

AMENDMENTS TO LB497

Introduced by Hadley, 37.

1           1. Strike the original sections and insert the following new  
2 sections:

3           Section 1. Section 42-365, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           42-365 (1) When dissolution of a marriage is decreed, the court may  
6 order payment of such alimony by one party to the other ~~and division of~~  
7 ~~property~~ as may be reasonable, having regard for the circumstances of the  
8 parties, duration of the marriage, a history of the contributions to the  
9 marriage by each party, including contributions to the care and education  
10 of the children, and interruption of personal careers or educational  
11 opportunities, and the ability of the supported party to engage in  
12 gainful employment without interfering with the interests of any minor  
13 children in the custody of such party. Reasonable security for payment  
14 may be required by the court. A proceeding to modify or revoke an order  
15 for alimony for good cause shall be commenced by filing a complaint to  
16 modify. Service of process and other procedure shall comply with the  
17 requirements for a dissolution action. Amounts accrued prior to the date  
18 of filing of the complaint to modify may not be modified or revoked. A  
19 decree may not be modified to award alimony if alimony was not allowed in  
20 the original decree dissolving a marriage. A decree may not be modified  
21 to award additional alimony if the entire amount of alimony allowed in  
22 the original decree had accrued before the date of filing of the  
23 complaint to modify. Except as otherwise agreed by the parties in writing  
24 or by order of the court, alimony orders shall terminate upon the death  
25 of either party or the remarriage of the recipient.

26           (2) In any action for divorce, annulment, or legal separation, the  
27 court shall divide the marital property of the parties equitably. The

1 court shall presume that an equal division is an equitable distribution  
2 of the property and shall distribute the marital property equally unless  
3 the court specifically finds in the decree that such a division is  
4 inequitable and sets forth the reasons. In the event the court finds that  
5 an equal division of the marital estate is inequitable, the court shall  
6 specifically state its basis for the finding in the decree and shall take  
7 into consideration the following in determining the distribution of the  
8 marital estate:

9 (a) The length of the marriage;

10 (b) Any antenuptial or prenuptial agreement of the parties. The  
11 court shall have no authority, except as otherwise provided, to amend or  
12 rescind any such agreement;

13 (c) The age, health, occupation, amount and source of income,  
14 vocational skills, employability, and liabilities of each spouse;

15 (d) Contributions of each spouse to the marriage, including  
16 contributions to the care and education of the children and the care and  
17 management of the home;

18 (e) The expectation of pension or retirement rights acquired prior  
19 to or during the marriage;

20 (f) The amount and duration of any spousal support awarded to either  
21 party or a property division in lieu of such support; and

22 (g) The tax consequences to each party.

23 (3) While the criteria for reaching an equitable a reasonable  
24 division of property and a reasonable award of alimony may overlap, the  
25 two serve different purposes and are to be considered separately. The  
26 purpose of a property division is to distribute the marital assets  
27 equitably between the parties. The purpose of alimony is to provide for  
28 the continued maintenance or support of one party by the other when the  
29 relative economic circumstances and the other criteria enumerated in this  
30 section make it appropriate.

31 Sec. 2. Original section 42-365, Reissue Revised Statutes of

1 Nebraska, is repealed.