

LEGALLY SPEAKING

Mauro, Savo, Camerino, Grant & Schalk
77 North Bridge Street
Somerville, New Jersey 08876
(908) 526-0707 (phone) 908 725-8483 (fax)
www.maurosavolaw.com

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Important New Developments in Family Law

The year 2014 was a critical year for Family Law developments in New Jersey. Two important pieces of legislation were passed on September 10, 2014. Governor Christie signed the alimony bill into law on that date, and with it, afforded New Jersey residents more clarity on the issue of alimony. Alimony is now truly assessed on a case-by-case basis rather than an arbitrary “one size fits all” concept. It accommodates and considers changes in circumstances that may occur more than ever before.



In addition, the term “permanent alimony” no longer exists; instead, it is now “open durational alimony.” This means there are durational limits for the

length of an alimony term. While it cannot modify previously agreed-upon term provisions in a Final Judgment of Divorce/Marital Settlement Agreement, it can impose limits if your Marital Settlement Agreement is silent on the term. In addition, there is a rebuttable presumption that alimony shall terminate upon the paying spouse’s retirement (at full retirement age). For marriages (or civil unions) less than 20 years in duration, alimony shall not exceed the length of the marriage except in exceptional circumstances. These exceptional circumstances are defined broadly, and include eight factors.

The Family Collaborative Law Act, N.J.S.A. 2A:23D-1 et. seq., was swiftly passed and received wide-spread support. New Jersey is the eighth state to pass a collaborative divorce act. It is a very appealing approach for many New Jersey residents as an alternative to the often contentious and difficult divorce process. A collaborative divorce enables

the parties to engage in a cost-effective, team-oriented process where communication during the process (as well as post-divorce) is underscored. A Participation Agreement is crucial to the collaborative divorce process, as it cannot truly be a collaborative divorce without one. The Agreement includes a code of conduct, rules about confidentiality, communication, outlines professional fees, provisions that state there will be no court intervention, provisions that state the cut-off date for equitable distribution, and if the process fails, how the collaborative process would be terminated. A collaborative attorney cannot represent the party in the event the process fails and the matter proceeds to court on a contested basis.

The collaborative divorce process is also attractive to many couples because there are no publicly filed pleadings or proceedings other than the final uncontested hearing. Couples with children can protect the interests and feelings of their children in the collaborative method. As part of the team approach, a divorce coach or child specialist assists in minimizing antagonistic feelings and working through the emotional aspects.

Both pieces of legislation have truly impacted, and will continue to affect, the residents of New Jersey and their divorce actions. As a collaboratively trained matrimonial practitioner, I would

be happy to discuss how either the Alimony Statute or the Family Collaborative Law Act may affect you.



By: Rita M. Aquilio, Esq.
Chair, Family Law Department
aquilio@maurosavolaw.com