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Senator Sears and other distinguished members of the Senate Judiciary Committee.

For those of you that don't know me, I am Rick Fleming. I was divorced in Vermont in 2009 in Windham County. I am president of Vermont Alimony Reform, an organization that represent the men and women from throughout Vermont that are looking to the Legislature to reform and update the antiquated alimony laws of our state and bring predictability, consistency and fairness to all parties involved in a divorce.

I want to thank you for allowing me the opportunity to testify before your Committee today to continue the discussion of alimony/spousal maintenance reform. Your support and leadership last year with the passage of S52 at the end of the Legislative session brought the issue to the attention of the Legislature. We were hopeful that the House would have supported your proposal to form an Alimony Reform Taskforce to review Vermont's outdated alimony/spousal support statutes. However, we recognize that the lateness of the session resulted in moving that investigation to the Family Oversight Committee of the Vermont Supreme Court.

I am specifically here today to discuss the report that the Senate Judiciary Committee received last week from the Honorable Judge Grearson from the Family Division Oversight Committee of the Vermont Supreme Court.

I would like to begin by stating that VAR supports the Oversight Committees statement that the “Judiciary takes no position with regard to the particular policies that should inform legislation regarding spousal maintenance or alimony” We agree with the Oversight committee that “such policies or positions are within the purview of the Legislative Branch, not the Judicial Branch”. We also support that the “Judiciary has an interest in having clear statutory language from the Legislature, which will enable judges to apply the alimony statute in a manner that is consistent from judge to judge and case to case”. It is the responsibility of the Legislature to set guidelines and law and it is the responsibility of the judges to apply that guidance and law as it relates to spousal maintenance and alimony.

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We differ with the Oversight Committee report as it relates to the amount of judicial discretion that is presently allowed in the alimony statute, 15 V.S.A. #751 and #752. As presently written, the statutes gives absolute discretion to judges which creates inconsistencies, unpredictability and unfairness as it relates to alimony and spousal support throughout the State.

VAR recommends the following for your committee to consider:

Vermont residents deserve more consistent, fair and predictable divorce outcomes, which require legislative changes to modernize the state’s antiquated spousal support and maintenance laws to be gender equitable, finite, and consistently applied.

1.) Level the Field with Gender Equity.

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.

The statutes use gender-specific language, creating laws for men but not women — even if the situations were reversed, men and women are not afforded equitable presence in statutes.

Same-sex marriage requires laws that apply to same-sex divorce.

2.) Divorce should not be a Financial Life Sentence.

Establish a spousal support matrix based on multiple specified factors that is flexible enough to achieve a reasonable alimony/spousal support award rather than rely solely on discretion based on “conventional wisdom” about what is enough to achieve the purpose of alimony.

Vermont’s punitive laws are marriage unfriendly, with an open door for more.

There is no limitation to how many times a recipient can go back to the court for

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more money, creating ongoing financial risk that can last decades, and is particularly damaging to small businesses and farms.

Develop guidelines for the duration and modification of alimony to consider anticipated and unforeseen circumstances such as retirement, job loss, remarriage or cohabitation, economic catastrophe, etc. Alimony should not last beyond full retirement age. Wouldn't you all agree that everyone deserves the right to retire!

3.) Streamline Judicial Discretion for Greater Consistency of Implementation.

Spousal support and maintenance laws are ill defined and allow idiosyncratic discretion, such that it is impossible for the legal community to properly advise clients regarding what to expect from one county to another. The law should be applied consistently from judge to judge, and case to case, with predictable outcomes for the vast majority of cases.

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.

Vermont Alimony Reform agrees that there are divorces that occur whereby alimony/spousal support is appropriate. However, we believe that the support should be designed to encourage self-sufficiency and independence for the lower earning spouse through the use of training and transitional support with specific guidelines and formulas. Spousal support should not be designated for lifetime maintenance of a pre-existing lifestyle while in the marriage. It is unrealistic to believe that two people living together can maintain that same lifestyle living separately. The economics of maintaining two homes with two sets of household expenses makes that impossible. Under existing law, the maintenance of the ex-spouse's lifestyle is a major factor in determining spousal support. Many times

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this is done to the detriment of the paying spouse. This is not fair and needs to be addressed by the Legislature. There needs to be parity between all parties when spousal support is awarded so that both individuals can meet their needs and move on with their life.

Appendix A. of Judge Grearson’s report is a good first step in trying to establish specific guidelines and should be the primary tool that judges utilize to determine duration and amounts of spousal support awards throughout the State. However we believe that there needs to be clearly defined criteria to move within the ranges as it relates to gross income and duration. For instance, what constitutes 25% or 45% of income difference for a 15-20 year marriage? What determines 40 or 70% of the length of the marriage as the duration of the alimony award? If we are looking for consistency and predictability this must be more clearly defined.

Permanent alimony should only be considered in the case of extreme circumstances where the receiving ex-spouse has a mental or physical disability. No one should have the life time responsibility of taking financial care of another. Vermont is one of seven states that still utilizes permanent spousal support in its statutes. Most states recognize the inequity of this outdated form of support.

Call to Action:

Divorce is an equal rights issue in Vermont that is imposing undue economic hardship on thousands of citizens because of outdated laws and the often arbitrary way in which they are applied. Therefore, **we strongly urge the legislature to make practical changes to domestic relations law and streamline judicial discretion to achieve equal alimony rights for all Vermonters.**

We urge the Judiciary Committee to make the process open and transparent to all parties involved in a divorce. Alimony Reform should not be left up to the input of just the attorneys and Judges. The process needs to consider the impact of Vermont’s outdated laws on the average Vermonter and we encourage the Committee to continue to hold hearings to allow those concerns to be incorporated into the reform process.

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I want to thank the members of the Judiciary Committee to listening to our concerns today. Vermont Alimony Reforms looks forward to working together with you as we all work to update Vermont’s outdated alimony/spousal support statutes and bring them in to the 21st century.

Rick Fleming
President, Vermont Alimony Reform