
By: Delegate Arnick

Introduced and read first time: January 10, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Marital Property - Commingled Property**

3 FOR the purpose of requiring that if marital property and nonmarital property are
4 commingled resulting in a loss of identity, the commingled property shall be
5 considered marital; requiring that if a party makes a contribution of marital
6 property or personal effort to the nonmarital property of the other party, the party
7 receiving the contribution shall reimburse the contributing party under certain
8 circumstances; authorizing a court to provide for reimbursement to a contributing
9 party by certain means; adding the contribution of each party to the acquisition,
10 preservation, increase or decrease in the value of marital or nonmarital property to
11 the factors that a court must consider when granting a monetary award; providing
12 for the application of this Act; and generally relating to commingled marital and
13 nonmarital property and the grant of a monetary award.

14 BY adding to

15 Article - Family Law
16 Section 8-203.1
17 Annotated Code of Maryland
18 (1991 Replacement Volume and 1996 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article - Family Law
21 Section 8-205
22 Annotated Code of Maryland
23 (1991 Replacement Volume and 1996 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article - Family Law**

27 8-203.1.

28 (A) UNLESS OTHERWISE AGREED BY THE PARTIES, COMMINGLED MARITAL
29 AND NONMARITAL PROPERTY SHALL BE TREATED IN ACCORDANCE WITH THIS
30 SECTION.

1 (B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, IF MARITAL PROPERTY
2 AND NONMARITAL PROPERTY ARE COMMINGLED RESULTING IN A LOSS OF
3 IDENTITY, THE COMMINGLED PROPERTY SHALL BE CONSIDERED MARITAL.

4 (C) IF A PARTY MAKES A CONTRIBUTION OF MARITAL PROPERTY TO THE
5 NONMARITAL PROPERTY OF THE OTHER PARTY, OR IF A PARTY CONTRIBUTES
6 PERSONAL EFFORT TO THE NONMARITAL PROPERTY OF THE OTHER PARTY, THE
7 PARTY RECEIVING THE CONTRIBUTION SHALL REIMBURSE THE CONTRIBUTING
8 PARTY IF:

9 (1) THE CONTRIBUTION IS DIRECTLY TRACEABLE BY CLEAR AND
10 CONVINCING EVIDENCE;

11 (2) THE CONTRIBUTION WAS NOT A GIFT FROM THE CONTRIBUTING
12 PARTY; AND

13 (3) IN THE CASE OF PERSONAL EFFORT, THE EFFORT WAS SIGNIFICANT
14 AND RESULTED IN A SUBSTANTIAL APPRECIATION OF THE NONMARITAL
15 PROPERTY.

16 (D) THE COURT MAY PROVIDE FOR REIMBURSEMENT TO A CONTRIBUTING
17 PARTY UNDER SUBSECTION (C) OF THIS SECTION IN THE FOLLOWING MANNER:

18 (1) BY A DISTRIBUTION FROM PROPERTY DETERMINED TO BE MARITAL
19 UNDER § 8-203 OF THIS ARTICLE; OR

20 (2) BY IMPOSING A LIEN AGAINST THE NONMARITAL PROPERTY THAT
21 RECEIVED THE CONTRIBUTION.

22 8-205.

23 (a) Subject to the provisions of subsection (b) of this section, after the court
24 determines which property is marital property, and the value of the marital property, the
25 court may transfer ownership of an interest in a pension, retirement, profit sharing, or
26 deferred compensation plan from 1 party to either or both parties, grant a monetary
27 award, or both, as an adjustment of the equities and rights of the parties concerning
28 marital property, whether or not alimony is awarded.

29 (b) The court shall determine the amount and the method of payment of a
30 monetary award, or the terms of the transfer of the interest in the pension, retirement,
31 profit sharing, or deferred compensation plan, or both, after considering each of the
32 following factors:

33 (1) the contributions, monetary and nonmonetary, of each party to the
34 well-being of the family;

35 (2) the value of all property interests of each party;

36 (3) the economic circumstances of each party at the time the award is to be
37 made;

38 (4) the circumstances that contributed to the estrangement of the parties;

39 (5) the duration of the marriage;

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1 (6) the age of each party;

2 (7) the physical and mental condition of each party;

3 (8) how and when specific marital property or interest in the pension,
4 retirement, profit sharing, or deferred compensation plan, was acquired, including the
5 effort expended by each party in accumulating the marital property or the interest in the
6 pension, retirement, profit sharing, or deferred compensation plan, or both;

7 (9) the contribution by either party of property described in § 8-201(e)(3) of
8 this subtitle to the acquisition of real property held by the parties as tenants by the
9 entirety;

10 (10) THE CONTRIBUTION OF EACH PARTY TO THE ACQUISITION,
11 PRESERVATION, OR INCREASE OR DECREASE IN THE VALUE OF MARITAL OR OF
12 NONMARITAL PROPERTY;

13 ~~[(10)]~~ (11) any award of alimony and any award or other provision that the
14 court has made with respect to family use personal property or the family home; and

15 ~~[(11)]~~ (12) any other factor that the court considers necessary or appropriate
16 to consider in order to arrive at a fair and equitable monetary award or transfer of an
17 interest in the pension, retirement, profit sharing, or deferred compensation plan, or
18 both.

19 (c) The court may reduce to a judgment any monetary award made under this
20 section, to the extent that any part of the award is due and owing.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed
22 only prospectively and may not be applied or interpreted to have any effect on or
23 application to any action for divorce or annulment filed before the effective date of this
24 Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 1997.