



General Assembly

February Session, 2012

**Raised Bill No. 5509**

LCO No. 2265

\*02265\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING THE PAYMENT OF ALIMONY AND CHILD SUPPORT.**

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

1 Section 1. Section 46b-82 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

3 (a) At the time of entering the decree, the Superior Court may order  
4 either of the parties to pay alimony to the other, in addition to or in  
5 lieu of an award pursuant to section 46b-81. The order may direct that  
6 security be given therefor on such terms as the court may deem  
7 desirable, including an order pursuant to subsection (b) of this section  
8 or an order to either party to contract with a third party for periodic  
9 payments or payments contingent on a life to the other party. The  
10 court may order that a party obtain life insurance as such security  
11 unless such party proves, by a preponderance of the evidence, that  
12 such insurance is not available to such party, such party is unable to  
13 pay the cost of such insurance or such party is uninsurable. In  
14 determining whether alimony shall be awarded, and the duration and  
15 amount of the award, the court shall hear the witnesses, if any, of each  
16 party, except as provided in subsection (a) of section 46b-51, shall

17 consider, the length of the marriage, the causes for the annulment,  
18 dissolution of the marriage or legal separation, the age, health, station,  
19 occupation, amount and sources of income, vocational skills,  
20 employability, estate and needs of each of the parties and the award, if  
21 any, which the court may make pursuant to section 46b-81, and, in the  
22 case of a parent to whom the custody of minor children has been  
23 awarded, the desirability of such parent's securing employment.

24 (b) Any award of alimony ordered by the Superior Court on or after  
25 October 1, 2012, shall be for a duration that does not exceed one-half  
26 the number of months of the length of the marriage. An award of  
27 alimony entered before October 1, 2012, shall terminate (1) in  
28 accordance with the terms of the order, (2) in accordance with the  
29 terms of a subsequent modification of the order, or (3) as otherwise  
30 provided for in this section and section 46b-86, as amended by this act.  
31 As used in this section and section 46b-81, "length of the marriage"  
32 means the number of months from the date of legal marriage to the  
33 date of filing a complaint under section 46b-45.

34 (c) An award of alimony ordered by the Superior Court before  
35 October 1, 2012, that exceeds the durational limit set forth in  
36 subsection (b) of this section may be modified upon the filing of a  
37 motion for modification of alimony. A party filing a motion for  
38 modification of alimony pursuant to section 46b-86, as amended by  
39 this act, shall not be required to make a showing of a substantial  
40 change in the circumstances of either party as described in subsection  
41 (a) of section 46b-86, as amended by this act.

42 (d) On and after October 1, 2012, the amount of alimony awarded  
43 pursuant to this section shall not exceed thirty to thirty-five per cent of  
44 the difference between the gross income of the parties, established at  
45 the time the alimony order is issued. For purposes of this section,  
46 "gross income" shall have the same meaning as set forth in the child  
47 support guidelines established pursuant to section 46b-215. When  
48 awarding alimony, the court shall exclude from the calculation of gross

49 income: (1) Capital gains income and dividend and interest income  
50 which derive from assets equitably divided between the parties; and  
51 (2) income which the court has already considered in setting a child  
52 support order.

53 (e) On and after October 1, 2012, when ordering an initial award of  
54 alimony, or a modification of an award of alimony entered before  
55 October 1, 2012, the Superior Court may deviate from the durational  
56 limit set forth in subsection (b) of this section and amount limit set  
57 forth in subsection (d) of this section, upon making written findings  
58 that deviation from any such limit is necessary. Grounds for deviation  
59 may include:

60 (1) Advanced age, chronic illness or unusual health circumstances of  
61 either party;

62 (2) Tax considerations applicable to the parties;

63 (3) Whether a party ordered to pay alimony is providing health  
64 insurance for his or her spouse and the cost of providing such health  
65 insurance;

66 (4) Whether a party ordered to pay alimony has been ordered to  
67 secure life insurance for the benefit of his or her spouse pursuant to  
68 subsection (a) of this section and the cost of securing such insurance;

69 (5) Sources and amounts of unearned income, including capital  
70 gains, interest and dividends, annuity and investment income from  
71 assets that were not allocated in the parties' divorce;

72 (6) A party's inability to provide for his or her own support due to  
73 physical or mental abuse committed by the party ordered to pay  
74 alimony; and

75 (7) Economic fault occurring during the last five years of the  
76 marriage.

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

81 Sec. 2. Section 46b-86 of the 2012 supplement to the general statutes  
82 is repealed and the following is substituted in lieu thereof (*Effective*  
83 *October 1, 2012*):

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

110 were contemplated and are not to be changed may be specified in the  
111 written agreement, stipulation or decision of the court. This section  
112 shall not apply to assignments under section 46b-81 or to any  
113 assignment of the estate or a portion thereof of one party to the other  
114 party under prior law. No order for periodic payment of permanent  
115 alimony or support may be subject to retroactive modification, except  
116 that the court may order modification with respect to any period  
117 during which there is a pending motion for modification of an alimony  
118 or support order from the date of service of notice of such pending  
119 motion upon the opposing party pursuant to section 52-50.

120 (b) In an action for divorce, dissolution of marriage, legal separation  
121 or annulment brought by a husband or wife, in which a final judgment  
122 has been entered providing for the payment of periodic alimony by  
123 one party to the other, the Superior Court may, in its discretion and  
124 upon notice and hearing, modify such judgment and suspend, reduce  
125 or terminate the payment of periodic alimony upon a showing that the  
126 party receiving the periodic alimony [is living with another person]  
127 has been maintaining a common household with another person for a  
128 continuous period of time of not less than three months under  
129 circumstances which the court finds should result in the modification,  
130 suspension, reduction or termination of alimony because the living  
131 arrangements cause such a change of circumstances as to alter the  
132 financial needs of that party. For purposes of this section, a party  
133 receiving periodic alimony is deemed to be maintaining a common  
134 household when such party shares a primary residence with another  
135 person, with or without other persons. In determining whether a party  
136 receiving periodic alimony is maintaining a common household with  
137 another person, the court may consider any of the following factors:

138 (1) Oral or written statements or representations made to third  
139 parties regarding the relationship of the party receiving periodic  
140 alimony and the person or persons with whom he or she shares a  
141 primary residence;

142 (2) Whether the party receiving periodic alimony and the person or  
143 persons with whom he or she shares a primary residence are engaging  
144 in conduct and collaborative roles in furtherance of a life together;

145 (3) The benefit in the life of the party receiving periodic alimony and  
146 the person or persons with whom he or she shares a primary residence  
147 from the relationship;

148 (4) The community reputation of the party receiving periodic  
149 alimony and the person or persons with whom he or she shares a  
150 primary residence;

151 (5) The economic interdependence of the party receiving periodic  
152 alimony and the person or persons with whom he or she shares a  
153 primary residence, or economic dependence of such party or persons  
154 on one another, except in cases where the party receiving periodic  
155 alimony has sufficient separate property assets, or has received such  
156 assets in a settlement, and that such assets are sufficient to meet the  
157 needs of the party receiving periodic alimony; or

158 (6) Such other relevant and material factors as may be determined  
159 by the court.

160 (c) If the court finds that a party receiving periodic alimony is  
161 maintaining a common household as described in subsection (b) of this  
162 section, there shall be a rebuttable presumption that the party  
163 receiving such alimony is economically interdependent with another  
164 person or is economically dependent on another person. The party  
165 receiving periodic alimony shall have the burden of rebutting the  
166 presumption.

167 (d) A periodic alimony obligation suspended, reduced or  
168 terminated pursuant to subsections (b) and (c) of this section shall not  
169 be reinstated upon termination of the common household by the party  
170 who was receiving periodic alimony.

171 (e) The periodic payment of alimony shall terminate upon the party

172 responsible for the payment of periodic alimony attaining the full  
173 retirement age. Such party's ability to work beyond the full retirement  
174 age shall not be a reason for the court to extend alimony, provided the  
175 court may grant a recipient of periodic alimony an extension of an  
176 existing alimony order for good cause shown. After considering and  
177 granting any such extension, the court shall make written findings that  
178 include, but are not limited to, the following: (1) There is a rebuttable  
179 presumption that the durational limit set forth in subsection (b) of  
180 section 46b-82, as amended by this act, shall be applied to the facts of  
181 any case before the court; (2) the reasons proffered by a recipient of  
182 periodic alimony to extend the receipt of such alimony beyond the  
183 durational limit establish good cause to rebut the presumption and  
184 such reasons are supported by clear and convincing evidence; and (3)  
185 there has been a substantial change in circumstance that occurred after  
186 entry of the judgment containing the alimony award. A party  
187 responsible for the payment of periodic alimony who attained full  
188 retirement age on or before October 1, 2012, may file a motion seeking  
189 termination or modification of an order for the payment of periodic  
190 alimony in accordance with the provisions of this section. For purposes  
191 of this section, "full retirement age" means the normal retirement age  
192 of the party responsible for the payment of periodic alimony in order  
193 to be eligible to receive full retirement benefits under the federal Old  
194 Age, Survivors, and Disability Insurance Program, but does not mean  
195 (A) "early retirement age", as defined under 42 USC 416, if early  
196 retirement is available to the party responsible for the payment of  
197 periodic alimony, or (B) maximum benefit age if additional benefits are  
198 available to the party responsible for the payment of periodic alimony  
199 as a result of delayed retirement.

200 (f) Notwithstanding the durational limit set forth in subsection (b) of  
201 section 46b-82, as amended by this act, periodic alimony shall  
202 terminate upon the remarriage of the recipient of such alimony or the  
203 death of either party.

204 (g) An award of alimony ordered by the Superior Court before

205 October 1, 2012, that exceeds the durational limit set forth in  
206 subsection (b) of section 46b-82, as amended by this act, may be  
207 modified upon the filing of a motion for modification of alimony. A  
208 party filing a motion for modification of alimony pursuant to this  
209 section shall not be required to make a showing of a substantial change  
210 in the circumstances of either party as described in subsection (a) of  
211 this section.

212 (h) The provisions of this section shall not provide a party with the  
213 right to seek or receive modification of a nonmodifiable final order for  
214 the payment of periodic alimony included in a decree or judgment  
215 entered before October 1, 2012.

216 (i) The provisions of this section shall not provide a party with the  
217 right to seek or receive modification of a final order for the payment of  
218 periodic alimony solely due to an increase in the income of the party  
219 responsible for the payment of periodic alimony which occurs after the  
220 date of dissolution of the marriage.

221 (j) In the event that a party responsible for the payment of periodic  
222 alimony remarries, the income and assets of the spouse of such party,  
223 including any assets held in tenancy by the entirety by such spouse  
224 and party, shall not be considered in any action involving a motion for  
225 modification filed pursuant to this section.

226 (k) In any proceeding to modify an order for the payment of  
227 periodic alimony, evidence of income received by a party responsible  
228 for the payment of periodic alimony, which is attributable to such  
229 party's working more than one full-time job or overtime at such party's  
230 full-time job, shall be inadmissible if such party commenced working  
231 more than one full-time job or overtime at such party's full-time job  
232 after entry of the initial order for payment of periodic alimony.

233 [(c)] (l) When one of the parties, or a child of the parties, is receiving  
234 or has received aid or care from the state under its aid to families with  
235 dependent children or temporary family assistance program, HUSKY

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

242 Sec. 3. Section 46b-40 of the general statutes is amended by adding  
243 subsection (g) as follows (*Effective October 1, 2012*):

244 (NEW) (g) For purposes of this chapter, "alimony" means the  
245 payment of support from a spouse who has the ability to pay, to a  
246 spouse in need of support for a reasonable length of time, with the goal  
247 of allowing the spouse who is the recipient of alimony to become self-  
248 sufficient.

249 Sec. 4. Subsection (d) of section 46b-84 of the general statutes is  
250 repealed and the following is substituted in lieu thereof (*Effective*  
251 *October 1, 2012*):

252 (d) In determining whether a child is in need of maintenance and, if  
253 in need, the respective abilities of the parents to provide such  
254 maintenance and the amount thereof, the court shall consider the age,  
255 health, station, occupation, earning capacity, amount and sources of  
256 income, estate, vocational skills and employability of each of the  
257 parents, and the age, health, station, occupation, educational status  
258 and expectation, amount and sources of income, vocational skills,  
259 employability, estate and needs of the child. Upon determining that a  
260 child is in need of maintenance, the court may order that (1) a trust  
261 account be established for the benefit of a child, and (2) a portion of  
262 any support order be deposited in the trust account and made  
263 available for the maintenance of the child under such terms and  
264 conditions as the court considers just.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	46b-82
Sec. 2	<i>October 1, 2012</i>	46b-86
Sec. 3	<i>October 1, 2012</i>	46b-40
Sec. 4	<i>October 1, 2012</i>	46b-84(d)

**Statement of Purpose:**

To (1) enact reforms concerning the amount and durational limits of alimony awards entered in family matters, and (2) provide family court judges with the authority to establish child support trust accounts.

*[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.]*