

LD1647813

HOUSE BILL NO. 1323

Offered January 25, 1994

A *BILL to amend the Code of Virginia by adding in Chapter 5 of Title 20 a section numbered 20-88.02:1, relating to spousal support orders and eligibility for medical assistance services.*

Patron—Bloxom

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding in Chapter 5 of Title 20 a section numbered 20-88.02:1 as follows:**

§ 20-88.02:1. Limitations on spousal support orders resulting in eligibility for medical assistance services; definitions.

A. Whenever any court shall determine, after reasonable investigation, that any petition for a spousal support order will have the effect of rendering either spouse eligible for medical assistance services or for accelerating eligibility for medical assistance services, the court shall not enter the requested spousal support order unless:

1. The institutionalized spouse makes available the maximum income contribution to the community spouse in order to raise the community spouse's income to the minimum monthly maintenance needs allowance; and

2. The maximum income contribution is necessary due to exceptional circumstances resulting in significant financial duress to the community spouse.

B. When determining the amount of additional resources to be allowed to the community spouse for the purpose of generating any court-established community spouse minimum monthly maintenance income allowance, the amount of such additional resources to be allowed shall be the greater of (i) those additional resources necessary to generate an amount sufficient to increase the community spouse's income to the court-established minimum monthly maintenance income allowance when based on the current earnings of such resources or (ii) the amount necessary, at the time of the court's deliberations, to purchase a single premium annuity that would generate monthly income to the community spouse in an amount sufficient to increase the community spouse's income to the court-established minimum monthly maintenance income allowance.

C. For the purpose of making the determinations required by this section:

"Community spouse" means the spouse of an individual residing in a medical institution or nursing facility.

"Institutionalized spouse" means an individual who has been residing in a medical institution or nursing facility for at least thirty consecutive days and who is married to an individual who is not residing in a medical institution or nursing facility.

"Significant financial duress" means such deprivation as loss of basic shelter, food or medically necessary health care.

INTRODUCED

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