

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 750

Short Title: Equitable Distribution/Fault.

(Public)

Sponsors: Senator Sands.

Referred to: Judiciary II.

April 23, 1991

A BILL TO BE ENTITLED

AN ACT TO ADD FAULT AS A FACTOR TO BE CONSIDERED FOR  
EQUITABLE DISTRIBUTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-20(c) reads as rewritten:

"(c) There shall be an equal division by using net value of marital property unless the court determines that an equal division is not equitable. If the court determines that an equal division is not equitable, the court shall divide the marital property equitably. Factors the court shall consider under this subsection are as follows:

- (1) The income, property, and liabilities of each party at the time the division of property is to become effective;
- (2) Any obligation for support arising out of a prior marriage;
- (3) The duration of the marriage and the age and physical and mental health of both parties;
- (4) The need of a parent with custody of a child or children of the marriage to occupy or own the marital residence and to use or own its household effects;
- (5) The expectation of nonvested pension, retirement, or other deferred compensation rights, which is separate property;
- (6) Any equitable claim to, interest in, or direct or indirect contribution made to the acquisition of such marital property by the party not having title, including joint efforts or expenditures and contributions and services, or lack thereof, as a spouse, parent, wage earner or homemaker;

- 1           (7) Any direct or indirect contribution made by one spouse to help educate  
2           or develop the career potential of the other spouse;
- 3           (8) Any direct contribution to an increase in value of separate property  
4           which occurs during the course of the marriage;
- 5           (9) The liquid or nonliquid character of all marital property;
- 6           (10) The difficulty of evaluating any component asset or any interest in a  
7           business, corporation or profession, and the economic desirability of  
8           retaining such asset or interest, intact and free from any claim or  
9           interference by the other party;
- 10          (11) The tax consequences to each party;
- 11           (11a) Acts of either party to maintain, preserve, develop, or expand; or to  
12           waste, neglect, devalue or convert such marital property, during the  
13           period after separation of the parties and before the time of  
14           distribution; ~~and~~
- 15           (11b) The fault of either party including grounds listed under G.S. 50-  
16           16.2; and
- 17          (12) Any other factor which the court finds to be just and proper."
- 18          Sec. 2. This act becomes effective October 1, 1991, and applies to claims for  
19 equitable distribution filed or pending on or after that date.