

SENATE, No. 1496

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 19, 1996

By Senators MARTIN, EWING and Cafiero

1 AN ACT concerning equitable distribution and amending P.L.1988,  
2 c.153.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. Section 4 of P.L.1988, c.153 (C.2A:34-23.1) is amended to read  
8 as follows:

9 4. In making an equitable distribution of property, the court shall  
10 consider, but not be limited to, the following factors:

11 a. The duration of the marriage;

12 b. The age and physical and emotional health of the parties;

13 c. The income or property brought to the marriage by each party;

14 d. The standard of living established during the marriage;

15 e. Any written agreement made by the parties before or during the  
16 marriage concerning an arrangement of property distribution;

17 f. The economic circumstances of each party at the time the  
18 division of property becomes effective;

19 g. The income and earning capacity of each party, including  
20 educational background, training, employment skills, work experience,  
21 length of absence from the job market, custodial responsibilities for  
22 children, and the time and expense necessary to acquire sufficient  
23 education or training to enable the party to become self-supporting at  
24 a standard of living reasonably comparable to that enjoyed during the  
25 marriage;

26 h. The contribution by each party to the education, training or  
27 earning power of the other;

28 i. The contribution of each party to the acquisition, dissipation,  
29 preservation, depreciation or appreciation in the amount or value of  
30 the marital property, as well as the contribution of a party as a  
31 homemaker;

32 j. The tax consequences of the proposed distribution to each party;

33 k. The present value of the property;

34 l. The need of a parent who has physical custody of a child to own

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 or occupy the marital residence and to use or own the household  
2 effects;

3 m. The debts and liabilities of the parties;

4 n. The need for creation, now or in the future, of a trust fund to  
5 secure reasonably foreseeable medical or educational costs for a  
6 spouse or children; and

7 o. The extent to which a party deferred achieving their career  
8 goals.

9 p. Any other factors which the court may deem relevant.

10 In every case, the court shall make specific findings of fact on the  
11 evidence relevant to all issues pertaining to asset eligibility or  
12 ineligibility, asset valuation, and equitable distribution, including  
13 specifically, but not limited to, the factors set forth in this section.

14 It shall be a rebuttable presumption that each party made a  
15 substantial financial or nonfinancial contribution to the acquisition of  
16 income and property while the party was married.

17 (cf: P.L.1988, c.153, s. 4)

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19 2. This act shall take effect immediately.

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## 22 STATEMENT

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24 This bill would amend the equitable distribution statute,  
25 N.J.S.A.2A:34-23.1, to add an additional factor for the court to  
26 consider in allocating assets pursuant to equitable distribution. The  
27 new factor would require the court to consider the extent to which a  
28 party deferred achieving career goals.

29 In a common factual scenario, the wife remains home for a number  
30 of years to care for the children and, as a consequence, her earning  
31 capacity is materially and adversely affected. By contrast, because of  
32 the wife's efforts in caring for the children, the husband has the ability  
33 to develop his own career and to have his own earning capacity  
34 enhanced. Under the bill, this issue would be set forth in the statute  
35 as a factor that the court (and the parties themselves, when they settle  
36 cases) must consider in evaluating the fairness of an overall  
37 distribution of assets.

38 This bill embodies Recommendation 20 of the report of the  
39 Commission to Study the Law of Divorce, issued April 18, 1995.

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44 Adds new factor to equitable distribution statute concerning deferral  
45 of career goals.