

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 304
Judiciary

(Delegate Stocksdales, *et al.*)

Family Law - Termination of Alimony - Cohabitation of Recipient

This bill establishes that alimony terminates if the alimony recipient cohabitates for a period of at least 30 days with an individual who is not a member of the recipient's family. Cohabitation is presumed if: (1) the recipient resided with the other individual for the specified period; (2) the recipient and the other individual engaged in a relationship of a romantic nature; and (3) the recipient provided any economic benefit to or received any economic benefit from the other individual as a result of the relationship. A recipient who marries or cohabitates must immediately notify the party who is required to pay alimony.

Fiscal Summary

State Effect: The bill is not expected to have an impact on State finances.

Local Effect: The circuit courts can comply with the bill's requirements with existing resources.

Small Business Effect: None.

Analysis

Current Law: Unless the parties agree otherwise, alimony terminates on the death of either party, on the marriage of the recipient, or if the court finds that termination is necessary to avoid a harsh and inequitable result. If a final disposition as to alimony has been made in an agreement between the parties, however, the court is bound by that agreement as it relates to alimony.

Background: Cohabitation is addressed in the alimony laws of other states in the region. Pennsylvania law states that no petitioner is entitled to receive an alimony award if the petitioner, subsequent to the divorce, has entered into cohabitation with a person of the opposite sex who is not a family member within the degrees of consanguinity.

In Virginia, a court is required to terminate spousal support and maintenance upon clear and convincing evidence that the spouse receiving support has been habitually cohabitating with another person in a relationship comparable to a marriage for one year or more. There are exceptions if the spouse receiving support demonstrates by a preponderance of the evidence that termination of support would be unconscionable or if support was otherwise provided by stipulation or contract.

In Delaware, unless the parties have agreed otherwise in writing, the obligation to pay future alimony is terminated upon the cohabitation of the party receiving alimony. Cohabitation is defined as “regularly residing with an adult of the same or opposite sex, if the parties hold themselves out as a couple, and regardless of whether a relationship confers a financial benefit on the party receiving alimony.” Proof of sexual relations is not required to prove cohabitation.

Local Fiscal Effect: While this bill does not specifically require the circuit courts to take any additional action not already required by law, it is possible that the bill may result in a small increase in requests for alimony modification. Any increase, however, can be addressed with existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Delaware Code Annotated, Pennsylvania Consolidated Code Annotated, Virginia Code Annotated, Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2011
ncs/kdm

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