

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 20-109 of the Code of Virginia, relating to modification of spousal*
 3 *support.*

4
 5 Approved

[S 614]

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That § 20-109 of the Code of Virginia is amended and reenacted as follows:**

8 **§ 20-109. Changing maintenance and support for a spouse; effect of stipulations as to**
 9 **maintenance and support for a spouse; cessation upon cohabitation, remarriage or death.**

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

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

31 C. In suits for divorce, annulment and separate maintenance, and in proceedings arising under
 32 subdivision A 3 or subsection L of § 16.1-241, if a stipulation or contract signed by the party to whom
 33 such relief might otherwise be awarded is filed before entry of a final decree, no decree or order
 34 directing the payment of support and maintenance for the spouse, suit money, or counsel fee or
 35 establishing or imposing any other condition or consideration, monetary or nonmonetary, shall be
 36 entered except in accordance with that stipulation or contract. If such a stipulation or contract is filed
 37 after entry of a final decree and if any party so moves, the court shall modify its decree to conform to
 38 such stipulation or contract. *No request for modification of spousal support based on a material change*
 39 *in circumstances or the terms of stipulation or contract shall be denied solely on the basis of the terms*
 40 *of any stipulation or contract that is executed on or after July 1, 2018, unless such stipulation or*
 41 *contract contains the following language: "The amount or duration of spousal support contained in this*
 42 *AGREEMENT is not modifiable except as specifically set forth in this AGREEMENT."*

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