

**651.31 Factors court to consider in determining if partition in kind will result in great prejudice.**

1. The court shall consider all of the following factors in determining if partition in kind of heirs property will result in great prejudice to the cotenants of such property as a group:

a. Whether the heirs property can be practicably divided among the cotenants.

b. Whether a partition in kind will apportion the heirs property in such a way that the aggregate fair market value of the parcels resulting from the division will be materially less than the value of the heirs property if the heirs property is sold as a whole, taking into account the condition under which a court-ordered sale likely will occur.

c. Evidence of the collective duration of ownership or possession of the heirs property by a cotenant and one or more predecessors in title or predecessors in possession to the cotenant who are or were relatives of the cotenant or each other.

d. A cotenant's sentimental attachment to the heirs property, including any attachment arising due to the heirs property having ancestral or other unique or special value to the cotenant.

e. The lawful use being made of the heirs property by a cotenant and the degree to which the cotenant will be harmed if the cotenant cannot continue the same use of the heirs property.

f. The degree to which a cotenant has contributed the cotenant's pro rata share of the property taxes, insurance, and other expenses associated with maintaining ownership of the heirs property, or has contributed to the physical improvement, maintenance, or upkeep of the heirs property.

g. Tax consequences.

h. Any other factors the court deems relevant.

2. The court shall weigh the totality of all relevant factors and circumstances and not consider any one factor in [subsection 1](#) to be dispositive.

[2018 Acts, ch 1108, §31](#)

Referred to in [§651.30](#)