

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 20-109 of the Code of Virginia and to repeal the second enactment of*
3 *Chapter 604 of the Acts of Assembly of 1998 as it relates to § 20-109, relating to maintenance and*
4 *support for a spouse.*

5 [H 2215]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That § 20-109 of the Code of Virginia is amended and reenacted as follows:**

9 § 20-109. Changing maintenance and support for a spouse; effect of stipulations as to maintenance
10 and support for a spouse; cessation upon cohabitation, remarriage or death.

11 A. Upon petition of either party the court may increase, decrease, or terminate the amount or
12 duration of any spousal support and maintenance that may thereafter accrue, whether previously or
13 hereafter awarded, as the circumstances may make proper. Upon order of the court based upon clear and
14 convincing evidence that the spouse receiving support has been habitually cohabiting with another
15 person in a relationship analogous to a marriage for one year or more commencing on or after July 1,
16 1997, the court shall terminate spousal support and maintenance unless (i) otherwise provided by
17 stipulation or contract or (ii) the spouse receiving support proves by a preponderance of the evidence
18 that termination of such support would be unconscionable. *The provisions of this subsection shall apply*
19 *to all orders and decrees for spousal support, regardless of the date of the suit for initial setting of*
20 *support, the date of entry of any such order or decree, or the date of any petition for modification of*
21 *support.*

22 B. The court may consider a modification of an award of spousal support for a defined duration
23 upon petition of either party filed within the time covered by the duration of the award. Upon
24 consideration of the factors set forth in subsection E of § 20-107.1, the court may increase, decrease or
25 terminate the amount or duration of the award upon finding that (i) there has been a material change in
26 the circumstances of the parties, not reasonably in the contemplation of the parties when the award was
27 made or (ii) an event which the court anticipated would occur during the duration of the award and
28 which was significant in the making of the award, does not in fact occur through no fault of the party
29 seeking the modification. *The provisions of this subsection shall apply only to suits for initial spousal*
30 *support orders filed on or after July 1, 1998, and suits for modification of spousal support orders*
31 *arising from suits for initial support orders filed on or after July 1, 1998.*

32 C. In suits for divorce, annulment and separate maintenance, and in proceedings arising under
33 subdivision A 3 or subsection L of § 16.1-241, if a stipulation or contract signed by the party to whom
34 such relief might otherwise be awarded is filed before entry of a final decree, no decree or order
35 directing the payment of support and maintenance for the spouse, suit money, or counsel fee or
36 establishing or imposing any other condition or consideration, monetary or nonmonetary, shall be
37 entered except in accordance with that stipulation or contract. If such a stipulation or contract is filed
38 after entry of a final decree and if any party so moves, the court shall modify its decree to conform to
39 such stipulation or contract.

40 D. Unless otherwise provided by stipulation or contract, spousal support and maintenance shall
41 terminate upon the death of either party or remarriage of the spouse receiving support. The spouse
42 entitled to support shall have an affirmative duty to notify the payor spouse immediately of remarriage
43 at the last known address of the payor spouse.

44 **2. That the second enactment of Chapter 604 of the Acts of Assembly of 1998 as it relates to**
45 **§ 20-109 is repealed retroactively to July 1, 1998.**

ENROLLED

HB215ER