Florida:

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10 Section 1. Subsection (1) of section 61.075, Florida  
11 Statutes, is amended to read:

12 61.075 Equitable distribution of marital assets and  
13 liabilities.--

14 (1) In a proceeding for dissolution of marriage, in  
15 addition to all other remedies available to a court to do  
16 equity between the parties, or in a proceeding for disposition  
17 of assets following a dissolution of marriage by a court which  
18 lacked jurisdiction over the absent spouse or lacked  
19 jurisdiction to dispose of the assets, the court shall set  
20 apart to each spouse that spouse's nonmarital assets and  
21 liabilities, and in distributing the marital assets and  
22 liabilities between the parties, the court must begin with the  
23 premise that the distribution should be equal, unless there is  
24 a justification for an unequal distribution based on all  
25 relevant factors, including:

26 (a) The contribution to the marriage by each spouse,  
27 including contributions to the care and education of the  
28 children and services as homemaker.

29 (b) The economic circumstances of the parties.

30 (c) The duration of the marriage.  
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1           (d) Any interruption of personal careers or  
2 educational opportunities of either party.

3           (e) The contribution of one spouse to the personal  
4 career or educational opportunity of the other spouse.

5           (f) The desirability of retaining any asset, including  
6 an interest in a business, corporation, or professional  
7 practice, intact and free from any claim or interference by  
8 the other party.

9           (g) The contribution of each spouse to the  
10 acquisition, enhancement, and production of income or the  
11 improvement of, or the incurring of liabilities to, both the  
12 marital assets and the nonmarital assets of the parties.

13           (h) The desirability of retaining the marital home as  
14 a residence for any dependent child of the marriage, or any  
15 other party, when it would be equitable to do so, it is in the  
16 best interest of the child or that party, and it is  
17 financially feasible for the parties to maintain the residence  
18 until the child is emancipated or until exclusive possession  
19 is otherwise terminated by a court of competent jurisdiction.  
20 In making this determination, the court shall first determine  
21 if it would be in the best interest of the dependent child to  
22 remain in the marital home; and, if not, whether other  
23 equities would be served by giving any other party exclusive  
24 use and possession of the marital home.

25           (i) The intentional dissipation, waste, depletion, or  
26 destruction of marital assets after the filing of the petition  
27 or within 2 years prior to the filing of the petition.

28           (j) The intentional forgery or unauthorized use of the  
29 signature of one spouse by the other spouse. No spouse may be  
30 unjustly enriched by the forgery or unauthorized use of the  
31 signature of the other spouse. To that end, the provisions of

1 ss. 671.201, 673.4031, 817.54, 817.60, 831.01, and 831.02  
2 shall apply to the provisions of this section and shall be  
3 considered by the court in making an unequal distribution in  
4 favor of the spouse whose signature was forged or used without  
5 his or her knowledge or consent. The court shall make the  
6 wrongdoing spouse fully and completely liable for any  
7 liability or asset wrongfully disposed of. The court may  
8 consider any other sanction inclusive of attorney's fees and  
9 costs in making an unequal distribution pursuant to this  
10 paragraph.

11 (k)~~(j)~~ Any other factors necessary to do equity and  
12 justice between the parties.

13 Section 2. This act shall take effect July 1, 2002.

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15 HOUSE SUMMARY

16 Provides for the unequal distribution of marital assets  
17 and liabilities when one spouse forges the signature of  
18 the other or uses the other spouse's signature without  
19 authorization. See bill for details.

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