

## SUMMARY OF PUBLIC ACT 99-90 (SB 57)

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### SUPPLEMENT (Five items)

**Bifurcated judgments at request of a party – P.A. 99-90 modified Section 401(b) of the Illinois Marriage and Dissolution of Marriage Act** to change the word “may” to “shall” so that it now provides: “The court shall enter a judgment for dissolution that reserves any of these issues either upon (i) agreement of the parties, or (ii) motion of either party and a finding by the court that appropriate circumstances exist.” This amendment has the effect of directing the court to bifurcate a judgment if the parties agree to that.

**Property acquired in contemplation of marriage** – The following language is added to **Section 503(a)**: “Property acquired prior to a marriage that would otherwise be non-marital property shall not be deemed to be marital property solely because the property was acquired in contemplation of marriage.”

**Contribution and consideration of whether marital estate already has been compensated** – **Section 503(c)**, regarding commingling and reimbursement, have been rewritten to provide for more clear subsections dealing with different issues. The following language (underlined) has been added to **Section 503(c)(2)(B)**: “When a spouse contributes personal effort to non-marital property, it shall be deemed a contribution from the marital estate, which shall receive reimbursement for the efforts if the efforts are significant and result in substantial appreciation to the non-marital property except that if the marital estate reasonably has been compensated for his or her efforts, it shall not be deemed a contribution to the marital estate and there shall be no reimbursement to the marital estate.” The new language is consistent with case law. See *In re Marriage of Perlmutter*, 225 Ill. App. 3d 362, 372 (2d Dist. 1992), *appeal denied*, 146 Ill. 2d 650 (1992), *cert. denied*, 507 U.S. 1006 (1993).

**Findings of fact regarding classification of property** – The following language also is added to the end of **Section 503(a)**: “The court shall make specific factual findings as to its classification of assets as marital or non-marital property, values, and other factual findings supporting its property award.”

**Effective date and application of act** – The effective date of **P.A. 99-90** is January 1, 2016. Generally, the act applies not only to proceedings commenced after the effective date, but also to proceedings commenced prior to the effective date with respect to issues on which a judgment has not been entered.

**P.A. 99-90** adopts the existing “**Application and Severability**” section of **IMDA, 750 ILCS 5/801** and adds a new **subparagraph (e)**. The text of the “Application and Severability” section is:

- “(a) This Act applies to all proceedings commenced on or after its effective date.
- (b) This Act applies to all pending actions and proceedings commenced prior to its effective date with respect to issues on which a judgment has not been entered. Evidence adduced after the effective date of this Act shall be in compliance with this Act.
- (c) This Act applies to all proceedings commenced after its effective date for the modification of a judgment or order entered prior to the effective date of this Act.
- (d) In any action or proceeding in which an appeal was pending or a new trial was ordered prior to the effective date of this Act, the law in effect at the time of the order sustaining the appeal or the new trial governs the appeal, the new trial, and any subsequent trial or appeal.
- (e) On and after the effective date of this amendatory Act of the 99th General Assembly, the term ‘parenting time’ is used in place of ‘visitation’ with respect to time during which a parent is responsible for exercising caretaking functions and non-significant decision-making responsibilities concerning the child. On and after the effective date of this amendatory Act of the 99th General Assembly, the term ‘parental responsibility’ is used in place of ‘custody’ and related terms such as ‘custodial’ and ‘custodian’. It is not the intent of the General Assembly to modify or change the rights arising under any order entered concerning custody or visitation prior to the effective date of this amendatory Act of the 99th General Assembly.”