



General Assembly

February Session, 2014

Raised Bill No. 5524

LCO No. 2277



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING THE RECOMMENDATIONS OF THE LAW
REVISION COMMISSION WITH RESPECT TO THE ALIMONY
STATUTES.***

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

1 Section 1. Section 46b-81 of the 2014 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2014*):

4 (a) At the time of entering a decree annulling or dissolving a
5 marriage or for legal separation pursuant to a complaint under section
6 46b-45, the Superior Court may assign to either spouse all or any part
7 of the estate of the other spouse. The court may pass title to real
8 property to either party or to a third person or may order the sale of
9 such real property, without any act by either spouse, when in the
10 judgment of the court it is the proper mode to carry the decree into
11 effect.

12 (b) A conveyance made pursuant to the decree shall vest title in the
13 purchaser, and shall bind all persons entitled to life estates and

14 remainder interests in the same manner as a sale ordered by the court
15 pursuant to the provisions of section 52-500. When the decree is
16 recorded on the land records in the town where the real property is
17 situated, it shall effect the transfer of the title of such real property as if
18 it were a deed of the party or parties.

19 (c) In fixing the nature and value of the property, if any, to be
20 assigned, the court, after considering [all] the evidence presented by
21 each party, shall consider the length of the marriage, the causes for the
22 annulment, dissolution of the marriage or legal separation, the age,
23 health, station, occupation, amount and sources of gross and net
24 income, earning capacity, vocational skills, education, employability,
25 estate, liabilities and needs of each of the parties, [and] the opportunity
26 of each party for future acquisition of capital assets and income and
27 the tax consequences of the court's orders. The court shall also consider
28 the contribution of each of the parties in the acquisition, preservation
29 or appreciation in value of their respective estates.

30 Sec. 2. Section 46b-82 of the 2014 supplement to the general statutes
31 is repealed and the following is substituted in lieu thereof (*Effective*
32 *October 1, 2014*):

33 (a) At the time of entering the decree, the Superior Court may order
34 either of the parties to pay alimony to the other, in addition to or in
35 lieu of an award pursuant to section 46b-81, as amended by this act.
36 The order may direct that security be given therefor on such terms as
37 the court may deem desirable, including an order pursuant to
38 subsection (b) of this section or an order to either party to contract with
39 a third party for periodic payments or payments contingent on a life to
40 the other party. The court may order that a party obtain life insurance
41 as such security unless such party proves, by a preponderance of the
42 evidence, that such insurance is not available to such party, such party
43 is unable to pay the cost of such insurance or such party is
44 uninsurable. In determining whether alimony shall be awarded, and
45 the duration and amount of the award, the court shall consider the

46 evidence presented by each party and shall consider the length of the
47 marriage, the causes for the annulment, dissolution of the marriage or
48 legal separation, the age, health, station, occupation, amount and
49 sources of gross and net income, earning capacity, vocational skills,
50 education, employability, estate and needs of each of the parties, [and]
51 the award, if any, which the court may make pursuant to section 46b-
52 81, as amended by this act, the tax consequences of the court's orders
53 and, in the case of a parent to whom the custody of minor children has
54 been awarded, the desirability and feasibility of such parent's securing
55 employment.

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

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

65 Sec. 3. Section 46b-65 of the general statutes is repealed and the
66 following is substituted in lieu thereof (*Effective October 1, 2014*):

67 (a) If the parties to a decree of legal separation at any time resume
68 marital relations and file [their written declaration of resumption] a
69 written certificate that the marital relationship has resumed, signed,
70 acknowledged and witnessed by each party, with the clerk of the
71 superior court for the judicial district in which the separation was
72 decreed, the [declaration] certificate shall be entered upon the docket,
73 under the entries relating to the complaint, and the decree shall be
74 vacated and the complaint shall be deemed dismissed.

75 (b) If no [declaration] certificate has been filed under subsection (a)
76 of this section, then at any time after the entry of a decree of legal

77 separation, either party may petition the superior court for the judicial
78 district in which the decree of legal separation was entered for a decree
79 dissolving the marriage and the court shall (1) enter the decree
80 dissolving the marriage in the presence of the party seeking the
81 dissolution of marriage, and (2) incorporate the financial terms of the
82 decree of legal separation into the decree dissolving the marriage
83 unless it would be unconscionable to do so.

84 Sec. 4. Section 46b-86 of the 2014 supplement to the general statutes
85 is repealed and the following is substituted in lieu thereof (*Effective*
86 *October 1, 2014*):

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

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

127 (b) (1) In an action for divorce, dissolution of marriage, legal
128 separation or annulment brought by a spouse, in which a final
129 judgment has been entered providing for the payment of periodic
130 alimony by one party to the other spouse, [the Superior Court may, in
131 its discretion and upon notice and hearing, modify such judgment and
132 suspend, reduce or terminate the payment of periodic alimony upon a
133 showing] upon notice and hearing, if the party paying the periodic
134 alimony proves that the party receiving the periodic alimony [is] has
135 been living with another person [under circumstances which the court
136 finds should result in the modification, suspension, reduction or
137 termination of alimony because the living arrangements cause such a
138 change of circumstances as to alter the financial needs of that party. In
139 the event that] in a marriage-like relationship over a period of six
140 months or more, the burden of proving that the judgment requiring
141 the payment of periodic alimony should not be modified, suspended,
142 reduced or terminated shall be on the party receiving the periodic

143 alimony. The Superior Court, after considering the evidence presented
144 by each party and the relevant criteria set forth in section 46b-82, as
145 amended by this act, may, in its discretion, modify such judgment and
146 suspend, reduce or terminate the payment of periodic alimony.

147 (2) (A) If the party paying periodic alimony files a motion to modify
148 the judgment requiring the payment of periodic alimony on the
149 ground that such party is retired from employment and has attained
150 the age of sixty-five, the burden of proving that such alimony should
151 not be modified shall be on the party receiving the periodic alimony.

152 (B) If the party paying periodic alimony files a motion to modify the
153 judgment requiring the payment of periodic alimony on the ground
154 that such party is retired from employment, and such party has not
155 attained the age of sixty-five, the burden of proving that such alimony
156 should be modified shall be on the party paying periodic alimony. The
157 Superior Court shall consider the evidence presented by each party
158 concerning the relevant facts and circumstances concerning the
159 retirement.

160 (C) In any modification proceeding under subparagraph (A) or (B)
161 of this subdivision, the court, after notice and hearing, shall determine
162 what modification of alimony, if any, is appropriate after considering
163 the evidence presented by each party and the relevant criteria set forth
164 in section 46b-82, as amended by this act.

165 (3) If a final judgment incorporates a provision of an agreement in
166 which the parties agree to circumstances, other than as provided in this
167 subsection, under which alimony will be modified, including the
168 suspension, reduction, or termination of alimony, the court shall
169 enforce the provision of such agreement and enter orders in
170 accordance [therewith] with such agreement.

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	46b-81
Sec. 2	<i>October 1, 2014</i>	46b-82
Sec. 3	<i>October 1, 2014</i>	46b-65
Sec. 4	<i>October 1, 2014</i>	46b-86

Statement of Purpose:

To adopt the recommendations of the Law Revision Commission regarding alimony statutes.

[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.]