

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1694

By: Billy

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5
6 AS INTRODUCED

7 An Act relating to marriage and families; amending 43
8 O.S. 2001, Section 134, as amended by Section 11,
9 Chapter 407, O.S.L. 2008 (43 O.S. Supp. 2008, Section
10 134), which relates to alimony payments; providing
11 for the modification of certain decrees; and
12 providing an effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 43 O.S. 2001, Section 134, as
15 amended by Section 11, Chapter 407, O.S.L. 2008 (43 O.S. Supp. 2008,
16 Section 134), is amended to read as follows:

17 Section 134. A. In any divorce decree which provides for
18 periodic alimony payments, the court shall plainly state, at the
19 time of entering the original decree, the dollar amount of all or a
20 portion of each payment which is designated as support and the
21 dollar amount of all or a portion of the payment which is a payment
22 pertaining to a division of property. The court shall specify in
23 the decree that the payments pertaining to a division of property
24 shall continue until completed. Payments pertaining to a division
of property are irrevocable and not subject to subsequent

1 modification by the court making the award. An order for the
2 payment of money pursuant to a divorce decree, whether designated as
3 support or designated as pertaining to a division of property shall
4 not be a lien against the real property of the person ordered to
5 make such payments unless the court order specifically provides for
6 a lien on real property. An arrearage in payments of support
7 reduced to a judgment may be a lien against the real property of the
8 person ordered to make such payments.

9 B. The court shall also provide in the divorce decree that upon
10 the death or remarriage of the recipient, the payments for support,
11 if not already accrued, shall terminate. The court shall order the
12 judgment for the payment of support to be terminated, and the lien
13 released upon the presentation of proper proof of death of the
14 recipient unless a proper claim is made for any amount of past-due
15 support payments by an executor, administrator, or heir within
16 ninety (90) days from the date of death of the recipient. Upon
17 proper application the court shall order payment of support
18 terminated and the lien discharged after remarriage of the
19 recipient, unless the recipient can make a proper showing that some
20 amount of support is still needed and that circumstances have not
21 rendered payment of the same inequitable, provided the recipient
22 commences an action for such determination, within ninety (90) days
23 of the date of such remarriage.

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1 C. The voluntary cohabitation of a former spouse with a member
2 of the opposite sex shall be a ground to modify provisions of a
3 final judgment or order for alimony as support. If voluntary
4 cohabitation is alleged in a motion to modify the payment of
5 support, the court shall have jurisdiction to reduce or terminate
6 future support payments upon proof of substantial change of
7 circumstances of either party to the divorce relating to need for
8 support or ability to support. As used in this subsection, the term
9 cohabitation means the dwelling together continuously and habitually
10 of a man and a woman who are in a private conjugal relationship not
11 solemnized as a marriage according to law, or not necessarily
12 meeting all the standards of a common-law marriage. The petitioner
13 shall make application for modification and shall follow
14 notification procedures used in other divorce decree modification
15 actions. The court that entered the divorce decree shall have
16 jurisdiction over the modification application.

17 D. Except as otherwise provided in subsection C of this
18 section, the provisions of any divorce decree including, but not
19 limited to, consent decrees pertaining to the payment of alimony as
20 support may be modified upon proof of changed circumstances relating
21 to the need for support or ability to support which are substantial
22 and continuing so as to make the terms of the decree unreasonable to
23 either party. Modification by the court of any divorce decree
24 pertaining to the payment of alimony as support, pursuant to the

1 provisions of this subsection, may extend to the terms of the
2 payments and to the total amount awarded; provided however, such
3 modification shall only have prospective application.

4 E. Pursuant to the federal Uniformed Services Former Spouses'
5 Protection Act, 10 U.S.C., Section 1408, a court may treat
6 disposable retired or retainer pay payable to a military member
7 either as property solely of the member or as property of the member
8 and the spouse of the member. If a state court determines that the
9 disposable retired or retainer pay of a military member is marital
10 property, the court shall award an amount consistent with the rank,
11 pay grade, and time of service of the member at the time of
12 separation.

13 F. The provisions of subsection D of this section shall have
14 retrospective and prospective application with regards to
15 modifications for the purpose of obtaining support or payments
16 pertaining to a division of property on divorce decrees which become
17 final after June 26, 1981. There shall be a two-year statute of
18 limitations, beginning on the date of the final divorce decree, for
19 a party to apply for division of disposable retired or retainer pay.

20 G. The provisions of subsections C and D of this section shall
21 have retrospective and prospective application with regards to
22 modifications of the provisions of a final judgment or order for
23 alimony as support, or of a divorce decree pertaining to the payment
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1 of alimony as support, regardless of the date that the order,
2 judgment, or decree was entered.

3 SECTION 2. This act shall become effective November 1, 2009.

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