

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 202
By: Goodman (Harris)
Jurisprudence
5/5/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current Family Code provisions, postmarital agreements have evolved as the Texas Constitution has changed. The provisions in postmarital agreements regarding the income from separate property may not be in conformity with constitutional provisions. Additionally, the requirements for execution of the document differ from the requirements of premarital agreements.

C.S.H.B. 202 clarifies the provisions of the statute regarding income from separate property and conforms the requirement for execution of postmarital agreements to those for premarital agreements. It also provides for informal settlement conferences for parties to a suit for dissolution of marriage.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 4.102, Family Code, to authorize the partition or exchange of property to provide that future earnings and income arising from the transferred property shall be separate property of the owning spouse. Deletes existing text providing that the partition or exchange of property includes future earnings and income arising from the property as separate property of the owning spouse unless the spouses agree in a record that future earnings and income will be community property after the partition or exchange.

SECTION 2. Amends Section 4.104, Family Code, to require a partition or exchange agreement under Section 4.102 (Partition or Exchange of Community Property) or an agreement under Section 4.103 (Agreement between Spouses Concerning Income or Property from Separate Property), rather than a partition or exchange agreement, to be in writing and signed by both parties. Provides that either agreement is enforceable without consideration.

SECTION 3. Amends Subchapter G, Chapter 6, Family Code, by adding Section 6.604, as follows:

Sec. 6.604. INFORMAL SETTLEMENT CONFERENCE. (a) Authorizes the parties to a suit for dissolution of a marriage to agree to one or more informal settlement conferences and to agree that the settlement conferences may be conducted with or without the presence of the parties' attorneys, if any.

(b) Sets forth the requirements for a written settlement agreement reached at the informal settlement conference in order for that agreement to be binding on the parties.

(c) Entitles a party, if a written settlement agreement meets the requirements of Subsection (b), to judgment on the settlement agreement notwithstanding Rule 11, Texas Rules of Civil Procedure, or another rule of law.

(d) Provides that if the court finds that the terms of the written informal settlement are just and right, those terms are binding on the court. Authorizes the court, if

the court approves the settlement, to set forth the agreement in full or incorporate the agreement by reference in the final decree.

(e) Authorizes the court, if the court finds that the terms of the written informal settlement agreement are not just and right, to request the parties to submit a revised agreement or set the case for a contested hearing.

SECTION 4. Makes application Sections 4.102 and 4.104, Family Code, as amended by this Act, prospective.

SECTION 5. Effective date: September 1, 2005.