

State of Arkansas
77th General Assembly
Regular Session, 1989
By: Representative Givens

Call Item 27
HOUSE BILL 1030

"AN ACT TO AMEND THE ARKANSAS CODE OF 1987, TITLE 9, CHAPTER 12, SECTION 317, TO PROVIDE THAT A CHANCELLOR MAY CONSIDER A.C.A. § 9-12-315 AND A.C.A. § 9-12-317 PROPERTY TOGETHER WHEN DIVIDING SUCH PROPERTY BETWEEN SPOUSES ON GRANTING AN ABSOLUTE DIVORCE OR DIVORCE FROM BED AND BOARD; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code 9-12-317 is hereby amended to read as follows:

"9-12-317. (a) Hereafter, when any chancery court in this state renders a final decree of divorce, any estate by the entirety or survivorship in real or personal property held by the parties to the divorce shall be automatically dissolved unless the court order specifically provides otherwise, and in the division and partition of the property, parties shall be treated as tenants in common;

(b) Provided, however, that when a chancery court in this state renders an absolute divorce from the bonds of matrimony, or a divorce from bed and board, the court may consider all property under A.C.A. § 9-12-315 and all estates by the entirety and survivorships in real or personal property under A.C.A. § 9-12-317 together, and make a division of all such property that the court deems equitable, provided, however, that if the court makes a division other than fifty percent (50%) to each spouse when all the property is considered together, the court shall set forth its reasons in writing in the decree for making an other than 50%-50% distribution to each party taking into account the factors enumerated in A.C.A. § 9-12-315 (a) (1)."

SECTION 2. Emergency Clause. Whereas the Arkansas Court of Appeals held in Leonard v. Leonard, 22 Ark. App. 279 (11-18-87) that a division of property

between a husband and a wife did not permit a chancellor to make an equal division of their property by awarding the Arkansas Statutes Annotated 34-1215 (A.C.A. § 9-12-317) property to the wife and the Arkansas Statutes Annotated 34-1214 (A.C.A. § 9-12-315) property to the husband, and such a decision will result in great hardship and a needless sale of assets which could otherwise be equitably divided between the parties, therefore an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

