

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 758
HOUSE BILL 1129

AN ACT TO INCLUDE VESTED PENSION OR RETIREMENT RIGHTS IN
MARITAL PROPERTY FOR PURPOSES OF EQUITABLE DISTRIBUTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-20(b)(1) is amended by adding a new sentence to the end to read: "Marital property includes all vested pension and retirement rights, including military pensions eligible under the federal Uniformed Services Former Spouses' Protection Act."

Sec. 2. G.S. 50-20(b)(2) is amended by rewriting the last sentence to read:

"The expectation of nonvested pension or retirement rights shall be considered separate property."

Sec. 3. G.S. 50-20(b)(3) is amended by adding a new paragraph to the end to read:

"The distributive award of vested pension and retirement benefits may be payments payable:

- (1) as a lump sum by agreement;
- (2) over a period of time in fixed amounts by agreement; or
- (3) as a prorated portion of the benefits made to the designated recipient at the time the party against whom the award is made actually begins to receive the benefits.

Notwithstanding the foregoing, the court shall not require the administrator of the fund or plan involved to make any payments until the party against whom the award is made actually begins to receive the benefits. The award shall be based upon the proportion of the amount of time the marriage existed simultaneously with the employment which earned the vested pension or retirement rights to the total amount of time of employment. Said award shall not be based on contributions made after the separation, but shall include any growth on the amount of the pension or retirement account vested at the time of the separation. In the event the person receiving the distributive award dies, full rights to vested pension and retirement benefits, including military pensions eligible under the federal Uniformed Services Former Spouses' Protection Act, shall belong to the party against whom the award is made. In the event the party against whom the award is made dies, the person receiving the distributive award shall receive no further benefits. The total amount of contributions, years of service and pension and retirement benefits shall be certified by the administrator of the plan or fund involved upon receipt of a court order to do so. No award shall exceed fifty percent (50%) of the cash benefits by the party against whom the award is made is entitled to receive. The

provisions of this section and G.S. 50-21 shall apply to all retirement and pension systems and funds administered by the State pursuant to General Statutes Chapters 118, 120, 127A, 128, 135 and 143 to the extent of a member's accrued benefit at retirement or withdrawal as determined by the system's or fund's consulting actuary."

Sec. 4. G.S. 50-20(c)(5) is rewritten to read:

"(5) The expectation of nonvested pension or retirement rights, which is separate property;".

Sec. 5. This act is effective August 1, 1983.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.