HOUSE . . . . . No. 4427

Substituted by the House, on motion of Mr. Fernandes of Milford, for a bill with the same title (House, No. 4110). June 22, 2016.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act reforming alimony in the Commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 53 of chapter 208 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the word "order", in line 24, the following words:- , except in cases where deviation applies pursuant to subsection(e).

SECTION 2. Said chapter 208 is hereby further amended by adding the following section:-

Section 56. No alimony judgment under sections 48 to 55, inclusive, where the parties have agreed in writing that the alimony judgment survives or is not modifiable shall be modified by a court without the consent of both parties.

SECTION 3. Chapter 124 of the acts of 2011 is hereby amended by striking out section 4 and inserting in place thereof the following section:-

Section 4. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

13 "Alimony", the payment of support from a spouse, who has the ability to pay, to a spouse
14 in need of support for a reasonable length of time, under a court order.

15 “Existing alimony judgment”, an order of a court to pay alimony entered by a court prior
16 to March 1, 2012.

17 “General term alimony”, the periodic payment of support to a recipient spouse who is
18 economically dependent.

19 “Payor”, a spouse required by order of a court to pay alimony or general term alimony.

20 “Recipient”, a spouse receiving by order of a court alimony or general term alimony.

21 (b) Existing alimony judgments shall be general term alimony as that term is defined in
22 section 48 of chapter 208 of the General Laws.

23 (c) Unless otherwise provided in this section, existing alimony judgments shall terminate
24 pursuant to the terms of such existing alimony judgment or pursuant to an order of modification
25 entered by a court.

26 (d) Existing alimony judgments that exceed the durational limits under section 49 of said
27 chapter 208 shall be deemed a material change of circumstance that warrants modification and
28 shall be modified upon a complaint for modification without additional material change of
29 circumstance, unless the court finds that deviation from the durational limits is warranted.

30 (e) A payor of alimony paying alimony pursuant to an existing alimony judgment may
31 file a complaint for modification of the existing alimony judgment if the recipient is determined
32 to be cohabitating pursuant to subsection (d) of said section 49 of said chapter 208. A court
33 considering a complaint for modification of an existing alimony judgment pursuant to this

34 subsection shall consider the recipient's cohabitation a material change of circumstance when
35 ruling on the complaint for modification.

36 General term alimony shall be suspended, reduced or terminated upon the cohabitation of
37 the recipient spouse when the payor shows that the recipient spouse has maintained a common
38 household, as defined in this subsection, with another person for a continuous period of at least 3
39 months.

40 (1) Persons are deemed to maintain a common household when they share a primary
41 residence together with or without others. In determining whether the recipient is maintaining a
42 common household, the court may consider any of the following factors:

43 (i) oral or written statements or representations made to third parties regarding the
44 relationship of the persons;

45 (ii) the economic interdependence of the couple or economic dependence of 1 person on
46 the other;

47 (iii) the persons engaging in conduct and collaborative roles in furtherance of their life
48 together;

49 (iv) the benefit in the life of either or both of the persons from their relationship;

50 (v) the community reputation of the persons as a couple; or

51 (vi) other relevant and material factors.

52 (2) An alimony obligation suspended, reduced or terminated under this subsection may
53 be reinstated upon termination of the recipient's common household relationship; but, if
54 reinstated, it shall not extend beyond the termination date of the original order.

55 (f) A payor of alimony paying alimony pursuant to an existing alimony judgment may
56 file a complaint for modification of the existing alimony judgment if the payor has reached full
57 retirement age pursuant to subsection (f) of said section 49 of said chapter 208. A court
58 considering a complaint for modification of an existing alimony judgment pursuant to this
59 subsection shall consider the payor's reaching full retirement age a material change of
60 circumstance when ruling on the complaint for modification. The court may grant a recipient an
61 extension of an existing alimony order for good cause shown; provided, however, that in
62 granting an extension, the court shall enter written findings.

63 (g) No existing alimony judgment under this section where the parties have agreed in
64 writing that the existing alimony judgment survives or is not modifiable shall be modified by a
65 court without the consent of both parties.