



## *Synopsis of Senate Committee Amendments\**

*Lisa Sandberg*

*Legislative Service Commission*

### **Sub. H.B. 36**

125th General Assembly  
(S. Committee on Civil Justice)

The committee adopted the following amendments:

(1) Removed a provision that permitted a trial court, in an action for divorce, legal separation, or annulment of marriage or in any post-decree action or proceeding arising from a divorce, legal separation, annulment or dissolution of marriage, to award reasonable attorney's fees and litigation expenses to either party if the court finds the award appropriate under the totality of the circumstances involved in the action or proceeding, and replaced that with a provision that permits a court, in an action for divorce, dissolution, legal separation, or annulment of marriage or an appeal of that action, to award all or part of reasonable attorney's fees and litigation expenses to either party if the court finds the award equitable.

(2) Removed a provision that permits the court, in determining whether an award is appropriate under the totality of the circumstances, to consider the moving party's need versus each party's ability to pay, and replaces that with a provision that permits a court, in determining whether an award is equitable, to consider the parties' marital assets and income, any award of temporary spousal support, the conduct of the parties, and any other relevant factors the court deems appropriate.

(3) Removed provisions that stated the award may be for attorney's fees and litigation expenses that have been incurred or are reasonably anticipated and a provision that permitted the trial court to make the award at any stage of the proceedings, including, but not limited to, proceedings while the action is pending in the trial court, post-decree proceedings, or appellate proceedings.

(4) Included a provision that permits a court, in any post-decree motion or proceeding that arises out of an action for divorce, dissolution, legal separation, or annulment of marriage or an appeal of that motion or proceeding, to award all or part of

---

\* This synopsis does not address amendments that may have been adopted on the Senate floor.

reasonable attorney's fees and litigation expenses to either party if the court finds the award equitable.

(5) Included a provision that permits the court, in determining whether an award is equitable in any post-decree motion or proceeding, to consider the parties' income, the conduct of the parties, and any other relevant factors the court deems appropriate, but prohibits the court from considering the parties' assets.

H0036a-125.doc/ss

12/08/04

