

# EDITORIAL & COMMENTARY



Elberon, Oct. 18

SCOTT LONGFIELD

IT'S YOUR TURN

## Commentary

### Developments in Family Law

By John P. Paone Jr., Esq., and Megan S. Murray, Esq.

For more than two years now, there has been much debate over how to amend New Jersey's alimony laws.

The culmination of this debate was the passage of a revised alimony statute, which was signed into law by Gov. Christie on Sept. 10. The most significant change is the elimination of permanent alimony.

Under prior law, the court had the discretion to award permanent alimony in any case. Permanent alimony would continue indefinitely, often times only ending upon the death of the payer or remarriage of the recipient.

Under the new law, permanent alimony has been eliminated. Now, parties who have been married for less than 20 years, cannot receive alimony for a period longer than the duration of the marriage. Indeed, the court must find there to be "exceptional circumstances" in order for alimony to exceed the length of the marriage, such as whether one spouse has a chronic illness or unusual health circumstance and whether one spouse has received a disproportionate share of the marital estate.

Parties in marriages of 20 years duration or more can qualify for what is now called "open durational alimony" which is alimony without a definitive end. However, considering that the average divorce involves marriages of much fewer than 20 years duration, the new law will result in a major reduction in the duration of alimony awards.

Many people have inquired how the new law regarding the duration of alimony affects prior divorce judgments or settlement agreements. The answer is, it does not. The new law is entirely prospective, meaning that, if your case was concluded prior to Sept. 10, it will not change the

duration of the alimony in your matter.

The revised alimony statute also addresses what happens upon the retirement of the payer spouse. It is now "a rebuttable presumption that alimony shall terminate upon the obligor spouse or partner attaining full retirement age...." The statute defines "full retirement age" as the age at which a person is eligible to receive full retirement benefits under the Social Security Act. For most people, this will mean an end to alimony at age 67.

However, the presumption that alimony shall terminate upon the obligor's obtaining full retirement age can be overcome upon consideration of a host of factors, including but not limited to the ages of the parties at the time of the application for retirement; the level of economic dependency of one spouse on the other; the health of the parties at the time of the application for retirement; the assets held by each party at the time of the application; and other factors as enumerated in the statute. The change in the law regarding retirement applies to all cases, including individuals who were divorced prior to Sept. 10.

The new statute also addresses what happens when an alimony obligor becomes unemployed. When an obligor is unemployed for at least 90 days, an application to reduce support shall be considered by the court. When such an application is filed, the court is then required to determine whether a modification in the amount of alimony is appropriate by looking at factors including the reason for the loss of employment; continued efforts to find substitute employment; and any severance compensation award in connection with the loss of employment.

This is a major departure from prior law, which viewed unemployment as only a temporary event, not worthy of modifying a party's obligation to pay alimony or child support.

Whereas the prior alimony statute did not address the controversial issue regarding the modification of alimony as the result of cohabitation (that is, a person receiving alimony living with another without the benefit of marriage), the

revised statute addresses this issue head on.

The new law provides that alimony may be suspended or terminated if a person receiving alimony cohabits with another person. The court is required to consider several factors in determining whether cohabitation exists, including but not limited to whether the parties are living together; have intertwined finances; share living expenses; recognition of the relationship in the couple's social circle; the frequency of contact; and the duration of the relationship.

The revised alimony statute unquestionably provides greater guidance to parties going through a divorce. Individuals contemplating or going through the divorce process should discuss with their attorneys the specific impact of the revised alimony statute on their case.

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### Far from Spooky, Bats are Beneficial

By Michele S. Byers

Bats have a reputation for being "spooky," which is why they're seen so often in Halloween costumes and decorations.

But these flying mammals, creatures of the night, are more misunderstood than mysterious. Other than vampire bats that lap up the blood of monkeys and livestock in the tropics, they don't want to suck your blood... but they'll voraciously gobble thousands of insects a night. A recent study found that bats may be worth as much as \$53 billion a year to the U.S. agriculture industry, saving crops from a multitude of insects and reducing the need for chemical pesticides.

Far scarier than having bats swooping and diving around your yard at night is the prospect of *not* having them around to provide free and natural pest control!

A fungal disease known as white-nose syndrome has swept through bat populations in the United States and Canada during the past six years, devastating many species. New Jersey is home to nine bat species – six residents and three migrants – and hardest hit have been little brown bats, once the state's most abundant species.

According to the state's Endangered and Nongame Species Program, more than 95 percent of the state's little brown bats have perished from white-nose.

The state's biggest bat cave, also known as a hibernaculum, is the abandoned Hibernia Mine in Morris County. In 2009, the first year white-nose syndrome hit, experts counted more than 26,400 little brown bats at Hibernia. By this year, the number was down to 471 – a greater than 98 percent drop.

White-nose Syndrome is named for the fuzzy white fungus that appears on the muzzles, ears and wing membranes of affected bats.

When bats hibernate, their body temperatures drop and heartbeats slow to conserve energy. White-nose disrupts hibernation, causing them to fly outside, burning precious fat reserves. Without enough energy to carry them through

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the winter, the bats die of starvation and dehydration. The fungus also tatters their delicate wing membranes, so infected bats that survive hibernation may be unable to fly and hunt for food in the spring.

Migratory bats haven't been seriously affected by white-nose, because they don't winter in cold northern places where the fungus is found. Of New Jersey's resident bats, only the big brown bats seem to be unaffected by white-nose. In fact, state bat surveys show the population of big brown bats has increased by 50 percent in the last few years.

"This is what's known as ecological release from competition," said Dr. Emile DeVito, New Jersey Conservation Foundation's staff biologist.

Without competition for food and territory, he explained, the big brown bat populations expand and fill the void. This is a trick, not a treat, should little brown bat or the federally endangered Indiana bat populations begin to recover. If the bat habitat niche becomes dominated by one species, that could hinder recovery of tiny populations of rare species.

The state is trying to figure out ways to help bats, especially little browns, survive white-nose syndrome.

They're using volunteers to count bats at summer maternity colonies, identifying bat survival trends through acoustic surveys, nursing infected bats back to health and even trying to assist with breeding. Initial research shows that survival rates in remnant little brown bat populations may be improving.

Perhaps researchers can find ways to help restore their populations, but it won't be easy. Bats are among the slowest reproducing animals on the planet, with most species giving birth to only one "pup" per year.

You can help by being aware of bats that may be living on your property and protecting these beneficial creatures.

If you discover bats in your attic or barn, don't harm them or seal off openings. Consult a wildlife professional, and consider putting up a bat house to provide them an alternative place to roost during the summer. The Conserve Wildlife Foundation of New Jersey provides free bat houses to homeowners.

Another way to help is by voting "yes" on Ballot Question 2 on Nov. 4. Passage of the ballot question will provide a dedicated source of funding for land preservation and stewardship – including endangered species projects.

For more information about bats and white-nose syndrome research, visit the Conserve Wildlife Foundation website at [www.conservewildlife.org/protecting/projects/bat/white-nose](http://www.conservewildlife.org/protecting/projects/bat/white-nose).

October is "Bat Month" at the Conserve Wildlife Foundation, so there are also blog posts, fun facts and information on how to get bat houses.

And to learn more about preserving land and natural resource, visit the New Jersey Conservation Foundation website at [www.njconservation.org](http://www.njconservation.org) or contact me at [info@njconservation.org](mailto:info@njconservation.org).

Michele S. Byers is the executive director of the new Jersey Conservations Foundation.



COURTESY DORN'S CLASSIC IMAGES

### Two River Moment

The Highlands post office was among the shops located on Bay Avenue, Highlands, in this photo taken during the 1950s or early 1960s.