

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 653

By: Newhouse

6 AS INTRODUCED

7 An Act relating to dissolution of marriage; amending  
8 43 O.S. 2011, Section 134, as last amended by Section  
9 2, Chapter 334, O.S.L. 2012 (43 O.S. Supp. 2016,  
10 Section 134), which relates to support and property  
11 payments; excluding certain compensation from  
12 consideration in property division; and providing an  
13 effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 43 O.S. 2011, Section 134, as last  
15 amended by Section 2, Chapter 334, O.S.L. 2012 (43 O.S. Supp. 2016,  
16 Section 134), is amended to read as follows:

17 Section 134. A. In any dissolution of marriage decree which  
18 provides for periodic alimony payments, the court shall plainly  
19 state, at the time of entering the original decree, the dollar  
20 amount of all or a portion of each payment which is designated as  
21 support and the dollar amount of all or a portion of the payment  
22 which is a payment pertaining to a division of property. The court  
23 shall specify in the decree that the payments pertaining to a  
24 division of property shall continue until completed. Payments

1 pertaining to a division of property are irrevocable and not subject  
2 to subsequent modification by the court making the award. An order  
3 for the payment of money pursuant to a dissolution of marriage  
4 decree, whether designated as support or designated as pertaining to  
5 a division of property shall not be a lien against the real property  
6 of the person ordered to make such payments unless the court order  
7 specifically provides for a lien on real property. An arrearage in  
8 payments of support reduced to a judgment may be a lien against the  
9 real property of the person ordered to make such payments.

10 B. The court shall also provide in the dissolution of marriage  
11 decree that upon the death or remarriage of the recipient, the  
12 payments for support, if not already accrued, shall terminate. The  
13 court shall order the judgment for the payment of support to be  
14 terminated, and the lien released upon the presentation of proper  
15 proof of death of the recipient unless a proper claim is made for  
16 any amount of past-due support payments by an executor,  
17 administrator, or heir within ninety (90) days from the date of  
18 death of the recipient. Upon proper application the court shall  
19 order payment of support terminated and the lien discharged after  
20 remarriage of the recipient, unless the recipient can make a proper  
21 showing that some amount of support is still needed and that  
22 circumstances have not rendered payment of the same inequitable,  
23 provided the recipient commences an action for such determination,  
24 within ninety (90) days of the date of such remarriage. Any

1 modification of alimony payments shall be effective upon the date of  
2 the filing of the requested modification.

3 C. The voluntary cohabitation of a former spouse with a member  
4 of the opposite sex shall be a ground to modify provisions of a  
5 final judgment or order for alimony as support. If voluntary  
6 cohabitation is alleged in a motion to modify the payment of  
7 support, the court shall have jurisdiction to reduce or terminate  
8 future support payments upon proof of substantial change of  
9 circumstances of either party to the dissolution of marriage  
10 relating to need for support or ability to support. As used in this  
11 subsection, the term cohabitation means the dwelling together  
12 continuously and habitually of a man and a woman who are in a  
13 private conjugal relationship not solemnized as a marriage according  
14 to law, or not necessarily meeting all the standards of a common-law  
15 marriage. The petitioner shall make application for modification  
16 and shall follow notification procedures used in other dissolution  
17 of marriage decree modification actions. The court that entered the  
18 dissolution of marriage decree shall have jurisdiction over the  
19 modification application.

20 D. Except as otherwise provided in subsection C of this  
21 section, the provisions of any dissolution of marriage decree  
22 pertaining to the payment of alimony as support may be modified upon  
23 proof of changed circumstances relating to the need for support or  
24 ability to support which are substantial and continuing so as to

1 make the terms of the decree unreasonable to either party.  
2 Modification by the court of any dissolution of marriage decree  
3 pertaining to the payment of alimony as support, pursuant to the  
4 provisions of this subsection, may extend to the terms of the  
5 payments and to the total amount awarded; provided however, such  
6 modification shall only have prospective application.

7 E. In no event shall an award of alimony, whether designated  
8 for support or for property division, be based on the  
9 servicemember's portion of any Special Monthly Compensation (SMC)  
10 award from the United States Department of Veterans Affairs.

11 F. Pursuant to the federal Uniformed Services Former Spouses'  
12 Protection Act, 10 U.S.C., Section 1408, a court may treat  
13 disposable retired or retainer pay payable to a military member  
14 either as property solely of the member or as property of the member  
15 and the spouse of the member. If a state court determines that the  
16 disposable retired or retainer pay of a military member is the sole  
17 and separate property of the military member, the court shall submit  
18 clear and concise written findings of such determination to be  
19 included in the decree or final order. If a state court determines  
20 that the disposable retired or retainer pay of a military member is  
21 marital property, the court shall submit clear and concise written  
22 findings of such determination to be included in the decree or final  
23 order and shall award an amount consistent with the rank, pay grade,  
24 and time of service of the member at the date of the filing of the

1 petition, unless the court finds a more equitable date due to the  
2 economic separation of the parties.

3 G. Unless otherwise agreed to by the parties, any division of  
4 an active duty military member's retirement or retainer pay shall  
5 use the following language:

6 "The former spouse is awarded a percentage of the member's  
7 disposable military retired pay, to be computed by multiplying fifty  
8 percent (50%) times a fraction, the numerator of which is \_\_\_\_x\_\_\_\_  
9 months of marriage during the member's creditable military service,  
10 divided by the member's total number of months of creditable  
11 military service."

12 H. In the case of a member's retiring from reserve duty, unless  
13 otherwise agreed by the parties, any division of a reservist's  
14 retirement or retainer pay shall use the following language:

15 "The former spouse is awarded a percentage of the member's  
16 disposable military retired pay, to be computed by multiplying fifty  
17 percent (50%) times a fraction, the numerator of which is  
18 \_\_X\_\_ reserve retirement points earned during the period of the  
19 marriage, divided by the member's total number of reserve retirement  
20 points earned."

21 I. The provisions of subsection D of this section shall have  
22 retrospective and prospective application with regards to  
23 modifications for the purpose of obtaining support or payments  
24 pertaining to a division of property on dissolution of marriage

1 decrees which become final after June 26, 1981. There shall be a  
2 two-year statute of limitations, beginning on the date of the final  
3 dissolution of marriage decree, for a party to apply for division of  
4 disposable retired or retainer pay.

5 J. The provisions of subsections C and D of this section shall  
6 have retrospective and prospective application with regards to  
7 modifications of the provisions of a final judgment or order for  
8 alimony as support, or of a dissolution of marriage decree  
9 pertaining to the payment of alimony as support, regardless of the  
10 date that the order, judgment, or decree was entered.

11 K. Notwithstanding any other provision of this section, a court  
12 shall not consider disability compensation received by a party from  
13 the United States Department of Veterans Affairs for service-related  
14 injuries for any purpose. Additionally, the court shall not offset  
15 any disability income with other assets of the military member.

16 SECTION 2. This act shall become effective November 1, 2017.

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