

## BILL ANALYSIS

Senate Research Center  
79R9615 JMM-F

H.B. 410  
By: Goodman (Harris)  
Jurisprudence  
5/6/2005  
Engrossed

### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current law, there have been several inconsistencies regarding how to characterize, for purposes of the community property system, various fringe benefits from employment.

H.B. 410 clarifies the rules applicable on how to characterize, for community property purposes, various types of pension rights, stock options, and insurance benefits.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 3, Family Code, by adding Sections 3.007 and 3.008, as follows:

Sec. 3.007. PROPERTY INTEREST IN CERTAIN EMPLOYEE BENEFITS. (a) Provides that a spouse who is a participant in a defined benefit retirement plan has a separate property interest in the monthly accrued benefit the spouse had a right to receive on normal retirement age, as defined by the plan, as of the date of marriage, regardless of whether the benefit had vested.

(b) Requires the community property interest in a defined benefit plan to be determined as if the spouse began to participate in the plan on the date of marriage and ended that participation on the date of dissolution or termination of the marriage, regardless of whether the benefit had vested.

(c) Authorizes the separate property interest of a spouse in a defined contribution retirement plan to be traced using the tracing and characterization principles that apply to a nonretirement asset.

(d) Sets forth the formula for determining the separate property interest in an employer-provided stock option plan or an employer-provided restricted stock plan of a spouse who is a participant in that plan.

(e) Provides that the computation described by Subsection (d) applies to each component of the benefit requiring varying periods of employment before the grant could be exercised or the restriction removed.

(f) Requires the characterization of the marital property interest in an option or restricted stock described by Subsection (d) to be recalculated if, after the initial division of the option or stock, the vesting occurs on a date earlier than the vesting date stated in the original grant of the option or stock. Requires the recalculation required by this subsection to adjust for the shortened vesting period and provides that it applies to options and stock granted before and during the marriage.

Sec. 3.008. PROPERTY INTEREST IN CERTAIN INSURANCE PROCEEDS. (a) Provides that insurance proceeds paid or payable that arise from a casualty loss to

property during marriage are characterized in the same manner as the property to which the claim is attributable.

(b) Provides that, if a person becomes disabled or is injured, any disability insurance payment or workers' compensation payment is community property to the extent it is intended to replace earnings lost while the disabled or injured person is married. Provides that to the extent that any insurance payment or workers' compensation payment is intended to replace earnings while the disabled or injured person is not married, the recovery is the separate property of the disabled or injured spouse.

SECTION 2. Makes application of this Act prospective to a suit for dissolution of a marriage pending before a trial court on or filed on or after the effective date of this Act. Makes application of Section 3.007, Family Code, as added by this Act, prospective to the estate of a person who dies on or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2005.