**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3831**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Hardee, Rutherford, McGinnis, Bailey and Gagnon

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Introduced in the House on January 26, 2023

Currently residing in the House Committee on **Judiciary**

Summary: Alimony

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/26/2023 House Introduced and read first time (House Journal‑page 9)

 1/26/2023 House Referred to Committee on **Judiciary** (House Journal‑page 9)

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**VERSIONS OF THIS BILL**

[01/26/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3831_20230126.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 20‑3‑130, RELATING TO CATEGORIES OF ALIMONY, SO AS TO ELIMINATE PERIODIC ALIMONY, TO ADD ALIMONY CALCULATED BASED ON THE LENGTH OF MARRIAGE AMONG OTHER FACTORS, AND TO MAKE TECHNICAL CORRECTIONS; BY AMENDING SECTIONS 20‑3‑120, 20‑3‑140, 20‑3‑150, 20‑3‑620, AND 20‑3‑630, ALL RELATING TO ALIMONY, SO AS TO MAKE CONFORMING CHANGES.

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

SECTION 1. Section 20‑3‑130(A), (B)(1), (C)(10), and (H) of the S.C. Code is amended to read:

 (A) In proceedings for divorce from the bonds of matrimony, and in actions for separate maintenance and support, the court may grant alimony or separate maintenance and support in such amounts and for such term as the court considers appropriate as from the circumstances of the parties and the nature of case may be just, pendente lite, and permanently upon a party’s application for temporary relief or for a final order, or both. No alimony may be awarded a spouse who commits adultery before the earliest earlier of these two events: (1) the formal signing of a written property or marital settlement agreement or (2) entry of a permanent final order of separate maintenance and support or of a permanent final order approving a property or marital settlement agreement between the parties.

 (B) Alimony and separate maintenance and support awards may be granted pendente lite and permanently upon application by a party for temporary relief or for a final order, or both, in such amounts and for periods of time subject to conditions as the court considers just including, but not limited to:

 (1) Periodic alimony to be paid but terminating on the remarriage or continued cohabitation of the supported spouse or upon the death of either spouse (except as secured in subsection (D)) and terminable and modifiable based upon changed circumstances occurring in the future. The purpose of this form of support may include, but is not limited to, circumstances where the court finds it appropriate to order the payment of alimony on an ongoing basis where it is desirable to make a current determination and requirement for the ongoing support of a spouse to be reviewed and revised as circumstances may dictate in the future. Alimony for a specific period of time to be paid one year for every three years of marriage, but terminating upon the continued cohabitation of the supported spouse, retirement age as defined by the Social Security Act, or upon the death of either spouse, except as secured in subsection (D), and terminable and modifiable based upon changed circumstances in the future.

 (10) marital misconduct or fault of either or both parties, whether or not used as a basis for a divorce or separate maintenance decree if the misconduct affects or has affected the economic circumstances of the parties, or contributed to the breakup of the marriage, except that no evidence of personal conduct which may otherwise be relevant and material for the purpose of this subsection may be considered with regard to this subsection if the conduct took place subsequent to the happening of the earliest earlier of (a) the formal signing of a written property or marital settlement agreement or (b) entry of a permanent final order of separate maintenance and support or of a permanent final order approving a property or marital settlement agreement between the parties;

 (H) The court, from time to time after considering the financial resources and marital fault of both parties, may order one party to pay a reasonable amount to the other for attorney fees, expert fees, investigation fees, costs, and suit money incurred in maintaining an action for divorce from the bonds of matrimony, as well as in actions for separate maintenance and support, including sums for services rendered and costs incurred before the commencement of the proceeding and after entry of judgment, pendente lite and permanently and including both an action for temporary relief and the underlying action for divorce.

SECTION 2.A. Section 20‑3‑120 of the S.C. Code is amended to read:

 Section 20‑3‑120. In every divorce action from the bonds of matrimony either party may in his or her complaint or answer or by petition pray for the allowance to him or her of alimony and suit money and for the allowance of such alimony and suit money pendente lite during the pendency of the action through a prayer for temporary relief. If such claim shall appear well‑founded the court shall allow a reasonable sum therefor.

B. Section 20‑3‑140 of the S.C. Code is amended to read:

 Section 20‑3‑140. In all actions for separate support and maintenance, legal separation, or other marital litigation between the parties, allowances of alimony and suit money and allowances of alimony and suit money pendente lite during the pendency of the action shall be made according to the principles controlling such allowance and actions for divorce a vinculo matrimonii.

C.  Section 20‑3‑150 of the S.C. Code is amended to read:

 Section 20‑3‑150. If the court awards the custody of the children to the spouse receiving alimony the court, by its decree, unless good cause to the contrary be shown, shall allocate any final award for permanent alimony and support between the supported spouse and the children and upon the remarriage or continued cohabitation of the supported spouse the amount fixed in the decree for his or her support shall cease, and no further alimony payments may be required from the supporting spouse.

 For purposes of this section and unless otherwise agreed to in writing by the parties, “continued cohabitation” means the supported spouse resides with another person in a romantic relationship for a period of ninety or more consecutive days. The court may determine that a continued cohabitation exists if there is evidence that the supported spouse resides with another person in a romantic relationship for periods of less than ninety days and the two periodically separate in order to circumvent the ninety‑day requirement.

D. Section 20‑3‑620(B)(2) of the S.C. Code is amended to read:

 (2) marital misconduct or fault of either or both parties, whether or not used as a basis for a divorce as such, if the misconduct affects or has affected the economic circumstances of the parties, or contributed to the breakup of the marriage; provided, that no evidence of personal conduct which would otherwise be relevant and material for purposes of this subsection shall be considered with regard to this subsection if such conduct shall have taken place subsequent to the happening of the earliest of:

 (a) entry of a pendente lite order an order for temporary relief in a divorce or separate maintenance action;

 (b) formal signing of a written property or marital settlement agreement; or

 (c) entry of a permanent final order of separate maintenance and support or of a permanent final order approving a property or marital settlement agreement between the parties;

E. Section 20‑3‑630(A)(2) of the S.C. Code is amended to read:

 (2) property acquired by either party before the marriage and property acquired after the happening of the earliest of:

 (a) entry of a pendente lite order an order for temporary relief in a divorce or separate maintenance action;

 (b) formal signing of a written property or marital settlement agreement; or

 (c) entry of a permanent final order of separate maintenance and support or of a permanent final order approving a property or marital settlement agreement between the parties;

SECTION 3. This act takes effect upon approval by the Governor and applies to any order issued prior to the effective date.

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