

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 1333
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Authors: Scott and others

Subject: Termination of spousal support based on cohabitation

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Overview

Allows for spousal maintenance to be terminated when the party receiving spousal maintenance is cohabitating with another person.

Section

- 1 Maintenance on death, cohabitation, or remarriage.** Allows for modification or termination of spousal maintenance when the party receiving the maintenance is found to be cohabitating with another individual and directs the court to base a determination on specific criteria. Current law allows for termination of spousal maintenance on the death or remarriage of the spouse receiving the maintenance. This bill provides that when the parties have agreed or the court has ordered that maintenance will continue despite cohabitation, or the parties have stipulated to limit the court's jurisdiction over maintenance, this section will not apply. This bill excludes: parents, grandparents, children, siblings, aunts, uncles, and first cousins from being considered as a cohabitating partner. The bill prohibits a modification based on cohabitation within one year of a divorce judgement being entered, except in certain circumstances.

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1333

03/02/2015 Authored by Scott; Dehn, R.; Schoen; Pugh; Nash and others
The bill was read for the first time and referred to the Committee on Civil Law and Data Practices

03/30/2016 Adoption of Report: Amended and re-referred to the Committee on Public Safety and Crime Prevention Policy and Finance

04/06/2016 Adoption of Report: Placed on the General Register as Amended
Read Second Time

05/11/2016 Calendar for the Day, Amended
Read Third Time as Amended
Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

1.1 A bill for an act
1.2 relating to civil law; allowing for modification of spousal maintenance based
1.3 on the cohabitation of the obligee; amending Minnesota Statutes 2014, section
1.4 518.552, by adding a subdivision.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2014, section 518.552, is amended by adding a
1.7 subdivision to read:

1.8 Subd. 6. Cohabitation. Spousal maintenance may be modified pursuant to section
1.9 518A.39, subdivision 2, based on the maintenance obligee's cohabitation with another
1.10 adult following dissolution of the parties' marriage. The modification may consist of a
1.11 reduction, suspension, reservation, or termination of maintenance. In determining if
1.12 maintenance should be modified due to cohabitation, the court shall consider:

1.13 (1) whether the maintenance obligee would have married their cohabitant but for
1.14 the maintenance award;

1.15 (2) the economic benefit the maintenance obligee derives from the cohabitation;

1.16 (3) the length of the cohabitation and the likely future duration of the cohabitation; and

1.17 (4) the economic impact on the maintenance obligee if maintenance was terminated
1.18 and the cohabitation ended.

1.19 The court shall not modify a maintenance award based solely on the cohabitation if
1.20 the cohabitant is one of the individuals listed in section 517.03, subdivision 1. A requested
1.21 modification based on this subdivision shall be subject to being precluded or limited if
1.22 jurisdiction to modify is lacking due to the parties having entered into a private agreement
1.23 governed by section 518.552, subdivision 5. No motion to modify a spousal maintenance
1.24 award on the basis of cohabitation may be brought within one year of the date of entry of a

- 2.1 decree of dissolution or legal separation that orders spousal maintenance, unless the parties
- 2.2 have agreed a modification can be brought by written agreement or the court finds that
- 2.3 failing to allow the motion to proceed creates an extreme hardship for one of the parties.

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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **1333**

03/02/2015 Authored by Scott; Dehn, R.; Schoen; Pugh and Nash

The bill was read for the first time and referred to the Committee on Civil Law and Data Practices

1.1 A bill for an act
1.2 relating to civil law; allowing for termination of awards based on the cohabitation
1.3 of the obligee; amending Minnesota Statutes 2014, section 518A.39, subdivision
1.4 3.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2014, section 518A.39, subdivision 3, is amended to read:

1.7 Subd. 3. **Maintenance on death, cohabitation, or remarriage.** (a) Unless
1.8 otherwise agreed in writing or expressly provided in the decree, the obligation to pay
1.9 future maintenance is terminated upon the death of either party or the remarriage of the
1.10 party receiving maintenance.

1.11 (b) Unless otherwise agreed in writing or expressly provided in the decree, the
1.12 obligation to pay future maintenance shall be suspended or terminated upon evidence that
1.13 the party receiving maintenance cohabitates with another individual. The determination
1.14 that the obligee is cohabitating for the purposes of this section shall include consideration
1.15 of:

1.16 (1) joint bank accounts, joint holdings, or other jointly held assets or liabilities
1.17 including joint ownership in real estate;

1.18 (2) joint responsibilities for living expenses;

1.19 (3) recognition of the relationship with family and friends;

1.20 (4) whether or not the parties are living together, maintaining frequent contact,
1.21 sharing household chores, or demonstrating other indicia of a mutually supportive intimate
1.22 personal relationship;

1.23 (5) the duration of the relationship;

2.1 (6) whether or not the obligee has an enforceable promise of support from another
2.2 person or has engaged in a commitment ceremony regardless of the legal significance; and
2.3 (7) other relevant evidence.

2.4 (c) In evaluating whether cohabitation is occurring under paragraph (b) and in
2.5 determining whether maintenance should be suspended or terminated, the court shall not
2.6 find an absence of cohabitation solely on the grounds that the obligee and the individual
2.7 with whom the obligee cohabitates maintain separate residences or do not live together on
2.8 a full-time basis. The court must not use one of the factors for consideration in paragraph
2.9 (b) to the exclusion of all others. The burden of proving that the obligee is cohabitating
2.10 with another individual is on the obligor. The court must make written findings on each of
2.11 the factors in paragraph (b) in a determination on the issue of whether or not the obligee is
2.12 cohabitating with another individual.