

28 obligations, or liabilities of the parties contracted or incurred during marriage;

29 ~~[(ii)]~~ (B) an order requiring the parties to notify respective creditors or obligees, regarding
30 the court's division of debts, obligations, or liabilities and regarding the parties' separate, current
31 addresses; and

32 ~~[(iii)]~~ (C) provisions for the enforcement of these orders; and

33 ~~[(d)]~~ (iv) provisions for income withholding in accordance with Title 62A, Chapter 11,
34 Recovery Services.

35 (2) The court may include, in an order determining child support, an order assigning
36 financial responsibility for all or a portion of child care expenses incurred on behalf of the
37 dependent children, necessitated by the employment or training of the custodial parent. If the court
38 determines that the circumstances are appropriate and that the dependent children would be
39 adequately cared for, it may include an order allowing the noncustodial parent to provide child care
40 for the dependent children, necessitated by the employment or training of the custodial parent.

41 (3) The court has continuing jurisdiction to make subsequent changes or new orders for
42 the custody of the children and their support, maintenance, health, and dental care, and for
43 distribution of the property and obligations for debts as is reasonable and necessary.

44 (4) (a) In determining parent-time rights of parents and visitation rights of grandparents
45 and other members of the immediate family, the court shall consider the best interest of the child.

46 (b) Upon a specific finding by the court of the need for peace officer enforcement, the
47 court may include in an order establishing a parent-time or visitation schedule a provision, among
48 other things, authorizing any peace officer to enforce a court-ordered parent-time or visitation
49 schedule entered under this chapter.

50 (5) If a petition for modification of child custody or parent-time provisions of a court order
51 is made and denied, the court shall order the petitioner to pay the reasonable attorneys' fees
52 expended by the prevailing party in that action, if the court determines that the petition was without
53 merit and not asserted or defended against in good faith.

54 (6) If a petition alleges substantial noncompliance with a parent-time order by a parent,
55 or a visitation order by a grandparent or other member of the immediate family pursuant to Section
56 78-32-12.2 where a visitation or parent-time right has been previously granted by the court, the
57 court may award to the prevailing party costs, including actual attorney fees and court costs
58 incurred by the prevailing party because of the other party's failure to provide or exercise

59 court-ordered visitation or parent-time.

60 (7) (a) The court shall consider at least the following factors in determining alimony:

61 (i) the financial condition and needs of the recipient spouse;

62 (ii) the recipient's earning capacity or ability to produce income;

63 (iii) the ability of the payor spouse to provide support;

64 (iv) the length of the marriage;

65 (v) whether the recipient spouse has custody of minor children requiring support;

66 (vi) whether the recipient spouse worked in a business owned or operated by the payor

67 spouse; and

68 (vii) whether the recipient spouse directly contributed to any increase in the payor spouse's

69 skill by paying for education received by the payor spouse or allowing the payor spouse to attend

70 school during the marriage.

71 (b) The court may consider the fault of the parties in determining alimony.

72 (c) As a general rule, the court should look to the standard of living, existing at the time

73 of separation, in determining alimony in accordance with Subsection (7)(a). However, the court

74 shall consider all relevant facts and equitable principles and may, in its discretion, base alimony

75 on the standard of living that existed at the time of trial. In marriages of short duration, when no

76 children have been conceived or born during the marriage, the court may consider the standard of

77 living that existed at the time of the marriage.

78 (d) The court may, under appropriate circumstances, attempt to equalize the parties'

79 respective standards of living.

80 (e) When a marriage of long duration dissolves on the threshold of a major change in the

81 income of one of the spouses due to the collective efforts of both, that change shall be considered

82 in dividing the marital property and in determining the amount of alimony. If one spouse's earning

83 capacity has been greatly enhanced through the efforts of both spouses during the marriage, the

84 court may make a compensating adjustment in dividing the marital property and awarding alimony.

85 (f) In determining alimony when a marriage of short duration dissolves, and no children

86 have been conceived or born during the marriage, the court may consider restoring each party to

87 the condition which existed at the time of the marriage.

88 (g) (i) The court has continuing jurisdiction to make substantive changes and new orders

89 regarding alimony based on a substantial material change in circumstances not foreseeable at the

90 time of the divorce.

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

94 (iii) In determining alimony, the income of any subsequent spouse of the payor may not
95 be considered, except as provided in this Subsection (7).

96 (A) The court may consider the subsequent spouse's financial ability to share living
97 expenses.

98 (B) The court may consider the income of a subsequent spouse if the court finds that the
99 payor's improper conduct justifies that consideration.

100 (h) Alimony may not be ordered for a duration longer than the number of years that the
101 marriage existed unless, at any time prior to termination of alimony, the court finds extenuating
102 circumstances that justify the payment of alimony for a longer period of time.

103 (8) Unless a decree of divorce specifically provides otherwise, any order of the court that
104 a party pay alimony to a former spouse automatically terminates upon the remarriage or death of
105 that former spouse. However, if the remarriage is annulled and found to be void ab initio, payment
106 of alimony shall resume if the party paying alimony is made a party to the action of annulment and
107 his rights are determined.

108 (9) Any order of the court that a party pay alimony to a former spouse terminates upon
109 establishment by the party paying alimony that the former spouse is cohabitating with another
110 person.

Legislative Review Note
as of 1-8-02 10:40 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel