

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1121

Introduced by

Representative D. Anderson

Senator Kreun

1 A BILL for an Act to amend and reenact sections 14-05-24 and 14-05-27 and subsection 3 of
2 section 29-15-21 of the North Dakota Century Code, relating to division of marital property
3 debts; and to provide for application.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 14-05-24 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **14-05-24. Division of marital property and debts.**

8 1. As used in this section, "marital property" means all property held jointly or individually
9 by the divorcing party. Except in the case of undue hardship, the term does not include
10 real or personal property acquired by either spouse before, during, or after the
11 existence of the marriage which is:

12 a. Acquired as a gift, bequest, devise, or inheritance made by a third party to one
13 but not to the other spouse;

14 b. Acquired before the marriage;

15 c. Excluded by a valid premarital agreement;

16 d. Acquired by a spouse after the valuation date; or

17 e. Acquired in exchange for or is the increase in value of property described in
18 subdivision a, b, c, or d.

19 2. When a divorce is granted, the court shall make an equitable distribution of the marital
20 property and debts of the parties. Except as may be required by federal law for
21 specific property, and subject to the power of the court to determine a date that is just
22 and equitable, the valuation date for marital property is the date mutually agreed upon
23 between the parties. If the parties do not mutually agree upon a valuation date, the
24 valuation date for marital property is the date of service of a summons in an action for

1 divorce or separation or the date on which the parties last separated, whichever
2 occurs first.

3 ~~2.3.~~ If one party to the divorce is covered by the civil service retirement system or other
4 government pension system in lieu of social security and is not entitled to receive full
5 social security benefits and the other party is a social security recipient, in making an
6 equitable distribution award, the court shall compute what the present value of the
7 social security benefits would have been to the party with the government pension
8 during the covered period and subtract that amount from the value of the government
9 pension in order to determine the government pension's marital portion.

10 ~~3.4.~~ The court may redistribute marital property and debts in a postjudgment proceeding if
11 a party has failed to disclose property and debts as required by rules adopted by the
12 supreme court or the party fails to comply with the terms of a court order distributing
13 marital property and debts.

14 **SECTION 2. AMENDMENT.** Section 14-05-27 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **14-05-27. Separation - Spousal support - Division of marital property.**

17 Upon the granting of a separation, the court may include in the decree an order requiring a
18 party to pay for spousal support and for the support of any minor children of the parties. Subject
19 to section 14-05-24, the decree may also provide for the equitable division of the marital
20 property and debts of the parties. As used in this section, the term "marital property" has the
21 same meaning as provided under section 14-05-24.

22 **SECTION 3. AMENDMENT.** Subsection 3 of section 29-15-21 of the North Dakota Century
23 Code is amended and reenacted as follows:

24 3. Any party who has been added, voluntarily or involuntarily, to the action or proceeding
25 after the date of any occurrence in subsection 2 has the right to file a demand for
26 change of judge within ten days after any remaining event occurs or, if all of those
27 events have already occurred, within ten days after that party has been added. ~~In any~~
28 ~~event, no~~ A demand for a change of judge may not be made after the judge sought to
29 be disqualified has ruled upon any matter pertaining to the action or proceeding in
30 which the demanding party was heard or had an opportunity to be heard. ~~Any~~A
31 proceeding to modify an order for alimony, ~~property~~ division of marital property, or child

1 support pursuant to ~~under~~ section 14-05-24 or an order for child custody pursuant-
2 ~~to~~ ~~under~~ section 14-05-22 must be considered a proceeding separate from the original
3 action and the fact that the judge sought to be disqualified made any ruling in the
4 original action does not bar a demand for a change of judge.

5 **SECTION 4. APPLICATION.** This Act applies to divorce and separation actions for which a
6 summons has been served after July 31, 2021.