

1 AN ACT relating to disposition of property and declaring an emergency.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 403.190 is amended to read as follows:

- 4 (1) In a proceeding for dissolution of the marriage or for legal separation, or in a
5 proceeding for disposition of property following dissolution of the marriage by a
6 court which lacked personal jurisdiction over the absent spouse or lacked
7 jurisdiction to dispose of the property, the court shall assign each spouse's property
8 to him ***or her***. It also shall divide the marital property without regard to marital
9 misconduct in just proportions considering all relevant factors, including:
- 10 (a) Contribution of each spouse to acquisition of the marital property, including
11 contribution of a spouse as homemaker;
- 12 (b) Value of the property set apart to each spouse;
- 13 (c) Duration of the marriage;~~and~~
- 14 (d) Economic circumstances of each spouse when the division of property is to
15 become effective, including the desirability of awarding the family home or
16 the right to live therein for reasonable periods to the spouse having custody of
17 any children; ***and***
- 18 ***(e) Criminal misconduct against the spouse committed within the last five (5)***
19 ***years of the marriage prior to the filing of the petition for dissolution that***
20 ***results in a conviction for a violent felony offense as defined in KRS***
21 ***532.200.***
- 22 (2) For the purpose of this chapter, "marital property" means all property acquired by
23 either spouse subsequent to the marriage, except:
- 24 (a) Property acquired by gift, bequest, devise, or descent during the marriage and
25 the income derived therefrom unless there are significant activities of either
26 spouse which contributed to the increase in value of said property and the
27 income earned therefrom;

- 1 (b) Property acquired in exchange for property acquired before the marriage or in
2 exchange for property acquired by gift, bequest, devise, or descent;
- 3 (c) Property acquired by a spouse after a decree of legal separation;
- 4 (d) Property excluded by valid agreement of the parties; and
- 5 (e) The increase in value of property acquired before the marriage to the extent
6 that such increase did not result from the efforts of the parties during
7 marriage.
- 8 (3) All property acquired by either spouse after the marriage and before a decree of
9 legal separation is presumed to be marital property, regardless of whether title is
10 held individually or by the spouses in some form of co-ownership such as joint
11 tenancy, tenancy in common, tenancy by the entirety, and community property. The
12 presumption of marital property is overcome by a showing that the property was
13 acquired by a method listed in subsection (2) of this section.
- 14 (4) (a) If the retirement benefits of one spouse are excepted from classification as
15 marital property, or not considered as an economic circumstance during the
16 division of marital property, then the retirement benefits of the other spouse
17 shall also be excepted, or not considered, as the case may be. However, the
18 level of exception provided to the spouse with the greater retirement benefit
19 shall not exceed the level of exception provided to the other spouse.
- 20 (b) Retirement benefits, for the purposes of this subsection shall include
21 retirement or disability allowances, accumulated contributions, or any other
22 benefit of a retirement system or plan regulated by the Employees Retirement
23 Income Security Act of 1974, or of a public retirement system administered
24 by an agency of a state or local government, including deferred compensation
25 plans created pursuant to KRS 18A.230 to 18A.275 or defined contribution or
26 money purchase plans qualified under Section 401(a) of the Internal Revenue
27 Code of 1954, as amended.

1 (c) A spouse who is convicted of a crime as described in subsection (1)(e) of
2 this section that occurred within the last five (5) years of the marriage prior
3 to the filing of the petition for dissolution shall not be entitled to claim
4 retirement benefits as marital property.

5 (5) A spouse who is convicted of a crime as described in subsection (1)(e) of this
6 section that occurred within the last five (5) years of the marriage prior to the
7 filing of the petition for dissolution shall not be entitled to claim any insurance
8 policy acquired during the marriage as marital property.

9 ➔Section 2. Whereas it is critical to protect the property rights of individuals, an
10 emergency is declared to exist, and this Act takes effect upon its passage and approval by
11 the Governor or upon its otherwise becoming a law.