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EDITORIAL

Plug the loopholes in alimony reform



ALEXANDER KHARCHENKO/STOCK.ADOBE.COM

JULY 09, 2017

UNTIL A [much-needed reform in 2011](#), the alimony and divorce laws in Massachusetts were [among the most antiquated and unfair in the nation](#). The law that the Legislature approved unanimously that year modernized alimony rules and curbed abuses in the

system, in which some spouses continued to receive alimony long after it was appropriate.

Now the Legislature is confronting a thorny question with no obvious answer: Should couples who divorced under the old law — the very law whose flaws were the whole reason for the reform — have to continue living under its legacy?

Or, to put it in human terms: Should the Legislature cut off alimony payments to some spouses, mostly women, who feel that divorce terms negotiated under the old rules should stand, or should they require paying spouses, mostly men, to continue paying alimony under conditions that the Legislature has recognized may be unreasonable?

State Senator William Brownsberger, whose judiciary committee is looking at the legislation, called it a zero-sum game, and he's right: Someone is going to come away feeling robbed. But while applying the reforms retroactively will undoubtedly create disruption, legislators should approve a bill that would extend the 2011 reforms. As a matter of fairness, all couples in Massachusetts should be subject to the same rules.

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The 2011 reform recognized the assumptions underlying the old system — in which women were presumed to be homemakers, men breadwinners — had become outdated. It put time limits on alimony based on the length of time a couple was married. It said that paying spouses could automatically seek to end alimony upon reaching retirement

age. And it eliminated a loophole that allowed spouses who moved in with a new partner, but did not marry them, to continue to collect alimony from their ex.



New state alimony law, once hailed as a model, is causing confusion and being misinterpreted or ignored by judges

Judges, lawyers, claimants, and advocates complain that the language is unclear, leading some judges to misinterpret the law, while others ignore it.

Unfortunately, the law left ambiguous whether the new rules applied to couples who split before the law went into effect, on March 1, 2012. State courts subsequently ruled that some, but not all, of the reforms applied to couples divorced before that date.

That means that some of the bizarre outcomes that were possible under the old alimony system endure. Writing recently in the Globe Magazine, [one author](#) related how her partner has to continue sending alimony checks to his ex-wife, even though she has found a new partner. Under the courts' interpretation of the 2011 law, paying spouses who divorced before then also must keep paying alimony after they retire. Those

spouses also can't automatically end alimony at retirement (though they can ask a court to modify alimony if their circumstances change).

Comments

Of course, for every anecdote of an aggrieved ex-husband, there's also an ex-wife whose life would be upended by the sudden loss of alimony checks. Those payments were negotiated under the rules in place at the time, along with other aspects of divorce, like division of property. The retirement provision could be phased in for pre-2012 divorces to soften the impact, but the cohabitation loophole is problematic and should be closed immediately.

Advocates call their effort to apply the legislation retroactively a "re-reform" bill, and insist that the 2011 legislation was always intended to apply to all divorces. Regardless, it's the right thing to do. It's not 1965 anymore, and divorce policies premised on antiquated family and work assumptions should go.

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