

1993 Assembly Bill 800

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1993 WISCONSIN ACT 422

AN ACT to renumber 767.255 (1) to (12); to renumber and amend 767.255 (intro.); and to create 767.255 (2) (a) 1 to 3 of the statutes, relating to: property not subject to division at divorce.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 767.255 (intro.) of the statutes is renumbered 767.255 (1) and amended to read:

767.255 (1) Upon every judgment of annulment, divorce or legal separation, or in rendering a judgment in an action under s. 767.02 (1) (h), the court shall divide the property of the parties and divest and transfer the title of any such property accordingly. A certified copy of the portion of the judgment which that affects title to real estate shall be recorded in the office of the register of deeds of the county in which the lands so affected are situated. The court may protect and promote the best interests of the children by setting aside a portion of the property of the parties in a separate fund or trust for the support, maintenance, education and general welfare of any minor children of the parties. Any

(2) (a) Except as provided in par. (b), any property shown to have been acquired by either party prior to or during the course of the marriage as a gift, bequest, devise or inheritance or to have been paid for by either party with funds so acquired in any of the following ways shall remain the property of such that party and may is not be subjected subject to a property division under this section except upon a finding:

(b) Paragraph (a) does not apply if the court finds that refusal to divide such the property will create a hardship on the other party or on the children of the marriage, and

~~in that event.~~ If the court makes such a finding, the court may divest the party of ~~such~~ the property in a fair and equitable manner.

(3) The court shall presume that all ~~other~~ property not described in sub. (2) (a) is to be divided equally between the parties, but may alter this distribution without regard to marital misconduct after considering all of the following:

SECTION 2. 767.255 (1) to (12) of the statutes are renumbered 767.255 (3) (a) to (m).

SECTION 3. 767.255 (2) (a) 1. to 3. of the statutes are created to read:

767.255 (2) (a) 1. As a gift from a person other than the other party.

2. By reason of the death of another, including, but not limited to, life insurance proceeds; payments made under a deferred employment benefit plan, as defined in s. 766.01 (4) (a), or an individual retirement account; and property acquired by right of survivorship, by a trust distribution, by bequest or inheritance or by a payable on death or a transfer on death arrangement under ch. 705.

3. With funds acquired in a manner provided in subd. 1 or 2.

SECTION 4. Initial applicability. This act first applies to actions for annulment, divorce or legal separation, and actions under section 767.02 (1) (h) of the statutes, that are commenced on the effective date of this SECTION.