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House Passes Alimony Reform Legislation

(BOSTON) – State Representatives Christopher M. Markey (D-Dartmouth) and Paul A. Schmid (D-Westport) yesterday joined their colleagues in the Massachusetts House of Representatives in unanimously passing legislation to reform guidelines for determining the form, amount and duration of alimony payments.

“This bill offers clear guidelines to help courts and couples come to equitable resolutions on alimony payments,” House Speaker Robert A. DeLeo said.

“This measure was proposed for many years and the inaction was due to the complexity of the issue as opposed to avoidance. The task force assigned to this issue dealt with the many facets of the measure and through hours of meetings crafted a legislative proposal designed to provide clarity and guidance to the courts, litigants and practitioners involved with Alimony law. I am deeply appreciative to the Speaker for giving great latitude and support throughout the process and to Representative Fernandes for leading the House effort,” said State Representative Eugene L. O’Flaherty, Chairman of the Joint Committee on the Judiciary.

“The passage of Alimony Reform in the House of Representatives is the first step in an historic effort to inject consistency and predictability into alimony award judgments and agreements,” said Representative John Fernandes, House Chairman of the Alimony Reform Task Force. “The legislation establishes the correct public policy of encouraging parties to terminate their relationships upon divorce and live independently as soon as is practical. The legislation gives guidance to the court that does not exist today and will encourage more settlements and less litigation. Among other things, the legislation will set durational limits to alimony awards and end alimony upon retirement, putting an end to lifetime alimony. I am extremely grateful to the members of the Alimony Reform Task Force for their effort in crafting this legislation and the unanimous support of the members of the House of Representatives.”

Representative Schmid said, “the Alimony reform legislation provides a practical approach to an already complex situation between two people. It creates new categories of alimony and limits –

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alimony awards based on specific criteria.” He also complimented the Alimony Reform Task Force for their “due diligence and hard work on such a complex issue.”

Representative Markey, who sits on the Joint Committee on the Judiciary that initially reviewed the bill and sent it forward, pointed to the more than 10 hours of testimony the Committee heard as a key factor in the bill’s success. “When you hear the real human stories of the men, women, and families struggling to deal with the negative and sometimes incomprehensible consequences they faced because of the previous law, any rational person can see the system is not functioning properly. This bill brings our Alimony laws much-needed rationality and common sense.” Markey added, “it is yet another example of the tangible, bipartisan reform that’s taken place at the State House since January.”

The bill creates four new categories for alimony: “general term alimony,” “rehabilitative alimony,” “reimbursement alimony,” and “transitional alimony.” Each is designed to give payors and recipients a clear understanding of how long alimony payments will be made or received in a given circumstance.

“General term alimony” calls for the periodic payment of support to an economically dependent spouse. The default form of alimony, “general term alimony” payments are based on the length of marriage, with the duration of alimony payments increasing with the length of the terminated marriage.

Under this legislation, “general term alimony” now encompasses short-term marriages (marriages of five years or less) and can be suspended, reduced or terminated if it can be shown that the recipient spouse has been living with another person continuously in a relationship similar to a marriage.

“Rehabilitative alimony” requires the periodic payment of support to a recipient spouse who is expected to become economically self-sufficient by a predicted time. “Rehabilitative alimony” is limited to five years, unless a court grants an extension based on compelling events. This type of alimony terminates upon the remarriage of the recipient spouse, occurrence of a specific future event, or death of either spouse.

“Reimbursement alimony” constitutes a periodic or one-time payment of support to a recipient spouse after a short-term marriage. This type of alimony is also designed for the purpose of paying the recipient spouse for a contribution – economic or otherwise – to the financial contribution of the payor, such as enabling the payor spouse to complete an education or job training.

Finally, “transitional alimony” is also a periodic or one-time payment of support to a recipient spouse after a short-term marriage. “Transitional alimony,” however, is also designed for the purpose of transitioning the recipient to an adjusted lifestyle or location as a result of the terminated marriage. “Transitional alimony” must end no later than three years after the date of divorce.

While alimony is generally capped at between 30% and 35% of the difference between the two parties' gross incomes at the time the alimony order is issued, the bill sets forth numerous items to be considered by courts determining the form, amount and duration of alimony. The factors include length of marriage, age and health of the parties, income of both of the parties and employment and employability of both parties, among others.

As a result of this legislation, certain current alimony payors and recipients would be permitted to petition a court for a modification of their current alimony orders under the terms within this bill.

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