



Senate

File No. 758

General Assembly

January Session, 2003

(Reprint of File No. 590)

Senate Bill No. 859
As Amended by House
Amendment Schedules
"A" and "C"

Approved by the Legislative Commissioner
May 22, 2003

**AN ACT CONCERNING DISABILITY DETERMINATIONS FOR
PURPOSES OF CHILD SUPPORT, PREJUDGMENT AND
POSTJUDGMENT REMEDIES FOR ALIMONY AND SUPPORT
PAYMENTS, AND RESTORATION OF THE BIRTH NAME OR FORMER
NAME OF A SPOUSE.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 46b-215b of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) The child support and arrearage guidelines promulgated
4 pursuant to section 8 of public act 85-548* and any updated guidelines
5 issued pursuant to section 46b-215a shall be considered in all
6 determinations of child support amounts and payment on arrearages
7 and past due support within the state. In all such determinations, there
8 shall be a rebuttable presumption that the amount of such awards
9 which resulted from the application of such guidelines is the amount
10 of support or payment on any arrearage or past due support to be
11 ordered. A specific finding on the record that the application of the
12 guidelines would be inequitable or inappropriate in a particular case,

13 as determined under criteria established by the [commission]
14 Commission for Child Support Guidelines under section 46b-215a,
15 shall be [sufficient] required in order to rebut the presumption in such
16 case.

17 (b) In any determination pursuant to subsection (a) of this section,
18 when a party has been determined by the Social Security
19 Administration, or a state agency authorized to award disability
20 benefits, to qualify for disability benefits under the federal
21 Supplemental Security Income Program, the Social Security disability
22 program, the state supplement to the federal Supplemental Security
23 Income Program, the state-administered general assistance program or
24 the general assistance program, parental earning capacity shall not be a
25 basis for deviating from the presumptive support amount that results
26 from the application of the child support guidelines to such party's
27 income.

28 [(b)] (c) In any proceeding for the establishment or modification of a
29 child support award, the child support guidelines shall be considered
30 in addition to and not in lieu of the criteria for such awards established
31 in sections 46b-84, 46b-86, 46b-130, 46b-171, 46b-172, 46b-215, 17b-179
32 and 17b-745.

33 Sec. 2. Section 46b-80 of the general statutes is repealed and the
34 following is substituted in lieu thereof (*Effective October 1, 2003*):

35 (a) The following procedures shall be available to secure the
36 financial interests of either spouse in connection with any complaint
37 under section 46b-45 or 46b-56 or any application under section 46b-61,
38 including, but not limited to, present and future financial interests in
39 connection with an order for alimony or support pendente lite or other
40 order for periodic payments: (1) Any remedy afforded by chapter 903a
41 concerning prejudgment remedies, whether or not a money demand is
42 made in such complaint or application; and (2) at any time after the
43 service of such a complaint or application, if either party claims an
44 interest in real property in which the other party has an interest, either

45 spouse may cause a notice of lis pendens to be recorded in the office of
46 the town clerk of each town in which is located real property in which
47 the other spouse has an interest. The notice shall contain the names of
48 the spouses, the nature of the complaint or application, the court
49 having jurisdiction, the date of the complaint or application and a
50 description of the real property. Such notice shall, from the time of the
51 recording only, be notice to any person thereafter acquiring any
52 interest in such property of the pendency of the complaint or
53 application. Each person whose conveyance or encumbrance is
54 subsequently executed or subsequently recorded or whose interest is
55 thereafter obtained by descent, or otherwise, shall be deemed to be a
56 subsequent purchaser or encumbrancer, and shall be bound by all
57 proceedings taken after the recording of such notice, to the same extent
58 as if he were made a party to the complaint or application. A notice of
59 lis pendens recorded in accordance with this section may be
60 discharged by the court upon substitution of a bond with surety in an
61 amount established by the court if the court finds that the claim of the
62 spouse against property subject to the notice of lis pendens can be
63 satisfied by money damages.

64 (b) All notices of lis pendens recorded pursuant to the provisions of
65 subsection (a) of this section shall be subject to the provisions of
66 subsection (c) of section 52-325 and sections 52-325a to 52-325c,
67 inclusive.

68 Sec. 3. Section 46b-82 of the general statutes is repealed and the
69 following is substituted in lieu thereof (*Effective October 1, 2003*):

70 (a) At the time of entering the decree, the Superior Court may order
71 either of the parties to pay alimony to the other, in addition to or in
72 lieu of an award pursuant to section 46b-81. The order may direct that
73 security be given therefor on such terms as the court may deem
74 desirable, including an order pursuant to subsection (b) of this section
75 or an order to either party to contract with a third party for periodic
76 payments or payments contingent on a life to the other party. In
77 determining whether alimony shall be awarded, and the duration and

78 amount of the award, the court shall hear the witnesses, if any, of each
79 party, except as provided in subsection (a) of section 46b-51, shall
80 consider the length of the marriage, the causes for the annulment,
81 dissolution of the marriage or legal separation, the age, health, station,
82 occupation, amount and sources of income, vocational skills,
83 employability, estate and needs of each of the parties and the award, if
84 any, which the court may make pursuant to section 46b-81, and, in the
85 case of a parent to whom the custody of minor children has been
86 awarded, the desirability of such parent's securing employment.

87 (b) Any postjudgment procedure afforded by chapter 906 shall be
88 available to secure the present and future financial interests of a party
89 in connection with a final order for the periodic payment of alimony.

90 Sec. 4. Subsection (a) of section 46b-84 of the general statutes is
91 repealed and the following is substituted in lieu thereof (*Effective*
92 *October 1, 2003*):

93 (a) Upon or subsequent to the annulment or dissolution of any
94 marriage or the entry of a decree of legal separation or divorce, the
95 parents of a minor child of the marriage, shall maintain the child
96 according to their respective abilities, if the child is in need of
97 maintenance. Any postjudgment procedure afforded by chapter 906
98 shall be available to secure the present and future financial interests of
99 a party in connection with a final order for the periodic payment of
100 child support.

101 Sec. 5. Section 52-259c of the general statutes is repealed and the
102 following is substituted in lieu thereof (*Effective October 1, 2003*):

103 (a) There shall be paid to the clerk of the Superior Court upon the
104 filing of any motion to open, set aside, modify or extend any civil
105 judgment rendered in Superior Court a fee of thirty-five dollars for any
106 housing matter and a fee of seventy dollars for any other matter,
107 except no fee shall be paid upon the filing of any motion to open, set
108 aside, modify or extend judgments in small claims and juvenile
109 matters or orders issued pursuant to section 46b-15 or upon the filing

110 of any motion pursuant to subsection (b) of section 46b-63. Such fee
111 may be waived by the court.

112 (b) Upon the filing of a motion to open or reargue a judgment in any
113 civil appeal rendered by the Supreme Court or Appellate Court or to
114 reconsider any other civil matter decided in either court, the party
115 filing the motion shall pay a fee of seventy dollars.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Judicial Dept.	GF - Revenue Loss	Less than \$50,000	Less than \$50,000

Note: GF=General Fund

Municipal Impact: None

Explanation

In accordance with existing Child Support and Arrearage Guidelines and the Connecticut Supreme Court, the bill specifies that family courts cannot deviate from the amount of child support prescribed by the Guidelines if someone is disabled. No fiscal impact to the Judicial Department or the Department of Social Services is associated with this change. The bill also exempts individuals from the filing fee to reopen a decree dissolving a marriage in order to restore the birth name or former name of a spouse, which results in a minimal revenue loss.

House "A" specified the procedures available to secure present and future financial interests in connection with an order for alimony or support made during litigation. This change would not substantially alter the caseload of the Judicial Department or result in a fiscal impact.

House "C" resulted in the minimal revenue loss from court fees by exempting individuals from the filing fee.

OLR Amended Bill Analysis

SB 859 (as amended by House "A" and "C")*

AN ACT CONCERNING DISABILITY DETERMINATIONS FOR PURPOSES OF CHILD SUPPORT**SUMMARY:**

This bill authorizes the use of pre- and post-judgment remedies, such as liens and attachments, to secure present and future financial interests in child and spousal support. It also specifies that family courts cannot deviate from the Child Support Guidelines (i.e., order a parent to pay more or less than the guidelines indicate) based on the earning capacity of a person who has been found qualified for disability benefits under federal or state disability cash assistance programs. All of these programs require applicants and recipients to show that they have a limited, if any, ability to work in order to qualify for benefits.

The bill also eliminates the \$70 filing fee for motions to restore an ex-spouse's birth or former name.

*House Amendment "A" adds the pre- and post-judgment remedy provisions.

*House Amendment "C" waives the court filing fees.

EFFECTIVE DATE: October 1, 2003

BACKGROUND***Child Support Guidelines and Deviations***

Family courts use the child support guidelines to establish presumptive child support obligations in families with weekly incomes of less than \$2,500. The presumption can be overcome by a specific finding on the record that the amount would be inappropriate in a particular case.

The law and support guidelines specify deviation criteria. One of these is "other financial resources available to a parent," which includes his earning capacity.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report

Yea 39 Nay 1