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I write for women who are going through a financially complex divorce.

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What Divorcing Women Need To Know About Alimony 'Reform'

When we hear that something's being "reformed," the general idea is that it's being improved in some way. As in my post last week about [new changes to credit card laws](#), reforms typically represent progress, right?



Well, unfortunately for most divorcing women, recent legislation proposing sweeping "reforms" to alimony would not represent progress, at all. In fact, the proposed changes pose [serious concerns for divorcing women](#) and those of us who advocate for them. Alimony, simply stated, is court-ordered payment from one former spouse to the other after divorce. It's intended to provide financial support for the spouse who was financially-supported during the marriage –and still, that's most commonly the wife. State laws about alimony vary widely, but in general, alimony is paid in one of three different ways: 1) as a [lump sum](#), 2) in regular payments without a fixed end date ("permanent alimony"), or 3) according to some interim arrangement ("temporary" or "rehabilitative" alimony). As I see it, the purpose of alimony is often completely misunderstood, and that is why it is becoming increasingly easier to pass these sweeping reforms. I believe the rationale for alimony is as sound today as it was decades ago. Namely, alimony is essential because:

- She –and note, I'll use the female pronoun throughout, but it could certainly be the male who is the recipient of alimony –gave up her potential career and earning power and invested her time and labor into the family.
- She also directly or indirectly aided his career by taking care of the home front which allowed him to invest in his career and increase his earning power. Many women have given up educational and employment opportunities and many women have also helped their husbands (financially or otherwise) achieve law, medical or other professional degrees or training.
- After several decades, he is at the peak of his earning potential (thanks in part to her) and she is relatively unemployable (except for some low paying clerical or minimum wage job).

- Even though they may be dividing assets 50-50, he, because of his earning power will replace some or all of those assets over time while she, because of her lack of earning power, will be liquidating assets from day one and will ultimately go broke. The purpose of alimony is to somewhat equalize this disparity.

Now some men might say things like, “My wife never did any of that,” “We didn’t have kids,” “The kids were taken care of by a nanny or my mother,” or “She didn’t do a thing to help my career,” etc., etc.

And perhaps that might be true –but isn’t that precisely why there are judges to determine the facts of each case and to see if there are any mitigating circumstances?

What most alimony reforms attempt to do is to take away the discretion of the judge and impose severe limitations on what he/she can award in any given case. Usually, even when a judge can deviate from the parameters of these new laws, the judge is required to give a detailed written explanation of why he/she deviated. Considering the caseloads these judges have and human nature, I think many will simply acquiesce and comply with the strict parameters of the new laws.

This reminds me of the strict “three strikes and you’re out” laws we used to have in New York. These laws forced judges to hand out very strict and long sentences to criminals who had three felony convictions –even if the felonies were relatively minor, such as possession of illegal drugs for personal use. Some of these “three-time” offenders got prison sentences of 25 years to life because the “reformed” laws gave Judges little or no discretion. Meanwhile, some rapists or murderers may have received sentences of less than 10 years – simply because they were first-time offenders.

Florida’s Senate Bill 718

So, what’s being “reformed?” Consider, for example, the case of [the alimony bill](#) recently passed by the Florida legislature (but since vetoed by Governor Rick Scott). This bill would ban permanent alimony altogether, and encourage temporary alimony to be in the smallest possible amount, for the shortest possible duration. The bill redefines how many years constitute short-, mid- and long-term marriages, and it imposes legal guidelines as to what alimony is appropriate for each. For example, for “short-term” marriages (which the new bill defines as those of 11 years or less, a significant change from the current definition of seven years or less), the default provision would be for *no alimony at all*. Cases for exceptions would have to be proved to the Court. (I wonder how many of those who co-sponsored this bill are divorced and have alimony obligations?)

The bill also reduces judicial discretion in [child custody determinations](#), by stating that a 50-50 “time share” arrangement is considered best for children. While this may seem a wholesome recommendation at first glance (although the family law division of the Florida bar disagrees), many divorced mothers can tell you that an “equal” custody agreement on paper rarely bears out in reality. Most often, women shoulder much more than half the child care responsibilities. The Florida bill only assures that they’ll do it without fair financial support. Good for kids? I doubt it.

There is the glimmer of a silver lining here: Florida Governor Rick Scott vetoed the bill earlier this month. But the only [reason he expressed](#) for doing so was that it was written to apply retroactively. The Florida legislature is revising the bill to exclude only the provision about retroactivity, and

Floridians can likely expect the Governor to sign the revised bill when it's reintroduced next year, with all its other troubling provisions intact.

How alimony reforms often go too far

It's understandable that ex-husbands paying alimony to women whose lifestyles may appear grander than their own become resentful and want their obligations changed. However, having been in the business of [helping women navigate financially complex divorces](#), I can assure you that alimony is far from obsolete. In my view, a woman in a long-term marriage who's been out of the work force, or whose income is much less than her husband's, should receive alimony to maintain a post-divorce lifestyle that's somewhat comparable to the lifestyle she enjoyed during the marriage (By the way, the language in the Florida bill removed the reference to the lifestyle enjoyed during the marriage). Alimony payments should be determined according to both the payor's ability to pay and the payee's need, and the term of alimony should be directly related to the term of the marriage.

Florida is far from alone in its enthusiasm for drastic changes to alimony laws. But I believe [many of these measures go too far](#). Women with little or no income of their own seem to have few advocates in state legislatures largely controlled by men.

Laws that change alimony practices retroactively are particularly troubling. Consider, for example, a woman who gave up a house or other major assets in her divorce agreement, in favor of a certain amount of alimony for a certain period of time. This can be a financially wise arrangement, and it's not uncommon. However, if a new law comes along that retroactively changes divorce settlements, this woman may find that her ex-husband can get the alimony reduced or eliminated, even though there's no way for her to get the house back, and she can't renegotiate any other aspects of the divorce agreement!

In Florida, the new bill also raised the bar and puts the onus on women to prove not only that they need alimony, but also that their husband can afford to pay it. Remember, that's on top of the presumption that for marriages of 11 years or less, there should be no alimony whatsoever.

Another potentially devastating aspect of the bill is that it stated that if the wife was previously employed, but currently is not, a percentage of her previous net income would be imputed and therefore reduce any alimony to be paid her. The bill provided no consideration to be given if the couple agreed together that she would put her career on hold and be home to raise their children, freeing the husband to reach his maximum earning potential while she forfeited her own income! Further, if she wanted that imputed income to be reduced, it would be her burden to convince the judge through a preponderance of the evidence – quite a high standard – that she can no longer earn an income comparable to what she once did.

Believe it or not, there's even more. If the wife is disabled, she had to prove that she meets the Social Security Administration's definition of "disabled." Effectively, this means that it's not enough not to be able to do the job she once did—she has to be unable to do *any* job. So, for example, if she was previously a neurosurgeon, but her eyesight has been damaged, she's not really "disabled" according to the Florida alimony bill, because she could still get a job bagging groceries.

What women can do to protect themselves

The current zeal for alimony “reform” in legislatures around the country means that more than ever, women need to do what they can to protect their financial futures both before they marry and during their marriages. To that end, I always [advise brides-to-be](#) to communicate openly and thoroughly with their fiancés about finances, and for couples to have well-executed prenuptial agreements that specify what they will consider marital property and what will be held separately.

I am increasingly recommending post-nuptial agreements, as well. For instance, if a couple decides that the wife will give up a lucrative job and stay home to raise children, I think it’s very important that the husband and wife both sign a postnup that clearly outlines how the woman would be compensated, in the event of divorce, for having given up her profession. (And, given the current trend in alimony reform, I recommend that this be an upfront lump sum.)

With various alimony reform laws in different stages of passing around the country, a divorcing woman today has no choice but to be vigilant. Know what’s going on in your state, and hire divorce professionals who have their fingers on the pulse of the latest developments so they can accurately analyze all implications for your financial future.

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Jeff Landers is the author of the new book, ***[Divorce: Think Financially, Not Emotionally – What Women Need To Know About Securing Their Financial Future Before, During, And After Divorce.](#)***

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