

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 622

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO DIVORCE ACTIONS; AMENDING SECTION 32-712, IDAHO CODE, TO PROVIDE FOR CERTAIN FACTORS REGARDING THE ASSIGNMENT OF COMMUNITY PROPERTY AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 32-712, Idaho Code, be, and the same is hereby amended to read as follows:

32-712. COMMUNITY PROPERTY AND HOMESTEAD -- DISPOSITION. In case of divorce by the decree of a court of competent jurisdiction, the community property and the homestead must be assigned as follows:

1. The community property must be assigned by the court in such proportions as the court, from all the facts of the case and the condition of the parties, deems just, with due consideration of the following factors:

(a) Unless there are compelling reasons otherwise, there shall be a substantially equal division in value, considering debts, between the spouses.

(b) Factors ~~which~~ that may bear upon whether a division shall be equal, or the manner of division, include, but are not limited to:

(1) Duration of the marriage;

(2) Any antenuptial agreement of the parties; provided, however, that the court shall have no authority to amend or rescind any such agreement;

(3) The age, health, occupation, amount and source of income, vocational skills, employability, and liabilities of each spouse;

(4) The needs of each spouse;

(5) Whether the apportionment is in lieu of or in addition to maintenance;

(6) The present and potential earning capability of each party;

~~and~~

(7) Retirement benefits, including, but not limited to, social security, civil service, military and railroad retirement benefits; and

(8) Fault-based grounds for divorce as defined in sections 32-604, 32-605, 32-606, 32-607, and 32-608, Idaho Code.

2. If a homestead has been selected from the community property, it may be assigned to either party, either absolutely, provided such assignment is considered in distribution of the community property, or for a limited period, subject in the latter case to the future disposition of the court; or it may be divided or be sold and the proceeds divided.

1 3. If a homestead has been selected from the separate property of ei-
2 ther, it must be assigned to the former owner of such property, subject to the
3 power of the court to assign it for a limited period to the other spouse.

4 SECTION 2. An emergency existing therefor, which emergency is hereby
5 declared to exist, this act shall be in full force and effect on and after
6 July 1, 2022.