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**Testimony of Hannah Lane, J.D., Policy Research Analyst and Business Manager
of the Vermont Commission on Women
Senate Committee on Judiciary
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Re: H.512 re: Spousal Maintenance

Good morning. My name is Hannah Lane and I am the Policy Research Analyst and Business Manager at the Vermont Commission on Women. Before I joined the staff at VCW, I worked as a staff attorney at Have Justice -- Will Travel, Inc. where I practiced family law in the Northeast Kingdom. While practicing there, I represented clients in situations of interpersonal violence in a range of family law matters that included divorce. I appreciate the opportunity to speak with you today about H.512 as someone who has counseled clients on these matters in Vermont. The clients I represented were low-income, and as a result, spousal maintenance was a tool I used infrequently but was critical for the clients for whom it was appropriate.

Spousal maintenance is rare. Of the hundreds of clients that I worked with, the overwhelming majority did not want or request spousal maintenance when filing for divorce. Even when incomes were divergent, even when one party had taken a few years out of the workforce, and even though my clients considered themselves victims of domestic violence, it was only those in unique situations that even initiated a conversation about whether they were legally entitled to, and whether it would be fair to ask for, some amount of spousal maintenance.

These unique situations included cases where: the person requesting maintenance payments had worked as a homemaker and a stay-at-home mother at various points during the marriage, thereby reducing her earning potential significantly and the couple was post-retirement age at the time of divorce; the recipient spouse had become disabled during the course of the marriage the extent of which was exacerbated by the payor spouse's physical abuse; the recipient spouse had stopped working to have and raise the couple's children at the request of the payor spouse. In each case, equitable resolutions ranged from property distributions providing for the parties' future needs, spousal maintenance payments, supplemental child support payments, or some combination thereof. In each case, reaching a just, equitable, and feasible resolution required considering specific facts unique to the case at hand to be heard and evaluated in the context of the family's situation.

Most divorce matters are resolved by agreement of the parties, on their own or with the help of legal counsel. While we spend a considerable deal of time contemplating how laws will ultimately be applied by a judge in a court of law, equally important is how they are interpreted by lay people and by lawyers as they evaluate cases, give counsel, and ultimately draft settlements. Finding balance between providing clarity to parties as they navigate this process and leaving adequate judicial discretion to reach just and equitable resolutions in circumstances as unique as Vermont's families is key. It is worth implementing reform slowly, thoughtfully, and incrementally, as this committee has been doing.

Termination of Maintenance Upon the Payor Reaching Retirement Age (or Actual Retirement)

Many couples wait to divorce until their children have grown and left the house, by which time retirement is often not so far away, and increasingly, we see couples in their golden years divorcing. Creating a legal presumption that maintenance payments end at retirement may cause family law practitioners to reevaluate the cost-benefit analysis of advocating for ongoing maintenance payments under such circumstances and could result in increased pressure on divorcing litigants to settle without obtaining an order that is fair in their circumstances. For pro se litigants, such a presumption could have a chilling effect on litigants seeking spousal maintenance orders that extend into retirement,

even when appropriate. Furthermore, a presumption that spousal maintenance should end upon the payor reaching retirement age ignores the fact that some portion of a spousal maintenance award may be compensatory in nature and therefore should not be subjected to early termination.

Fairness and equity require that whenever possible, divorce settlements allow both parties to retire. Understanding the difficulty that parties face planning for retirement when the amount and duration of maintenance orders is unknown, and understanding the significant stress and expense parties endure when attempting to modify a maintenance order, especially when contested, it is critical that spousal maintenance orders contemplate and provide a plan for whether and how maintenance payments will be impacted by either party reaching the age of retirement or by their actual retirement so that both the payor and the recipient spouse can plan responsibly for their future.

Thank you again for the opportunity to speak with you today.