



General Assembly

January Session, 2013

Raised Bill No. 6688

LCO No. 5135



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

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

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 Section 46b-36 of the general statutes is repealed and the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 before or acquired after such marriage, except as to the share of the
6 survivor in the property as provided by sections 45a-436 and 45a-437.
7 [The separate earnings of the wife shall be her sole property. She] Each
8 spouse shall have power to make contracts with [her husband] the
9 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 Section 46b-81 of the general statutes is repealed and the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. The court may pass
28 title to real property to either party or to a third person or may order
29 the sale of such real property, without any act by either the [husband
30 or the wife] spouse, when in the judgment of the court it is the proper
31 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. The order may direct that
56 security be given therefor on such terms as the court may deem
57 desirable, including an order pursuant to subsection (b) of this section
58 or an order to either party to contract with a third party for periodic
59 payments or payments contingent on a life to the other party. The
60 court may order that a party obtain life insurance as such security
61 unless such party proves, by a preponderance of the evidence, that
62 such insurance is not available to such party, such party is unable to
63 pay the cost of such insurance or such party is uninsurable. In
64 determining whether alimony shall be awarded, and the duration and
65 amount of the award, the court shall [hear the witnesses, if any, of each
66 party, except as provided in subsection (a) of section 46b-51,] consider
67 the evidence presented by each party and shall consider the length of
68 the marriage, the causes for the annulment, dissolution of the marriage
69 or legal separation, the age, health, station, occupation, amount and
70 sources of income, earning capacity, vocational skills, education,
71 employability, estate and needs of each of the parties and the award, if
72 any, which the court may make pursuant to section 46b-81, and, in the
73 case of a parent to whom the custody of minor children has been
74 awarded, the desirability and feasibility of such parent's securing
75 employment.

76 (b) If the court enters an order pursuant to subsection (a) of this
77 section, which provides that a party shall receive nonmodifiable
78 permanent alimony terminating upon the death of either party, the

79 court shall articulate with specificity the basis for such order.

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

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

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

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

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

143 (c) When one of the parties, or a child of the parties, is receiving or

144 has received aid or care from the state under its aid to families with
145 dependent children or temporary family assistance program, HUSKY
146 Plan, Part A, or foster care program as provided in Title IV-E of the
147 Social Security Act, or when one of the parties has applied for child
148 support enforcement services under Title IV-D of the Social Security
149 Act as provided in section 17b-179, such motion to modify shall be
150 filed with the Family Support Magistrate Division for determination in
151 accordance with subsection (m) of section 46b-231.

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

172 Sec. 6. Section 46b-8 of the general statutes is repealed. (*Effective*
173 *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
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>October 1, 2013</i>	Repealer section

Statement of Purpose:

To revise state statutes relating to the award of alimony by a court.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]