

Senate Study Bill 3166 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act relating to orders of disposition of certain property
2 of a party to the marriage in an annulment, dissolution, or
3 separate maintenance proceeding.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 598.21, subsection 6, Code 2018, is
2 amended to read as follows:

3 6. *Inherited and gifted property.* Property inherited by
4 either party or gifts received by either party prior to or
5 during the course of the marriage is the property of that party
6 and is not subject to a property division under **this section**
7 ~~except upon a finding that refusal to divide the property~~
8 ~~is inequitable to the other party or to the children of the~~
9 ~~marriage as provided in this subsection.~~ Any increase in the
10 value of inherited or gifted property, attributable to passive
11 growth of or appreciation to the inherited or gifted property
12 which does not result from the contributions or efforts of
13 both parties or the use of marital assets during the course of
14 the marriage, remains the property of the inheriting party and
15 shall not be considered in the property division.

16 Sec. 2. Section 598.21, Code 2018, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 9. The court shall not consider the
19 division of property under this section in the awarding of
20 attorney fees.

21 EXPLANATION

22 The inclusion of this explanation does not constitute agreement with
23 the explanation's substance by the members of the general assembly.

24 This bill relates to the treatment of property inherited or
25 gifted to a party to a marriage for the purposes of property
26 division in an annulment, dissolution, or separate maintenance
27 proceeding. The bill eliminates the provision that allows the
28 court to divide the inherited or gifted property upon a finding
29 that refusal to divide the property is inequitable to the other
30 party or to the children of the marriage.

31 The bill distinguishes between active and passive growth
32 of or appreciation to property inherited or gifted to a
33 party during the course of the marriage by providing that
34 any increase in the value of inherited or gifted property,
35 attributable to passive growth of or appreciation to the

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1 inherited or gifted property which does not result from
2 the contributions or efforts of both parties or the use of
3 marital assets during the course of the marriage, remains the
4 property of the inheriting or receiving party and shall not be
5 considered in the property division.

6 The bill also provides that the court shall not consider the
7 division of property in the awarding of attorney fees.