

Testimony Presented by Hannah Lane, JD
Vermont Commission on Women
Vermont Spousal Support and Maintenance Taskforce Public Hearing
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Good Evening, my name is Hannah Lane. Before joining the Vermont Commission on Women, I received my JD from Vermont Law School, and spent several years working at Have Justice – Will Travel, providing legal representation to low-income victims of domestic violence in the Northeast Kingdom. I worked on several cases at HJWT involving spousal maintenance, and have litigated spousal maintenance issues. I've also spent a good deal of time in the last six months researching this topic, which has included considering laws around the country, alimony reform movements, and different perspectives regarding common reform proposals.

Impact of Mutual Decisions on the Incomes of Spouses

Major decisions such as whether to have children, whether one spouse should take time away from their career to be with their children, and for how long, are decisions that most couples make together, for the benefit of their family unit, considering their unique circumstances.

When two parents are in the workforce and one has an option to reduce or leave employment, the higher-paid spouse is likely to continue working. That person is still the man 71 percent of the time.

Taking even a few years away from a career, particularly early in life, can have life-long impacts on advancement and earning potential, as do taking jobs with flexible schedules, reducing hours, or working part-time.

At the same time, having a full-time parent at home or a spouse with schedule flexibility provides considerable benefits to the career and earnings of the working spouse. As promotions, raises, and even salaries at new jobs are frequently based on a percentage of current earnings, these disparities are

compounded over the years. The gender wage gap, currently 16% in Vermont, exacerbates these disparities.

Decisions to have children and decisions about caregiving have significant impacts on the earnings of both spouses, still felt decades later. A portion of a higher earning spouse's wages are often directly attributable to the mutual marital decisions and often to the career sacrifices of one partner. Judicial discretion is necessary to evaluate the complex factors present in a marriage and issue an equitable maintenance order.

Terminating Maintenance Upon Cohabitation or Remarriage

The idea that spousal maintenance should automatically terminate upon the cohabitation or remarriage of the recipient is rooted in patriarchal notions about responsibility of care for women passing from one man to another. This does not consider that spousal maintenance, in many cases, is compensatory in nature and shouldn't be subjected to this kind of modification.

More importantly, the impact of a policy terminating spousal maintenance payments upon cohabitation or remarriage of the recipient is that when a marriage dissolves, the economically advantaged spouse can move on with their life, fall in love, move in with their new partner, have the joy of remarriage, and sometimes even start a second family, without penalty.

The economically disadvantaged spouse, on the other hand, is unable to fully engage in a new life and is denied the autonomy to have a second chance at love without economic penalty. Restricting this fundamental right for economically disadvantaged spouses post-divorce is not in our state's public policy interests.

This approach essentially gives the payor continued interest and control over their ex-spouse's romantic life for the duration of the maintenance award, as they would have the power to file a motion and pursue

termination, or not. In dissolving marriages with existing power and control and abuse patterns, the emotional impact of this control is significantly heightened.

Leaving discretion with the court to determine whether the financial circumstances have changed sufficiently to justify modification, and to consider what portion of an award might be compensatory and non-modifiable is critical in obtaining equitable outcomes.

Terminating Maintenance Upon Retirement or Reaching Full Retirement Age

Automatically terminating spousal maintenance benefits upon the retirement of the payor spouse neglects to consider the not-insignificant number of parties who divorce later in life.

Proponents of reform indicate that payors are unable to retire because the process to modify is costly, and because they often are required to retire first before petitioning the court, they must keep paying while the matter is resolved, and they may not be successful. To address this valid concern, the task force might consider ensuring that what will happen upon retirement is always considered in the final spousal maintenance order, giving both parties a predictable outcome, averting another round of lawyers' fees to relitigate the matter, and better enabling recipient spouses to plan for their own retirement, which they should also be able to do.

Thank you.