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Insights

Florida's Alimony Overhaul: New Legislation Changes Modification Standards

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On June 30, 2023, Governor DeSantis signed landmark legislation, which made sweeping changes to Florida's alimony laws. Similar attempts have failed in prior years, including a veto by DeSantis of the bill's predecessor in 2022, as well as former Governor Scott's veto twice before of prior attempts.

The enacted changes include the elimination of "permanent" alimony and limitations on the length and amount of "durational" alimony. Significant changes, which took effect July 1, 2023, stretch beyond just the initial determination of alimony, to ***modification*** of alimony as well.

Supportive Relationship

Florida Statute Sect. 61.14, which governs modification of alimony awards, has now been amended to provide that a court **must** (instead of may) reduce or terminate an award of alimony upon a finding of a supportive relationship between the alimony recipient and a "person who is not related to [the recipient] by consanguinity or affinity."

The burden of proof is on the "obligor" (i.e., paying spouse) to initially demonstrate that a supportive relationship exists or has existed and, once proven, the recipient must then attempt to prove why the court should not reduce or terminate the alimony.

The court will look to various factors, including how long the recipient and other person have resided together, although this is ***not*** required to prove a supportive relationship; whether they have joint bank or other financial accounts; and the extent to which there is financial support or pooled resources.

"This paragraph recognizes that relationships exist that provide financial or economic support equivalent to a marriage and that support, maintenance or alimony must be modified or terminated if such a relationship is proven to exist. The existence of a conjugal relationship is not necessary for the application of this paragraph." Sect. 61.14(1)(b)(3).

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An additional significant change is the addition to Sect. 61.14 of an obligor's right to seek the reduction or termination of alimony upon reaching "normal retirement age as defined by the Social security Administration or the customary retirement age for his or her profession." The obligor must demonstrate that he or she has taken actionable efforts to retire or is actually retired and, as a result, that his or her retirement reduces their ability to pay support.

Here, too, the court is given various factors to consider as to whether to grant the modification as a result of retirement, including the age and health of the obligor, the type of work performed by the obligor, the obligor's motivation for retirement, and more.

The statute now provides that the obligor can file a petition to modify his or her support obligation in anticipation of retirement, but not more than six (6) months before retirement.