
OLR Bill Analysis

sHB 5524

AN ACT CONCERNING THE RECOMMENDATIONS OF THE LAW REVISION COMMISSION WITH RESPECT TO THE ALIMONY STATUTES.

SUMMARY:

This bill makes numerous changes to the divorce, annulment, and legal separation laws. It:

1. expands the factors a court must consider in determining property division, alimony award, and alimony modification, by (a) requiring the court to also consider the tax consequences of its orders and (b) specifying that both gross and net income must be considered;
2. requires the court, under certain circumstances, to incorporate the financial terms of a legal separation decree into a divorce decree, unless it would be unconscionable to do so;
3. changes the requirements for alimony modification when the recipient cohabitates with another person and, under specified circumstances, shifts the burden of proving that alimony should not be modified to the alimony recipient; and
4. allows an alimony payor to petition for alimony modification when he or she retires from employment and determines who has the burden of proving whether alimony should be modified based on whether the retired payor has attained age 65.

The bill also makes conforming and technical changes.

EFFECTIVE DATE: October 1, 2014, with the alimony modification provision applicable to actions pending or filed on or after that date.

§ 1 — PROPERTY DIVISION

The bill expands the list of factors a court must consider when dividing property in a divorce, legal separation, or annulment case. It requires the court to also consider the tax consequences of its orders based on the evidence the parties presented. The bill also specifies that the court must consider the amount and sources of the parties' gross and net income.

Under current law, after considering each party's evidence, the court must consider the:

1. length of the marriage;
2. causes for the divorce, annulment, or legal separation;
3. parties' age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate, liabilities, and needs; and
4. each party's opportunity for future acquisition of capital assets and income.

The law, unchanged by the bill, requires the court to also consider each party's contribution in the acquisition, preservation, or appreciation in value of their respective estates.

§ 2 — ALIMONY AWARD

The bill expands the list of factors a court must consider when deciding whether to award alimony and the duration and amount of the award in a divorce, legal separation, or annulment case. It requires the court to also consider the tax consequences of its orders based on the evidence the parties presented. The bill also specifies that the court must consider the amount and sources of the parties' gross and net income.

Under current law, in determining an initial alimony award, the court must consider the:

1. evidence presented by each party;

2. length of the marriage;
3. causes for the divorce, annulment, or legal separation;
4. parties' age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate, and needs;
5. property division, if any, made by the court; and
6. custodial parent's desirability and feasibility of securing employment, in the case of a parent who was awarded custody of a minor child.

The law, unchanged by the bill, requires the court to specify the basis for any lifetime or indefinite alimony award.

§ 3 — LEGAL SEPARATION DECREE'S FINANCIAL TERMS INCORPORATED IN DIVORCE DECREE

By law, after a legal separation, if neither party has filed a written certificate that the marriage has resumed, either party can petition the Superior Court in the district where the legal separation was entered, for a divorce decree.

Under current law, the court must enter the divorce decree in the presence of the party seeking the divorce. The bill requires the court to incorporate the financial terms of the legal separation decree into the divorce decree, unless it would be unconscionable to do so.

§ 4 — ALIMONY MODIFICATION

Substantial Change in Circumstances

By law, either party may file a motion for alimony modification.

Under current law, if after a hearing the court finds that there has been a substantial change in circumstances, it must determine the appropriate modification using the same factors required in setting an initial alimony award. The bill expands the list of factors by requiring the court to also consider the tax consequences of its orders based on the evidence the parties presented. The bill also specifies that the court

must consider the amount and sources of the parties' gross and net income.

Alimony Recipient in Marriage-like Relationship

The bill changes the requirements for alimony modification when the recipient cohabitates with another person; and, under specified circumstances, requires the alimony recipient to prove that alimony should not be modified, suspended, reduced, or terminated.

Under the bill, if the alimony payor proves at a hearing that the alimony recipient has been living with another person in a marriage-like relationship for more than six months, the alimony recipient has the burden of proving that alimony should not be modified, suspended, reduced, or terminated. (The bill does not specify what a "marriage-like relationship" is. Presumably it is a non-familial relationship.)

Under current law, the Superior Court has discretion to suspend, reduce, or terminate alimony payments if there has been a showing that the recipient is living with another person and the court finds that the living arrangement changes the financial needs of the alimony recipient and should result in suspension, reduction, or termination of alimony.

The bill requires the Superior Court in determining modification, after hearing all the evidence, to consider the same factors used in determining an initial alimony award. It allows the court, in its discretion, to modify, suspend, reduce, or terminate alimony.

Alimony Payor Retires from Employment

The bill allows the alimony payor to file a motion for alimony modification when he or she retires from employment and has attained age 65. In this case, the alimony recipient has the burden of proving that alimony should not be modified.

Under the bill, if the retired alimony payor petitions for modification but has not attained age 65, then he or she has the burden of proving that alimony should be modified. The Superior Court must

consider the evidence presented by the parties regarding the relevant facts and circumstances of the retirement.

The bill requires the court, after notice and hearing, in determining the alimony modification, to consider the same factors required in setting an initial alimony award.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0 (04/02/2014)