



General Assembly

January Session, 2013

Raised Bill No. 1155

LCO No. 4906



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING REVISIONS TO STATUTES RELATING TO
DISSOLUTION OF MARRIAGE, LEGAL SEPARATION AND
ANNULMENT.***

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 Section 46b-36 of the general statutes is repealed and the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 Section 46b-65 of the general statutes is repealed and the
23 following is substituted in lieu thereof (*Effective October 1, 2013*):

24 (a) If the parties to a decree of legal separation at any time resume
25 marital relations and file their written declaration of resumption,
26 signed, acknowledged and witnessed, with the clerk of the superior
27 court for the judicial district in which the separation was decreed, the
28 declaration shall be entered upon the docket, under the entries relating
29 to the complaint, and the decree shall be vacated. [and the complaint
30 shall be deemed dismissed.]

31 (b) If no declaration has been filed under subsection (a) of this
32 section, [then at] the decree of legal separation shall remain in effect
33 regardless of the conduct of the parties. At any time after the entry of a
34 decree of legal separation, if no written declaration has been filed
35 pursuant to subsection (a) of this section, either party may petition the
36 superior court for the judicial district in which the decree of legal
37 separation was entered for a decree dissolving the marriage and the
38 court shall enter the decree dissolving the marriage in the presence of
39 the party seeking the dissolution. At the time the decree of legal
40 separation is converted to a decree of dissolution of marriage, the court
41 shall not have jurisdiction to award relief pursuant to section 46b-81, as
42 amended by this act, that is different from the relief awarded at the
43 time of the entry of a decree of legal separation. Except as provided in
44 section 46b-86, as amended by this act, the court shall enter the same
45 award of alimony as it entered at the time it entered the decree of legal
46 separation.

47 Sec. 3. Section 46b-66 of the general statutes is repealed and the
48 following is substituted in lieu thereof (*Effective October 1, 2013*):

49 (a) In any case under this chapter where the parties have submitted
50 to the court an agreement concerning the custody, care, education,
51 visitation, maintenance or support of any of their children or
52 concerning alimony or the disposition of property, the court shall
53 inquire into the financial resources and actual needs of the spouses and
54 their respective fitness to have physical custody of or rights of
55 visitation with any minor child, in order to determine whether the
56 agreement of the spouses is fair and equitable under all the
57 circumstances. If the court finds the agreement fair and equitable, it
58 shall become part of the court file, and if the agreement is in writing, it
59 shall be incorporated by reference into the order or decree of the court.
60 If the court finds the agreement is not fair and equitable, it shall make
61 such orders as to finances and custody as the circumstances require. If
62 the agreement is in writing and provides for the care, education,
63 maintenance or support of a child beyond the age of eighteen, it may
64 also be incorporated or otherwise made a part of any such order and
65 shall be enforceable to the same extent as any other provision of such
66 order or decree, notwithstanding the provisions of section 1-1d.

67 (b) Agreements providing for the care, education, maintenance or
68 support of a child beyond the age of eighteen entered into on or after
69 July 1, 2001, shall be modifiable to the same extent as any other
70 provision of any order or decree in accordance with section 46b-86, as
71 amended by this act.

72 (c) The provisions of chapter 909 shall be applicable to any
73 agreement to arbitrate in an action for dissolution of marriage under
74 this chapter, provided (1) an arbitration pursuant to such agreement
75 may proceed only after the court has made a thorough inquiry and is
76 satisfied that (A) each party entered into such agreement voluntarily
77 and without coercion, and (B) such agreement is fair and equitable
78 under the circumstances, and (2) such agreement and an arbitration

79 pursuant to such agreement shall not include issues related to [child
80 support, visitation and custody] custody of, or visitation or access to,
81 minor children. Arbitration agreements may include (A) child support
82 and child-related financial issues, provided the arbitrator's
83 determination concerning such issues shall be consistent with the
84 provisions of sections 46b-84 and 46b-215 to 46b-225, inclusive, and (B)
85 any determination on education-related issues which the parties agree
86 to submit to arbitration. An arbitration award in such action shall be
87 confirmed, modified or vacated in accordance with the provisions of
88 chapter 909.

89 Sec. 4. Section 46b-81 of the general statutes is repealed and the
90 following is substituted in lieu thereof (*Effective October 1, 2013*):

91 (a) At the [time of entering] earlier of the entry of a decree annulling
92 or dissolving a marriage or for legal separation pursuant to a
93 complaint under section 46b-45, the Superior Court may assign to
94 either the husband or wife all or any part of the estate of the other. The
95 court may pass title to real property to either party or to a third person
96 or may order the sale of such real property, without any act by either
97 the husband or the wife, when in the judgment of the court it is the
98 proper mode to carry the decree into effect.

99 (b) Notwithstanding the provisions of subsection (a) of this section,
100 if the court did not have personal jurisdiction over a party at the time
101 of the decree of annulment, dissolution or legal separation, and if the
102 court subsequently acquires personal jurisdiction over that party, the
103 court may assign the property of the parties pursuant to subsection (a)
104 of this section, provided the court expressly retained jurisdiction to do
105 so at the time of entry of the decree of annulment, dissolution or legal
106 separation.

107 [(b)] (c) A conveyance made pursuant to the decree shall vest title in
108 the purchaser, and shall bind all persons entitled to life estates and
109 remainder interests in the same manner as a sale ordered by the court

110 pursuant to the provisions of section 52-500. When the decree is
111 recorded on the land records in the town where the real property is
112 situated, it shall effect the transfer of the title of such real property as if
113 it were a deed of the party or parties.

114 [(c)] (d) In fixing the nature and value of the property, if any, to be
115 assigned, the court, after [hearing the witnesses, if any, of each]
116 considering any evidence presented by a party [, except as provided in
117 subsection (a) of section 46b-51,] shall consider the length of the
118 marriage, the causes for the annulment, dissolution of the marriage or
119 legal separation, the age, health, station, occupation, amount and
120 sources of income, vocational skills, employability, estate, liabilities
121 and needs of each of the parties, [and] the opportunity of each party
122 for future acquisition of capital assets and income, the tax
123 consequences of its orders and the tax attributes of the assets of the
124 parties. The court shall also consider the contribution of each of the
125 parties in the acquisition, preservation or appreciation in value of their
126 respective estates.

127 Sec. 5. Section 46b-82 of the general statutes is repealed and the
128 following is substituted in lieu thereof (*Effective October 1, 2013*):

129 (a) At the time of [entering the decree] entry of a decree of
130 annulment, legal separation or dissolution of marriage, the Superior
131 Court may order either of the parties to pay alimony to the other, in
132 addition to or in lieu of an award pursuant to section 46b-81, as
133 amended by this act. If the court enters a decree of dissolution of
134 marriage following a decree of legal separation, the alimony award
135 shall be the same as the award entered at the time of the entry of a
136 decree of legal separation, except when a modification of the alimony
137 award is entered pursuant to section 46b-86, as amended by this act.
138 The order may direct that security be given therefor on such terms as
139 the court may deem desirable, including an order pursuant to
140 subsection [(b)] (e) of this section or an order to either party to contract
141 with a third party for periodic payments or payments contingent on a

142 life to the other party. The court may order that a party obtain life
143 insurance as such security unless such party proves, by a
144 preponderance of the evidence, that such insurance is not available to
145 such party, such party is unable to pay the cost of such insurance or
146 such party is uninsurable. In determining whether alimony shall be
147 awarded, and the duration and amount of the award, the court shall
148 [hear the witnesses, if any, of each party, except as provided in
149 subsection (a) of section 46b-51,] consider the evidence presented by
150 each party and shall consider the length of the marriage, the causes for
151 the annulment, dissolution of the marriage or legal separation, the age,
152 health, station, occupation, amount and sources of income, earning
153 capacity, vocational skills, education, employability, estate and needs
154 of each of the parties, the tax consequences of its orders and the award,
155 if any, which the court may make pursuant to section 46b-81, as
156 amended by this act, and, in the case of a parent to whom the custody
157 of minor children has been awarded, the desirability of such parent's
158 securing employment.

159 (b) If the court shall enter an alimony award of an indefinite
160 duration, where the recipient is to receive alimony until the death of
161 either party or the recipient's remarriage, the court shall specify the
162 factors set forth in subsection (a) of this section upon which it relied in
163 making the alimony award.

164 (c) When determining the amount of annual alimony to be awarded,
165 the court may utilize the calculation set forth in this subsection to
166 determine such amount. The amount of annual alimony may be
167 determined by (1) calculating thirty per cent of the annual gross
168 income of the party with the higher gross income, and (2) subtracting
169 from the amount determined pursuant to subdivision (1) of this
170 subsection, twenty per cent of the annual gross income of the party
171 with the lower gross income. The amount of annual alimony shall not
172 result in the party with lower annual gross income having in excess of
173 forty per cent of the combined annual gross income of the parties. The
174 calculation for determining the amount of annual alimony set forth in

175 this subsection is neither mandatory nor presumptive and shall
176 supplement but not supersede the factors set forth in subsection (a) of
177 this section. The calculation set forth in this subsection shall not be
178 utilized when the combined annual gross income of the parties exceeds
179 one million dollars. For purposes of this subsection, "gross income" has
180 the same meaning as provided in the child support and arrearage
181 guidelines published pursuant to section 46b-215a, less Social Security
182 taxes or mandatory retirement contributions in lieu thereof, Medicare
183 taxes, including self-employment taxes and court ordered alimony and
184 support obligations for former spouses or children not of the marriage.

185 (d) The court shall state in its memorandum of decision (1) whether
186 it utilized the calculation set forth in subsection (c) of this section, or (2)
187 if such calculation was not used, the factors, set forth in subsection (a)
188 of this section, that resulted in the court's declining to use such
189 calculation.

190 [(b)] (e) Any postjudgment procedure afforded by chapter 906 shall
191 be available to secure the present and future financial interests of a
192 party in connection with a final order for the periodic payment of
193 alimony.

194 Sec. 6. Section 46b-86 of the general statutes is repealed and the
195 following is substituted in lieu thereof (*Effective October 1, 2013*):

196 (a) Unless and to the extent that the decree precludes modification,
197 any final order for the periodic payment of permanent alimony or
198 support, an order for alimony or support pendente lite or an order
199 requiring either party to maintain life insurance for the other party or a
200 minor child of the parties may, at any time thereafter, be continued, set
201 aside, altered or modified by the court upon a showing of a substantial
202 change in the circumstances of either party or upon a showing that the
203 final order for child support substantially deviates from the child
204 support guidelines established pursuant to section 46b-215a, unless
205 there was a specific finding on the record that the application of the

206 guidelines would be inequitable or inappropriate. There shall be a
207 rebuttable presumption that any deviation of less than fifteen per cent
208 from the child support guidelines is not substantial and any deviation
209 of fifteen per cent or more from the guidelines is substantial.
210 Modification may be made of such support order without regard to
211 whether the order was issued before, on or after May 9, 1991. In
212 determining whether to modify a child support order based on a
213 substantial deviation from such child support guidelines the court
214 shall consider the division of real and personal property between the
215 parties set forth in the final decree and the benefits accruing to the
216 child as the result of such division. [After the date of judgment,
217 modification of any child support order issued before, on or after July
218 1, 1990, may be made upon a showing of such substantial change of
219 circumstances, whether or not such change of circumstances was
220 contemplated at the time of dissolution.] No judgment for the payment
221 of child support shall be nonmodifiable. By written agreement,
222 stipulation or decision of the court, those items or circumstances that
223 were contemplated and are not to be changed may be specified in the
224 written agreement, stipulation or decision of the court. This section
225 shall not apply to assignments under section 46b-81, as amended by
226 this act, or to any assignment of the estate or a portion thereof of one
227 party to the other party under prior law. No order for periodic
228 payment of permanent alimony or support may be subject to
229 retroactive modification, except that the court may order modification
230 with respect to any period during which there is a pending motion for
231 modification of an alimony or support order from the date of service of
232 notice of such pending motion upon the opposing party pursuant to
233 section 52-50. If a court, after hearing, finds that a substantial change in
234 the circumstances of either party has occurred, the court shall
235 determine what amount of alimony, if any, is appropriate after
236 considering the factors set forth in section 46b-82, as amended by this
237 act.

238 (b) In an action for divorce, dissolution of marriage, legal separation

239 or annulment brought by a husband or wife, in which a final judgment
240 has been entered providing for the payment of periodic alimony by
241 one party to the other, the Superior Court may, in its discretion and
242 upon notice and hearing, modify such judgment and suspend, reduce
243 or terminate the payment of periodic alimony upon a showing that the
244 party receiving the periodic alimony is living with another person
245 under circumstances which the court finds should result in the
246 modification, suspension, reduction or termination of alimony because
247 the living arrangements [cause such a change of circumstances as to
248 alter the financial needs of that party] have changed the financial
249 circumstances of the alimony recipient. In the event that any final
250 judgment incorporates the agreement of the parties setting forth a
251 provision for modification of the judgment, including suspension,
252 reduction or termination of periodic alimony, based upon the living
253 arrangements of the alimony recipient on terms and conditions other
254 than those set forth in this subsection, the court shall enforce that
255 judgment and modify the judgment, if appropriate, and suspend,
256 reduce or terminate the payment of periodic alimony in accordance
257 with the terms and conditions of the judgment.

258 [(c)] When one of the parties, or a child of the parties, is receiving or
259 has received aid or care from the state under its aid to families with
260 dependent children or temporary family assistance program, HUSKY
261 Plan, Part A, or foster care program as provided in Title IV-E of the
262 Social Security Act, or when one of the parties has applied for child
263 support enforcement services under Title IV-D of the Social Security
264 Act as provided in section 17b-179, such motion to modify shall be
265 filed with the Family Support Magistrate Division for determination in
266 accordance with subsection (m) of section 46b-231.

267 Sec. 7. Section 46b-8 of the general statutes is repealed. (*Effective*
268 *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-65
Sec. 3	<i>October 1, 2013</i>	46b-66
Sec. 4	<i>October 1, 2013</i>	46b-81
Sec. 5	<i>October 1, 2013</i>	46b-82
Sec. 6	<i>October 1, 2013</i>	46b-86
Sec. 7	<i>October 1, 2013</i>	Repealer section

Statement of Purpose:

To make revisions to various family law statutes, including, but not limited to, revisions relating to the entry of a decree of legal separation, the use of arbitration, the assignment of property, alimony awards and court processes.

[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.]