

FIRST REGULAR SESSION

# HOUSE BILL NO. 404

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES DENISON (Sponsor) AND SATER (Co-sponsor).

Read 1st time January 16, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 452.330, RSMo, and to enact in lieu thereof one new section relating to disposition of marital property.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 452.330, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 452.330, to read as follows:

452.330. 1. In a proceeding for dissolution of the marriage or legal separation, or in a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall set apart to each spouse such spouse's nonmarital property and shall divide the marital property and marital debts in such proportions as the court deems just after considering all relevant factors including:

- (1) The economic circumstances of each spouse at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the spouse having custody of any children;
- (2) The contribution of each spouse to the acquisition of the marital property, including the contribution of a spouse as homemaker;
- (3) The value of the nonmarital property set apart to each spouse;
- (4) The conduct of the parties during the marriage; and
- (5) Custodial arrangements for minor children.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15           2. For purposes of sections 452.300 to 452.415 only, "marital property" means all  
16 property acquired by either spouse subsequent to the marriage except:

17           (1) Property acquired by gift, bequest, devise, or descent;

18           (2) Property acquired in exchange for property acquired prior to the marriage or in  
19 exchange for property acquired by gift, bequest, devise, or descent;

20           (3) Property acquired by a spouse after a decree of legal separation;

21           (4) Property excluded by valid written agreement of the parties; [and]

22           (5) **Any asset or benefit acquired by a spouse through a firefighter or police**  
23 **pension, relief, or retirement system; and**

24           (6) The increase in value of property acquired prior to the marriage or pursuant to  
25 subdivisions (1) to (4) of this subsection, unless marital assets including labor, have contributed  
26 to such increases and then only to the extent of such contributions.

27           3. All property acquired by either spouse subsequent to the marriage and prior to a decree  
28 of legal separation or dissolution of marriage is presumed to be marital property regardless of  
29 whether title is held individually or by the spouses in some form of co-ownership such as joint  
30 tenancy, tenancy in common, tenancy by the entirety, and community property. The presumption  
31 of marital property is overcome by a showing that the property was acquired by a method listed  
32 in subsection 2 of this section.

33           4. Property which would otherwise be nonmarital property shall not become marital  
34 property solely because it may have become commingled with marital property.

35           5. The court's order as it affects distribution of marital property shall be a final order not  
36 subject to modification; provided, however, that orders intended to be qualified domestic  
37 relations orders affecting pension, profit sharing and stock bonus plans pursuant to the U.S.  
38 Internal Revenue Code shall be modifiable only for the purpose of establishing or maintaining  
39 the order as a qualified domestic relations order or to revise or conform its terms so as to  
40 effectuate the expressed intent of the order.

41           6. A certified copy of any decree of court affecting title to real estate may be filed for  
42 record in the office of the recorder of deeds of the county and state in which the real estate is  
43 situated by the clerk of the court in which the decree was made.

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