

2 A: 34-23

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2A:34-23

(divorce--equitable distribution-  
exempt all inherited property.

LAWS OF: 1983

CHAPTER: 519

Bill No: A1896

Sponsor(s): Bryant and others

Date Introduced: September 30, 1982

Committee: Assembly: Judiciary, Law, Public Safety and Defense

Senate: Judiciary

Amended during passage: Yes Amendments denoted by asterisks  
according to Governor's recommendation

Date of Passage: Assembly: March 3, 1983 Re-enacted 12-12-83

Senate: July 11, 1983 Re-enacted 1-9-84

Date of Approval: January 17, 1984

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: Yes

Message on Signing: ~~No~~ Yes

Following were printed:

Reports: No

Hearings: No

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1896

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 30, 1982

By Assemblymen BRYANT, HERMAN, THOMPSON, MARSELLA,  
CHARLES, DOYLE, GORMAN, WATSON, NAPLES, MAZUR  
and RILEY

AN ACT concerning equitable distribution of certain matrimonial  
property upon entry of judgments of divorce under certain  
circumstances, and amending N. J. S. 2A:34-23.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. N. J. S. 2A:34-23 is amended to read as follows:

2 2A:34-23. Pending any matrimonial action brought in this State  
3 or elsewhere, or after judgment of divorce or maintenance, whether  
4 obtained in this State or elsewhere, the court may make such order  
5 as to the alimony or maintenance of the parties, and also as to  
6 the care, custody, education and maintenance of the children, or  
7 any of them, as the circumstances of the parties and the nature of  
8 the case shall render fit, reasonable and just, and require reason-  
9 able security for the due observance of such orders. Upon neglect  
10 or refusal to give such reasonable security, as shall be required,  
11 or upon default in complying with any such order, the court may  
12 award and issue process for the immediate sequestration of the  
13 personal estate, and the rents and profits of the real estate of the  
14 party so charged, and appoint a receiver thereof, and cause such  
15 personal estate and the rents and profits of such real estate, or  
16 so much thereof as shall be necessary, to be applied toward such  
17 alimony and maintenance as to the said court shall from time to  
18 time seem reasonable and just; or the performance of the said

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Assembly committee amendment adopted January 27, 1983.

\*\*—Assembly amendment adopted in accordance with Governor's recommenda-  
tions December 8, 1983.

19 orders may be enforced by other ways according to the practice of  
20 the court. Orders so made may be revised and altered by the court  
21 from time to time as circumstances may require.

22 In all actions brought for divorce, divorce from bed and board,  
23 or nullity the court may award alimony to either party, and in so  
24 doing shall consider the actual need and ability to pay of the  
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35 In all actions where a judgment of divorce or divorce from bed  
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38 an equitable distribution of the property, both real and personal,  
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40 them during the marriage. However, all such property, real, per-  
41 sonal or otherwise, legally or beneficially acquired during the  
42 marriage by either party by way of gift, devise, **[or]** **\*\*[bequest, or**  
43 *descent \*or other distribution\** **\*\* \*or intestate succession\*\***, shall  
44 not be subject to equitable distribution, except that interspousal  
45 gifts shall be subject to equitable distribution.

1 2. This act shall take effect immediately.

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42 marriage by either party by way of gift, devise, [or] bequest, or  
43 descent shall not be subject to equitable distribution, except that  
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#### STATEMENT

The purpose of this bill is to clearly state the intent of the Legislature to exempt all inherited property from equitable distribution. This legislation is in response to the recent New Jersey Superior Courts' Appellate Division case *Sleeper v. Sleeper*, — N. J. Super. — (1982), which held that property acquired by intestate succession was not subject to the equitable distribution exemption of other inherited property. By the insertion of the word "descent" the statute would specifically include all means of property inheritance and would not distinguish between the circumstance of whether or not a will was involved in the property's acquisition.

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set'd. with 9-6-83  
on records

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ASSEMBLY, No. 1896

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ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND  
DEFENSE COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 1896**  
with committee amendments

**STATE OF NEW JERSEY**

DATED: JANUARY 20, 1983

The purpose of this bill is to clearly state the intent of the Legislature to exempt all inherited property from equitable distribution. This legislation is in response to the recent New Jersey Superior Courts' Appellate Division case *Sleeper v. Sleeper*, \_\_\_\_ N. J. Super. \_\_\_\_ (1982), which held that property acquired by intestate succession was not subject to the equitable distribution exemption of other inherited property. By the insertion of the word "descent" the statute would specifically include all means of property inheritance and would not distinguish between the circumstance of whether or not a will was involved in the property's acquisition. A technical amendment was made by the committee.



SENATE JUDICIARY COMMITTEE  
STATEMENT TO  
ASSEMBLY, No. 1896

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STATE OF NEW JERSEY

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DATED: JUNE 20, 1983

In a recent Appellate Division decision, *Sleeper v. Sleeper* 184 N.J. Super 544 (1982), the court ruled that while property acquired by a spouse through gift or under a will is exempt from equitable distribution, property acquired by a spouse through intestate succession is subject to equitable distribution. The purpose of Assembly Bill No. 1896 is to clarify that all inherited property, whether or not a will is involved in its acquisition, is exempt from equitable distribution.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

September 6, 1983

ASSEMBLY BILL NO. 1896 (OCR)

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14 of the Constitution, I herewith return Assembly Bill No. 1896 (OCR) with my recommendations for reconsideration.

Assembly Bill No. 1896 exempts property received by descent or other distribution from equitable distribution in divorce cases.

Under current law when parties become divorced, the property which they acquired during the marriage is divided between them. The allocation to each spouse of a share of the joint assets is known as "equitable distribution." This bill addresses the issue of whether property inherited by intestate succession should be considered a joint asset eligible for equitable distribution.

A 1980 amendment to the law exempted from equitable distribution gifts, devises and bequests, with the exception of interspousal gifts which would remain subject to equitable distribution. These exemptions were authorized because in most cases, the gift, devise or bequest in question will be from parents or other relatives or persons who intend that the property belong to the recipient and not the recipient's spouse. To permit a compulsory division of the asset between the intended recipient and his spouse would be contrary to the natural expectations of the recipient and the giving parent, relative or other person. Since the efforts of neither spouse resulted in the gift, devise or bequest, in all fairness it need not be regarded as a marital asset.

The 1980 amendment inadvertently failed to refer to property received by intestate succession. This bill is intended to correct this oversight by specifically exempting from equitable distribution property acquired by descent or other distribution. This change is consistent with the principle behind existing law that family property which passes to a spouse should remain with that spouse and not be subject to equitable distribution in the event of divorce.

I am recommending a conditional veto to make technical corrections to the bill. As presently worded the bill would exempt property received by "devise, bequest, or descent or other distribution." The words "bequest" and "descent" are no longer meaningful under our revised probate code. The phrase "devise"

includes all property received under a will. To refer to property inherited where there is no will the appropriate reference is "by intestate succession." The phrase "or other distribution" while intended to refer to estate distributions could be construed to refer to other kinds of distribution, such as distributions from a dissolved partnership or a bankrupt's estate. I recommend that the bill be amended to delete the reference to "bequest, or descent or other distribution" and insert "intestate succession" in its place.

Accordingly, I herewith return Assembly Bill No. 1896 (OCR) and recommend that it be amended as follows:

Page 2, Section 1, lines 42 and 43: Delete "bequest, or descent or other distribution" and insert "or intestate succession"

Respectfully,

/s/ Thomas H. Kean  
GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards

\_\_\_\_\_  
Chief Counsel

A-3468 SIGNED, ET AL.

PAGE SIX

JANUARY 17, 1984

A-2142, sponsored by Assemblyman Anthony Marsella, D-Camden, to prescribe the minimum penalty for intrusive or damaging acts on agricultural or horticultural lands.

A-2141, also sponsored by Assemblyman Marsella, to impose a minimum penalty of \$100 on any person who trespasses on agricultural or horticultural lands.

A-2021, sponsored by Assemblyman John Girgenti, D-Passaic, to require that first aid and emergency or volunteer ambulance or rescue squad associations receiving county or municipal contributions provide a copy of the association's certified audit to the chief financial officer of the county or municipality.

A-1896, sponsored by Assemblyman Wayne Bryant, D-Camden, to exempt all inherited property from equitable distribution in cases of divorce.

A-1442, sponsored by Assemblyman Walter Kern, R-Bergen, to outlaw the advertisement of the sale of machine guns and automatic or semi-automatic weapons.

A-4078, sponsored by Assemblyman Dennis Riley, D-Camden, to appropriate \$75,000 to the Borough of Chesilhurst for police and fire safety.

A-1055, sponsored by Assemblyman Joseph Doria, D-Hudson, to provide that New Jersey schools of professional nursing may receive State aid for part-time students who are New Jersey residents.

- more -

for enactment in all the states.