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1                   A bill to be entitled  
2           An act relating to dissolution of marriage; amending s.  
3           61.075, F.S.; providing for interim partial distributions  
4           during dissolution actions; providing for motions;  
5           providing for effect on final distributions; providing  
6           factors to be considered; revising the definition of the  
7           term "marital assets and liabilities"; conforming  
8           provisions to the abolition of special equity; providing a  
9           presumption concerning certain personal property acquired  
10          during the marriage; specifying the burden of proof  
11          necessary to overcome the gift presumption; abolishing  
12          special equity; providing for claims formerly identified  
13          as special equity; amending s. 741.0306, F.S.; conforming  
14          provisions to the abolition of special equity; providing  
15          an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

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

25           61.075 Equitable distribution of marital assets and  
26 liabilities.--

27           (5) If the court finds good cause that there should be an  
28 interim partial distribution during the pendency of a dissolution  
29 action, the court may enter an interim order that shall identify

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30 and value the marital and nonmarital assets and liabilities made  
31 the subject of the sworn motion, set apart those nonmarital  
32 assets and liabilities, and provide for a partial distribution of  
33 those marital assets and liabilities. An interim order may be  
34 entered at any time after the date the dissolution of marriage is  
35 filed and served and before the final distribution of marital and  
36 nonmarital assets and marital and nonmarital liabilities.

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

42 (b) The court shall specifically take into account and give  
43 appropriate credit for any partial distribution of marital assets  
44 or liabilities in its final allocation of marital assets or  
45 liabilities. Further, the court shall make specific findings in  
46 any interim order under this section that any partial  
47 distribution will not cause inequity or prejudice to either party  
48 as to either party's claims for support or attorney's fees.

49 (c) Any interim order partially distributing marital assets  
50 or liabilities as provided in this subsection shall be pursuant  
51 to and comport with the factors in subsections (1) and (3) as  
52 such factors pertain to the assets or liabilities made the  
53 subject of the sworn motion.

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

57 (6) (5) As used in this section:

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

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

61 ~~b.2.~~ The enhancement in value and appreciation of  
62 nonmarital assets resulting either from the efforts of either  
63 party during the marriage or from the contribution to or  
64 expenditure thereon of marital funds or other forms of marital  
65 assets, or both.~~†~~

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

67 ~~d.4.~~ All vested and nonvested benefits, rights, and funds  
68 accrued during the marriage in retirement, pension, profit-  
69 sharing, annuity, deferred compensation, and insurance plans and  
70 programs.~~†~~ and

71 ~~2.5.~~ All real property held by the parties as tenants by  
72 the entirety, whether acquired prior to or during the marriage,  
73 shall be presumed to be a marital asset. If, in any case, a party  
74 makes a claim to the contrary, the burden of proof shall be on  
75 the party asserting the claim that the subject property, or some  
76 portion thereof, is nonmarital ~~for a special equity.~~

77 3. All personal property titled jointly by the parties as  
78 tenants by the entirety, whether acquired prior to or during  
79 the marriage, shall be presumed to be a marital asset. In the  
80 event a party makes a claim to the contrary, the burden of proof  
81 shall be on the party asserting the claim that the subject  
82 property, or some portion thereof, is nonmarital.

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

85 (11) Special equity is abolished. All claims formerly  
86 identified as special equity, and all special equity  
87 calculations, are abolished and shall be asserted either as a

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88 claim for unequal distribution of marital property and resolved  
89 by the factors set forth in subsection (1) or as a claim of  
90 enhancement in value or appreciation of nonmarital property.

91 Section 2. Paragraph (e) of subsection (3) of section  
92 741.0306, Florida Statutes, is amended to read:

93 741.0306 Creation of a family law handbook.--

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

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

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