



Lawmakers Seek to End Permanent Alimony

POSTED JULY 18, 2013 IN DIVORCE BY JOSH CRANK

The promise of “til death do us part” obviously doesn’t apply for divorced couples, but in most states, it can still apply to the financial obligations of the bread-winning spouse.

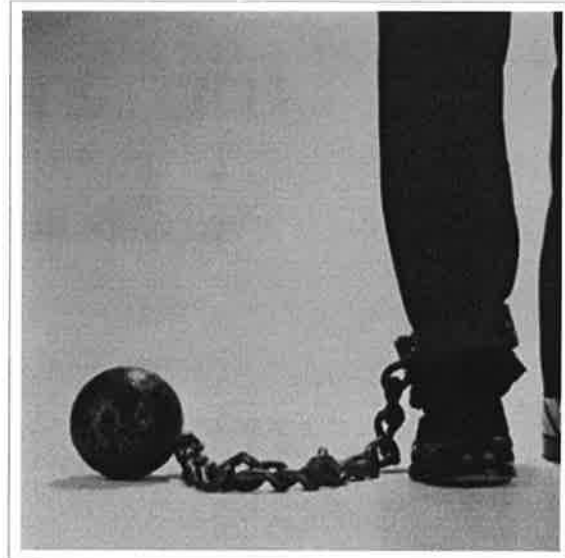
Most family courts have the option of ordering permanent alimony payments to a divorcing spouse. For spouses who forfeited career opportunities to raise children, this can be a critical lifeline. For other exes, it can be a cushy way to maintain a comfortable standard of living without seeking financial independence.

Some states, like Florida, are expected to reform alimony by prohibiting lifetime payments and placing limits on how much one spouse can be forced to pay. The Florida legislature passed an alimony reform bill by strong margins earlier this year, only to have it vetoed at the last minute by Gov. Rick Scott.

In his veto letter, Scott praised the efforts of lawmakers for attempting to “modernize” the state alimony system but said he could not support it “because it applies retroactively and thus tampers with the settled economic expectations of many Floridians who have experienced divorce.”

“The retroactive adjustment of alimony could result in unfair, unanticipated results,” Scott wrote. “Current Florida law already provides for the adjustment of alimony under the proper circumstances.”

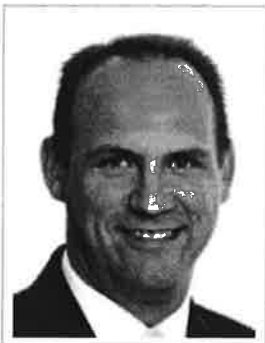
The bill would have capped alimony periods at half the length of a marriage and would have made it difficult to obtain alimony in marriages of less than 11 years.



Ingram Publishing/Thinkstock

Disagreement Over Reform Details

Florida family law attorney Jonathan Schiller said most family lawyers opposed the legislation because it would completely eliminate permanent alimony, which “doesn’t always work for the nonworking spouse who has taken on the role of raising the family.”



Jonathan Schiller

“The retroactivity — everybody objected to that,” Schiller said. “We didn’t know if it would even be considered constitutional if it did pass.”

If the bill became law, Schiller said it would result in a “nightmare” of appeals, reversals and constitutional challenges that could trap Florida’s family court system in years of gridlock.

Despite the veto, Schiller said lawmakers aren’t giving up on the effort, and noted that attorneys in his practice, Brinkley Morgan, are actively working on alimony reform legislation to introduce in 2014. He said the issue is receiving “significant support in many other states.”

“Permanent alimony is most likely going to go away,” Schiller said.

Similar legislation that would restrict alimony payments has been proposed in Connecticut, New Jersey and Oregon. Massachusetts prohibited permanent

alimony in 2011.

Some Waiting, Some Rushing

The prospect of a retroactive ban on permanent alimony may have been a big source of stress among alimony recipients in Florida, but they aren't the only ones watching this debate on pins and needles. With the very real possibility of alimony reform hanging over their heads, troubled couples in Florida need to consider the timing of their divorce proceedings carefully.

Unhappily married Floridians who earn the bulk of their household income have an incentive to wait at least another year, because they could avoid years of alimony payments if the state passes a reform bill. On the flip side, those who earn less than their spouses may want to fast-track their divorces to lock in permanent alimony while it's still legal.

"Some are waiting, some are rushing," Schiller said.

Even after alimony reform passes in a state, it could allow for the strategic timing of divorces if alimony is decided based on the length of a marriage, said Atlanta family law attorney Jenny Meyers.

"If a duration of time becomes the primary consideration, what would prevent a manipulation of the system?" Meyers asked. "Loveless marriages continuing to get to a year certain? Hasty divorces to avoid that year certain?"