

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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HOUSE BILL 866
PROPOSED COMMITTEE SUBSTITUTE H866-PCS40543-CI-23

Short Title: Automatic Ord/Equitable Distribution Claim.

(Public)

Sponsors:

Referred to:

April 10, 2025

A BILL TO BE ENTITLED
AN ACT TO REQUIRE AUTOMATIC ENTRY OF AN ORDER PROHIBITING SPOUSES
FROM WASTING, CONVERTING, OR SECRETING ASSETS UPON FILING A CLAIM
FOR EQUITABLE DISTRIBUTION.

The General Assembly of North Carolina enacts:

SECTION 1.1. Article 1 of Chapter 50 of the General Statutes is amended by adding a new section to read:

"§ 50-23. Automatic order for equitable distribution claims.

(a) As used in this Article, "automatic order" is the standing order entered by the court to prevent the waste, dissipation, or secreting of assets or increasing debt or other liabilities and which is entered at the time an equitable distribution claim is filed in an action. The court must enter the form order created by the Administrative Office of the Courts for the automatic order.

(b) The automatic order must contain the following provisions:

(1) Neither party shall sell, transfer, encumber, conceal, assign, remove, withdraw, or in any way dispose of, without the consent of the other party in writing, or by order of the court, any property, including real estate, personal property, cash, accounts, stocks, mutual funds, bank accounts, loyalty points or miles, cars, and boats whether individually or jointly titled, except in the usual course of business, for customary and usual household expenses, or for reasonable attorneys' fees in connection with any claim filed under this Chapter.

(2) Neither party shall sell, transfer, encumber, assign, remove, withdraw, or in any way dispose of any tax-deferred funds, stocks, or other assets held in any individual retirement accounts, 401K accounts, profit sharing plans, Keogh accounts, or any other pension or retirement account, and the parties shall further refrain from applying for or requesting the payment of retirement benefits or annuity payments of any kind, without the consent of the other party in writing, or upon further order of the court; except that any party who is already in pay status may continue to receive such payments thereunder.

(3) Neither party shall sell, transfer, encumber, assign, remove, withdraw, or in any way dispose of any property owned by or for the benefit of the children, including any 529 plan accounts, real estate, personal property, cash, accounts, stocks, mutual funds, bank accounts, loyalty points or miles, and cars whether individually or jointly titled, except for customary and usual expenses historically paid for the benefit of the children from those assets without the consent of the other party in writing or by order of the court.



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(4) Neither party shall incur unreasonable debts hereafter, including further borrowing against any credit line secured by the family residence, further encumbering any assets, or unreasonably using credit cards or cash advances against credit cards, except in the usual course of business or for customary and usual household expenses, or for reasonable attorneys' fees in connection with any claim filed under this Chapter.

(5) Neither party shall remove the other party as beneficiary, co-owner, cosigner, or authorized user of any account in subdivisions (1) through (4) of this subsection nor shall they add a nonparty to any account as a beneficiary, co-owner, cosigner, or authorized user of any account in subdivisions (1) through (4) of this subsection without the consent of the other party in writing, or by order of the court.

(6) Neither party shall cause the other party or the children to be removed from any existing medical, hospital, and dental insurance coverage, without the consent of the other party in writing, or by order of the court. Each party shall maintain the existing medical, hospital, and dental insurance coverage in full force and effect until the parties agree in writing or the court orders otherwise.

(7) Neither party shall change the beneficiaries of any existing life insurance policy without the consent of the other party in writing, or by order of the court. Each party shall maintain the existing life insurance, automobile insurance, homeowner's insurance, and renter's insurance in full force and effect until the parties agree in writing or the court orders otherwise.

(8) This order is entered without prejudice to either party.

(c) The plaintiff shall serve the automatic order with the summons and complaint when there is a newly filed equitable distribution claim as required by Rule 4 of the North Carolina Rules of Civil Procedure. If the equitable distribution claim is filed in an existing action, the automatic order shall be served in a manner provided for in Rule 5 of the North Carolina Rules of Civil Procedure for service and return of process.

(d) The automatic order shall be immediately binding upon the party who filed the initial equitable distribution claim and upon the other party once served with the automatic order.

(e) The automatic order shall remain in full force and effect until a final order is entered regarding the equitable distribution claim, unless terminated, modified, or amended by the court upon motion of either party or upon entry of a consent order by the parties.

(f) Entry of the automatic order shall not replace, limit, or restrict other remedies or protections available to the parties, including filing a lis pendens or obtaining an injunction under Rule 65 of the North Carolina Rules of Civil Procedure."

SECTION 1.2. The Administrative Office of the Courts shall develop a form order for the automatic order which must contain the following information:

- (1) The case caption.
- (2) A finding of fact that a claim for equitable distribution claim has been filed in the action.
- (3) A decretal section containing the required provisions listed in G.S. 50-23(b), as enacted by this act.

The Administrative Office of the Courts shall have this form order finalized and available on its website for use by October 1, 2025.

SECTION 1.3. Section 1.1 of this act becomes effective October 1, 2025, and applies to actions or claims filed on or after that date.

SECTION 2.1. G.S. 50-20(c) reads as rewritten:

"(c) There shall be an equal division by using net value of marital property and net value of divisible property unless the court determines that an equal division is not equitable. If the court determines that an equal division is not equitable, the court shall divide the marital property

- 1 and divisible property equitably. The court shall consider all of the following factors under this
2 subsection:
- 3 (1) The income, property, and liabilities of each party at the time the division of
4 property is to become effective.
 - 5 (2) Any obligation for support arising out of a prior marriage.
 - 6 (3) The duration of the marriage and the age and physical and mental health of
7 both parties.
 - 8 (4) The need of a parent with custody of a child or children of the marriage to
9 occupy or own the marital residence and to use or own its household effects.
 - 10 (5) The expectation of pension, retirement, or other deferred compensation rights
11 that are not marital property.
 - 12 (6) Any equitable claim to, interest in, or direct or indirect contribution made to
13 the acquisition of such marital property by the party not having title, including
14 joint efforts or expenditures and contributions and services, or lack thereof, as
15 a spouse, parent, wage earner or homemaker.
 - 16 (7) Any direct or indirect contribution made by one spouse to help educate or
17 develop the career potential of the other spouse.
 - 18 (8) Any direct contribution to an increase in value of separate property which
19 occurs during the course of the marriage.
 - 20 (9) The liquid or nonliquid character of all marital property and divisible property.
 - 21 (10) The difficulty of evaluating any component asset or any interest in a business,
22 corporation or profession, and the economic desirability of retaining such
23 asset or interest, intact and free from any claim or interference by the other
24 party.
 - 25 (11) The tax consequences to each party, including those federal and State tax
26 consequences that would have been incurred if the marital and divisible
27 property had been sold or liquidated on the date of valuation. The trial court
28 may, however, in its discretion, consider whether or when such tax
29 consequences are reasonably likely to occur in determining the equitable value
30 deemed appropriate for this factor.
 - 31 (11a) Acts of either party to maintain, preserve, develop, or expand; or to waste,
32 neglect, devalue or convert the marital property or divisible property, or both,
33 during the period after separation of the parties and before the time of
34 distribution.
 - 35 (11b) In the event of the death of either party prior to the entry of any order for the
36 distribution of property made pursuant to this subsection:
 - 37 a. Property passing to the surviving spouse by will or through intestacy
38 due to the death of a spouse.
 - 39 b. Property held as tenants by the entirety or as joint tenants with rights
40 of survivorship passing to the surviving spouse due to the death of a
41 spouse.
 - 42 c. Property passing to the surviving spouse from life insurance,
43 individual retirement accounts, pension or profit-sharing plans, any
44 private or governmental retirement plan or annuity of which the
45 decedent controlled the designation of beneficiary (excluding any
46 benefits under the federal social security system), or any other
47 retirement accounts or contracts, due to the death of a spouse.
 - 48 d. The surviving spouse's right to claim an "elective share" pursuant to
49 G.S. 30-3.1 through G.S. 30-33, unless otherwise waived.
 - 50 (11c) Whether a party was held in contempt of court for violation of the automatic
51 order entered pursuant to G.S. 50-23.

(12) Any other factor which the court finds to be just and proper."

SECTION 2.2. Section 2.1 of this act becomes effective October 1, 2025, and applies to actions or claims filed on or after that date.

SECTION 3.1. G.S. 50-21 reads as rewritten:

"§ 50-21. **Procedures in actions for equitable distribution of property; sanctions for purposeful and prejudicial delay.**

(a) At any time after a husband and wife begin to live separate and apart from each other, a claim for equitable distribution may be filed and adjudicated, either as a separate civil action, or together with any other action brought pursuant to Chapter 50 of the General Statutes, or as a motion in the cause as provided by G.S. 50-11(e) or (f). Upon filing the initial claim for equitable distribution as provided for in this section, the automatic order shall be entered and served as provided for in G.S. 50-23. Within 90 days after service of a claim for equitable distribution, the party who first asserts the claim shall prepare and serve upon the opposing party an equitable distribution inventory affidavit listing all property claimed by the party to be marital property and all property claimed by the party to be separate property, and the estimated date-of-separation fair market value of each item of marital and separate property. Within 30 days after service of the inventory affidavit, the party upon whom service is made shall prepare and serve an inventory affidavit upon the other party. The inventory affidavits prepared and served pursuant to this subsection shall be subject to amendment and shall not be binding at trial as to completeness or value. The court may extend the time limits in this subsection for good cause shown. The affidavits are subject to the requirements of G.S. 1A-1, Rule 11, and are deemed to be in the nature of answers to interrogatories propounded to the parties. Any party failing to supply the information required by this subsection in the affidavit is subject to G.S. 1A-1, Rules 26, 33, and 37. During the pendency of the action for equitable distribution, discovery may proceed, and the court shall enter ~~temporary~~ additional orders as appropriate and necessary for the purpose of preventing the disappearance, waste, or destruction of marital or separate property or to secure the possession thereof.

Real or personal property located outside of North Carolina is subject to equitable distribution in accordance with the provisions of G.S. 50-20, and the court may include in its order appropriate provisions to ensure compliance with the order of equitable distribution.

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SECTION 3.2. Section 3.1 of this act becomes effective October 1, 2025, and applies to actions or claims filed on or after that date.

SECTION 4. Except as otherwise provided, this act is effective when it becomes law.