

2011 Edition

Alimony in Connecticut

A Guide to Resources in the Law Library

- “The term alimony usually and technically means an allowance for spousal support and is distinguishable from property division and child support.” [In Re Marriage of Sjulín](#), 431 NW2d 773 (Iowa 1988).
- “The difference between the assignment of property under § 46b-81 and alimony under § 46b-82 The purpose of property assignment is equitably to divide the ownership of the parties’ property On the other hand, periodic and lump sum alimony is based primarily upon a continuing duty to support” [Dubicki v. Dubicki](#), 186 Conn. 709, 714, footnote 2, 443 A.2d 1268 (1982).
- “. . . alimony typically is modifiable, while disposition of marital property are not.” [Dombrowski v. Noyes-Dombrowski](#), 273 Conn. 127, 133, 869 A.2d 164 (2005).

Contents

ALIMONY IN CONNECTICUT	1
SECTION 1: DUTY TO SUPPORT SPOUSE.....	3
TABLE 1: PROOF OF ABANDONMENT OF THE MARRIAGE WITHOUT CAUSE	6
SECTION 2: ALIMONY PENDENTE LITE	7
SECTION 3: MODIFYING ALIMONY	11
TABLE 2: REQUEST FOR LEAVE SHALL BE APPENDED TO MOTION TO MODIFY.....	18
SECTION 4: FACTORS CONSIDERED IN AWARDING AND MODIFYING.....	19
TABLE 3: STATUTORY FACTORS IN AWARDING ALIMONY	24
TABLE 4: WIFE'S ABILITY TO SUPPORT HERSELF	25
TABLE 5: PROOF OF FORMER WIFE'S ABILITY TO EARN OWN SUPPORT.....	25
TABLE 6 PROOF OF RIGHT TO SPOUSAL SUPPORT AND FACTORS AFFECTING AMOUNT OF SUPPORT	26
TABLE 7: APPEALS OF ALIMONY AWARDS.....	27
SECTION 5: ENFORCING ALIMONY	29
TABLE 8: IV-D SPOUSAL SUPPORT	33
SECTION 6: ALIMONY AND A NONRESIDENT PARTY.....	36
SECTION 7: DURATION OF ALIMONY IN CONNECTICUT	38
TABLE 9: CONNECTICUT'S COHABITATION STATUTE.....	42
SECTION 8: ATTORNEY'S FEES AND EXPENSES	44
SECTION 9: TAX CONSEQUENCES OF ALIMONY	47
TABLE 10: QUESTIONS & ANSWERS ON ALIMONY AND TAXES	51
SECTION 10: WORDS & PHRASES: ALIMONY	52
APPENDIX A TERMINATION OF ALIMONY	56
APPENDIX B ALTERATION OF ALIMONY AWARDS	58

These guides are provided with the understanding that they represent only a beginning to research.

**View our other pathfinders at
<http://www.jud.ct.gov/lawlib/selfguides.htm#Pathfinders>**

This guide links to advance release slip opinions on the Connecticut Judicial Branch website and to case law hosted on Google Scholar. The online versions are for informational purposes only.

Section 1: Duty to Support Spouse

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to joint duty to support spouse as basis for awarding alimony. Also, liability of one spouse for purchases and contracts made by other spouse.

DEFINITION:

- “An award of alimony is based primarily on a spouse’s continuing duty to support . . . General Statutes § 46b-82 governs the award of alimony and specifically states it may be in addition to a property distribution award” [Martone v. Martone](#), 28 Conn. App. 208, 217, 611 A.2d 896 (1992).
- **Periodic alimony:** is a type of permanent alimony paid at scheduled intervals. The purpose of periodic alimony is primarily to continue the duty to support the recipient spouse.” [Bijur v. Bijur](#), 79 Conn. App. 752, 767, 831 A.2d 824 (2003).
- **Property division vs. Alimony.** “The purpose of property assignment is equitably to divide the ownership of the parties’ property On the other hand, periodic and lump sum alimony is based primarily upon a continuing duty to support.” [Blake v. Blake](#), 211 Conn. 485, 498, 560 A.2d 396 (1989).

STATUTES:

- CONN. GEN. STAT. (2011)
 - [§ 46b-37](#). Joint duty of spouses to support family. Liability for purchases and certain expenses. Abandonment.
 - [§ 46b-82](#). Alimony
 - [§ 46b-85](#). Order for support of mentally ill spouse
 - [§ 53-304\(a\)](#). Nonsupport. Support orders and agreements.
Administration of oaths by family relations counselors and support enforcement officers.

CASES:

DUTY TO SUPPORT

- [Feldman v. Allegheny Airlines, Inc.](#), 524 F.2d 384 (1975), remand 452 F.2d 151.
- [U.S. v. Edwards](#), 572 F. Supp. 1527 (1983).
- [Page v. Welfare Commissioner](#), 170 Conn. 258, 365 A.2d 1118 (1976).
- [Sklar v. Sklar’s Estate](#), 168 Conn. 101, 357 A.2d 900 (1975).
- [McDonnell v. McDonnell](#), 166 Conn. 146, 348 A.2d 575(1974).

ALIMONY

- [Loughlin v. Loughlin](#), 93 Conn. App. 618, 635, 889 A.2d 902 (2006) “A reviewing court is not necessarily bound by the trial court’s characterization of a financial order in a dissolution action when evaluating the order’s propriety.”
- [Rubin v. Rubin](#), 204 Conn. 224, 234, 527 A.2d 1184 (1987). “It must be remembered, however, that an alimony order is predicated upon the obligation of support that spouses assume toward each other by virtue of the marriage.”

- [Baker v. Baker](#), 166 Conn. 476, 488, 352 A.2d 217(1974). “The primary basis for an award of alimony is the continuing duty of a divorced husband to support a wife, whom, in legal contemplation, he has abandoned.”
- [Fattibene v. Fattibene](#), 183 Conn. 433, 441, 441 A.2d 3 (1981). “The primary basis for an award of alimony has been not to punish a guilty spouse but to continue the duty to support”
- [Venuti v. Venuti](#), 185 Conn. 156, 158, 440 A.2d 878 (1981). “Adultery is not listed as a factor to be considered unless it is one of the causes for the dissolution of marriage.”

NECESSITIES

- [Foran v. Carangelo](#), 153 Conn. 356, 216 A.2d 638 (1966).
- [State v. Turello](#), 183 Conn. 330, 439 A.2d 364 (1981). *Chronic illness.*
- [Ematrudo v. Gordon](#), 100 Conn. 163, 123 A. 14 (1923). *Plastic surgery on spouse.*
- [Hanf v. Hanf](#), 23 Conn. Supp. 306 at 307, 182 A.2d 631 (1962). *Medical care and burial of spouse.*
- [Cohn v. Snyder](#), 102 Conn. 703, 130 A. 631 (1925). *Rent*

DEFENSES

- [Yale University School of Medicine v. Scianna](#), 45 Conn. Supp. 84, 701 A.2d 65 (1977). *History of the separation defense.*
- [Yale University School of Medicine v. Collier](#), 206 Conn. 31 at 37, 536 A.2d 588 (1988). "It follows that since the decedent left the named defendant without just cause, the obligations of the named defendant imposed by 46b-37(b) were suspended."

WEST KEY NUMBERS:

Husband and Wife

- # 4. Support of family
- # 19. Necessities and family expenses
 - 19(3). Separation defense
 - 19(14). What constitutes necessities in general
 - 19(15). Medical services
 - 19(16). Last sickness and funeral expenses

DIGESTS:

DOWLING’S DIGEST: *Husband and Wife*

- § 8. Liability of one spouse for contracts and purchases of other

ENCYCLOPEDIAS:

- 41 [AM. JUR. 2D](#) *Husband & Wife* (2005).
 - § 160. Spousal liability for necessities
 - § 161. Applicability to both spouse
 - § 162. Purpose
 - § 163. Elements or requirements
 - § 164. Basis of liability
 - § 165. Validity of necessities doctrine
 - § 166. Nature of liability imposed; primary and secondary liability
 - § 167. Necessaries furnished by public authorities
 - § 168. Notice not to extend credit to wife
 - § 169. Effect of abandonment or misconduct by spouse incurring the debt

- 41 [C.J.S. Husband and Wife](#) (2006).
 - §§ 66-86. Support of spouse; Necessaries and family expenses
- *Abandonment Of Marriage Without Cause—Defense In Alimony, Spousal Support, Or Separate Maintenance Proceedings*, 27 POF2d 737 (1981).
 - §§ 5- 11. Proof that spouse wilfully abandoned marital domicile without good cause, thereby precluding award of alimony, spousal support, or separate maintenance [[TABLE 1](#)].
 - Wife’s ability to support herself*, 2 POF2d 99 (1974).
 - §§ 5-22. Proof of former wife’s independent means of support [[TABLE 4](#)]
- *Defense against wife’s action for support*, 17 Am Jur Trials 721 (1970).
- Jay M. Zitter, Annotation, *Modern Status Of Rule That Husband Is Primarily Or Solely Liable For Necessities Furnished Wife*, 20 ALR4th 196 (1983).
- Jay M. Zitter, Annotation, *Necessity, In Action Against Husband For Necessaries Furnished Wife, Of Proving Husband’s Failure To Provide Necessaries*, 19 ALR4th 432 (1983).
- Jay M. Zitter, Annotation, *Wife's Liability for Necessities Furnished Husband*, 11 ALR4th 1160 (1982).
- Annotation, *Husband's Liability to Third Person for Necessities Furnished to Wife Separated from Him*, 60 ALR2d 7 (1958).

TEXTS & TREATISES:

- 8 ARNOLD H. RUTKIN ET AL., [CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS](#) (3d ed. 2010).
 - Chapter 33. Alimony in General
 - § 33.1. Definition
 - § 33.36. Order for support of mentally ill spouse
 - § 33.37. —Time for entry of order
 - § 33.38. —Parties who may apply for order
 - § 33.39. Order for support of mentally ill spouse—Duration of obligation
 - Chapter 35. Modification of Alimony Provisions
 - § 35.12. Changes in health of the parties
- [CONNECTICUT LAWYER’S DESKBOOK: A REFERENCE MANUAL](#) (3d ed. 2008)
 - Chapter 19. Dissolution of Marriage.
 - pp. 487-488

COMPILER:

Catherine Hogan Mazur, Connecticut Judicial Branch Law Library at Hartford.
95 Washington St. Hartford, CT 06106 860-548-2866 [Email](#)

* Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Table 1: Proof of Abandonment of the Marriage Without Cause

Proof that spouse wilfully abandoned marital domicile without good cause, thereby precluding award of alimony, spousal support, or separate maintenance.	
27 POF2d 737 (1981)	
A. Elements of Proof	
§ 5	Guide and checklist
B. Testimony of Complaining Spouse (Cross-Examination)	
§ 6	Voluntary departure from marital domicile
§ 7	Absence of reasonable cause for separation
C. Testimony of Defendant	
§ 8	Absence of reasonable cause for separation
§ 9	Voluntary departure from marital domicile
§ 10	Intent not to resume cohabitation
§ 11	Absence of consent to separation

Section 2: Alimony Pendente Lite

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to the grounds and procedures used for applying for and extending alimony pendente lite (temporary alimony while court proceeding is pending). Also includes the effect of prenuptial agreements on alimony.

DEFINITION:

- **ALIMONY PENDENTE LITE:** “means alimony or maintenance ‘pending litigation’ and is payable during the pendency of a divorce proceeding so as to enable a dependent spouse to proceed with or defend against the action.” [Jayne v. Jayne](#), 663 A.2d 169, 176 (Pa. Super. 1995).
- **PURPOSE:** “is to provide for wife . . . they are living apart from her husband pending a determination of the issues in the case.” [Fitzgerald v. Fitzgerald](#), 169 Conn. 147, 151, 362 A.2d 889 (1975).
- “The purpose of alimony pendente lite is to provide support to a spouse who the court determines requires financial assistance pending the dissolution litigation and the ultimate determination of whether that spouse is entitled to an award of permanent alimony.” [Weinstein v. Weinstein](#), 18 Conn. App. 622, 639-640, 561 A.2d 443 (1989).
- “There is no absolute right to alimony.” [Weinstein v. Weinstein](#), 18 Conn. App. 622, 637, 561 A.2d 443 (1989).

STATUTES:

- CONN. GEN. STAT. (2011)
[§ 46b-82](#). Factors used in determining an alimony award
[§ 46b-83\(a\)](#). Alimony pendente lite.

PUBLIC ACT HISTORY:

- [2005 Conn. Acts 258 § 5\(b\)](#). “In any proceeding brought under section 46b-45, 46b-56, as amended by this act, or 46b-61 involving a minor child, if one of the parents residing in the family home leaves such home voluntarily and not subject to court order, and if the court finds that the voluntary leaving of the family home by such parent served the best interests of the child, the court may consider such voluntary leaving as a factor when making or modifying any order pursuant to section 46b-56, as amended by this act.” Effective October 1, 2005.
- [2003 Conn. Acts 202 § 23](#) (Reg. Sess.). Amendment to § 46b-82.” 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.”

COURT RULES:

- CONNECTICUT PRACTICE BOOK (2011 EDITION)
[Chapter 25](#). Superior Court—Procedure in family matters
§ 25-24. Motions.
 - (a). Any appropriate party may move for alimony
 - (b). Each such motion shall state clearly, in the caption of the motion, whether it is a pendente lite or a postjudgment motion.

§ 25-29. Notice of orders for support or alimony
§ 25-30. Statements to be filed

FORMS:

- THOMAS D. COLIN, ED. [LIBRARY OF CONNECTICUT FAMILY LAW FORMS](#) (2008)
 - 4-001 Motion for Orders Re: Alimony, pp. 194
 - 4-002 Motion for Alimony and Support, pp. 197
 - 4-003 Motion for Alimony, Custody, Support and Counsel Fees, pp. 199
 - 4-004 Claims for Relief Re: Alimony, pp. 201
- WYNN AND LUBELL, [HANDBOOK OF FORMS FOR THE CONNECTICUT FAMILY LAWYER](#).
 - VI-B-1. Motion for alimony pendente lite, p. 99
 - VI-B-2. Motion for alimony, child support, custody and counsel fees, pendente lite, pp. 100-101
 - VI-B-3. Motion for determination of alimony and child support, pp. 102-103
 - VI-B-5. Motion to extend alimony pendente lite, p. 105
- 8 ARNOLD H. RUTKIN ET AL., [CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS](#) (3d ed. 2010).
 - § 32.3. Motion for orders before judgment (pendente lite) in family cases—Form
 - § 32.4. Motion for alimony and counsel fees pendente lite—Form
 - § 32.5. Motion for determination of alimony and child support—Form
- BARBARA KAHN STARK, [FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE](#) (1998).
 - Motion for alimony pendente lite, p. 373
 - Checklist of temporary alimony and first year filing status, p. 82
 - Sample wording for temporary agreements, pp. 85-88

CASES:

- [Clark v. Clark](#), 127 Conn. App. 148, 158 (2011). “Here, as in *Evans*, ‘although the court did not expressly forgive the arrearage of pendente lite support, it failed to include the arrearage in its judgment dissolving the marriage. . . . [T]hat failure to include an arrearage in a final order of dissolution has the same effect on the party entitled to the pendente lite arrearage as it would have had if the court had expressly modified or forgiven the pendente lite order at the time of dissolution; it strips that party of a vested property right and constitutes an impermissible retroactive modification of the pendente lite orders in violation of § 46b-86.’”
- [Friezo v. Friezo](#), 84 Conn. App. 727, 733-734, 854 A.2d 1119 (2004). “The defendant also argued in his brief that because he was not permitted to cross-examine the plaintiff at length, he was unable to inquire into the facts underlying the court's pendente lite order. The defendant's claim is a generalization. He has not pointed to anything regarding the plaintiff's financial affidavit for which he does not have sufficient information. He notes that the ‘fundamental purpose of alimony pendente lite is to provide the wife, during the pendency of the divorce action, with current support in accordance with her needs and the husband's ability to meet them’ Given this rule, the defendant has not demonstrated that he has been harmed by the court's order because he is unable to meet the plaintiff's needs.’”

- [Wolf v. Wolf](#), 39 Conn. App. 162, 164-165, 664 A.2d 315 (1995). *Factors considered in awarding alimony.*
- [Siracusa v. Siracusa](#), 30 Conn. App. 560, 566, 621 A.2d 309 (1993). “The court looked specifically at the occupations, skills and employability of the parties. It found that the plaintiff, with three years of college education, had worked as a waitress, had obtained her real estate agent's license, and had some experience in the moving business. The defendant, a college graduate, is the chief executive officer of a moving and storage company he established twelve years ago. The trial court found that ‘[f]rom the nature of the occupations and skills of the parties . . . [the] defendant has a far greater opportunity than does the plaintiff for the future acquisition of capital assets or income.’”
- [Paddock v. Paddock](#), 22 Conn. App. 367, 577 A.2d 1087 (1990). *Inability to pay alimony.*
- [Martone v. Martone](#), 28 Conn. App. 208, 611 A.2d 896, cert. granted in part 224 Conn. 909 (1992). *Duty to support - In general.*

DIGESTS:

- WEST KEY NUMBERS: *Divorce* # 208-228
- DOWLING’S DIGEST: *Dissolution of marriage* § 15
- CONNECTICUT FAMILY LAW CITATIONS: *Alimony—Pendente Lite*

ENCYCLOPEDIAS:

- 27B [C.J.S.](#) *Divorce* (2005).
§§ 499-838. Alimony, maintenance and support, and other allowances
§§ 529-540. Temporary alimony
- 24A [AM. JUR. 2D](#) *Divorce and Separation* (2008).
§§ 587-617. Temporary alimony
- Jean E. Maess, Annotation, *Court’s Authority To Award Temporary Alimony Or Suit Money In Action For Divorce, Separate Maintenance, Or Alimony Where The Existence Of A Valid Marriage Is Contested*, 34 ALR4th 814 (1984).
- Gary L. Hall, Annotation, *Wife’s Possession Of Independence Means As Affecting Her Right To Alimony Pendente Lite*, 60 ALR3d 728 (1974).

TEXTS & TREATISES:

- 8 ARNOLD H. RUTKIN ET AL., [CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS](#) (3d ed. 2010).
Chapter 32. Temporary Alimony
§ 32.2. Time and method for raising claim
§ 32.6. Hearing
§ 32.7. Amount of award; factors to be considered
§ 32.8. Order, stipulation or voluntary compliance
§ 32.11. Effect of prenuptial or other agreement relating to alimony
Chapter 33. Alimony in general
§ 33.20. Security for award
- BARBARA KAHN STARK, [FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE](#) (1998).
—Temporary support including tax considerations, pp. 80-83, 225
—Pendente lite orders, procedures, pp. 296-297

COMPILER:

Catherine Hogan Mazur, Connecticut Judicial Branch Law Library at Hartford.
95 Washington St. Hartford, CT 06106 860-548-2866 [Email](#)

* Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial
Branch Supervising Law Librarian.

Section 3: Modifying Alimony

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to the grounds and procedures for modifying alimony in Connecticut.

DEFINITION:

- **Cohabitation:** “Section 46b-86 (b), known as the ‘cohabitation statute,’ provides in pertinent part that a court may ‘modify such judgment and suspend, reduce or terminate the payment of periodic alimony upon a showing that the party receiving the periodic alimony is living with another person under circumstances which the court finds should result in the modification . . . of alimony because the living arrangements cause such a change of circumstances as to alter the financial needs of that party.’” [D’Ascanio v. D’Ascanio](#), 237 Conn. 481, 485-486, 678 A.2d 469 (1996).
- **Substantial change in circumstances:** “When presented with a motion for modification, a court must first determine whether there has been a substantial change in the financial circumstances of one or both of the parties Second, if the court finds a substantial change in circumstances, it may properly consider the motion and, on the basis of the § 46b-82 criteria, make an order for modification The court has the authority to issue a modification only if it conforms to the distinct and definite changes in the circumstances of the parties.” [Crowley v. Crowley](#), 46 Conn. App. 87, 92, 699 A.2d 1029 (1997).
- “When determining whether there is a substantial change in circumstances, the court is limited in its consideration to conditions arising subsequent to the entry of the dissolution decree.” [Spencer v. Spencer](#), 71 Conn. App. 475, 481, 802 A.2d 215 (2002).
- **Decree or order of the court:** “Thus, even if the parties had agreed that the defendant would not be obligated to comply with the alimony order, that agreement would not be effective to modify the defendant’s obligation because, as previously stated, ‘[d]ecrees in a dissolution action cannot be modified by acts of the parties without further decree or order by the court.’” [Albrecht v. Albrecht](#), 19 Conn. App. 146, 151, 562 A.2d 528, cert. denied, 212 Conn. 813, 565 A.2d 534 (1989).” [Ford v. Ford](#), 72 Conn. App. 137, 141, 804 A.2d 215 (2002).

STATUTES:

- CONN. GEN. STAT. (2011)
 - [§ 46b-8](#). Motion for modification of support order combined with motion for contempt.
 - [§ 46b-86](#). Modification of alimony or support orders and judgments.

COURT RULES:

- CONNECTICUT PRACTICE BOOK (2011 EDITION)
 - [Chapter 25](#) Superior Court—Procedure in family matters
 - § 25-24(b) “. . . . Each such motion shall state clearly, in the caption of the motion, whether it is a pendente lite or a post judgment motion.”
 - § 25-26. Modification of custody, alimony or support

§ 25-30. Statements to be filed

FORMS:

- [Filing a Motion for Modification](#)
- [Official Forms](#)

COURT CASES:

- [Lehan v. Lehan](#), 118 Conn. App. 685, 696, 985 A.2d 378 (2010). “For purposes of § 46b-86(b), the plaintiff must demonstrate that the defendant’s financial needs, as quantified by the court in setting the alimony award pursuant to General Statutes § 46b-82, have been altered by her living arrangements. See *id.*, at 324, 951 A.2d 587. ‘Although the alteration need not be substantial ... the difference must be measurable in some way before the court can conclude whether a difference, in fact, exists.... In other words, the court must have the ability to compare the [defendant’s] financial needs at different points in time in order to determine whether those needs either have increased or have decreased over time.’”
- [Taylor v. Taylor](#), 117 Conn.App. 229, 232-233, 978 A.2d 538 (2009) “The defendant claims that because the agreement failed to include language that after the events mentioned, alimony would be subject to a de novo review, the second look should be based on a substantial change of circumstances. See, e.g., *Borkowski v. Borkowski*, 228 Conn. 729, 638 A.2d 1060 (1994)...The agreement, however, specifically provides that on the happening of either of the two previously mentioned events, alimony may be given a second look. We conclude, therefore, that this language permits a de novo review of the plaintiff’s alimony obligation.”
- [Ucci v. Ucci](#), 114 Conn. App. 256, 261, 969 A.2d 217 (2009). “Although the defendant’s motion for modification included the language of the modification provision of the separation agreement, as well as the substantial circumstances language of the statute, the defendant did not alert the court at any time that he sought modification pursuant to the agreement only and that the court could not consider the statutory criteria of § 46b-82.”
- [Simms v. Simms](#), 283 Conn. 494, 502-503, 927 A.2d 894 (2007). “[Section] 46b-86 governs the modification or termination of an alimony or support order after the date of a dissolution judgment. When, as in this case, the disputed issue is alimony, the applicable provision of the statute is § 46b-86 (a), which provides that a final order for alimony may be modified by the trial court upon a showing of a substantial change in the circumstances of either party. . . . Under that statutory provision, the party seeking the modification bears the burden of demonstrating that such a change has occurred. . . . Because a request for termination of alimony is, in effect, a request for a modification, this court has treated as identical motions to modify and motions to terminate brought under § 46b-86 (a). . . .” [*Borkowski v. Borkowski*, 228 Conn. 729, 734-735 (1994).]
- [Berry v. Berry](#), 88 Conn. App. 674, 678, 870 A.2d 1161 (2005). “In its articulation, the court referenced *LaBow v. LaBow*, 13 Conn. App. 330, 344-45, 537 A.2d 157, cert. denied, 207 Conn. 806, 540 A.2d 374 (1988), and *Kelepecz v. Kelepecz*, 187 Conn. 537, 538, 447 A.2d 8 (1982), for the proposition that an alimony modification required an unanticipated change in circumstances. The defendant is correct that this was an improper standard. Public Acts 1987, No. 87-104, eliminated the requirement in § 46b-86 that modification of alimony or support be based on unanticipated changes of circumstances. *Darak v. Darak*, 210 Conn. 462, 470, 556 A.2d 145 (1989).”

- [Doody v. Doody](#), No. FA 02-0731061 (Conn. Super. Ct., Hartford J.D., May 17, 2005). “However, a defendant's inability to pay ‘does not automatically entitle a party to a decrease of an alimony order.’ *Sanchione v. Sanchione* 173 Conn. 397 (1977). Such inability to pay must be excusable and not brought about by the defendant's own fault before a motion for modification may be granted. *Wanowitz v. Wanowitz*. 12 Conn.App. 616 (1987); *Gleason v. Gleason*, 16 Conn.App. 134 (1988).
- [Simms v. Simms](#), 89 Conn. App. 158, 162 (2005). “The defendant's claim that the self-executing alimony alterations constitute modifications of the dissolution orders is untenable. Those alterations were required not by a subsequent court order or adjudication by the court, but rather by the express terms of the settlement agreement incorporated into the 1979 dissolution orders. This court has held that ‘[d]ecrees in a dissolution action cannot be modified by acts of the parties without further decree or order by the court.’ *Albrecht v. Albrecht*, 19 Conn. App. 146, 151, 562 A.2d 528, cert. denied, 212 Conn. 813, 565 A.2d 534 (1989). The record reveals no further decree or order by the court since 1979.”
- [Gay v. Gay](#), 266 Conn. 641, 647-648, 835 A.2d 1 (2003). “[T]he purpose of both periodic and lump sum alimony is to provide continuing support.’ *Smith v. Smith*, 249 Conn. 265, 275, 752 A.2d 1023(1999). At least where, as is generally the case, **capital gains** do not represent a steady stream of revenue, the fact that a party has enjoyed such gains in a particular year does not provide a court with an adequate basis for assessing that party's long-term financial needs or resources. For this reason, we conclude that capital gains are not income for purposes of modification of an order for continuing financial support if those gains do not constitute a steady stream of revenue. This is true without regard to whether the assets from which those gains are derived were acquired before or after the dissolution. There is nothing in the record to suggest that the plaintiff can, through the ongoing sale of capital assets, maintain the income stream found by the trial court. Accordingly, we conclude that, regardless of when the capital assets sold by the plaintiff were acquired, the gains on the assets were not income.” (Emphasis added).
- [Distefano v. Distefano](#), 67 Conn. App. 628, 633, 787 A.2d 675 (2002). “In accordance with General Statutes § 46b-86 (b) and the holding in *DeMaria*, before the payment of alimony can be modified or terminated, two requirements must be established. First, it must be shown that the party receiving the alimony is cohabitating with another individual. If it is proven that there is cohabitation, the party seeking to alter the terms of the alimony payments must then establish that the recipient's financial needs have been altered as a result of the cohabitation.”
- [Clark v. Clark](#), 66 Conn. App. 657, 665, 785 A.2d 1162 (2001). “The court is not required, however, to consider all of the § 46b-82 criteria when modification of alimony is sought pursuant to a dissolution agreement.”
- [Grosso v. Grosso](#), 59 Conn. App. 628, 634, 758 A.2d 367 (2000). “In the present case, however, the defendant moved to modify the alimony payments pursuant to § 46-86 (a). The court fashioned a remedy for the defendant's changed circumstances in a way contemplated by subsection (a). Accordingly, we find that the court acted properly and did not abuse its discretion in **suspending the alimony payments.**” (Emphasis added).

- [Way v. Way](#), 60 Conn. App. 189, 194, 758 A.2d 884 (2000). “When a decree contains language precluding modification, a trial court, under its continuing jurisdiction, has the power to determine whether the preclusive language in the decree should be enforced.”
- [DeMaria v. DeMaria](#), 247 Conn. 715, 720, 724 A.2d 1088 (1999). “Because, however, ‘living with another’ person without financial benefit did not establish sufficient reason to refashion an award of alimony under General Statutes § 46b-81, the legislature imposed the additional requirement that the party making alimony payments prove that the living arrangement has resulted in a change in circumstances that alters the financial needs of the alimony recipient. Therefore, this additional requirement, in effect, serves as a limitation. Pursuant to § 46b-86 (b), the nonmarital union must be one with attendant financial consequences before the trial court may alter an award of alimony.”
- [Simmons v. Simmons](#), 244 Conn. 158, 179, 708 A.2d 949 (1998). “We continue mindful of the substantial deference that this court affords the decisions of the trial court in a dissolution action We consider this case, however, to present one of those rare situations in which we must conclude that there was an abuse of that discretion.”
- [Crowley v. Crowley](#), 46 Conn. App. 87, 699 A.2d 1029 (1997). **Interest on modified retroactive alimony orders.**
- [Borkowski v. Borkowski](#), 228 Conn. 729, 736, 638 A.2d 1060 (1994). “In general the same sorts of [criteria] are relevant in deciding whether the decree may be modified as are relevant in making the initial award of alimony. They have chiefly to do with the needs and financial resources of the parties.’ . . . More specifically, these criteria, outlined in General Statutes 46b-82, require the court to consider the needs and financial resources of each of the parties and their children, as well as such factors as the causes for the dissolution of the marriage and the age, health, station, occupation, employability and amount and sources of income of the parties.”
- [Dooley v. Dooley](#), 32 Conn. App. 863, 632 A.2d 712 (1993). “Alimony pendente lite may not be modified unless there has been a substantial change in circumstances since the date of the award.”
- [Simms v. Simms](#), 25 Conn. App. 231, 234, 593 A.2d 161 (1991). “a dramatic increase in the income of one of the parties may constitute a substantial change in circumstances”
- [Scoville v. Scoville](#), 179 Conn. 277, 279, 426 A.2d 271 (1979). “Lump sum alimony, unlike periodic alimony, is a final judgment which cannot be modified even should there be a substantial change in circumstances”

DIGESTS:

- WEST KEY NUMBERS: *Divorce* #245
- DOWLING’S DIGEST: *Dissolution of marriage* §19
- CONNECTICUT FAMILY LAW CITATIONS:
 - Alimony—Judgments, Orders, and Decrees—Modification
 - Alimony—nonmodifiable
 - Alimony—permanent

ENCYCLOPEDIAS:

- 24A [AM. JUR. 2D](#) *Divorce and Separation* (2008).
§§ 718-758. Modification of alimony awards
- 27B [C.J.S.](#) *Divorce* (2005).
§§ 638-665. Modification or vacation of allowance
§§ 786-796. Proceedings for modification or vacation of order or decree
- Jane Massey Draper, Annotation, *Retirement Of Husband As Change Of Circumstances Warranting Modification Of Divorce Decree—Early Retirement*, 36 ALR 6th 1 (2008)
- Jane Massey Draper, Annotation, *Retirement Of Husband As Change Of Circumstances Warranting Modification Of Divorce Decree—Conventional Retirement at 65 Years of Age or Older*. 11 ALR 6th 125 (2006)
- Jane Massey Draper, Annotation, *Retirement Of Husband As Change Of Circumstances Warranting Modification Of Divorce Decree—Prospective Retirement*, 110 ALR5th 237 (2003).
- James Lockhart, *Cause Of Action To Obtain Increase In Amount Or Duration Of Alimony Based On Changed Financial Circumstances Of Parties*, 19 COA 1 (1989).
- James Lockhart, *Cause Of Action For Modification Of Amount Of Permanent Alimony Based On Changed Financial Circumstances Of Party Making Payment*, 12 COA 853 (1987).
- *Modification Of Spousal Support Award*, 32 POF2d 491(1982).
§§ 12-20. Proof of supported spouse’s right to increased support
§§ 21-27. Proof of supporting spouse’s right to decrease or terminate support
- *Modification Of Spousal Support On Ground Of Supported Spouse’s Cohabitation*, 6 POF3d 765 (1989).
§ 17. Checklist—Proving cohabitation
§§ 18-19. Model interrogatories
§§ 20-45. Proof of cohabitation as basis of support modification
- Robin Cheryl Miller, Annotation, *Effect of Same Sex Relationship On Right To Spousal Support*, 73 ALR5th 599 (1999).
- Annotation, *Alimony As Affected By Recipient Spouse’s Remarriage, In Absence Of Controlling Specific Statute*, 47 ALR5th 129 (1997).
- Karen A. Cusenbary, Annotation, *Decrease In Income Of Obligor Spouse Following Voluntary Termination Of Employment As Basis For Modification Of Child Support Award*, 39 ALR5th 1 (1996).
- Frank J. Wozniak, Annotation, *Loss Of Income Due To Incarceration As Affecting Child Support Obligation*, 27 ALR5th 540 (1995).
- Christopher Vaeth, Annotation, *Consideration Of Obligated Spouse’s Earnings From Overtime Or “Second Job” Held In Addition To Regular Full-Time Employment In Fixing Alimony Or Child Support Awards*, 17 ALR5th 143 (1994).
- Claudia Catalano, Annotation, *Spouse’s Right To Set Off Debt Owed By Other Spouse Against Accrued Spousal Or Child Support Payments*, 11 ALR5th 259 (1993).
- Diane M. Allen, Annotation, *Divorced Or Separated Spouse’s Living With Member Of Opposite Sex As Affecting Other Spouse’s Obligation Of Alimony Or Support Under Separation Agreement*, 47 ALR4th 38 (1986).
- Jay M. Zitter, Annotation, *Validity And Enforceability Of Escalation Clause In Divorce Decree Relating To Alimony And Child Support*, 19 ALR4th 830 (1983).
- Annotation, *Divorced Woman’s Subsequent Sexual Relations Or Misconduct As Warranting, Alone Or With Other Circumstances, Modification Of*

Alimony Decree, 98 ALR3d 453 (1980).

- John J. Michalik, Annotation, *Divorce: power of court to modify decree for alimony or support of spouse which was based on agreement of parties*, 61 ALR3d 520 (1975).
- Emile F. Short, Annotation, *Retrospective Increase In Allowance For Alimony, Separate Maintenance, Or Support*, 52 ALR3d 156 (1973).

**TEXTS &
TREATISES:**

- 8 ARNOLD H. RUTKIN ET AL., [CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS](#) (3d ed. 2010).
Chapter 35. Modification of Alimony Provisions
 - § 35.2. Necessity of changed circumstances
 - § 35.3. Modifiability of lump sum award
 - § 35.4. Modification where no alimony is originally granted or reserved
 - § 35.5. Modifications to change duration of alimony award
 - § 35.6. Effect of provisions limiting or prohibiting modification
 - § 35.7. Effect of modification on accrued alimony
 - § 35.10. Facts justifying modification
 - § 35.11. Inadequacy of original order
 - § 35.12. Changes in health of the parties
 - § 35.13. Child's increased earnings, expenses or needs
 - § 35.14. Changes in custody or child support
 - § 35.15. Increases in cost of living
 - § 35.16. Changes in earnings or assets of the payor
 - § 35.17. Changes in earnings or assets of the payee
 - § 35.18. Loss of employment
 - § 35.19. Effects of general business conditions
 - § 35.20. Rehabilitation after divorce
 - § 35.21. Remarriage of payor
 - § 35.22. Remarriage of payee
 - § 35.23. Misconduct of the party receiving alimony
 - § 35.24. Criteria to be considered for modification
 - § 35.25. Modification of alimony based upon cohabitation
 - § 35.26. Proof of cohabitation
 - § 35.27. Relief available based upon cohabitation
 - § 35.28. Burden of proof and notice requirement
 - § 35.29. Modification and appeal distinguished
 - § 35.30. Effect of Child Support Guidelines
- 2 [FAMILY LAW PRACTICE IN CONNECTICUT](#) (1996).
Chapter 9. Alimony in Divorce—Spousal Support
 - § 9.14. Cohabitation considerations
- BARBARA KAHN STARK, [FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE](#) (1998).
Chapter 10. Alimony.
 - Modifying, pp. 230. 347-348
 - Reductions, p. 230
- [CONNECTICUT LAWYER'S DESKBOOK: A REFERENCE MANUAL](#) (3d ed. 2008)
Chapter 19. Dissolution of Marriage.
pp. 487-488

- Ralph Dupont, 2 [DUPONT ON CONNECTICUT CIVIL PRACTICE](#) (2008) §§ 25-26 to 25-26.4.

LAW REVIEWS:

- Cynthia George, *Combating The Effects Of Inflation On Alimony And Child Support Orders*, 75 CONNECTICUT BAR JOURNAL 223 (1983).

COMPILER:

Catherine Hogan Mazur, Connecticut Judicial Branch Law Library at Hartford.
95 Washington St. Hartford, CT 06106 860-548-2866 [Email](#)

* Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Table 2: Request for Leave shall be appended to Motion to Modify

<h2 style="margin: 0;">Request for Leave</h2> <p style="margin: 0;"><u>JD-FM-202</u> Rev. 8-07</p>	
<p>CONN. PRACTICE BOOK § 25-26 (2011)</p>	<p>(g) Upon or after entry of judgment of a dissolution of marriage, dissolution of civil union, legal separation or annulment, or upon or after entry of a judgment or final order of custody and/or visitation for a petition or petitions filed pursuant to Section 25-3 and/or Section 25-4, the judicial authority may order that any further motion for modification of a final custody or visitation order shall be appended with a request for leave to file such motion and shall conform to the requirements of subsection (e) of this section. The specific factual and legal basis for the claimed modification shall be sworn to by the moving party or other person having personal knowledge of the facts recited therein. If no objection to the request has been filed by any party within ten days of the date of service of such request on the other party, the request for leave may be determined by the judicial authority with or without hearing. If an objection is filed, the request shall be placed on the next short calendar, unless the judicial authority otherwise probable [cont'd] cause that grounds exist for the motion to be granted. If the judicial authority grants the request for leave, at any time during the pendency of such a motion to modify, the judicial authority may determine whether discovery or a study or evaluation pursuant to Section 25-60 shall be permitted. [emphasis added]</p> <p>(Adopted June 29, 2007; Effective October 1, 2007.)</p>
<p>HISTORY</p>	<p>HISTORY—2008: Prior to 2008, the first sentence of subsection (g) read: “Any motion for modification of a final custody or visitation order or a parental responsibility plan shall be appended to a request for leave to file such motion and shall conform to the requirements of subsection (e) of this section.”</p>
<p>OFFICIAL COMMENTARY</p>	<p>COMMENTARY—2008: The above change establishes that the procedure outlined in subsection (g) is no longer required in every case. Upon or after the entry of judgment of a dissolution of marriage, dissolution of civil union, legal or final order of custody and/or visitation for a petition or petitions filed pursuant to Section 25-3 and/or Section 25-4, the judicial authority may order that a party seeking to modify a final custody or visitation order must file a request for leave to do so accompanied by an affidavit setting forth the factual and legal basis for the modifications. [emphasis added]</p>

Section 4:

Factors Considered in Awarding and Modifying

A Guide to Resources in the Law Library

SCOPE:

Factors used by the courts in making or modifying alimony in Connecticut including factors specified in the CONN. GEN. STAT. (2011).

DEFINITION:

- “A fundamental principle in dissolution actions is that a trial court may exercise broad discretion in awarding alimony and dividing property as long as it considers all relevant statutory criteria.” [Debowsky v. Debowsky](#), 12 Conn. App. 525, 526, 532 A.2d 591 (1987).
- “The court is to consider these factors in making an award of alimony, but it need not give each factor equal weight.” [Kane v. Parry](#), 24 Conn. App. 307, 313, 588 A.2d 227 (1991).
- “The court is not obligated to make express findings on each of these statutory criteria.” [Weiman v. Weiman](#), 188 Conn. 232, 234, 449 A.2d 151 (1982)
- “Where a statute provides that a court ‘shall consider’ certain enumerated factors in making a discretionary determination, such factors are generally not exhaustive.” [Dunleavey v. Paris Ceramics USA, Inc.](#), 47 Conn. Sup. 565, 578, 819 A.2d 945 (2002).
- “Although the provisions for assignments of property and awards of alimony are contained in separate statutes, the standards by which the courts determine such awards are almost the same. [Pasquariello v. Pasquariello](#), 168 Conn. 579, 583, 362 A.2d 835 (1975). The one characteristic which distinguishes a property assignment from an award of alimony is the court’s duty, pursuant to subsection (c) of 46b-81, to in addition consider the ‘contribution of each of the parties in the acquisition, preservation or appreciation in value of their respective estates.’ *Id.*”
- “Thus, the court *must* consider all income of the parties whatever its source may be.” [Gay v. Gay](#), 70 Conn. App. 772, 778, 800 A.2d 1231 (2002).

STATUTES:

- CONN. GEN. STAT. (2011).
[§ 46b-82](#). Factors used in determining an alimony award

LEGISLATIVE:

- 2003 CONN. ACTS 130 § 3. **Note:** “(b) Any postjudgment procedure afforded by chapter 906 [of the Conn. Gen. Stats.] 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.”
- 2003 CONN. ACTS 202 § 23. **Added:** “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.”

CASES:

- [Zahringer v. Zahringer](#), 124 Conn. App. 672, 679, 6 A.3d 141 (2010). “The court concluded, on the basis of the demeanor, attitude and credibility of the plaintiff’s father, that the funds provided to her were not gifts but were loans that must be paid back. ‘It is the sole province of the trial court to weigh and interpret the evidence before it and to pass on the credibility of the witnesses.... It has the advantage of viewing and assessing the demeanor, attitude and credibility of the witnesses and is therefore better equipped than we to assess the circumstances surrounding the dissolution action.’ (Citation omitted; emphasis in original; internal quotation marks omitted.) *Rubenstein v. Rubenstein*, 107 Conn. App. 488, 497, 945 A.2d 1043, cert. denied, 289 Conn. 948, 960 A.2d 1037 (2008).”
- [Isham v. Isham](#), 292 Conn. 170, 184, 972 A.2d 228 (2009). “When examining the agreement in the present case in its entirety, including the reference to income, it is not clear and unambiguous whether the term salary was intended to reference only the defendant’s regular payments from his employment or whether it was intended to have a broader meaning that would encompass any income from his employment.... We conclude, therefore, that the trial court improperly determined that the agreement clearly and unambiguously linked the defendant’s alimony payments to salary increases and that the term salary had a specific, narrow meaning.”
- [McMellon v. McMellon](#) 116 Conn. App. 393, 396, 976 A.2d 1 (2009). “As to the plaintiff’s earnings, the court only needs to look at the income of the parties as one of the numerous statutory factors it must consider. The court, however, is not required to consider a party’s current income in comparison to the party’s previous income; it is at the court’s discretion.”
- [Guarascio v. Guarascio](#), 105 Conn. App. 418, 421-422 (2008). “The defendant first claims that the court improperly included in its alimony order a percentage of future additional gross income. We disagree...In its order, the court stated that the defendant would have to pay to the plaintiff a sum equal to a percentage of his additional gross income, which would include but not be limited to cash payments, bonuses and vested stock options. The defendant argues that the court could not make this order because it was making a modification of alimony without a showing of a substantial change of circumstances. We are not persuaded by this argument.”
- [Casey v. Casey](#), 82 Conn. App. 378, 385, 844 A.2d 250 (2004). “Applying those factual findings to the statutory considerations set forth in General Statutes §§ 46b-81 and 46b-82, we cannot reconcile the court’s financial orders with its findings. We find no support in the statutory criteria for permitting the defendant to leave the marriage, no matter how brief in duration, saddled with a sizeable mortgage debt, when the proceeds of the increased debt inured almost exclusively to the plaintiff’s benefit and when the plaintiff was awarded the property that enjoyed an appreciation in value and net equity as a result of the mortgage debt. That is particularly true when, as here, the evidence revealed that the defendant would be unable to make the monthly payments and, therefore, faced the daunting prospect of defaulting on the mortgage or selling the property in the near future. We conclude that the financial orders were logically inconsistent with the facts found and that the court could not reasonably have concluded as it did. A new hearing on the financial orders is necessary.”

- [Robelle-Pyke v. Robelle-Pyke](#), 81 Conn. App. 817, 823, 841 A.2d 1213 (2004). “A party's health is one of the statutory criteria that must be considered in the court's exercise of its broad discretion in awarding alimony; General Statutes § 46b-82; and distribution of assets; General Statutes § 46b-81. "Once the defendant put[s] her health in issue, it [is] incumbent on her to offer pertinent evidence to support her position." *Tevolini v. Tevolini*, 66 Conn. App. 16, 27, 783 A.2d 1157 (2001).”
- [Lowe v. Lowe](#), 58 Conn. App. 805, 814, 755 A.2d 338 (2000). “In the present case, it was within the discretion of the court to determine that the parties enjoyed a station of life during their marriage that justified an award of alimony to the defendant . . . Furthermore, the fact that the court reaffirmed the prior award of alimony and increased it due to the plaintiff's fraud implies that the court determined that there was a need for alimony, and that such an award was just and equitable.”
- [Simmons v. Simmons](#), 244 Conn. 158, 179, 708 A.2d 949 (1998). “We continue mindful of the substantial deference that this court affords the decisions of the trial court in a dissolution action . . . We consider this case, however, to present one of those rare situations in which we must conclude that there was an abuse of that discretion.”
- [Caffe v. Caffe](#), 240 Conn. 79, 82, 689 A.2d 468 (1997). “The court must consider *all* of these criteria.”
- [Durkin v. Durkin](#), 43 Conn. App. 659, 661, 685 A.2d 344 (1996). “Our review of the record, transcript and briefs reveals that the trial court properly considered the statutory criteria, the evidence and the financial affidavits of the parties. Accordingly, we conclude that the trial court did not abuse its discretion by finding the defendant at fault for the breakdown of the marriage and ordering him to pay periodic alimony.”
- [Thomas v. Thomas](#), 159 Conn. 477, 486, 271 A.2d 62 (1970). “Our alimony statutes does not recognize any absolute right to alimony.”
- [Leveston v. Leveston](#), 182 Conn. 19, 22, 437 A.2d 819 (1980). “The trial court is required to consider the statutory criteria but ‘is not required to give equal weight to each of the specified items.’”
- [Valante v. Valante](#), 180 Conn. 528, 531, 429 A.2d 964 (1980). “. . . no single criteria is preferred over all the others. In weighing the factors in a given case the court is not required to give equal weight to each of the specified items.”
- [Gallo v. Gallo](#), 184 Conn. 36, 50, 440 A.2d 782 (1981). “Each statutory factor need not be discussed with equal depth in the memorandum of decision.”

DIGESTS:

- WEST KEY NUMBERS:: *Divorce*
#235 Permanent alimony. Discretion of the court
#237 _____ Grounds.

ENCYCLOPEDIAS:

- 24A [AM. JUR. 2D](#) *Divorce and Separation* (2008).
 - §§ 587-661. Temporary alimony
 - §§ 662-758. Permanent alimony
 - §§ 718-758. Modification of alimony awards
- 27B [C.J.S.](#) *Divorce* (2005).
 - §§ 510-540. Temporary alimony
 - §§ 591-665. Permanent alimony
 - §§ 786-796. Proceedings for modification or vacation of order or decree
- *Spousal Support On Termination Of Marriage*, 32 POF2d 439 (1982).
 - §§ 10-24. Proof of right to spousal support and factors affecting amount of support
- *Wife's Ability to Support Herself*, 2 POF2d 99 (1974).
 - §§ 5-14. Proof of former wife's independent means of support [[Table 4](#)]
 - §§ 15-22. Proof of former wife's ability to earn own support [[Table 5](#)]
- William M. Howard, Annotation, *Spouse's Professional Degree Or License As Marital Property For Purposes Of Alimony, Support, Or Property Settlement*, 3 ALR6th 447 (2005).
- Mei Fong Soo, Annotation, *Propriety Of Equalizing Income Of Spouses Through Alimony Awards*, 102 ALR5th 395 (2002).
- Genna Rosten, Annotation, *Consideration Of Obligor's Personal-Injury Recovery Or Settlement In Fixing Alimony Or Child Support*, 59 ALR5th 489 (1998).
- Jay M. Zitter, Annotation, *Excessive Or Inadequacy Of Lump-Sum Alimony Award*, 49 ALR5th 441 (1997).
- Frank J. Wozniak, Annotation, *Treatment Of Depreciation Expenses Claimed For Tax Or Accounting Purposes In Determining Ability To Pay Child Or Spousal Support*, 28 ALR5th 46 (1995).
- Christopher Vaeth, Annotation, *Consideration Of Obligated Spouse's Earnings From Overtime Or "Second Job" Held In Addition To Regular Full-Time Employment In Fixing Alimony Or Child Support Awards*, 17 ALR5th 143 (1994).
- Gavin L. Phillips, Annotation, *What Constitutes Order Made Pursuant To State Domestic Relations Law For Purposes Of Qualified Domestic Relations Order Exception To Antialienation Provision Of Employee Retirement Income Security Act Of 1974 (29 USCS § 1056(d))*, 79 ALR4th 1081 (1990).
- Jay M. Zitter, Annotation, *Validity And Enforceability Of Escalation Clause In Divorce Decree Relating To Alimony And Child Support*, 19 ALR4th 830 (1983).
- Jay M. Zitter, Annotation, *Excessiveness Or Adequacy Of Amount Of Money Awarded As Permanent Alimony Following Divorce*, 28 ALR4th 786 (1984).
- Ferdinand S. Tinio, Annotation, *Divorce Or Separation: Consideration Of Tax Liability Or Consequences In Determining Alimony Or Property Settlement Provisions*, 51 ALR3d 461 (1973).
- Kristine Cordier Karnezis, Annotation, *Fault As Consideration In Alimony, Spousal Support, Or Property Division Awards Pursuant To No-Fault Divorce*, 86 ALR3d 1116 (1978).
- Gary L. Hall, Annotation, *Wife's Possession Of Independence Means As Affecting Her Right To Alimony Pendente Lite*, 60 ALR3d 728 (1974).

**TEXTS &
TREATISES:**

- 8 ARNOLD H. RUTKIN ET AL., [CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS](#) (3d ed. 2010).
Chapter 33. Alimony in General
 - § 33.4. Factors for consideration
 - § 33.5. Length of marriage
 - § 33.6. Causes for dissolution
 - § 33.7. Ages of the parties
 - § 33.8. Health of the parties
 - § 33.9. Station of the parties
 - § 33.10. Occupation
 - § 33.11. Amount and source of income
 - § 33.12. Vocational skills and employability of the parties
 - § 33.13. Estates of the parties
 - § 33.14. Liabilities and needs of the parties
 - § 33.15. Property division
 - § 33.16. Desirability of custodial parent securing employment
 - § 33.17. Other factors considered

- BARBARA KAHN STARK, [FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE](#) (1998).
Chapter 10 Alimony.
—factors, p. 218.

COMPILER:

Catherine Hogan Mazur, Connecticut Judicial Branch Law Library at Hartford.
95 Washington St. Hartford, CT 06106 860-548-2866 [Email](#)

* Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Table 3: Statutory Factors in Awarding Alimony

Statutory Factors in Awarding Alimony		
Factors	Rutkin*	LPH**
Length of the marriage	§ 33.5	§§ 9.8-9.11
Causes for the dissolution	§ 33.6	
Age of the parties	§ 33.7	§ 9.11
Health of the parties	§ 33.8	§ 9.11
Station of the parties	§ 33.9	
Occupation	§ 33.10	§ 9.10
Amount and sources of income	§ 33.11	
Vocation skills and employability of the parties	§ 33.12	§ 9.10
Estates of the parties	§ 33.13	§ 9.11
Liabilities and needs of each of the parties	§ 33.14	
Desirability of custodial parent securing employment	§ 33.16	§ 9.11

*8 ARNOLD H. RUTKIN ET AL., [CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS](#) (3d ed. 2010).

** J.W. Hill, *Alimony in Divorce—Spousal Support*, 2 FAMILY LAW PRACTICE IN CONNECTICUT (1996).

Table 4: Wife's Ability to Support Herself

Proof Of Former Wife's Independent Means Of Support 2 POF2d 111 (1959).	
A. Elements of Proof	
§ 5	Guide and checklist
B. Testimony Of Former Wife's Independent Means Of Support	
§ 6	Earning of income from employment
§ 7	Increase in income from employment
§ 8	Possession of substantial bank accounts
§ 9	Interest in income-producing real property
§ 10	Ownership of valuable personal property
§ 11	Investment in securities
§ 12	Receipt of inheritance
§ 13	Status as beneficiary of trust
§ 14	Small number of debts

Table 5: Proof of Former Wife's Ability to Earn Own Support

Proof of Former Wife's Ability to Earn Own Support 2 POF2d 127 (1959).	
A. Elements of Proof	
§ 15	Guide and checklist
B. Testimony of Former Wife	
§ 16	Lack of serious effort to find employment
§ 17	High level of education
§ 18	Vocational training
§ 19	Employment prior to marriage
§ 20	Age conducive to employment
§ 21	Good health
§ 22	Abundance of free time

Table 6 Proof of Right to Spousal Support and Factors Affecting Amount of Support

Proof of Right to Spousal Support and Factors Affecting Amount of Support 32 P.O.F. 2d 439	
A. Elements of Proof	
§ 10	Guide and checklist
B. Testimony of Spouse Seeking Support	
§ 11	Marriages and children
§ 12	Age and health
§ 13	Education and employment history
§ 14	Employment history and salary of supporting spouse
§ 15	Ownership of realty
§ 16	Bank accounts and cash
§ 17	Personal property and debts of spouse seeking support
§ 18	Personal property of supporting spouse
§ 19	Intangible property
§ 20	Monthly income and regular expenses
§ 21	Medical expenses
§ 22	Misconduct of supporting spouse
§ 23	Misconduct of supporting spouse
C. Testimony of Corroborating Witness	
§ 24	Misconduct of supporting spouse

Table 7: Appeals of Alimony Awards

<p>Guarascio v. Guarascio, 105 Conn. App. 418, 427-429 (2008)</p>	<p>“First, the court is given wide discretion in fashioning financial awards in an action for a dissolution. Under § 46b-82, the amount and duration of an alimony payment are left entirely within the discretion of the court. In addition, our Supreme Court has noted that in actions for divorce or dissolution of marriage, the courts have equitable powers, which are not necessarily enumerated in the statutes governing such actions. <i>Pasquariello v. Pasquariello</i>, 168 Conn. 579, 585-86, 362 A.2d 835 (1975). The court has stated: ‘The power to act equitably has allowed the [trial] court on occasion to order a party to change his group life insurance policy to include his wife as an irrevocable beneficiary . . . pay to third parties accounting fees and investigatory fees [and] pay the expenses of an appeal. . . . These powers, although not expressly given to the court by statute, have been held to be inherent powers of the trial court in actions for divorce or dissolution of marriage.’ (Citations omitted.) Id. In the present case, the court acted equitably in ordering the defendant to pay the plaintiff’s COBRA premium for three years. In fact, it is not uncommon for a court to fashion this financial remedy. See <i>Tauck v. Tauck</i>, Superior court, judicial district of Middlesex, Docket No. FA-05-4004889-S (September 21, 2007) (‘husband shall maintain COBRA medical and dental insurance for the benefit of the wife at his expense for the maximum period allowed by law’); <i>Palczynski v. Palczynski</i>, Superior Court, judicial district of Middlesex, Docket No. FA-04-4000946-S (August 7, 2007) (‘husband shall maintain COBRA medical and dental insurance for the benefit of the wife at his expense for the maximum period allowed by law’); <i>St. Jean v. St. Jean</i>, Superior Court, judicial district of Hartford, Docket No. FA-05-4017548-S (November 22, 2006) (‘[h]usband shall pay as additional alimony the cost of maintaining the [w]ife on his health insurance plan available to him through his employer, i.e., COBRA, for a period of three years or until such time as [w]ife obtains insurance through her work, whichever comes first’). Therefore, the court did have the authority to order the defendant to pay the plaintiffs COBRA premium for three years.”</p>
<p>Sabrowski v. Sabrowski, 105 Conn. App. 49, 58935 A.2d 1037, (2007)</p>	<p>“Because ‘the insurance obligations were considered alimony substitutes,’ we concluded that the court did not abuse its discretion in modifying that aspect of the defendant’s alimony. Id., [<i>Carasso v. Carasso</i>, 80 Conn. App. 299, 834 A.2d 793 (2003), cert. denied, 267 Conn. 913, 840 A.2d 1174 (2004).] 310-11; see also <i>Damon v. Damon</i>, 23 Conn. App. 111, 115, 579 A.2d 124 (1990) (“[a]n order to provide medical coverage for the duration of the time that periodic alimony is due is no more a future order than the order of the periodic alimony itself . . . and is as modifiable as the award of the periodic alimony” [citation omitted]).</p>
<p>Chyung v. Chyung, 86 Conn. App. 665, 668, 862 A.2d 374 (2004)</p>	<p>“We apply that standard of review because it ‘reflects the sound policy that the trial court has the unique opportunity to view the parties and their testimony, and is therefore in the best position to assess all of the circumstances surrounding a dissolution action, including such factors as the demeanor and the attitude of the parties. . . .’ As pithily stated by Justice Parskey, ‘in matters of this sort our role of necessity is not to work the vineyard but rather to prune the occasional excrescence.’ <i>Koizim v. Koizim</i>, 181 Conn. 492, 498, 435 A.2d 1030 (1980).” (Citation omitted.) <i>Casey v. Casey</i>, 82 Conn. App. 378, 383, 844 A.2d 250 (2004). (cont’d)</p>

<p>Greco v. Greco, 70 Conn. App. 735, 740, 799 A.2d 331 (2002)</p>	<p>“The court did not abuse its discretion in awarding the plaintiff 67 percent of the assets. Despite the defendant's contentions to the contrary and his own review of the criteria set forth in § 46b-81, we cannot construe the court's award as an abuse of discretion in light of the court's finding that the defendant's infidelity was the cause of the breakdown of the marriage. That is a factor that the court was required to consider pursuant to § 46b-81.”</p>
<p>Wolf v. Wolf, 39 Conn. App. 162, 169, 664 A.2d 315 (1995)</p>	<p>“The trial court noted in its decision that it was basing the alimony award on the defendant’s earning capacity and not necessarily on her stated desires regarding employment.”</p>
<p>Siracusa v. Siracusa, 30 Conn. App. 560, 621 A.2d 309 (1993).</p>	<p>“While a trial court must consider a number of factors in awarding alimony and distributing the assets of the parties, and my exercise broad discretion in that consideration . . . it need not recite each factor in its decision, it is sufficient that the memorandum of decision ‘at least reflect a proper consideration and weighing of the factors set forth in the statute.’”</p>
<p>Graham v. Graham, 25 Conn. App. 41, 45, 592 A.2d 424 (1991).</p>	<p>“It is axomatic that trial court are vested with broad and liberal discretion in fashioning orders of custody and the type, duration, and amount of alimony and support that is proper apply to each are the standards and guidelines of the General Statutes.”</p>
<p>DeVellis v. DeVellis, 15 Conn. App. 318, 321, 544 A.2d 639 (1988).</p>	<p>“A trial court may exercise broad discretion in awarding alimony as long as it considers all relevant statutory criteria.”</p>
<p>Elliot v. Elliot, 14 Conn. App. 541, 547, 541 A.2d 905 (1988),</p>	<p>“While the trial court must consider each of these factors, no single factor is preferred over the others, and the court is accorded wide lattitude in varying the weight placed upon each item under the particular circumstances of each case.”</p>

Section 5: Enforcing Alimony

A Guide to Resources in the Law Library

- SCOPE:** Bibliographic resources relating to procedures for enforcing alimony in Connecticut including defenses.
- SEE ALSO:**
- [Enforcement of Family and Foreign Matrimonial Judgments in Connecticut](#)
- DEFINITION:**
- **CONTEMPT:** “is a disobedience to the rules and orders of a court which has power to punish for such an offense A **civil contempt** is one in which the conduct constituting the contempt is directed against some civil right of an opposing party and the proceeding is initiated by him.” (emphasis added) [Stoner v. Stoner](#), 163 Conn. 345, 359, 307 A.2d 146 (1972).
 - **COURT ORDER MUST BE OBEYED:** “. . . an order entered by a court with proper jurisdiction ‘must be obeyed by the parties until it is reversed by orderly and proper proceedings.’ (Internal quotation marks omitted.) [*Cologne v. Westfarms Associates*, 197 Conn. 141, 145, 496 A.2d 476 (1985)] Id. We noted that a party has a duty to obey a court order ‘however erroneous the action of the court may be. . . .’ (Internal quotation marks omitted.) Id. We registered our agreement with the ‘long-standing rule that a contempt proceeding does not open to reconsideration the legal or factual basis of the order alleged to have been disobeyed. . . .’ (Internal quotation marks omitted.) Id., 148. Finally, we emphasized that ‘court orders must be obeyed; there is no privilege to disobey a court’s order because the alleged contemnor believes that it is invalid.’” [Mulholland v. Mulholland](#), 229 Conn. 643 (1994), 649, 643 A.2d 246
 - **MOTION FOR CLARIFICATION:** “. . . we conclude that where there is an ambiguous term in a judgment, a party must seek a clarification upon motion rather than resort to self-help.” [Sablosky v. Sablosky](#), 258 Conn. 713, 720, 784 A.2d 890 (2001).
 - **STANDARD OF APPELLATE REVIEW:** “A finding of contempt is a question of fact, and our standard of review is to determine whether the court abused its discretion in failing to find that the actions or inactions of the [party] were in contempt of a court order. . . . To constitute contempt, a party’s conduct must be wilful. . . . Noncompliance alone will not support a judgment of contempt.” (Citation omitted; internal quotation marks omitted.) [Priat v. Priat](#), 67 Conn. App. 7, 14, 787 A.2d 50 (2001).
- STATUTES:**
- CONN. GEN. STAT. (2011)
 - [§ 46b-8](#), Motion for modification combined with motion for contempt
 - [§ 46b-82](#) Alimony
 - [§ 46b-231\(m\)](#), Family Support Magistrates’ power and duties. Spousal support in IV-D cases
- PUBLIC ACT HISTORY:**
- [2003 CONN. ACTS 89 § 5](#), (Reg. Sess.). Withholding order
 - [2004 Conn. Acts 100 §§ 6, 7](#) (Reg. Sess.). “If such child is unmarried, a full-time high school student and residing with the custodial parent, such support

shall continue according to the parents' respective abilities, if such child is in need of support, until such child completes the twelfth grade or attains the age of nineteen, whichever first occurs.”

COURT RULES:

- CONNECTICUT PRACTICE BOOK (2011 EDITION)
[Chapter 25](#) Superior Court—Procedure in family matters
§ 25-26. Modification of custody, alimony or support
§ 25-27. Motion for contempt

FORMS:

- [Filing a Motion for Contempt](#)
- 2 [CONNECTICUT PRACTICE BOOK](#) (1997).
§ 33.7 Application for contempt citation and order to show cause
§ 33.9 Schedule for production at hearing

CASES:

- [Behrns v. Behrns](#), 124 Conn. App. 794, 809, 6 A.3d 184 (2010) “In Connecticut, the general rule is that a court order must be followed until it has been modified or successfully challenged. *Eldridge v. Eldridge*, [supra, 244 Conn. 530]; *Behrns v. Behrns*, [supra, 80 Conn. App. 289]. Our Supreme Court repeatedly has advised parties against engaging in ‘self-help’ and has stressed that an ‘order of the court must be obeyed until it has been modified or successfully challenged.’ . . . *Sablosky v. Sablosky*, [258 Conn. 713, 719, 784 A.2d 890 (2001)]; see also *Eldridge v. Eldridge*, supra, 528-32 (good faith belief that party was justified in suspending alimony payment did not preclude finding of contempt)”
- [Fromm v. Fromm](#), 108 Conn. App. 376, 378, 948 A.2d 328 (2008). “Unlike *Bozzi*, [*Bozzi v. Bozzi*, supra, 177 Conn. 232] the claimed prejudice in the present case is the fact that the defendant deliberately made it impossible for the plaintiff to comply with his alimony and support obligations. She also made no ‘motion in the Superior Court alleging the plaintiff’s wilful failure to pay alimony and child support.’ The record supports the plaintiff’s contention that he changed his position regarding his obligations as a result of her conduct.”
- [Nunez v. Nunez](#), 85 Conn. App. 735, 739-740, 858 A.2d 873 (2004). “In *Mallory v. Mallory*, 207 Conn. 48, 57, 539 A.2d 995 (1988), the defendant father claimed that he was too poor to meet his court-ordered financial obligations. Our Supreme Court, after stating that inability to obey an order qualifies as a proper defense to contempt, stated: ‘The defendant in the case at bar, however, failed to seek a modification of his child support obligations until after the plaintiff had instituted contempt proceedings against him. In these circumstances, the trial court did not err in finding the defendant in contempt, at least in regard to the child support arrearage accumulated before he sought a modification of the child support orders.’ *Id.* It concluded that under those circumstances, a finding of contempt was proper. Subsequently, in *Sablosky v. Sablosky*, supra, 258 Conn. 713, our Supreme Court stated that ‘[a]lthough one party may believe that his or her situation satisfies this standard [of changed circumstance], **until a motion is brought to and is granted by the court, that party may be held in contempt in the discretion of the trial court if, in the interim, the complaining party fails to abide by the support order.**’ (Emphasis added.) *Id.*, 722; see also *Bunche v. Bunche*, 36 Conn. App. 322, 325, 650 A.2d 917 (1994) (order of court must be obeyed until modified or successfully challenged).”

- [Issler v. Issler](#), 50 Conn. App. 58, 65, 716 A.2d 938 (1998). “While an equivocal court order will not support a finding of contempt, this is not the case here.”
- [Eldridge v. Eldridge](#), 244 Conn. 523, 529, 710 A.2d 757 (1998). “In order to constitute contempt, a party’s conduct must be wilful A good faith dispute on legitimate misunderstanding of the terms of an alimony or support obligation may prevent a finding that the payor’s nonpayment was wilful.”
- [Perry v. Perry](#), 222 Conn. 799, 805, 611 A.2d 400 (1992). “inability to pay an order is a defense to a charge of contempt however, . . . the defendant has the burden of proof on this issue”
- [Papcun v. Papcun](#), 181 Conn. 618, 620, 436 A.2d 608 (1980). “contention that the plaintiff is barred by laches from collecting the arrearage.”
- [Farrell v. Farrell](#), 36 Conn. App. 305, 650 A.2d 608 (1994). *Equitable decree voiding certain fraudulent conveyances of property.*

DIGESTS:

- WEST KEY NUMBERS *Divorce* §§ 260-277
§ 269(9). Contempt proceeding. Defenses and excuse for nonpayment or non compliance with order
- DOWLING’S DIGEST *Dissolution of marriage* § 18
- CONNECTICUT FAMILY LAW CITATIONS
Alimony—Arrearages
Alimony—Contempt
Alimony—Defenses to payments of arrearages, laches and equitable estoppel as

ENCYCLOPEDIAS:

- 24A [AM. JUR. 2D](#) *Divorce and Separation* (2008)
§§ 774-846. Enforcement of judgment, decree, or order; Provisional remedies
§§ 831-846. Contempt proceedings
- 27B [C.J.S.](#) *Divorce* (2005).
§§ 709-785. Enforcement of order or decree
§ 721-742. Contempt proceedings
- Elizabeth A. Jenkins, Annotation, *Validity And Construction Of Provisions For Arbitration Of Disputes As To Alimony Or Support Payments Or Child Visitation Or Custody Matters*, 38 ALR5th 69 (1996).
- Gavin L. Phillips, Annotation, *Death Of Obligor Spouse As Affecting Alimony*, 79 ALR4th 19 (1990).
- Jay M. Zitter, Annotation, *Validity And Enforceability Of Escalation Clause In Divorce Decree Relating To Alimony And Child Support*, 19 ALR4th 830 (1983).
- John C. Williams, Annotation, *Laches Or Acquiescence As Defense, So As To Bar Recovery Of Arrearages Of Permanent Alimony Or Child Support*, 5 ALR4th 1015 (1981).

TEXTS & TREATISES:

- THOMAS D. COLIN, ED. [LIBRARY OF CONNECTICUT FAMILY LAW FORMS](#) (2008)
8-003 Motion for Contempt Re: Alimony Payments, pp. 350

- 8 ARNOLD H. RUTKIN ET AL., [CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS](#) (3d ed. 2010).
 - Chapter 34. Enforcement of alimony and child support provisions of judgment
 - § 34.4. Contempt proceedings
 - § 34.5. Contempt procedure
 - § 34.8. Hearing
 - § 34.10. Necessity of counsel in contempt proceedings
 - § 34.11. Excuse or defense to contempt claim
 - § 34.12. Inability to comply
 - § 34.14. Laches and/or estoppel as a defense to contempt
 - § 34.15. Estoppel—in kind payments or other modifications
 - § 34.16. Misconduct by the complaining party
 - § 34.17. Contempt penalties and terms of payment
 - § 34.18. Contempt penalties—incarceration
 - § 34.19. Criminal action based on non-payment of alimony
 - § 34.20. Enforcement of alimony or support obligation against property
 - § 34.34. Claims for interest and/or damages
- JOEL M. KAYE ET AL. 3 [CONNECTICUT PRACTICE BOOK](#), *Authors' Comments* following Form 506.2, pp. 216-222 (2004).

LAW REVIEWS:

- Leal, Manuel D. *Why there is disobedience of court orders: Contempt of court and neuroeconomics*. 26 QLR 1015 (2008).
- C. Forzani and B.G. Jenkins, *Enforcement Of Alimony Orders*, 4 CONNECTICUT FAMILY LAWYER 25, 28-30 (Fall 1989).

COMPILER:

Catherine Hogan Mazur, Connecticut Judicial Branch Law Library at Hartford.
95 Washington St. Hartford, CT 06106 860-548-2866 [Email](#)

* Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Table 8: IV-D Spousal Support

Family Support Magistrate Division	
§ 46b-231(b)	<p>Definitions:</p> <p>(6) “Family Support Magistrate Division” means a division of the Superior Court created by this section for the purpose of establishing and enforcing child and spousal support in IV-D cases and in cases brought pursuant to sections 46b-212 to 46b-213v, inclusive, utilizing quasi-judicial proceedings;</p> <p>(7) “Family support magistrate” means a person, appointed as provided in subsection (f) of this section to establish and enforce child and spousal support orders;</p>
§ 46b-215(a)(3)	<p>[Procedures] “. . . Proceedings to obtain orders of support under this section shall be commenced by the service on the liable person or persons of a verified petition, with summons and order. . . .”</p>
§ 46b-231(m)	<p>Magistrates' powers and duties. Magistrates' powers and duties. The Chief Family Support Magistrate and the family support magistrates shall have the powers and duties enumerated in this subsection.</p> <ol style="list-style-type: none"> (1) A family support magistrate in IV-D support cases may compel the attendance of witnesses or the obligor under a summons issued pursuant to sections 17b-745, 46b-172 and 46b-215, a subpoena issued pursuant to section 52-143, or a citation for failure to obey an order of a family support magistrate or a judge of the Superior Court. If a person is served with any such summons, subpoena or citation issued by a family support magistrate or the assistant clerk of the Family Support Magistrate Division and fails to appear, a family support magistrate may issue a capias mittimus directed to a proper officer to arrest the obligor or the witness and bring him before a family support magistrate. Whenever such a capias mittimus is ordered, the family support magistrate shall establish a recognizance to the state of Connecticut in the form of a bond of such character and amount as to assure the appearance of the obligor at the next regular session of the Family Support Magistrate Division in the judicial district in which the matter is pending. If the obligor posts such a bond, and thereafter fails to appear before the family support magistrate at the time and place he is ordered to appear, the family support magistrate may order the bond forfeited, and the proceeds thereof distributed as required by Title IV-D of the Social Security Act. [emphasis added] (2) Family support magistrates shall hear and determine matters involving child and spousal support in IV-D support (3) Family support magistrates shall review and approve or modify all agreements for support in IV-D support cases filed with the Family Support Magistrate Division in accordance with sections 17b-179, 17b-745, 46b-172, 46b-215 and subsection (c) of section 53-304. (4) Motions for modification of existing child and spousal support orders entered by the Superior Court in IV-D support cases, including motions to modify existing child and spousal support orders entered in actions brought pursuant to chapter 815j, shall be brought in the Family Support Magistrate Division and decided by a family support magistrate. Family support magistrates, in deciding if a spousal or child support order should be modified, shall make such determination based upon the criteria set forth in sections 46b-84 and 46b-215b. A person who is aggrieved by a decision of a family support magistrate modifying a Superior Court order is entitled to appeal such decision in accordance with the provisions of subsection (n) of this section.

	<p>(7) Family support magistrates shall enforce orders for child and spousal support entered by such family support magistrate and by the Superior Court in IV-D support cases by citing an obligor for contempt. Family support magistrates, in IV-D support cases, may order any obligor who is subject to a plan for reimbursement of past-due support and is not incapacitated, to participate in work activities which may include, but shall not be limited to, job search, training, work experience and participation in the job training and retraining program established by the Labor Commissioner pursuant to section 31-3t. Family support magistrates shall also enforce income withholding orders entered pursuant to section 52-362, including any additional amounts to be applied toward liquidation of any arrearage, as required under subsection (e) of said section. Family support magistrates may require the obligor to furnish recognizance to the state of Connecticut in the form of a cash deposit or bond of such character and in such amount as the Family Support Magistrate Division deems proper to assure appearance at the next regular session of the Family Support Magistrate Division in the judicial district in which the matter is pending. Upon failure of the obligor to post such bond, the family support magistrate may refer the obligor to a community correctional center until he has complied with such order, provided the obligor shall be heard at the next regular session of the Family Support Magistrate Division in the court to which he was summoned. If no regular session is held within seven days of such referral, the family support magistrate shall either cause a special session of the Family Support Magistrate Division to be convened, or the obligor shall be heard by a Superior Court judge in the judicial district in which the matter is pending. If the obligor fails to appear before the family support magistrate at the time and place he is ordered to appear, the family support magistrate may order the bond, if any, forfeited, and the proceeds thereof distributed as required by Title IV-D of the Social Security Act, and the family support magistrate may issue a <i>capias mittimus</i> for the arrest of the obligor, ordering him to appear before the family support magistrate. A family support magistrate may determine whether or not an obligor is in contempt of the order of the Superior Court or of a family support magistrate and may make such orders as are provided by law to enforce a support obligation, except that if the family support magistrate determines that incarceration of an obligor for failure to obey a support order may be indicated, the family support magistrate shall inform the obligor of his right to be represented by an attorney and his right to a court-appointed attorney to represent him if he is indigent. If the obligor claims he is indigent and desires an attorney to represent him, the family support magistrate shall conduct a hearing to determine if the obligor is indigent. If, after such hearing, the family support magistrate finds that the obligor is indigent, the family support magistrate shall appoint an attorney to represent the obligor.</p>
§ 46b-231(n)	[Appeals of a final decision of a family support magistrate]
§ 46b-212a	<p>Uniform Interstate Family Support Act (21) "Spousal support order" means a support order for a spouse or former spouse of the obligor. (25) "Tribunal" means a court, administrative agency or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine paternity. The Superior Court and the Family Support Magistrate Division of the Superior Court are the tribunals of this state. The Family Support Magistrate Division is the</p>
§ 46b-212b	tribunal for the filing of petitions under sections 46b-212 to 46b-213w, inclusive,

	<p>provided clerical, administrative and other nonjudicial functions in proceedings before the Family Support Magistrate Division may be performed by Support Enforcement Services of the Superior Court. (2008 supp.)</p>
<p>Support Enforcement Officers of the Support Enforcement Division of the Superior Court</p>	
<p>§ 46b-231(s)</p>	<p>(1) Supervise the payment of any child or spousal support order made by a family support magistrate</p> <p>(2) In non-TANF cases, have the authority to bring petitions for support orders pursuant to 46b-215, file agreements for support . . . and bring applications for show cause orders . . . enforce foreign support orders registered with the Family Support Magistrate Division . . . and file agreements for support</p> <p>(3) In connection with any order or agreement entered by, or filed with, the Family Support Magistrate Division, or any order entered by the Superior Court in a IV-D support case upon order, investigate the financial situation of the parties and report findings</p>
<p>Attorney General</p>	
<p>§ 46b-231(t)</p>	<p>(1) Represent the interest of the state in all actions for child or spousal support in all cases in which the state is furnishing or has furnished aid or care to one of the parties to the action or a child of one of the parties;</p> <p>(2) In interstate support enforcement under sections 46b-212 to 46b-213v, inclusive, provide necessary legal services on behalf of the support enforcement agency in providing services to a petitioner;</p> <p>(3) Represent the IV-D agency in providing support enforcement services in non-TANF IV-D support cases pursuant to sections 17b-179, 17b-745 and 46b-215.</p>
<p>Department of Social Services</p>	
<p>§ 46b-231(u)</p>	<p>Powers of Department of Social Services</p> <p>(A) bring petitions for support orders pursuant to section 46b-215,</p> <p>(B) obtain acknowledgments of paternity,</p> <p>(C) bring applications for show cause orders pursuant to section 46b-172,</p> <p>(D) file agreements for support with the assistant clerk of the Family Support Magistrate Division</p>

Section 6: Alimony and a Nonresident Party

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to alimony and a nonresident party including enforcement of alimony decree from another state in Connecticut

DEFINITIONS:

- Spousal-support order “means a support order for a spouse or former spouse of the obligor” CONN. GEN. STAT. [§ 46b-212a](#)(19) (2011).
- **LONG ARM STATUTE:** “The court may exercise personal jurisdiction over the nonresident party as to all matters concerning temporary or permanent alimony or support of children, only if: (1) The nonresident party has received actual notice under subsection (a) of this section; and (2) the party requesting alimony meets the residency requirement of section 46b-44.” Conn. Gen. Stats. [§ 46b-46](#)(b) (2011).

STATUTES:

- CONN. GEN. STAT. (2011)
 - [Chapter 815j](#). Dissolution of marriage, legal separation and annulment
 - Part I. General provisions
 - § 46b-44. Residency requirement
 - § 46b-46. Notice to nonresident party. Jurisdiction over nonresident for alimony. “Long arm” statute
 - Part III. Support of child and spouse. Transfer of property
 - § 46b-82. Alimony
 - [Chapter 816](#). Support
 - Part 1a. Uniform Interstate Family Support Act
 - § 46b-212d. Jurisdiction over nonresident

CASES:

(Connecticut):

- [Narayan v. Narayan](#), 122 Conn. App. 206, 215, 3 A.3d 75 (2010). ““(b) The court may exercise personal jurisdiction over the nonresident party as to all matters concerning temporary or permanent alimony or support of children, only if: (1) The nonresident party has received actual notice under subsection (a) of this section; and (2) the party requesting alimony meets the residency requirement of section 46b-44.” General Statutes § 46b-46. At trial, the plaintiff represented that the defendant had filed an appearance in the dissolution action, and the court apparently accepted this representation. The record before us contains no such appearance, and the court failed to make a finding pursuant to § 46b-46(a) that the defendant had actual notice of the case.”
- [Cashman v. Cashman](#), 41 Conn. App. 382, 387, 676 A.2d 427 (1996). “Section 46b-46 (b) is a long arm statute applicable to all matters concerning alimony and support, and is not limited to complaints for dissolution, annulment, legal separation and custody. Subsection (b) allows a court to

assert personal jurisdiction over a nonresident defendant for judgments that operate in personam and bind the obligor personally; *Beardsley v. Beardsley*, 144 Conn. 725, 726-27, 137 A.2d 752 (1957); and imposes greater requirements than does subsection (a). In addition to the notice requirements identified in subsection (a), the party requesting alimony must meet the residency requirement of General Statutes § 46b-44 and show that Connecticut was the domicile of both parties immediately prior to or at the time of their separation.”

- [Gaudio v. Gaudio](#), 23 Conn. App. 287, 298, 580 A.2d 1212 (1990). *Personal jurisdiction over non-resident*
- [Krueger v. Krueger](#), 179 Conn. 488, 427 A.2d 400 (1980). “Whether a California decree purporting to terminate a modifiable Connecticut alimony decree must be enforced in Connecticut.”
- [Rose v. Rose](#), 34 Conn. Supp. 221, 385 A.2d 1 (1977). “It is undisputed that no alimony or counsel fees can be awarded in this state unless in personam jurisdiction has been acquired.”

DIGESTS:

- WEST KEY NUMBERS: *Divorce* § 201
- DOWLING’S DIGEST: *Divorce and Separation* §§ 540-557
- CONNECTICUT FAMILY LAW CITATIONS:
Alimony—Foreign judgments, enforcement of
Alimony—Sister state decree, modification by

ENCYCLOPEDIAS:

- 24A [AM. JUR. 2D](#) *Divorce and Separation* (2008).
§§ 578-586 Court’s power to grant award; Jurisdiction
- 27B [C.J.S.](#) *Divorce* (2005).
§ 507-509. Jurisdiction and power of courts
- Annotation, *Decree For Alimony Rendered In Another State or country (or domestic decree based thereon) as subject to enforcement by equitable remedies or by contempt proceedings*, 18 ALR2d 862 (1951).

TEXTS & TREATISES:

- 8 ARNOLD H. RUTKIN ET AL. [CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS](#) (3d ed. 2010).
Chapter 31. Jurisdiction to award alimony
§ 31.2. Personal jurisdiction over the payor
§ 31.5. Jurisdiction based on property in the state
§ 31.6. Effect of lack of jurisdiction

COMPILER:

Catherine Hogan Mazur, Connecticut Judicial Branch Law Library at Hartford.
95 Washington St. Hartford, CT 06106 860-548-2866 [Email](#)

* Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Section 7: Duration of Alimony in Connecticut

A Guide to Resources in the Law Library

SCOPE:

Bibliographic sources relating to duration of alimony including time-limited and rehabilitative alimony. Also, termination of alimony, effect of remarriage and cohabitation.

DEFINITION:

- **REHABILITATIVE ALIMONY** may be defined as alimony payable for a short, but specific and terminable period of time, which will cease when recipient is, in the exercise of reasonable efforts, in a position of self-support.” (emphasis added). [Turner v. Turner](#), 97 ALR3d 730, 731 (1978).
- **CONNECTICUT'S COHABITATION STATUTE** *see* [Table 9](#)
- **TERMINATION OF ALIMONY** *see* [Appendix A](#)

STATUTES:

- CONN. GEN. STAT. (2011)
[§ 46b-86](#). Modification of alimony or support orders and judgments

FORMS:

- 8 ARNOLD H. RUTKIN ET AL., [CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS](#) (3d ed. 2010).
§ 35.32. Motion for modification of alimony based on cohabitation—Form

CASES:

- [Kovalsick v. Kovalsick](#), 125 Conn. App. 265, 272, 7 A.3d 924, (2010). “In the present case, we are presented with the situation in which a party appeals because the court failed to award the time limited alimony sought. See *Deteves v. Deteves*, 2 Conn.App. 590, 592, 481 A.2d 92 (1984) (award of only lump sum alimony and no periodic or rehabilitative alimony was abuse of discretion when court concluded plaintiff could ‘ ‘get some employment using her skills in embroidery and sewing’ ’ despite finding she had never worked outside home in this country) cf. *Bornemann v. Bornemann*, 245 Conn. 508, 511, 539, 752 A.2d 978 (1998) (award of rehabilitative alimony to wife for eighteen months not abuse of discretion; marriage of less than four years duration and wife college educated although with limited work history);”
- [de Repentigny v. de Repentigny](#), 121 Conn. App. 451, 460, 995 A.2d 117, (2010). “Time limited alimony is often awarded. [Our Supreme Court] has dealt with challenges to an award of time limited alimony on numerous occasions.... The trial court does not have to make a detailed finding justifying its award of time limited alimony.... Although a specific finding for an award of time limited alimony is not required, the record must indicate the basis for the trial court's award.... There must be sufficient evidence to support the trial court's finding that the spouse

should receive time limited alimony for the particular duration established. If the time period for the periodic alimony is logically inconsistent with the facts found or the evidence, it cannot stand.... In addition to being awarded to provide an incentive for the spouse receiving support to use diligence in procuring training or skills necessary to attain self-sufficiency, time limited alimony is also appropriately awarded to provide interim support until a future event occurs that makes such support less necessary or unnecessary.’ (Internal quotation marks omitted.) *Radcliffe v. Radcliffe*, 109 Conn.App. 21, 29, 951 A.2d 575 (2008).”

- [Gamble-Perugini v. Perugini](#), 112 Conn.App. 231, 237, 962 A.2d 192, (2009). “In dissolution proceedings, the court must fashion its financial orders in accordance with the criteria set forth in General Statutes § 46b-82, which governs awards of alimony. See *Bartel v. Bartel*, 98 Conn. App. 706, 711, 911 A.2d 1134 (2006). ‘In particular, rehabilitative alimony, or time limited alimony, is alimony that is awarded primarily for the purpose of allowing the spouse who receives it to obtain further education, training, or other skills necessary to attain self-sufficiency. . . . Rehabilitative alimony is not limited to that purpose, however, and there may be other valid reasons for awarding it.’ (Internal quotation marks omitted.) *Dees v. Dees*, 92 Conn. App. 812, 820, 887 A.2d 429 (2005).”
- [Curtis v. Curtis](#), no. FA-01-0182347 S (Conn. Super. Ct., Stamford, October 19, 2004), 38 Conn. L. Rptr. 140, 140 (January 3, 2005). “The plaintiff, however, argues that there ‘is no basis in Connecticut law supporting the . . . [defendant’s] contention that the plaintiff should receive only rehabilitative alimony . . . Under Connecticut law, periodic alimony is indefinite as to amount or duration.’ The cases relied on by the plaintiff do not support her claims. “In accordance with General Statutes § 46b-86 (b) and the holding in *DeMaria*, before the payment of alimony can be modified or terminated, two requirements must be established. First, it must be shown that the party receiving the alimony is cohabitating with another individual. If it is proven that there is cohabitation, the party seeking to alter the terms of the alimony payments must then establish that the recipient’s financial needs have been altered as a result of the cohabitation. ‘Because, however “living with another” person without financial benefit did not establish sufficient reason to refashion an award of alimony under General Statutes § 46b-81, the legislature imposed the additional requirement that the party making alimony payments prove that the living arrangement has resulted in a change in circumstances that alters the financial needs of the alimony recipient. Therefore, this additional requirement, in effect, serves as a limitation. Pursuant to § 46b-86(b), the nonmarital union must be one with attendant financial consequences before the trial court may alter an award of alimony.’ *DeMaria v. DeMaria*, [247 Conn. 715] supra, 247 Conn. 720.”
- [Mongillo v. Mongillo](#), 69 Conn. App. 472, 479, 794 A.2d 1054 (2002). “In the present case, the court awarded one year of alimony to the plaintiff on the basis of its finding that she was underemployed and would need only a short period of time to procure full-time employment. The court made those findings after hearing evidence concerning the plaintiff’s education, prior employment and earnings history. We

conclude that sufficient evidence was presented to support the court's durational alimony order.”

- [Distefano v. Distefano](#), 67 Conn. App. 628, 633, 787 A.2d 675 (2002). “In accordance with General Statutes § 46b-86 (b) and the holding in *DeMaria*, [247 Conn. 715, 724 A.2d 1088 (1999)] before the payment of alimony can be modified or terminated, two requirements must be established. First, it must be shown that the party receiving the alimony is cohabitating with another individual. If it is proven that there is cohabitation, the party seeking to alter the terms of the alimony payments must then establish that the recipient's financial needs have been altered as a result of the cohabitation.”
- [Way v. Way](#), 60 Conn. App. 189, 199, 758 A.2d 884 (2000). “[L]ump sum alimony is a final judgment not modifiable by the court even if there is a change in circumstances”

DIGESTS:

- DOWLING’S DIGEST *Dissolution of marriage* § 18
- CONNECTICUT FAMILY LAW CITATIONS
 - Alimony—Cohabitation*
 - Alimony—Lump-sum v. periodic*
 - Alimony—Rehabilitative alimony*
 - Alimony—Remarriage, effect of*
 - Alimony—Termination of*

TEXTS & TREATISES:

- ARNOLD H. RUTKIN ET AL., [CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS](#) (3d ed. 2010).
 - Chapter 33. Alimony in general
 - § 33.22. Periodic payment
 - § 33.25. Award of lump sum or property—Generally
 - § 33.26. _____ Property awarded as alimony
 - § 33.27. _____ Lump sum payments
 - § 33.28. Term of alimony
 - § 33.29. Fixed term
 - § 33.30. Indefinite duration
 - § 33.35. Effect of remarriage
 - § 33.36. Order for support of mentally ill spouse
 - § 33.37. —Time for entry of order
 - § 33.38. —Parties who may apply for order
 - § 33.39. Order for support of mentally ill spouse—Duration of obligation
 - Chapter 35. Modification of alimony provisions
 - § 35.21. Remarriage of payor
 - § 35.22. Remarriage of payee
 - § 35.23. Misconduct of the party receiving alimony
 - § 35.25. Modification of alimony based upon cohabitation
 - § 35.26. Proof of cohabitation
- 2 [FAMILY LAW PRACTICE IN CONNECTICUT](#) (1996).
 - Chapter 9. Alimony in Divorce—Spousal Support
 - § 9.9. Periodic alimony
 - § 9.11. Duration of alimony
 - § 9.13. Permanent versus time limited
 - § 9.15. Lump sum alimony

§ 9.18. Other forms of alimony

- BARBARA KAHN STARK, [FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE](#) (1998).
Chapter 10. Alimony.
Duration, p. 229
Fixed-term alimony, pp. 219, 224-227
Open-ended alimony, p. 219, 220-224
Permanent, p. 82
Termination, p. 234

ENCYCLOPEDIAS:

- 27B [C.J.S.](#) *Divorce* (2005).
Temporary alimony
§§ 529-540. Temporary alimony allowance
Permanent alimony
§§ 599-607. Commencement and termination of allowance
- 24A [AM. JUR. 2D](#) *Divorce and Separation* (2008).
§§ 696-705. Duration of allowance
§§ 759-773. Rehabilitative alimony
- Jay M. Zitter, *Excessive or inadequacy of lump-sum alimony awards*, 49 ALR5th 441 (1997).
- Gary L. Young, Annotation, *Alimony As Affected By Recipient Spouse's Remarriage In Absence Of Controlling Specific Statute*, 47 ALR5th 129 (1997).

LAW REVIEWS:

- Cynthia George, *Rehabilitative Alimony: Do We Have It In Connecticut*, 3 CONNECTICUT FAMILY LAWYER (Spring 1988)

COMPILER:

Catherine Hogan Mazur, Connecticut Judicial Branch Law Library at
Hartford. 95 Washington St. Hartford, CT 06106 860-548-2866 [Email](#)

- * Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Table 9: Connecticut's Cohabitation Statute

Connecticut's Cohabitation Statute	
<p>Conn. Gen. Stats. §46b-86(b) (2011)</p>	<p>“In an action for divorce, dissolution of marriage, legal separation or annulment brought by a husband or wife, in which a final judgment has been entered providing for the payment of periodic alimony by one party to the other, the Superior Court may, in its discretion and upon notice and hearing, modify such judgment and suspend, reduce or terminate the payment of periodic alimony upon a showing that the party receiving the periodic alimony is living with another person under circumstances which the court finds should result in the modification, suspension, reduction or termination of alimony because the living arrangements cause such a change of circumstances as to alter the financial needs of that party.”</p>
<p>Knapp v. Knapp, 270 Conn. 815, 825, 856 A.2d 358 (2004).</p>	<p>“Although § 46b-86(b) does not specifically define cohabitation, our appellate courts consistently have referred to that statute as the cohabitation statute” [Continued]</p>

History of Statute

<p>OLR Report No. 94-R-0700 (July 29, 1994).</p>	<p>“The statute, CGS Sec. 46b-86(b), was enacted as PA 77-394. Before its passage the court could already alter alimony awards upon a showing of changed circumstances, unless the terms of the award itself precluded modification. PA 77-394 empowered the court to alter or terminate an alimony award upon a finding that the alimony recipient was living with another person under arrangements which alter his or her financial needs.</p> <p>PA 77-394 began as sHB 6174. It was referred to the Judiciary Committee and given a public hearing on March 2. The committee favorably reported the bill on April 4 and it passed the House on May 6 and the Senate on May 24, in both cases on consent with no debate. During the public hearing only one person spoke on the bill, attorney Samuel Schoonmaker from Stamford. Representing both himself and the American Academy of Matrimonial Lawyers, he spoke in support. Senator DePiano asked if the bill was designed to ‘correct’ a situation in Stamford that had resulted in a state Supreme Court case where ‘somebody claimed that his wife was living with somebody else, out of wedlock and that therefore, he was not responsible to give her alimony and he lost that case?’ Schoonmaker responded that this was the intent, to make it within the court's discretion. He said he was aware of another Stamford case where there was a substantial alimony award in favor of the wife while she had been living for 15 years without being married with a man who was providing her with very ample support. Schoonmaker said the bill was a practical attempt at economic justice and not an attempt to legislate morality. DePiano summed it up as ‘[Y]ou want alimony to be used only by the person receiving the alimony and not anybody else getting the benefit if it and conspiring between the two not to get married, so that the alimony would stay on forever.’ Schoonmaker responded ‘That's right.’ [cont’d]</p> <p>Although it was not specified in the testimony, the case they were referring to was</p>
--	---

	<p>probably <i>McAnerney v. McAnerney</i>, 165 Conn 277 (1973) a copy of which is enclosed. In that case a separation agreement, later incorporated in the divorce decree, obligated the plaintiff to pay alimony to his ex-wife until her remarriage or death. He subsequently sued because she was co-habiting with a man and he argued that he was no longer bound by the agreement because his ex-wife and her partner had created a condition approximating marriage thus circumventing the terms of the agreement. The Court held that neither of the terms of the agreement, death or remarriage of the wife, had occurred and that Connecticut law did not recognize common law marriage, and thus the plaintiff husband had no cause of action against his ex-wife.”</p>
<p>McAnerney v. McAnerney, 165 Conn. 277, 285-286, 334 A.2d 437 (1973).</p>	<p>“Since our decision in the <i>Hames</i> [163 Conn. 588, 316 A.2d 379 (1972)] case, there should be little question as to what is required under our law to constitute the status of marriage. Although other jurisdictions may recognize common-law marriage or accord legal consequences to informal marriage relationships, Connecticut definitely does not. <i>Hames v. Hames</i>, supra, 7; <i>State ex rel. Felson v. Allen</i>, 129 Conn. 427, 432, 29 A.2d 306. It follows that although two persons cohabit and conduct themselves as a married couple, our law neither grants to nor imposes upon them marital status. Thus, for the purposes of the laws of this jurisdiction and for the purposes of the contract, Mrs. McAnerney's cohabitation with another has no effect on the contractual provision whereby the plaintiff's obligation terminates with the wife's remarriage.”</p>

Section 8: Attorney's Fees and Expenses

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to the awarding of attorneys' fees and expenses in action for alimony awards

STATUTES:

- CONN. GEN. STAT. (2011)
 - [§ 46b-62](#). Orders of payment of attorney's fees in certain actions
 - [§ 46b-87](#). Contempt of orders

FORMS:

- 8 ARNOLD H. RUTKIN ET AL., [CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS](#) (3d ed. 2010).
 - Chapter 32. Temporary alimony
 - § 32.4. Motion for alimony (Pendente Lite)—Form
- 8A ARNOLD H. RUTKIN ET AL., [CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS](#) (3d ed. 2010).
 - Chapter 45. Attorney fees and expenses
 - § 45.10. Motion for attorney and expert fees pendente lite—Form
 - § 45.13. Motion for counsel fees and expenses pending appeal—Form
 - § 45.20. Affidavit of services—Form
- THOMAS D. COLIN, ED. [LIBRARY OF CONNECTICUT FAMILY LAW FORMS](#) (2008)
 - 7-001 Motion for Counsel Fees, pp. 329
 - 7-002 Motion for Counsel and Expert Fees, pp. 331
 - 7-003 Affidavit of Services, pp. 333
 - 7-004 Motion for Approval of Fees and Costs, pp. 335

CASES:

- [McKenna v. Delente](#), 123 Conn. App. 146, 170, 2 A.3d 38 (2010). "In this case, we cannot review whether the court's failure to award the defendant attorney's fees was proper because the record does not reveal the court's analysis in reaching this decision. Specifically, neither the memorandum of decision, nor the record on the whole, reflect whether or to what extent the court considered the criteria set forth in § 46b-82, and the defendant has not sought an articulation of the court's reasoning. See *Blum v. Blum*, 109 Conn.App. 316, 331, 951 A.2d 587, cert. denied, 289 Conn. 929, 958 A.2d 157 (2008)."
- [Medvey v. Medvey](#), 83 Conn. App. 567, 575, 850 A.2d 1092 (2004). "The defendant first posits that because his financial affidavit did not reflect an ability to pay the attorney's fees sought by the plaintiff, the court abused its discretion in awarding such fees. It is, however, well settled that pursuant to

§ 46b-87, the court has the authority to impose attorney's fees as a sanction for noncompliance with a court's dissolution judgment and that **'that sanction may be imposed without balancing the parties' respective financial abilities.'** (Emphasis added.) *Dobozy v. Dobozy*, 241 Conn. 490, 499, 697 A.2d 1117 (1997). As such, the defendant's contention is without merit."

- [Jewett v. Jewett](#), 265 Conn. 669, 694, 830 A.2d 193 (2003). "In the present case, the trial court ordered the defendant to pay \$7500 toward the plaintiff's attorney's fees. The trial court awarded attorney's fees because it concluded that 'much of the plaintiff's accrued or already paid legal fees have been caused by the defendant's failure . . . promptly and candidly [to] comply with numerous motions and discovery.' Moreover, the trial court awarded the plaintiff mostly nonliquid assets, such as the marital home and an interest in the defendant's pension that was not yet exercisable as of the date of dissolution. Conversely, the trial court noted that the defendant had converted most of his assets to cash. Accordingly, we find nothing in this record that persuades us that the trial court abused its discretion in ordering the defendant to pay a portion of the plaintiff's attorney's fees."
- [Grimm v. Grimm](#), 82 Conn. App. 41, 54-55, 844 A.2d 855 (2004). "Here, the record does not support a finding that the plaintiff lacked sufficient liquid assets with which to pay her counsel fees or that the failure to award such fees would have undermined the court's other financial orders."
- [Koizim v. Koizim](#), 181 Conn. 492, 501, 435 A.2d 1030 (1980). "Counsel fees are not to be awarded merely because the obligor has demonstrated an ability to pay. 'Courts ordinarily award counsel fees in divorce cases so that a party (usually the wife) may not be deprived of her rights because of lack of funds. *Krasnow v. Krasnow*, 140 Conn. 254, 265, 99 A.2d 104 (1953); *Steinmann v. Steinmann*, 121 Conn. 498, 504, 186 A. 501 (1936).' *Ridolfi v. Ridolfi*, 178 Conn. 377, 380, 423 A.2d 85 (1979). In making its determination regarding attorney's fees the court is directed by General Statutes 46b-62 to consider the respective financial abilities of the parties. *Murphy v. Murphy*, 180 Conn. 376, 380, 429 A.2d 897 (1980). Where, because of other orders, both parties are financially able to pay their own counsel fees they should be permitted to do so. Because the defendant had ample liquid funds as a result of the other orders in this case, there was no justification for an allowance of counsel fees."
- [Lev v. Lev](#), 10 Conn. App. 570, 524 A.2d 674 (1987). *Propriety of an award of counsel fees to a pro se litigant*

DIGESTS:

- WEST KEY NUMBERS: *Divorce* §§ 221-229
- DOWLING'S DIGEST *Dissolution of marriage* § 16

TEXTS & TREATISES:

- 8A ARNOLD H. RUTKIN ET AL., [CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS](#) (3d ed. 2010).
 - Chapter 45. Fees and Costs
 - § 45.2. Factors to be considered—Generally
 - § 45.3. _____ Parties' financial abilities
 - § 45.4. Effect of fault on claims for attorney's fees
 - § 45.5. Parties subject to attorney's fee awards

- § 45.6. Amount of allowance
- § 45.7. Expert fees and allowances for other expenses
- § 45.8. Agreements or property settlement provisions relating to attorney fees
- § 45.9. Pendente lite award
- § 45.11. Award in final judgment
- § 45.12. Award on appeal
- § 45.14. Attorney's fees for modification and enforcement proceedings
- § 45.15. Attorney's fee award as sanction
- § 45.16. Fees for counsel for minor child or Guardian ad Litem
- § 45.17. Hearing requirements
- § 45.18. Enforcement of fee and expense awards
- § 45.19. Proof of attorney's fee claims

- 1 [FAMILY LAW PRACTICE IN CONNECTICUT](#) (1996).
 Chapter 3. Attorneys' Fees, by Louis Parley.
 - II. Attorney-Client fee
 - III. Court awarded of fees
 - A. Dissolution actions
 - 1. Trials
 - 2. Appeals
 - 3. Modification
 - 4. Contempt

ENCYCLOPEDIAS:

- 24A [AM. JUR. 2D](#) *Divorce and Separation* (2008).
 §§ 618-661. Suit money, counsel fees, and costs
- 27B [C.J.S.](#) *Divorce* (2005).
 §§ 541-590. Attorney fees and expenses
- *Amount Of Allowance For Attorney Fees In Domestic Relations Action*, 45 POF2d 699 (1986).
- Gary L. Garrison, Annotation, *Alimony Or Child-Support Awards As Subject To Attorneys' Liens*, 49 ALR5th 595 (1997).

COMPILER:

Catherine Hogan Mazur, Connecticut Judicial Branch Law Library at Hartford.
 95 Washington St. Hartford, CT 06106 860-548-2866 [Email](#)

* Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Section 9: Tax Consequences of Alimony

A Guide to Resources in the Law Library

- SCOPE:** Taxable and deductible alimony payments including recapture of front-loaded and cash payments
- DEFINITION:** “Alimony or separate maintenance payments are, under section 71, included in the gross income of the payee spouse, and, under section 215, allowed as a deduction from the gross income of the payor spouse.” [26 CFR Chap. 1, §1.71-1T](#) (2011).
- STATUTES:**
- INTERNAL REVENUE CODE § 71 [[26 USC § 71](#)] (2010). Alimony and Separate Maintenance Payments
 - (a) General rule
 - (b) Alimony and separate payments defined
 - (c) Payments to support children
 - (d) Spouse
 - (e) Exception for joint returns
 - (f) Recomputation where excess front-loading of alimony payments
 - (g) Cross references
 - INTERNAL REVENUE CODE § 215 [[26 USC § 215](#)] (2010). Alimony, etc., payments
 - INTERNAL REVENUE CODE § 682 [[26 USC § 682](#)] (2010). Income of an estate or trust in case of a divorce, etc.
- HISTORY:**
- Domestic Relations Tax Reform Act of 1984 (DRTRA). P.L. 98-369 §§421-426, 98 Stat. 793-805 (1984) [part of the Deficit Reduction Act of 1984]
- REGULATIONS:**
- [26 CFR Part 1](#) (rev. April 1, 2010)
 - § 1.71. Items specifically included in gross income
 - 1 Alimony and separate maintenance payments; income to wife or former wife
 - 1T Alimony and separate maintenance payments (temporary)
 - See [Table 10: Questions and Answers](#)
 - § 1.215
 - 1 Periodic alimony, etc., payments
 - 1T Alimony, etc., payments (temporary)
- FORMS:**
- 1B [AMERICAN JURISPRUDENCE LEGAL FORMS](#) (2008).
 - § 17:84. Alimony and Separation—tax consequences of alimony and child support payments

- BARBARA KAHN STARK, [FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE](#) (1998).
Chapter 11. Taxes.
Worksheet for recapture of alimony, p. 254

CASES:

- [Dombrowski v. Noyes-Dombrowski](#), 273 Conn. 127, 131, 869 A.2d 164 (2005). “On appeal, the defendant claims that the trial court improperly characterized the lottery winnings as alimony as opposed to marital property because: (1) the trial court treated the lottery payments as marital property in its division of assets notwithstanding the label of alimony; and (2) the trial court’s order is inconsistent with the definition of alimony set forth in the Internal Revenue Code.”
- [Wright v. Wright](#), 284 NW2d 894, 903 (1979). “It is not the labels placed by the payment which are determinative under the federal tax law. It is the structure and effect of the payments which control the characterization.”
- [Emmons v. Commissioner](#), 36 TC 728, 738 (1961). “For purpose of section . . . 71(a), the fact that a payment is labeled ‘alimony’ is not controlling. The reports are replete with unsuccessful attempts to achieve a desired descriptive terms for the transaction involved.”

ENCYCLOPEDIAS:

- 24A [AM. JUR. 2D](#) *Divorce and Separation* (2008).
Temporary alimony
Amount of allowance
§ 610. Spouses’ entire financial consideration
Permanent alimony
Factors or circumstances affecting amount of allowance
§ 689. Tax consequences of alimony award
Modification of alimony awards
Circumstances affecting right to modification
§ 746. Consideration of tax consequences
- 27B [C.J.S.](#) *Divorce* (2005).
Permanent alimony
Circumstances affecting allowance; mode and amount of allowance
§ 614. Other particular circumstances
- Tracey A. Bateman, Annotation, *Divorce and separation: consideration of tax consequences in distribution of marital property*, 9 ALR5th 568 (1993).
- Ferdinand S. Tino, Annotation, *Divorce Or Separation: Consideration Of Tax Liability Or Consequences In Determining Alimony Or Property Settlement Provisions*, 51 ALR3d 461 (1973).
- Annotation, *Federal Income Tax: Husband’s Payment To Wife In Part For Support Of Minor Child*, 6 Led 2d 1370 (1962).
- Annotation, *Construction Of Provisions Of Internal Revenue Code Relating To Alimony Or Maintenance Payments*, 4 ALR2d 252 (1949).

PAMPHLETS:

- [Divorced Or Separated Individuals](#) (Internal Revenue Service Publication 504 for use in preparing return)
[Alimony](#), pp. 11

WORKSHEETS:

- [Divorced Or Separated Individuals](#) (Internal Revenue Service Publication 504 for use in preparing return)

**TEXTS &
TREATISES:**

- 8A ARNOLD H. RUTKIN ET AL., [CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS](#) (3d ed. 2010).
 - Chapter 56. Federal law affecting Connecticut domestic relations practice
 - § 56.7. The impact of federal alimony rules

- [FAMILY LAW PRACTICE IN CONNECTICUT](#) (1996).
 - Chapter 9. Alimony in Divorce—Spousal Support (by Jeffrey W. Hill)
 - § 9.2. Federal requirements
 - § 9.3. Former section 71
 - § 9.4. Excess recapture tax
 - § 9.5. DRTRA—in detail
 - § 9.6. Child contingency
 - § 9.16. Tax analysis
 - § 9.19. Section 682 trust

- LEON GABINET, [TAX ASPECTS OF MARITAL DISSOLUTION](#) (2d ed., rev. 2005).
 - Chapter 7. Spousal and Child Support
 - § 7:1. Policy considerations in alimony reform and overview of recent legislation
 - § 7:2. Alimony redefined
 - § 7:3. Restriction of alimony to cash payments
 - § 7:4. Third-party payments
 - § 7:11. Filing of joint returns
 - § 7:12. Excess front-loading of alimony payments
 - § 7:13. –Minimum term rule
 - § 7:14. –Recapture rule
 - § 7:15. – –Exceptions to recapture rules
 - § 7:16. –Observations on three-year rule and elimination of minimum term rule
 - § 7:18. Alimony trusts
 - § 7:24. State tax issues arising from federal tax treatment of alimony
 - § 7:26. State-federal issues in alimony and child support

- BARBARA KAHN STARK, [FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE](#) (1998).
 - Alimony recapture, pp.252-256
 - IRS Alimony rules, p. 228
 - Tax significance of alimony, pp. 219, 231
 - Temporary alimony, tax considerations, p. 81
 - Termination of alimony, tax considerations, 234

- 1 MARIAN F. DOBBS, [DETERMINING CHILD AND SPOUSAL SUPPORT](#) (1995 rev. ed.).
 - Chapter 5. Tax Consequences and Consequences of Support
 - §§ 5:02-5:19. Alimony
 - § 5:02. In general
 - § 5:03. Pre-1985 law
 - § 5:04. Tax Reform Act of 1984

- § 5:05. —Payments made in cash
- § 5:06. —Payments received by or on behalf of the supported spouse
- § 5:07. —Payments made pursuant to divorce or separation instrument
- § 5:08. —Payments not designated by parties as nondeductible
- § 5:09. —Spouses must not be members of the same household
- § 5:10. —Spouses may not file joint return
- § 5:11. —Nonliability after supported spouse's death must be express
- § 5:12. —No part of the payment must be child support
- § 5:13. —No minimum term required for alimony treatment
- § 5:14. —Prior alimony deductions may be subject to recapture
- § 5:16. Arrearages
- § 5:17. Modification
- § 5:18. Alimony trusts and annuities
- § 5:19. Alimony and Individual Retirement Accounts (IRAs)

- ARNOLD H. RUTKIN, GEN ED., [FAMILY LAW AND PRACTICE](#) (2011).
 - Chapter 40. Tax Considerations: Spousal and Child Support (by Michael Asimow)
 - § 40.01[1]. General Rule.
 - § 40.02. Definition of Alimony or Separate Maintenance Payments
 - § 40.03. Recapture of Excess Front-Loaded Alimony Payments
 - § 40.06. Federal Tax Reporting Compliance Requirements
 - § 40.10. Payments Relating to Family Residence

COMPILER:

Catherine Hogan Mazur, Connecticut Judicial Branch Law Library at Hartford.
95 Washington St. Hartford, CT 06106 860-548-2866 [Email](#)

* Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Table 10: Questions & Answers on Alimony and Taxes

26 CFR § 1.71-1T (rev. April 1, 2010)		
Q-1	What is the income tax treatment of alimony or separate maintenance payments?	A-1
Q-2	What is alimony or separate maintenance payment?	A-2
Q-5	May alimony or separate maintenance payments be made in a form other than cash?	A-5
Q-9	What are the consequences if, at the time a payment is made, the payor and payee spouses are members of the same household?	A-9
Q-12	Will a divorce or separation instrument be treated as stating that there is no liability to make payments after the death of the payee spouse if the liability to make such payments terminates pursuant to applicable local law or oral agreement?	A-12
Q-13	What are the consequences if the payor spouse is required to make one or more payments (in cash or property) after the death of the payee spouse as a substitute for the continuation of pre-death payments which would otherwise qualify as alimony or separate maintenance payments?	A-13
Q-15	What are the consequences of a payment which the terms of the divorce or separation instrument fix as payable for the support of a child of the payor spouse?	A-15

Section 10:

Words & Phrases: Alimony

ALIMONY: “The term alimony usually and technically means an allowance for spousal support and is distinguishable from property division and child support.” [In Re Marriage of Sjulín](#), 431 NW2d 773 (Iowa 1988).

COBRA: “Finally, the defendant claims that the court improperly ordered the defendant to pay the plaintiff’s COBRA premium for three years. We disagree.” [Guarascio v. Guarascio](#), 105 Conn. App. 418, 427 (2008).

CONSTRUCTIVE TRUST: “A constructive trust is an equitable remedy imposed to prevent unjust enrichment.” *Gulack v. Gulack*, 30 Conn. App. 305, 311, 620 A.2d 181 (1993). [See:] “The trial court also was in error in imposing a constructive trust in favor of the defendant on the jointly owned home.” [Brown v. Brown](#), 190 Conn. 345, 349, 460 A.2d 1287 (1983).

CONTEMPT: “is a disobedience to the rules and orders of a court which has power to punish for such an offense A **civil contempt** is one in which the conduct constituting the contempt is directed against some civil right of an opposing party and the proceeding is initiated by him.” (emphasis added) [Stoner v. Stoner](#), 163 Conn. 345, 359, 307 A.2d 146 (1972).

COURT ORDER MUST BE OBEYED: “. . . an order entered by a court with proper jurisdiction ‘must be obeyed by the parties until it is reversed by orderly and proper proceedings.’ (Internal quotation marks omitted.) [*Cologne v. Westfarms Associates*, 197 Conn. 141, 145, 496 A.2d 476 (1985)] Id. We noted that a party has a duty to obey a court order ‘however erroneous the action of the court may be. . . .’ (Internal quotation marks omitted.) Id. We registered our agreement with the ‘long-standing rule that a contempt proceeding does not open to reconsideration the legal or factual basis of the order alleged to have been disobeyed. . . .’ (Internal quotation marks omitted.) Id., 148. Finally, we emphasized that ‘court orders must be obeyed; there is no privilege to disobey a court’s order because the alleged contemnor believes that it is invalid.’” [Mulholland v. Mulholland](#), 229 Conn. 643 (1994), 649, 643 A.2d 246

DISCRETION, ABUSE OF: “Trial courts are vested with broad and liberal discretion in fashioning orders concerning the type, duration and amount of alimony and support, applying in each case the guidelines of the General Statutes. If the court considers the relevant statutory criteria when making its alimony and support award, the award may not be disturbed unless the court has abused its discretion.” [Hartney v. Hartney](#), 83 Conn. App. 553, 559, 850 A.2d 1098, cert. den. 271 Conn. 960 (2004).

EARNING CAPACITY: “While there is ‘no fixed standard’ for the determination of an individual’s earning capacity; *Yates v. Yates*, 155 Conn. 544, 548, 235 A.2d 656 (1967); it is well settled that earning capacity ‘is not an amount which a person can theoretically earn, nor is it confined to actual income, but rather it is an amount which a person can realistically be expected to earn considering such things as his vocational skills, employability, age and health.’ *Lucy v. Lucy*, 183 Conn. 230, 234, 439 A.2d 302 (1981).” [Bleuer v. Bleuer](#), 59 Conn. App. 167, 170, 755 A.2d 946 (2000).

EMPLOYMENT, CHOICE OF: “. . . as the trial court noted, the parties are entitled to pursue any employment they choose so long as they do not fraudulently restrict their earning capacity for the purpose of avoiding support obligations.” [Jewett v. Jewett](#), 265 Conn. 669, 687, 830 A.2d 193 (2003).

EQUITABLE: “The trial court may award alimony to a party even if that party does not seek it and has waived all claims for alimony. Id., [102-105] (court free to reject stipulation of parties for no alimony as unfair and inequitable and to award \$1 per year alimony). A trial court may award alimony as part of the court's general equitable power.” [Porter v. Porter](#), 61 Conn. App. 791, 797-798, 769 A.2d 725 (2001).

GROSS INCOME (Additional): “The defendant first claims that the court improperly included in its alimony order a percentage of future additional gross income. We disagree In its order, the court stated that the defendant would have to pay to the plaintiff a sum equal to a percentage of his additional gross income, which would include but not be limited to cash payments, bonuses and vested stock options. The defendant argues that the court could not make this order because it was making a modification of alimony without a showing of a substantial change of circumstances. We are not persuaded by this argument.” [Guarascio v. Guarascio](#), 105 Conn. App. 418, 421-422 (2008).

LIFE INSURANCE AS SECURITY FOR ALIMONY: ““The ordering of security for alimony by a trial court is discretionary under [General Statutes § 46b-82].” *Cordone v. Cordone*, supra, 51 Conn. App. [530,]534; General Statutes § 46b-82. The court's discretion, however, is not without limits. This court has held that the trial court must delve into certain matters before ordering a party to obtain life insurance to secure the payment of alimony. See *Michel v. Michel*, 31 Conn. App. 338, 341, 624 A.2d 914 (1993). Specifically, the court must engage in a search and inquiry into the cost and availability of such insurance. Id.; see also *Lake v. Lake*, 49 Conn. App. 89, 92, 712 A.2d 989, cert. denied, 246 Conn. 902, 719 A.2d 1166 (1998).” [Parley v. Parley](#), 72 Conn. App. 742, 746, 807 A.2d 982 (2002).

LONG ARM STATUTE: “The court may exercise personal jurisdiction over the nonresident party as to all matters concerning temporary or permanent alimony or support of children, only if: (1) The nonresident party has received actual notice under subsection (a) of this section; and (2) the party requesting alimony meets the residency requirement of section 46b-44.” Conn. Gen. Stats. [§ 46b-46\(b\)](#) (2011).

LUMP SUM ALIMONY: “Lump sum alimony, even where divided into instalments, is payable in full regardless of future events such as the death of the husband or the remarriage of the wife.” [Pulvermacher v. Pulvermacher](#), 166 Conn. 380, 385, 349 A.2d 836 (1974).

MOTION FOR CLARIFICATION: “. . . we conclude that where there is an ambiguous term in a judgment, a party must seek a clarification upon motion rather than resort to self-help.” [Sablosky v. Sablosky](#), 258 Conn. 713, 720, 784 A.2d 890 (2001).

NET vs. GROSS INCOME: “The court relied solely on the parties' gross incomes in fashioning the financial orders. We conclude, therefore, that the court improperly designed its financial orders by relying on the parties' gross incomes rather than on their net incomes.” [Ludgin v. McGowan](#), 64 Conn. App. 355, 359, 780 A.2d 198 (2001).

NOMINAL ALIMONY: “Finally, we recognize that a **nominal alimony** award may often be appropriate when the present circumstances will not support a substantial award. Nominal awards, however, are all that are necessary to afford the court continuing jurisdiction to make appropriate modifications. We have stated that ‘because some alimony was awarded, [one dollar per year]

with no preclusion of modification, if the circumstances warrant, a change in the award can be obtained at some future date.’ *Ridgeway v. Ridgeway*, 180 Conn. 533, 543, 429 A.2d 801 (1980); see also General Statutes § 46b-86; *Ridolfi v. Ridolfi*, 178 Conn. 377, 379-80, 423 A.2d 85 (1979). Concededly, in this case, no significant alimony appears to have been warranted at the time of trial. This was particularly true because, at the time of dissolution, the defendant’s salary was roughly equal to that of the plaintiff and, with further effort, could have been increased significantly. The failure to award any alimony at the time of trial, however, permanently precluded the defendant from seeking alimony at a future date should those circumstances change.” [Simmons v. Simmons](#), 244 Conn. 158, 185-186, 708 A.2d 949 (1998). [Emphasis added].

PENDENTE LITE: “ means alimony or maintenance ‘pending litigation’ and is payable during the pendency of a divorce proceeding so as to enable a dependent spouse to proceed with or defend against the action.” [Jayne v. Jayne](#), 663 A.2d 169, 176 (Pa. Super. 1995).

PERMANENT ALIMONY: “Unless and to the extent that the decree precludes modification . . . any final order for the periodic payment of permanent alimony or support or an order for alimony or support pendente lite may at any time thereafter be continued, set aside, altered or modified by said court upon a showing of a substantial change in the circumstances of either party . . . Conn. Gen. Stats. [§ 46b-86\(a\)](#) (2011).

“In an action for divorce, dissolution of marriage, legal separation or annulment brought by a husband or wife, in which a final judgment has been entered providing for the payment of periodic alimony by one party to the other, the Superior Court may, in its discretion and upon notice and hearing, modify such judgment and suspend, reduce or terminate the payment of periodic alimony upon a showing that the party receiving the periodic alimony is living with another person under circumstances which the court finds should result in the modification, suspension, reduction or termination of alimony because the living arrangements cause such a change of circumstances as to alter the financial needs of that party.” Conn. Gen. Stats. [§ 46b-86\(b\)](#) (2011).

REHABILITATIVE ALIMONY “may be defined as alimony payable for a short, but specific and terminable period of time, which will cease when recipient is, in the exercise of reasonable efforts, in a position of self-support.” (emphasis added). [Turner v. Turner](#), 97 ALR3d 730, 731 (1978).

REMARRIAGE: “It is true that the subsequent remarriage of a divorced woman gives rise to an inference of abandonment of her right to alimony.” [Piacquadio v. Piacquadio](#), 22 Conn. Sup. 47, 49, 159 A.2d 628 (1960).

REQUEST FOR LEAVE: Official Judicial form (JD-FM-202) to be filed with Motion to Modify (JD-FM-174). See CONN. PRACTICE BOOK [§ 25-26](#)

STANDARD OF APPELLATE REVIEW: “A finding of contempt is a question of fact, and our standard of review is to determine whether the court abused its discretion in failing to find that the actions or inactions of the [party] were in contempt of a court order. . . . To constitute contempt, a party’s conduct must be wilful. . . . Noncompliance alone will not support a judgment of contempt.” (Citation omitted; internal quotation marks omitted.) [Priol v. Priol](#), 67 Conn. App. 7, 14, 787 A.2d 50 (2001).

SUBSTANTIAL CHANGE OF CIRCUMSTANCES: “Unless and to the extent that the decree precludes modification . . . any final order for the periodic payment of permanent alimony or support or an order for alimony or support pendente lite may at any time thereafter be continued, set aside, altered or modified by said court upon a showing of a substantial change in the circumstances of either party . . . Conn. Gen. Stats. [§ 46b-86\(a\)](#) (2011).

TAXES: “Alimony or separate maintenance payments are, under section 71, included in the gross income of the payee spouse, and, under section 215, allowed as a deduction from the gross income of the payor spouse.” 26 CFR Chap. 1, §1.71-1T (2010). See also [Table 1-10](#).

TIME LIMITED ALIMONY: “There are several valid reasons for the awarding of time limited alimony. One is the ‘sound policy that such awards may provide an incentive for the spouse receiving support to use diligence in procuring training or skills necessary to attain self sufficiency.’ (Internal quotation marks omitted.) *Id. Roach v. Roach*, [20 Conn. App. 500, 568 A.2d 1037 (1990)] supra, 506. A time limited alimony award generally is for rehabilitative purposes, but other reasons may also support this type of alimony award. Another reason is to provide support for a spouse until some future event occurs that renders such support less necessary or unnecessary. *Ippolito v. Ippolito*, [28 Conn. App. 745, 612 A.2d 131, cert. den. 224 Conn. 905 (1992)] supra, 752; *Wolfburg v. Wolfburg*, [27 Conn. App. 396, 606 A.2d 48 (1992)] supra, 400.” [Mathis v. Mathis](#), 30 Conn. App. 292, 294, 620 A.2d 174 (1993).

Appendix A

Termination of Alimony

The Connecticut General Assembly
OFFICE OF LEGISLATIVE RESEARCH

OLR Report

Report 98-R-0556

April 13, 1998

FROM: Lawrence K. Furbish, Assistant Director

You asked how a person subject to an alimony order could get it modified or terminated and if the General Assembly ever considered a bill to make alimony automatically end after a specified period of time.

Either the payer or recipient of court ordered alimony can file a motion in court for a modification of the order, but it will only be granted based on a change in circumstances. We searched back to 1973 and found only three relevant bills. In 1975 SB 1114 and HB 7873 and in 1977, HB 6325 would have limited alimony to five years; they were referred to the Judiciary Committee, which took no action on any of them.

When it enters a dissolution of marriage decree, the court can order either party to pay alimony to the other (CGS § 46b-82). In deciding on alimony the statutes require the court to consider certain listed factors. These include: (1) the length of the marriage; (2) the cause of the dissolution; (3) the parties' age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, and needs; and, (4) the desirability of the party granted custody of any minor children working.

Alimony can be awarded in a lump sum or periodically, and the length of time the payments must be made can be fixed or indefinite. The award can specify whether or not it can be changed in the future and under what conditions. These decisions are considered to be in the discretion of the court based on its judgement of fairness and the needs of the parties.

Unless the terms of the decree itself preclude modification, either party can at any time ask the court to alter the terms or discontinue it, but such a request must be "upon a showing of a substantial change of circumstances of either party" (CGS § 46b-86). The parties can agree and incorporate in their initial agreement, or the court can establish, items or circumstances that were contemplated and are not to be changed. Over the years the courts have ruled that the party requesting the change has the burden of proving the change in circumstances. (*Epstein v. Epstein*, 43 Conn. Supp. 400 (1994)).

It had long been understood under common law that if the receiving party remarried, alimony would usually cease. The courts have also ruled that alimony orders can be altered upon a showing of substantial change in circumstances, whether or not the change was contemplated at the time of the dissolution (*Fahy v. Fahy*, 227 Conn. 505 (1993)).

In response to court cases pointing out that Connecticut did not recognize common law marriage and that therefore living with another person without marriage did not constitute a change in circumstances, the General Assembly passed legislation. Now the statutes specifically authorize the court to suspend, reduce, or terminate alimony whenever the party receiving it is living with another person under circumstances where the living arrangement causes a change of circumstances so as to alter the financial needs of that party. (See attached report 94-R-0700)

The courts have also upheld the right of a court to enter an award that does not terminate. In *Burns v. Burns* (41 Conn. App. 716 (1996)) the court stated that the goal of such an award is to allow for future modifications based on further changes in circumstances. Citing an example of a party who remarries, the court found it appropriate to reduce the award to \$1 per year, thereby leaving it operational so that if in the future the party's situation changed again it could be increased.

Appendix B

Alteration of Alimony Awards

The Connecticut General Assembly
OFFICE OF LEGISLATIVE RESEARCH

OLR Report

Report 94-R-0700

July 29, 1994

FROM: Lawrence K. Furbish, Assistant Director

You have asked for a legislative history of the statute which allows the court to alter an alimony award based on the recipient's living with another person.

The statute, CGS Sec. 46b-86(b), was enacted as PA 77-394. Before its passage the court could already alter alimony awards upon a showing of changed circumstances, unless the terms of the award itself precluded modification. PA 77-394 empowered the court to alter or terminate an alimony award upon a finding that the alimony recipient was living with another person under arrangements which alter his or her financial needs.

PA 77-394 began as sHB 6174. It was referred to the Judiciary Committee and given a public hearing on March 2. The committee favorably reported the bill on April 4 and it passed the House on May 6 and the Senate on May 24, in both cases on consent with no debate. During the public hearing only one person spoke on the bill, attorney Samuel Schoonmaker from Stamford. Representing both himself and the American Academy of Matrimonial Lawyers, he spoke in support. Senator DePiano asked if the bill was designed to "correct" a situation in Stamford that had resulted in a state Supreme Court case where "somebody claimed that his wife was living with somebody else, out of wedlock and that therefore, he was not responsible to give her alimony and he lost that case?" Schoonmaker responded that this was the intent, to make it within the court's discretion. He said he was aware of another Stamford case where there was a substantial alimony award in favor of the wife while she had been living for 15 years without being married with a man who was providing her with very ample support. Schoonmaker said the bill was a practical attempt at economic justice and not an attempt to legislate morality. DePiano summed it up as "[Y]ou want alimony to be used only by the person receiving the alimony and not anybody else getting the benefit if it and conspiring between the two not to get married, so that the alimony would stay on forever. " Schoonmaker responded "That's right. "

Although it was not specified in the testimony, the case they were referring to was probably *McAnerney v. McAnerney*, 165 Conn 277 (1973) a copy of which is enclosed. In that case a separation agreement, later incorporated in the divorce decree, obligated the plaintiff to pay alimony to his ex-wife until her remarriage or death. He subsequently sued because she was co-habiting with a man and he argued that he was no longer bound by the agreement because his ex-wife and her partner had created a condition approximating marriage thus circumventing the terms of the agreement. The Court held that neither of the terms of the agreement, death or remarriage of the wife, had occurred and that Connecticut law did not recognize common law marriage, and thus the plaintiff husband had no cause of action against his ex-wife.