

*A Less Unfair Approach to Divorce
For Consideration of the Tennessee Legislature*

Whereas the Tennessee Legislature acknowledges the present system known as alimony is contrary to the State Constitution which states:

§ 3. Slavery: That slavery and involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, are forever prohibited in this State.

§ 18. Imprisonment for debt: The Legislature shall pass no law authorizing imprisonment for debt in civil cases.

And the Tennessee Legislature further recognizes the system known as alimony is contrary to the Federal law which states:

Thirteenth Amendment to the Constitution of the United States: "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

18 U.S.C. § 1581 : (a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

Therefore the Tennessee Legislature declares it illegal for any court to institute proceedings which establish or enforce the peculiar institution of alimony within the State of Tennessee.

The Legislature recognizes there may be circumstances in which the dissolution of marriage may leave one of the parties at a financial disadvantage to the other party. This inequity may be resolved only by the following method:

The value of the marital estate at the time of the filing a petition of divorce shall be arrived at by averaging the estimation of that value by two certified accountants, one chosen by each of the parties. All property and assets acquired during the marriage except inheritances shall be calculated as part of the marital estate. Assets brought into the marriage prior to marriage shall remain separate from the marital estate and be retained by the party which originally acquired that asset. All court fees, attorney fees, and accountant fees shall come out of the marital estate before the marital estate is divided among the divorcing parties.

The marital estate shall be divided on a 50-50 basis if there is no disadvantaged party; if it is proven that one party will be disadvantaged to the other party in respect to future income, compensation shall be made by giving a larger percentage of the marital estate to the disadvantaged party. In no case shall one party be given more than one hundred per cent of the marital estate.

If there are insufficient cash funds available to compensate the disadvantaged party then either:

- 1) the total marital estate may be placed in auction and the disadvantaged spouse shall receive the percentage of the net proceeds of the auction after all fees involved are paid out of the proceeds.
- 2) the parties shall agree at a period of monthly installments in which the insufficient cash funds shall be paid.
- 3) If the parties can not agree on a schedule of monthly payments then the estate will go to auction.

In the matter of past divorces and settlements:

Any and all alimony obligations ordered by any court of law or settlement shall cease at the time of either

- 1) the payor reaches 65 years of age.
- 2) the recipient has received 100% of the marital estate through a combination of pre-divorce ordered support, post divorce ordered alimony, and the value of the recipient's original share of the marital estate.
- 3) The payor has paid alimony for a longer period than one-half the duration of the marriage.

Those who question the fairness of this proposal can only complain that it is unfair that the financially disadvantaged party would not receive more than everything.