
SENATE BILL 5706

State of Washington 52nd Legislature 1991 Regular Session

By Senators Craswell, Rasmussen, L. Smith, Stratton and Hayner.

Read first time February 15, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to consideration of marital misconduct in
2 dissolutions; and amending RCW 26.09.080, 26.09.090, 26.09.100, and
3 26.09.140.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 26.09.080 and 1989 c 375 s 5 are each amended to read
6 as follows:

7 In a proceeding for dissolution of the marriage, legal separation,
8 declaration of invalidity, or in a proceeding for disposition of
9 property following dissolution of the marriage by a court which lacked
10 personal jurisdiction over the absent spouse or lacked jurisdiction to
11 dispose of the property, the court shall(~~(, without regard to marital~~
12 ~~misconduct,~~)) make such disposition of the property and the liabilities
13 of the parties, either community or separate, as shall appear just and
14 equitable after considering all relevant factors including, but not
15 limited to:

- 1 (1) The nature and extent of the community property;
- 2 (2) The nature and extent of the separate property;
- 3 (3) The duration of the marriage; (~~and~~)
- 4 (4) The economic circumstances of each spouse at the time the
- 5 division of property is to become effective, including the desirability
- 6 of awarding the family home or the right to live therein for reasonable
- 7 periods to a spouse with whom the children reside the majority of the
- 8 time; and
- 9 (5) The nature and extent of marital misconduct.

10 **Sec. 2.** RCW 26.09.090 and 1989 c 375 s 6 are each amended to read
11 as follows:

12 (1) In a proceeding for dissolution of marriage, legal separation,
13 declaration of invalidity, or in a proceeding for maintenance following
14 dissolution of the marriage by a court which lacked personal
15 jurisdiction over the absent spouse, the court may grant a maintenance
16 order for either spouse. The maintenance order shall be in such
17 amounts and for such periods of time as the court deems just(~~(, without~~
18 ~~regard to marital misconduct,~~) after considering all relevant factors
19 including but not limited to:

20 (a) The financial resources of the party seeking maintenance,
21 including separate or community property apportioned to him, and his
22 ability to meet his needs independently, including the extent to which
23 a provision for support of a child living with the party includes a sum
24 for that party;

25 (b) The time necessary to acquire sufficient education or training
26 to enable the party seeking maintenance to find employment appropriate
27 to his skill, interests, style of life, and other attendant
28 circumstances;

29 (c) The standard of living established during the marriage;

- 1 (d) The duration of the marriage;
- 2 (e) The age, physical and emotional condition, and financial
3 obligations of the spouse seeking maintenance; ~~((and))~~
- 4 (f) The ability of the spouse from whom maintenance is sought to
5 meet his needs and financial obligations while meeting those of the
6 spouse seeking maintenance; and
- 7 (g) The nature and extent of marital misconduct.

8 **Sec. 3.** RCW 26.09.100 and 1990 1st ex.s. c 2 s 1 are each amended
9 to read as follows:

10 In a proceeding for dissolution of marriage, legal separation,
11 declaration of invalidity, maintenance, or child support, after
12 considering all relevant factors (~~but without regard to marital~~
13 ~~misconduct~~)), the court shall order either or both parents owing a duty
14 of support to any child of the marriage dependent upon either or both
15 spouses to pay an amount determined under chapter 26.19 RCW. The court
16 may require periodic adjustments of support. The adjustment provision
17 may be modified by the court due to economic hardship.

18 **Sec. 4.** RCW 26.09.140 and 1973 1st ex.s. c 157 s 14 are each
19 amended to read as follows:

20 The court from time to time after considering the financial
21 resources of both parties and the nature and extent of marital
22 misconduct may order a party to pay a reasonable amount for the cost to
23 the other party of maintaining or defending any proceeding under this
24 chapter and for reasonable attorney's fees or other professional fees
25 in connection therewith, including sums for legal services rendered and
26 costs incurred prior to the commencement of the proceeding or
27 enforcement or modification proceedings after entry of judgment.

1 Upon any appeal, the appellate court may, in its discretion, order
2 a party to pay for the cost to the other party of maintaining the
3 appeal and attorney's fees in addition to statutory costs.

4 The court may order that the attorney's fees be paid directly to
5 the attorney who may enforce the order in his name.