

SB0610



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB0610

Introduced 1/24/2017, by Sen. Chuck Weaver

SYNOPSIS AS INTRODUCED:

750 ILCS 5/503

from Ch. 40, par. 503

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that as to any policy of life insurance insuring the life of either spouse, or any interest in such policy, that constitutes non-marital property, or constitutes marital property but was not specifically allocated between the parties as provided in the Act, a beneficiary designation made by or on behalf of the decedent prior to the entry of the judgment for dissolution or declaration of invalidity of marriage that provides for the payment or transfer at death of any of the proceeds of the policy to or for the benefit of the decedent's former spouse is void as of the time of the judgment for dissolution or declaration of invalidity of marriage and the policy proceeds shall pass as if the decedent's former spouse predeceased the decedent.

LRB100 00024 HEP 10025 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Marriage and Dissolution of
5 Marriage Act is amended by changing Section 503 as follows:

6 (750 ILCS 5/503) (from Ch. 40, par. 503)

7 (Text of Section before amendment by P.A. 99-763)

8 Sec. 503. Disposition of property and debts.

9 (a) For purposes of this Act, "marital property" means all
10 property, including debts and other obligations, acquired by
11 either spouse subsequent to the marriage, except the following,
12 which is known as "non-marital property":

13 (1) property acquired by gift, legacy or descent or
14 property acquired in exchange for such property;

15 (2) property acquired in exchange for property
16 acquired before the marriage;

17 (3) property acquired by a spouse after a judgment of
18 legal separation;

19 (4) property excluded by valid agreement of the
20 parties, including a premarital agreement or a postnuptial
21 agreement;

22 (5) any judgment or property obtained by judgment
23 awarded to a spouse from the other spouse except, however,

1 when a spouse is required to sue the other spouse in order
2 to obtain insurance coverage or otherwise recover from a
3 third party and the recovery is directly related to amounts
4 advanced by the marital estate, the judgment shall be
5 considered marital property;

6 (6) property acquired before the marriage, except as it
7 relates to retirement plans that may have both marital and
8 non-marital characteristics;

9 (6.5) all property acquired by a spouse by the sole use
10 of non-marital property as collateral for a loan that then
11 is used to acquire property during the marriage; to the
12 extent that the marital estate repays any portion of the
13 loan, it shall be considered a contribution from the
14 marital estate to the non-marital estate subject to
15 reimbursement;

16 (7) the increase in value of non-marital property,
17 irrespective of whether the increase results from a
18 contribution of marital property, non-marital property,
19 the personal effort of a spouse, or otherwise, subject to
20 the right of reimbursement provided in subsection (c) of
21 this Section; and

22 (8) income from property acquired by a method listed in
23 paragraphs (1) through (7) of this subsection if the income
24 is not attributable to the personal effort of a spouse.

25 Property acquired prior to a marriage that would otherwise
26 be non-marital property shall not be deemed to be marital

1 property solely because the property was acquired in
2 contemplation of marriage.

3 The court shall make specific factual findings as to its
4 classification of assets as marital or non-marital property,
5 values, and other factual findings supporting its property
6 award.

7 (b)(1) For purposes of distribution of property, all
8 property acquired by either spouse after the marriage and
9 before a judgment of dissolution of marriage or declaration of
10 invalidity of marriage is presumed marital property. This
11 presumption includes non-marital property transferred into
12 some form of co-ownership between the spouses, regardless of
13 whether title is held individually or by the spouses in some
14 form of co-ownership such as joint tenancy, tenancy in common,
15 tenancy by the entirety, or community property. A spouse may
16 overcome the presumption of marital property by showing through
17 clear and convincing evidence that the property was acquired by
18 a method listed in subsection (a) of this Section or was done
19 for estate or tax planning purposes or for other reasons that
20 establish that the transfer was not intended to be a gift.

21 (2) For purposes of distribution of property pursuant to
22 this Section, all pension benefits (including pension benefits
23 under the Illinois Pension Code, defined benefit plans, defined
24 contribution plans and accounts, individual retirement
25 accounts, and non-qualified plans) acquired by or participated
26 in by either spouse after the marriage and before a judgment of

1 dissolution of marriage or legal separation or declaration of
2 invalidity of the marriage are presumed to be marital property.
3 A spouse may overcome the presumption that these pension
4 benefits are marital property by showing through clear and
5 convincing evidence that the pension benefits were acquired by
6 a method listed in subsection (a) of this Section. The right to
7 a division of pension benefits in just proportions under this
8 Section is enforceable under Section 1-119 of the Illinois
9 Pension Code.

10 The value of pension benefits in a retirement system
11 subject to the Illinois Pension Code shall be determined in
12 accordance with the valuation procedures established by the
13 retirement system.

14 The recognition of pension benefits as marital property and
15 the division of those benefits pursuant to a Qualified Illinois
16 Domestic Relations Order shall not be deemed to be a
17 diminishment, alienation, or impairment of those benefits. The
18 division of pension benefits is an allocation of property in
19 which each spouse has a species of common ownership.

20 (3) For purposes of distribution of property under this
21 Section, all stock options and restricted stock or similar form
22 of benefit granted to either spouse after the marriage and
23 before a judgment of dissolution of marriage or legal
24 separation or declaration of invalidity of marriage, whether
25 vested or non-vested or whether their value is ascertainable,
26 are presumed to be marital property. This presumption of

1 marital property is overcome by a showing that the stock
2 options or restricted stock or similar form of benefit were
3 acquired by a method listed in subsection (a) of this Section.
4 The court shall allocate stock options and restricted stock or
5 similar form of benefit between the parties at the time of the
6 judgment of dissolution of marriage or declaration of
7 invalidity of marriage recognizing that the value of the stock
8 options and restricted stock or similar form of benefit may not
9 be then determinable and that the actual division of the
10 options may not occur until a future date. In making the
11 allocation between the parties, the court shall consider, in
12 addition to the factors set forth in subsection (d) of this
13 Section, the following:

14 (i) All circumstances underlying the grant of the stock
15 option and restricted stock or similar form of benefit
16 including but not limited to the vesting schedule, whether
17 the grant was for past, present, or future efforts, whether
18 the grant is designed to promote future performance or
19 employment, or any combination thereof.

20 (ii) The length of time from the grant of the option to
21 the time the option is exercisable.

22 (b-5)(1) As to any existing policy of life insurance
23 insuring the life of either spouse, or any interest in such
24 policy, that constitutes marital property, whether whole life,
25 term life, group term life, universal life, or other form of
26 life insurance policy, and whether or not the value is

1 ascertainable, the court shall allocate ownership, death
2 benefits or the right to assign death benefits, and the
3 obligation for premium payments, if any, equitably between the
4 parties at the time of the judgment for dissolution or
5 declaration of invalidity of marriage.

6 (2) As to any existing policy of life insurance insuring
7 the life of either spouse, or any interest in such policy, that
8 constitutes non-marital property, or constitutes marital
9 property but was not specifically allocated between the parties
10 as provided in paragraph (1) of this subsection, a beneficiary
11 designation made by or on behalf of the decedent prior to the
12 entry of the judgment for dissolution or declaration of
13 invalidity of marriage that provides for the payment or
14 transfer at death of any of the proceeds of the policy to or
15 for the benefit of the decedent's former spouse is void as of
16 the time of the judgment for dissolution or declaration of
17 invalidity of marriage and the policy proceeds shall pass as if
18 the decedent's former spouse predeceased the decedent.

19 (c) Commingled marital and non-marital property shall be
20 treated in the following manner, unless otherwise agreed by the
21 spouses:

22 (1) (A) If marital and non-marital property are
23 commingled by one estate being contributed into the other,
24 the following shall apply:

25 (i) If the contributed property loses its
26 identity, the contributed property transmutes to the

1 estate receiving the property, subject to the
2 provisions of paragraph (2) of this subsection (c).

3 (ii) If the contributed property retains its
4 identity, it does not transmute and remains property of
5 the contributing estate.

6 (B) If marital and non-marital property are commingled
7 into newly acquired property resulting in a loss of
8 identity of the contributing estates, the commingled
9 property shall be deemed transmuted to marital property,
10 subject to the provisions of paragraph (2) of this
11 subsection (c).

12 (2) (A) When one estate of property makes a contribution
13 to another estate of property, the contributing estate
14 shall be reimbursed from the estate receiving the
15 contribution notwithstanding any transmutation. No such
16 reimbursement shall be made with respect to a contribution
17 that is not traceable by clear and convincing evidence or
18 that was a gift. The court may provide for reimbursement
19 out of the marital property to be divided or by imposing a
20 lien against the non-marital property that received the
21 contribution.

22 (B) When a spouse contributes personal effort to
23 non-marital property, it shall be deemed a contribution
24 from the marital estate, which shall receive reimbursement
25 for the efforts if the efforts are significant and result
26 in substantial appreciation to the non-marital property

1 except that if the marital estate reasonably has been
2 compensated for his or her efforts, it shall not be deemed
3 a contribution to the marital estate and there shall be no
4 reimbursement to the marital estate. The court may provide
5 for reimbursement out of the marital property to be divided
6 or by imposing a lien against the non-marital property
7 which received the contribution.

8 (d) In a proceeding for dissolution of marriage or
9 declaration of invalidity of marriage, or in a proceeding for
10 disposition of property following dissolution of marriage by a
11 court that lacked personal jurisdiction over the absent spouse
12 or lacked jurisdiction to dispose of the property, the court
13 shall assign each spouse's non-marital property to that spouse.
14 It also shall divide the marital property without regard to
15 marital misconduct in just proportions considering all
16 relevant factors, including:

17 (1) each party's contribution to the acquisition,
18 preservation, or increase or decrease in value of the
19 marital or non-marital property, including (i) any
20 decrease attributable to an advance from the parties'
21 marital estate under subsection (c-1)(2) of Section 501;
22 (ii) the contribution of a spouse as a homemaker or to the
23 family unit; and (iii) whether the contribution is after
24 the commencement of a proceeding for dissolution of
25 marriage or declaration of invalidity of marriage;

26 (2) the dissipation by each party of the marital

1 property, provided that a party's claim of dissipation is
2 subject to the following conditions:

3 (i) a notice of intent to claim dissipation shall
4 be given no later than 60 days before trial or 30 days
5 after discovery closes, whichever is later;

6 (ii) the notice of intent to claim dissipation
7 shall contain, at a minimum, a date or period of time
8 during which the marriage began undergoing an
9 irretrievable breakdown, an identification of the
10 property dissipated, and a date or period of time
11 during which the dissipation occurred;

12 (iii) a certificate or service of the notice of
13 intent to claim dissipation shall be filed with the
14 clerk of the court and be served pursuant to applicable
15 rules;

16 (iv) no dissipation shall be deemed to have
17 occurred prior to 3 years after the party claiming
18 dissipation knew or should have known of the
19 dissipation, but in no event prior to 5 years before
20 the filing of the petition for dissolution of marriage;

21 (3) the value of the property assigned to each spouse;

22 (4) the duration of the marriage;

23 (5) the relevant economic circumstances of each spouse
24 when the division of property is to become effective,
25 including the desirability of awarding the family home, or
26 the right to live therein for reasonable periods, to the

- 1 spouse having the primary residence of the children;
- 2 (6) any obligations and rights arising from a prior
3 marriage of either party;
- 4 (7) any prenuptial or postnuptial agreement of the
5 parties;
- 6 (8) the age, health, station, occupation, amount and
7 sources of income, vocational skills, employability,
8 estate, liabilities, and needs of each of the parties;
- 9 (9) the custodial provisions for any children;
- 10 (10) whether the apportionment is in lieu of or in
11 addition to maintenance;
- 12 (11) the reasonable opportunity of each spouse for
13 future acquisition of capital assets and income; and
- 14 (12) the tax consequences of the property division upon
15 the respective economic circumstances of the parties.
- 16 (e) Each spouse has a species of common ownership in the
17 marital property which vests at the time dissolution
18 proceedings are commenced and continues only during the
19 pendency of the action. Any such interest in marital property
20 shall not encumber that property so as to restrict its
21 transfer, assignment or conveyance by the title holder unless
22 such title holder is specifically enjoined from making such
23 transfer, assignment or conveyance.
- 24 (f) In a proceeding for dissolution of marriage or
25 declaration of invalidity of marriage or in a proceeding for
26 disposition of property following dissolution of marriage by a

1 court that lacked personal jurisdiction over the absent spouse
2 or lacked jurisdiction to dispose of the property, the court,
3 in determining the value of the marital and non-marital
4 property for purposes of dividing the property, has the
5 discretion to use the date of the trial or such other date as
6 agreed upon by the parties, or ordered by the court within its
7 discretion, for purposes of determining the value of assets or
8 property.

9 (g) The court if necessary to protect and promote the best
10 interests of the children may set aside a portion of the
11 jointly or separately held estates of the parties in a separate
12 fund or trust for the support, maintenance, education, physical
13 and mental health, and general welfare of any minor, dependent,
14 or incompetent child of the parties. In making a determination
15 under this subsection, the court may consider, among other
16 things, the conviction of a party of any of the offenses set
17 forth in Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60,
18 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-13, 12-14, 12-14.1,
19 12-15, or 12-16, or Section 12-3.05 except for subdivision
20 (a) (4) or (g) (1), of the Criminal Code of 1961 or the Criminal
21 Code of 2012 if the victim is a child of one or both of the
22 parties, and there is a need for, and cost of, care, healing
23 and counseling for the child who is the victim of the crime.

24 (h) Unless specifically directed by a reviewing court, or
25 upon good cause shown, the court shall not on remand consider
26 any increase or decrease in the value of any "marital" or

1 "non-marital" property occurring since the assessment of such
2 property at the original trial or hearing, but shall use only
3 that assessment made at the original trial or hearing.

4 (i) The court may make such judgments affecting the marital
5 property as may be just and may enforce such judgments by
6 ordering a sale of marital property, with proceeds therefrom to
7 be applied as determined by the court.

8 (j) After proofs have closed in the final hearing on all
9 other issues between the parties (or in conjunction with the
10 final hearing, if all parties so stipulate) and before judgment
11 is entered, a party's petition for contribution to fees and
12 costs incurred in the proceeding shall be heard and decided, in
13 accordance with the following provisions:

14 (1) A petition for contribution, if not filed before
15 the final hearing on other issues between the parties,
16 shall be filed no later than 14 days after the closing of
17 proofs in the final hearing or within such other period as
18 the court orders.

19 (2) Any award of contribution to one party from the
20 other party shall be based on the criteria for division of
21 marital property under this Section 503 and, if maintenance
22 has been awarded, on the criteria for an award of
23 maintenance under Section 504.

24 (3) The filing of a petition for contribution shall not
25 be deemed to constitute a waiver of the attorney-client
26 privilege between the petitioning party and current or

1 former counsel; and such a waiver shall not constitute a
2 prerequisite to a hearing for contribution. If either
3 party's presentation on contribution, however, includes
4 evidence within the scope of the attorney-client
5 privilege, the disclosure or disclosures shall be narrowly
6 construed and shall not be deemed by the court to
7 constitute a general waiver of the privilege as to matters
8 beyond the scope of the presentation.

9 (4) No finding on which a contribution award is based
10 or denied shall be asserted against counsel or former
11 counsel for purposes of any hearing under subsection (c) or
12 (e) of Section 508.

13 (5) A contribution award (payable to either the
14 petitioning party or the party's counsel, or jointly, as
15 the court determines) may be in the form of either a set
16 dollar amount or a percentage of fees and costs (or a
17 portion of fees and costs) to be subsequently agreed upon
18 by the petitioning party and counsel or, alternatively,
19 thereafter determined in a hearing pursuant to subsection
20 (c) of Section 508 or previously or thereafter determined
21 in an independent proceeding under subsection (e) of
22 Section 508.

23 (6) The changes to this Section 503 made by this
24 amendatory Act of 1996 apply to cases pending on or after
25 June 1, 1997, except as otherwise provided in Section 508.

26 (k) In determining the value of assets or property under

1 this Section, the court shall employ a fair market value
2 standard. The date of valuation for the purposes of division of
3 assets shall be the date of trial or such other date as agreed
4 by the parties or ordered by the court, within its discretion.
5 If the court grants a petition brought under Section 2-1401 of
6 the Code of Civil Procedure, then the court has the discretion
7 to use the date of the trial or such other date as agreed upon
8 by the parties, or ordered by the court within its discretion,
9 for purposes of determining the value of assets or property.

10 (l) The court may seek the advice of financial experts or
11 other professionals, whether or not employed by the court on a
12 regular basis. The advice given shall be in writing and made
13 available by the court to counsel. Counsel may examine as a
14 witness any professional consulted by the court designated as
15 the court's witness. Professional personnel consulted by the
16 court are subject to subpoena for the purposes of discovery,
17 trial, or both. The court shall allocate the costs and fees of
18 those professional personnel between the parties based upon the
19 financial ability of each party and any other criteria the
20 court considers appropriate, and the allocation is subject to
21 reallocation under subsection (a) of Section 508. Upon the
22 request of any party or upon the court's own motion, the court
23 may conduct a hearing as to the reasonableness of those fees
24 and costs.

25 (m) The changes made to this Section by Public Act 97-941
26 apply only to petitions for dissolution of marriage filed on or

1 after January 1, 2013 (the effective date of Public Act
2 97-941).

3 (Source: P.A. 99-78, eff. 7-20-15; 99-90, eff. 1-1-16.)

4 (Text of Section after amendment by P.A. 99-763)

5 Sec. 503. Disposition of property and debts.

6 (a) For purposes of this Act, "marital property" means all
7 property, including debts and other obligations, acquired by
8 either spouse subsequent to the marriage, except the following,
9 which is known as "non-marital property":

10 (1) property acquired by gift, legacy or descent or
11 property acquired in exchange for such property;

12 (2) property acquired in exchange for property
13 acquired before the marriage;

14 (3) property acquired by a spouse after a judgment of
15 legal separation;

16 (4) property excluded by valid agreement of the
17 parties, including a premarital agreement or a postnuptial
18 agreement;

19 (5) any judgment or property obtained by judgment
20 awarded to a spouse from the other spouse except, however,
21 when a spouse is required to sue the other spouse in order
22 to obtain insurance coverage or otherwise recover from a
23 third party and the recovery is directly related to amounts
24 advanced by the marital estate, the judgment shall be
25 considered marital property;

1 (6) property acquired before the marriage, except as it
2 relates to retirement plans that may have both marital and
3 non-marital characteristics;

4 (6.5) all property acquired by a spouse by the sole use
5 of non-marital property as collateral for a loan that then
6 is used to acquire property during the marriage; to the
7 extent that the marital estate repays any portion of the
8 loan, it shall be considered a contribution from the
9 marital estate to the non-marital estate subject to
10 reimbursement;

11 (7) the increase in value of non-marital property,
12 irrespective of whether the increase results from a
13 contribution of marital property, non-marital property,
14 the personal effort of a spouse, or otherwise, subject to
15 the right of reimbursement provided in subsection (c) of
16 this Section; and

17 (8) income from property acquired by a method listed in
18 paragraphs (1) through (7) of this subsection if the income
19 is not attributable to the personal effort of a spouse.

20 Property acquired prior to a marriage that would otherwise
21 be non-marital property shall not be deemed to be marital
22 property solely because the property was acquired in
23 contemplation of marriage.

24 The court shall make specific factual findings as to its
25 classification of assets as marital or non-marital property,
26 values, and other factual findings supporting its property

1 award.

2 (b)(1) For purposes of distribution of property, all
3 property acquired by either spouse after the marriage and
4 before a judgment of dissolution of marriage or declaration of
5 invalidity of marriage is presumed marital property. This
6 presumption includes non-marital property transferred into
7 some form of co-ownership between the spouses, regardless of
8 whether title is held individually or by the spouses in some
9 form of co-ownership such as joint tenancy, tenancy in common,
10 tenancy by the entirety, or community property. The presumption
11 of marital property is overcome by showing through clear and
12 convincing evidence that the property was acquired by a method
13 listed in subsection (a) of this Section or was done for estate
14 or tax planning purposes or for other reasons that establish
15 that a transfer between spouses was not intended to be a gift.

16 (2) For purposes of distribution of property pursuant to
17 this Section, all pension benefits (including pension benefits
18 under the Illinois Pension Code, defined benefit plans, defined
19 contribution plans and accounts, individual retirement
20 accounts, and non-qualified plans) acquired by or participated
21 in by either spouse after the marriage and before a judgment of
22 dissolution of marriage or legal separation or declaration of
23 invalidity of the marriage are presumed to be marital property.
24 A spouse may overcome the presumption that these pension
25 benefits are marital property by showing through clear and
26 convincing evidence that the pension benefits were acquired by

1 a method listed in subsection (a) of this Section. The right to
2 a division of pension benefits in just proportions under this
3 Section is enforceable under Section 1-119 of the Illinois
4 Pension Code.

5 The value of pension benefits in a retirement system
6 subject to the Illinois Pension Code shall be determined in
7 accordance with the valuation procedures established by the
8 retirement system.

9 The recognition of pension benefits as marital property and
10 the division of those benefits pursuant to a Qualified Illinois
11 Domestic Relations Order shall not be deemed to be a
12 diminishment, alienation, or impairment of those benefits. The
13 division of pension benefits is an allocation of property in
14 which each spouse has a species of common ownership.

15 (3) For purposes of distribution of property under this
16 Section, all stock options and restricted stock or similar form
17 of benefit granted to either spouse after the marriage and
18 before a judgment of dissolution of marriage or legal
19 separation or declaration of invalidity of marriage, whether
20 vested or non-vested or whether their value is ascertainable,
21 are presumed to be marital property. This presumption of
22 marital property is overcome by a showing that the stock
23 options or restricted stock or similar form of benefit were
24 acquired by a method listed in subsection (a) of this Section.
25 The court shall allocate stock options and restricted stock or
26 similar form of benefit between the parties at the time of the

1 judgment of dissolution of marriage or declaration of
2 invalidity of marriage recognizing that the value of the stock
3 options and restricted stock or similar form of benefit may not
4 be then determinable and that the actual division of the
5 options may not occur until a future date. In making the
6 allocation between the parties, the court shall consider, in
7 addition to the factors set forth in subsection (d) of this
8 Section, the following:

9 (i) All circumstances underlying the grant of the stock
10 option and restricted stock or similar form of benefit
11 including but not limited to the vesting schedule, whether
12 the grant was for past, present, or future efforts, whether
13 the grant is designed to promote future performance or
14 employment, or any combination thereof.

15 (ii) The length of time from the grant of the option to
16 the time the option is exercisable.

17 (b-5)(1) As to any existing policy of life insurance
18 insuring the life of either spouse, or any interest in such
19 policy, that constitutes marital property, whether whole life,
20 term life, group term life, universal life, or other form of
21 life insurance policy, and whether or not the value is
22 ascertainable, the court shall allocate ownership, death
23 benefits or the right to assign death benefits, and the
24 obligation for premium payments, if any, equitably between the
25 parties at the time of the judgment for dissolution or
26 declaration of invalidity of marriage.

1 (2) As to any existing policy of life insurance insuring
2 the life of either spouse, or any interest in such policy, that
3 constitutes non-marital property, or constitutes marital
4 property but was not specifically allocated between the parties
5 as provided in paragraph (1) of this subsection, a beneficiary
6 designation made by or on behalf of the decedent prior to the
7 entry of the judgment for dissolution or declaration of
8 invalidity of marriage that provides for the payment or
9 transfer at death of any of the proceeds of the policy to or
10 for the benefit of the decedent's former spouse is void as of
11 the time of the judgment for dissolution or declaration of
12 invalidity of marriage and the policy proceeds shall pass as if
13 the decedent's former spouse predeceased the decedent.

14 (c) Commingled marital and non-marital property shall be
15 treated in the following manner, unless otherwise agreed by the
16 spouses:

17 (1) (A) If marital and non-marital property are
18 commingled by one estate being contributed into the other,
19 the following shall apply:

20 (i) If the contributed property loses its
21 identity, the contributed property transmutes to the
22 estate receiving the property, subject to the
23 provisions of paragraph (2) of this subsection (c).

24 (ii) If the contributed property retains its
25 identity, it does not transmute and remains property of
26 the contributing estate.

1 (B) If marital and non-marital property are commingled
2 into newly acquired property resulting in a loss of
3 identity of the contributing estates, the commingled
4 property shall be deemed transmuted to marital property,
5 subject to the provisions of paragraph (2) of this
6 subsection (c).

7 (2) (A) When one estate of property makes a contribution
8 to another estate of property, the contributing estate
9 shall be reimbursed from the estate receiving the
10 contribution notwithstanding any transmutation. No such
11 reimbursement shall be made with respect to a contribution
12 that is not traceable by clear and convincing evidence or
13 that was a gift. The court may provide for reimbursement
14 out of the marital property to be divided or by imposing a
15 lien against the non-marital property that received the
16 contribution.

17 (B) When a spouse contributes personal effort to
18 non-marital property, it shall be deemed a contribution
19 from the marital estate, which shall receive reimbursement
20 for the efforts if the efforts are significant and result
21 in substantial appreciation to the non-marital property
22 except that if the marital estate reasonably has been
23 compensated for his or her efforts, it shall not be deemed
24 a contribution to the marital estate and there shall be no
25 reimbursement to the marital estate. The court may provide
26 for reimbursement out of the marital property to be divided

1 or by imposing a lien against the non-marital property
2 which received the contribution.

3 (d) In a proceeding for dissolution of marriage or
4 declaration of invalidity of marriage, or in a proceeding for
5 disposition of property following dissolution of marriage by a
6 court that lacked personal jurisdiction over the absent spouse
7 or lacked jurisdiction to dispose of the property, the court
8 shall assign each spouse's non-marital property to that spouse.
9 It also shall divide the marital property without regard to
10 marital misconduct in just proportions considering all
11 relevant factors, including:

12 (1) each party's contribution to the acquisition,
13 preservation, or increase or decrease in value of the
14 marital or non-marital property, including (i) any
15 decrease attributable to an advance from the parties'
16 marital estate under subsection (c-1)(2) of Section 501;
17 (ii) the contribution of a spouse as a homemaker or to the
18 family unit; and (iii) whether the contribution is after
19 the commencement of a proceeding for dissolution of
20 marriage or declaration of invalidity of marriage;

21 (2) the dissipation by each party of the marital
22 property, provided that a party's claim of dissipation is
23 subject to the following conditions:

24 (i) a notice of intent to claim dissipation shall
25 be given no later than 60 days before trial or 30 days
26 after discovery closes, whichever is later;

1 (ii) the notice of intent to claim dissipation
2 shall contain, at a minimum, a date or period of time
3 during which the marriage began undergoing an
4 irretrievable breakdown, an identification of the
5 property dissipated, and a date or period of time
6 during which the dissipation occurred;

7 (iii) a certificate or service of the notice of
8 intent to claim dissipation shall be filed with the
9 clerk of the court and be served pursuant to applicable
10 rules;

11 (iv) no dissipation shall be deemed to have
12 occurred prior to 3 years after the party claiming
13 dissipation knew or should have known of the
14 dissipation, but in no event prior to 5 years before
15 the filing of the petition for dissolution of marriage;

16 (3) the value of the property assigned to each spouse;

17 (4) the duration of the marriage;

18 (5) the relevant economic circumstances of each spouse
19 when the division of property is to become effective,
20 including the desirability of awarding the family home, or
21 the right to live therein for reasonable periods, to the
22 spouse having the primary residence of the children;

23 (6) any obligations and rights arising from a prior
24 marriage of either party;

25 (7) any prenuptial or postnuptial agreement of the
26 parties;

1 (8) the age, health, station, occupation, amount and
2 sources of income, vocational skills, employability,
3 estate, liabilities, and needs of each of the parties;

4 (9) the custodial provisions for any children;

5 (10) whether the apportionment is in lieu of or in
6 addition to maintenance;

7 (11) the reasonable opportunity of each spouse for
8 future acquisition of capital assets and income; and

9 (12) the tax consequences of the property division upon
10 the respective economic circumstances of the parties.

11 (e) Each spouse has a species of common ownership in the
12 marital property which vests at the time dissolution
13 proceedings are commenced and continues only during the
14 pendency of the action. Any such interest in marital property
15 shall not encumber that property so as to restrict its
16 transfer, assignment or conveyance by the title holder unless
17 such title holder is specifically enjoined from making such
18 transfer, assignment or conveyance.

19 (f) In a proceeding for dissolution of marriage or
20 declaration of invalidity of marriage or in a proceeding for
21 disposition of property following dissolution of marriage by a
22 court that lacked personal jurisdiction over the absent spouse
23 or lacked jurisdiction to dispose of the property, the court,
24 in determining the value of the marital and non-marital
25 property for purposes of dividing the property, has the
26 discretion to use the date of the trial or such other date as

1 agreed upon by the parties, or ordered by the court within its
2 discretion, for purposes of determining the value of assets or
3 property.

4 (g) The court if necessary to protect and promote the best
5 interests of the children may set aside a portion of the
6 jointly or separately held estates of the parties in a separate
7 fund or trust for the support, maintenance, education, physical
8 and mental health, and general welfare of any minor, dependent,
9 or incompetent child of the parties. In making a determination
10 under this subsection, the court may consider, among other
11 things, the conviction of a party of any of the offenses set
12 forth in Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60,
13 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-13, 12-14, 12-14.1,
14 12-15, or 12-16, or Section 12-3.05 except for subdivision
15 (a) (4) or (g) (1), of the Criminal Code of 1961 or the Criminal
16 Code of 2012 if the victim is a child of one or both of the
17 parties, and there is a need for, and cost of, care, healing
18 and counseling for the child who is the victim of the crime.

19 (h) Unless specifically directed by a reviewing court, or
20 upon good cause shown, the court shall not on remand consider
21 any increase or decrease in the value of any "marital" or
22 "non-marital" property occurring since the assessment of such
23 property at the original trial or hearing, but shall use only
24 that assessment made at the original trial or hearing.

25 (i) The court may make such judgments affecting the marital
26 property as may be just and may enforce such judgments by

1 ordering a sale of marital property, with proceeds therefrom to
2 be applied as determined by the court.

3 (j) After proofs have closed in the final hearing on all
4 other issues between the parties (or in conjunction with the
5 final hearing, if all parties so stipulate) and before judgment
6 is entered, a party's petition for contribution to fees and
7 costs incurred in the proceeding shall be heard and decided, in
8 accordance with the following provisions:

9 (1) A petition for contribution, if not filed before
10 the final hearing on other issues between the parties,
11 shall be filed no later than 14 days after the closing of
12 proofs in the final hearing or within such other period as
13 the court orders.

14 (2) Any award of contribution to one party from the
15 other party shall be based on the criteria for division of
16 marital property under this Section 503 and, if maintenance
17 has been awarded, on the criteria for an award of
18 maintenance under Section 504.

19 (3) The filing of a petition for contribution shall not
20 be deemed to constitute a waiver of the attorney-client
21 privilege between the petitioning party and current or
22 former counsel; and such a waiver shall not constitute a
23 prerequisite to a hearing for contribution. If either
24 party's presentation on contribution, however, includes
25 evidence within the scope of the attorney-client
26 privilege, the disclosure or disclosures shall be narrowly

1 construed and shall not be deemed by the court to
2 constitute a general waiver of the privilege as to matters
3 beyond the scope of the presentation.

4 (4) No finding on which a contribution award is based
5 or denied shall be asserted against counsel or former
6 counsel for purposes of any hearing under subsection (c) or
7 (e) of Section 508.

8 (5) A contribution award (payable to either the
9 petitioning party or the party's counsel, or jointly, as
10 the court determines) may be in the form of either a set
11 dollar amount or a percentage of fees and costs (or a
12 portion of fees and costs) to be subsequently agreed upon
13 by the petitioning party and counsel or, alternatively,
14 thereafter determined in a hearing pursuant to subsection
15 (c) of Section 508 or previously or thereafter determined
16 in an independent proceeding under subsection (e) of
17 Section 508.

18 (6) The changes to this Section 503 made by this
19 amendatory Act of 1996 apply to cases pending on or after
20 June 1, 1997, except as otherwise provided in Section 508.

21 (k) In determining the value of assets or property under
22 this Section, the court shall employ a fair market value
23 standard. The date of valuation for the purposes of division of
24 assets shall be the date of trial or such other date as agreed
25 by the parties or ordered by the court, within its discretion.
26 If the court grants a petition brought under Section 2-1401 of

1 the Code of Civil Procedure, then the court has the discretion
2 to use the date of the trial or such other date as agreed upon
3 by the parties, or ordered by the court within its discretion,
4 for purposes of determining the value of assets or property.

5 (l) The court may seek the advice of financial experts or
6 other professionals, whether or not employed by the court on a
7 regular basis. The advice given shall be in writing and made
8 available by the court to counsel. Counsel may examine as a
9 witness any professional consulted by the court designated as
10 the court's witness. Professional personnel consulted by the
11 court are subject to subpoena for the purposes of discovery,
12 trial, or both. The court shall allocate the costs and fees of
13 those professional personnel between the parties based upon the
14 financial ability of each party and any other criteria the
15 court considers appropriate, and the allocation is subject to
16 reallocation under subsection (a) of Section 508. Upon the
17 request of any party or upon the court's own motion, the court
18 may conduct a hearing as to the reasonableness of those fees
19 and costs.

20 (m) The changes made to this Section by Public Act 97-941
21 apply only to petitions for dissolution of marriage filed on or
22 after January 1, 2013 (the effective date of Public Act
23 97-941).

24 (Source: P.A. 99-78, eff. 7-20-15; 99-90, eff. 1-1-16; 99-763,
25 eff. 1-1-17.)

1 Section 95. No acceleration or delay. Where this Act makes
2 changes in a statute that is represented in this Act by text
3 that is not yet or no longer in effect (for example, a Section
4 represented by multiple versions), the use of that text does
5 not accelerate or delay the taking effect of (i) the changes
6 made by this Act or (ii) provisions derived from any other
7 Public Act.