Senate Committee on Judiciary
Testimony of Martin Feldman
March 22, 2019

I am Martin Feldman of Essex, Vermont, and a member of Vermont Alimony Reform, also a member of the Spousal Maintenance & Support Task Force.

Thank you, Senator Sears and the other members of the Senate Judiciary Committee, for inviting me to testify this morning on S.99. Thanks also to Senator White for introducing this bill.

It's been a year and 3 months since the Task Force issued our recommendations to the House and Senate Judiciary.

As part of the Task Force, we held a packed hearing in Randolph where we heard dozens of disparaged testimonies focused on the lack of consistency, predictably, conflict present in our current Judiciary. The sheer numbers presenting this clear message dispels the notion of a "handful of emotional outliers."

One Task Force member believed the Weaver v Weaver case would be the answer to reform, but other members strongly felt it created more confusion than clarity.

Where are we now with Reform?

- There are no concrete plans for an actual study to determine if the optional guidelines are effective.

- One measure we do have is the SCOVT decision in 2018, Jaro v Jaro, where the SC challenges the Legislature, stating the fact that the temporary nature of the Task Force's guidelines diminishes their efficacy. In that decision, the SC uses the Child Support law as an example of this, "The statutory child support guidelines provide a helpful contrast, reflecting that where the Legislature wants to establish presumptively applicable ranges it knows how to do so." Clearly the SC would encourage the Legislature to make presumptive guidelines for Alimony the way they have for Child Support.

- A continued lack of transparency by the Judiciary concerning issues that directly affect spousal support, for example, proposing tax law changes without input from Stakeholders.

The critical issue that keeps our State lagging is judicial discretion as the presumptive law. This means there can never really be clarity, consistency, and predictably, the cornerstones of accessible, transparent, and low conflict divorce in Vermont.

As long as judicial discretion is the presumptive law, cases will be decided in a vacuum, using vague interpretations of case law, not statue, argued by expensive attorneys and unfortunately causing emotional and financial chaos to Vermont families.

I just spoke with my young adult son this week about this, when he asked me why I'm still working on alimony reform when my alimony stops early next year (11 years of alimony for a 12 year marriage). I told him it's not about alimony, it's about what our family went through and continues to go through because of all the conflict caused by court. If we had a formula as a law, instead of expensive lawyers encouraging conflict to win a judgement, the crisis our family experiences certainly would have been avoided. He totally agreed.

ProSe cases, which have been represented as 70% of all divorces in Vermont, will continue to have no access to the understanding and implementation of spousal support; resulting in low income populations, mainly women, not accessing their rights.

In this past year we've seen our neighbor, NH, unanimously institute reform, with the keystone a clear, consistent, predictable formula as the presumptive law, together with the ability for judges to use their discretion in the interest of justice.

We must change the presumptive law from broad judicial discretion to a well-constructed formula which meets the needs of all stakeholders. We've met with representatives of the Commission on Women and we hear their concerns. We believe that effective reform must ensure financial stability for women who can be left behind in divorce. Reimbursement maintenance and the potential for SSA adjustments for long term marriages are examples.
We believe we can work together with different perspectives to reach consensus and compromise in the greater interest of the people of Vermont.