

Jordan D. Teuscher proposes the following substitute bill:

Alimony Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Paul A. Cutler

LONG TITLE

General Description:

This bill addresses alimony.

Highlighted Provisions:

This bill:

- requires a court to consider the tax consequences of alimony on each party when determining or modifying alimony;
- addresses when a court shall consider the length of two marriages between the same individuals as the length of one marriage for purposes of determining alimony;
- addresses the modification of alimony after a court enters a divorce decree; and
- addresses the effect of cohabitation on alimony.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

81-4-501, as enacted by Laws of Utah 2024, Chapter 366

81-4-502, as enacted by Laws of Utah 2024, Chapter 366

81-4-504, as enacted by Laws of Utah 2024, Chapter 366

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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **81-4-501** is amended to read:

81-4-501 . Definitions for part.

As used in this part:

- 29 (1) "Child support guidelines" means the same as that term is defined in Section 81-6-101.
30 (2) "Cohabit" means to live together, or to reside together on a regular basis, in the same
31 residence and in a relationship of a romantic or sexual nature.
32 (3) "Fault" means any of the following wrongful conduct during the marriage that
33 substantially contributed to the breakup of the marriage:
34 (a) engaging in sexual relations with an individual other than the party's spouse;
35 (b) knowingly and intentionally causing or attempting to cause physical harm to the
36 other party or a minor child;
37 (c) knowingly and intentionally causing the other party or a minor child to reasonably
38 fear life-threatening harm; or
39 (d) substantially undermining the financial stability of the other party or the minor child.
40 (4) "Length of the marriage" means, [~~for purposes of alimony~~] except as provided in
41 Subsection 81-4-502(8), the number of years from the day on which the parties are
42 legally married to the day on which the petition for divorce is filed with the court.
43 (5) "Payee" means the party who is or would receive alimony from the other party.
44 (6) "Payor" means the party who is paying, or would pay, alimony to the other party.
45 (7) "Temporary alimony" means money that the court orders a party to pay during the
46 pendency of an action under this chapter for the support and maintenance of a party as
47 described in Subsection 81-1-203(4).

48 Section 2. Section **81-4-502** is amended to read:

49 **81-4-502 . Determination of alimony.**

- 50 (1) For a proceeding under Chapter 4, Dissolution of Marriage, or in a proceeding to
51 modify alimony, the court shall consider at least the following factors in determining
52 alimony:
53 (a) the standard of living existing during the marriage, which factors shall include the
54 following:
55 (i) income;
56 (ii) the approximate value of real and personal property; and
57 (iii) any other factor that the court determines to be appropriate to enable the court to
58 make a determination of the standard of living existing during the marriage;
59 (b) the financial condition and needs of the payee, provided that the payee may show
60 financial needs by itemizing expenses present during the marriage rather than by
61 itemizing post petition expenses;
62 (c) the payee's earning capacity or ability to produce income, including the impact of

63 diminished workplace experience resulting from primarily caring for a minor child of
64 the payor;

65 (d) the ability of the payor to provide support;

66 (e) the tax consequences of alimony on each party;

67 [~~(e)~~] (f) the length of the marriage;

68 [~~(f)~~] (g) whether the payee has custody of a minor child requiring support;

69 [~~(g)~~] (h) whether the payee worked in a business owned or operated by the payor; and

70 [~~(h)~~] (i) whether the payee directly contributed to any increase in the payor's skill by
71 paying for education received by the payor or enabling the payor to attend school
72 during the marriage.

73 (2)(a) The court may consider the fault of the parties in determining whether to award
74 alimony and the terms of the alimony.

75 (b) The court may, when fault is at issue, close the proceedings and seal the court
76 records.

77 (3)(a) Except as otherwise provided by this section, the court shall consider the standard
78 of living, existing at the time of separation, in determining alimony in accordance
79 with this section.

80 (b) In considering all relevant facts and principles, the court may, in the court's
81 discretion, base alimony on the standard of living that existed at the time of trial.

82 (4)(a) The court may attempt to equalize the parties' respective standards of living.

83 (b)(i) If a marriage has been in effect for 10 years or more, and if the payee has
84 significantly diminished workplace experience resulting from an agreement
85 between the spouses that the payee reduce the payee's workplace experience to
86 care for a minor child of the payor, it shall be the rebuttable presumption that the
87 court equalize the parties' standard of living.

88 (ii) The presumption under Subsection (4)(b)(i) can be rebutted by a showing of good
89 cause, and the court shall enter specific findings of fact as to the evidentiary basis
90 for its determination.

91 (c) This Subsection (4) may not be applied to or used as the basis to modify an alimony
92 award if the petition for divorce was filed before May 1, 2024.

93 (5)(a) If the marriage is short in duration and a minor child has not been conceived or
94 born during the marriage, the court may consider the standard of living that existed at
95 the time of the marriage.

96 (b) In determining alimony when a marriage of short duration dissolves and a minor

97 child has not been conceived or born during the marriage, the court may consider
98 restoring each party to the condition which existed at the time of the marriage.

99 (6)(a) When a marriage of long duration dissolves on the threshold of a major change in
100 the income of one of the parties due to the collective efforts of both parties, the court
101 shall consider the change when dividing the marital property and in determining the
102 amount of alimony.

103 (b) If a party's earning capacity has been greatly enhanced through the efforts of both
104 parties during the marriage, the court may make a compensating adjustment in
105 dividing the marital property and awarding alimony.

106 (7)(a) Except as provided in Subsection (7)(c), the court may not order alimony for a
107 period of time longer than the length of the marriage.

108 (b) If a party is ordered to pay temporary alimony during the pendency of a divorce
109 action, the court shall count the period of time that the party pays temporary alimony
110 towards the period of time for which the party is ordered to pay alimony.

111 (c) At any time before the termination of alimony, the court may find extenuating
112 circumstances or good cause that justify the payment of alimony for a longer period
113 of time than the length of the marriage.

114 (8)(a) If the parties to the divorce action were previously married to each other,
115 divorced, and then remarried each other, the court shall consider the aggregate of the
116 two marriages as the length of the marriage under Subsection (7)(a) if:

117 (i) the parties are seeking a divorce for the subsequent marriage; and

118 (ii) the petition for divorce for the subsequent marriage was filed on or after January
119 1, 2026.

120 (b) The aggregate of the two marriages described in Subsection (8)(a):

121 (i) is the sum of:

122 (A) the length of time beginning on the day that the parties first married and
123 ending on the day that one of the parties filed the petition for divorce in the
124 prior divorce action; and

125 (B) the length of time beginning on the day that the parties remarried and ending
126 on the day that one of the parties filed the petition for divorce in the current
127 divorce action; and

128 (ii) does not include the time period between the day that a party filed the petition for
129 divorce in the prior divorce action and the day on which the parties remarried.

130 (c) A court may decline to consider the aggregate of the two marriages as the length of

131 the marriage if the court finds, by a preponderance of the evidence, that aggregating
 132 the two marriages would be inequitable.

133 (d) This Subsection (8) does not:

134 (i) reopen, modify, or affect the finality of the prior divorce; or

135 (ii) alter the division of property, debts, or obligations in the prior divorce.

136 Section 3. Section **81-4-504** is amended to read:

137 **81-4-504 . Modification of alimony after divorce decree.**

138 (1) The court has continuing jurisdiction to make substantive changes and new orders
 139 regarding alimony based on a substantial material change in circumstances not expressly
 140 stated in the divorce decree or in the findings that the court entered at the time of the
 141 divorce decree.

142 (2)(a) A party's retirement is a substantial material change in circumstances that is
 143 subject to a petition to modify alimony, unless the divorce decree, or the findings that
 144 the court entered at the time of the divorce decree, expressly states otherwise.

145 (b) Subsection (2)(a) applies to a divorce decree [~~regardless of the date on which the~~
 146 ~~divorce decree was~~] entered on or after May 12, 2020.

147 (3) The court may not modify alimony or issue a new order for alimony to address needs of
 148 the recipient that did not exist at the time the decree was entered, unless the court finds
 149 extenuating circumstances that justify that action.

150 (4) In modifying the amount of alimony, the court may not consider the income of any
 151 subsequent spouse of the payor, except that the court may consider:

152 (a) the subsequent spouse's financial ability to share living expenses; or

153 (b) the income of a subsequent spouse if the court finds that the payor's improper
 154 conduct justifies that consideration.

155 Section 4. Section **81-4-505** is amended to read:

156 **81-4-505 . Termination of alimony.**

157 (1)(a) Except as provided in Subsection (1)(b), or unless a decree of divorce specifically
 158 provides otherwise, any order of the court that a payor pay alimony to a payee
 159 automatically terminates upon the remarriage or death of that payee.

160 (b) If the remarriage of the payee is annulled and found to be void ab initio, the payment
 161 of alimony shall resume if the payor is made a party to the action of annulment and
 162 the payor's rights are determined.

163 (2)(a) If a payor establishes that a payee cohabits with another individual during the
 164 pendency of the divorce action or after the court enters a divorce decree, the court:

- 165 ~~[(a)] (i)~~ may not order the payor to pay ~~[temporary]~~ alimony, including temporary
166 alimony, to the payee; and
- 167 ~~[(b)] (ii)~~ shall terminate any order that the payor pay ~~[temporary]~~ alimony, including
168 temporary alimony, to the payee, even if the payee is not cohabiting with the
169 individual when the payor files the motion to terminate alimony.
- 170 (b) A payor may not seek termination of alimony under Subsection (2)(a)(ii) later than
171 one year after the day on which the payor knew or should have known that the payee
172 has cohabited with another individual.
- 173 ~~[(3)(a) Subject to Subsection (3)(b), the court shall terminate an order that a payor pay~~
174 ~~alimony to a payee if the payor establishes that, after the order for alimony is issued,~~
175 ~~the payee cohabits with another individual even if the payee is not cohabiting with~~
176 ~~the individual when the payor files the motion to terminate alimony.]~~
- 177 ~~[(b) A payor may not seek termination of alimony under Subsection (3)(a) later than one~~
178 ~~year after the day on which the payor knew or should have known that the payee has~~
179 ~~cohabited with another individual.]~~

180 Section 5. **Effective Date.**

181 This bill takes effect:

- 182 (1) except as provided in Subsection (2), May 6, 2026; or
- 183 (2) if approved by two-thirds of all members elected to each house:
- 184 (a) upon approval by the governor;
- 185 (b) without the governor's signature, the day following the constitutional time limit of
186 Utah Constitution, Article VII, Section 8; or
- 187 (c) in the case of a veto, the date of veto override.