

§ 46b-82. (Formerly Sec. 46-52). Alimony.

Connecticut Statutes

Title 46B. FAMILY LAW

Chapter 815J. DISSOLUTION OF MARRIAGE, LEGAL SEPARATION AND ANNULMENT

Current through P.A. 1 of the 2014 Legislative Session

§ 46b-82. (Formerly Sec. 46-52). Alimony

(a) At the time of entering the decree, the Superior Court may order either of the parties to pay alimony to the other, in addition to or in lieu of an award pursuant to section 46b-81 . The order may direct that security be given therefor on such terms as the court may deem desirable, including an order pursuant to subsection (b) of this section or an order to either party to contract with a third party for periodic payments or payments contingent on a life to the other party. The court may order that a party obtain life insurance as such security unless such party proves, by a preponderance of the evidence, that such insurance is not available to such party, such party is unable to pay the cost of such insurance or such party is uninsurable. In determining whether alimony shall be awarded, and the duration and amount of the award, the court shall consider the evidence presented by each party and shall consider the length of the marriage, the causes for the annulment, dissolution of the marriage or legal separation, the age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate and needs of each of the parties and the award, if any, which the court may make pursuant to section 46b-81 , and, in the case of a parent to whom the custody of minor children has been awarded, the desirability and feasibility of such parent's securing employment.

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

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

Cite as Conn. Gen. Stat. § 46b-82

Source:

P.A. 73-373, S. 21; P.A. 78-230, S. 37, 54; P.A. 83-527, S. 1; P.A. 03-130, S. 3; 03-202, S. 23; P.A. 13-0213, S. 3.

History. P.A. 78-230 restated provisions; Sec. 46-52 transferred to Sec. 46b-82 in 1979 and references to other sections within provisions revised as necessary to reflect their transfer; P.A. 83-527 added provision that court may order either party to contract with a third party for periodic payments or payments contingent on a life to the other party; P.A. 03-130 designated existing provisions as Subsec. (a), adding provision re order pursuant to Subsec. (b) therein, and added Subsec. (b) re availability of postjudgment procedure; P.A. 03-202 added provision re order to obtain life insurance as security; P.A. 13-0213 amended Subsec. (a) by replacing "hear the witnesses, if any, of each party, except as provided in subsection (a) of section 46b-51," with "consider the evidence presented by each party and", by adding "earning capacity" and "education" re factors considered by the court in determining whether alimony is to be awarded and by adding "and feasibility" re a custodial parent's ability to secure employment, added new Subsec. (b) re court's responsibility to articulate with specificity the basis for an order of alimony, entered following a trial or hearing on the merits, that is to terminate only upon the death of either party or the remarriage of the alimony recipient and redesignated existing Subsec. (b) as Subsec. (c).

Case Notes:

Annotations to former section 46-52:

Cited. 171 C. 23; Id., 219; Id., 278. Established judicial standards of review of awards of alimony developed under Sec. 46-21 apply to review of awards made under this section; trial court is guided in exercise of discretion by listing in this section of factors to be considered in awarding alimony. Id., 313. Cited. 172 C. 192. Wife's earning potential is important factor to be considered in awarding alimony. Id., 202. Cited. Id., 269; Id., 316; Id., 361; 173 C. 397; 174 C. 1; Id., 279; Id., 602; 176 C. 222; 178 C. 377. Discussion of ante nuptial agreements relating to property rights upon dissolution of the marriage. 181 C. 482. Cited. 183 C. 433.

Alimony. 33 CS 44.

Annotations to present section:

Cited. 177 C. 465; 178 C. 308; 179 C. 174; Id., 568; Id., 622. Alimony award based on demonstrated earning capacity is appropriate especially where defendant has wilfully depleted his earnings. 180 C. 184. The same criteria which determine initial alimony award are relevant to the question of modification. Id., 218. Cited. Id., 376. There is no absolute right to alimony. Id., 528. Court is not required to give equal weight to each of the specified items it considers in determining an award. Id., 530. Cited. Id., 705; 181 C. 145; 182 C. 19; 183 C. 35; Id., 96; Id., 253; Id., 512; 184 C. 36; Id., 406; Id., 513; 185 C. 7; Id., 42; Id., 141; Id., 156; Id., 275; Id., 491; Id., 573; 186 C. 167; Id., 191; Id., 311; Id., 709; Id., 773; 187 C. 249; 188 C. 98; Id., 232; Id., 354; Id., 385; Id., 736; 189 C. 129. Award of alimony under statute is not contingent upon a specific request. Id., 685. Cited. 190 C. 26; Id., 36; Id., 126; Id., 173; Id., 269; Id., 491; Id., 657; 191 C. 46; Id., 81; 193 C. 261; 194 C. 25; Id., 312; 197 C. 1. Contingent order could not be sustained as an award of alimony under this statute or as assignment of property under Sec. 46b-81 ; judgment of Appellate Court reversed. 204 C. 224. Cited. 207 C. 217; 210 C. 170; 211 C. 485; 213 C. 686; 214 C. 713; 216 C. 673; 218 C. 801; 220 C. 372; 221 C. 698; 222 C. 32; 225 C. 185; 228 C. 85; Id., 729; 231 C. 168; 234 C. 783. Judgment of Appellate Court in 34 CA 785 reversed with respect to its affirming decision of trial court that trust constitutes an asset of defendant for purpose of determining alimony. 235 C. 45. Doctrine of res judicata does not require all issues between spouses to be litigated

in the dissolution proceeding. 236 C. 582. Cited. 240 C. 35. Court need not make explicit references to statutory criteria it considered in its decision resolving property and alimony disputes in dissolution of marriage action; judgment of Appellate Court in 40 CA 178 reversed. Id., 79. Standard for rehabilitative alimony discussed. 245 C. 506. Dual alimony orders are permitted and are not required to contain identical terms or conditions. 249 C. 265. As part of a nonexhaustive list, "needs of each of the parties" includes a party's need to travel in order to visit the party's children. Id. Payments made regularly and consistently to a former spouse are to be considered by trial court in setting financial orders; there is no legal distinction between how to treat income between former spouse who pays support and former spouse who receives support. 262 C. 360. Capital gains not income for purposes of modification of alimony if gains are not a steady stream of income, but changes in value may be taken into consideration in considering a modification. 266 C. 641. Change in value of an asset awarded at time of dissolution may be considered when modifying an alimony award. 283 C. 494. Failure to consider amount and sources of plaintiff's income and needs constitutes an abuse of discretion under statute. Id.

Cited. 1 CA 158; Id., 172; Id., 400; Id., 604; Id., 686; 2 CA 14; Id., 141; Id., 179; Id., 416; Id., 425; Id., 472. Criteria to be considered for alimony awards do not include impracticability of the collection of alimony. Id., 590. Cited. 3 CA 25; Id., 679; 4 CA 489; Id., 575; Id., 611; 5 CA 67; Id., 95; Id., 185; Id., 484; 6 CA 471; Id., 632; 7 CA 41; 8 CA 50; Id., 76; 9 CA 432; Id., 486; Id., 498; 10 CA 466; Id., 570. Language of this section and Sec. 46b-62 does not provide for consideration of status of legal services rendered, whether private or nonprofit, in awarding attorney's fees. 11 CA 150. Cited. Id., 195; Id., 268; Id., 463; Id., 610; Id., 653; 12 CA 525; Id., 596; Id., 626; 13 CA 129; Id., 185; Id., 270; Id., 300; Id., 512; Id., 651; 14 CA 541; 15 CA 292; Id., 318; 16 CA 193; Id., 412; Id., 680; 17 CA 480; 18 CA 166; Id., 622; 19 CA 146; 20 CA 500; Id., 551; Id., 609; 21 CA 200; 22 CA 136; Id., 248; Id., 337; Id., 392; 23 CA 98; Id., 111; Id., 330; 24 CA 307; Id., 343; Id., 509; 25 CA 41; Id., 555; Id., 595; 26 CA 386; Id., 527; Id., 720; Id., 737; 27 CA 364; Id., 396; 28 CA 208; Id., 483; Id., 854; judgment reversed, see 228 C. 85; 30 CA 292; Id., 443; Id., 560; 31 CA 561; Id., 582; Id., 736; 32 CA 152; Id., 537; Id., 733; 33 CA 536; 34 CA 328; Id., 462; judgment reversed, see 232 C. 750; Id., 641; Id., 785; judgment reversed, see 235 C. 45; 35 CA 228; Id., 246; 36 CA 305; 39 CA 162; 40 CA 178; judgment reversed, see 240 C. 79; 41 CA 716; 43 CA 508; 44 CA 605; 46 CA 87. Life insurance is not a necessary form of security to assure payment of periodic alimony. 51 CA 530. Court order limiting duration of alimony payments to 10 years held not improper. 54 CA 304. Trial court may exercise broad discretion in awarding alimony. 57 CA 165. Plaintiff cannot succeed in claim that he is entitled to immediate appellate review of denial of his motion to dismiss on the proposition that section deprives any trial court of subject matter jurisdiction over a request for postjudgment alimony absent finding of a substantial change in circumstances where plaintiff's argument of lack of statutory jurisdiction does not support claim of lack of subject matter jurisdiction and appeal does not pass the State v. Curcio test. 61 CA 112. If party asserts health an issue in claim for alimony and is receiving Social Security disability benefits, such assertion can be refuted by introduction of evidence relevant to health. 66 CA 16. Court unable to discern whether contributions from parents were gifts or loans regarding motion to modify alimony and child support awards. 69 CA 251. Court not required to reference expressly the statutory criteria it considered in awarding alimony. Id., 472. Capital gains generated by an asset distributed in dissolution decree do not fall within purview of section. 70 CA 772. If an asset is property acquired by plaintiff after the dissolution, and, therefore, not distributed as part of the property assignment, then it is income that must be considered by court in an alimony modification. Id. Capital gains tax realized on sale of asset acquired after dissolution may be considered by court in determining whether there has been a substantial change in circumstances. Id. Appreciation of an asset that was distributed at time of dissolution does not

constitute a change in circumstances that court may consider when deciding whether to entertain a motion for modification of alimony. *Id.* In considering "amount and sources of income", court cannot ignore fact that defendant receives a substantial year-end bonus simply because it is not received until the following year; provision does not require court to structure payment of alimony and child support to accommodate payor's compensation schedule. 71 CA 614. Duration of alimony in context of length of the marriage was not a properly considered "equitable factor". 79 CA 488. Financial orders cannot be logically inconsistent with factual findings. 82 CA 378. Trial court did not abuse its discretion when it determined plaintiff lacked funds to defend appeal and ordered defendant to pay a set fee to plaintiff's attorney. 83 CA 478. Court statements re consideration of criteria for alimony means it considered and decided issue of alimony even though there was no express finding on alimony. 85 CA 772. Court must consider all statutory criteria but is free to accord whatever weight it determines appropriate to each statutory factor. 86 CA 665. Trial court properly considered defendant's cohabitation in relation to her financial situation in analyzing statutory factors and determining whether modification of alimony was warranted. 88 CA 674. Defendant's argument that court ignored several factors is unavailing since court is not required to make explicit reference to the statutory criteria that it considered in making its decision or to make express findings as to each statutory factor. 107 CA 488. Court abused its discretion by failing to award time limited or rehabilitative alimony to plaintiff who was found to be responsible for certain debts but could be in dire financial straits due to her inability to increase her earning capacity, receive alimony or receive a portion of the marital property. 125 CA 265. Real property may serve as security for the court's alimony award under section despite language in the prenuptial agreement prohibiting the transfer of interest in premarital net worth that includes such real property. 136 CA 773.

Cited. 41 CS 115.

Subsec. (a):

Appellate court's conclusion that trial court improperly relied on total length of parties' relationship in crafting its financial orders was supported by record; under Sec. 46b-81(c) and this Subsec., a court shall consider length of parties' marriage, which does not include prior marriages or cohabitation preceding marriage. 280 C. 632.

Prior marriage and cohabitation between parties before their remarriage to each other are not to be included when calculating "length of the marriage" in remarriage divorce proceedings. 93 CA 618. Defendant's annual bonus constituted an "amount and source of income" that court should have considered when determining division of marital property and awarding alimony and child support, and matter should be remanded for recalculation of all awards even though child support award was calculated correctly. 98 CA 706. Court must consider all statutory criteria but there is no additional requirement that court specifically state how it weighed statutory criteria or explain in detail the importance assigned to each statutory factor. 99 CA 326.

Cross References:

See Sec. 17b-743 re direction that payments under support order be made to Commissioner of Administrative Services or local welfare department.

See Sec. 17b-744 re discontinuance of such support payments to Commissioner of Administrative Services.