**South Carolina General Assembly**

120th Session, 2013-2014

**H. 4180**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Govan

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Introduced in the House on May 21, 2013

Currently residing in the House Committee on **Judiciary**

Summary: Alimony

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/21/2013 House Introduced and read first time ([House Journal‑page 22](file:///h:\HJ%20Archive\2013\05-21-13.docx))

5/21/2013 House Referred to Committee on **Judiciary** ([House Journal‑page 22](file:///h:\HJ%20Archive\2013\05-21-13.docx))

**VERSIONS OF THIS BILL**

[5/21/2013](file:///p:\pprever\2013-14\4180_20130521.docx)

**A** **BILL**

TO AMEND SECTIONS 20‑3‑130 AND 20‑3‑150, BOTH AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ALIMONY AND THE EFFECT OF REMARRIAGE OR CONTINUED COHABITATION ON ALIMONY, RESPECTIVELY, BOTH SO AS TO REDEFINE THE TERM “CONTINUED COHABITATION” AND TO INCLUDE FACTORS WHICH MAY BE CONSIDERED BY THE COURT WHEN DETERMINING WHETHER THE SUPPORTED SPOUSE IS MAINTAINING A COMMON HOUSEHOLD WITH ANOTHER PARTY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 20‑3‑130(B) of the 1976 Code, as last amended by Act 328 of 2002, is further amended to read:

“(B) Alimony and separate maintenance and support awards may be granted pendente lite and permanently in such amounts and for periods of time subject to conditions as the court considers just including, but not limited to:

(1) Periodic alimony to be paid but terminating on the remarriage or continued cohabitation of the supported spouse or upon the death of either spouse (except as secured in subsection (D)) and terminable and modifiable based upon changed circumstances occurring in the future. The purpose of this form of support may include, but is not limited to, circumstances where the court finds it appropriate to order the payment of alimony on an ongoing basis where it is desirable to make a current determination and requirement for the ongoing support of a spouse to be reviewed and revised as circumstances may dictate in the future.

(2) Lump‑sum alimony in a finite total sum to be paid in one installment, or periodically over a period of time, terminating only upon the death of the supported spouse, but not terminable or modifiable based upon remarriage or changed circumstances in the future. The purpose of this form of support may include, but not be limited to, circumstances where the court finds alimony appropriate but determines that such an award be of a finite and nonmodifiable nature.

(3) Rehabilitative alimony in a finite sum to be paid in one installment or periodically, terminable upon the remarriage or continued cohabitation of the supported spouse, the death of either spouse (except as secured in subsection (D)) or the occurrence of a specific event to occur in the future, or modifiable based upon unforeseen events frustrating the good faith efforts of the supported spouse to become self‑supporting or the ability of the supporting spouse to pay the rehabilitative alimony. The purpose of this form of support may include, but is not limited to, circumstances where the court finds it appropriate to provide for the rehabilitation of the supported spouse, but to provide modifiable ending dates coinciding with events considered appropriate by the court such as the completion of job training or education and the like, and to require rehabilitative efforts by the supported spouse.

(4) Reimbursement alimony to be paid in a finite sum, to be paid in one installment or periodically, terminable on the remarriage or continued cohabitation of the supported spouse, or upon the death of either spouse (except as secured in subsection (D)) but not terminable or modifiable based upon changed circumstances in the future. The purpose of this form of support may include, but is not limited to, circumstances where the court finds it necessary and desirable to reimburse the supported spouse from the future earnings of the payor spouse based upon circumstances or events that occurred during the marriage.

(5) Separate maintenance and support to be paid periodically, but terminating upon the continued cohabitation of the supported spouse, upon the divorce of the parties, or upon the death of either spouse (except as secured in subsection (D)) and terminable and modifiable based upon changed circumstances in the future. The purpose of this form of support may include, but is not limited to, circumstances where a divorce is not sought, but it is necessary to provide for support of the supported spouse by way of separate maintenance and support when the parties are living separate and apart.

(6) Such other form of spousal support, under terms and conditions as the court may consider just, as appropriate under the circumstances without limitation to grant more than one form of support.

For purposes of this subsection and unless otherwise agreed to in writing by the parties, ‘continued cohabitation’ ~~means the supported spouse resides with another person in a romantic relationship for a period of ninety or more consecutive days. The court may determine that a continued cohabitation exists if there is evidence that the supported spouse resides with another person in a romantic relationship for periods of less than ninety days and the two periodically separate in order to circumvent the ninety‑day requirement~~ occurs when the payor spouse shows that the supported spouse has maintained a common household, as defined in this subsection.

Persons are deemed to maintain a common household when they share a residence together with or without others. In determining whether the supported spouse is maintaining a common household, the court may consider any of the following factors:

(a) oral or written statements or representations made to third parties regarding the relationship of the cohabitants;

(b) the economic interdependence of the couple or economic dependence of one party on the other;

(c) the common household couple engaging in conduct and collaborative roles in furtherance of their life together;

(d) the benefit in the life of either or both of the common household parties from their relationship;

(e) the community reputation of the parties as a couple;

(f) length of the relationship; and

(g) other relevant or material factors.

Persons who live together in a platonic roommate situation are not considered to be maintaining a common household for the purposes of this subsection.”

SECTION 2. Section 20‑3‑150 of the 1976 Code, as last amended by Act 328 of 2002, is further amended to read:

“Section 20‑3‑150. (A) If the court awards the custody of the children to the spouse receiving alimony the court, by its decree, unless good cause to the contrary be shown, shall allocate any award for permanent alimony and support between the supported spouse and the children and upon the remarriage or continued cohabitation of the supported spouse the amount fixed in the decree for his or her support shall cease, and no further alimony payments may be required from the supporting spouse.

(B) For purposes of this ~~subsection~~ section and unless otherwise agreed to in writing by the parties, ‘continued cohabitation’ ~~means the supported spouse resides with another person in a romantic relationship for a period of ninety or more consecutive days. The court may determine that a continued cohabitation exists if there is evidence that the supported spouse resides with another person in a romantic relationship for periods of less than ninety days and the two periodically separate in order to circumvent the ninety‑day requirement~~ occurs when the payor spouse shows that the supported spouse has maintained a common household, as defined in this subsection.

Persons are deemed to maintain a common household when they share a residence together with or without others. In determining whether the supported spouse is maintaining a common household, the court may consider any of the following factors:

(1) oral or written statements or representations made to third parties regarding the relationship of the cohabitants;

(2) the economic interdependence of the couple or economic dependence of one party on the other;

(3) the common household couple engaging in conduct and collaborative roles in furtherance of their life together;

(4) the benefit in the life of either or both of the common household parties from their relationship;

(5) the community reputation of the parties as a couple;

(6) length of the relationship; and

(7) other relevant or material factors.

Persons who live together in a platonic roommate situation are not considered to be maintaining a common household for the purposes of this subsection.”

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. This act takes effect upon approval by the Governor.

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