

BILL ANALYSIS

C.S.S.B.990

By: Harris

Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The 79th Legislature, Regular Session, 2005, amended Section 3.007, Family Code, to provide definitions for separate and community property with defined benefit plans. These definitions may not cover all of the property involved in the defined benefit plans.

C.S.S.B.990 restores the historical application of separate and community property law principles in defined benefit plans, both in the formation and interpretation of qualified domestic relations orders and in the portions of divorce decrees relating to defined benefit plans.

Additionally, C.S.S.B.990 adds the necessary language to toll the statute of limitations on post-marital agreements during the marriage, bringing the statute of limitations for post-marital agreements in-line with those of pre-marital agreements.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 3.007(d), Family Code, as follows:

(d) Provides that the numerator in the fraction used to calculate the separate property interest of a spouse who was granted before marriage an employer-provided restricted stock option plan or employer-provided restricted stock plan that required continued employment during marriage and following the date of dissolution of the marriage before the grant could be exercised or the restriction removed, is the period from the date of dissolution of the marriage until the date the grant could be exercised or the restriction removed. Provides the method for calculating the separate property interest, if the option or stock was granted to the spouse during the marriage but required continued employment following the date of dissolution of the marriage, rather than after marriage, before the grant could be exercised or the restriction removed. Deletes existing text regarding the numerator being the period from the date of termination of the marriage.

SECTION 2. Further amends Subchapter B, Chapter 4, of the Family Code by adding Section 4.107 to provide that a statute of limitations applicable to an action asserting a claim for relief under an agreement under this subchapter is tolled during the marriage of the parties to the agreement. Equitable defenses limiting the time for enforcement, including laches and estoppel, however, are available to either party.

SECTION 3. Amends Subchapter C, Chapter 4 of the Family Code by adding Section 4.207 which provides that a statute of limitations on a post marital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

SECTION 4. Repealer: Section 3.007(a) (providing 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), Section 3.007(b) (relating to community property in a defined benefit plan), and Section 3.007(f) (regarding recalculation of the marital property interest in an option or restricted stock), Family Code.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Makes application of this Act by the addition of Sections 4.107 and 4.207, Family Code, apply to an agreement under Subchapter B or C, Chapter 4, Family Code, without regard to whether the agreement was made before, on, or after the effective date of this Act.

SECTION 7. Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B.990 modifies the original S.B.990 by adding Section 4.107 and Section 4.207 to provide that a statute of limitations applicable to an action asserting a claim for relief under an agreement under this subchapter is tolled during the marriage of the parties to the agreement and a statute of limitations on a post marital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.