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DEPARTURES FROM THE UNIFORM MARITAL PROPERTY ACT CONTAINED IN THE WISCONSIN MARITAL PROPERTY ACT

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I. INTRODUCTION

The introduction in December 1979 of Assembly Bill 1090 provided the Wisconsin Legislature with its first vehicle for formally considering a comprehensive revision of Wisconsin property law as it applies to spouses during marriage. The groundwork for Assembly Bill 1090 was initiated by the Wisconsin Commission on the Status of Women, which began studying the property laws applying to married persons in 1975 and discussing the issues statewide in 1976. The interest in comprehensive property law reform was an outgrowth of a number of other related reforms, including enactment of legislation eliminating statutory provisions which were discriminatory based on sex;¹ enactment of divorce reform legislation providing equitable distribution at dissolution of a marriage;² and repeal of interspousal inheritance and gift taxes.³

In the following two sessions, marital property legislation was again introduced, based on the comprehensive reform contained in 1979 Assembly Bill 1090. This along with other

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1. See WIS. STAT. § 246.15 (1975). "The various courts. . . shall construe the statutes so that words importing one gender extend and may be applied to any gender consistent with the manifest intent of the legislature." *Id.*

2. See WIS. STAT. § 767.255 (1979-80).

3. See WIS. STAT. § 72.15(5) (1981-82) (inheritance tax exemption); WIS. STAT. § 76.76(1)(m) (1981-82) (gift tax exemption).

bills⁴ represented a unique amalgam of provisions of other community property states and provisions that would have been original to Wisconsin.

At the time that Wisconsin was considering marital property reform, the Uniform Law Commissioners were developing the Uniform Marital Property Act (UMPA). As the Wisconsin legislation and the UMPA draft developed, there was considerable comparison and resulting revision of both proposals. Toward the end of 1983, UMPA was in final draft form. At the urging of those who found UMPA a preferable alternative, proponents of Wisconsin marital property reform decided to use UMPA as the basis for the Wisconsin legislation. In large part, this decision was made because of the many advantages of uniformity in this area of the law. The decision was made easier because UMPA, in large measure, reflected the basic policy choices contained in the previously developed Wisconsin legislation and resolved the apparent problem of management and control in that legislation.

The decision to use UMPA as the basis for marital property reform legislation in Wisconsin again required comparison of UMPA with provisions of the Wisconsin legislation. As a result of this comparison, it was evident that although the basic principles of UMPA were consistent with the prior Wisconsin legislation, policy and other considerations unique to Wisconsin required some changes to UMPA. This Article describes the significant changes to UMPA contained in the Wisconsin Marital Property Act.⁵ Given the broad sweep of the legislation, the differences are relatively few in number. Some changes are relatively minor, while others reflect significant policy decisions. In particular, the Wisconsin Act addresses a number of areas not dealt with in UMPA, both because UMPA is primarily a property law that applies during marriage and because it was necessary to integrate UMPA with existing Wisconsin law. Examples of such areas are tax law,⁶ multi-party financial accounts,⁷ and probate.⁸ These areas are not, however, the focus of this Article.

4. Wis. A. 200 (1983); Wis. S. 105 (1983); Wis. A. 370 (1981); Wis. S. 272 (1981).

5. 1983 Wis. Laws 186.

6. See 1983 Wis. Laws 186, §§ 8-20.

7. See *id.* §§ 34-43.

8. See *id.* §§ 22-26, 56-73, 84-88.

This Article also discusses the legislative intent behind the changes to UMPA contained in the Wisconsin Act. Legislative intent is an illusive concept at best. Therefore, intent is discussed in general terms and represents only the opinions of the authors of this Article. The description and discussion below is organized by subject area. Each description of a difference between the Wisconsin Act and UMPA is followed by a discussion of legislative intent.

II. THE DEPARTURES

A. *Classification of Property*

UMPA classifies the appreciation of individual property during marriage as individual property except to the extent that any substantial appreciation is attributable to the substantial, uncompensated effort of the *nonowning* spouse. The latter appreciation is classified as marital property.⁹ The Act also classifies as marital property substantial appreciation of individual property resulting from the uncompensated, substantial effort of the *owning* spouse.¹⁰ This change applying the appreciation rule to the individual property of the non-owning spouse was designed to bring Wisconsin into conformity with the rule of all existing community property states that the application of effort of a spouse on the individual property of *either* spouse is marital property.¹¹ The Wisconsin rule carries out more fully the concept of sharing gains resulting from spousal efforts during marriage.

The Wisconsin Act classifies as survivorship marital property a homestead acquired exclusively between spouses if no intent to the contrary is expressed on the instrument of transfer.¹² UMPA does not specifically classify a homestead; the general property classification rules would apply.¹³ The Act is designed to address a special Wisconsin situation. Under existing law, if a document of title names a husband and wife as owners, with no additional language of intent, they own the

9. See UMPA §§ 4(2)(3); 14(b)(i), (ii) (1983).

10. See 1983 Wis. Laws 186, § 47 (to be codified at Wis. STAT. § 766.63).

11. See W. DE FUNIAK & M. VAUGHN, PRINCIPLES OF COMMUNITY PROPERTY § 73 (2d ed. 1971).

12. See 1983 Wis. Laws 186, § 47 (to be codified at Wis. STAT. § 766.605).

13. See UMPA § 4.

property as joint tenants, with the right of survivorship.¹⁴ Since there was concern expressed that property, particularly homesteads, would continue to be acquired by spouses with only the spouses' names on the deed, although survivorship was intended, a special survivorship marital property classification has been added to the Act.

The Act also classifies as marital property the amount of recovery for personal injury attributable to loss of income during marriage.¹⁵ Under UMPA, such property is classified as individual property during marriage, but is treated as marital property at divorce or death.¹⁶ The UMPA rule was chosen because, considering the varied treatment of lost income in personal injury cases in the states, the rule was simpler than trying to determine before a marriage ended what part of a recovery for loss of income is for loss of income during marriage. The Wisconsin change was chosen because it better reflects the principle of sharing during marriage and protects the non-injured spouse in cases in which the recovery becomes substantial income for a couple during marriage and because it reflects the common practice in Wisconsin of having the special verdict indicate the amount of lost earnings. The Wisconsin rule follows the usual classification rule developed in the community property states.¹⁷

Finally, UMPA provides that a gift or disposition at death by a third person to only one spouse is individual property.¹⁸ The Wisconsin Act specifies that a distribution of principal or income from a trust created by a third person for only one spouse is individual property.¹⁹ This provision is intended to simplify the classification of distributions of principal and income from a trust created by a third person for only one spouse by classifying all distributions as individual property.

14. See WIS. STAT. § 700.19(2)(1983-84).

15. See 1983 Wis. Laws 186, § 47 (to be codified at WIS. STAT. §§ 766.31(7)(f); 766.75 (dissolution of marriage); 766.77(1) (death of spouse)).

16. See UMPA §§ 4(g)(6); 17(2)(dissolution of marriage); 18(b) (death of spouse).

17. See W. DEFUNIAK & M. VAUGHN, *supra* note 11, at § 82.

18. See UMPA § (4)(g)(1).

19. See 1983 Wis. Laws 186, § 47 (to be codified at WIS. STAT. § 766.31(7)(a)).

B. Access to Credit

The Wisconsin Marital Property Act provides that for purposes of incurring an obligation resulting from an extension of credit under future section 766.56 of the Wisconsin Statutes, a spouse acting alone may manage and control marital property, regardless of the name of the title-holder.²⁰ This right of management and control does not extend to a marital property interest in: (1) a partnership in which the other spouse is a general partner;²¹ (2) a professional corporation, professional association, or similar entity held by the other spouse as a stockholder or member;²² (3) an asset of an unincorporated business if the other spouse is the only one of the spouses involved in operating or managing the business;²³ or (4) an interest in a privately held corporation if the other spouse is an employee of the corporation.²⁴ Furthermore, the Act expressly requires creditors, when a spouse applies for credit based on marital property, to consider the spouse's rights of management and control in the marital property in the same manner that the creditor evaluates creditworthiness based upon an applicant's rights of management and control of the spouse's non-marital property.²⁵ A violation of this requirement is a violation of the prohibition against discrimination in granting credit.²⁶

These provisions reflect the concern that the debt-satisfaction provisions of UMPA²⁷ do not adequately ensure access to credit by a nonwage-earning spouse without the signature of the wage-earning spouse.²⁸ Some argue that notwithstanding the title-management provisions of UMPA, creditors will extend credit to nonwage-earning spouses because marital obligations may be satisfied from all marital property, as well as the other property of the incurring spouses.²⁹ The proponents

20. *See id.* (to be codified at WIS. STAT. § 766.51(1m)).

21. *See id.* (to be codified at WIS. STAT. § 766.70(3)(a)).

22. *See id.* (to be codified at WIS. STAT. § 766.70(3)(b)).

23. *See id.* (to be codified at WIS. STAT. § 766.70(3)(c)).

24. *See id.* (to be codified at WIS. STAT. § 766.70(3)(d)).

25. *See id.* (to be codified at WIS. STAT. § 766.56(1)).

26. *See* WIS. STAT. § 138.20 (1983-84).

27. *See* UMPA § 8.

28. *See* UMPA § 5.

29. *See* UMPA § 8(b)(ii).

of Wisconsin marital property reform concluded that this predicted result of the debt satisfaction provisions of UMPA is uncertain and, therefore, decided to specify an exception to the general title-management rule when management and control of marital property is being used to obtain credit.³⁰ Similarly, another provision was included to require creditors to recognize the right of management and control of marital property when evaluating the creditworthiness of an applicant spouse.³¹ And because equal access to credit by both the nonwage-earning and wage-earning spouses is an important element of the Wisconsin Act, the legislature concluded that express mention of equal management and control rights to marital property for credit purposes was important.³²

Under the Wisconsin Act, when a person applies for credit, the creditor may also inquire whether the person is married.³³ The creditor is required to inquire whether any documents exist (including marital property agreements) affecting or altering the ownership or management and control rights to property of the spouses.³⁴ If the spouse applying for credit discloses the existence of a document and provides a copy of it, the creditor is bound by property classification, characterization of an obligation, or management and control rights contained in the document.³⁵ This provision is intended to enhance the likelihood that when spouses execute marital property agreements, the agreements will be considered by and be binding on creditors. It may also serve to remind spouses of the existence of such agreements. The provision reflects concern about the general effectiveness of marital property agreements as to third parties.

The Act also provides that when an extension of credit to a spouse results in an obligation in the interest of the family or marriage, the spouse may direct the creditor to extend the credit in that spouse's name or, if the creditor regularly extends credit in the names of both spouses, in the names of both

30. See 1983 Wis. Laws 186, § 47 (to be codified at WIS. STAT. § 766.51(1m)).

31. See *id.* (to be codified at WIS. STAT. § 766.56(1)).

32. It is also desirable to use equal management and control language because of the Federal Equal Credit Opportunity Act, 15 U.S.C. § 1691 (1982).

33. See 1983 Wis. Laws 186, § 47 (to be codified at WIS. STAT. § 766.56(2)(b)).

34. See *id.*

35. See *id.* (to be codified at WIS. STAT. § 766.56(2)(c)).

spouses.³⁶ This provision is intended to preclude any tendency on the part of creditors to title accounts in the name of the wage-earning spouse only. It also gives the applicant spouse the right to title the account in the applicant spouse, rather than the creditor, reflecting the policy judgment that the applicant spouse should decide whether the account is to be titled under the applicant's name or both spouses' names.

If an extension of credit to a spouse results or might in the future result in an obligation in the interest of the marriage or family, the creditor is required under the Wisconsin Act to give the non-applicant spouse written notice of the extension of credit before any payment is due.³⁷ The notice requirement was included for those situations in which the non-applicant spouse's interest in marital property may be obligated for satisfaction of debts incurred by the other spouse without the knowledge of the non-applicant.³⁸

C. *Satisfaction of Spousal Obligations*

The Wisconsin Act contains a provision, not found in UMPA, specifically addressing satisfaction of spousal obligations at divorce, legal separation, or annulment.³⁹ The Act provides that following divorce, no income of the non-incurring spouse is available for satisfaction of an obligation which was incurred by the other spouse during the marriage in the interest of the marriage or family, unless the divorce judgment so provides.⁴⁰ In addition, marital property assigned to each spouse under a divorce judgment is available for satisfaction of such an obligation only to the extent of the value of the assigned marital property at the date of judgment.⁴¹ This rule is intended to clarify what property is available for satisfaction of spousal obligations following divorce. It is designed to avoid hardship by protecting the non-incurring spouse's in-

36. *See id.* (to be codified at WIS. STAT. § 766.56(4)).

37. *See id.* (to be codified at WIS. STAT. § 766.56(5)(a)). This section provides that: "The notice requirement may be satisfied by providing a copy of the instrument, document, agreement, contract or required credit disclosure which is signed by or given to the applicant spouse, or by providing a separate writing briefly describing the nature of the credit extended." *Id.*

38. *See id.* (to be codified at WIS. STAT. § 766.55(2)(m)).

39. *See id.*

40. *See id.*

41. *See id.*

come following divorce. The rule, however, recognizes that under certain circumstances it may be appropriate to make post-divorce income of the non-incurring spouse available to creditors and permits the court to so provide in the divorce judgment. It is also intended to protect property accumulated by a non-incurring spouse after divorce from satisfaction of a marital obligation.

At the death of a spouse, the Wisconsin Act generally classifies claims as marital obligations or obligations other than marital.⁴² A marital obligation may be satisfied from all marital property.⁴³ A nonmarital obligation may be satisfied from the decedent's property other than marital property and from the decedent's interest in marital property, in that order.⁴⁴ This section is intended to clarify what property of a decedent spouse's estate is available to satisfy claims of creditors and to provide a simple means of classifying and satisfying claims against a decedent spouse's estate.

D. Marital Property Agreements

Under UMPA, a marital property agreement may modify or eliminate spousal support,⁴⁵ except that if the agreement makes one spouse eligible for public assistance upon or after dissolution of the marriage, the court may require the other spouse to provide support necessary to avoid that eligibility notwithstanding the marital property agreement.⁴⁶ The Wisconsin Act further provides that a marital property agreement modifying or eliminating spousal support during the marriage may not result in a spouse having less than necessary and adequate support, taking into consideration all sources of support.⁴⁷ This provision is intended to provide that spouses, by agreement, may not leave one spouse without a "floor" of support during marriage.

UMPA distinguishes between enforcement of marital property agreements entered into before marriage and those

42. *See id.* § 70 (to be codified at WIS. STAT. § 859.18).

43. *See id.*

44. *See id.*

45. *See* UMPA § 10(c)(4).

46. *See id.* § 10 (i).

47. *See* 1983 Wis. Laws 186, § 47 (to be codified at WIS. STAT. § 766.58(9)(a)).

entered into after marriage.⁴⁸ The Wisconsin Act uses, for all marital property agreements, the UMPA enforcement provisions applicable to agreements entered into after marriage⁴⁹ with the exception of the revision relating to disclosure. The legislature determined that there was no overriding reason to distinguish between pre-marriage marital property agreements and post-marriage property agreements with respect to enforceability standards. Therefore, the legislature decided to utilize the post-marriage enforceability standards of UMPA.⁵⁰

UMPA sets forth circumstances under which a spouse against whom enforcement of a marital property agreement is sought may have the agreement found unenforceable.⁵¹ The circumstances include proof that the spouse: (1) did not receive fair and reasonable disclosure of the other spouse's property or financial obligations; (2) did not voluntarily and expressly waive in a written consent any right to disclosure of the other spouse's property or financial obligations beyond that actually provided; and (3) did not have notice of the other spouse's property or financial obligations.⁵² The Wisconsin Act adds an alternative element to the second element above: that the spouse "did waive the right to disclosure of the general categories of the other spouse's assets at approximate fair market value less general categories of the other spouse's liabilities at approximate fair market value."⁵³ This additional language is intended to establish a minimum disclosure requirement for enforceability of marital property agreements. This change to UMPA reflects a policy decision that marital property agreements are sufficiently important that, as a matter of law, a reasonable level of disclosure should be required if such agreements are to be enforceable.⁵⁴

48. See UMPA §§ 10(g) (pre-nuptial agreements); 10(f) (post-nuptial agreements).

49. See 1983 Wis. Laws 186, § 47 (to be codified at WIS. STAT. 766.58(6)).

50. See *supra* text accompanying notes 48-49.

51. See UMPA §§ 10(f) (post-nuptial agreements); 10(g) (pre-nuptial agreements).

52. See *id.* §§ 10(f)(3)(i)-(iii) (post-nuptial agreements); 10(g)(2)(i)-(iii) (pre-nuptial agreements).

53. 1983 Wis. Laws 186, § 47 (to be codified at WIS. STAT. § 766.58(6)(c)(2)).

54. This minimum disclosure requirement is also more consistent with existing Wisconsin case law than UMPA's recognition of disclosure waiver. See, e.g., *In re Estate of Beat*, 15 Wis. 2d 315, 130 N.W.2d 739 (1964) (presumption of fraud arises where widow received nothing from husband's estate under post-nuptial agreement unless

The Wisconsin Act also contains a provision, not found in UMPA, expressly providing that if legal counsel is retained in connection with a marital property agreement, the fact that each party to the agreement is not represented by independent counsel does not by itself make a marital property agreement unconscionable or otherwise affect its enforceability, if each spouse waived independent representation in writing.⁵⁵ This provision, inserted by an amendment introduced during floor debate, is intended to clarify that legal representation of both spouses by one attorney in the drafting of a marital property agreement does not per se make the agreement unconscionable or unenforceable if each spouse has waived independent representation in writing. It is anticipated that under some circumstances one attorney will represent both spouses in connection with a marital property agreement.

E. Life Insurance Policies and Proceeds

The Wisconsin Marital Property Act deletes the provision of UMPA⁵⁶ stating that designation by a spouse of a parent or child of either of the spouses as the beneficiary of the proceeds of a life insurance policy is presumed to have been made with the consent of the other spouse. The UMPA presumption that the designation of parents and children on life insurance policies is with the consent of both spouses was considered overbroad. It would apply to many second marriage situations in which the presumption does not conform to the expectations of spouses, as well as to some first marriage situations in which, because of changing circumstances or expectations in the marriage, it would be unfair. Furthermore, it would apply equally to both parents and children as beneficiaries of life insurance, when few spouses consider both on an equal footing. Therefore, the presumption was not included in the Wisconsin Act.

there was a full and fair disclosure to wife of husband's worth. See also LOEB, *Prenuptial and Postnuptial Agreements*, 54 WIS B. BULL., March 1983, at 13.

55. See 1983 Wis. Laws 186, § 47 (to be codified at WIS. STAT. § 766.58(8)).

56. See UMPA § 12(5). Cf. 1983 Wis. Laws 186, § 47 (to be codified at WIS. STAT. § 766.61(3)).

F. Deferred Employment Benefit Plans

The Wisconsin Act provides that if a deferred employment benefit plan administrator makes payments or takes action in accordance with the plan and the administrator's records, the administrator is not liable because of those payments or actions.⁵⁷ Under UMPA, an administrator is not protected if, at the time of the payments or actions, the administrator had actual knowledge of inconsistent provisions of a court decree or marital property agreement or of an adverse claim by a spouse, former spouse, surviving spouse, or a person claiming under a deceased spouse's disposition at death.⁵⁸ The deletion of the exception to the UMPA rule was designed to continue existing protections for administrators of deferred employment benefit plans. Because of the deletion, administrators will continue to be able to make payments or take action in accordance with the plan and their records and need not be concerned with court orders, marital property agreements, and adverse claims affecting the plan.

Under the Wisconsin Act, the marital property interest of the non-employee spouse in a deferred employment benefit plan terminates at the death of the non-employee spouse if the latter predeceases the employee spouse.⁵⁹ Under UMPA, the marital property interest of the non-employee spouse does not so terminate.⁶⁰ This provision of the Wisconsin Act gives all marital property deferred employment benefits to a surviving spouse whose efforts earned the benefits. The provision is designed to prevent the non-employee spouse from willing away fifty percent of the benefits to a third party (or, where there is no will, have the laws of intestacy pass a statutory share of the benefits to children), thereby ensuring that the surviving employee spouse may rely on receiving all the benefits.

57. See 1983 Wis. Laws 186, § 47 (to be codified at WIS. STAT. § 766.62(4)).

58. See UMPA § 13(d).

59. See 1983 Wis. Laws 186, § 47 (to be codified at WIS. STAT. §§ 766.31(3), 766.62(5)).

60. See UMPA § 13.

G. *Deferred Marital Property*

The Wisconsin Act expressly permits a surviving spouse to disclaim all or part of an interest in "deferred marital property."⁶¹ This provision was designed to make the deferred marital property provision more flexible by permitting a surviving spouse to disclaim any or part of an interest in the deferred marital property. In a number of situations a surviving spouse would prefer to let an estate plan be carried out fully, rather than have it upset by an absolute deferred marital property provision. UMPA assumes that the adopting jurisdiction already has a broad disclaimer statute that would cover this situation.

H. *Remedies*

The Wisconsin Marital Property Act adds the following remedies to those included in UMPA:⁶² (1) limitation or termination of management and control rights in marital property or change in classification of marital property;⁶³ (2) set-off for satisfaction of certain obligations;⁶⁴ (3) remedies relating

61. See 1983 Wis. Laws 186, § 47 (to be codified at WIS. STAT. § 766.77(2)). "Deferred marital property" is generally that property acquired by spouses that would have been marital property had the Act applied at the time the property was acquired. *Id.* (to be codified at WIS. STAT. § 766.77(1)); UMPA § 18(a).

62. UMPA § 15 reads as follows:

(a) A spouse has a claim against the other spouse for breach of the duty of good faith imposed by Section 2 resulting in damage to the claimant spouse's present undivided one-half interest in marital property.

(b) A court may order an accounting of the property and obligations of the spouses and may determine rights of ownership in, beneficial enjoyment of, or access to, marital property and the classification of all property of the spouses.

(c) A court may order that the name of a spouse be added to marital property held in the name of the other spouse alone, except with respect to:

(1) a partnership interest held by the other spouse as a general partner;

(2) an interest in a professional corporation, professional association, or similar entity held by the other spouse as a stockholder or member;

(3) an asset of an unincorporated business if the other spouse is the only spouse involved in operating or managing the business; or

(4) any other property if the addition would adversely affect the rights of a third person.

(d) Except as provided otherwise in Section 6(b), a spouse must commence an action against the other spouse under subsection (a) not later than 3 years after acquiring actual knowledge of the facts giving rise to the claim.

63. See 1983 Wis. Laws 186, § 47 (to be codified at WIS. STAT. § 766.70(4)).

64. See *id.* (to be codified at WIS. STAT. § 766.70(5)).

to multi-party financial accounts;⁶⁵ (4) right of reimbursement for certain appreciation of joint tenancy or tenancy in common property;⁶⁶ and (5) recovery by a surviving spouse of a marital property interest from the beneficiary under a life insurance policy or deferred employment benefit plan.⁶⁷ These provisions were added to give a spouse additional remedies to counteract or compensate for management decisions made by the other spouse.

The Wisconsin Act also adds an additional exception to the remedy under UMPA⁶⁸ and authorizes a court to add the name of one spouse to marital property held in the name of another spouse alone.⁶⁹ Under the Act, this remedy also is not available for a marital property interest in a privately held corporation when the other spouse is an employee of the corporation.⁷⁰ UMPA recognizes certain specific and general limitations on the "add-a-name" remedy when the remedy would adversely affect a third party.⁷¹ The Wisconsin Act adds to the list of specific limitations certain closely held corporation situations in which the add-a-name remedy would also be inappropriate.⁷²

I. Preservation of Existing Agreements

The Wisconsin Act expressly preserves existing joint tenancies, tenancies in common, joint accounts, buy-sell agreements, and transactions of guaranty, indemnity, or suretyship unless materially changed.⁷³ UMPA does not expressly preserve such agreements, although it appears implicit that such agreements generally would be preserved. These Act provisions single out for special mention certain contracts and forms of property ownership. The primary purpose of the special treatment is to clarify that the Act preserves such existing arrangements.

65. *See id.* (to be codified at WIS. STAT. § 766.70(7)).

66. *See id.* (to be codified at WIS. STAT. § 766.70(9)).

67. *See id.* (to be codified at WIS. STAT. § 766.70(8)).

68. *See* UMPA § 15 (c).

69. *See* 1983 Wis. Laws 186, § 47 (to be codified at WIS. STAT. § 766.70(3)).

70. *See id.* (to be codified at WIS. STAT. § 766.70(3)(d)).

71. *See* UMPA § 15(c)(4).

72. *See* 1983 Wis. Laws 186, § 47 (to be codified at WIS. STAT. § 766.70(3)(d)).

73. *See id.* (to be codified at WIS. STAT. § 766.90).

III. CONCLUSION

As this Article illustrated, there is a great deal of uniformity between UMPA provisions and the Wisconsin Marital Property Act. However, the practitioner should be aware that differences do exist, some of which could be considered significant. Therefore, interest in a particular area will require a closer analysis of the specific provisions enacted.