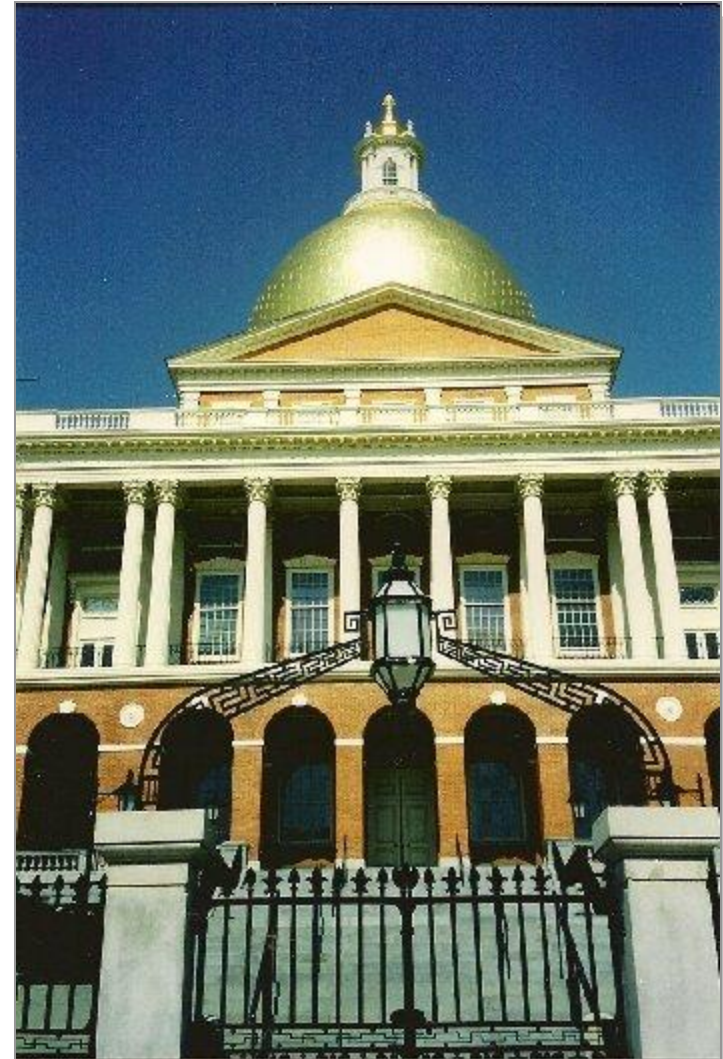

CERVIZZI & ASSOCIATES

The background of the slide features a scenic view of a city skyline across a body of water. In the foreground, a large, multi-arched stone bridge spans the water. The skyline includes several prominent skyscrapers, with the tallest one being a green glass tower. The sky is a mix of blue and orange, suggesting a sunset or sunrise. The water is calm, reflecting the lights from the buildings and the bridge.

2011 Alimony Reform

- Alimony determination based on need and ability to pay
- Court considers factors set forth in M.G.L. c. 208 § 34. Factors include:
 - Length of marriage.
 - Ages and health of the respective parties.
 - Station and lifestyle of the respective parties.
 - Amount and sources of income of the respective parties.
 - Employability of the respective parties.
- Court cannot order term alimony
 - Parties can agree to short term.
 - Court can only order lifetime alimony.

- **Court is able to limit term of alimony based on the length of the marriage**
- **Alimony ends at cohabitation of recipient spouse**
- **Limit on amount of alimony**
 - Should not exceed 30-35% of the difference between the parties' gross income
- **Establishes four distinct types of alimony**



- Length of Marriage determines length of alimony

0-5 Years	50% of number of months of marriage
6-10 Years	60% of number of months of marriage
11-15 Years	70% of number of months of marriage
16-20 Years	80% of number of months of marriage
20+ Years	Court may order indefinite alimony

- Terminates at death of either party, remarriage of payee, or reaching the full retirement age
 - Court may elect to continue if payee can show continuing need

Rehabilitative

- Helps a recipient spouse who is expected to become self-supporting in a specific time
- Should not last more than five years

Reimbursement

- Compensates a recipient spouse for economic or noneconomic contributions to the financial resources of the payor spouse, e.g. education costs
- Only available if marriage lasted less than five years

Transitional

- Helps recipient adjust to a change in lifestyle or location after the divorce
- Only available if marriage lasted less than five years

- The existence of the new law is a material and substantial change in circumstances for existing judgments that exceed new durational limits
 - Statute provides timeline for filing Complaint
- Parties must show a material change in circumstance to modify the amount of the award
- Cannot change an existing award if alimony provision survived the divorce as an independent contract

- Only General Term Alimony and Rehabilitative Alimony are Modifiable
- To Modify General Term Alimony:
 - Either party must show a substantial and material change in circumstances
 - If alimony was suspended because of cohabitation of recipient that has terminated, recipient can move to reinstate alimony, though it will not continue beyond original termination date
- Modification of Rehabilitative Alimony Award
 - Recipient may seek to extend term limit on a showing that unforeseen events prevented the recipient from being self-supporting despite good faith efforts

- To prevent double dipping, gross income that is included in setting a child support order is excluded from an income calculation in determining child support
- Child support guidelines only apply to the first \$250,000 of income, so any income over that threshold is subject to alimony
- Parties should prepare a tax analysis considering net gain to the parties
- Termination of alimony cannot be based on a child contingency. If it is, it will be treated as child support and subject to tax consequences by the IRS, including recapture of monies incorrectly termed as alimony
- Parties can also negotiate that rehabilitative alimony will begin at the emancipation of the youngest child

- **Will there be an increase in alimony length if the divorce is not timely filed?**
- **When should a client draft a pre-nuptial agreement or post-nuptial agreement?**
- **Would modification be beneficial? What are potential risks for modification?**
- **When is a client eligible for modification?**

Thank You



Thank you
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