

STATE
REVISED FISCAL IMPACT

(replaces fiscal note dated January 16, 2013)

Drafting Number: LLS 13-0058
Prime Sponsor(s): Rep. McCann
Sen. Kerr

Date: March 4, 2013
Bill Status: Senate Judiciary
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TITLE: CONCERNING GUIDELINES FOR THE DETERMINATION OF SPOUSAL MAINTENANCE.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
State Expenditures	Minimal impact. See State Expenditures section.	
FTE Position Change		
Effective Date: January 1, 2014, assuming no referendum petition is filed.		
Appropriation Summary for FY 2013-2014: None required.		
Local Government Impact: None.		

Summary of Legislation

The *reengrossed bill* creates a process for the determination of the award of spousal maintenance in proceedings for dissolution of marriage, legal separation, or declaration of invalidity and establishes guidelines for the amount and term of spousal maintenance in cases involving marriages lasting at least 3 years and parties with combined incomes, in most cases, of less than \$240,000 per year.

The courts retain their discretion in domestic relations cases in determining spousal maintenance, within the process created by the bill and in consideration of the guidelines and other specified information. The bill creates no presumption for maintenance in domestic relations cases and maintains the existing standard of need for the court to order spousal maintenance. The bill applies to proceedings filed on or after January 1, 2014. Key provisions are described below.

Initial findings of fact. The bill requires courts to enter initial findings of fact when a party requests maintenance, including each party's gross income, marital property apportioned to each party, the financial resources of each party, and reasonable financial need as established during the marriage.

Maintenance amount. The guideline amount for maintenance (for parties in marriages lasting at least three years and who are below the income limit) is equal to 40 percent of the higher party's monthly adjusted gross income, less 50 percent of the lower income party's monthly adjusted gross income. Maintenance to the recipient may not exceed 40 percent of parties' combined income.

Term of maintenance. The guideline term of maintenance is set along a continuum based on the duration of the marriage, ranging from 11 months of maintenance (31 percent of a 3-year marriage) to 10 years of maintenance (50 percent of a 20-year marriage). For marriages of more than 20 years, the term of maintenance may extend indefinitely.

Modification of maintenance orders. Under the bill, permanent orders for spousal maintenance entered into after January 1, 2014, may be suspended, reduced, or modified based upon the recipient spouse cohabitating with another person as a couple for 6 months or more. The court may order the reinstatement of maintenance, not to exceed the original term, if cohabitation ends.

Security for the payment of maintenance. The court may require the payor spouse to maintain life insurance or other security payable to the recipient spouse in the event of the death of the payor spouse. The court must take into account factors such as the age and insurability of the spouse and cost of life insurance, among others.

Other awards of maintenance. The bill also provides, under certain circumstances, for an award of maintenance in short-term marriages lasting less than three years and for temporary maintenance.

State Expenditures

The bill may result in a slight increase in workload to the courts, which can be addressed within existing appropriations. The impact on other state agencies is also assumed to be minimal.

Judicial Branch. The bill may increase the number and length of proceedings for some types of cases, and decrease them in others. Thus, the overall impact is expected to be minimal, especially considering that cases involving spousal maintenance are a small subset of domestic relations cases and that determination of maintenance is just one aspect of the broader separation proceedings in these cases. Some factors affecting workload in the courts are discussed below.

Permanent orders. Establishing guidelines provides clarity to both parties in proceedings where maintenance is pursued and could result in a higher percentage of cases entering into settlement agreements at an earlier stage of the proceeding, which would reduce workload for the courts. On the other hand, guidelines may increase the awareness of the availability or likelihood of receiving maintenance, which could result in maintenance being sought in cases which likely would not have done so under current law.

Modification of maintenance. The provision allowing for the modification of new maintenance orders when the recipient spouse begins cohabiting with another person is expected to increase post-decree litigation. This litigation will be required to establish the existence or end of cohabitation and other facts required to modify or reinstate the previous order.

Other state agencies. Given that courts have discretion in setting maintenance awards, it is unknown whether the total amount of maintenance ordered will increase or decrease compared with current law and to what extent. Therefore, the impact on eligibility for Medicaid and other means-tested assistance programs cannot be determined. Income from spousal maintenance generally applies to the income limits for many of these programs, so greater availability of maintenance could reduce the number of persons who are eligible. Any impact is assumed to be minimal and would be addressed through the annual budget process.

Departments Contacted

Judicial Branch
Revenue
Health Care Policy and Financing

Law
Human Services