



1                   **temporary relief.**

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

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

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

## 1 PART 1. MARITAL PROPERTY DISPOSITION.

2 **§48-7-101. Equal division of marital property.**

3 (a) Except as otherwise provided in this section, upon every  
4 judgment of annulment, divorce or separation, the court shall  
5 divide the marital property of the parties equally between the  
6 parties.

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

12 **ARTICLE 8. SPOUSAL SUPPORT.**13 **§48-8-103. Payment of spousal support.**

14 (a) Upon ordering a divorce or granting a decree of separate  
15 maintenance, the court may require either party to pay spousal  
16 support in the form of periodic installments, or a lump sum, or  
17 both, for the maintenance of the other party. Payments of spousal  
18 support are to be ordinarily made from a party's income, but when  
19 the income is not sufficient to adequately provide for those  
20 payments, the court may, upon specific findings set forth in the  
21 order, order the party required to make those payments to make them  
22 from the corpus of his or her separate estate. An award of spousal  
23 support shall not be disproportionate to a party's ability to pay

1 as disclosed by the evidence before the court. Notwithstanding any  
2 other provision of this code to the contrary, disability income  
3 received by a veteran from the United States Department of  
4 Veterans' Affairs for service related injuries is not income for  
5 purposes of this article. Nor can the corpus of the estate of a  
6 veteran receiving disability income for service related injuries be  
7 used as a means of replacing the value of the disability income.

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

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

20 (2) Prior to admitting evidence of genetic testing, the court  
21 shall preliminarily determine whether genetic testing evidence  
22 should be admitted for the purpose of disproving or establishing  
23 paternity. The facts that may be considered by the court at this

1 hearing include the following:

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

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

9 (C) The facts surrounding the party's discovery of  
10 nonpaternity;

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

12 (E) The age of the child;

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

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

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

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

22 (1) The tests show that the inherited characteristics  
23 including, but not limited to, blood types, have been determined by

1 appropriate testing procedures at a hospital, independent medical  
2 institution or independent medical laboratory duly licensed under  
3 the laws of this state, or any other state, and an expert qualified  
4 as an examiner of genetic markers has analyzed, interpreted and  
5 reported on the results; and

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

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

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

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

20 ~~(b)~~ (c) The court may modify an award of rehabilitative  
21 spousal support if a substantial change in the circumstances under  
22 which rehabilitative spousal support was granted warrants  
23 terminating, extending or modifying the award or replacing it with

1 an award of permanent spousal support. In determining whether a  
2 substantial change of circumstances exists which would warrant a  
3 modification of a rehabilitative spousal support award, the court  
4 may consider a reassessment of the dependent spouse's potential  
5 work skills and the availability of a relevant job market, the  
6 dependent spouse's age, health and skills, the dependent spouse's  
7 ability or inability to meet the terms of the rehabilitative plan  
8 and other relevant factors as provided ~~for~~ in section ~~8-103~~ one  
9 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.

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