

BILL ANALYSIS

Senate Research Center
79R130 KKA-F

H.B. 202
By: Goodman (Harris)
Jurisprudence
4/29/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current Family Code provisions, postmarital agreements have evolved as the constitution has changed. The provisions in postmarital agreements regarding the income from separate property may not be in conformity with constitutional provisions. Additionally, the requirements for execution of the document differ from the requirements of premarital agreements.

H.B. 202 clarifies the provisions of the statute regarding income from separate property and conforms the requirement for execution of postmarital agreements to those for premarital agreements.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 4.102, Family Code, to authorize the partition or exchange of property to provide that future earnings and income arising from the transferred property shall be separate property of the owning spouse. Deletes existing text providing that the partition or exchange of property includes future earnings and income arising from the property as separate property of the owning spouse unless the spouses agree in a record that future earnings and income will be community property after the partition or exchange.

SECTION 2. Amends Section 4.104, Family Code, to require a partition or exchange agreement under Section 4.102 (Partition or Exchange of Community Property) or an agreement under Section 4.103 (Agreement between Spouses Concerning Income or Property from Separate Property), rather than a partition or exchange agreement, to be in writing and signed by both parties. Provides that either agreement is enforceable without consideration.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2005.