The Pitfalls of Florida Alimony Reform Bill, SB 668

The clever folks who crafted the alimony reform bill, SB 668, that is currently sitting on Governor Scott's desk, are being too modest when they claim that it only ends permanent alimony. In reality, this bill is larded with so many sneaky provisions, triggers, and euphemisms, it could end all alimony in Florida as we know it and upend child support and custody laws at the same time. We ask the readers to consider eight major flaws in this bill that its creators have not quite succeeded in glossing over:

1. Why No Task Force?

For a bill that promises to completely overhaul the alimony law in Florida, it is curious that no task force appointed by the state legislature has been formed to study the current situation. Just this month in Vermont, the Senate Judiciary Committee approved a bill that would create a “Spousal Support and Maintenance Task Force” to consider whether changes are even needed. Likewise in Massachusetts, the paragon of alimony reform, the report from the Massachusetts Bar Association's Joint Alimony Task Force was approved by the House of Delegates in advance of presenting the bill that became the Massachusetts Alimony Reform Act of 2011.

For the Florida legislature to make such sweeping changes to family law without any kind of study would make it a notable oddball and outlier in the family court system.

2. Encourages Frivolous Motions

The bill has a novel provision that allows alimony payers to stop paying alimony when they file a modification, and unlike in some states, the payer need not pay into an escrow account so the money can be rightly rewarded at judgment. The menace here is as obvious as it is intentional: any alimony payer who finds their ordered payments unwarranted can sidestep a judge's order by filing modification after modification. Not only will this flood the court system with a multitude of modification filings, it will cause immediate and unfair hardship to alimony recipients.

3. Detrimental to Lower-Income Women

The bill includes the so-called "10% Trigger," a provision to suspend alimony payments if the recipient ex-spouse receives a rise in income of ten percent. Interestingly, this new mechanism has no minimum that the ex-spouse must be earning before it activates. For the ex-spouse making minimum wage, a "raise" of a few coins per hour can easily terminate their alimony and toss them into penury. A few years of COLA could do the same. How many women in Florida could this potentially affect? The alimony reform group is blocking the task force, so that we aren't burdened with inconvenient statistics.

4. Why No Input from Those Affected?

When the task force for alimony reform in Massachusetts was convoked, it included members from a variety of women's groups, including an attorney from the Women's Bar Association to speak for the interests of the poorest women in the state. This bill has been written solely by current alimony payers with an obvious vested interest.

5. Does It Affect Previous Judgments?

Much debate has swirled around the issue of whether this bill will be applied, "retroactively": whether alimony agreements made previous to the bill's passage will be amended to match the new laws. Various representatives of the alimony reform group have assured us, with a wink and a smile, that SB 668 will not affect any agreement currently in force. But they know, as well as we do, that previous modifiable agreements are always subject to modification proceedings based on current law unless explicitly stated otherwise.

This means that previous alimony agreements, wherein an ex-spouse agreed to a smaller share of marital assets in return for a larger alimony payments, could now expect to see that alimony severed based on the new guidelines. A great boon for alimony payers, but a travesty for recipients who will be taken unawares.

It is interesting to reflect on the fact that requests to insert a non-retroactivity clause in the bill have been shrugged off; amendments to the bill, in the Florida Senate and House, requesting the same non-retroactive wording have been rebuffed.

6. "Fair and Balanced"?

It is interesting that a bill bleating about unfairness fails to take into account the number of contempt of court orders currently outstanding. It would be impossible to estimate without a task force, but anecdotal evidence suggests that the number of ex-spouses who don't pay their ordered alimony, do not sign over marital assets ordered by the court, or drain savings/retirement accounts is legion. By blocking the request for a task force to study this phenomena, the alimony reformers show a latent disdain for any fairness in the court system that does not benefit them.

7. Why is Child Sharing in an Alimony Bill?

The bill's oddly includes a new "premise" of judicial support for 50/50 child sharing, which will affect child support. If passed, this bill will make Florida an anomaly in the country. In no other state with updated family court laws is child sharing treated in the same bill as alimony reform. In Massachusetts, our best and most recent example, new laws on child sharing, custody, and support were only passed after an expert group was assembled to study this vast and complex issue and issue a transparent report. SB 668 wants to do away with experts, evidence, and witnesses beholden to the state of Florida, and "wing" child laws that will affect hundreds of thousand of young Floridians.

8. A Delay Tactic vs. Due Diligence of Lawmaking?

Only the alimony reform groups of Florida have scoffed at the request for a task force. In every other state mulling over such drastic changes to family court, a bi-partisan task force of experts has been assembled to study the economic effects of the current law, interview volunteers, and make recommendations based on empirical data. Their findings are then presented to the state legislature at the capitol, as well as newspapers, for debate. In Florida, the reformers seemingly would like to skip over the due diligence of crafting fair, evidence-based laws; they would like to ignore any conflicting opinions or evidence; and they would like the public to remain ignorant of the ripple effect these laws might have on Florida's citizens.

In Florida, we need smart laws that work as intended. If Florida cannot have a task force to study probable outcomes for these laws, perhaps we should all have our license plates re-struck with a new motto: Florida, Making It Up As We Go Along.

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