



Aida S. Montano

Final Analysis
Legislative Service Commission

Am. Sub. H.B. 395
127th General Assembly
(As Passed by the General Assembly)

Reps. Hughes, Flowers, Wagoner, Evans, Yuko, S. Williams, Bacon, Combs, DeBose, J. McGregor, Stebelton

Sens. Buehrer, Carey, Fedor, Harris, Morano, Patton, Schuler, Wagoner

Effective date: *

ACT SUMMARY

- Excludes a spouse's social security benefits from a divorce court's jurisdiction except as may be relevant for purposes of dividing a public pension.

CONTENT AND OPERATION

Continuing law provides that, in divorce proceedings, a court must determine what constitutes "marital property" and what constitutes "separate property" (in legal separation proceedings, a court may make this determination upon the request of either spouse). Upon making such a determination, the court must divide the marital and separate property equitably between the spouses in accordance with the law. Previously, the court had jurisdiction over all property in which one or both spouses had an interest. (R.C. 3105.171(B).)

The act generally excludes the social security benefits of a spouse from the court's jurisdiction, so that, other than as described in the following sentence, social security benefits may not be divided or awarded to the other spouse. The act adds an additional factor for the court to consider when making a division of marital property and when determining whether to make and the amount of any distributive award: the act requires a court to consider any retirement benefits of the spouses, excluding the social security benefits of a spouse except as may be relevant for purposes of dividing a public pension. (R.C. 3105.171(B) and (F)(9).)

* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.

HISTORY

ACTION	DATE
Introduced	11-15-07
Reported, H. Juvenile & Family Law	05-07-08
Passed House (91-3)	05-20-08
Reported, S. Judiciary - Civil Justice	12-10-08
Passed Senate (33-0)	12-16-08
House concurred in Senate amendments (94-2)	12-17-08

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