



## Ohio Revised Code

### Section 3105.63 Separation agreement provisions.

Effective: September 8, 2010

Legislation: House Bill 238 - 128th General Assembly

(A)(1) A petition for dissolution of marriage shall be signed by both spouses and shall have attached and incorporated a separation agreement agreed to by both spouses. The separation agreement shall provide for a division of all property; spousal support; if there are minor children of the marriage, the allocation of parental rights and responsibilities for the care of the minor children, the designation of a residential parent and legal custodian of the minor children, child support, and parenting time rights; and, if the spouses so desire, an authorization for the court to modify the amount or terms of spousal support, or the division of property, provided in the separation agreement. If there are minor children of the marriage, the spouses may address the allocation of the parental rights and responsibilities for the care of the minor children by including in the separation agreement a plan under which both parents will have shared rights and responsibilities for the care of the minor children. The spouses shall file the plan with the petition for dissolution of marriage and shall include in the plan the provisions described in division (G) of section 3109.04 of the Revised Code.

(2) The division of property in the separation agreement shall include any participant account, as defined in section 148.01 of the Revised Code, of either of the spouses, to the extent of the following:

(a) The moneys that have been deferred by a continuing member or participating employee, as defined in that section, and that have been transmitted to the Ohio public employees deferred compensation board during the marriage and any income that is derived from the investment of those moneys during the marriage;

(b) The moneys that have been deferred by an officer or employee of a municipal corporation and that have been transmitted to the governing board, administrator, depository, or trustee of the deferred compensation program of the municipal corporation during the marriage and any income that is derived from the investment of those moneys during the marriage;



(c) The moneys that have been deferred by an officer or employee of a government unit, as defined in section 148.06 of the Revised Code, and that have been transmitted to the governing board, as defined in that section, during the marriage and any income that is derived from the investment of those moneys during the marriage.

(3) The separation agreement shall not require or permit the division or disbursement of the moneys and income described in division (A)(2) of this section to occur in a manner that is inconsistent with the law, rules, or plan governing the deferred compensation program involved or prior to the time that the spouse in whose name the participant account is maintained commences receipt of the moneys and income credited to the account in accordance with that law, rules, and plan.

(B) An amended separation agreement may be filed at any time prior to or during the hearing on the petition for dissolution of marriage. Upon receipt of a petition for dissolution of marriage, the court may cause an investigation to be made pursuant to the Rules of Civil Procedure.

(C)(1) If a petition for dissolution of marriage contains an authorization for the court to modify the amount or terms of spousal support provided in the separation agreement, the modification shall be in accordance with section 3105.18 of the Revised Code.

(2) If a petition for dissolution of marriage contains an authorization for the court to modify the division of property provided in the separation agreement, the modification shall be made with the express written consent or agreement of both spouses.