

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

2002



SENATE BILL 02-160

BY SENATOR(S) Hernandez;
also REPRESENTATIVE(S) Mitchell and Rhodes.

CONCERNING PROVISIONS RELATING TO THE DISPOSITION OF PROPERTY
UNDER THE "UNIFORM DISSOLUTION OF MARRIAGE ACT".

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The introductory portions to 14-10-113 (1) and (2) and 14-10-113 (3) and (4), Colorado Revised Statutes, are amended, and the said 14-10-113 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

14-10-113. Disposition of property. (1) In a proceeding for dissolution of marriage or in a proceeding for legal separation or in a proceeding for disposition of property following the previous dissolution of marriage by a court which at the time of the prior dissolution of the marriage lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court, SUBJECT TO THE PROVISIONS OF SUBSECTION (7) OF THIS SECTION, shall set apart to each spouse his OR HER property and shall divide the marital property, without regard to marital misconduct, in such proportions as the court deems just after considering all relevant factors including:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) For purposes of this article only, AND SUBJECT TO THE PROVISIONS OF SUBSECTION (7) OF THIS SECTION, "marital property" means all property acquired by either spouse subsequent to the marriage except:

(3) SUBJECT TO THE PROVISIONS OF SUBSECTION (7) OF THIS SECTION, all property acquired by either spouse subsequent to the marriage and prior to a decree of legal separation is presumed to be marital property, regardless of whether title is held individually or by the spouses in some form of coownership such as joint tenancy, tenancy in common, tenancy by the entirety, and community property. The presumption of marital property DESCRIBED IN THIS SUBSECTION (3) is overcome by a showing that the property was acquired by a method listed in subsection (2) of this section.

(4) SUBJECT TO THE PROVISIONS OF SUBSECTION (7) OF THIS SECTION, an asset of a spouse acquired prior to the marriage or in accordance with subsection (2) (a) or (2) (b) of this section shall be considered as marital property, for purposes of this article only, to the extent that its present value exceeds its value at the time of the marriage or at the time of acquisition if acquired after the marriage.

(7) (a) FOR PURPOSES OF SUBSECTIONS (1) TO (4) OF THIS SECTION ONLY, EXCEPT WITH RESPECT TO GIFTS OF NONBUSINESS TANGIBLE PERSONAL PROPERTY, GIFTS FROM ONE SPOUSE TO ANOTHER, WHETHER IN TRUST OR NOT, SHALL BE PRESUMED TO BE MARITAL PROPERTY AND NOT SEPARATE PROPERTY. THIS PRESUMPTION MAY BE REBUTTED BY CLEAR AND CONVINCING EVIDENCE.

(b) FOR PURPOSES OF SUBSECTIONS (1) TO (4) OF THIS SECTION ONLY, "PROPERTY" AND "AN ASSET OF A SPOUSE" SHALL NOT INCLUDE ANY INTEREST A PARTY MAY HAVE AS AN HEIR AT LAW OF A LIVING PERSON OR ANY INTEREST UNDER ANY DONATIVE THIRD PARTY INSTRUMENT WHICH IS AMENDABLE OR REVOCABLE, INCLUDING BUT NOT LIMITED TO THIRD-PARTY WILLS, REVOCABLE TRUSTS, LIFE INSURANCE, AND RETIREMENT BENEFIT INSTRUMENTS, NOR SHALL ANY SUCH INTERESTS BE CONSIDERED AS AN ECONOMIC CIRCUMSTANCE OR OTHER FACTOR.

(c) (I) THE PROVISIONS OF THIS SUBSECTION (7) SHALL APPLY TO ALL CAUSES OF ACTION FILED ON OR AFTER JULY 1, 2002. THE PROVISIONS OF THIS SUBSECTION (7) SHALL ALSO APPLY TO ALL CAUSES OF ACTION FILED

BEFORE SAID DATE IN WHICH A FINAL PROPERTY DISPOSITION ORDER CONCERNING MATTERS AFFECTED BY THIS SUBSECTION (7) WAS NOT ENTERED PRIOR TO JULY 1, 2002.

(II) FOR PURPOSES OF THIS PARAGRAPH (C), "FINAL PROPERTY DISPOSITION ORDER" MEANS A PROPERTY DISPOSITION ORDER FOR WHICH THE TIME TO APPEAL HAS EXPIRED OR FOR WHICH ALL PENDING APPEALS HAVE BEEN FINALLY CONCLUDED.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Stan Matsunaka
PRESIDENT OF
THE SENATE

Doug Dean
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

Judith Rodrigue
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO