IS THERE SPOUSAL SUPPORT (ALIMONY) IN FLORIDA?

August 10, 2023

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After many years of debate and three previous attempts to address the issue of spousal support/alimony reform in Florida, Governor DeSantis signed into law a measure that substantially revamped Florida's alimony laws. The law went into effect on July 1st, 2023.

The most talked about change to Florida's alimony law is the elimination of permanent periodic alimony. Generally speaking, permanent periodic alimony was the sum of money paid until the obligation was modified, one party died, or the receiving spouse remarried. It was modifiable unless otherwise agreed based on substantial change of circumstance. In other words, permanent alimony remained in place until the payor spouse moved to modify or terminate the obligation. There was a rebuttable presumption in favor of an award of permanent alimony in a marriage of long duration, previously defined as a marriage lasting 17 years or more. With the elimination of permanent periodic alimony, the courts are now left to design a support allocation based on need and ability to pay for a set period of time, in any form or combination of forms of alimony. In other words, alimony in Florida now has a set end date. The new law also codifies the burden of proof. The party seeking alimony has the burden of proving the need for alimony and the other party's ability to pay alimony.

In considering a claim for alimony, the court must look at a set of factors set forth in the law. These factors were also amended and now include, among other changes, the consideration of supportive relationship between a party seeking alimony and another person or the reasonable retirement of the party paying alimony. More on retirement later.

The new law also revamped the number of years when defining "short-term" marriages (now a duration of less than 10 years), "moderate-term" marriages (now a duration between 10 and 20 years), and "long-term" marriages (now a duration of 20 years or longer). This will become important as we review the changes to specific types of alimony.
Types of alimony in Florida include the following:

1. Bridge-the-gap alimony. This type of alimony is designed to provide support to a party making the transition from married to single life and assist with identifiable short-term needs. Bridge-the-gap alimony may not exceed 2 years and terminates upon the death of either party, upon remarriage of the recipient or the end of the alimony period. The amount awarded and its duration cannot be modified.

2. Rehabilitative alimony. This type of alimony may be awarded to rehabilitate or establish a party's ability for self-support through redevelopment of previous skills or credentials or by acquiring education, training or work experience to develop employment skills or credentials. A specific and defined rehabilitative plan is required. A rehabilitative alimony award may not exceed 5 years and may be modified or terminated based upon a substantial change in circumstances, noncompliance with the rehabilitative plan or upon completion of the rehabilitative plan if completed before the length of the alimony award expires.

3. Durational alimony. This form of alimony is designed to provide economic assistance for a set period of time and has some specific rules depending on the length of your marriage. For example, durational alimony is not available to a party married for less than 3 years. With only exceptional circumstances, this type of alimony

cannot exceed half the length of the marriage in “short-term” marriages, 60% of a “moderate-term” marriage, or 75% of the length of a “long-term” marriage. The new law also provides that such an award cannot exceed 35% of the difference between the parties’ net incomes or the recipient’s reasonable need, whichever amount is less. Durational alimony also terminates upon the death of either party or the recipient’s remarriage and can be modified or terminated based on a substantial change of circumstances.

It was a major concern during the debate over the new law that it avoids being applied retroactively to previous awards by the courts or settlement agreements entered into by the parties. The legislature and the Governor agreed and applied the new law to those petitions for dissolution of marriage or support unconnected with dissolution of marriage pending or filed on or after July 1, 2023. If the alimony award was modifiable before the new law came into effect, it remains modifiable. If the alimony award was non-modifiable on July 1st, 2023, it remains non-modifiable.

Another significant change relates to the ability to reduce or terminate an alimony obligation when the payor wishes to retire. The court may reduce or terminate the alimony obligation upon reaching normal retirement age as defined by the Social Security Administration or the customary retirement age of a payor’s profession. There must be a showing of demonstrative and measurable efforts taken to retire or an actual retirement. The burden is on the payor to show that retirement reduces his or her ability to continue to pay support. If this burden is met, it then shifts to the recipient to show that the alimony should not be reduced or terminated. As with the establishment of alimony, the law sets forth a series of factors that the court must review in determining whether such an award should be reduced or eliminated altogether. The law also allows for a retiring payor to petition the court to modify or terminate the obligation a full 6 months prior to his or her expected retirement date.

While Florida’s new alimony law does keep permanent alimony in place if awarded prior to July 1, 2023, it does eliminate it going forward while also setting forth new parameters for the type, amount and duration of the remaining forms of alimony and how one can modify or terminate one’s alimony obligation.

If you have any questions, please contact Hugo E. Acebo from the firm's Dispute Resolution Team.

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