

**STATE
FISCAL IMPACT**

Drafting Number: LLS 12-0187
Prime Sponsor(s): Rep. McCann
 Sen. Mitchell

Date: February 20, 2012
Bill Status: House Judiciary
Fiscal Analyst: Alex Schatz (303-866-4375)

TITLE: CONCERNING A FORMULA FOR SPOUSAL MAINTENANCE AWARDED AT PERMANENT ORDERS.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Expenditures	See State Expenditures section.	
FTE Position Change		
Effective Date: July 1, 2012.		
Appropriation Summary for FY 2012-2013: None required.		
Local Government Impact: None.		

Summary of Legislation

This bill creates a presumption that maintenance will be awarded to one of the parties in a dissolution of marriage action filed on or after July 1, 2012, and provides a formula for the presumptive award in cases where the parties meet certain income and duration of marriage criteria. The amount and term of maintenance awarded by the court must take into account factors relating to fairness and equity, such as financial resources of the parties, age and health of the parties, and contribution of a party to the advancement of the spouse's economic, educational, or occupational situation.

The bill provides for three categories of maintenance:

- general term maintenance, which lasts for a term of 21 months (35 percent of the duration of a five-year marriage) up to 65 percent of the duration of the marriage (for marriages of 20 years or more), and may not be modified to exceed 100 percent of the duration of the marriage except in extraordinary circumstances;
- reimbursement maintenance, for marriages of less than 5 years, which may not last more than 24 months and is specifically to compensate the recipient for contributions to the spouse's economic, educational, or occupational advancement; and
- transitional maintenance, for marriages of less than 5 years, which may not last more than 24 months and is to assist the recipient spouse with readjustment in lifestyle or to assist the recipient in obtaining self-sufficiency.

A court may require a party ordered to pay maintenance to provide reasonable security for future payments. The court may also waive maintenance or deviate from the statutory formula if the parties agree to a different amount or different terms in a written instrument that provides specific reasons for the variance from statute.

State Expenditures

By presuming the award of maintenance in factual situations where parties have not historically sought maintenance in Colorado, the courts will experience an increase in the number of domestic relations cases involving maintenance and, for some time, an increase in workload associated with interpreting the bill as it applies to various cases (e.g., increased length of argument at trial, increased number of appeals). The increase in workload to the Judicial Branch will be managed within existing resources based on the caseload from domestic relations cases relative to the overall workload of the courts.

The bill is assumed to result in increased maintenance awards to Medicaid recipients, as it presumes such an award in dissolution actions where the parties were not motivated under current law to seek maintenance. To the extent that maintenance income makes current recipients ineligible for continued Medicaid coverage, the bill may reduce the Medicaid caseload of the Department of Health Care Policy and Financing. This potential reduction cannot be quantified for this analysis.

Subject to a court order in cases awarding maintenance, the Office of the State Controller in the Department of Personnel and Administration is responsible for garnishing the wages of state employees. An increase in the number of court orders including a maintenance award will increase the workload of the State Controller. The department will absorb any increase in workload within existing appropriations.

Departments Contacted

Judicial
Corrections
Law

Health Care Policy and Financing
Personnel and Administration

Revenue
Human Services