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Testimony

Vermont State Senate Judiciary Committee

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Thank you for listening to my testimony today. I am the actual originator of Vermont Alimony Reform, a woman. I am not an alimony payor, but I am married to a lifetime alimony payor. This in effect, makes me also a lifetime alimony payor, as my financial future is tied to that of the alimony judgment of my husband. After Rick (my husband)'s sentence of lifetime alimony by the Family Court, as one could imagine, we were both in deep despair, shock and confusion. Other than on Lifetime TV dramas, I didn't know such a thing even existed today. I began searching the internet for other groups and outreach, and found Steve Hitner and the Massachusetts Alimony Reform group, and his success in helping that state change its laws. I began to realize that there were only a few states left that had lifetime alimony as a legal judgment, and with the help of my husband, Vermont Alimony Reform was created in an effort to make the laws more consistent and equitable to all parties.

We are a grass roots organization, with no lobbyists, relying solely on individual donations and volunteer time. We do not have any charters, stipends, or grants. We have each other, a group who has learned to lean on each other for support and had many bumps along the way.

We have over 100 members, almost half are female, they are either second spouses and partners or one of several female payors themselves. One of those payors, Anne Camisa, of Chittenden County, is here with me today. Anne is a reading teacher who is an alimony payor. Both Anne and her ex-husband worked during the marriage, as at least 75% of couples do today. In the divorce settlement, Anne's ex received the four bedroom house with a heated pool and one of the children as part of the custody judgment, while the other child and Anne were confined to a tiny apartment AND alimony payments! As you can imagine, the pain of the divorce was difficult enough on the family, add to that one child living better than the other, and one parent paying the other alimony to support his higher standard of living of that of himself and one child! Anne is available after the testimony to share more of her acrimonious alimony story, and how she was treated by the Vermont Court System, should you have questions.

Another alimony payor in our group is Maureen. Maureen of Caledonia County is a nurse in her mid-60s, with no retirement in sight. Her ex-spouse was able to retire comfortably at 62 with her teacher's pension, social security, and alimony payments from Maureen. Maureen was ordered to pay in order to maintain her ex's previously accustomed to lifestyle, leaving Maureen just above the poverty line and in dire straits herself. Her ex's alimony was not based on need, but desire. Maureen will have to work long into her 70s to try to carve out some kind of retirement for herself in contrast to that of her ex-spouse, who retired early and comfortably. As a nurse, Maureen needed knee surgery to continue her work. When her physician asked her to take time off to let it heal properly, she replied with, "I can't afford to go out on disability, it won't allow me enough to pay my ex lest I go to jail". Are we treating women properly with these laws?

Next up we have Jean from Chittenden County. When her ex (they both made decent incomes their entire married lives) left the marriage to pursue a different lifestyle, he was told he could obtain alimony to "maintain the lifestyle accustomed during the marriage". While he is working and cohabitating with

his new partner, Jean, a stage 4 ovarian cancer patient, has to continue working to pay his \$1000 a month alimony, lest she be incarcerated. She would like to enjoy the time she has left here and enjoy her grown children and hobbies, yet she is forced to make this ludicrous payment, even with end stage cancer. How again, exactly, are we treating the women of Vermont?

I know you have heard a lot about compensation and the sacrifices made; we don't disagree with these, of course. Time out of the workforce that is lost and the long-lasting effects are real. Some of this is adjusted for through property settlements. What we need are some common sense laws that do account for discrepancies and lost earnings that can last a lifetime, but through some common sense legislation that ensures equity for all, and most of all, consideration for retirement to be mandatory for BOTH parties in a divorce. The word "SHALL" not "MAY" must be codified. We don't want ANY of Vermont's citizens, low income recipients, nor alimony payors to be left out. EVERYONE has the right to retire! Judge Grearson is a fan of finality; believe it or not, so is the lifetime alimony payor, forced to work indefinitely.

Judge Grearson also believes that the Weaver v. Weaver case answers many of the questions we have regarding alimony for retirement through compensatory alimony. According to Spousal Maintenance Task Force Member and Family Law attorney Priscilla argued that the Weaver case actually creates more questions than it answers, as ANYONE who has ever made any type of sacrifice and stayed home (either gender) will believe they are entitled to compensatory alimony, which one could argue, should be lifetime in nature. How do we account for this? There is a CLEAR need for legislation in this area to ensure consistency across the state and from Judge to Judge.

In Jaro v Jaro 2018, the court concluded that (after eight years of alimony paid by wife to ex-husband) "At that point, the court anticipated that wife would be close to retirement and no longer able to generate income, and both parties would have access to retirement funds to meet their needs." How does a Judge determine who will be able to generate income in retirement and who will not? Isn't that fairly clear by the Federal Retirement age (Social Security), accumulated pensions and retirement funds? It should be spelled out at the time of divorce, with a "material and substantial change in circumstance" as a potential modifier to correct past mis-steps. This allows either party to file a "complaint to modify" for the termination of alimony. The Federal guideline of (currently 66 or 67) should be used as the standard for retirement, with the payor's ability to work beyond that age not considered. Judge Grearson often states that he is in his early 70s and enjoys working. The difference is that is his CHOICE. He is not an indentured servant, paying outrageously high alimony payments, with no end in sight.

It is well known that with the judicial shortage in Vermont, many Judges have little to no experience in Family Law, yet they preside over cases and decide lifetime outcomes. Many come from criminal or civil court, and rely on limited case law to make decisions in the absence of Legislation. The absence of guidelines and structure make this even more problematic. It is easy to see how the rampant judicial discretion here is so problematic in Vermont.

The concern for those who cannot afford to live (either gender) should, of course, be acknowledged. That is why a deviation would be allowed. A judge may issue a deviation based on need and ability to pay in the interest of justice if the receiving party can prove need with "clear and convincing evidence".

The point of my testimony is 2-fold: as Leader of the Women of VAR, the reason I share some of our horror stories with you is that we women often believe we are ignored, marginalized, or invisible. Because our stories don't fit a traditional narrative, or even some of the statistics perhaps, doesn't make

us any less important. Every person, regardless of gender, deserves to be treated as a human being, and not be humiliated into being an indentured servant to another. I have mentioned to you in the past that this inhumane treatment leads to incredibly toxic mental health issues for all parties, and never allows the parties to heal from the wounds of divorce.

We would agree that, often, women suffer more financially than men after divorce. If we are speaking in terms of gender, it is important to consider all of the research, not simply research which helps us prove our various points. We have heard various statistics regarding retirement, gender and the impact of the divorce on women. According to a recent Utah State University study, "some people seem to believe that men are financially better off after a divorce than they were during their marriage. Good research shows that this is a myth. Because most families now have two incomes, most men experience a loss in their standard of living in the years after a divorce, a loss generally between 10%–40%, depending on circumstances. Two factors contribute to this financial loss....if his ex-wife contributed a substantial income to the family, he will struggle to make up for this lost second income. This comes on top of having to pay for a separate home or apartment.... Similar to women, how much men lose financially from divorce varies depending on the amount of money he contributed to the family's income. Men who provided less than 80% of a family's income before divorce suffer more financially from divorce. This is the case for most men nowadays. Men who provided more than 80% of a family's income before a divorce do not suffer as much financial loss, and may even improve their financial situation somewhat."

Times are most certainly changing, and the statutes need to change to reflect changes in familial structure.

CHICAGO, May 14, 2018 /PRNewswire/ -- Women are now finding that gender equality in divorce court is coming with a cost. According to a recent survey of the American Academy of Matrimonial Lawyers (AAML), 54% of the attorneys have cited an increase in the number of mothers paying child support during the past three years, while 45% have also seen a rise in women being responsible for alimony. In addition, 78% noted an increase in parents having shared custody of children.

"While men have almost always expected to pay alimony, many women still have a very difficult time accepting that this financial obligation might fall to them," said Madeline Marzano-Lesnevich, president of the American Academy of Matrimonial Lawyers. "Unlike with previous generations, there are now many more two income households with parents who serve as equals in taking care of the home and raising the children. This current reality is certainly being recognized by the courts."

Vermont Alimony Reform supports H.512; however, we believe that the provision that equalizes Social Security should have three defining requirements:

1. That it apply to marriages of 25 years or longer OR
2. It involves individuals age 60 or older at the time of divorce AND
3. Total combined retirement assets are less than \$250,000

I close by saying that I am proud to serve as a Girl Scout Leader for 22 little ladies, aged Kindergarten to 3rd grade. Part of what they learn, besides skills in independence and self-esteem, is to collaborate and come to some sort of a consensus when disagreeing. It is an important lifelong lesson. Some of the

groups in this room may see things through various lenses, and that's ok, but to ignore ANY stakeholder, nor try to even hear out their point of view when considering these issues, deflates the goal for ALL of us to IMPROVE this horrific situation. Out of my 22 girls, (assuming they all marry), 11 will most likely divorce. Of those, some will be paying alimony; let's hope it's not for their lifetime. If we can begin to have compassion, each of us, for ALL parties involved, we can lead by example in this area and improve the lives of so many. If we can begin it here, in this room, perhaps we can help prevent so much of the acrimony and vitriol that occurs in Family Court throughout the state of Vermont. Massachusetts has done it, NH has done it; so many are watching and waiting for Vermont to get on board.

Let's ensure that low income parties are able to meet their reasonable needs and deem alimony appropriate there. Let's ensure that sacrifices made are addressed and all parties have a chance for a healthy retirement, so no one is left behind. Let's stop abusing payors and treating them as banished citizens not worthy of any type of life and liberty, rather than a means to provide an impossible end. Thank you for your work on this important cause.