

By the Council for Smarter Government and Representatives
Betancourt, Lynn, Baxley and Crow

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 fault, attributed to one spouse, leads to
7 the dissolution of marriage; providing that a
8 liability incurred by forgery or unauthorized
9 signature is a nonmarital liability; providing
10 for attorney's fees; providing an exception;
11 providing an effective date.

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

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15 Section 1. Paragraph (j) of subsection (1) and
16 paragraph (b) of subsection (5) of section 61.075, Florida
17 Statutes, are amended to read:

18 61.075 Equitable distribution of marital assets and
19 liabilities.--

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

1 (j) Fault, by either spouse, that was a primary cause
2 of the dissolution of the marriage, including, but not limited
3 to, adultery, abandonment, cruelty, abuse, or neglect.

4 (k) Any other factors necessary to do equity and
5 justice between the parties.

6 (5) As used in this section:

7 (b) "Nonmarital assets and liabilities" include:

8 1. Assets acquired and liabilities incurred by either
9 party prior to the marriage, and assets acquired and
10 liabilities incurred in exchange for such assets and
11 liabilities;

12 2. Assets acquired separately by either party by
13 noninterspousal gift, bequest, devise, or descent, and assets
14 acquired in exchange for such assets;

15 3. All income derived from nonmarital assets during
16 the marriage unless the income was treated, used, or relied
17 upon by the parties as a marital asset; ~~and~~

18 4. Assets and liabilities excluded from marital assets
19 and liabilities by valid written agreement of the parties, and
20 assets acquired and liabilities incurred in exchange for such
21 assets and liabilities; and

22 5. Any liability incurred by forgery or unauthorized
23 signature of one spouse signing the name of the other spouse.
24 Any such liability shall be a nonmarital liability only of the
25 party having committed the forgery or having affixed the
26 unauthorized signature. In determining an award of attorney's
27 fees and costs pursuant to s. 61.16, the court may consider
28 forgery or unauthorized signatures by a party and may make a
29 separate award for attorney's fees and costs occasioned by the
30 forgery or unauthorized signature. This provision shall not
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1 apply to any forged or unauthorized signature that was
2 subsequently ratified by the other spouse.

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