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THE ALIMONY STATUTE

IF YOU WERE LOOKING FOR A CURE FOR PAST PROBLEMS, KEEP LOOKING

by Melaney G. Hodge, Esq.

The Alimony Reform Act of 2011 went into effect on March 1, 2012. Among other provisions, the statute provided three (3) avenues to modify an alimony obligation: cohabitation, full retirement age, and durational limits. Many proponents of the alimony statute praised its potential for terminating the dreaded “life-time” alimony obligation. Unfortunately, on January 30, 2015, in a series of three (3) cases, the Supreme Judicial Court significantly limited potential relief for cases resolved prior to the implementation of the statute.

In Doktor v. Doktor, the Court specifically addressed section 49(f) “full retirement age.” Looking at the uncodified portions of the statute, the Court found the Legislature made a distinction between durational limits and the other forms of relief. Exceeding the durational limits alone constitutes a substantial and material change of circumstance justifying relief on a modification. In the end analysis, the Court determined the durational limits apply retroactively, but other sections of relief apply prospectively.

In Rodman v. Rodman, the Court again addressed section 49(f), in the context of a merged agreement. As in Doktor, the Court determined “full retirement age” only has prospective application. If an agreement survived with regards to alimony, the alimony statute would provide no relief, either through the durational limits, cohabitation, or retirement.

Finally, in Chin v. Merriot, the Court held cohabitation as a basis for a termination, suspension, or modification, does not apply for cases resolved prior to March 1, 2012.

So what does this mean for you? If you were divorced prior to March 1, 2012, you cannot terminate your alimony because you have reached full retirement age or based

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on your ex-spouse's cohabitation. The only option under the alimony statute is the durational limits. To determine whether you satisfy the durational limits, you must first establish the length of your marriage. The length of the marriage is determined from the date of your actual marriage until service of the complaint for divorce. Now, a bit of math must be done to determine your alimony "exposure." The statute provides general term alimony may be ordered for the following periods of time:

5 years or less = 50%
10 years or less = 60%
15 years or less = 70%
20 years or less = 80%
More than 20 years = indefinite

So taking the length of your marriage, determine what time frame you are under and the percentage of time you may be obligated to pay alimony. For example, if you were married for 12 years, alimony may be ordered for a total of 8.4 years.

Now what happens if you are not eligible for relief under the durational limits? Do you have any options? The answer is, yes. The standard "substantial and material change of circumstance standard" is still applicable. Looking at when the alimony award was issued, if you have experienced a decrease in income or loss of employment, you may be able to modify your alimony obligation.

Although heralded as "the end" of life-time alimony, by limiting the retroactive application of the statute, the Court has significantly hindered any practical application thereof. For future generation of alimony payors, the statute will provide relief, but pre-statute payors should keep on looking...

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