

Introduced by

Judiciary Committee

1 A BILL for an Act to amend and reenact section 14-05-24.1 of the North Dakota Century Code,  
2 relating to spousal support.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 14-05-24.1 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **14-05-24.1. Spousal support.**

- 7 1. ~~Taking into consideration the circumstances of the parties, the~~The court may require  
8 one party to pay spousal support to the other party for a limited ~~period of time~~ in  
9 accordance with this section. The court may modify its spousal support orders.
- 10 2. In addition to any other factors the court considers relevant in determining the amount  
11 and duration of spousal support, the court shall consider:
- 12 a. The age of the parties;
  - 13 b. The earning ability of each party;
  - 14 c. The duration of the marriage;
  - 15 d. The conduct of the parties during the marriage;
  - 16 e. The station in life of each party;
  - 17 f. The circumstances and necessities of each party;
  - 18 g. The health and physical condition of each party; and
  - 19 h. The financial circumstances of the parties as shown by the property owned at the  
20 time of the divorce, including the value of the property at the time of the divorce,  
21 the income-producing capacity of the property, and whether the property was  
22 acquired before or after the marriage.
- 23 3. After considering the factors in subsection 2, the court may award:

- 1           a. Rehabilitative spousal support when it is possible to restore a spouse to  
2           independent economic status or to equalize the burden of the divorce by  
3           increasing that spouse's earning capacity.
- 4           b. General term spousal support when a spouse is not capable of rehabilitation,  
5           self-support, or to minimize the burden of the divorce.
- 6           c. Lump sum spousal support as additional marital property to a spouse or the court  
7           may otherwise adjust the distribution of the marital property and debt to eliminate  
8           the need for spousal support or to reduce the amount or the duration of the  
9           spousal support.
- 10          4. Except upon written findings by the court which dictate a deviation beyond the time  
11          limits of this section is necessary, spousal support terminates upon the following:
- | <u>Length of</u>               | <u>Duration of alimony award as percentage of</u> |
|--------------------------------|---|
| <u>marriage</u>                | <u>the length of the marriage</u>                 |
| <u>Less than 5 years</u>       | <u>Up to 50</u>                                   |
| <u>Between 5 and 10 years</u>  | <u>Up to 60</u>                                   |
| <u>Between 10 and 15 years</u> | <u>Up to 70</u>                                   |
| <u>Between 15 and 20 years</u> | <u>Up to 80</u>                                   |
| <u>20 years or more</u>        | <u>Duration agreed upon by parties</u>            |
- 19          5. The court may modify its spousal support order, subject to the following limitations:
- 20           a. If a material change in circumstances occurs during the rehabilitative period,  
21           rehabilitative spousal support may be modified.
- 22           b. If a material change in circumstances occurs, general term spousal support may  
23           be modified.
- 24          6. Upon the filing of an order, the parties may not seek and the court may not order a  
25          modification of lump sum spousal support.
- 26          7. The parties may expressly preclude or limit the modification of spousal support  
27          through a written agreement that is part of the judgment for divorce.
- 28          8. Unless otherwise agreed to by the parties in writing, spousal support is terminated  
29          upon the remarriage or death of the spouse receiving support. The court may require  
30          reasonable security from the payor spouse in the event of the payor's death.

1 Immediately upon remarriage, the spouse receiving support shall provide notice of the  
2 remarriage to the payor spouse at the last known address of the payor spouse.

3 ~~3.9.~~ Unless otherwise agreed to by the parties in writing, upon an order of the court based  
4 upon a preponderance of the evidence that the spouse receiving support has been  
5 habitually cohabiting with another individual in a relationship analogous to a marriage  
6 for one year or more, the court ~~shall~~may terminate spousal support.

7 ~~4. Subsections 2 and 3 do not apply to rehabilitative spousal support.~~

8 10. There is a rebuttable presumption that spousal support terminates upon the payor's  
9 attaining full retirement age for social security purposes. The rebuttable presumption  
10 may be overcome if the court determines spousal support should continue based on  
11 the following factors:

- 12 a. The ages of the parties at the time of the marriage, the time of the entry of the  
13 spousal support award, and the time of the application for retirement;
- 14 b. The degree and duration of the economic dependency of the recipient upon the  
15 payor during the marriage;
- 16 c. Whether the recipient has foregone, relinquished, or otherwise sacrificed claims,  
17 rights, or property in exchange for a more substantial or longer spousal support  
18 award;
- 19 d. The duration or amount of spousal support already paid;
- 20 e. The health of the parties at the time of the retirement application;
- 21 f. Assets of the parties at the time of the retirement application;
- 22 g. Sources of income, both earned and unearned, of the parties, including whether  
23 the payor spouse intends to continue employment;
- 24 h. The ability of the recipient to have saved adequately for retirement; and
- 25 i. Any other factors the court deems relevant.