



STATE OF VERMONT
OFFICE OF LEGISLATIVE COUNCIL

November 30, 2017

Senator Dick Sears, Chair, Senate Committee on Judiciary
Representative Maxine Grad, Chair, House Committee on Judiciary

Dear Representative Grad and Senator Sears:

Pursuant to 2017 Act No. 60, the Spousal Support and Maintenance Task Force was charged with making legislative recommendations to Vermont's spousal support and maintenance laws. As Chair of the Task Force, I am writing to present our recommendations. The Task Force held three regular meetings on September 20, October 5, and November 22, 2017. In addition, we held a well-attended public hearing at Vermont Law School on November 6, 2017. Our membership heard from a variety of stakeholders and interested parties about ways to improve the fairness, predictability, and consistency of spousal support and maintenance awards. Our recommendations follow, with unanimous recommendations listed first. Please note that I have indicated when the Task Force was divided on an issue.

- 1. Extend the sunset on the alimony guidelines to July 1, 2021. The alimony guidelines remain relatively new.** Under current law, these guidelines will expire on July 1, 2019. More time is needed to gauge the usefulness of the guidelines.
- 2. A survey should be undertaken of judges, lawyers, case managers, mediators, and parties as to the application and usefulness of the alimony guidelines.** Anecdotal reports suggest the guidelines have begun to assist parties in settling cases, but hard data is needed from stakeholders about whether the guidelines are being applied, if they are helpful in achieving resolutions, and ways they can be improved.
- 3. The Legislature may want to consider reconvening the Spousal Support and Maintenance Task Force or convening a new committee at a later date to review the data.** Under its present charge, the Task Force ceases to exist on March 1, 2018.
- 4. The Legislature should consider adding the impact of retirement of either the payor or the payee as a factor in determining the duration or amount of an**

alimony award. Current law does not specifically address the impact of retirement. This is an area of wide judicial discretion.

5. **The Legislature should replace the statute's reference to "permanent" with "long term."** The spousal support statute currently refers to payments being "either rehabilitative or permanent in nature". 15 V.S.A. § 752(a). The Task Force believes that the term "long term" is a more accurate reflection of the caselaw, which has held that even permanent awards can be subject to modification. See *Weaver. v. Weaver*, 2017 VT 58. The Task Force was divided on this issue.

6. **The Legislature should clarify that the application of the alimony guidelines, standing alone, is not a basis for modification of an existing maintenance order in the absence of a real, substantial, and unanticipated change of circumstances.** Under current law, alimony awards are subject to modification upon a showing of a real, substantial, and unanticipated change of circumstances. 15 V.S.A. § 758. The Task Force believes this threshold showing remains an important checkpoint to prevent ongoing litigation and the uncertainty that entails. The Task Force was divided on this issue.

On behalf of the Spousal Support and Maintenance Task Force, I thank you for your kind consideration.

Very truly yours,



Hon. Thomas J. Devine
Superior Court Judge