

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:***

19 ***1. Within the last five (5) years of the marriage prior to the filing of the***
20 ***petition for dissolution; or***

21 ***2. Any time after the filing of the petition for dissolution prior to the final***
22 ***disposition of property;***

23 ***that results in a conviction for a violent felony offense as defined in KRS***
24 ***532.200 or criminal attempt to commit murder under KRS 506.010.***

25 (2) For the purpose of this chapter, "marital property" means all property acquired by
26 either spouse subsequent to the marriage, except:

27 (a) Property acquired by gift, bequest, devise, or descent during the marriage and

- 1 the income derived therefrom unless there are significant activities of either
2 spouse which contributed to the increase in value of said property and the
3 income earned therefrom;
- 4 (b) Property acquired in exchange for property acquired before the marriage or in
5 exchange for property acquired by gift, bequest, devise, or descent;
- 6 (c) Property acquired by a spouse after a decree of legal separation;
- 7 (d) Property excluded by valid agreement of the parties; and
- 8 (e) The increase in value of property acquired before the marriage to the extent
9 that such increase did not result from the efforts of the parties during
10 marriage.
- 11 (3) All property acquired by either spouse after the marriage and before a decree of
12 legal separation is presumed to be marital property, regardless of whether title is
13 held individually or by the spouses in some form of co-ownership such as joint
14 tenancy, tenancy in common, tenancy by the entirety, and community property. The
15 presumption of marital property is overcome by a showing that the property was
16 acquired by a method listed in subsection (2) of this section.
- 17 (4) **(a) Subject to the limitation of paragraph (b) of this subsection:** If the
18 retirement benefits of one spouse are excepted from classification as marital
19 property, or not considered as an economic circumstance during the division
20 of marital property, then the retirement benefits of the other spouse shall also
21 be excepted, or not considered, as the case may be. However, the level of
22 exception provided to the spouse with the greater retirement benefit shall not
23 exceed the level of exception provided to the other spouse.
- 24 **(b) A spouse who is the victim of a crime perpetrated by the other spouse as**
25 **described in subsection (1)(e) of this section shall be entitled to exclude**
26 **from marital property up to twenty-five percent (25%) of any retirement**
27 **benefits he or she individually acquired during the marriage. The court**

1 may, in its discretion, increase that exclusion up to one hundred percent
2 (100%) considering the totality of the circumstances.

3 (c) Retirement benefits, for the purposes of this subsection shall include
4 retirement or disability allowances, accumulated contributions, or any other
5 benefit of a retirement system or plan regulated by the Employees Retirement
6 Income Security Act of 1974, or of a public retirement system administered
7 by an agency of a state or local government, including deferred compensation
8 plans created pursuant to KRS 18A.230 to 18A.275 or defined contribution or
9 money purchase plans qualified under Section 401(a) of the Internal Revenue
10 Code of 1954, as amended.

11 (5) A spouse who is the victim of a crime perpetrated by the other spouse as described
12 in subsection (1)(e) of this section shall be entitled to exclude from marital
13 property up to twenty-five percent (25%) of any whole life insurance policy he or
14 she acquired during the marriage. The court may, in its discretion, increase that
15 exclusion up to one hundred percent (100%) considering the totality of the
16 circumstances.

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