

1 and reenacted; and that §48-8-103 and §48-8-105 of said code be
2 amended and reenacted, all to read as follows:

3 **ARTICLE 5. DIVORCE.**

4 **§48-5-510. Consideration of financial factors in ordering**
5 **temporary relief.**

6 (a) In ordering temporary relief under the provisions of this
7 Part 5, the court shall consider the financial needs of the
8 parties, the present income of each party from any source, their
9 income-earning abilities and the respective legal obligations of
10 each party to support himself or herself and to support any other
11 persons. Notwithstanding any other provision of this code to the
12 contrary, disability income received by a veteran from the United
13 States Department of Veterans' Affairs for service related injuries
14 is not income for purposes of this article.

15 (b) Except in extraordinary cases supported by specific
16 findings set forth in the order granting relief, payments of
17 temporary spousal support and temporary child support are to be
18 made from a party's income and not from the corpus of a party's
19 separate estate, and an award of such relief shall not be
20 disproportionate to a party's ability to pay as disclosed by the
21 evidence before the court: *Provided*, That child support shall be
22 established in accordance with the child support guidelines set
23 forth in article thirteen of this chapter: *Provided, however, That*

1 the corpus of the estate of a veteran receiving disability income
2 for service related injuries cannot be used as a means of replacing
3 the value of the disability income.

4 **ARTICLE 7. EQUITABLE DISTRIBUTION OF PROPERTY.**

5 PART 1. MARITAL PROPERTY DISPOSITION.

6 **§48-7-101. Equal division of marital property.**

7 (a) Except as otherwise provided in this section, upon every
8 judgment of annulment, divorce or separation, the court shall
9 divide the marital property of the parties equally between the
10 parties.

11 (b) Notwithstanding any other provision of this code to the
12 contrary, disability income received by a veteran from the United
13 States Department of Veterans' Affairs for service related injuries
14 shall not be considered as property for the purposes of this
15 article.

16 **ARTICLE 8. SPOUSAL SUPPORT.**

17 **§48-8-103. Payment of spousal support.**

18 (a) Upon ordering a divorce or granting a decree of separate
19 maintenance, the court may require either party to pay spousal
20 support in the form of periodic installments, or a lump sum, or
21 both, for the maintenance of the other party. Payments of spousal
22 support are to be ordinarily made from a party's income, but when
23 the income is not sufficient to adequately provide for those

1 payments, the court may, upon specific findings set forth in the
2 order, order the party required to make those payments to make them
3 from the corpus of his or her separate estate. An award of spousal
4 support shall not be disproportionate to a party's ability to pay
5 as disclosed by the evidence before the court. Notwithstanding any
6 other provision of this code to the contrary, disability income
7 received by a veteran from the United States Department of
8 Veterans' Affairs for service related injuries is not income for
9 purposes of this article; nor can the corpus of the estate of a
10 veteran receiving disability income for service related injuries be
11 used as a means of replacing the value of the disability income.

12 (b) At any time after the entry of an order pursuant to the
13 provisions of this article, the court may, upon motion of either
14 party, revise or alter the order concerning the maintenance of the
15 parties, or either of them, and make a new order concerning the
16 same, issuing it forthwith, as the altered circumstances or needs
17 of the parties may render necessary to meet the ends of justice.

18 (c) (1) For the purposes of subsection (b) of this section,
19 "altered circumstances" includes evidence in the form of genetic
20 testing that establishes that a child conceived during the marriage
21 of the parties is not the child of the former husband, or that a
22 child was born to a woman other than the former wife because of the
23 adultery of the former husband.

1 (2) Prior to admitting evidence of genetic testing, the court
2 shall preliminarily determine whether genetic testing evidence
3 should be admitted for the purpose of disproving or establishing
4 paternity. The facts that may be considered by the court at this
5 hearing include the following:

6 (A) The length of time that has elapsed since the party was
7 first placed on notice that a child conceived during the marriage
8 of the parties is not the child of the former husband, or that a
9 child was born to a woman other than the former wife because of the
10 adultery of the former husband;

11 (B) The length of time during which the individual desiring to
12 challenge paternity assumed the role of parent to the child;

13 (C) The facts surrounding the party's discovery of
14 nonpaternity;

15 (D) The nature of the parent/child relationship;

16 (E) The age of the child;

17 (F) The harm which may result to the child if paternity were
18 successfully disproved;

19 (G) The extent to which the passage of time reduced the
20 chances of establishing paternity in favor of the child; and

21 (H) All other factors which may affect the equities involved
22 in the potential disruption of the parent/child relationship or the
23 chances of undeniable harm to the child.

1 (d) For the purposes of subsection (c), genetic testing must
2 be performed pursuant to the following guidelines:

3 (1) The tests show that the inherited characteristics
4 including, but not limited to, blood types, have been determined by
5 appropriate testing procedures at a hospital, independent medical
6 institution or independent medical laboratory duly licensed under
7 the laws of this state, or any other state, and an expert qualified
8 as an examiner of genetic markers has analyzed, interpreted and
9 reported on the results; and

10 (2) The genetic test results exclude the former husband as the
11 father of the child.

12 **§48-8-105. Rehabilitative spousal support.**

13 (a) The court may award rehabilitative spousal support for a
14 limited period of time to allow the recipient spouse, through
15 reasonable efforts, to become gainfully employed. When awarding
16 rehabilitative spousal support, the court shall make specific
17 findings of fact to explain the basis for the award, giving due
18 consideration to the factors set forth in section ~~8-103~~ one hundred
19 three of this article.

20 (b) An award of rehabilitative spousal support is appropriate
21 when the dependent spouse evidences a potential for self-support
22 that could be developed through rehabilitation, training or
23 academic study.

1 ~~(b)~~ (c) The court may modify an award of rehabilitative
2 spousal support if a substantial change in the circumstances under
3 which rehabilitative spousal support was granted warrants
4 terminating, extending or modifying the award or replacing it with
5 an award of permanent spousal support. In determining whether a
6 substantial change of circumstances exists which would warrant a
7 modification of a rehabilitative spousal support award, the court
8 may consider a reassessment of the dependent spouse's potential
9 work skills and the availability of a relevant job market, the
10 dependent spouse's age, health and skills, the dependent spouse's
11 ability or inability to meet the terms of the rehabilitative plan
12 and other relevant factors as provided ~~for~~ in section ~~8-103~~ one
13 hundred three of this article.

NOTE: The purpose of this bill is to exclude disability income received by a veteran from the United States Department of Veterans' Affairs for service related injuries from any calculation used to determine spousal support and the division of marital property in divorce proceedings. The bill provides that the corpus of the estate of a veteran receiving disability income for service related injuries cannot be used as a means of replacing the value of the disability income. The bill also makes stylistic changes.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.