

## Uniform Marriage and Divorce Act

### *Alternative A*

#### **[§ 307. [Disposition of Property]**

(a) In a proceeding for dissolution of a marriage . . . the court, without regard to marital misconduct, shall . . . finally equitably apportion between the parties the property and assets belonging to either or both however and whenever acquired, and whether the title thereto is in the name of the husband or wife or both. In making apportionment the court shall consider the duration of the marriage, and prior marriage of either party, antenuptial agreement of the parties, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, and needs of each of the parties, custodial provisions, whether the apportionment is in lieu of or in addition to maintenance, and the opportunity of each for future acquisition of capital assets and income. The court shall also consider the contribution or dissipation of each party in the acquisition, preservation, depreciation, or appreciation in value of the respective estates, and the contribution of a spouse as a homemaker or to the family unit.

(b) In a proceeding, the court may protect and promote the best interests of the children by setting aside a portion of the jointly and separately held estates of the parties in a separate fund or trust for the support, maintenance, education, and general welfare of any minor, dependent, or incompetent children of the parties.]

### *Alternative B*

#### **[§ 307. [Disposition of Property]**

In a proceeding for dissolution of the marriage . . . the court shall assign each spouse's separate property to that spouse. It also shall divide community property, without regard to marital misconduct, in just proportions after considering all relevant factors including:

- (1) contribution of each spouse to acquisition of the marital property, including contribution of a spouse as homemaker;
- (2) value of the property set apart to each spouse;
- (3) duration of the marriage; and
- (4) economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for a reasonable period to the spouse having custody of any children.]

#### **Comment**

Alternative A, which is the alternative recommended generally for adoption, proceeds upon the principle that all the property of the spouses, however acquired, should be regarded as assets of the married couple, available for distribution among them, upon consideration of the various factors enumerated in subsection (a). It will be noted that among these are health, vocational skills and employability of the respective spouses and these contributions to the acquisition of the assets, including allowance for the contribution thereto of the "homemaker's services to the family unit." This last is a new concept in Anglo-American law.

Subsection (b) affords a way to safeguard the interests of the children against the possibility of the waste or dissipation of the assets allotted to a particular parent in consideration of being awarded the custody or support of a child or children.

Alternative B was included because a number of Commissioners from community property states represented that their jurisdictions would not wish to substitute, for their own systems, the great hotchpot of assets created by Alternative A, preferring to adhere to the distinction between community property and separate property, and providing for the distribution of that property alone, in accordance with an enumeration of principles, resemblant, so far as applicable, to those set forth in Alternative A.