

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 that results in a felony conviction.***
- 19 (2) For the purpose of this chapter, "marital property" means all property acquired by
20 either spouse subsequent to the marriage, except:
- 21 (a) Property acquired by gift, bequest, devise, or descent during the marriage and
22 the income derived therefrom unless there are significant activities of either
23 spouse which contributed to the increase in value of said property and the
24 income earned therefrom;
- 25 (b) Property acquired in exchange for property acquired before the marriage or in
26 exchange for property acquired by gift, bequest, devise, or descent;
- 27 (c) Property acquired by a spouse after a decree of legal separation;

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

1 *not be entitled to claim any insurance policy acquired during the marriage as*
2 *marital property.*

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