

**“Testimony for Alimony Reform in Vermont”, Amy Fleming, February 9, 2017-
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Good morning. I am Amy Fleming, Co-Founder of Vermont Alimony Reform, as well as President of Vermont Second Spouses and Partners. I want to thank you all for taking the time out of your schedule to hear more about our organization and why Vermont desperately needs to reform its severely outdated Alimony Laws.

Vermont is one of about six states left that still awards what is called Permanent, or Lifetime Alimony. Most other states that still have Permanent Alimony have ongoing reform efforts, or are in the process of eliminating it (except in extremely rare circumstances) as we speak.

Our group believes that transitional, or rehabilitative alimony is the most constructive form of alimony in terms of allowing for advancement of a recipient spouse. This is spousal maintenance that is specifically designed to help a lower-earning spouse transition to a life on their own, and/or get necessary job training skills to help increase their earning potential. Alimony provided to maintain an “expected, accustomed, or desired lifestyle” we believe, is for the most part, highly unrealistic, outdated and punitive to the payor. Under current Vermont law, almost all consideration is given to the recipient (and sometimes their cohabitant or new spouse) with little to none for the payor, as evidenced by some of our previous testimony. Logical reasoning would dictate that when two parties, both working and living under one rooftop separate, both lives will forever change. One party cannot be expected to provide for the other while also having adequate income to maintain their basic needs. This is based on simple mathematics of the equation of cost of living and the presumption of one person forever maintaining two independent lives or families financially.

Lifetime alimony payors can, in most cases, never retire. Everyone deserves the right to retire! Even if they are able to work, typically between the cost of the trials and the ongoing spousal maintenance, the financial impact to the payor is so great that they have to continue to work well beyond retirement age. In my husband’s case, he has a fraction of his retirement savings remaining, which is not nearly what a man of almost 60, having worked his entire adult life should have. He has no pension and at this point, his entire social security check will go to his

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ex-wife, leaving him virtually zero in personal funds to live on for himself. He will have to most likely have to work until he takes his last breath under Vermont’s current alimony statutes.

Personally, I have incurred severe financial impacts as well, having to have liquidate portions or borrow against my retirement savings, as I am left paying almost all of our bills due to the loss of my husband’s business, his bankruptcy, and his new employer’s 25% cut in his pay from the time of the divorce decree. His alimony was never adjusted to reflect these changes, despite several attempts at modification going all the way to the Vermont Supreme Court. Under current law it states that “significant, unanticipated changes” allow for an adjustment in alimony; however, the definition of this is vague, allowing again for broad judicial discretion. I was laid off from my job in 2013 with a two year old daughter, and immediately had to find another job since we could not afford to live off what my husband has left in his paycheck and (what would be) my unemployment with his alimony judgment as is.

Let me change gears a bit now and speak if I may about what it is like to be the main point of contact for Vermont Alimony Reform. I am the person who triages the calls and emails that come into the organization. These calls are from people whose lives have been severely impacted by Vermont’s Spousal Maintenance Laws. Most payors agree that some degree of alimony is appropriate; however, the one sidedness of the laws and broad judicial discretion are disturbing to all of the payors. For example, valid signed prenuptial agreements are completely disregarded, and involuntary reductions in pay are ignored by the Court on the part of the payor, yet seem to be accounted for on the part of the recipient.

The Alimony Reform Movement began to gain momentum after the economic downturn of 2008 when many in the private sector were impacted with unrecoverable losses. Even with forensic accountants, CPAs (all licensed, mind you) their testimony is usually ignored by Vermont’s Family Courts and adjustments are rarely made for both male and female payors. This is in strong contrast to Child Support Laws, who do take into consideration fluctuations in

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pay. When an attempt at an appeal is made, the Supreme Court will bounce decisions back to the trial courts, who maintain their original position under their “unbridled” Judicial discretion. This can be devastating to a payor. It was for our family. When payors contact me to let me know they (and their attorney) feel they have a strong case to return to court for an adjustment, I do not comment, but I know the outcome before they do, based on history. A few weeks later, they contact me, crushed and devastated, shocked and in disbelief, and tens of thousands of dollars poorer. This is a vicious cycle and this system has to stop.

The Family Court Oversight Committee itself recognized a need for change back in 2008, as it formed an exploratory committee to look at current alimony/spousal maintenance statutes. Peter Lawrence, my husband’s ex-wife’s attorney, who was on the original committee, called my husband’s attorney after his attempt at modification in 2011 was denied in disbelief that there wasn’t some modification in favor of my husband’s spousal support payments. I would ask, what attorney, practicing in Vermont’s Family Court system wouldn’t want to be able to give their clients some idea, a range of what their judgment would be, rather than state it is “The Wild, Wild West” at the complete discretion of the Court? This is completely and totally unacceptable.

We need greater accountability for Vermont’s citizens, who are left to the discretion of some of these Family Court Judges. Broad judicial discretion is how the status quo is maintained. How can the people of Vermont be assured that there is consistency, predictability and fairness throughout the Family Court System when experience says otherwise? The Family Court Oversight Committee, who in its most recent report recommended virtually no changes to and continue “as is” with “optional guidelines” is, with all due respect, not good enough for these people. The system is broken, and lives are being negatively impacted each day without reform.

The negative impact to first and second families embroils as ex-spouses continue to have acrimonious relationships for decades after their divorce, as well as when they continue to litigate to try to gain justice is toxic to all involved. Financial, emotional, and psychological healing cannot take place under this system. One party being forced to work the remainder of their life to “provide an expected lifestyle” is unjust and unfair. We recognize the contributions of a stay-at-home

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spouse (even if it is only for a few years, or longer) and believe a degree of financial accounting should be included for that; however, these are not celebrity divorces or multinational CEOs; these are ordinary people, just like all of you, both men, and increasingly more women, that have been victimized by the current Vermont Family Court system. There shouldn't be a financial windfall for one party, and complete and utter financial devastation for another. Even if it is a fraction of the cases going through Vermont's Family Court system, each person that it happens to is worth looking at the system as a whole. We are consistently receiving new communications from payors in dire straits financially. If these were relatives or friends of yours, believe me, you would begin to comprehend the scope of the problem.

Our ask is that our group, Vermont Alimony Reform be included in the process as it moves forward in the Legislature. The process should include all parties involved in a divorce so that all parties are represented as we all work to modernize these archaic laws that are not in line with current societal norms. Transparency must become and remain key in determining more structure to spousal maintenance awards so that there will be more consistency, predictability, and fairness for all parties moving through the divorce process in Vermont. It is time for some “Common Sense Legislation” with respect to alimony in Vermont. The time is now to create meaningful and lasting reform.

Thank you for your time and this opportunity to be heard. The men and women of Vermont Alimony Reform thank you as well.

Amy Fleming
President, Vermont Alimony Reform's Second Spouses and Partners