

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1120

By: Griffin

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5
6 AS INTRODUCED

7 An Act relating to alimony; amending 43 O.S. 2011,
8 Section 121, as last amended by Section 1, Chapter
9 334, O.S.L. 2012 (43 O.S. Supp. 2015, Section 121),
10 which relates to division of property; requiring
11 consideration of certain factors in specified
actions; and providing an effective date.

12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 43 O.S. 2011, Section 121, as last
14 amended by Section 1, Chapter 334, O.S.L. 2012 (43 O.S. Supp. 2015,
15 Section 121), is amended to read as follows:

16 Section 121. A. When a dissolution of marriage is granted, the
17 decree shall restore:

18 1. To the wife her maiden or former name, if her name was
19 changed as a result of the marriage and if she so desires;

20 2. To the husband his former name, if his name was changed as a
21 result of the marriage and if he so desires.

22 B. The court shall enter its decree confirming in each spouse
23 the property owned by him or her before marriage and the undisposed-
24 of property acquired after marriage by him or her in his or her own

1 right. Either spouse may be allowed such alimony out of real and
2 personal property of the other as the court shall think reasonable,
3 having due regard to the value of such property at the time of the
4 dissolution of marriage. Alimony may be allowed from real or
5 personal property, or both, or in the form of money judgment,
6 payable either in gross or in installments, as the court may deem
7 just and equitable. As to such property, whether real or personal,
8 which has been acquired by the parties jointly during their
9 marriage, whether the title thereto be in either or both of said
10 parties, the court shall, subject to a valid antenuptial contract in
11 writing, make such division between the parties as may appear just
12 and reasonable, by a division of the property in kind, or by setting
13 the same apart to one of the parties, and requiring the other
14 thereof to be paid such sum as may be just and proper to effect a
15 fair and just division thereof. The court may set apart a portion
16 of the separate estate of a spouse to the other spouse for the
17 support of the children of the marriage where custody resides with
18 that spouse.

19 C. In an action for a dissolution of marriage in which alimony
20 is sought by a party, the court shall consider the following
21 factors:

- 22 1. The legitimacy of the need for support alimony;
 - 23 2. The ability of a party to pay support alimony;
- 24

1 3. The age, health, education and earning capacity of each
2 party;

3 4. The lifestyle maintained by the parties prior to the
4 separation;

5 5. The duration of the marriage;

6 6. The existence of any income-generating property received by
7 either party in the divorce; and

8 7. The living expenses and budgets of each party.

9 D. A servicemember's portion of Special Monthly Compensation
10 (SMC) awarded by or from the United States Department of Veterans
11 Affairs for service-connected loss or loss of use of specific organs
12 or extremities shall be separate property, not divisible as a
13 marital asset nor as community property. For purposes of
14 identifying SMC, it is the sole responsibility of the servicemember
15 to prove with competent evidence what amount of his or her
16 disability compensation is SMC.

17 ~~D.~~ E. A servicemember's portion of Combat-Related Special
18 Compensation (CRSC) shall be separate property, not divisible as a
19 marital asset nor as community property, if a specific dollar amount
20 of CRSC can be proved by the servicemember as compensation for
21 combat-related loss of limb or loss of bodily function and the CRSC
22 award was applied for and established prior to the date of the
23 filing of the dissolution of marriage action.
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1 ~~E.~~ F. Pursuant to the federal Uniformed Services Former
2 Spouses' Protection Act, 10 U.S.C., Section 1408, a court may treat
3 disposable retired or retainer pay payable to a military member
4 either as property solely of the member or as property of the member
5 and the spouse of the member. If a state court determines that the
6 disposable retired or retainer pay of a military member is the sole
7 and separate property of the military member, the court shall submit
8 clear and concise written findings of such determination to be
9 included in the decree or final order. If a state court determines
10 that the disposable retired or retainer pay of a military member is
11 marital property, the court shall submit clear and concise written
12 findings of such determination to be included in the decree or final
13 order and shall award an amount consistent with the rank, pay grade,
14 and time of service of the member at the date of the filing of the
15 petition, unless the court finds a more equitable date due to the
16 economic separation of the parties.

17 ~~F.~~ G. Unless otherwise agreed to by the parties, any division
18 of an active duty military member's retirement or retainer pay shall
19 use the following language:

20 "The former spouse is awarded a percentage of the member's
21 disposable military retired pay, to be computed by multiplying fifty
22 percent (50%) times a fraction, the numerator of which is ____x____
23 months of marriage during the member's creditable military service,
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1 divided by the member's total number of months of creditable
2 military service."

3 G. H. In the case of a member's retiring from reserve duty,
4 unless otherwise agreed by the parties, any division of a
5 reservist's retirement or retainer pay shall use the following
6 language:

7 "The former spouse is awarded a percentage of the member's
8 disposable military retired pay, to be computed by multiplying fifty
9 percent (50%) times a fraction, the numerator of which is
10 X reserve retirement points earned during the period of the
11 marriage, divided by the member's total number of reserve retirement
12 points earned."

13 SECTION 2. This act shall become effective November 1, 2016.

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