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Updates Regarding Important Family Law Changes

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Alimony Reform Act of 2011

For many years, the award of spousal support upon divorce was entirely within the discretion of the presiding judge. Beyond the basic principle that alimony should be based on “need” and “ability to pay,” there was much uncertainty about how the amount and length of alimony would be determined. As a result, this issue was often litigated and left parties on both sides of the issue feeling that the results were unfair.

The Alimony Reform Act of 2011, enacted after years of debate, aims to make alimony more uniform, predictable and fair. The presiding judge still has discretion to decide whether alimony is appropriate, but, if alimony is ordered, the Act provides a framework for both the amount and duration of awards.

Under the Act, the *amount* of alimony should “generally not exceed” the recipient’s need *or* 30-35% of the difference between the parties’ gross incomes. For example, if the parties’ incomes were \$150,000/year and \$50,000/year, the alimony amount would typically be \$30,000 - \$35,000/year (30 – 35% of \$100,000).

The *duration* of alimony under Act and is based upon the length of the marriage. For example, for marriages of 5 years or less, the term of alimony shall be no greater than 50% of the number of months of the marriage; while for marriages of 15 to 20 years, the term is no greater than 80% of the number of months of the marriage. For marriages over 20 years, alimony may be awarded for an indefinite length of time.

The Act now provides that alimony terminates upon the spouse paying alimony reaching full retirement age and shall be terminated, suspended or reduced upon the recipient maintaining a “common household” with another person. Income which the court has already considered in setting a child support order is excluded from the alimony calculation.

In another important change, the Act sets forth a time line for which parties to a prior alimony order can seek modification of that order. The length of the marriage determines when a modification action can be filed. The timeline ranges from 1 to 3½ years from March 1, 2012, the effective date of the Act.

New Child Support Guidelines in Effect as of August 1, 2013

The amount and duration of child support orders has been the subject of heated debate for many years. New Child Support Guidelines established by the Probate and Family Court took effect on August 1, 2013. The percentages used for calculating child support have been revised, which may result in higher or lower amounts than current orders depending on the income level of the parties and the number of children they have.

One important change to the Child Support Guidelines is that they now provide for greater consideration of how much parenting time the payor has with the child(ren). Payors who have the child(ren) with them for greater amounts of time will pay less support, and recipients who have the child(ren) for more than 2/3 of the time can seek a higher order.

As to child support for children over 18, previously child support continued until a child was "emancipated," which often meant after graduation from college. Now, child support is discretionary after age 18, allowing the Court to consider the particular facts of each case.

Another important change is that the Guidelines now allow the Court to disregard income earned from overtime or a second job after consideration of various factors. Finally, existing child support orders are easier to modify under the 2013 Guidelines than under the previous version.

As such, parties to an existing child support order might consider running the new Child Support Guidelines calculation to see if applying the new Guidelines would change the amount of the order. For further information the new Guidelines can be found at: <http://www.mass.gov/courts/childsupport>

Marriage Equality for Same-Sex Couples

Massachusetts pioneered legal recognition of same-sex marriage with the Goodridge v. Department of Public Health decision in 2003. Finally, on June 26, 2013, in the landmark decision United States v. Windsor, the U.S. Supreme Court ruled that it was unlawful for the federal government to discriminate against same-sex couples by restricting "marriage" and "spouse" to apply only to heterosexual unions. The decision struck down portions of the federal Defense of Marriage Act (DOMA), which resulted in providing many important federal rights and benefits for same-sex couples.

The Windsor decision has far-reaching implications on a wide range of issues such as estate planning, adoption, taxes, Family Medical Leave Act leave, probate law, and eligibility for public and employment benefits.

Our experienced family law attorneys, Jennifer Norris and Eliza Minsch, would be happy to assist clients dealing with these issues to fully benefit from these new changes in the laws.

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