

SENATE BILL REPORT

SB 5858

As Reported by Senate Committee On:
Law & Justice, January 25, 2024

Title: An act relating to the just and equitable distribution of real property and liabilities in the dissolution of marriage or domestic partnerships.

Brief Description: Concerning the just and equitable distribution of real property and liabilities in the dissolution of marriage or domestic partnerships.

Sponsors: Senator Fortunato.

Brief History:

Committee Activity: Law & Justice: 1/15/24, 1/25/24 [DPS, DNP].

Brief Summary of First Substitute Bill

- Requires courts to consider additional factors when distributing real property and family homes in dissolution proceedings.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5858 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Padden, Ranking Member; McCune, Salomon, Torres, Wagoner and Wilson, L..

Minority Report: Do not pass.

Signed by Senators Kuderer, Pedersen and Valdez.

Staff: William Bridges (786-7312)

Background: Distribution of Property in Dissolution Proceedings. In a proceeding for dissolution of marriage or domestic partnership, legal separation, or declaration of

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invalidity, Washington courts are required by statute to distribute the property and liabilities of the parties in a just and equitable manner after considering all relevant factors including, but not limited to the following:

- the nature and extent of the community property;
- the nature and extent of the separate property;
- the duration of the marriage or domestic partnership; and
- the economic circumstances of each spouse or domestic partner at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live in it for reasonable periods to a spouse or domestic partner with whom the children reside the majority of the time.

Summary of Bill (First Substitute): Requiring Courts to Consider Additional Factors when Distributing Real Property and Family Homes in Dissolution Proceedings. When considering the just and equitable distribution of real property and liabilities, a court should consider the division of costs associated with the disposition of real property, such as taxes, broker and agent fees, repairs, and other costs related to preparing a property for sale.

When considering the disposition of the family home, a court should consider the following:

- the potential for homelessness of a spouse and children and the provision of housing if such a case is likely to occur.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Removed language related to the value for which the family home can be sold.
- Made additional economic considerations discretionary instead of mandatory.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: When dividing the family house in dissolution proceedings, courts will sometimes award the family house to an ex-spouse but require a payment to the other ex-spouse that is equal to half of the value of the house. This can create an inequitable situation, because the owner will have to sell the house to make the payment to the other party or sell the house because the mortgage payments are too high on one income. In either case, the costs of the sale, for example brokerage fees, are borne solely by the seller. And because the sale is driven by desperation, the price may be lower

than usual. Situations like this will often leave ex-spouses and their children homeless. One possible solution is to give the owner a specified time to sell the house, but require the ex-spouse to pay the mortgage during that period. The timing of home sales should also be considered by courts because the value of a house at dissolution can be drastically different from when the house sells. More should be done; the legislature should be more prescriptive about its solutions rather than leaving decisions to the discretion of the courts.

Persons Testifying: PRO: Senator Phil Fortunato, Prime Sponsor; Dana Tingey, Highground; Shira Cole; Rebecca Chadwell; Tanya Goodman; Christine Allison; Tamara Emerson, Tamara Emersonh Homes, Mosaic Real Estate; Laura Channel; Michael Pollock.

Persons Signed In To Testify But Not Testifying: No one.