

HOUSE BILL 1277

D4

71r2417

By: **Delegate Weir (By Request)**

Introduced and read first time: February 23, 2007

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Marital Property – Transfer of Pension**

3 FOR the purpose of prohibiting a court, in a proceeding for annulment or absolute
4 divorce, from transferring ownership of an interest in a pension under certain
5 circumstances; and generally relating to marital property.

6 BY repealing and reenacting, with amendments,
7 Article – Family Law
8 Section 8–205
9 Annotated Code of Maryland
10 (2006 Replacement Volume)

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

13 **Article – Family Law**

14 8–205.

15 (a) (1) Subject to the provisions of subsection (b) of this section, after the
16 court determines which property is marital property, and the value of the marital
17 property, the court may transfer ownership of an interest in property described in
18 paragraph (2) of this subsection, grant a monetary award, or both, as an adjustment of
19 the equities and rights of the parties concerning marital property, whether or not
20 alimony is awarded.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) The court may transfer ownership of an interest in:

2 (i) **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
3 **SUBSECTION**, a pension, retirement, profit sharing, or deferred compensation plan,
4 from one party to either or both parties;

5 (ii) subject to the consent of any lienholders, family use personal
6 property, from one or both parties to either or both parties; and

7 (iii) subject to the terms of any lien, real property jointly owned
8 by the parties and used as the principal residence of the parties when they lived
9 together, by:

10 1. ordering the transfer of ownership of the real property
11 or any interest of one of the parties in the real property to the other party if the party
12 to whom the real property is transferred obtains the release of the other party from
13 any lien against the real property;

14 2. authorizing one party to purchase the interest of the
15 other party in the real property, in accordance with the terms and conditions ordered
16 by the court; or

17 3. both.

18 **(3) THE COURT MAY NOT TRANSFER OWNERSHIP OF AN INTEREST**
19 **IN A PENSION UNDER THIS SECTION IF THE PARTY WHO OWNS THE PENSION**
20 **IS NOT REQUIRED TO MAKE CONTRIBUTIONS TO SOCIAL SECURITY FOR**
21 **EMPLOYMENT.**

22 (b) The court shall determine the amount and the method of payment of a
23 monetary award, or the terms of the transfer of the interest in property described in
24 subsection (a)(2) of this section, or both, after considering each of the following factors:

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

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

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

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

3 (5) the duration of the marriage;

4 (6) the age of each party;

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

6 (8) how and when specific marital property or interest in property
7 described in subsection (a)(2) of this section, was acquired, including the effort
8 expended by each party in accumulating the marital property or the interest in
9 property described in subsection (a)(2) of this section, or both;

10 (9) the contribution by either party of property described in
11 § 8–201(e)(3) of this subtitle to the acquisition of real property held by the parties as
12 tenants by the entirety;

13 (10) 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) 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 property described in subsection (a)(2) of this section, or both.

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

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2007.