

SENATE BILL REPORT

SB 5715

AS OF FEBRUARY 22, 1991

Brief Description: Requiring consideration of intangible property in the division of community property following dissolution or legal separation.

SPONSORS: Senator A. Smith.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Jon Carlson (786-7459)

Hearing Dates: February 26, 1991

BACKGROUND:

In some cases, a person will support a spouse through graduate or professional school in the mutual expectation of future financial benefit to the community. When the marriage ends before that benefit can be realized, that circumstance is a "relevant factor" to be considered in making a fair and equitable division of property or a just award of maintenance during dissolution proceedings. If the assets of the parties are insufficient to permit compensation through property division, a supplemental award of maintenance is appropriate.

There is concern that the supporting spouse is under-compensated when the contribution to the other spouse's professional degree is regarded only as a relevant factor in determining a fair division of property. In the opinion of some, this approach largely ignores the value of the advanced or professional degree as a marital asset. It is recommended that an advanced or professional education be considered an intangible marital asset subject to distribution upon dissolution of a marriage.

SUMMARY:

In a proceeding for dissolution of a marriage, the disposition of property and liabilities must include intangible property and assets.

The court is required to consider the nature and extent of intangible community property and assets, including the enhancement of earning capacity of either spouse during marriage. The court must also take into account any career opportunities lost by a spouse in order to provide educational opportunity for the other spouse.

If the tangible assets of the parties are insufficient to permit an equitable disposition, the court must require one

spouse to make periodic payments to the other over a reasonable period of time without regard to maintenance.

Appropriation: none

Revenue: none

Fiscal Note: none requested