Sub. H.B. 395
127th General Assembly
(As Passed by the House)

Reps. **Hughes, Flowers, Wagoner, Evans, Yuko, S. Williams, Bacon, Combs, DeBose, J. McGregor, Stebelton**

BILL SUMMARY

- Excludes a spouse's social security benefits from a divorce court's jurisdiction.

CONTENT AND OPERATION

Existing law provides that, in divorce proceedings, a court must determine what constitutes "marital property" and what constitutes "separate property" (in legal separation proceedings, a court may make this determination upon the request of a party). Upon making such a determination, the court must divide the marital and separate property equitably between the spouses. The court has jurisdiction over all property in which one or both spouses have an interest. (R.C. 3105.171(B).)

The bill excludes social security benefits from the court's jurisdiction, so that social security benefits may not be divided or awarded to the other spouse. The bill also eliminates the court's duty to divide the separate property. The bill requires that the court divide the marital property but eliminates references that it be divided equitably. Continuing law generally requires the division of marital property to be equal. But, if an equal division of marital property would be inequitable, the court instead must divide it between the spouses in the manner the court determines equitable. Finally, the bill adds an additional factor for the court to consider when making a division of marital property and when determining whether to make a distributive award: the bill requires a court to consider any retirement benefits of the spouses, excluding the social security benefits of a spouse (except as may be relevant for purposes of dividing a public pension). (R.C. 3105.171(B), (C), (F)(9), and (G).)

HISTORY

ACTION	DATE
Introduced	11-15-07
Re-referred to H. Juvenile & Family Law	04-15-08
Reported, H. Juvenile & Family Law	05-07-08
Passed House (91-3)	05-20-08

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