

By: Dutton

H.B. No. 1646

A BILL TO BE ENTITLED

AN ACT

relating to property interests of spouses in connection with certain separate and community property.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3.007, Family Code, is amended by amending Subsections (a), (b), and (d) and adding Subsection (a-1) to read as follows:

(a) The community property interest [~~A spouse who is a participant~~] in a defined benefit retirement plan is the amount equal to the product of the amount [~~has a separate property interest in the monthly accrued benefit~~] the spouse participating in the plan would have [~~had~~] a right to receive on normal retirement age, as defined by the plan, if the participant spouse had terminated employment on the date of dissolution or termination of the marriage, multiplied by the percentage resulting from dividing the number of months of participation in the plan during the marriage by the total number of months of participation in the plan as of the date of dissolution or termination of the marriage. The amount described by this subsection is determined as of the date of dissolution or termination of the marriage, regardless of whether the participant spouse's right to the benefit is [~~had~~] vested and regardless of the percentage of vesting, if any.

(a-1) The community property interest, as determined under Subsection (a), includes a portion of any additional amounts

1 resulting from adjustments, including cost-of-living adjustments,
2 made to the defined benefit retirement plan after the date of
3 dissolution or termination of the marriage, in proportion to the
4 percentage of the total benefit determined to be community property
5 under Subsection (a).

6 (b) The separate ~~[community]~~ property interest in a defined
7 benefit retirement plan is the portion of the benefit that is not
8 determined to be community property under Subsections (a) and (a-1)
9 ~~[shall be determined as if the spouse began to participate in the~~
10 ~~plan on the date of marriage and ended that participation on the~~
11 ~~date of dissolution or termination of the marriage, regardless of~~
12 ~~whether the benefit had vested].~~

13 (d) A spouse who is a participant in an employer-provided
14 stock option plan or an employer-provided restricted stock plan has
15 a separate property interest in the options or restricted stock
16 granted to the spouse under the plan as follows:

17 (1) if the option or stock was granted to the spouse
18 before marriage but required continued employment during marriage
19 before the grant could be exercised or the restriction removed, the
20 spouse's separate property interest is equal to the fraction of the
21 option or restricted stock in which:

22 (A) the numerator is the period from the date the
23 option or stock was granted until the date of marriage and, if the
24 option or stock also required continued employment following the
25 date of dissolution or termination of the marriage before the grant
26 could be exercised or the restriction removed, the period from the
27 date of dissolution or termination of the marriage until the date

1 the grant could be exercised or the restriction removed; and

2 (B) the denominator is the period from the date
3 the option or stock was granted until the date the grant could be
4 exercised or the restriction removed; and

5 (2) if the option or stock was granted to the spouse
6 during the marriage but required continued employment following the
7 date of dissolution or termination of the [~~after~~] marriage before
8 the grant could be exercised or the restriction removed, the
9 spouse's separate property interest is equal to the fraction of the
10 option or restricted stock in which the numerator is the period from
11 the date of dissolution or termination of the marriage until the
12 date the grant could be exercised or the restriction removed and the
13 denominator is the period from the date the option or stock was
14 granted until the date the grant could be exercised or the
15 restriction removed.

16 SECTION 2. Section 3.007(f), Family Code, is repealed.

17 SECTION 3. The change in law made by this Act applies to:

18 (1) a suit for dissolution of a marriage pending
19 before a trial court on or filed on or after the effective date of
20 this Act; and

21 (2) the estate of a person who dies on or after the
22 effective date of this Act.

23 SECTION 4. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2007.