

962272346

HOUSE BILL NO. 941

Offered January 22, 1996

A BILL to amend and reenact § 20-107.1 of the Code of Virginia, relating to spousal support.

Patron—McClure

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 20-107.1 of the Code of Virginia is amended and reenacted as follows:**

§ 20-107.1. Court may decree as to maintenance and support of spouses.

Upon entry of a decree providing (i) for the dissolution of a marriage, (ii) for a divorce, whether from the bond of matrimony or from bed and board, (iii) that neither party is entitled to a divorce, or (iv) for separate maintenance, the court may make such further decree as it shall deem expedient concerning the maintenance and support of the spouses. However, the court shall have no authority to decree maintenance and support payable by the estate of a deceased spouse.

Any maintenance and support shall be subject to the limitations set forth in § 20-109, and no permanent maintenance and support shall be awarded from a spouse if there exists in such spouse's favor a ground of divorce under the provisions of § 20-91 (1). However, the court may make such an award notwithstanding the existence of such ground if the court determines from clear and convincing evidence, that a denial of support and maintenance would constitute a manifest injustice, based upon the respective degrees of fault during the marriage and the relative economic circumstances of the parties. The court, in its discretion, may decree that maintenance and support of a spouse be made in periodic payments, or in a lump sum award, or both. *Authority to award periodic payments includes authority to make an award for a specific period of time.*

The court, in determining whether to award support and maintenance for a spouse, shall consider the circumstances and factors which contributed to the dissolution of the marriage, specifically including adultery and any other ground for divorce under the provisions of § 20-91 (3) or (6) or § 20-95. If the court determines that an award should be made, it shall, in determining the amount, consider the following:

1. The earning capacity, obligations, needs and financial resources of the parties, including but not limited to income from all pension, profit sharing or retirement plans, of whatever nature;

2. The education and training of the parties and the ability and opportunity of the parties to secure such education and training;

3. The standard of living established during the marriage;

4. The duration of the marriage;

5. The age and physical and mental condition of the parties;

6. The contributions, monetary and nonmonetary, of each party to the well-being of the family;

7. The property interests of the parties, both real and personal, tangible and intangible;

8. The provisions made with regard to the marital property under § 20-107.3; and

9. Such other factors, including the tax consequences to each party, as are necessary to consider the equities between the parties.

INTRODUCED

HB941