

SENATE BILL 418

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2004 Regular Session
4lr2430
CF 4lr2429

By: **Senator Grosfeld**

Introduced and read first time: February 5, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Property Disposition - Transfer of Tangible Personal Property**

3 FOR the purpose of authorizing a court, in a proceeding for annulment or absolute
4 divorce, to transfer ownership of an interest in tangible personal property from
5 one or both parties to either or both parties and to determine the terms of the
6 transfer; altering certain factors that the court is required to consider in making
7 a certain determination; providing for the application of this Act; making
8 stylistic changes; and generally relating to property disposition in annulment
9 and divorce.

10 BY repealing and reenacting, without amendments,
11 Article - Family Law
12 Section 8-202, 8-203, and 8-204(a)
13 Annotated Code of Maryland
14 (1999 Replacement Volume and 2003 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article - Family Law
17 Section 8-205
18 Annotated Code of Maryland
19 (1999 Replacement Volume and 2003 Supplement)

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

22 **Article - Family Law**

23 8-202.

24 (a) (1) When the court grants an annulment or a limited or absolute divorce,
25 the court may resolve any dispute between the parties with respect to the ownership
26 of personal property.

1 (2) When the court grants an annulment or an absolute divorce, the
2 court may resolve any dispute between the parties with respect to the ownership of
3 real property.

4 (3) Except as provided in § 8-205 of this subtitle, the court may not
5 transfer the ownership of personal or real property from 1 party to the other.

6 (b) When the court determines the ownership of personal or real property, the
7 court may:

8 (1) grant a decree that states what the ownership interest of each party
9 is; and

10 (2) as to any property owned by both of the parties, order a partition or a
11 sale instead of partition and a division of the proceeds.

12 8-203.

13 (a) In a proceeding for an annulment or an absolute divorce, if there is a
14 dispute as to whether certain property is marital property, the court shall determine
15 which property is marital property:

16 (1) when the court grants an annulment or an absolute divorce;

17 (2) within 90 days after the court grants an annulment or divorce, if the
18 court expressly reserves in the annulment or divorce decree the power to make the
19 determination; or

20 (3) after the 90-day period if:

21 (i) the court expressly reserves in the annulment or divorce decree
22 the power to make the determination;

23 (ii) during the 90-day period, the court extends the time for making
24 the determination; and

25 (iii) the parties consent to the extension.

26 (b) In this subtitle, a military pension shall be considered in the same manner
27 as any other pension or retirement benefit.

28 8-204.

29 (a) Except as provided in subsection (b) of this section, the court shall
30 determine the value of all marital property.

31 8-205.

32 (a) (1) Subject to the provisions of subsection (b) of this section, after the
33 court determines which property is marital property, and the value of the marital
34 property, the court may transfer ownership of an interest in [a pension, retirement,

1 profit sharing, or deferred compensation plan from 1 party to either or both parties]
2 PROPERTY DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, grant a monetary
3 award, or both, as an adjustment of the equities and rights of the parties concerning
4 marital property, whether or not alimony is awarded.

5 (2) THE COURT MAY TRANSFER OWNERSHIP OF AN INTEREST IN:

6 (I) A PENSION, RETIREMENT, PROFIT SHARING, OR DEFERRED
7 COMPENSATION PLAN, FROM ONE PARTY TO EITHER OR BOTH PARTIES; AND

8 (II) TANGIBLE PERSONAL PROPERTY, FROM ONE OR BOTH PARTIES
9 TO EITHER OR BOTH PARTIES.

10 (b) The court shall determine the amount and the method of payment of a
11 monetary award, or the terms of the transfer of the interest in [the pension,
12 retirement, profit sharing, or deferred compensation plan] PROPERTY DESCRIBED IN
13 SUBSECTION (A)(2) OF THIS SECTION, or both, after considering each of the following
14 factors:

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

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

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

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

22 (5) the duration of the marriage;

23 (6) the age of each party;

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

25 (8) how and when specific marital property or interest in [the pension,
26 retirement, profit sharing, or deferred compensation plan] PROPERTY DESCRIBED IN
27 SUBSECTION (A)(2) OF THIS SECTION, was acquired, including the effort expended by
28 each party in accumulating the marital property or the interest in [the pension,
29 retirement, profit sharing, or deferred compensation plan] PROPERTY DESCRIBED IN
30 SUBSECTION (A)(2) OF THIS SECTION, or both;

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

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

1 (11) any other factor that the court considers necessary or appropriate to
2 consider in order to arrive at a fair and equitable monetary award or transfer of an
3 interest in [the pension, retirement, profit sharing, or deferred compensation plan]
4 PROPERTY DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION, or both.

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

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
8 construed to apply only prospectively to cases for annulment or divorce filed on after
9 the effective date of this Act.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2004.