

NEW LAW ON TERMINATION OR REDUCTION OF ALIMONY

Divorced spouses take note! If you get alimony or receive alimony, keep reading!

In June 2005, the Florida legislature enacted changes to Section 61.14, Florida Statutes, the law concerning changes in alimony. Until this law went into effect, cohabitation of a divorced spouse with another person, or another person's contribution to the finances of a divorced spouse, had no impact on the paying spouse's obligation to pay alimony. For example, in this past, a divorced husband could not go to court seeking termination or reduction in his alimony obligation on the basis that his ex-wife was living with someone else and was being fully or partially supported by her live-in boyfriend. Until this law went into effect, divorced spouses often chose not to remarry, and just to live together, because remarriage would terminate entitlement to alimony. Well, no more.

From now on, alimony can be reduced or terminated when the recipient spouse is in a "supportive relationship" with a third party, as defined by the new law. The parties need not be married; in fact, they need not live together. They even can be related, such as when parents living elsewhere support an adult, divorced child. If adequately proved to the court, and depending upon the paying former spouse's ability to pay and the receiving former spouse's financial need, the paying spouse can seek to have the alimony lowered or, perhaps, eliminated entirely. This applies to all forms of alimony, not just permanent alimony.

In seeking to reduce or terminate alimony because of such a "supportive relationship," the burden of proof is on the one seeking such reduction or termination. That party will need to present evidence concerning a number of factors, including whether and for how long the parties have lived together, whether they hold themselves out in public as if they are married, whether and to what extent they pool their financial resources, whether they have bought anything together, whether they help support each other's children, and whether there is any express or implied understanding between them concerning payment and allocation of expenses.

Since this law is brand new, there is bound to be a lot of litigation interpreting the law and applying it to such matters as members of the same sex living in a "supportive relationship," whether support from family members is repetitive or merely gifts, and the impact of reduction or termination of alimony on child support. The new law makes it clear that cohabitation and a supportive relationship do not create common law marriage – there is no common law marriage in Florida – but, now, cohabitation may not be the way to avoid reductions in alimony. Now, a divorced party may decide to remarry rather than live together because cohabitation without marriage will not preserve alimony.

Both parties going through a divorce or now divorced need to understand the ramifications of this new law and should engage the services of an experienced family law attorney.

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