



## ALIMONY PAYMENTS AND DURATION IN CONNECTICUT AND MASSACHUSETTS

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### ALIMONY PAYMENTS AND DURATION IN CT AND MA

- Alimony is a form of court-ordered financial support from one party to another, typically in a divorce or other legal separation case.
- In Connecticut, alimony may be ordered in the case of an annulment, legal separation, or divorce.
- In Massachusetts, there are four different forms of alimony and they are ordered only in the case of a divorce.
- Both states require courts to consider a list of factors in setting alimony amounts and duration, but MA also has durational limits.
- Both states allow modification of alimony orders under certain circumstances.

### QUESTION

Summarize how the amount and duration of alimony are determined under Connecticut and Massachusetts laws.

### SUMMARY

Both Connecticut and Massachusetts laws allow for alimony orders in divorce cases. In Connecticut, however, alimony may also be ordered in the case of an annulment and a legal separation. Massachusetts has four forms of alimony: general term, rehabilitative, reimbursement, and transitional. This report focuses on general term alimony because the other forms apply only in specific circumstances.

In both states, the court must consider a list of factors in setting alimony amounts and duration, including the (1) length of the marriage and (2) parties' age, health, income, and employment. Connecticut considers marital fault and the status of the custodial parent but Massachusetts does not. In both states, the court may order the paying person to obtain life insurance or other forms of security for alimony payments that are due if he or she dies during the alimony period.

Regarding alimony duration, Massachusetts law provides very specific limits and grounds for deviation. Connecticut law does not set durational limits but requires the court to specify the basis for any indefinite or lifetime alimony order.

In both states, with certain limitations, alimony may be modified when there is a substantial or material change in circumstances of either party.

## **CONNECTICUT ALIMONY LAW**

Under Connecticut law, a court may order either party in an annulment, legal separation, or divorce case to pay alimony (CGS § [46b-82\(a\)](#)). The court may also order the paying person to obtain life insurance or other forms of security for alimony payments that do not terminate upon the payor's death.

The current law could change soon. Among other things, [Public Act 13-213](#) requires the Connecticut Law Revision Commission to study the fairness and adequacy of the state statutes on alimony awards. The commission must present its recommendations to the Judiciary Committee and chief court administrator by February 1, 2014.

### ***Factors the Court Must Consider in Determining Alimony***

When determining whether alimony should be awarded and the amount and duration of the award, the court must consider all the evidence presented and a specified list of factors. These factors are:

1. the length of the marriage;
2. the cause for the annulment, dissolution, or legal separation;
3. the parties' age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate, and needs;
4. any property division ordered by the court; and
5. in the case of minor children, the desirability and feasibility of the custodial parent getting a job ([CGS § 46b-82\(a\)](#)).

The court must specify the basis for any order for indefinite or lifetime alimony ([CGS § 46b-82\(b\)](#)).

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

***Substantial Change in Circumstances.*** Under Connecticut law, if one party shows that there has been a substantial change in the circumstances of the other party, the court, after a hearing, may continue, set aside, alter, or modify the alimony orders. The court must use the statutory factors outlined above to

determine what modification, if any, is appropriate. Retroactive modification is prohibited, except for the period during which a motion to modify the order is pending.

***Cohabitation.*** If the alimony recipient cohabitates with another person and the court finds that the living arrangement alters the recipient's financial needs, the court may, after a hearing, modify alimony payments ([CGS § 46b-86\(b\)](#)).

***By Agreement.*** If the parties' agree on the circumstances under which alimony may be modified, the court must enter and enforce orders that include the provisions of such agreement ([CGS § 46b-86\(b\)](#)).

## **MASSACHUSETTS ALIMONY LAW**

Massachusetts law defines "alimony" as the payment of support from a spouse, who has the ability to pay, to a spouse in need of support for a reasonable length of time, under a court order (Mass. Gen. Laws Ann. ch. 208, § 48).

### ***Factors the Court Must Consider in Determining Alimony***

Massachusetts law provides for four forms of alimony that may be ordered at the time of divorce: general term, rehabilitative, reimbursement, and transitional (Mass. Gen. Laws Ann. ch. 208, §§ 49, 50, 51, & 52). In determining the form, amount, and duration of alimony, the court must consider:

1. the length of the marriage;
2. the parties' age, health, income, employment, and employability;
3. economic and noneconomic contribution to the marriage;
4. marital lifestyle and ability of each party to maintain that lifestyle;
5. lost economic opportunity as a result of the marriage; and
6. other factors the court considers relevant and material (Mass. Gen. Laws Ann. ch. 208, § 53(a)).

### ***Income Excluded from Alimony Calculation***

Massachusetts law requires the court, in calculating income, to exclude:

1. capital gains, dividend, and interest income from assets previously divided by the court and
2. gross income already considered for setting a child support order (Mass. Gen. Laws Ann. ch. 208, § 53(c)).

The court may attribute income to an unemployed or underemployed party (Mass. Gen. Laws Ann. ch. 208, § 53(f)).

### ***Duration of Alimony***

“General term alimony” is the periodic payment of support to a recipient spouse who is economically dependent (Mass. Gen. Laws Ann. ch. 208, § 49).

Under Massachusetts law, general term alimony terminates when:

1. the recipient spouse remarries (except with the parties’ written agreement);
2. either spouse dies (unless the payor has court ordered life insurance or other security in place for alimony purposes);
3. the payor spouse attains full retirement age (except if the judge specifies in writing that, among other things, good cause was shown to set a different termination date or grant an extension);
4. the applicable durational limit, shown in Table 1, has been met (except if the court specifies in writing that deviation is required in the interest of justice);  
or
5. the recipient spouse cohabitates with another person for at least three months. (Cohabitation may also result in suspension or reduction of alimony and alimony may be reinstated when cohabitation ends.)

**Table 1: Massachusetts General Term Alimony Durational Limits**

<b><i>Length of Marriage</i></b>	<b><i>Duration of Alimony</i></b>
5 years or less	Maximum of 50% of the length of the marriage
10 years or less but more than 5 years	Maximum of 60% of the length of the marriage
15 years or less but more than 10 years	Maximum of 70% of the length of the marriage
20 years or less but more than 15 years	Maximum of 80% of the length of the marriage
Longer than 20 years	Indefinite

Source: Mass. Gen. Laws Ann. ch. 208, § 49

### ***Deviation from Amount and Durational Limits***

**Reasons.** The court may deviate from the amount and durational limits of general term alimony, but must specify in writing why deviation is necessary. Reasons for deviation include:

1. advanced age, chronic illness, or unusual health circumstances of either party;
2. tax considerations for the parties;
3. whether health insurance is being provided for the recipient spouse and, if so, the amount;
4. whether the payor spouse was ordered to secure life insurance and, if so, the amount;
5. sources and amounts of unearned income;
6. premarital cohabitation or marital separation;
7. a party's inability to support himself or herself due to physical or mental abuse by the payor spouse;
8. a party's inability to support himself or herself due to deficiency of property, maintenance, or employment opportunity; and
9. any other factor that the court specifies in writing to be relevant and material (Mass. Gen. Laws Ann. ch. 208, § 53(e)).

**Maximum Amount.** Under Massachusetts law, if there is a deviation, the maximum amount of alimony must not exceed (1) the recipient's need or (2) 30% to 40% of the difference between the parties' gross incomes when the order is issued (Mass. Gen. Laws Ann. ch. 208, § 53(b)).

### **Modification of Alimony Orders**

**Material Change in Circumstances.** General term alimony may be modified when there is a material change in circumstances, unless the parties agreed otherwise (Mass. Gen. Laws Ann. ch. 208, § 49(e)).

**Remarriage of Payor.** When the payor remarries, the court may not consider the income and assets of the payor's spouse in determining alimony modification (Mass. Gen. Laws Ann. ch. 208, § 54(a)).

**Second Job or Overtime.** Income from a second job or overtime is presumed immaterial for alimony modification purposes if the (1) party works more than one full-time equivalent position and (2) second job or overtime started after the initial order was entered (Mass. Gen. Laws Ann. ch. 208, § 54(b)).

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