

STATE HOUSE NEWS SERVICE

LAWMAKERS SEE SUPPORT BROADENING FOR MAJOR ALIMONY SYSTEM CHANGES

By Colleen Quinn

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Alimony payment laws could be dramatically revamped under a proposed plan that would lay out in state law for the first time specific guidelines on the levels and duration of payments to former spouses.

Critics of the current system say it is inconsistent and arbitrary and leaves many without redress even if their financial situation deteriorates.

The changes would also curb "lifetime" alimony, something reform advocates say Massachusetts judges award too often.

Alimony reform has come up in the past, but the recession pushed it to the top of the priority list, lawmakers involved in drafting the bill said.

The Joint Committee on the Judiciary will hear testimony on the proposed changes Wednesday afternoon.

Some alimony payers found themselves out of work or their businesses failing when the economy took a tailspin, but judges were unable to revise alimony payments because the law did not make any allowances, lawmakers said.

"I think what brought it forward was the collapse of the economy," said Sen. Gale Candaras, who led the legislative task force charged with looking at the issue. "Many people found themselves laid off, lost their businesses, became unemployed and really began to struggle with making alimony support payments. Judges didn't have the discretion and very little ability to respond."

Candaras (D-Wilbraham) said some people have approached her worried the law would abolish alimony. "We have not abolished alimony. Nothing could be further from the truth," she said.

A group of legislators, lawyers and judges, along with representatives from the Massachusetts Bar Association, the Boston Bar Association, the Massachusetts Women's Bar Association and the American Academy of Matrimonial Lawyers, worked together monthly for more than a year, reviewing and redrafting current alimony laws. Probate and Family Court Chief Justice Paula Carey was also involved.

Candaras said the task force worked with people on all sides of the issue to "make sure nothing they did would negatively impact" people affected by divorces. Candaras said anyone who in the past was opposed to changes was involved in the process. The bill (S 665) has 132 co-sponsors, including co-sponsor Rep. John Fernandes (D-Milford), and was endorsed by several legal associations that helped draft it.

"Every square inch of this proposed bill has been negotiated and negotiated," Candaras said. "We all agreed no bill would come out of that task force until everyone signed off on it."

The bill does not touch laws surrounding child support payments or child custody. Child support payments are separate from alimony in terms of the criteria used to make the award, according to lawmakers.

Massachusetts is a so-called "no fault" state, meaning the courts are not concerned with what caused the divorce, and judges do not consider the circumstances or levy any punitive awards when deciding alimony payments.

The bill would establish a timeline for payments, granting a number of months of payments based on the years of marriage. If someone is married five years or less then the person receiving alimony would get half of the number of months of the marriage. For a 10 to 15-year marriage, judges would award between 60 to 70 percent the number of months the couple was married. The spouse of a 15-year marriage would be entitled to 80 percent of the number of months. It would still be up to a judge's discretion on how many months to award for any marriage longer than 20 years.

High-profile cases brought the law's lack of clarity to the attention of lawmakers, Candaras said.

"It was clear in Massachusetts you could end your marriage, but it did not appear there could be any time in your life you could truly end your relationship financially," she said.

Marlborough resident and small business owner Stephen Hinter has been battling for alimony reform for years. He launched a grass-roots campaign called MassAlimony Reform that caught the attention of lawmakers. He was asked to participate in the legislative task force looking at the issue.

Hinter, the owner of MetroWest Printing in Marlborough - formerly known as SirSpeedy printing, said he has been bankrupted by his non-ending alimony payments, and it put his business in jeopardy. When the recession took a toll on his business he tried reduce the \$45,000-a-year for life payments he was ordered to pay. Despite his financial decline, Hinter was ordered to keep paying, forcing him to take loans on his business, max out credit cards, and pull out all the equity he had in his home to keep up with payments.

"It didn't matter that I couldn't afford to pay it. She demanded it," Hinter said. "The judge said if I didn't pay the alimony, she would put me in jail."

Hinter launched a website in 2004, massalimonyreform.org, to find out if other people had similar problems. He was flooded with emails, he said. In 2007, he was involved in filing a bill for alimony reform, but it went nowhere. This year he is hopeful for change.

"We want the Legislature to act. Every day someone else files for bankruptcy from this. Every day someone else's life is ruined," Hinter said. "It is up to the Legislature to fix it. No one should be in indentured servitude for life."

There are several problems with the current law that the reforms address, advocates said. For example, in many cases, a former spouse can return to court years after a divorce seeking more alimony. Another problem was people receiving alimony could live with someone else, and still their former spouse would be required to pay. The proposed bill cuts off alimony to a former spouse living with someone else. The alimony can later be reinstated, if that situation changes, under the new plan.

"Alimony had a lot of problems in it," Candaras said. "One of the concerns for me was people could co-habitate for years, sharing their experiences, their finances, while still receiving alimony."

Another sticking point for many people paying alimony is that judges can consider the income of the second husband or wife when deciding alimony payments for the former spouse. The new law would change that practice.

The proposed law also prevents judges from considering income from a second job or overtime when determining alimony payments, according to Aaron Saunders, chief of staff to Candaras.

Also under the proposed law, alimony would end with the death of either spouse, making it impossible for the former spouse to claim rights to alimony payments from the deceased's estate.

The changes to the law "encourage people to support themselves, while keeping someone from falling through the cracks," Saunders said.

While the state does not track alimony cases, Department of Public Health statistics show that more than 14,000 divorces were recorded each year in Massachusetts between 2004 and 2007.

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