

TEXAS EXPANDS ALIMONY!

Spousal support law continues to evolve in Texas; but like the hot, dry summer days which seem to creep along, the process moves slowly.

Governor Rick Perry signed HB 901 on June 17, 2011. The law is effective for divorce cases filed on or after September 1, 2011. In 1995, Texas was the 50th state to pass a law providing for spousal support and has been one of the most restrictive in the nation.

The new law provides potentially increased relief to spouses who have been out of the work force, are disabled, are victims of family violence or are the primary custodians of a disabled child.

Major changes to the spousal support law are:

1. The maximum amount of spousal support that courts may award increases from \$2,500 to \$5,000.00 per month, although still limited to 20 percent of the payer's average gross monthly income.
2. The duration of spousal support is extended from a maximum of 3 years to a maximum of 5, 7 or 10 years, generally depending on the length of the marriage.
3. The law clarifies that if a person has primary care for a disabled child, the custodial parent may be prevented because of the child's disability from earning sufficient income to meet the custodial parent's minimum reasonable needs.
4. The law also clarifies that a person may not be held in contempt for failing to pay spousal support which is in an agreed order and extends beyond the period of time provided under the law.

In order to receive "maintenance," (which is the statutory term for spousal support), the spouse seeking support must lack sufficient property to provide for the spouse's "minimum reasonable needs", AND one of the following:

- (1) The recipient must be unable to earn sufficient income to provide for his or her minimum reasonable needs because of an incapacitating mental or physical disability;
- (2) The marriage lasted for 10 years or longer and the recipient lacks the ability to earn sufficient income to provide for his or her minimum reasonable needs;
- (3) The recipient is the custodian of a child of the marriage of any age who required substantial care and personal supervision because of a physical or mental disability that prevents the spouse from earning sufficient income to provide for the spouse's minimum reasonable needs; **OR**

- (4) The person ordered to pay support must have been convicted of or received deferred jurisdiction for an act of family violence during the pendency of the suit or within two years of the date the suit is filed.

Under the previous law, under most circumstances, the court could only order maintenance for a maximum of three years, regardless of the length of the marriage. Under the new law, the court can order maintenance to continue for:

- (1) 5 years if the parties were married less than 10 years and the maintenance is awarded due to family violence;
- (2) 5 years if the parties were married more than 10 years, but less than 20 years.
- (3) 7 years if the parties were married more than 20 years, but less than 30 years;
- (4) 10 years if the parties were married for more than 30 years.

In cases where the maintenance is awarded due to the mental or physical disability of the spouse or a child of the marriage, the court may order that the maintenance continue as long as the disability continues.

However, in all circumstances, the law provides that the Court shall order maintenance for the shortest reasonable period that allows the recipient to earn sufficient income to meet his or her reasonable needs.

If you are contemplating dissolving your marriage and have questions concerning your financial future, seek competent legal counsel to help you determine whether you could be eligible for spousal support under the expanded provisions of the new law.