

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 476, L.D. 656, Bill, "An Act to Promote Equity in the Court Adjudication of Alimony Awards"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 19 MRSA §721, as amended by PL 1979, c. 424, §§1 and 2, is repealed and the following enacted in its place:

§721. Alimony

1. Factors. The court shall consider the following factors when determining an award of alimony:

- A. The length of the marriage;
- B. The ability of each party to pay;
- C. The age of each party;
- D. The employment history and employment potential of each party;
- E. The income history and income potential of each party;
- F. The education and training of each party;
- G. The provisions for retirement and health insurance benefits of each party;
- H. The tax consequences of the division of marital property, including the tax consequences of the sale of the marital home, if applicable;
- I. The health and disabilities of each party;
- J. The tax consequences of an alimony award;

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K. The contributions of either party as homemaker;

L. The contributions of either party to the education or earning potential of the other party;

M. Economic misconduct by either party resulting in the diminution of marital property or income;

N. The standard of living of the parties during the marriage; and

O. Any other factors the court considers appropriate.

2. Costs and attorney's fees. The court may order either party to pay the costs and attorney's fees of the other party in the defense or prosecution of a divorce.

3. Real estate. The court may order any part of the obligated party's real estate and, if necessary, the rents and profits from that real estate to be assigned and set out to the other party for life.

4. Alternative to alimony. Instead of alimony, the court may order either party to pay a specific sum to the other party, as the court may direct.

5. Modification. The court, at any time, may alter or amend a decree for alimony or specific sum when it appears that justice requires it, except that a court shall not increase the alimony if the original decree prohibits an increase. In making any alteration or amendment, the court shall consider the factors listed in subsection 1.

6. Enforcement. The court may use all necessary legal provisions to enforce its decrees.

7. Limitations. This section does not limit the court, by full or partial agreement of the parties or otherwise, from awarding alimony for a limited period, from awarding alimony which may not be increased regardless of subsequent events or conditions or otherwise limiting or conditioning the alimony award in any manner or term that the court considers just.

Sec. 2. Effective date. This Act shall take effect January 1, 1990.

STATEMENT OF FACT

This amendment revises several factors that the original bill required a court to consider when determining an alimony

1 award. The court must consider any economic misconduct of the
husband or wife that reduces the marital property or income and
3 also any contribution to the earning potential of the other
party. The court must also consider the standard of living of
5 the parties during the marriage.

7 The amendment clarifies that either party may be ordered to
pay costs and attorney's fees. The amendment also clarifies that
9 the court must consider the same factors to determine whether an
existing decree should be modified.

11 The bill and amendment do not remove the discretion of the
13 court when determining alimony; the factors serve as guidelines
to the parties, the court and any reviewing court, should a
15 decree be appealed.

17 This amendment delays the effective date of the bill until
January 1, 1990, to provide all interested parties sufficient
19 notice of the changes.

Reported by the Committee on Judiciary
Reproduced and distributed under the direction of the Clerk of the
house
5/23/89 (Filing No. H-276)