

FIRST REGULAR SESSION

# HOUSE BILL NO. 421

## 100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE KELLEY (127).

1146H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal section 452.330, RSMo, and to enact in lieu thereof one new section relating to marital property.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 452.330, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 452.330, to read as follows:

452.330. 1. In a proceeding for dissolution of the marriage or legal separation, or in a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall set apart to each spouse such spouse's nonmarital property and shall divide the marital property and marital debts in such proportions as the court deems just after considering all relevant factors including:

(1) The economic circumstances of each spouse at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the spouse having custody of any children;

(2) The contribution of each spouse to the acquisition of the marital property, including the contribution of a spouse as homemaker;

(3) The value of the nonmarital property set apart to each spouse;

(4) The conduct of the parties during the marriage; and

(5) Custodial arrangements for minor children.

2. For purposes of sections 452.300 to 452.415 only, "marital property" means all property acquired by either spouse subsequent to the marriage except:

(1) Property acquired by gift, bequest, devise, or descent;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (2) Property acquired in exchange for property acquired prior to the marriage or in  
19 exchange for property acquired by gift, bequest, devise, or descent;

20 (3) Property acquired by a spouse after a decree of legal separation;

21 (4) Property excluded by valid written agreement of the parties; ~~and~~

22 (5) The increase in value of property acquired prior to the marriage or pursuant to  
23 subdivisions (1) to (4) of this subsection, unless marital assets including labor, have contributed  
24 to such increases and then only to the extent of such contributions; **and**

25 **(6) Property acquired during the marriage by spouses if it can be proven that the**  
26 **spouses had separate checking and savings accounts and the property was purchased**  
27 **through moneys contained in such accounts so long as both spouses were employed at the**  
28 **time of the filing for dissolution of marriage.**

29 3. All property acquired by either spouse subsequent to the marriage and prior to a decree  
30 of legal separation or dissolution of marriage is presumed to be marital property regardless of  
31 whether title is held individually or by the spouses in some form of co-ownership such as joint  
32 tenancy, tenancy in common, tenancy by the entirety, and community property. The presumption  
33 of marital property is overcome by a showing that the property was acquired by a method listed  
34 in subsection 2 of this section.

35 4. Property which would otherwise be nonmarital property shall not become marital  
36 property solely because it may have become commingled with marital property.

37 5. The court's order as it affects distribution of marital property shall be a final order not  
38 subject to modification; provided, however, that orders intended to be qualified domestic  
39 relations orders affecting pension, profit sharing and stock bonus plans pursuant to the U.S.  
40 Internal Revenue Code shall be modifiable only for the purpose of establishing or maintaining  
41 the order as a qualified domestic relations order or to revise or conform its terms so as to  
42 effectuate the expressed intent of the order.

43 6. A certified copy of any decree of court affecting title to real estate may be filed for  
44 record in the office of the recorder of deeds of the county and state in which the real estate is  
45 situated by the clerk of the court in which the decree was made.

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