

Effective 9/1/2024

Part 5 Spousal Support

81-4-501 Definitions for part.

As used in this part:

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

Enacted by Chapter 366, 2024 General Session

81-4-502 Determination of alimony.

- (1) For a proceeding under Chapter 4, Dissolution of Marriage, or in a proceeding to modify alimony, the court shall consider at least the following factors in determining alimony:
 - (a) the standard of living existing during the marriage, which factors shall include the following:
 - (i) income;
 - (ii) the approximate value of real and personal property; and
 - (iii) any other factor that the court determines to be appropriate to enable the court to make a determination of the standard of living existing during the marriage;
 - (b) the financial condition and needs of the payee, provided that the payee may show financial needs by itemizing expenses present during the marriage rather than by itemizing post petition expenses;
 - (c) the payee's earning capacity or ability to produce income, including the impact of diminished workplace experience resulting from primarily caring for a minor child of the payor;
 - (d) the ability of the payor to provide support;
 - (e) the length of the marriage;
 - (f) whether the payee has custody of a minor child requiring support;
 - (g) whether the payee worked in a business owned or operated by the payor; and
 - (h) whether the payee directly contributed to any increase in the payor's skill by paying for education received by the payor or enabling the payor to attend school during the marriage.

- (2)
 - (a) The court may consider the fault of the parties in determining whether to award alimony and the terms of the alimony.
 - (b) The court may, when fault is at issue, close the proceedings and seal the court records.
- (3)
 - (a) Except as otherwise provided by this section, the court shall consider the standard of living, existing at the time of separation, in determining alimony in accordance with this section.
 - (b) In considering all relevant facts and principles, the court may, in the court's discretion, base alimony on the standard of living that existed at the time of trial.
- (4)
 - (a) The court may attempt to equalize the parties' respective standards of living.
 - (b)
 - (i) If a marriage has been in effect for 10 years or more, and if the payee has significantly diminished workplace experience resulting from an agreement between the spouses that the payee reduce the payee's workplace experience to care for a minor child of the payor, it shall be the rebuttable presumption that the court equalize the parties' standard of living.
 - (ii) The presumption under Subsection (4)(b)(i) can be rebutted by a showing of good cause, and the court shall enter specific findings of fact as to the evidentiary basis for its determination.
 - (c) This Subsection (4) may not be applied to or used as the basis to modify an alimony award if the petition for divorce was filed before May 1, 2024.
- (5)
 - (a) If the marriage is short in duration and a minor child has not been conceived or born during the marriage, the court may consider the standard of living that existed at the time of the marriage.
 - (b) In determining alimony when a marriage of short duration dissolves and a minor child has not been conceived or born during the marriage, the court may consider restoring each party to the condition which existed at the time of the marriage.
- (6)
 - (a) When a marriage of long duration dissolves on the threshold of a major change in the income of one of the parties due to the collective efforts of both parties, the court shall consider the change when dividing the marital property and in determining the amount of alimony.
 - (b) If a party's earning capacity has been greatly enhanced through the efforts of both parties during the marriage, the court may make a compensating adjustment in dividing the marital property and awarding alimony.
- (7)
 - (a) Except as provided in Subsection (7)(c), the court may not order alimony for a period of time longer than the length of the marriage.
 - (b) If a party is ordered to pay temporary alimony during the pendency of a divorce action, the court shall count the period of time that the party pays temporary alimony towards the period of time for which the party is ordered to pay alimony.
 - (c) At any time before the termination of alimony, the court may find extenuating circumstances or good cause that justify the payment of alimony for a longer period of time than the length of the marriage.

Enacted by Chapter 366, 2024 General Session

81-4-503 Imputed income for payee for alimony purposes -- No recent work history or disability.

- (1) Notwithstanding the provisions of Section 81-4-502 or 81-6-203, the court may, in determining imputation of income to a payee, apply the provisions of this section if the payee:
 - (a) has diminished workplace experience, that resulted from an agreement between the spouses that the payee reduce the payee's workplace experience to care for a minor child of the payor; or
 - (b) has been diagnosed with a disability that has caused a reduction in the payee's workplace experience.
- (2) If a payee meets the requirements of Subsection (1)(a) or (b), the court:
 - (a) may consider reasonable efforts made by the payee to improve the payee's employment situation and any reasonable barrier to obtaining or retaining employment; and
 - (b) is not required to consider that the payee may be underemployed if the payee is employed and has shown reasonable barriers to improving the payee's employment.
- (3)
 - (a) In making an income imputation under this section, the court may use relevant provisions of Section 81-6-203, provided that the provision is not contrary to the requirements of this section.
 - (b) When considering what constitutes a reasonable barrier to obtaining or retaining employment, the court:
 - (i) may include in its analysis a determination of the length of time that is considered by the court to be recent as it relates to a payee's work history, training, or education under this section;
 - (ii) may consider whether the payee:
 - (A) is fully competitive against other employment applicants whose work history, training, or education is current; and
 - (B) in the case of a disability, is fully competitive against other employment applicants who do not have a disability; and
 - (iii) may impute any income as it relates to employment for which the spouse is fully competitive and has not shown any reasonable barriers to obtain.
 - (c) If the court imputes any income to a payee who qualifies for income determination under this section, the court shall enter specific findings of fact as to the evidentiary basis for imputing the income.
- (4)
 - (a) After a divorce decree has been entered, subject to the requirements of Section 81-4-504, the court may review an income imputation to a payee under this section.
 - (b) A payee's showing that barriers have prevented significant improvement of the payee's employment situation, despite reasonable efforts on the part of the payee to improve the payee's employment situation, may, in the court's determination, constitute a substantial material change in circumstances and eligibility to review an income imputation under this section.

Renumbered and Amended by Chapter , 2024 General Session

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

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

- (2)
 - (a) A party's retirement is a substantial material change in circumstances that is subject to a petition to modify alimony, unless the divorce decree, or the findings that the court entered at the time of the divorce decree, expressly states otherwise.
 - (b) Subsection (2)(a) applies to a divorce decree regardless of the date on which the divorce decree was entered.
- (3) The court may not modify alimony or issue a new order for alimony to address needs of the recipient that did not exist at the time the decree was entered, unless the court finds extenuating circumstances that justify that action.
- (4) In modifying the amount of alimony, the court may not consider the income of any subsequent spouse of the payor, except that the court may consider:
 - (a) the subsequent spouse's financial ability to share living expenses; or
 - (b) the income of a subsequent spouse if the court finds that the payor's improper conduct justifies that consideration.

Enacted by Chapter 366, 2024 General Session

81-4-505 Termination of alimony.

- (1)
 - (a) Except as provided in Subsection (1)(b), or unless a decree of divorce specifically provides otherwise, any order of the court that a payor pay alimony to a payee automatically terminates upon the remarriage or death of that payee.
 - (b) If the remarriage of the payee is annulled and found to be void ab initio, the payment of alimony shall resume if the payor is made a party to the action of annulment and the payor's rights are determined.
- (2) If a payor establishes that a payee cohabits with another individual during the pendency of the divorce action, the court:
 - (a) may not order the payor to pay temporary alimony to the payee; and
 - (b) shall terminate any order that the payor pay temporary alimony to the payee.
- (3)
 - (a) Subject to Subsection (3)(b), the court shall terminate an order that a payor pay alimony to a payee if the payor establishes that, after the order for alimony is issued, the payee cohabits with another individual even if the payee is not cohabiting with the individual when the payor files the motion to terminate alimony.
 - (b) A payor may not seek termination of alimony under Subsection (3)(a) later than one year after the day on which the payor knew or should have known that the payee has cohabited with another individual.

Enacted by Chapter 366, 2024 General Session