

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. The term does not include:

10 a. Real or personal property acquired by either spouse before, during, or after the
11 existence of the marriage which is:

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

14 (2) Acquired before the marriage;

15 (3) Excluded by a valid premarital agreement;

16 (4) Acquired by a spouse after the valuation date; or

17 (5) Acquired in exchange for or is the increase in value of property described in
18 paragraph 1, 2, 3, or 4; or

19 b. Income from property described in subdivision a which is derived during the
20 marriage unless the income was treated, used, or relied upon by the parties as
21 marital property.

22 2. When a divorce is granted, the court shall make an equitable distribution of the marital
23 property and debts of the parties. Except as may be required by federal law for
24 specific property, and subject to the power of the court to determine a date that is just

1 and equitable, the valuation date for marital property is the date mutually agreed upon
2 between the parties. If the parties do not mutually agree upon a valuation date, the
3 valuation date for marital property is the date of service of a summons in an action for
4 divorce or separation or the date on which the parties last separated, whichever
5 occurs first.

6 2-3. If one party to the divorce is covered by the civil service retirement system or other
7 government pension system in lieu of social security and is not entitled to receive full
8 social security benefits and the other party is a social security recipient, in making an
9 equitable distribution award, the court shall compute what the present value of the
10 social security benefits would have been to the party with the government pension
11 during the covered period and subtract that amount from the value of the government
12 pension in order to determine the government pension's marital portion.

13 3-4. The court may redistribute marital property and debts in a postjudgment proceeding if
14 a party has failed to disclose property and debts as required by rules adopted by the
15 supreme court or the party fails to comply with the terms of a court order distributing
16 marital property and debts.

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

19 **14-05-27. Separation - Spousal support - Division of marital property.**

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

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

27 3. Any party who has been added, voluntarily or involuntarily, to the action or proceeding
28 after the date of any occurrence in subsection 2 has the right to file a demand for
29 change of judge within ten days after any remaining event occurs or, if all of those
30 events have already occurred, within ten days after that party has been added. ~~In any~~
31 ~~event,~~ ~~no~~ A demand for a change of judge may not be made after the judge sought to

1 be disqualified has ruled upon any matter pertaining to the action or proceeding in
2 which the demanding party was heard or had an opportunity to be heard. ~~Any~~A
3 proceeding to modify an order for alimony, ~~property~~ division of marital property, or child
4 support ~~pursuant to~~under section 14-05-24 or an order for child custody ~~pursuant-~~
5 ~~to~~under section 14-05-22 must be considered a proceeding separate from the original
6 action and the fact ~~that~~ the judge sought to be disqualified made any ruling in the
7 original action does not bar a demand for a change of judge.

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