



# House of Representatives

General Assembly

**File No. 675**

January Session, 2013

Substitute House Bill No. 6688

*House of Representatives, May 1, 2013*

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING REVISIONS TO STATUTES RELATING TO THE AWARD OF ALIMONY AND THE DISPOSITION OF PROPERTY.***

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

1 Section 1. Section 46b-36 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 [Neither husband nor wife] A spouse shall not acquire by [the]  
4 marriage any right to or interest in any property held by the other  
5 spouse before or acquired after such marriage, except as to the share of  
6 the survivor in the property as provided by sections 45a-436 and 45a-  
7 437. [The separate earnings of the wife shall be her sole property. She]  
8 Each spouse shall have power to make contracts with [her husband]  
9 the other spouse or with third persons, to convey to [her husband] the  
10 other spouse or to third persons his or her real and personal estate and  
11 to receive conveyances of real and personal estate from [her husband]  
12 the other spouse or from third persons as if unmarried. [She] Each  
13 spouse may bring suit in his or her own name upon contracts or for  
14 torts and he or she may be sued for a breach of contract or for a tort;

15 and his or her property, except such property as is exempt by law, may  
16 be taken on attachment and execution, but shall not be taken for the  
17 debts of [her husband] the other spouse, except as provided in section  
18 46b-37. [The husband] Neither spouse shall [not] be liable for [her] the  
19 debts of the other spouse contracted before marriage, nor upon [her]  
20 the other spouse's contracts made after marriage, except as provided in  
21 said section.

22 Sec. 2. Section 46b-81 of the general statutes is repealed and the  
23 following is substituted in lieu thereof (*Effective October 1, 2013*):

24 (a) At the time of entering a decree annulling or dissolving a  
25 marriage or for legal separation pursuant to a complaint under section  
26 46b-45, the Superior Court may assign to either [the husband or wife]  
27 spouse all or any part of the estate of the other spouse. The court may  
28 pass title to real property to either party or to a third person or may  
29 order the sale of such real property, without any act by either [the  
30 husband or the wife] spouse, when in the judgment of the court it is  
31 the proper mode to carry the decree into effect.

32 (b) A conveyance made pursuant to the decree shall vest title in the  
33 purchaser, and shall bind all persons entitled to life estates and  
34 remainder interests in the same manner as a sale ordered by the court  
35 pursuant to the provisions of section 52-500. When the decree is  
36 recorded on the land records in the town where the real property is  
37 situated, it shall effect the transfer of the title of such real property as if  
38 it were a deed of the party or parties.

39 (c) In fixing the nature and value of the property, if any, to be  
40 assigned, the court, after [hearing the witnesses, if any, of each party,  
41 except as provided in subsection (a) of section 46b-51] considering all  
42 the evidence presented by each party, shall consider the length of the  
43 marriage, the causes for the annulment, dissolution of the marriage or  
44 legal separation, the age, health, station, occupation, amount and  
45 sources of income, earning capacity, vocational skills, education,  
46 employability, estate, liabilities and needs of each of the parties and the  
47 opportunity of each for future acquisition of capital assets and income.

48 The court shall also consider the contribution of each of the parties in  
49 the acquisition, preservation or appreciation in value of their  
50 respective estates.

51 Sec. 3. Section 46b-82 of the general statutes is repealed and the  
52 following is substituted in lieu thereof (*Effective October 1, 2013*):

53 (a) At the time of entering the decree, the Superior Court may order  
54 either of the parties to pay alimony to the other, in addition to or in  
55 lieu of an award pursuant to section 46b-81, as amended by this act.  
56 The order may direct that security be given therefor on such terms as  
57 the court may deem desirable, including an order pursuant to  
58 subsection (b) of this section or an order to either party to contract with  
59 a third party for periodic payments or payments contingent on a life to  
60 the other party. The court may order that a party obtain life insurance  
61 as such security unless such party proves, by a preponderance of the  
62 evidence, that such insurance is not available to such party, such party  
63 is unable to pay the cost of such insurance or such party is  
64 uninsurable. In determining whether alimony shall be awarded, and  
65 the duration and amount of the award, the court shall [hear the  
66 witnesses, if any, of each party, except as provided in subsection (a) of  
67 section 46b-51,] consider the evidence presented by each party and  
68 shall consider the length of the marriage, the causes for the annulment,  
69 dissolution of the marriage or legal separation, the age, health, station,  
70 occupation, amount and sources of income, earning capacity,  
71 vocational skills, education, employability, estate and needs of each of  
72 the parties and the award, if any, which the court may make pursuant  
73 to section 46b-81, as amended by this act, and, in the case of a parent to  
74 whom the custody of minor children has been awarded, the  
75 desirability and feasibility of such parent's securing employment.

76 (b) If the court, following a trial or hearing on the merits, enters an  
77 order pursuant to subsection (a) of this section, or section 46b-86, as  
78 amended by this act, and such order by its terms will terminate only  
79 upon the death of either party or the remarriage of the alimony  
80 recipient, the court shall articulate with specificity the basis for such

81 order.

82 [(b)] (c) Any postjudgment procedure afforded by chapter 906 shall  
83 be available to secure the present and future financial interests of a  
84 party in connection with a final order for the periodic payment of  
85 alimony.

86 Sec. 4. Section 46b-86 of the general statutes is repealed and the  
87 following is substituted in lieu thereof (*Effective October 1, 2013*):

88 (a) Unless and to the extent that the decree precludes modification,  
89 any final order for the periodic payment of permanent alimony or  
90 support, an order for alimony or support pendente lite or an order  
91 requiring either party to maintain life insurance for the other party or a  
92 minor child of the parties may, at any time thereafter, be continued, set  
93 aside, altered or modified by the court upon a showing of a substantial  
94 change in the circumstances of either party or upon a showing that the  
95 final order for child support substantially deviates from the child  
96 support guidelines established pursuant to section 46b-215a, unless  
97 there was a specific finding on the record that the application of the  
98 guidelines would be inequitable or inappropriate. There shall be a  
99 rebuttable presumption that any deviation of less than fifteen per cent  
100 from the child support guidelines is not substantial and any deviation  
101 of fifteen per cent or more from the guidelines is substantial.  
102 Modification may be made of such support order without regard to  
103 whether the order was issued before, on or after May 9, 1991. In  
104 determining whether to modify a child support order based on a  
105 substantial deviation from such child support guidelines the court  
106 shall consider the division of real and personal property between the  
107 parties set forth in the final decree and the benefits accruing to the  
108 child as the result of such division. After the date of judgment,  
109 modification of any child support order issued before, on or after July  
110 1, 1990, may be made upon a showing of such substantial change of  
111 circumstances, whether or not such change of circumstances was  
112 contemplated at the time of dissolution. By written agreement,  
113 stipulation or decision of the court, those items or circumstances that

114 were contemplated and are not to be changed may be specified in the  
115 written agreement, stipulation or decision of the court. This section  
116 shall not apply to assignments under section 46b-81, as amended by  
117 this act, or to any assignment of the estate or a portion thereof of one  
118 party to the other party under prior law. No order for periodic  
119 payment of permanent alimony or support may be subject to  
120 retroactive modification, except that the court may order modification  
121 with respect to any period during which there is a pending motion for  
122 modification of an alimony or support order from the date of service of  
123 notice of such pending motion upon the opposing party pursuant to  
124 section 52-50. If a court, after hearing, finds that a substantial change in  
125 circumstances of either party has occurred, the court shall determine  
126 what modification of alimony, if any, is appropriate, considering the  
127 criteria set forth in section 46b-82, as amended by this act.

128 (b) In an action for divorce, dissolution of marriage, legal separation  
129 or annulment brought by a [husband or wife] spouse, in which a final  
130 judgment has been entered providing for the payment of periodic  
131 alimony by one party to the other spouse, the Superior Court may, in  
132 its discretion and upon notice and hearing, modify such judgment and  
133 suspend, reduce or terminate the payment of periodic alimony upon a  
134 showing that the party receiving the periodic alimony is living with  
135 another person under circumstances which the court finds should  
136 result in the modification, suspension, reduction or termination of  
137 alimony because the living arrangements cause such a change of  
138 circumstances as to alter the financial needs of that party. In the event  
139 that a final judgment incorporates a provision of an agreement in  
140 which the parties agree to circumstances, other than as provided in this  
141 subsection, under which alimony will be modified, including  
142 suspension, reduction, or termination of alimony, the court shall  
143 enforce the provision of such agreement and enter orders in  
144 accordance therewith.

145 (c) When one of the parties, or a child of the parties, is receiving or  
146 has received aid or care from the state under its aid to families with  
147 dependent children or temporary family assistance program, HUSKY

148 Plan, Part A, or foster care program as provided in Title IV-E of the  
 149 Social Security Act, or when one of the parties has applied for child  
 150 support enforcement services under Title IV-D of the Social Security  
 151 Act as provided in section 17b-179, such motion to modify shall be  
 152 filed with the Family Support Magistrate Division for determination in  
 153 accordance with subsection (m) of section 46b-231.

154 Sec. 5. (*Effective from passage*) The Connecticut Law Revision  
 155 Commission shall conduct a study into the fairness and adequacy of  
 156 state statutes relating to the award of alimony in actions for dissolution  
 157 of marriage, legal separation or annulment. The commission shall  
 158 collect empirical data relating to the award of alimony by courts in the  
 159 state and make recommendations for revisions to state statutes as the  
 160 commission deems just and equitable. The commission, in developing  
 161 its recommendations, shall consider, without limitation, the following:  
 162 The nature of the proceedings in such actions, the comprehensiveness  
 163 of the existing statutory criteria utilized to determine awards of  
 164 alimony, statistical data reflecting the comparative financial  
 165 circumstances of parties to such actions at defined intervals of time  
 166 subsequent to the entry of judgment, the statutory criteria utilized in  
 167 other states to make such determinations, and such other  
 168 considerations as it deems appropriate. On or before February 1, 2014,  
 169 the commission shall present its recommendations for proposed  
 170 statutory revisions to the joint standing committee of the General  
 171 Assembly having cognizance of matters relating to the judiciary and to  
 172 the Chief Court Administrator.

173 Sec. 6. Section 46b-8 of the general statutes is repealed. (*Effective*  
 174 *October 1, 2013*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	46b-36
Sec. 2	<i>October 1, 2013</i>	46b-81
Sec. 3	<i>October 1, 2013</i>	46b-82
Sec. 4	<i>October 1, 2013</i>	46b-86

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Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>October 1, 2013</i>	Repealer section

**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note****State Impact:** None**Municipal Impact:** None**Explanation**

The bill, which makes various changes to alimony and property division laws and requires the Connecticut Law Revision Commission to conduct a study, does not result in a fiscal impact to the Judicial Department or the Office of Legislative Management.<sup>1</sup>

**The Out Years****State Impact:** None**Municipal Impact:** None

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<sup>1</sup>Staff of the Legislative Commissioners' Office supports the Connecticut Law Revision Commission.

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**OLR Bill Analysis**

**sHB 6688**

***AN ACT CONCERNING REVISIONS TO STATUTES RELATING TO THE AWARD OF ALIMONY AND THE DISPOSITION OF PROPERTY.***

**SUMMARY:**

This bill modifies several alimony and property division laws, in most cases conforming law to existing practice. The bill:

1. requires courts assigning alimony amounts or dividing property to consider the parties' earning capacity and education, in addition to existing factors;
2. requires courts to consider the feasibility of a custodial parent's securing employment as a factor in alimony calculation;
3. broadens the evidence a court must consider before assigning property or awarding alimony;
4. directs courts to specify the basis for any order for indefinite or lifetime alimony;
5. when modifying an alimony order based on changed circumstances, requires the judge to determine the extent to which the existing order must be modified using the same criteria established for determining alimony awards;
6. when an alimony order incorporates an agreement of the parties specifying circumstances of cohabitation under which alimony will be modified, suspended, or terminated, requires the court to enforce that provision of the agreement and enter orders accordingly; and

7. repeals the requirement that a court hear a motion to modify an order for support or alimony and a motion of contempt for noncompliance at the same time.

The bill requires the Connecticut Law Revision Commission to study the fairness and adequacy of state statutes relating to the award of alimony. The commission must present its recommendations to the Judiciary Committee and chief court administrator by February 1, 2014.

Consistent with existing practice, the bill makes alimony and property division laws gender neutral.

EFFECTIVE DATE: October 1, 2013, except the provision on the Law Revision Commission study is effective upon passage.

## **§ 2 — ASSIGNMENT OF PROPERTY AND TRANSFER OF TITLE**

Under current law, the court, in determining the nature and value of property to be assigned in divorce, annulment, or legal separation settlements, must consider the:

1. length of the marriage;
2. causes for the annulment, dissolution of the marriage, or legal separation;
3. age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each party;
4. opportunity of each party to acquire capital assets and income in the future; and
5. contribution of each party to the acquisition, preservation, or appreciation in value of their respective estates.

The bill requires the court also to consider each party's earning capacity and education.

Current law requires the court to assign property after hearing the testimony of each party's witnesses. The bill requires the court to consider all the evidence presented by each party before assigning property.

### **§§ 3 & 4 — ALIMONY**

#### ***Determining Alimony Award***

Under current law, the court, in determining whether to award alimony and the duration and amount of the award, must consider the:

1. length of the marriage;
2. causes for the annulment, dissolution of the marriage, or legal separation;
3. age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, and needs of each of the parties; and
4. the nature and value of any property awarded to each of the parties by the court.

The bill requires the court also to consider each party's earning capacity and education.

Under current law, in the case of a parent to whom custody of minor children has been awarded, the court, in determining alimony awards, must consider the desirability of that parent securing employment. The bill requires the court also to consider the feasibility of such parent securing employment.

Current law requires the court to determine alimony awards after hearing the testimony of each party's witnesses. The bill requires the court to consider all the evidence presented by each party before determining such awards.

#### ***Indefinite or Lifetime Alimony Award***

Under the bill, the court must articulate with specificity the basis for

any order for alimony that terminates only upon the death of either party or the remarriage of the recipient.

### ***Modification of Alimony***

By law, a court may continue, set aside, alter, or modify any final order for the periodic payment of permanent alimony or support or an order for alimony or support pendente lite (temporary support while a divorce order is pending) upon a showing of a substantial change in the circumstances of either party. The bill requires the court to determine what modification of alimony, if any, is appropriate if, after a hearing, it finds that a substantial change in the circumstances of either party has occurred. In making the determination, the bill requires the court to use the same criteria outlined above for determining alimony.

Under law, the court may modify, suspend, reduce, or terminate the payment of periodic alimony upon the showing that the recipient is living with another person and the living arrangements constitute a change of circumstances that alter the financial needs of that party. The bill specifies that if the court order incorporates the agreement of the parties, and that agreement specifies other circumstances of cohabitation under which alimony will be modified, suspended, or terminated, the court must enforce that provision of the agreement and enter orders accordingly.

### **§ 6 — MOTION FOR MODIFICATION OF SUPPORT ORDER COMBINED WITH MOTION FOR CONTEMPT**

The bill repeals a requirement for courts to (1) accept a motion for modification of an order for support and alimony by a party against whom a motion for contempt for noncompliance with such orders is pending and (2) hear both motions at the same time.

### **§ 5 — LAW REVISION COMMISSION ALIMONY STUDY**

The bill requires the Connecticut Law Revision Commission to study the fairness and adequacy of state statutes relating to the award of alimony in actions for divorce, legal separation, or annulment. It

requires the commission to (1) collect empirical data on the award of alimony by courts in the state and (2) recommend revisions to state statutes as the commission deems just and equitable.

The bill specifies the things that the commission must consider in developing its recommendations, which include:

1. the nature of the proceedings in actions for dissolution of marriage, legal separation, or annulment;
2. the comprehensiveness of the existing statutory criteria used to determine alimony awards;
3. statistical data reflecting the comparative financial circumstances of parties to the actions at defined intervals subsequent to the entry of judgment;
4. the statutory criteria used in other states to make such determinations; and
5. other considerations the commission deems appropriate.

The bill also requires the commission to present its recommendations for proposed statutory revisions to the Judiciary Committee and the chief court administrator by February 1, 2014.

### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 36    Nay 1    (04/12/2013)