

1 S.99

2 Introduced by Senator White

3 Referred to Committee on Judiciary

4 Date: February 12, 2019

5 Subject: Family law; spousal support and maintenance

6 Statement of purpose of bill as introduced: This bill proposes to amend

7 generally the statutes related to spousal support and maintenance, including:

8 1) limiting judicial discretion in awarding spousal support and maintenance;

9 2) limiting the amount and duration of maintenance payments; and 3)

10 requiring a threshold change in the income or health of a party in order to

11 revise an existing maintenance judgement.

12 An act relating to spousal support and maintenance reform

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 ~~Sec. 1. 15 V.S.A. § 750 is added to read:~~

15 § 750. DEFINITIONS

16 As used in this subchapter:

17 (1) “General term maintenance” means periodic payments made to a

18 spouse or former spouse after the effective date of the final divorce decree.

1 ~~(2) "Reimbursement maintenance" means one or more payments to a~~
2 spouse or former spouse to compensate him or her for economic or
3 noneconomic contribution to the earning capacity of the payor.

4 Sec. 2. 15 U.S.A. § 752 is amended to read:

5 § 752. MAINTENANCE

6 (a) In an action under this chapter, the court may order either spouse to
7 make maintenance payments, either ~~rehabilitative or permanent in nature~~
8 general term or reimbursement, to the other spouse if it finds that the spouse
9 seeking maintenance:

10 (1) lacks sufficient income or property, or both, including property
11 apportioned in accordance with section 751 of this title, to provide for his or
12 her reasonable needs; and

13 (2) is unable to support himself or herself through appropriate
14 employment at the standard of living established during the civil marriage or is
15 the custodian of a child of the parties.

16 (b) ~~The maintenance order shall be in such amounts and for such periods of~~
17 ~~time as the court deems just, after considering all relevant factors, including:~~

18 (1) ~~the financial resources of the party seeking maintenance, the property~~
19 ~~apportioned to the party, the party's ability to meet his or her needs~~
20 ~~independently, and the extent to which a provision for support of a child living~~
21 ~~with the party contains a sum for that party as custodian,~~

1 ~~(2) the time and expense necessary to acquire sufficient education or~~
2 ~~training to enable the party seeking maintenance to find appropriate~~
3 ~~employment;~~

4 ~~(3) the standard of living established during the civil marriage;~~

5 ~~(4) the duration of the civil marriage;~~

6 ~~(5) the age and the physical and emotional condition of each spouse;~~

7 ~~(6) the ability of the spouse from whom maintenance is sought to meet~~
8 ~~his or her reasonable needs while meeting those of the spouse seeking~~
9 ~~maintenance;~~

10 ~~(7) inflation with relation to the cost of living; and~~

11 ~~(8) the following guidelines:~~

Length of marriage	% of the difference between parties' gross incomes	Duration of alimony award as % length of marriage
0 to <5 years	0-20%	No alimony or short term alimony up to one year
5 to <10 years	15-35%	20-50% (1-5 yrs)
10 to <15 years	20-40%	40-60% (3-9 yrs)
15 to <20 years	24-45%	40-70% (6-14 yrs)
20+ years	30-50%	45% (9-20+ yrs) [Repealed.]

1 ~~(c) Unless the parties otherwise agree, general term or reimbursement~~
2 ~~maintenance shall be limited in amount to 30 percent of the difference between~~
3 ~~the parties' gross incomes at the time the order is created, and in duration~~
4 ~~to 50 percent of the length of the marriage. The court may, in the interests of~~
5 ~~justice, deviate from these limits in awarding general term or reimbursement~~
6 ~~maintenance if it makes substantive findings on the record that support such a~~
7 ~~deviation.~~

8 ~~(d) Unless the parties otherwise agree, general term or reimbursement~~
9 ~~maintenance shall end:~~

10 ~~(1) upon the remarriage or cohabitation of the payee;~~

11 ~~(2) upon the payor reaching the age that he or she is eligible to receive~~

12 ~~full retirement benefits under Title II of the federal Social Security Act.~~

13 Sec. 3. 15 V.S.A. § 758 is amended to read:

14 § 758. REVISION OF JUDGMENT RELATING TO MAINTENANCE

15 On motion of either party and due notice, and upon a showing of a real,
16 ~~substantial, and unanticipated change of circumstances~~ 10 percent or greater
17 change in income of either party or a change in the health of either party, the
18 court may from time to time annul, vary, or modify a judgment relative to
19 maintenance, whether or not such judgment relative to maintenance is based
20 upon a stipulation or an agreement. The party seeking a revision shall have the
21 burden of proving the change in circumstances.

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~~Sec. 4. EFFECTIVE DATE~~

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~~This act shall take effect on July 1, 2019.~~

Sec. 1. 15 V.S.A. § 752 is amended to read:

§ 752. MAINTENANCE

(a) In an action under this chapter, the court may order either spouse to make maintenance payments, either rehabilitative or long term in nature, to the other spouse if it finds that the spouse seeking maintenance:

(1) lacks sufficient income or property, or both, including property apportioned in accordance with section 751 of this title, to provide for his or her reasonable needs; and

(2) is unable to support himself or herself through appropriate employment at the standard of living established during the civil marriage or is the custodian of a child of the parties.

(b) The maintenance order shall be in such amounts and for such periods of time as the court deems just, after considering all relevant factors, including:

(1) the financial resources of the party seeking maintenance, the property apportioned to the party, the party's ability to meet his or her needs independently, and the extent to which a provision for support of a child living with the party contains a sum for that party as custodian;

(2) the time and expense necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;

(3) the standard of living established during the civil marriage;

(4) the duration of the civil marriage;

(5) the age and the physical and emotional condition of each spouse;

(6) the ability of the spouse from whom maintenance is sought to meet both his or her own reasonable needs while meeting those of the spouse seeking maintenance and those of the spouse seeking maintenance, taking into account the standard of living established during the civil marriage and the extent to which the parties must both fairly adjust their standards of living based on the creation and maintenance of separate households;

(7) inflation with relation to the cost of living;

(8) *the impact of both parties reaching the age of eligibility to receive full retirement benefits under Title II of the federal Social Security Act or the parties' actual retirement, including any expected discrepancies in federal Social Security Retirement benefits; and*

(9) *the following guidelines:*

<i>Length of marriage</i>	<i>% of the difference between parties' gross incomes</i>	<i>Duration of alimony award as % of length of marriage</i>
<i>0 to <5 years</i>	<i>0–16%</i>	<i>No alimony or short-term alimony up to one year</i>
<i>5 to <10 years</i>	<i>12–29%</i>	<i>20–50% (1–5 yrs)</i>
<i>10 to <15 years</i>	<i>16–33%</i>	<i>40–60% (4–9 yrs)</i>
<i>15 to <20 years</i>	<i>20–37%</i>	<i>40–70% (6–14 yrs)</i>
<i>20+ years</i>	<i>24–41%</i>	<i>45% (9–20+ yrs)</i>

Sec. 2. 15 V.S.A. § 758 is amended to read:

§ 758. REVISION OF JUDGMENT RELATING TO MAINTENANCE

On motion of either party and due notice, and upon a showing of a real, substantial, and unanticipated change of circumstances, the court may from time to time annul, vary, or modify a judgment relative to rehabilitative or long-term maintenance, whether or not such judgment relative to maintenance is based upon a stipulation or an agreement. The court may consider the remarriage of either party as a factor in whether there has been a showing of a real, substantial, and unanticipated change in circumstances. The party seeking a revision shall have the burden of proving the change in circumstances.

Sec. 3. REPEAL

2017 Acts and Resolves No. 60, Sec. 3, as amended by 2018 Acts and Resolves No. 203, Sec. 1, is repealed.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2020.