

Rick Fleming--House Judiciary Committee 4-14-17-- Vermont Alimony Reform

Chairperson Grad and other distinguished members of the House Judiciary Committee. I want to thank you for the opportunity to testify before you this morning. My name is Rick Fleming and I am the president and co-founder of Vermont Alimony Reform. I am testifying before you today, representing the men and women from throughout Vermont who have been harmed by outdated and antiquated spousal support and maintenance laws.

In February, the Senate Judiciary Committee held a public meeting and listened to a number of testimonies from a variety of stakeholders on this issue, including men and women who have suffered and continue to be negatively affected by Vermont's outdated and antiquated laws. That hearing led to unanimous passage of Senate Bill S112 sponsoring a task force for the purpose of making recommendations to the legislature to reform those laws. Senate Appropriations also unanimously endorsed the bill.

This task force will respond to the Family Law Oversight Committee's letter of January 2017 by developing and recommending legislative guidelines requested by that committee. At the completion of that review, recommendations will be brought forth during the next legislative session.

The courts, officers of the courts, and people dissolving a marriage are all stakeholders and deserve a consistent, fair and predictable divorce outcome. All stakeholders deserve the opportunity to be heard in an open and transparent forum, and these recommendations are developed to be gender equitable, finite, and consistently applied. Judge Grearson, in his January 2017 letter, acknowledged the lack of consistency in applying current guidelines throughout Vermont, and asks for the Legislature to legislate on this important issue.

Specifically, our group has discovered the following:

1. Level the Field with Gender Equality.

Men and women are not afforded equitable presence in statutes with the current antiquated gender specific language.

While Vermont prides itself as a pioneer in social equality and human rights, our brave little state lags far behind in applying divorce laws equally to both parties in dissolving a marriage.

2. Streamline Judicial Discretion for Greater Consistency of Implementation.

Spousal support and maintenance laws are ill defined and allow idiosyncratic discretion. Currently, it is impossible for the legal community to properly advise clients regarding what to expect from one county to another or from one judge to another as described in Judge Grearson's letter. The law should be applied consistently from judge to judge, and case to case, with predictable outcomes for the vast majority of cases while still leaving room for judicial discretion.

Further compounding the effects of unclear guidance for judicial discretion is the challenge of interpreting references to outdated and repealed statutes.

A contract in Vermont should be your bond. Pre-nuptial agreements and absolute decrees are contractual agreements that should be respected by the court, with few exceptions.

3. Divorce should not be a Financial Life Sentence.

Our members recognize spousal support may be part of dissolving marriage. And we recognize there are many parameters to be considered in developing spousal support.

What is not recognized under present law is the definition or purpose of alimony. Therefore, an attorney cannot properly advise their clients on potential outcomes. A Task Force can define what alimony is, and establish a spousal support matrix that is flexible enough to achieve a reasonable alimony award rather than rely solely on

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discretion based on “conventional wisdom,” creating transparency for all stakeholders.

We are here today to ask for your support in creating a Task Force that shall make legislative recommendations for changes to Vermont’s spousal support and maintenance laws aimed to improve clarity, fairness, predictability, and consistency across the State. You have been given packets from the Women of Vermont Alimony Reform, both payors and second spouses. Their stories tell of the havoc that has ensued for folks as they have moved through the divorce process in Vermont. The stress on a family that is unraveling due to divorce is enough to contend with, adding the financial and emotional strain and anxiety of the unknown adds another level that doesn’t have to be there. We CAN do this together successfully, as was done by Massachusetts Alimony Reform alongside the Massachusetts Alimony Task Force and signed into law in 2011. The family structure has changed; the laws need to reflect the changing times of the familial structure. We need to create laws that protect the many with a safety valve for the few situations that would be addressed through judicial discretion. It is time to come together as a more civilized society, our grass roots group, the Bar, and the Judiciary, and help create a more progressive, healthier, more common sense way of handling divorce in Vermont.

What better way than through a Task Force to investigate and understand these important questions before applying a quick fix to such a serious issue.

Many individuals that have gone through the Family Court system are urged by their attorneys to settle, not only to manage costs but more by the fear of not being able to advise their clients of an anticipated outcome that will be fair and equitable for all parties involved. The fear of the unknown or as my attorney called it the “Wild, Wild West” is a powerful motivator. In today’s society is that the best way to deal with this life changing issue?

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Since our members testified to the Senate in February we have seen an increase in membership, and more stories are coming forward as people become aware that there is hope for reform. It is becoming increasingly clear that our stories are not outliers but indicative of a systemic problem driven by antiquated laws and a lack of guidelines. Many Vermonters believe that they have been victimized by the present law and worse have lost hope of ever obtaining justice. There is nothing worse than to be marginalized or minimized when you have already been victimized. Just because some may believe that we are small in numbers or that we are outliers, that makes human beings, and our group feel incredibly insignificant. None of the victims of this outdated law, which is no fault of theirs, deserve to be made to feel insignificant.

The House has two separate bills H363 and H414 addressing reform. However, both bills retain language that still invite conflict and do not clarify modification parameters, which as evidenced by our testimony, is the major source of injustice and at the root of the need for a task force to understand this at a far deeper level.

While we applaud the recognition that reform is needed by the other parties involved, we know that a matrix is part of addressing the problem, while not the fully comprehensive needed solution. Other states that have reformed their spousal maintenance laws have taken a more in-depth view of the problem, including but not limited to: changes in circumstances for retirement or pending retirement, health issues, financial hardship, cohabitation and remarriage. To piecemeal or take one section of the necessary reform and utilize a “quick fix” or “band-aid” to the problem, (and make the enforcement optional at best) is, with all due respect, ignoring some of the highly glaring issues that must be addressed. An optional matrix is NOT a solution to the issues concerning the spousal maintenance laws in Vermont today.

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The Senate recognizes the need for greater dialogue on the issue. We urge you to please pass S112, the Creation of a Spousal Support and Maintenance Task Force, for the sake of all parties involved in a divorce, and for the sake of our children and grandchildren so they will not experience the financial, emotional, and psychological devastation that so many of us have in this process.

Thank you for your time. Vermont Alimony Reform looks forward to working with you this important issue.

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