

What Is The Status Of The New Jersey Alimony Reform Bill?

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Daina C. Borteck,
Esq. Dear Ask
the Attorney:

I am getting a divorce from my wife and she is threatening to ask for permanent alimony. I understand that New Jersey is trying to reform this law. What is the status?

C.S.

Our guest blogger is [Daina C. Borteck, Esq.](#) Ms. Borteck is an associate in our family law and matrimonial departments concentrating her practice solely on divorce, child custody, alimony and all related matrimonial matters.

Dear C.S.:

You are correct that the New Jersey Legislature recently addressed the issue of alimony reform. At the end of June 2014, a bill that deals with alimony passed both houses of the New Jersey Legislature and

the bill has been submitted to the Governor for signature.

The bill amends the present law and establishes “open durational” alimony to replace “permanent” alimony. Under the current law, the concept of permanent alimony generally means that support is paid until the earliest of:

- the death or remarriage of the recipient, or
- the death of the payor, or
- there is a substantial change in circumstance in the parties’ income and finances.

The current law gives courts discretion when determining the amount and duration of spousal support, which has led to varied results throughout the State because the facts of each case are different.

The present bill attempts to address issues that have come up in many cases regarding when alimony can be modified or terminated; specifically, it addresses when alimony can be modified or terminated when the person paying the alimony retires or loses employment.

First, under current law, a court has wide discretion in deciding whether someone’s alimony obligation should be modified or terminated as a result of retirement. The new bill attempts to establish a clearer standard for modification or termination of alimony based on the retirement of the payor. Under the bill, a court will assume that alimony should be terminated when the person paying alimony reaches the full retirement age, which means the age when the person is eligible to receive full retirement benefits under the Federal Social Security Act. This assumption by the court can be overcome by the

alimony recipient based on good cause or other factors listed in the bill.

Second, with regard to the modification of alimony resulting from an involuntary reduction in income by the payor, the bill sets forth various factors a court must consider. Notably, a significant change is that it allows a person to file an application based on loss of employment after s/he has been unemployed, or has not been able to return to or attain employment at prior income levels, or both, for a period of 90 days. Current law does not set forth a specific time period when a party can apply for a modification or termination of alimony as a result of loss of employment. As a result, under current law there have been wide variations in courts throughout the State regarding this issue.

Another significant change addresses how alimony is impacted when the alimony recipient cohabits with another person. Currently, a party who wants to terminate alimony as a result of cohabitation generally must prove that the person receiving the support is living with someone in a relationship similar to marriage. Under this bill, cohabitation can be proven even in cases where the person receiving support is not living with someone full time. In addition, the pending bill specifically allows for alimony to be suspended, rather than terminated, if the recipient is cohabiting. Current law does not create a suspension of alimony based on cohabitation.

Einhorn Barbarito is closely monitoring the status of the amended bill and will post an update if the Governor signs the amended bill into law.

If the bill is signed into law while your divorce case is pending, the changes as set forth above may impact the potential outcome of your case. The facts of every case are different, and as such you should consider contacting an attorney.

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