

1 A bill to be entitled
2 An act relating to the equitable distribution
3 of marital assets and liabilities; amending s.
4 61.075, F.S.; providing for the unequal
5 distribution of marital assets and liabilities
6 when one spouse forges or intentionally uses
7 the unauthorized signature of the other spouse;
8 providing an effective date.

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

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

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

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

29 WHEREAS, it is too often the case that courts hear
30 during dissolution proceedings that a spouse forged or
31 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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16 HOUSE SUMMARY

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

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