

ALIMONY MODIFICATIONS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen E. Sandstrom

Senate Sponsor: _____

LONG TITLE

General Description:

This bill expands the factors a court shall consider when determining alimony.

Highlighted Provisions:

This bill:

H→ ► defines fault; ←H

- requires the court to consider certain types of fault when determining alimony; and
- allows a court to order additional alimony to allow a recipient spouse to care and supervise minor children.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-5, as last amended by Laws of Utah 2010, Chapter 285

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

Section 1. Section **30-3-5** is amended to read:

30-3-5. Disposition of property -- Maintenance and health care of parties and children -- Division of debts -- Court to have continuing jurisdiction -- Custody and parent-time -- Determination of alimony -- Nonmeritorious petition for modification.



90 (vii) whether the recipient spouse directly contributed to any increase in the payor
 91 spouse's skill by paying for education received by the payor spouse or allowing the payor
 92 spouse to attend school during the marriage[-]; and

93 (viii) whether the recipient spouse refrained from full-time employment in order to
 94 provide full-time care of minor children and the parties' household during the marriage.

95 (b) ~~It~~ **→ [The] In marriages where one spouse refrained from full-time employment in**
 95a **order to provide full-time care of minor children and the parties' household during the**
 95b **marriage, the** ~~←It~~ court ~~It~~ **→ [f] may [f] [shall] ←It** consider the fault of the parties in
 95c determining alimony ~~It~~ **→ [f] . [f] [;**

96 **including whether either party:**

97 ~~— (i) engaged in behavior during the marriage that unilaterally compromised the marital~~
 98 ~~contract;~~

99 ~~— (ii) jeopardized the financial stability of the family;~~

100 ~~— (iii) committed an act of substantiated physical abuse on the spouse or children;~~

101 ~~— (iv) has had a substantiated long-term addiction to alcohol, drugs, gambling, or~~
 102 ~~pornography; or~~

103 ~~— (v) engaged in criminal behavior.]~~

103a (c) **"Fault" means whether either party engaged in substantiated behavior during the**
 103b **marriage which unilaterally compromised the marriage or unilaterally jeopardized the health,**
 103c **safety, or financial stability of the other party or their children, including:**

103d (i) **sexual relations outside of the marriage;**

103e (ii) **physical abuse of the spouse or children;**

103f (iii) **long-term addictions to alcohol, drugs, gambling, or pornography; or**

103g (iv) **felonious criminal behavior.**

104 ~~[(c)]~~ (d) ~~←It~~ As a general rule, the court should look to the standard of living, existing at the
 105 time of separation, in determining alimony in accordance with Subsection (8)(a). However, the
 106 court shall consider all relevant facts and equitable principles and may, in its discretion, base
 107 alimony on the standard of living that existed at the time of trial. In marriages of short
 108 duration, when no children have been conceived or born during the marriage, the court may
 109 consider the standard of living that existed at the time of the marriage.

110 ~~It~~ **→ [(d)]** (e) ~~←It~~ The court may, under appropriate circumstances, attempt to equalize the
 110a parties'
 111 respective standards of living.

112 ~~It~~ **→ [(e)]** (f) ~~←It~~ When a marriage of long duration dissolves on the threshold of a major
 112a change in

113 the income of one of the spouses due to the collective efforts of both, that change shall be
114 considered in dividing the marital property and in determining the amount of alimony. If one
115 spouse's earning capacity has been greatly enhanced through the efforts of both spouses during
116 the marriage, the court may make a compensating adjustment in dividing the marital property
117 and awarding alimony.

118 ~~H~~→ [(f)] (g) ←~~H~~ In determining alimony when a marriage of short duration dissolves, and no
119 children have been conceived or born during the marriage, the court may consider restoring
120 each party to the condition which existed at the time of the marriage.