

SENATE BILL REPORT

SB 5536

As of February 10, 2025

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: 2/10/25.

Brief Summary of Bill

- Enables either party in a marriage or domestic partnership dissolution case to enforce court orders regarding real property.
- Requires creditors to follow conditions regarding real property in court orders issued in marriage and domestic partnership dissolution cases.
- Adds considerations for courts ordering real property distributions in marriage and domestic partnership dissolution cases.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Patrick Moore (786-7535)

Background: Marital dissolution is the legal process that terminates a marriage, sometimes referred to as no-fault divorce, where parties do not need to prove fault of either spouse. State registered domestic partnerships are treated the same as marriages. In court proceedings for dissolution of marriages and domestic partnerships, courts issue orders that divide the parties' legal interests in their property.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Real property is land and the buildings and other permanent fixtures attached to it. Community property is property that belongs equally to both spouses or domestic partners. Separate property is property that belongs to just one spouse or domestic partner.

When issuing orders to divide property in dissolution proceedings, courts seek to make just and equitable dispositions of property. The courts may consider many factors including but not limited to the nature and extent of separate and community property, the duration of marriage or domestic partnership, and the economic circumstances of each spouse or domestic partner.

Summary of Bill: A person who is a party in a court proceeding for dissolution of a marriage or domestic partnership may enforce court orders regarding the disposition and ownership of real property. Creditors are required to follow conditions in such court orders.

Points of consideration are added for courts ordering real property dispositions in marriage and domestic partnership dissolution proceedings. These additional points are the division of costs associated with the disposition of real property, such as taxes, broker and agent fees, repairs, and other costs related to selling real property. When considering disposition of a family home, courts should consider risk of homelessness and providing housing for a spouse and children at risk of such.

Appropriation: None.

Fiscal Note: Requested on February 9, 2025.

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: PRO: In divorce proceedings courts often award the family home to the spouse who has the children most often. That spouse is required to buy out the other spouse's interest. Often, the spouse who is awarded the home cannot afford the buyout so they must sell at a loss.

This bill would have courts ask the spouse who would be awarded the home whether they want to keep it or sell it. If they want to sell it, the court would allow them a reasonable time to do so without buying out the other spouse's interest. Then the proceeds of sale would be divided between the spouses. That way, one spouse would not be burdened with all the expenses while the other side has no burden.

Courts should consider risk of homelessness when dividing property in divorce. In divorces involving abuse, the present manner of dividing property enables an abuser to inflict financial abuse. In some cases, a divorcing spouse is forced into homelessness.

Persons Testifying: PRO: Senator Phil Fortunato, Prime Sponsor; Dana Tingey, High Ground Divorces; Gina Bloom; Tamara Emerson.

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