

Alimony Reform in Massachusetts

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ALIMONY REFORM

Alimony reform has finally arrived in Massachusetts. The Alimony Reform Act of 2011, which takes effect on March 1, 2012, represents a sweeping overhaul of alimony laws in Massachusetts. Among the most significant changes are:

TYPES OF ALIMONY

The law establishes four (4) types of alimony:

1. General alimony – akin to traditional alimony. In most cases, general term alimony will be of limited duration;
2. Rehabilitative alimony – paid to a spouse who is expected to become economically self sufficient by a predicated time. Rehabilitative alimony may initially be awarded for no longer than five (5) years and may be extended upon compelling circumstances;
3. Reimbursement alimony – paid to a spouse to compensate him/her for the economic or noneconomic contribution to the financial resources of the payor. Once ordered, reimbursement alimony is non-modifiable; and
4. Transitional alimony – paid to a spouse after a marriage of not more than five (5) years to transition him/her to an adjusted lifestyle or to a divorce. Transitional alimony may be ordered for no more than three (3) years and cannot be modified.

DURATION

One of the most significant changes is that Probate & Family Court judges will now have discretion to limit the term of alimony based on the length of the marriage. The law sets forth certain durational limits for general alimony in marriages of less than twenty (20) years duration. For marriages exceeding twenty (20) years, alimony may still be ordered indefinitely.

AMOUNT OF ALIMONY TO BE PAID

An alimony recipient should not receive more than 30%-35% of the difference between the parties' gross income. With some exceptions, income is defined as set forth in the Massachusetts Child Support Guidelines. The law provides for income attribution if there is an intentionally unemployed or underemployed spouse.

CHILD SUPPORT

The law provides that gross income considered for setting a child support order shall not be included in the alimony calculation.

COHABITATION

General term alimony will be suspended, reduced or terminated upon cohabitation of the recipient spouse if the payor is able to show that the recipient has maintained a common household with another person for at least three (3) months continuously.

RETIREMENT

In most instances, alimony payments will terminate upon the payor reaching full retirement age as determined by the United States Old Age, Survivors, and Disability Insurance program.

REMARRIAGE

In the event of a payor spouse's remarriage, his or her new spouse's income and assets shall not be considered in re-determining the amount of alimony in a modification action.

SECOND JOB OR OVERTIME

Income from a second job or overtime work is presumed to be irrelevant in a modification action if: (1) a party works more than a single full-time equivalent position; and (2) the second job or overtime work began after the entry of the initial order or judgment.

WHEN TO MODIFY BASED ON DURATIONAL LIMITS

In anticipation of the number of modification filings based on durational limits, the law sets forth a staggered schedule beginning in 2013 for payors to file modification actions.

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