

# Update: Alimony Legislation

Jeralyn L. Lawrence, Esq.  
Chair-Elect, Family Law Section

Amanda S. Trigg  
First Vice-Chair, Family Law Section

# N.J.S.A. 2A:34-23(b)

- In all actions brought for divorce, dissolution of a civil union, divorce from bed and board, legal separation from a partner in a civil union couple or nullity the court may award one or more of the following types of alimony: permanent alimony; rehabilitative alimony; limited duration alimony or reimbursement alimony to either party. In so doing the court shall consider, but not be limited to, the following factors:

(13 factors follow)

# Alimony “Reform”

- Perceived goals of “reformers”
  - Eliminate any “permanent” maintenance
  - Impose onerous standards for imputation of income on non-working spouse
  - Create arithmetic guidelines to calculate alimony
  - Limit alimony terms to  $\frac{1}{2}$  duration of marriage
  - Establish statutory end to alimony upon retirement
  - Establish liberal grounds for reductions of support without commensurate opportunities for recipient to seek increases.

# State by State: Massachusetts

- March 2013 – massive overhaul of alimony laws
- First review and revision since 1973
- Until 2013:
  - Judges prohibited from imposing any term limits
  - No rehabilitative, transitional or reimbursement alimony
  - Remarriage did not automatically or presumptively terminate alimony



# State by State: Massachusetts since March 2013

- Durational limits on alimony based upon duration of the marriage
- Pre-marital cohabitation can be considered as part of duration of marriage
- 4 types of alimony
  - General
  - Rehabilitative
  - Transitional – 3 year limit, only available if married < 5 years
  - Reimbursement – if married < 5 years

# State by State: Massachusetts since March 2013

*Some new ideas compared to NJ law:*

- Termination when payor attains full Social Security retirement age, regardless of employment status
- Alimony awards are set independently of, and prior to, awards of property division.
- In modification applications, some criteria must be proven by heightened standard of clear and convincing evidence.

# State by State: Massachusetts since March 2013

*Some familiar concepts for NJ lawyers:*

- “Reasonable” imputation of income to an unemployed or underemployed spouse
- Statutory presumptions for termination include:
  - Remarriage of Payee
  - Cohabitation of Payee (subject to later reinstatement)
- Judges can deviate from the statutory criteria, with detailed and clear findings.

# State by State: Florida

- Core statutes enacted in 1980s
- Updated in 2010 and 2011
- Five types of alimony
  - Permanent
  - Rehabilitative
  - Bridge the Gap
  - Lump Sum
  - Temporary.
- 2010: Durational alimony





# State by State: Florida

- 2012-2013: Legislation introduced to retroactively eliminate permanent alimony and undercut claims for alimony by economically dependent spouses.
- June 2013: Governor vetoed due to retroactive component.
- Spring 2013: Florida Bar Family Law Section & Florida Chapter of the AAML formed Alimony Commission, which generated a proposed bill.
- March 2014: Next Legislative Session starts.

# State by State: Colorado



- October 2013: Alimony formulas enacted, effective 1/1/2014
- Sliding scale of amount and duration of alimony depending upon duration of marriage.

# State by State: Connecticut

- 2013: Legislative mandate for the formation of a study committee regarding alimony statutes
- Commenced meetings December 2013.
- February 2014 reporting deadline.
- State office of Legislative Research was asked for empirical data.
- Additional meetings scheduled for January, to be followed by public hearing.



# American Academy of Matrimonial Lawyers: November 2013

- 2007: Study commission recommended a formula approach to alimony/ spousal support/ maintenance based upon income and duration of the marriage, subject to deviation based upon enumerated factors, including:
  - Age
  - Health
  - Abandonment of a career
  - Support of career of other spouse.
- 2013: Clarification that the Academy does not endorse guidelines nor any legislation proffering guidelines.

# State by State: New Jersey

*Three types of Bills introduced in 2012-2013 Legislative Session*

- Alimony study commission
- Modification only
- Comprehensive revisions to NJSA 2A:34-23(b)

# State By State: New Jersey – Alimony Study Commission

- AJR32/ SJR 11 (formerly SJR41): Establishes a commission to study alimony law
- Sponsors: Troy Singleton; Sean T. Kean; Craig J. Coughlin; Wayne P. DeAngelo; Declan J. O'Scanlon, Jr.; Gabriela M. Mosquera

# State By State:

## New Jersey – Modification Standards

- A236 (formerly A685): Provides for Modification of child support and certain alimony payments due to change circumstances (Sponsors: Sean T. Kean; Thomas P. Giblin; Declan J. O'Scanlon, Jr.)
- A584 (formerly A4138): Prohibits awarding alimony to domestic violence offenders; permits termination of alimony based on conviction for crime or offense involving domestic violence. (Sponsors: Gabriela M. Mosquera; Troy Singleton; Caroline Casagrande; Valerie Vainieri Huttlet; Pamela R. Lampitt)

# State By State:

## New Jersey – Revisions to NJSA 2A:34-23(b)

- A845 / S488(formerly A3909/ S2750):  
Elimination of permanent alimony;  
establishment of guidelines for amount and  
duration of alimony awards. (Sponsors: Charles  
Mainor; Sean T. Kean; Benjie E. Wimberly;  
Angelica M. Jimenez; Craig J. Coughlin)
- A971 (formerly A4532): Elimination of  
permanent alimony; revision of standards for  
alimony awards (Sponsor: Troy Singleton)



# State By State:

## New Jersey – Revisions to NJSA 2A:34-23(b)

- A-1649 (formerly A4525 in 2012-2013): Drafted and promoted by the NJSBA, American Academy of Matrimonial Lawyers' New Jersey Chapter, Matrimonial Lawyers Alliance
- Clarifies certain factors concerning modification and termination of alimony; eliminates the term "permanent alimony" from the statutes.
- Sponsors: Thomas P. Giblin and Pamela R. Lampitt