

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action: Do Pass as Amended and Be Printed Engrossed

Vote: 4 - 0 - 1

Yeas: Beyer, Kruse, Prozanski, Burdick

Nays: 0

Exc.: Walker

Prepared By: Matt Kalmanson, Counsel

Meeting Dates: 1/24, 3/5, 3/14

WHAT THE MEASURE DOES: Allows a court to reinstate a terminated spousal support obligation if the reason for the termination no longer exists and reinstatement is “just and equitable” under the circumstances. Establishes factors for a court to consider in exercising its discretion. Clarifies that the term and amount of a reinstated obligation is the remaining term and amount of the obligation as if the obligation had continued uninterrupted. Requires that a motion for reinstatement must be brought within the duration of the original award or within 10 years after the judgment terminating the award. Allows either party to file a motion to modify spousal support in a proceeding to reinstate an obligation. Permits parties to waive their rights for reinstatement. Applies to awards that were terminated before or after the effective date of the bill.

ISSUES DISCUSSED:

- Work and membership of Oregon State Bar Spousal Support Task Force
- Effect of remarriage on spousal support obligations
- Confusion regarding standards to apply in reinstatement of spousal support awards
- Need to preserve judicial discretion, but define its scope
- Ability to modify spousal support awards in reinstatement hearings

EFFECT OF COMMITTEE AMENDMENT: Fixes statutory reference to proper section of Chapter 107.

BACKGROUND: SB 306 is the product of the Oregon State Bar Spousal Support Task Force, which was formed in 2005 to study issues relating to the reinstatement of terminated spousal support obligations, and identify possible amendments to ORS 107.136. The Task Force included a diverse group of interests from different parts of Oregon, including members of the Family Law Section of the Bar and members of the judicial department. The Task Force solicited input from the public, including the proponents of last session’s proposed amendments to ORS 107.136.

Currently, ORS 107.136 allows courts to reinstate terminated spousal support obligations, but it does not provide standards to guide a court’s discretion. SB 306 would amend the statute to provide some guidance. The bill requires a party seeking reinstatement to prove that the basis for the termination no longer exists and that reinstatement is just and equitable under the circumstances, and that a court must consider the: (a) basis for the original award, (b) basis for the termination, and (c) totality of the circumstances of each party since the termination of the obligation. The bill allows parties to waive any right to reinstatement, and clarifies that either party may seek to modify the original obligation in a proceeding to reinstate.