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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.

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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 entireties, 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 entireties, 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.