

OREGON STATE BAR
Legislative Proposal

SB 492 - SPOUSAL SUPPORT MODIFICATION

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1. PROBLEM PRESENTED:

ORS 107.135(3)(a) provides that in a proceeding to modify the spousal support provisions of a dissolution judgment, a party must demonstrate a “substantial change in economic circumstances” of either the payor or payee. An inherent problem with seeking a modification of the spousal support provisions – whether it is to increase, decrease or terminate the underlying support award – is that neither payors nor payees have a low-cost, non-adversarial mechanism to determine whether such a filing is appropriate. That dynamic results in wasted time and resources (both by the parties to the divorce and the courts) because it encourages one or both of the parties to file a modification action as nothing more than a fishing expedition to determine whether the ex-spouse’s income may have changed in such a manner that a modification might be appropriate.

The purpose of the proposed legislation is to allow divorced spouses to engage in mandated exchanges of financial documents without necessitating the need for a formal court proceeding. The only mechanism that currently exists to request financial documentation from the other party is to initiate a modification proceeding and subsequently serve a form request for the production of that party’s financial documents. If it turns out, through the course of the discovery exchange, that the other party’s financial situation has not substantially changed, it may be appropriate at that point to dismiss the proceeding in its entirety. The proposed legislation would make it possible for parties to make this initial determination without ever filing a motion to modify.

This particular piece of legislation represents a significant improvement to this area of the law in that it takes the mystery out of wondering when or if a modification action is appropriate. It will remove (to some extent) the need to engage lawyers in the process early on, and provides Oregonians with a common-sense and inexpensive self-help mechanism to determine whether the spousal support award is still appropriate, whether it should be terminated, whether it should be increased or decreased, etc. Both parties will have the opportunity to look at the basic financial picture and make educated decisions without having to file an expensive modification proceeding.

2. SOLUTION:

Create a new statute, ORS 107.134, that will allow divorced spouses who are subject to spousal support orders to engage in financial document exchanges without the necessity of filing a lawsuit.

