

# **SB 718 - Family Law - Alimony - Modification - Sen**

Uploaded by: Kara Contino

Position: FAV

**BRYAN W. SIMONAIRE**  
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*The Senate of Maryland*  
ANNAPOLIS, MARYLAND 21401

**March 10, 2022**

**Written Testimony in SUPPORT of SB 718**

Chairman and members of the Judicial Proceedings Committee, I am here to introduce and voice my support for Senate Bill 718 – *Family Law – Alimony - Modification*.

Senate Bill 718 would alter the circumstances under which a court is authorized to modify the amount of alimony awarded. The bill generally relates to alimony.

**SB 718 - RJS - Favorable.pdf**

Uploaded by: Ryan Stewart

Position: FAV

## Senate Bill 718

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Ryan J Stewart

Presented Mar 10 2022

Favorable to bill

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Across our Great State, many are struggling with this burden, as there is currently no remedy in law. This proposed modification would offer opportunity, to correct that injustice.

“Spousal support law” is a problematic subject. It was in the Maryland Appellant Opinion of “Gordon Vs Gordon No125, 1994 term “; it was decided, that divorcing couples could agree by contract, so long as that contract does not violate law or public policy. Furthermore, this Court defined a “legal definition” for “Cohabitation”. However, in a contested divorce no such relief accessible.

This current proposal to modify Family Law Sec 11-107 (b) would allow the facts of “cohabitation” as defined by above cited case, to be considered only on “Petition for Modification”, of an existing “Order of Alimony”. The “burden of Proof” lies upon the Supporting Spouse. That party must prove its existence, only then could the Court determine the contributions that cohabitation has contributed to the Supported Spouse, thereby allowing the modification of an original “Alimony Order”. With Cohabitation becoming common practice, it must be considered as a **Chosen** part of one’s rehabilitation plan. Furthermore, it would follow the intent of Law and standing opinion to make both parties self-sufficient.

Our current law specifically is clear in this area:

“Alimony is not intended to be a lifelong Pension, but to be rehabilitative in nature, allowing both parties to become self-sufficient.

With the trend of our laws, allowing “no fault divorce”, a “free exit” of marriage is now allowed.

Rehabilitative alimony is sought to force both the Ex-spouses to become self-sufficient.

While both in Theory and statute we attempt to achieve such, there is no prescription provided to our courts to enforce or monitor that self-sufficient growth. Without enforcement, these schemes actually have discouraged such growth and lean toward promotion of co habitation and dependency. The misuse of current law encourages the Supported Spouse to choose not to remarry, and/ or fully participate in that rehabilitation process, for practical reasons to protect their alimony payment and both leading to an eventual lifelong dependency.

In conclusion, if cohabitation is being practiced, then we must conclude, it is that Supported Spouses **“chosen”** action, and therefore should be considered rehabilitation. Why should the Supporting Spouse, but for the sake of remarriage, be without remedy and forced to support a former Spouse who is being supported by another?

In closing I ask for your favorable support of this bill

**SB 718 - UNF - Women's Law Center of MD.pdf**

Uploaded by: Laure Ruth

Position: UNF

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**BILL NO:** *Senate Bill 718*  
**TITLE:** *Family Law - Alimony - Modification*  
**COMMITTEE:** *Judicial Proceedings*  
**HEARING DATE:** *March 10, 2022*  
**POSITION:** *OPPOSE*

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Senate Bill 718 would terminate alimony if the payee party “maintains a common household” with someone else. The Women’s Law Center opposes this bill as unnecessary and unclear.

Senate Bill 718 is unnecessary as a party may return to court to seek a modification of alimony as circumstances and justice require, including for facts explicitly laid out in the SB 718. Md. Code Ann. FL §11-107. In addition, there is no way to ascertain whether, in every case where alimony is being paid, it is appropriate to terminate alimony if the payee party merely “maintains a common household” with another. SB 718 does not distinguish between living with a platonic roommate in a common household versus living in a common household in a romantic or other type of relationship (although page 2 lines 21-22 seems to suggest the goal here is to be able to terminate alimony if the payee party is in a romantic relationship with another). What if the parties only intend to share a common household for a distinct period of time, say during a home remodel, or for an extended vacation? Certainly sharing living expenses with one’s platonic roommate is beneficial, and sometimes the only way the party can afford to live<sup>1</sup>.

This bill would likely increase rather than decrease litigation in the courts if alimony is unilaterally terminated by one side based on assumptions of fact. All of these decisions are properly left to the discretion of the trial judge based on current law.

Currently, under Maryland law, a court may award alimony to a party after consideration of many factors. The Court may award either rehabilitative alimony or indefinite alimony depending on making certain findings (Md. Code Ann. FL §11-106). Rehabilitative alimony is awarded to allow the payee party to complete education or training or otherwise get on his or her feet to being self-supporting. A court awards indefinite alimony in two circumstances only: 1) if, even after the party seeking alimony has made as much progress towards becoming self-supporting, the standards of living of the parties would be so disparate as to be unconscionable; or 2) the party will never be self-supporting due to a variety of factors (Md. Code Ann. FL §11-106(c)(1-2)). Therefore, these two kinds of alimony, rehabilitative and indefinite, are awarded for entirely different reasons and in entirely different circumstances. Senate Bill 718 does not distinguish between the purposes of the two different types of award. It is illogical to terminate rehabilitative alimony in every circumstance where the payee party lives with someone else. The Court has granted the amount of alimony and the duration based on the party’s need to rehabilitate him or herself for the workplace. Sharing a residence doesn’t necessarily change those terms.

For these reasons, the Women’s Law Center of Maryland, Inc. opposes Senate Bill 718 and urges an unfavorable report.

*The Women’s Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.*

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<sup>1</sup> <https://www.avail.co/education/articles/why-roommates-over-50-is-trending>, last viewed March 8, 2022.

# **SB718 - Family LAW - Alimony - Modification (00048**

Uploaded by: Lindsay Parvis

Position: UNF



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**To:** Members of The Judicial Proceedings Committee

**From:** Family & Juvenile Law Section Council (FJLSC)  
by Lindsay Parvis, Esquire

**Date:** March 10, 2022

**Subject: Senate Bill 718:**  
Family Law – Alimony - Modification

**Position: UNFAVORABLE**

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The Maryland State Bar Association (MSBA) FJLSC **OPPOSES Senate Bill 718 – Family Law – Alimony – Modification.**

This testimony is submitted on behalf of the Family and Juvenile Law Section Council (“FJLSC”) of the Maryland State Bar Association (“MSBA”). The FJLSC is the formal representative of the Family and Juvenile Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of family and juvenile law and, at the same time, tries to bring together the members of the MSBA who are concerned with family and juvenile laws and in reforms and improvements in such laws through legislation or otherwise. The FJLSC is charged with the general supervision and control of the affairs of the Section and authorized to act for the Section in any way in which the Section itself could act. The Section has over 1,200 attorney members.

### **Current Law**

Currently §8-103 of the Family Law Code provides that, unless there is an express waiver of alimony/spousal support OR a provision that specifically states that alimony/spousal support are not subject to court modification, the court may modify the amount of alimony awarded in an agreement or settlement as circumstances and justice require.

SB718 attempts to codify one such circumstance – the recipient is maintaining a common household by sharing a primary residence together with another individual. In other words, the recipient has entered into a “marriage-type relationship.” SB718 then goes on to list factors that the court may consider whether or not the recipient is maintaining a common household.

## **FJLSC Position**

The FJLSC opposes SB718 for the following reasons:

- (1) As currently written §8-103 of the Family Law Code, the court already has the authority to consider, among a multitude of other circumstances, whether since the entry of the initial agreement, the recipient now maintains a common household and as a result thereof, “circumstances and justice” require a modification to the agreement or settlement. There is no need for the proposed change to the law. To the contrary, the proposed change is potentially harmful.
- (2) By codifying only one such circumstance, this situation appears to be elevated over all other circumstances where the court MAY modify the amount of alimony awarded in an agreement.
- (3) The Section is concerned that by codifying one circumstance that the court may consider there is risk that may will in practicality become shall and there will be an unstated assumption that such a relationship should result in a modification of an agreement/settlement with regard to alimony/spousal support.
- (4) This bill is one-sided against payees and favors payors.
- (5) The Section is concerned that the other person in the relationship could be an adult child or a roommate and not a quasi-spouse.
- (6) SB718 could be used to harass the new partner of the alimony recipient.

For the reason(s) stated above, the FJLSC **OPPOSES Senate Bill 718 and urges an unfavorable committee report.**

Should you have any questions, please contact Lindsay Parvis, Esquire by e-mail at [Lparvis@jgllaw.com](mailto:Lparvis@jgllaw.com) or by telephone at 240-399-7900.

**sb718.pdf**

Uploaded by: Sara Elalamy

Position: UNF

**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Joseph M. Getty  
Chief Judge

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** Senate Judicial Proceedings Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** Senate Bill 718  
Family Law – Alimony - Modification  
**DATE:** March 2, 2022  
(3/10)  
**POSITION:** Oppose

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The Maryland Judiciary opposes Senate Bill 718. This bill would alter the circumstances under which a court is authorized to modify the amount of alimony awarded.

This bill is designed to allow a court to modify an alimony award if the recipient of alimony is maintaining a primary residence with another individual. The proposed bill includes six “considerations” that the court may consider in determining whether a recipient is maintaining a common household.

The Judiciary has concerns that the bill creates evidentiary issues. Specifically, §11-107(b)(i) of this bill would allow the court to consider any oral or written statements made to third parties regarding a recipient of alimony’s relationship with another individual. This is problematic because it seems to legislatively authorize the admission of hearsay testimony. This also presents privacy concerns for the third party.

This bill is also unnecessary. There is well-developed law in Maryland concerning a court’s role in determining whether a party is maintaining a common household, and the determination of that is for the court to determine, especially in the context of situations involving children. Certain current case law also provides court modification of an alimony award when a party is sharing a primary residence with another individual.

cc. Hon. Bryan Simonaire  
Judicial Council  
Legislative Committee  
Kelley O’Connor