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By: **Delegates Conroy, Perry, C. Mitchell, and Hubbard**  
Introduced and read first time: February 16, 1998  
Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Marital Property - Transfer of Ownership Interests in Benefit**  
3 **Plans**

4 FOR the purpose of prohibiting the court from transferring more than one-half of the  
5 interest in certain benefit plans from one spouse to another under certain  
6 circumstances; establishing that an interest in certain benefit plans that is  
7 transferred from one spouse to another may not be based on certain increases in  
8 benefits except under certain circumstances; and generally relating to  
9 distribution of marital property.

10 BY repealing and reenacting, with amendments,  
11 Article - Family Law  
12 Section 8-205  
13 Annotated Code of Maryland  
14 (1991 Replacement Volume and 1997 Supplement)

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

17 **Article - Family Law**

18 8-205.

19 (a) (1) Subject to the provisions of PARAGRAPH (2) OF THIS SUBSECTION  
20 AND subsection (b) of this section, after the court determines which property is  
21 marital property, and the value of the marital property, the court may transfer  
22 ownership of an interest in a pension, retirement, profit sharing, or deferred  
23 compensation plan from 1 party to either or both parties, grant a monetary award, or  
24 both, as an adjustment of the equities and rights of the parties concerning marital  
25 property, whether or not alimony is awarded.

26 (2) (1) THE COURT MAY NOT TRANSFER MORE THAN ONE-HALF OF  
27 THE OWNERSHIP INTEREST IN A PENSION, RETIREMENT, PROFIT SHARING, OR  
28 DEFERRED COMPENSATION PLAN EARNED DURING THE PERIOD OF THE MARRIAGE  
29 FROM ONE PARTY TO EITHER OR BOTH PARTIES.

1 (II) EXCEPT FOR A COST OF LIVING ADJUSTMENT TO A PLAN  
2 DESCRIBED UNDER ITEM (I) OF THIS PARAGRAPH, AN INTEREST IN A PLAN  
3 TRANSFERRED UNDER THIS PARAGRAPH MAY NOT BE BASED ON AN INCREASE IN  
4 BENEFITS DUE TO ENHANCEMENTS IN THE PLAN, ADDITIONAL YEARS OF SERVICE,  
5 OR INCREASES IN SALARY THAT OCCUR AFTER THE DATE THAT THE ANNULMENT OR  
6 DIVORCE IS GRANTED.

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

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

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

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

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

18 (5) the duration of the marriage;

19 (6) the age of each party;

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

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

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

28 (10) any award of alimony and any award or other provision that the court  
29 has made with respect to family use personal property or the family home; and

30 (11) any other factor that the court considers necessary or appropriate to  
31 consider in order to arrive at a fair and equitable monetary award or transfer of an  
32 interest in the pension, retirement, profit sharing, or deferred compensation plan, or  
33 both.

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only  
2 to absolute divorce or annulment cases filed on or after the effective date of this Act.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 1998.