COMMITTEE REPORT

April 13, 2016

**S. 1170**

Introduced by Senators Gregory and Shealy

S. Printed 4/13/16--S.

Read the first time March 15, 2016.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 1170) to amend Section 20-3-130(C), Code of Laws of South Carolina, 1976, relating to the award of alimony and other allowances, so as to provide, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

CHAUNCEY K. GREGORY for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill would have no expenditure impact on the general fund, federal funds, or other funds.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill amends Section 30-3-130(C) to provide that the court may not consider the past, present, or anticipated earnings of a subsequent spouse in the event of remarriage when determining an award, modification of an award, or termination of an award of alimony.

The Judicial Department reports that this bill would have no expenditure impact on the general fund, federal funds, or other funds.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 20-3-130(C), CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE AWARD OF ALIMONY AND OTHER ALLOWANCES, SO AS TO PROVIDE THAT CERTAIN EARNINGS OF A SUBSEQUENT SPOUSE ARE NOT TO BE CONSIDERED BY THE COURT WHEN MAKING, MODIFYING, OR TERMINATING THE AWARD OF ALIMONY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 20-3-130(C) of the 1976 Code is amended to read:

“(C) In making, modifying, or terminating an award of alimony or separate maintenance and support, the court must consider and give weight in such proportion as it finds appropriate to all of the following factors:

(1) the duration of the marriage together with the ages of the parties at the time of the marriage and at the time of the divorce or separate maintenance action between the parties;

(2) the physical and emotional condition of each spouse;

(3) the educational background of each spouse, together with need of each spouse for additional training or education in order to achieve that spouse’s income potential;

(4) the employment history and earning potential of each spouse;

(5) the standard of living established during the marriage;

(6) the current and reasonably anticipated earnings of both spouses, not to include the past, present, or anticipated earnings of a subsequent spouse in the event of remarriage;

(7) the current and reasonably anticipated expenses and needs of both spouses;

(8) the marital and nonmarital properties of the parties, including those apportioned to him or her in the divorce or separate maintenance action;

(9) custody of the children, particularly where conditions or circumstances render it appropriate that the custodian not be required to seek employment outside the home, or where the employment must be of a limited nature;

(10) marital misconduct or fault of either or both parties, whether or not used as a basis for a divorce or separate maintenance decree if the misconduct affects or has affected the economic circumstances of the parties, or contributed to the breakup of the marriage, except that no evidence of personal conduct which may otherwise be relevant and material for the purpose of this subsection may be considered with regard to this subsection if the conduct took place subsequent to the happening of the earliest of (a) the formal signing of a written property or marital settlement agreement or (b) entry of a permanent order of separate maintenance and support or of a permanent order approving a property or marital settlement agreement between the parties;

(11) the tax consequences to each party as a result of the particular form of support awarded;

(12) the existence and extent of any support obligation from a prior marriage or for any other reason of either party; and

(13) such other factors the court considers relevant.”

SECTION 2. This act takes effect upon approval by the Governor.

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