IC 31-15-7

Chapter 7. Disposition of Property and Maintenance

IC 31-15-7-0.2

Application of certain amendments to prior law

Sec. 0.2. The rebuttable presumption established under IC 31-1-11.5-11(c) (before its repeal, now codified at section 5 of this chapter), as amended by P.L.283-1987, does not apply to the division of marital property in actions for marriage dissolution filed before September 1, 1987.

As added by P.L.220-2011, SEC.498.

IC 31-15-7-0.3

General assembly declarations

Sec. 0.3. The general assembly:

(1) recognizes that reform of certain elements concerning the manner in which property of spouses is transferred upon the death of a spouse, when there is no will, has become necessary;

(2) recognizes inconsistencies in the manner in which the property of spouses is divided at marriage dissolution have become apparent;

(3) sees the need for spouses to be able to enter into a legal agreement during their lifetime, concerning which of their property shall be considered individually owned and which of their property shall be considered jointly owned; and

(4) agrees to enact the Property and Inheritance Rights of Spouses Act (amendments made to IC 29-1-2-1, IC 29-1-2-13, IC 29-1-3-6, and IC 31-1-11.5-11, before its repeal, now codified at IC 31-15-7-2 and IC 31-15-7-5).

As added by P.L.220-2011, SEC.499.

IC 31-15-7-1

Order for maintenance

Sec. 1. The court may order maintenance in:

(1) final dissolution of marriage decrees entered under IC 31-15-2-16; and

(2) legal separation decrees entered under IC 31-15-3-9;

after making the findings required by section 2 of this chapter.

As added by P.L.1-1997, SEC.7. Amended by P.L.197-1997, SEC.8.

IC 31-15-7-2

Findings concerning maintenance

Sec. 2. A court may make the following findings concerning maintenance:

(1) If the court finds a spouse to be physically or mentally incapacitated to the extent that the ability of the incapacitated spouse to support himself or herself is materially affected, the court may find that maintenance for the spouse is necessary during the period of incapacity, subject to further order of the court.

(2) If the court finds that:

(A) a spouse lacks sufficient property, including marital property apportioned to the spouse, to provide for the spouse's needs; and

(B) the spouse is the custodian of a child whose physical or mental incapacity requires the custodian to forgo employment;

the court may find that maintenance is necessary for the spouse in an amount and for a period of time that the court considers appropriate.

(3) After considering:

(A) the educational level of each spouse at the time of marriage and at the time the action is commenced;

(B) whether an interruption in the education, training, or employment of a spouse who is seeking maintenance occurred during the marriage as a result of homemaking or child care responsibilities, or both;

(C) the earning capacity of each spouse, including educational background, training, employment skills, work experience, and length of presence in or absence from the job market; and

(D) the time and expense necessary to acquire sufficient education or training to enable the spouse who is seeking maintenance to find appropriate employment;

a court may find that rehabilitative maintenance for the spouse seeking maintenance is necessary in an amount and for a period of time that the court considers appropriate, but not to exceed three (3) years from the date of the final decree.

As added by P.L.1-1997, SEC.7.

IC 31-15-7-3

Modification or revocation of order for maintenance

Sec. 3. Provisions of an order with respect to maintenance ordered under section 1 of this chapter (or IC 31-1-11.5-9(c) before its repeal) may be modified or revoked. Except as provided in IC 31-16-8-2, modification may be made only:

(1) upon a showing of changed circumstances so substantial and continuing as to make the terms unreasonable; or

(2) upon a showing that:

(A) a party has been ordered to pay an amount in child support that differs by more than twenty percent (20%) from the amount that would be ordered by applying the child support guidelines; and

(B) the order requested to be modified or revoked was issued at least twelve (12) months before the petition requesting modification was filed.

As added by P.L.1-1997, SEC.7.

IC 31-15-7-4

Division of property

Sec. 4. (a) In an action for dissolution of marriage under IC 31-15-2-2, the court shall divide the property of the parties, whether:

(1) owned by either spouse before the marriage;

(2) acquired by either spouse in his or her own right:

(A) after the marriage; and

(B) before final separation of the parties; or

(3) acquired by their joint efforts.

(b) The court shall divide the property in a just and reasonable manner by:

(1) division of the property in kind;

(2) setting the property or parts of the property over to one (1) of the spouses and requiring either spouse to pay an amount, either in gross or in installments, that is just and proper;

(3) ordering the sale of the property under such conditions as the court prescribes and dividing the proceeds of the sale; or

(4) ordering the distribution of benefits described in IC 31-9-2-98(b)(2) or IC 31-9-2-98(b)(3) that are payable after the dissolution of marriage, by setting aside to either of the parties a percentage of those payments either by assignment or in kind at the time of receipt.

As added by P.L.1-1997, SEC.7.

IC 31-15-7-5

Presumption for equal division of marital property; rebuttal

Sec. 5. The court shall presume that an equal division of the marital property between the parties is just and reasonable. However, this presumption may be rebutted by a party who presents relevant evidence, including evidence concerning the following factors, that an equal division would not be just and reasonable:

(1) The contribution of each spouse to the acquisition of the property, regardless of whether the contribution was income producing.

(2) The extent to which the property was acquired by each spouse:

(A) before the marriage; or

(B) through inheritance or gift.

(3) The economic circumstances of each spouse at the time the disposition of the property is to become effective, including the desirability of awarding the family residence or the right to dwell in the family residence for such periods as the court considers just to the spouse having custody of any children.

(4) The conduct of the parties during the marriage as related to the disposition or dissipation of their property.

(5) The earnings or earning ability of the parties as related to:

(A) a final division of property; and

(B) a final determination of the property rights of the parties.

As added by P.L.1-1997, SEC.7.

IC 31-15-7-6

Monetary judgment to spouse for expenses of postsecondary education

Sec. 6. If the court finds there is little or no marital property, the court may award either spouse a money judgment not limited to the property existing at the time of final separation. However, this award may be made only for the financial contribution of one (1) spouse toward tuition, books, and laboratory fees for the postsecondary education of the other spouse.

As added by P.L.1-1997, SEC.7. Amended by P.L.2-2007, SEC.359.

IC 31-15-7-7

Tax consequences of property division

Sec. 7. The court, in determining what is just and reasonable in dividing property under this chapter, shall consider the tax consequences of the property disposition with respect to the present and future economic circumstances of each party.

As added by P.L.1-1997, SEC.7.

IC 31-15-7-8

Security, bond, or other guarantee of division of property

Sec. 8. Upon entering an order under this chapter, the court may provide for the security, bond, or other guarantee that is satisfactory to the court to secure the division of property.

As added by P.L.1-1997, SEC.7.

IC 31-15-7-9

Repealed

(*Repealed by P.L.197-1997, SEC.29.)*

IC 31-15-7-9.1

Revocation or modification of property disposition orders; fraud

Sec. 9.1. (a) The orders concerning property disposition entered under this chapter (or IC 31-1-11.5-9 before its repeal) may not be revoked or modified, except in case of fraud.

(b) If fraud is alleged, the fraud must be asserted not later than six (6) years after the order is entered.

As added by P.L.2-1998, SEC.75.

IC 31-15-7-10

Enforcement

Sec. 10. Notwithstanding any other law, all orders and awards contained in a dissolution of marriage decree or legal separation decree may be enforced by:

(1) contempt;

(2) an income withholding order; or

(3) any other remedies available for the enforcement of a court order;

except as otherwise provided by this article.

As added by P.L.1-1997, SEC.7. Amended by P.L.197-1997, SEC.9; P.L.148-2006, SEC.12.