

1 HOUSE BILL 448

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Joanne J. Ferrary and Patricia Roybal Caballero  
5 and Christine Trujillo and Elizabeth "Liz" Thomson  
6 and Deborah A. Armstrong

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9  
10 AN ACT

11 RELATING TO DIVORCE; ALLOWING THE COURT TO AWARD PETS TO EITHER  
12 PARTY REGARDLESS OF VETERINARY OR OTHER RECORDS INDICATING  
13 OWNERSHIP.

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

18 "40-4-7. PROCEEDINGS--SPOUSAL SUPPORT--SUPPORT OF  
19 CHILDREN--DIVISION OF PROPERTY.--

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

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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]~~ the party's 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  
22 stated 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  
10 of Subparagraph (a), (b) or (c) of Paragraph (1) of this  
11 subsection whenever the circumstances render such change  
12 proper; or

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

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

20 (a) their unemancipated minor children  
21 as may seem just and proper; or

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

25 [~~and~~]

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1 (4) may make such an order for the  
2 guardianship, care, custody, maintenance and education of the  
3 minor children, or with reference to the control of the  
4 property of the respective parties to the proceeding, or with  
5 reference to the control of the property decreed or fund  
6 created by the court for the maintenance and education of the  
7 minor children, as may seem just and proper; and

8 (5) may award pets to either party regardless  
9 of veterinary or other records indicating ownership.

10 C. The court may order and enforce the payment of  
11 support for the maintenance and education after high school of  
12 emancipated children of the marriage pursuant to a written  
13 agreement between the parties.

14 D. An award of spousal support made pursuant to the  
15 provisions of Subparagraph (a), (b), (c) or (d) of Paragraph  
16 (1) of Subsection B of this section shall terminate upon the  
17 death of the receiving spouse, unless the court order of  
18 spousal support provides otherwise.

19 E. When making determinations concerning spousal  
20 support to be awarded pursuant to the provisions of Paragraph  
21 (1) or (2) of Subsection B of this section, the court shall  
22 consider:

23 (1) the age and health of and the means of  
24 support for the respective spouses;

25 (2) the current and future earnings and the

1 earning capacity of the respective spouses;

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

4 (4) the reasonable needs of the respective  
5 spouses, including:

6 (a) the standard of living of the  
7 respective spouses during the term of the marriage;

8 (b) the maintenance of medical insurance  
9 for the respective spouses; and

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

15 (5) the duration of the marriage;

16 (6) the amount of the property awarded or  
17 confirmed to the respective spouses;

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

23 (8) the type and nature of the respective  
24 spouses' liabilities;

25 (9) income produced by property owned by the

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1        respective spouses; and  
2                                (10) agreements entered into by the spouses in  
3        contemplation of the dissolution of marriage or legal  
4        separation.

5                                F. The court shall retain jurisdiction over  
6        proceedings involving periodic spousal support payments when  
7        the parties have been married for twenty years or more prior to  
8        the dissolution of the marriage, unless the court order or  
9        decree specifically provides that no spousal support shall be  
10       awarded.

11                                G. The court may modify and change any order or  
12        agreement merged into an order in respect to the guardianship,  
13        care, custody, maintenance or education of the children  
14        whenever circumstances render such change proper. The district  
15        court shall have exclusive jurisdiction of all matters  
16        pertaining to the guardianship, care, custody, maintenance and  
17        education of the children until the parents' obligation of  
18        support for their children terminates. The district court  
19        shall also have exclusive, continuing jurisdiction with  
20        reference to the property decreed or funds created for the  
21        children's maintenance and education."