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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/8/2008	.	
	.	
	.	

1 The Committee on Judiciary (Joyner) recommended the following
 2 **amendment:**

Senate Amendment (with title amendment)

5 Delete everything after the enacting clause
6 and insert:

8 Section 1. Subsections (5) through (9) of section 61.075,
 9 Florida Statutes, are redesignated as subsections (6) through
 10 (10), respectively, a new subsection (5) is added to that
 11 section, paragraph (a) of present subsection (5) of that section
 12 is amended, and subsection (11) is added to that section, to
 13 read:

14 61.075 Equitable distribution of marital assets and
15 liabilities.--

16 (5) If the court finds good cause that there should be an
 17 interim partial distribution during the pendency of a dissolution



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18 action, the court may enter an interim order that shall identify
19 and value the marital and nonmarital assets and liabilities made
20 the subject of the sworn motion, set apart such nonmarital assets
21 and liabilities, and provide for a partial distribution of such
22 marital assets and liabilities. An interim order may be entered
23 at any time after the date the dissolution of marriage is filed
24 and served and before the final distribution of marital and
25 nonmarital assets and marital and nonmarital liabilities.

26 (a) Such an interim order shall be entered only upon good
27 cause shown and upon a sworn motion establishing a specific
28 factual basis for the motion. The motion may be filed by either
29 party and shall demonstrate good cause why the matter should not
30 be deferred until the final hearing.

31 (b) The court shall specifically take into account and give
32 appropriate credit for any partial distribution of marital assets
33 or liabilities in its final allocation of marital assets or
34 liabilities. Further, the court shall make specific findings in
35 any interim order under this section that any partial
36 distribution may not cause inequity or prejudice to either party
37 as to either party's claims for support or attorney's fees.

38 (c) Any interim order partially distributing marital assets
39 or liabilities as provided in this subsection shall be pursuant
40 to and comport with the factors in subsections (1) and (3) as
41 such factors pertain to the assets or liabilities made the
42 subject of the sworn motion.

43 (d) As used in this subsection, the term "good cause" means
44 extraordinary circumstances that require an interim partial
45 distribution.

46 (6)(5) As used in this section:

47 (a)1. "Marital assets and liabilities" include:



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48 ~~a.1.~~ Assets acquired and liabilities incurred during the
49 marriage, individually by either spouse or jointly by them.~~†~~

50 ~~b.2.~~ The enhancement in value and appreciation of
51 nonmarital assets resulting either from the efforts of either
52 party during the marriage or from the contribution to or
53 expenditure thereon of marital funds or other forms of marital
54 assets, or both.~~†~~

55 ~~c.3.~~ Interspousal gifts during the marriage.~~†~~

56 ~~d.4.~~ All vested and nonvested benefits, rights, and funds
57 accrued during the marriage in retirement, pension, profit-
58 sharing, annuity, deferred compensation, and insurance plans and
59 programs.~~† and~~

60 ~~2.5.~~ All real property held by the parties as tenants by
61 the entireties, whether acquired prior to or during the marriage,
62 shall be presumed to be a marital asset. If, in any case, a party
63 makes a claim to the contrary, the burden of proof shall be on
64 the party asserting the claim that the subject property, or some
65 portion thereof, is nonmarital for a special equity.

66 3. Any personal property titled jointly by the parties as
67 tenants by the entireties, whether acquired before or during the
68 marriage, shall be presumed to be a marital asset. If a party
69 makes a claim to the contrary, the burden of proof shall be on
70 the party asserting the claim that the subject property, or some
71 portion thereof, is nonmarital.

72 4. The burden of proof to overcome the gift presumption
73 shall be by clear and convincing evidence.

74 (11) Special equity is abolished. All claims formerly
75 identified as special equity, and all special equity
76 calculations, are abolished and shall be asserted as a claim for
77 unequal distribution of marital property and resolved by the



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78 factors set forth in subsection (1) or as a claim of enhancement
79 in value or appreciation of nonmarital property.

80 Section 2. Paragraph (e) of subsection (3) of section
81 741.0306, Florida Statutes, is amended to read:

82 741.0306 Creation of a family law handbook.--

83 (3) The information contained in the handbook or other
84 electronic media presentation may be reviewed and updated
85 annually, and may include, but need not be limited to:

86 (e) Property rights, including equitable distribution,
87 ~~special equity~~, premarital property, and nonmarital property.

88 Section 3. This act shall take effect July 1, 2008.

89
90 ===== T I T L E A M E N D M E N T =====

91 And the title is amended as follows:

92 Delete everything before the enacting clause
93 and insert:

94 A bill to be entitled
95 An act relating to dissolution of marriage; amending s.
96 61.075, F.S.; providing for interim partial distributions
97 during dissolution actions; providing for motions;
98 providing for effect on final distributions; providing
99 factors to be considered; revising the definition of the
100 term "marital assets and liabilities"; providing a
101 presumption concerning certain personal property acquired
102 during the marriage; specifying the burden of proof
103 necessary to overcome the gift presumption; abolishing
104 special equity; providing for claims formerly identified
105 as special equity; amending s. 741.0306, F.S.; conforming
106 provisions to changes made by the act; providing an
107 effective date.