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SENATE BILL 882

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

MICHAEL S. SANCHEZ

AN ACT

RELATING TO DOMESTIC AFFAIRS; AMENDING SECTION 40-4-7 NMSA 1978
(BEING LAWS 1901, CHAPTER 62, SECTION 27, AS AMENDED) TO PROVIDE
FOR CHILD SUPPORT IN CERTAIN CIRCUMSTANCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 40-4-7 NMSA 1978 (being Laws 1901,
Chapter 62, Section 27, as amended) is amended to read:

"40-4-7. PROCEEDINGS--SPOUSAL SUPPORT--SUPPORT OF
CHILDREN--DIVISION OF PROPERTY.--

A. In any proceeding for the dissolution of
marriage, division of property, disposition of children or
spousal support, the court may make and enforce by attachment or
otherwise an order to restrain the use or disposition of the
property of either party or for the control of the children or
to provide for the support of either party during the pendency

1 of the proceeding, as in its discretion may seem just and
2 proper. The court may make an order, relative to the expenses
3 of the proceeding, as will ensure either party an efficient
4 preparation and presentation of his case.

5 B. On final hearing, the court:

6 (1) may allow either party such a reasonable
7 portion of the spouse's property or such a reasonable sum of
8 money to be paid by either spouse either in a single sum or in
9 installments, as spousal support as under the circumstances of
10 the case may seem just and proper, including a court award of:

11 (a) rehabilitative spousal support that
12 provides the receiving spouse with education, training, work
13 experience or other forms of rehabilitation that increases the
14 receiving spouse's ability to earn income and become self-
15 supporting. The court may include a specific rehabilitation
16 plan with its award of rehabilitative spousal support and may
17 condition continuation of the support upon compliance with that
18 plan;

19 (b) transitional spousal support to
20 supplement the income of the receiving spouse for a limited
21 period of time; provided that the period shall be clearly stated
22 in the court's final order;

23 (c) spousal support for an indefinite
24 duration;

25 (d) a single sum to be paid in one or

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1 more installments that specifies definite amounts, subject only
2 to the death of the receiving spouse; or

3 (e) a single sum to be paid in one or
4 more installments that specifies definite amounts, not subject
5 to any contingencies, including the death of the receiving
6 spouse;

7 (2) may:

8 (a) modify and change any order in
9 respect to spousal support awarded pursuant to the provisions of
10 Subparagraph (a), (b) or (c) of Paragraph (1) of this subsection
11 whenever the circumstances render such change proper; or

12 (b) designate spousal support awarded
13 pursuant to the provisions of Subparagraph (a) or (b) of
14 Paragraph (1) of this subsection as nonmodifiable with respect
15 to the amount or duration of the support payments;

16 (3) may set apart out of the property or income
17 of the respective parties such portion for the maintenance and
18 education of [~~the~~]:

19 (a) their unemancipated minor children as
20 may seem just and proper; [~~and~~] or

21 (b) their children until the children's
22 graduation from high school if the children are emancipated only
23 by age, are under nineteen and are attending high school; and

24 (4) may make such an order for the
25 guardianship, care, custody, maintenance and education of the

1 minor children, or with reference to the control of the property
2 of the respective parties to the proceeding, or with reference
3 to the control of the property decreed or fund created by the
4 court for the maintenance and education of the minor children,
5 as may seem just and proper.

6 C. The court may order and enforce the payment of
7 support for the maintenance and education after high school of
8 emancipated children of the marriage pursuant to a written
9 agreement between the parties.

10 [~~C.~~] D. An award of spousal support made pursuant to
11 the provisions of Subparagraph (a), (b), (c) or (d) of Paragraph
12 (1) of Subsection B of this section shall terminate upon the
13 death of the receiving spouse, unless the court order of spousal
14 support provides otherwise.

15 [~~D.~~] E. When making determinations concerning
16 spousal support to be awarded pursuant to the provisions of
17 Paragraph (1) or (2) of Subsection B of this section, the court
18 shall consider:

19 (1) the age and health of and the means of
20 support for the respective spouses;

21 (2) the current and future earnings and the
22 earning capacity of the respective spouses;

23 (3) the good-faith efforts of the respective
24 spouses to maintain employment or to become self-supporting;

25 (4) the reasonable needs of the respective

1 spouses, including:

2 (a) the standard of living of the
3 respective spouses during the term of the marriage;

4 (b) the maintenance of medical insurance
5 for the respective spouses; and

6 (c) the appropriateness of life
7 insurance, including its availability and cost, insuring the
8 life of the person who is to pay support to secure the payments,
9 with any life insurance proceeds paid on the death of the paying
10 spouse to be in lieu of further support;

11 (5) the duration of the marriage;

12 (6) the amount of the property awarded or
13 confirmed to the respective spouses;

14 (7) the type and nature of the respective
15 spouses' assets; provided that potential proceeds from the sale
16 of property by either spouse shall not be considered by the
17 court, unless required by exceptional circumstances and the need
18 to be fair to the parties;

19 (8) the type and nature of the respective
20 spouses' liabilities;

21 (9) income produced by property owned by the
22 respective spouses; and

23 (10) agreements entered into by the spouses in
24 contemplation of the dissolution of marriage or legal
25 separation.

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[E-] E. The court shall retain jurisdiction over proceedings involving periodic spousal support payments when the parties have been married for twenty years or more prior to the dissolution of the marriage, unless the court order or decree specifically provides that no spousal support shall be awarded.

[F-] G. The court may modify and change any order or agreement merged into an order in respect to the guardianship, care, custody, maintenance or education of the children whenever circumstances render such change proper. The district court shall have exclusive jurisdiction of all matters pertaining to the guardianship, care, custody, maintenance and education of the children ~~[so long as the children remain minors]~~ until the parents' obligation of support for their children terminates. The district court shall also have exclusive, continuing jurisdiction with reference to the property decreed or funds created for the children's maintenance and education. "

1 FORTY-THIRD LEGISLATURE
2 FIRST SESSION, 1997
3
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5 March 3, 1997
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7 Mr. President:
8

9 Your JUDICIARY COMMITTEE, to whom has been referred
10

11 SENATE BILL 882
12

13 has had it under consideration and reports same with
14 recommendation that it DO PASS.
15

16 Respectfully submitted,
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21 Fernando R. Macias, Chairman
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25 Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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The roll call vote was 8 For 0 Against

Yes: 8

No: None

Excused: 0

Absent: None

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**State of New Mexico
House of Representatives**

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

March 15, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

SENATE BILL 882

**has had it under consideration and reports same with
recommendation that it DO PASS.**

Respectfully submitted,

Thomas P. Foy, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

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FIRST SESSION, 1997

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Yes: 8

Excused: King, Luna, Mallory, Rios, Sanchez

Absent: None

ME \S0882

**State of New Mexico
House of Representatives**

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