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May 2012 Newsletter from Pusateri & Pusateri, P.C.



Bulger Victim's Appeal Rejected

It's the end of the legal road for the estate of an alleged victim of reputed mob boss James "Whitney" Bulger. The U.S. Supreme Court rejected an application for further appellate review brought by the estate of Brian Halloran.

Brian Halloran was killed on Bulger's alleged orders. Halloran's estate accused the FBI of leaking confidential information to Bulger. The estate won a multi-million dollar judgment in 2009. However, the government appealed on the ground that the lawsuit was not filed within the two-year statute of limitations.

The First Circuit U.S. Court of Appeals Chief Judge Sandra Lynch concluded last fall that Halloran's estate had ample notice of their claims to file suit earlier, but failed to do so. Therefore, Halloran's estate could not recover the multi-million dollar judgment.

With the U.S. Supreme Court rejecting the appeal,

Cohabitation Under the New Alimony Reform Act

Under the new Alimony Reform Act ("the Act") which went into effect on March 1 this year, an alimony recipient's cohabitation with another person constitutes grounds for a termination, suspension or reduction in the payor's alimony obligation.

Under the prior law, an alimony order was entered and would continue indefinitely until the death of either party, remarriage of the recipient, or court order following the filing of a complaint for modification alleging a material change in circumstances since the prior order issued.

So what is cohabitation under the Act?

- The payor must show that the recipient has maintained a common household with another person for a continuous period of at least three months.
- There are several factors to determine whether the recipient maintains a common household with another person. The factors seem reflective of a romantic relationship, as opposed to sharing a residence with a family member or roommate.

Finances of the Cohabiting Partner

Once it is determined that the alimony recipient qualifies as a person cohabitating under the Act, the inquiry then becomes whether this entitles the payor to a suspension, reduction or termination of alimony. Finances come into consideration, and if the cohabitating partner is contributing financially, a termination of alimony will likely be warranted. However, if the cohabitating partner is unemployed or not contributing financially, then the payor may only be entitled to a reduction.

When is a modification warranted on cohabitation grounds?

While the Act is new so it is unclear as to how Courts will apply it, the cohabitation provision suggests that it is only concerned with future cohabitation and does not apply to alimony recipients who were already cohabitating prior to the passage of the Act.

- In instances where an alimony recipient was already

the only option Halloran's estate has to collect the money is to appeal to Congress to pass a bill that may lead to some form of compensation.

Bulger's criminal trial is scheduled for November.

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cohabitating as of March 1 when the Act went into effect, there is no change in circumstances for the alimony payor upon which to obtain relief. The payor would need other reasons to warrant modification, such as a reduction in income.

- Thus, the cohabitation inquiry for payors regarding the recipient began on March 1, 2012 when the Act went into effect and can only be satisfied if the cohabitation relationship exists upon the expiration of 90 days, or by the end of May. In other words, the payor needs to show that the alimony recipient began to cohabit with someone after March 1, 2012.

If you have any questions about the new Alimony Reform Act, please contact our office.

Final Provision of CORI Reform Goes Into Effect

What is a CORI?

A CORI (Criminal Offender Record Information) is a person's criminal history. A CORI is a record of all criminal cases where a person appeared before a judge in a court in Massachusetts. The CORI includes pending charges, prior convictions, and cases that ended without a conviction (for example, a finding of not guilty, or cases that were dismissed).

Who has access to your CORI?

Not everyone has access to all of the CORI records. On August 6, 2010, Governor Patrick signed into law CORI Reform, making significant changes to the CORI law. Among other things, the law changes who will have authorized access to CORI and how CORI will be accessed. Most of the new provisions went into effect on May 4, 2012.

What is the "ban-the-box" provision under CORI Reform?

Under CORI Reform, there is a "ban-the-box" provision that, with a few exceptions, bars state employers from asking on an initial written employment application whether the applicant has been convicted of a criminal offense.

Who can request my CORI under CORI Reform?

Employers, volunteer organizations, landlords, and individuals may request, pay for, and receive a CORI online through iCORI.

- Employers will have "standard access" and be able to check for murder, manslaughter and sex offense convictions, felony convictions that occurred within the last decade and misdemeanor convictions in the last five years. Employers that access criminal records through the system must obtain acknowledgment forms from applicants prior to viewing their criminal history.
- Landlords will have the same access as employers but the

access will include only adult leaseholders, and not other members of the household.

- The public will have limited access through "open CORI"

What are the new requirements for employers under CORI Reform?

If an employer has obtained criminal history information about an applicant, regardless of the source, he or she must provide the criminal history to the applicant prior to asking him or her about it.

Further, if an employer chooses not to hire an applicant because of his criminal history, that employer must now provide the applicant with the criminal history record, whereas before it only had to give the applicant contact information for a background check company.

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