

By: Dutton

H.J.R. No. 54

A JOINT RESOLUTION

1 proposing a constitutional amendment authorizing a court to
2 partition the community property and to characterize future
3 earnings of spouses as separate property on legal separation of the
4 spouses.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 15, Article XVI, Texas Constitution, is
7 amended to read as follows:

8 Sec. 15. (a) All property, both real and personal, of a
9 spouse owned or claimed before marriage, and that acquired
10 afterward by gift, devise or descent, shall be the separate
11 property of that spouse; and laws shall be passed more clearly
12 defining the rights of the spouses, in relation to separate and
13 community property; provided that persons about to marry and
14 spouses, without the intention to defraud pre-existing creditors,
15 may by written instrument from time to time partition between
16 themselves all or part of their property, then existing or to be
17 acquired, or exchange between themselves the community interest of
18 one spouse or future spouse in any property for the community
19 interest of the other spouse or future spouse in other community
20 property then existing or to be acquired, whereupon the portion or
21 interest set aside to each spouse shall be and constitute a part of
22 the separate property and estate of such spouse or future spouse;
23 spouses also may from time to time, by written instrument, agree
24 between themselves that the income or property from all or part of

1 the separate property then owned or which thereafter might be
2 acquired by only one of them, shall be the separate property of that
3 spouse; if one spouse makes a gift of property to the other that
4 gift is presumed to include all the income or property which might
5 arise from that gift of property; spouses may agree in writing that
6 all or part of their community property becomes the property of the
7 surviving spouse on the death of a spouse; and spouses may agree in
8 writing that all or part of the separate property owned by either or
9 both of them shall be the spouses' community property.

10 (b) In a legal separation proceeding, a court may
11 permanently partition the community property of the spouses to
12 provide that the property itself and the future income from that
13 property is the separate property of a spouse, and may allocate
14 future earnings of each spouse as the separate property of that
15 spouse. Laws shall be passed clearly defining the nature of
16 property on legal separation of the spouses.

17 SECTION 2. This proposed constitutional amendment shall be
18 submitted to the voters at an election to be held November 8, 2011.
19 The ballot shall be printed to permit voting for or against the
20 proposition: "The constitutional amendment authorizing a court to
21 partition the community property and to characterize future
22 earnings of spouses as separate property on legal separation of the
23 spouses."