~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

June 5, 2012

**H. 4738**

Introduced by Reps. Govan and Hearn

S. Printed 6/5/12--S.

Read the first time April 24, 2012.

**A** **BILL**

TO AMEND SECTION 20‑3‑130, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE AWARD OF ALIMONY IN DIVORCE AND SEPARATE MAINTENANCE AND SUPPORT ACTIONS, SO AS TO PROVIDE THAT ALIMONY IS TERMINABLE ON “COHABITATION”, RATHER THAN ON “CONTINUED COHABITATION” OF THE SUPPORTED SPOUSE; TO DEFINE “COHABITATION” AS A COMMITTED, EXCLUSIVE RELATIONSHIP FOR AN AGGREGATE OF NINETY DAYS; AND TO PROVIDE FACTORS THAT THE COURT MAY CONSIDER IN DETERMINING WHETHER COHABITATION EXISTS; TO AMEND SECTION 20‑3‑150, AS AMENDED, RELATING TO ALLOCATING ALIMONY TO THE SUPPORTED SPOUSE AND CHILD SUPPORT TO THE CHILDREN SUCH THAT ONLY ALIMONY IS TERMINATED UPON REMARRIAGE OR CONTINUED COHABITATION OF THE SUPPORTED SPOUSE, SO AS TO PROVIDE THAT ALIMONY IS TERMINABLE ON “COHABITATION”, RATHER THAN ON “CONTINUED COHABITATION” OF THE SUPPORTED SPOUSE; TO DEFINE “COHABITATION” AS A COMMITTED, EXCLUSIVE RELATIONSHIP FOR AN AGGREGATE OF NINETY DAYS; AND TO PROVIDE FACTORS THAT THE COURT MAY CONSIDER IN DETERMINING WHETHER COHABITATION EXISTS; AND TO AMEND SECTION 20‑3‑170, RELATING TO THE MODIFICATION, CONFIRMATION, OR TERMINATION OF ALIMONY, SO AS TO PROVIDE THAT UPON THE MOTION OF A PARTY TO A JUDGMENT OF DIVORCE, THE COURT SHALL CONDUCT A HEARING TO DETERMINE IF THE RETIREMENT OF THE SUPPORTING SPOUSE CONSTITUTES A CHANGE OF CIRCUMSTANCES FOR THE PURPOSE OF ALIMONY PAYMENTS AND TO PROVIDE FACTORS FOR THE COURT TO CONSIDER IN MAKING THIS DETERMINATION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 20‑3‑170 of the 1976 Code is amended to read:

“Section 20‑3‑170. (A) Whenever any husband or wife, pursuant to a judgment of divorce from the bonds of matrimony, has been required to make his or her spouse any periodic payments of alimony and the circumstances of the parties or the financial ability of the spouse making the periodic payments shall have changed since the rendition of such judgment, either party may apply to the court which rendered the judgment for an order and judgment decreasing or increasing the amount of such alimony payments or terminating such payments and the court, after giving both parties an opportunity to be heard and to introduce evidence relevant to the issue, shall make such order and judgment as justice and equity shall require, with due regard to the changed circumstances and the financial ability of the supporting spouse, decreasing or increasing or confirming the amount of alimony provided for in such original judgment or terminating such payments. Thereafter the supporting spouse shall pay and be liable to pay the amount of alimony payments directed in such order and judgment and no other or further amount and such original judgment, for the purpose of all actions or proceedings of every nature and wherever instituted, whether within or without this State, shall be deemed to be and shall be modified accordingly, subject in every case to a further proceeding or proceedings under the provisions of this section in relation to such modified judgment.

(B) Retirement by the supporting spouse is sufficient grounds to warrant a hearing, if so moved by a party, to evaluate whether there has been a change of circumstances for alimony. The court shall consider the following factors:

(1) whether retirement was contemplated when alimony was awarded;

(2) the age of the supporting spouse;

(3) the health of the supporting spouse;

(4) whether the retirement is mandatory or voluntary;

(5) whether retirement would result in a decrease in the supporting spouse’s income; and

(6) any other factors the court sees fit.”

SECTION 2. This act takes effect upon approval by the Governor.

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