

HCS HB 2851 -- DOMESTIC RELATIONS

SPONSOR: Sharpe (4)

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on General Laws by a vote of 8 to 7. Voted "Do Pass" by Rules-Legislative Oversight by a vote of 7 to 2.

The following is a summary of the House Committee Substitute for HB 2851.

This bill creates three categories of spousal maintenance orders that may be awarded by a court in certain proceedings:

(1) Bridge maintenance orders may be awarded to a party to a short-term marriage, defined as having a duration of less than seven years, to provide support for legitimate short-term needs for no more than two years. Such awards will not be modifiable in duration or amount.

(2) Rehabilitative maintenance orders may be awarded to assist a party to a short-term marriage or a moderate-term marriage, defined as having a duration of seven to less than 17 years. Such awards are designed to facilitate self-support through the redevelopment of previous skills or credentials or the acquisition of education, training, or work experience and the development and implementation of a career plan and goals. There will be a specific and defined rehabilitative plan prior to awarding a rehabilitative maintenance order and such order will not exceed four years in duration. Rehabilitative maintenance orders may be terminated upon a substantial change in circumstances, upon noncompliance with the rehabilitative plan, or upon completion of the plan.

(3) Durational maintenance orders may be awarded to provide for the needs and necessities of a party as established during a moderate-term or long-term marriage, defined as having a duration of 17 or more years. A durational maintenance order will not remain in effect for more than:

(a) Five years, if the marriage lasted seven to less than 12 years;

(b) Seven years, if the marriage lasted 12 to less than 17 years; and

(c) Ten years, if the marriage lasted 17 or more years.

Durational maintenance orders may be modified as specified in the bill.

In establishing the term of durational maintenance, and for the purposes of maintenance modifications decided on or after August 28, 2024, the court must consider all relevant factors including but not limited to:

- (1) The ability of the spouse paying maintenance to retire;
- (2) Whether the court or the parties considered the retirement of the spouse paying maintenance in previous agreements or maintenance awards;
- (3) Access to health care by both spouses; and
- (4) The duration and amount of maintenance already paid.

A court may exceed the durational limits specified in this bill in awarding or modifying rehabilitative or durational maintenance only if the court specifically finds, after consideration of all relevant factors, that the durational limits are not in the interests of fairness for the party seeking maintenance or modification of an existing maintenance order. The court must enter written findings of fact and conclusions of law setting forth the grounds for exceeding the durational limits. Maintenance orders may be subject to modification or termination if it can be shown that the recipient and another person have entered into a mutually supportive relationship that is the functional equivalent of marriage that has lasted for at least 12 months in an 18-month period.

This bill is similar to HB 1942 (2024) and HB 1566 (2022).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that this legislation provides much needed updates to current maintenance procedure in family law. This legislation adds clarity and accountability to relevant statute so families no longer have to fight over maintenance. The current maintenance statute makes it very difficult to remove a maintenance order once it is in place. This legislation provides equal protection under the law and gives judges guide rails they can use to enact the right amount and the right length of maintenance awards. Those who have been subject to a maintenance award feel that they are not being given the proper amount of maintenance. They are also having a difficult time ending the maintenance award after it is no longer needed by the payee. This

legislation gives judges the tools to stop and start maintenance as needed.

Current maintenance legislation has resulted in inconsistent maintenance awards across the State. The guide rails for awards provided in this legislation give parties more of an expectation as to what maintenance awards will look like. Maintenance has become a "lifelong sentence" for many individuals. There are many instances where judges are not allowed to enter an ending date for maintenance awards. This causes parties to have to file motions to modify to get to the correct level of maintenance for their specific needs. These continuous modifications tie up the court system and create an even greater rift between parties. This legislation would help to reduce these unnecessary court visits.

Testifying in person for the bill were Representative Sharpe; El Consulting; Brent Karasiuk; and Richard McIntosh.

OPPONENTS: Those who oppose the bill say that the judge is the one who should be making decisions about maintenance awards. Legislators should not interfere with a judge's duty to determine maintenance awards and limits.

Testifying in person against the bill was Arnie Dienoff.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.