

# Legal Assistance Resource Center

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### H.B. 6927 -- Law Revision Commission alimony recommendations concerning cohabitation

Judiciary Committee public hearing -- March 11, 2015

Testimony of Raphael L. Podolsky

**Recommended Committee action: DELETION OF SUBSECTION 4(b)(1)**

Subsection 4(b)(1) deals with the relationship between alimony and cohabitation. It proposes to eliminate the fundamental requirement that cohabitation is a basis for reducing or terminating alimony only if it changes the financial circumstances of the parties. It does this by deleting the portion of existing law contained in I. 134-138. For that reason, we oppose Section 4(b)(1).

Cohabitation occurs in a wide range of circumstances, some more permanent or long-term than others, some more "marriage-like" than others. Cohabitation by the recipient of alimony may also change that person's financial situation -- often but not always resulting in less need for support by a former spouse. When cohabitation alters financial circumstances, the law permits the court to modify, suspend, reduce, or terminate periodic alimony, as it could do for any other change of circumstances that result in a change in financial circumstances. When the alimony recipient's financial needs are not reduced by cohabitation, however, and particularly where the recipient must continue to fully support himself or herself, the fact of cohabitation will not ordinarily have changed the calculus on which the alimony order was issued. Absent a change in financial circumstances, the alimony order should not be modified.

Alimony is paid to the less financially able former spouse, i.e., the spouse who is in a weaker financial position. The termination or reduction of alimony due to cohabitation, in the absence of an improvement in the recipient's financial circumstances, seriously limits the ability of the less affluent spouse to move forward with his or her life. The policy behind the existing statute is a good one and should not be changed.