

COMMITTEE SUBSTITUTE

FOR

# Senate Bill No. 51

(By Senators Boley and Nohe)

---

[Originating in the Committee on the Judiciary;  
reported February 27, 2012.]

---

A BILL to amend and reenact §48-8-103 of the Code of West Virginia, 1931, as amended, relating to providing for denial of spousal support if a party learns of a spouse committing adultery through DNA evidence after entry of the divorce decree.

*Be it enacted by the Legislature of West Virginia:*

That §48-8-103 the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 8. SPOUSAL SUPPORT.**

**§48-8-103. Payment of spousal support.**

- 1 (a) Upon ordering a divorce or granting a decree of
- 2 separate maintenance, the court may require either party to
- 3 pay spousal support in the form of periodic installments, or

4 a lump sum, or both, for the maintenance of the other party.  
5 Payments of spousal support are to be ordinarily made from  
6 a party's income, but when the income is not sufficient to  
7 adequately provide for those payments, the court may, upon  
8 specific findings set forth in the order, order the party  
9 required to make those payments to make them from the  
10 corpus of his or her separate estate. An award of spousal  
11 support shall not be disproportionate to a party's ability to  
12 pay as disclosed by the evidence before the court.

13 (b) At any time after the entry of an order pursuant to the  
14 provisions of this article, the court may, upon motion of  
15 either party, revise or alter the order concerning the mainte-  
16 nance of the parties, or either of them, and make a new order  
17 concerning the same, issuing it forthwith, as the altered  
18 circumstances or needs of the parties may render necessary  
19 to meet the ends of justice: Provided, That if, after the entry  
20 of an order under this section, it is determined by DNA  
21 evidence that a child conceived during the marriage of the  
22 parties is found not to be the child of the husband, or that a  
23 child was born to a woman other than the wife because of  
24 the adultery of the husband, the court may, upon motion of  
25 a party, deny the spousal support previously ordered to the  
26 adulterous spouse.