

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 51**

4 (By Senators Boley and Nohe)

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6 [Originating in the Committee on the Judiciary;

7 reported February 27, 2012.]
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11 A BILL to amend and reenact §48-8-103 of the Code of West Virginia,
12 1931, as amended, relating to providing for denial of spousal
13 support if a party learns of a spouse committing adultery
14 through DNA evidence after entry of the divorce decree.

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

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

18 **ARTICLE 8. SPOUSAL SUPPORT.**

19 **§48-8-103. Payment of spousal support.**

20 (a) Upon ordering a divorce or granting a decree of separate
21 maintenance, the court may require either party to pay spousal
22 support in the form of periodic installments, or a lump sum, or
23 both, for the maintenance of the other party. Payments of spousal
24 support are to be ordinarily made from a party's income, but when
25 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.

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