

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1174 Session of  
1985

INTRODUCED BY JOSEPHS, HARPER, RUDY, ARTY, SIRIANNI, HAGARTY,  
HONAMAN, WESTON, DURHAM, E. Z. TAYLOR, CARN, PETRARCA,  
DeWEESE, GALLAGHER, SHOWERS, COHEN, FATTAH, TIGUE, PISTELLA,  
LASHINGER AND ACOSTA, MAY 13, 1985

REFERRED TO COMMITTEE ON JUDICIARY, MAY 13, 1985

AN ACT

1 Amending the act of April 2, 1980 (P.L.63, No.26), entitled "An  
2 act consolidating, revising and amending the divorce and  
3 annulment laws of the Commonwealth and making certain  
4 repeals," providing that potential increased earning power  
5 shall be marital property and considered for purposes of  
6 property settlement and alimony.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Section 401(d) and (e) of the act of April 2,  
10 1980 (P.L.63, No.26), known as the Divorce Code, are amended and  
11 the section is amended by adding a subsection to read:

12 Section 401. Decree of court.

13 \* \* \*

14 (d) In a proceeding for divorce or annulment, the court  
15 shall, upon request of either party, equitably divide,  
16 distribute or assign the marital property between the parties  
17 without regard to marital misconduct in such proportions as the  
18 court deems just after considering all relevant factors  
19 including:

1 (1) The length of the marriage.

2 (2) Any prior marriage of either party.

3 (3) The age, health, station, amount and sources of  
4 income, vocational skills, employability, estate, liabilities  
5 and needs of each of the parties.

6 (4) The contribution by one party to the education,  
7 training, or increased earning power and potential increased  
8 earning power of the other party.

9 (5) The opportunity of each party for future  
10 acquisitions of capital assets and income.

11 (6) The sources of income of both parties, including but  
12 not limited to medical, retirement, insurance or other  
13 benefits.

14 (7) The contribution or dissipation of each party in the  
15 acquisition, preservation, depreciation or appreciation of  
16 the marital property, including the contribution of a party  
17 as homemaker.

18 (8) The value of the property set apart to each party.

19 (9) The standard of living of the parties established  
20 during the marriage.

21 (10) The economic circumstances of each party at the  
22 time the division of property is to become effective.

23 (e) For purposes of this chapter only, "marital property"  
24 means all property and interests acquired by either party during  
25 the marriage except:

26 (1) Property acquired in exchange for property acquired  
27 prior to the marriage except for the increase in value during  
28 the marriage.

29 (2) Property excluded by valid agreement of the parties  
30 entered into before, during or after the marriage.

1 (3) Property acquired by gift, bequest, devise or  
2 descent except for the increase in value during the marriage.

3 (4) Property acquired after separation until the date of  
4 divorce, provided however, if the parties separate and  
5 reconcile, all property acquired subsequent to the final  
6 separation until their divorce.

7 (5) Property which a party has sold, granted, conveyed  
8 or otherwise disposed of in good faith and for value prior to  
9 the time proceedings for the divorce are commenced.

10 (6) Veterans' benefits exempt from attachment, levy or  
11 seizure pursuant to the act of September 2, 1958, Public Law  
12 85-857, 72 Statute 1229, as amended, except for those  
13 benefits received by a veteran where such veteran has waived  
14 a portion of his military retirement pay in order to receive  
15 Veteran's Compensation.

16 (7) Property to the extent to which such property has  
17 been mortgaged or otherwise encumbered in good faith for  
18 value, prior to the time proceedings for the divorce are  
19 commenced.

20 (e.1) Potential increased earning power developed by each  
21 party during the marriage shall be considered marital property  
22 for all purposes of this act.

23 \* \* \*

24 Section 2. Section 501(b) of the act is amended to read:  
25 Section 501. Alimony.

26 \* \* \*

27 (b) In determining whether alimony is necessary, and in  
28 determining the nature, amount, duration, and manner of payment  
29 of alimony, the court shall consider all relevant factors  
30 including:

1           (1) The relative earnings and earning capacities of the  
2 parties.

3           (2) The ages, and the physical, mental and emotional  
4 conditions of the parties.

5           (3) The sources of income of both parties including but  
6 not limited to medical, retirement, insurance or other  
7 benefits.

8           (4) The expectancies and inheritances of the parties.

9           (5) The duration of the marriage.

10          (6) The contribution by one party to the education,  
11 training or increased earning power and potential increased  
12 earning power of the other party.

13          (7) The extent to which it would be inappropriate for a  
14 party, because said party will be custodian of a minor child,  
15 to seek employment outside the home.

16          (8) The standard of living of the parties established  
17 during the marriage.

18          (9) The relative education of the parties and the time  
19 necessary to acquire sufficient education or training to  
20 enable the party seeking alimony to find appropriate  
21 employment.

22          (10) The relative assets and liabilities of the parties.

23          (11) The property brought to the marriage by either  
24 party.

25          (12) The contribution of a spouse as homemaker.

26          (13) The relative needs of the parties.

27          (14) The marital misconduct of either of the parties  
28 during the marriage; however, the marital misconduct of  
29 either of the parties during separation subsequent to the  
30 filing of a divorce complaint shall not be considered by the

1 court in its determinations relative to alimony.

2 \* \* \*

3 Section 3. This act applies to all cases, whether the cause  
4 for divorce arose prior or subsequent to the enactment of this  
5 act.

6 Section 4. This act shall take effect immediately.