

Committee on Judiciary

CS/CS/SB 1796 — Dissolution of Marriage

by Rules Committee; Judiciary Committee; and Senators Gruters, Rodriquez, Hooper, and Diaz

The bills amends laws related to dissolution of marriage. Changes to alimony applicable to any final judgment entered on or after July 1, 2022 include:

- Permanent (lifetime) alimony is eliminated, leaving bridge-the-gap, rehabilitative, and durational forms of alimony.
- Rehabilitative alimony is limited to 5 years.
- Durational alimony may not be awarded for a marriage of less than 3 years, is scaled based on duration of marriage, with an exception if the obligee is disabled or is a full-time caretaker of a totally disabled child of both spouses, and alimony awarded may not exceed the lesser of the obligee's reasonable need or 35 percent of the difference between the parties' net incomes.
- A presumption that both parties will have a lower standard of living after dissolution of the marriage.
- A prohibition against the award of alimony to a party whose net income exceeds the net income of the other party.
- A prohibition against requirements for an obligor to purchase life insurance to secure the award of alimony.
- Expansion of the concept of a supportive relationship to allow consideration of a supportive relationship when first setting alimony in the dissolution of marriage case. The criteria defining a supportive relationship at the time of dissolution is the same as for a later modification.

Current case law allows for modification or termination of alimony upon "reasonable retirement," a loosely-defined court-created concept. The bill codifies standards and procedures related to retirement of a party to a dissolution of marriage case:

- A proposed obligor who is retired at the time of the dissolution of marriage may not be required to pay any form of alimony unless one of the safeguards applies, and the party seeking alimony does not qualify for any Social Security benefits.
- If the obligor seeks to retire in the future (final judgment after July 1, 2022), the obligor must give 1-years' prior notice of the planned retirement. The retirement will be effective and durational alimony will end when the obligor reaches the Social Security full retirement age unless the obligee timely objects by showing any of the following:
 - o A safeguard applies; or
 - o The obligor continues to work beyond the planned retirement and earns active gross income of more than 50 percent of the past 3-year average.
- If the obligor seeks to retire in the future after reaching age 65 or older (modification of a final judgment entered before July 1, 2022), the obligor must give 1-years' prior notice of the planned retirement. The retirement will be effective and the alimony will phase out (25 percent a year) starting no sooner than age 65, unless the obligee timely objects by showing any of the following:

- o A safeguard applies; or
- o The obligor continues to work beyond the planned retirement and earns active gross income of more than 50 percent of the past 3-year average.
- Alternatively, there will be no phase-out and alimony may be modified or terminated based on a reasonable retirement, but no sooner than age 65.
- Current law provides that a court should not modify alimony for a payor's retirement where the effect of modification would be to leave the recipient "in peril of poverty." The bill codifies peril of poverty in the form of safeguards that allow a court to extend the term of alimony, in part or in whole, beyond the obligor's planned retirement, if:
 - o The party receiving alimony is full-time caregiver to a disabled common child;
 - o The party receiving alimony would have an income of less than 130 percent of the federal poverty level; or
 - o The party receiving alimony would be unable to meet the basic needs of life.

The bill recognizes situations where the marital settlement agreement, if one was entered into, prohibits modification by exempting such cases from the retirement provisions of the bill.

The bill also creates a rebuttable presumption that equal time-sharing with minor children is in the best interests of a child, and provides that a parent moving to a residence within 50 miles of the primary residence of a child from a residence more than 50 miles away is a substantial change in circumstances.

Bifurcation refers to the process where the court dissolves the marriage, reserving other matters such as property distribution, alimony, time-sharing, and child support for future court action. The bill gives either party to a dissolution of marriage the right to bifurcation if the case has been pending for longer than 2 years from the date the respondent received the summons, effective for petitions filed on or after July 1, 2022.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 21-16; House 74-42