Bill as Introduced

HB 1109 - AS AMENDED BY THE HOUSE

9march00.....3577h

2000 SESSION

00-2047
04/01

HOUSE BILL ***1109***

AN ACT relative to the modification of spousal support orders.

SPONSORS: Rep. Babson, Carr 5

COMMITTEE: Children and Family Law

AMENDED ANALYSIS

This bill provides that an order for permanent alimony issued for a definite period of time may be modified at any time within 3 years after the termination date of the order.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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00-2047
04/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand

AN ACT relative to the modification of spousal support orders.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Divorce; Revision of Orders; Limitation on Modification of Alimony Orders Inserted. Amend RSA 458:14 to read as follows:

458:14 Revision of Orders, etc. ***Except as provided in RSA 458:19, VII,*** the court, upon proper application and notice to the adverse party, may revise and modify any order made by it, may make such new orders as may be necessary, and may award costs as justice may require.

2 New Paragraph; Divorce; Alimony; Statute of Limitation Applied to Modification of Alimony Order. Amend RSA 458:19 by inserting after paragraph VI the following new paragraph:

VII. In cases where the court issues an order for permanent alimony for a definite period of time, such order may be modified, upon the petition of either party, provided, that such petition is made within 3 years from the termination date of the permanent alimony order. Nothing in this paragraph shall be construed to change or alter in any way the terms of the original alimony order.

3 Effective Date. This act shall take effect January 1, 2001.

Committee Minutes

Date: April 12, 2000
Time: 12:08 p.m.
Room: Room 103, State House

The Senate Committee on Judiciary held a hearing on the following:

HB 1109	relative to the modification of spousal support orders

Members of Committee:

Senator Pignatelli
Senator Gordon
Senator Wheeler
Senator Squires
Senator Trombly
Senator Brown
Senator Cohen
Senator Fernald

The Chair, Senator Gordon, opened the hearing on HB 1109.

Senator Gordon: It doesn't appear that we have a sponsor here, but we do have someone who came here to testify. We will begin with Sheila Evans.

Sheila Evans: My name is Sheila Evans. I am the lobbyist for the New Hampshire Women's Lobby. We oppose this bill. I would like you to know that, when it was originally presented, it was actually even what I consider more severe than the form that you are looking at and, interestingly, I believe that the Committee that heard it was swayed by one particular story that was presented in a rather slanted fashion relative to a gentleman who felt that he had been abused in his alimony situation.

The bill, I believe, usually would have gone to the Judiciary Committee and it was Child & Family Law and I think that their lack of experience allowed it to get to this level. Basically, I don't believe this is a bill that is at all necessary. I also would like you to think about, as we do at the Women's Lobby, the perspective of women, particularly older women, who are getting alimony and whether or not life circumstances might intervene after that three years which is presented in this bill.

Particularly myself, as a breast cancer victim, knowing the statistics of something like that happening or potentially happening to a woman, I can see where there would be times when one might want to go back and look for an extension of alimony after the fact. And, in fact, there might even be cases where those parties would be agreeable to that.

So, I don't believe this bill serves any good purpose. I also don't like the way it takes away judicial discretion and I would advise you to kill it.

Senator Gordon: Thank you. Senator Trombly?

Senator Trombly: Thank you, Sheila. I really hate to show my ignorance, but somehow this seems oxymoronic that permanent alimony terminates.

Ms. Evans: Yes, I found that a little strange.

Senator Trombly: Is the correct word really "permanent" alimony? I know that there is alimony for a period of time, then there is no alimony, and there is alimony for life, which is modifiable at any time.

Ms. Evans: Right. I think, again, there wasn't anyone who really knew quite what the situation was in that Committee and so the result is something that really doesn't serve any purpose.

Senator Gordon: There used to be a provision where alimony, it was presumed that it would terminate after three years. That used to be the law and then we did away with that and just said that alimony is awarded, but there is no provision for review. My understanding was that the House's intent was to make it a provision for review, sort of like child support. At the end of every three years, you have automatic review to make sure it is still fair. I think we discussed that issue here on another bill. But this doesn't seem to do that.

Ms. Evans: Right. That is another reason why I think it is unnecessary. Also, I don't know if the intent, if the intent wasn't communicated as that, at the hearing, in terms of just establishing some sort of review structure. The intent really seemed to be based simply on one person's experience. It was really unfortunate that it was in a Committee that didn't have experience with this kind of situation.

Senator Gordon: I guess the question I have is, would you have, and because this is a common concern with award value on alimony. But, at the time they are awarded, they are based on the respective incomes of the parties and incomes change over time, as we know. Would you have any objection if

there was a provision similar to child support where there was an opportunity for periodic review, a three-year review, to see whether or not it was still fair?

Ms. Evans: No, I wouldn't have any problem with that. I don't know if this would be the vehicle that would be appropriate for that, but I know that there is a lot of activity going on looking at the situation of alimony in general, particularly because we see differences in the women's income changing, which is something that the courts have been very slow to recognize. So, I think there is room for that definitely, but I don't think this is doing that at all.

Senator Gordon: Any further questions? Is there anyone else who wishes to testify on HB 1109? Seeing no one, I will close the hearing on HB 1109.

Hearing concluded at 12:13 p.m.

Respectfully submitted,

Recorded by Laurel Hanlon
Transcribed by L. Gail Brown
8/6/02

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: **APRIL _____, 2000**

THE COMMITTEE ON **Judiciary**

to which was referred **House Bill 1109**

AN ACT *relative to the modification of spousal support orders.*

// file copy //

VOTE: **4 / 0**

Having considered the same, report the same with the following resolution:
Resolved, that it is: **INEXPEDIENT TO LEGISLATE.**

Senator Edward Gordon
For the Committee

|HB1109 Docket

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Bill Title: relative to the modification of spousal support orders.

Date	Body	Description
1/5/2000	**H**	Introduced and ref to Child & Fam Law; HJ5, p87
1/5/2000	**H**	Copy to Chairman on 12/22/1999 Due on
1/5/2000	**H**	Hearing Jan 11 1:45 RM206,LOB
1/12/2000	**H**	Subcom Work Session Jan 18 2:45 RM206,LOB
2/23/2000	**H**	Maj Report OTP/AM for Mar 9 (vote 12-0;CC)
2/23/2000	**H**	Prop Comm Am{3577}; HC20, p591
3/9/2000	**H**	Removed from Consent Cal, req Rep Dickinson; HJ22, p618
3/9/2000	**H**	Comm Am, AA VV; Passed with Am VV; HJ22, p652 + 659
3/16/2000	**S**	Introduced and Ref. to Judiciary; SJ 6, Pg.195
4/4/2000	**S**	Hearing April 12, Room 103, SH, 11:15 a.m.; SC21, Pg.12
4/19/2000	**S**	Committee Report Inexpedient to Legislate, 4/20/2000; SC24
4/20/2000	**S**	Inexpedient to legislate, MA, VV ==KILLED==; SJ 11, Pg.306

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Docket Abbreviations