

61.075CC Equitable distribution of marital assets and liabilities.—

(1)CC In a proceeding for dissolution of marriage, in addition to all other remedies available to a court to do equity between the parties, or in a proceeding for disposition of assets following a dissolution of marriage by a court which lacked jurisdiction over the absent spouse or lacked jurisdiction to dispose of the assets, the court shall set apart to each spouse that spouse's nonmarital assets and liabilities, and in distributing the marital assets and liabilities between the parties, the court must begin with the premise that the distribution should be equal, unless there is a justification for an unequal distribution based on all relevant factors, including:

(a)CC The contribution to the marriage by each spouse, including contributions to the care and education of the children and services as homemaker.

(b)CC The economic circumstances of the parties.

(c)CC The duration of the marriage.

(d)CC Any interruption of personal careers or educational opportunities of either party.

(e)CC The contribution of one spouse to the personal career or educational opportunity of the other spouse.

(f)CC The desirability of retaining any asset, including an interest in a business, corporation, or professional practice, intact and free from any claim or interference by the other party.

(g)CC The contribution of each spouse to the acquisition, enhancement, and production of income or the improvement of, or the incurring of liabilities to, both the marital assets and the nonmarital assets of the parties.

(h)CC The desirability of retaining the marital home as a residence for any dependent child of the marriage, or any other party, when it would be equitable to do so, it is in the best interest of the child or that party, and it is financially feasible for the parties to maintain the residence until the child is emancipated or until exclusive possession is otherwise terminated by a court of competent jurisdiction. In making this determination, the court shall first determine if it would be in the best interest of the dependent child to remain in the marital home; and, if not, whether other equities would be served by giving any other party exclusive use and possession of the marital home.

(i)CC The intentional dissipation, waste, depletion, or destruction of marital assets after the filing of the petition or within 2 years prior to the filing of the petition.

(j)CC Any other factors necessary to do equity and justice between the parties.

(2)CC If the court awards a cash payment for the purpose of equitable distribution of marital assets, to be paid in full or in installments, the full amount ordered shall vest when the judgment is awarded and the award shall not terminate upon remarriage or death of either party, unless otherwise agreed to by the parties, but shall be treated as a debt owed from the obligor or the obligor's estate to the obligee or the obligee's estate, unless otherwise agreed to by the parties.

(3)CC In any contested dissolution action wherein a stipulation and agreement has not been entered and filed, any distribution of marital assets or marital liabilities shall be supported by factual findings in the judgment or order based on competent substantial evidence with reference to the factors enumerated in subsection (1). The distribution of all marital assets and marital liabilities, whether equal or unequal, shall include specific written findings of fact as to the following:

(a)CC Clear identification of nonmarital assets and ownership interests;

(b)CC Identification of marital assets, including the individual valuation of significant assets, and

designation of which spouse shall be entitled to each asset;

(c) Identification of the marital liabilities and designation of which spouse shall be responsible for each liability;

(d) Any other findings necessary to advise the parties or the reviewing court of the trial court's rationale for the distribution of marital assets and allocation of liabilities.

(4) The judgment distributing assets shall have the effect of a duly executed instrument of conveyance, transfer, release, or acquisition which is recorded in the county where the property is located when the judgment, or a certified copy of the judgment, is recorded in the official records of the county in which the property is located.

(5) As used in this section:

(a) "Marital assets and liabilities" include:

1. Assets acquired and liabilities incurred during the marriage, individually by either spouse or jointly by them;

2. The enhancement in value and appreciation of nonmarital assets resulting either from the efforts of either party during the marriage or from the contribution to or expenditure thereon of marital funds or other forms of marital assets, or both;

3. Interspousal gifts during the marriage;

4. All vested and nonvested benefits, rights, and funds accrued during the marriage in retirement, pension, profit-sharing, annuity, deferred compensation, and insurance plans and programs; and

5. All real property held by the parties as tenants by the entireties, whether acquired prior to or during the marriage, shall be presumed to be a marital asset. If, in any case, a party makes a claim to the contrary, the burden of proof shall be on the party asserting the claim for a special equity.

(b) "Nonmarital assets and liabilities" include:

1. Assets acquired and liabilities incurred by either party prior to the marriage, and assets acquired and liabilities incurred in exchange for such assets and liabilities;

2. Assets acquired separately by either party by noninterspousal gift, bequest, devise, or descent, and assets acquired in exchange for such assets;

3. All income derived from nonmarital assets during the marriage unless the income was treated, used, or relied upon by the parties as a marital asset;

4. Assets and liabilities excluded from marital assets and liabilities by valid written agreement of the parties, and assets acquired and liabilities incurred in exchange for such assets and liabilities; and

5. Any liability incurred by forgery or unauthorized signature of one spouse signing the name of the other spouse. Any such liability shall be a nonmarital liability only of the party having committed the forgery or having affixed the unauthorized signature. In determining an award of attorney's fees and costs pursuant to s. 61.16, the court may consider forgery or an unauthorized signature by a party and may make a separate award for attorney's fees and costs occasioned by the forgery or unauthorized signature. This subparagraph does not apply to any forged or unauthorized signature that was subsequently ratified by the other spouse.

(6) The cut-off date for determining assets and liabilities to be identified or classified as marital assets and liabilities is the earliest of the date the parties enter into a valid separation agreement, such other date as may be expressly established by such agreement, or the date of the filing of a

petition for dissolution of marriage. The date for determining value of assets and the amount of liabilities identified or classified as marital is the date or dates as the judge determines is just and equitable under the circumstances. Different assets may be valued as of different dates, as, in the judge's discretion, the circumstances require.

(7)CC All assets acquired and liabilities incurred by either spouse subsequent to the date of the marriage and not specifically established as nonmarital assets or liabilities are presumed to be marital assets and liabilities. Such presumption is overcome by a showing that the assets and liabilities are nonmarital assets and liabilities. The presumption is only for evidentiary purposes in the dissolution proceeding and does not vest title. Title to disputed assets shall vest only by the judgment of a court. This section does not require the joinder of spouses in the conveyance, transfer, or hypothecation of a spouse's individual property; affect the laws of descent and distribution; or establish community property in this state.

(8)CC The court may provide for equitable distribution of the marital assets and liabilities without regard to alimony for either party. After the determination of an equitable distribution of the marital assets and liabilities, the court shall consider whether a judgment for alimony shall be made.

(9)CC To do equity between the parties, the court may, in lieu of or to supplement, facilitate, or effectuate the equitable division of marital assets and liabilities, order a monetary payment in a lump sum or in installments paid over a fixed period of time.

History.—s. 1, ch. 88-98; s. 2, ch. 91-246; s. 3, ch. 93-188; s. 1, ch. 94-204; s. 1, ch. 96-305; s. 1, ch. 2002-244.