



Massachusetts Alimony Virus – Still No Vaccine Available

by STEPHEN MCDONOUGH on OCTOBER 3, 2009

First of all, I want to be clear that I think that there are cases that certainly call for alimony, also known as spousal support. There are also cases where our current system seems to create some unfair results. Those ordered to pay lifetime alimony might equate their situation to a having a nasty virus – it can make you feel sick and takes a long time to go away. In fact, one of the current Massachusetts alimony reform bills, HT 1785 even sounds like a new bug requiring lots of hand sanitizer.

Much of this recent activity and information referenced in this post is available on the [Massachusetts Alimony Reform](#) website. Recently, the **Boston Bar Association** created some controversy by jumping head-first into the alimony reform issue by endorsing Senate Bill 1616. The Senate bill allows judges to consider the duration of alimony awards, but that is it. Critics argue that allowing judges discretion with setting the length of alimony awards – although a step in the right direction – does not go far enough in changing our antiquated approach to spousal support here in the Bay State.

Boston Business Journal writer Lisa van der Pool wrote a story about the BBA's endorsement of Senate Bill 1616 on September 25, 2009. She was also interviewed on NECN about the story and the controversy created by the BBA's support. Again, all of this info, including links to both bills, is easily accessible on the MA Alimony Reform website which is linked above – thus I have not duplicated every link in this post.

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Those supporting more sweeping reform of the Commonwealth's alimony system support the House Bill, HT 1785. HT 1785 provides comprehensive changes well beyond just allowing judges discretion in determining the length of alimony payments. By the way, if you have HT 1785, make sure you cough and sneeze into your elbow. Of all body parts, the elbow seems to be getting a bad deal lately as the body's new germ storage facility. Even if you are paying alimony, be glad you are not an elbow.

My fellow Massachusetts family law attorneys appear split on the alimony reform issue. For instance, fellow blogger and attorney [Steven Ballard](#) supports the sweeping reforms in HT 1785, while Boston divorce lawyer and blogger [Nancy Van Tine](#) of the large firm of Burns and Levinson was quoted in the *Boston Business Journal* article as being critical of HT 1785, saying that it "took the current law and flipped it on its head and made it equally bad in the other direction." The BBJ article does not go into detail about Attorney Van Tine's reasoning, but her other posts have stated that she feels HT 1785 is too formulaic of an approach.

There are other observations and questions related to these issues that I find interesting.

1. Will sweeping alimony reform cost some divorce lawyers who focus on litigation money? Seems that could definitely be the case. Is this a factor behind the Boston Bar Association's opposition to the house bill? I wonder how many attorneys involved in the vote at the BBA are litigators that earn big fees from trying alimony cases?
2. The MA Alimony Reform group is always talking about rich divorce lawyers. I am obviously doing something wrong.
3. This issue brings out a lot of anger and emotions in some people, not that there is anything wrong with that. When reading parts of the MA Alimony Reform site, there are some dramatic statements. How about this for example when making the case for their opposition to Senate Bill 1616: *"The (Boston) Bar Association's proposal will keep the law unclear – continuing to maximize the animosity between divorcing couples; increase contentious and bullying lawyer debates; and add to already exorbitant legal fees in the court room."*

Wow. That must be one powerful statute!

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Is the law really responsible for maximizing animosity between divorcing couples? That seems just a bit of a stretch. First of all, many couples maintain a respectful attitude during divorce and make the transition without being driven by animosity. For couples driven by conflict and resentment, is the current alimony scheme *really* responsible for maximizing the animosity between these high-conflict divorces? I think not.

If lawyers are having contentious and bullying debates, isn't that because the lawyers are zealously advocating the wishes of their clients? If a client does not want their attorney to have these contentious and bullying debates, then the client can hire a different lawyer with a different approach.

Finally, there are steps couples can take to control legal fees, although it is possible that one side may increase the other side's legal fees due to having to respond to various discovery requests, motions, and unreasonable positions. That is unfortunate.

Thus, in some of these "alimony horror stories" how reasonable were the positions of the parties involved? Did they consider a collaborative divorce or hiring a skilled mediator before entering the nasty arena of litigation? Were opportunities for settlement fully explored? Was an experienced divorce coach considered to guide people through the process in such a way to have hatred not be the driving force?

I don't usually buy into the theory that people are completely powerless to get off of the roller coaster ride. Litigation can start to take on a life of its own as parties (including lawyers) may become entrenched in positions and feel they have to win at all costs. Divorce involves many complex factors, some more emotional than legal.

For couples that simply cannot or will not agree, we have the courts. As our family structures evolve, so it seems should the concept of alimony. Let's not expect any one statute to have magical powers however. Couples driven by animosity will probably find other things to argue over and seek out the type of lawyer that is ready to fan the flames.

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