



House of Representatives *State of Utah*

UTAH STATE CAPITOL COMPLEX • 350 STATE CAPITOL
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March 1, 2011

Madam Speaker:

The Judiciary Committee reports a favorable recommendation on **H.B. 491**, ALIMONY MODIFICATIONS, by Representative S. Sandstrom, with the following amendments:

1. *Page 1, Lines 11 through 12:*

11 This bill:

▶ defines fault;

12 ▶ requires the court to consider certain types of fault when determining alimony;
and

2. *Page 4, Line 95 through Page 5, Line 120:*

95 (b) ~~{The}~~ In marriages where one spouse refrained from full-time
employment in order to provide full-time care of minor children and the parties'
household during the marriage, the court {+} may {+} ~~{shall}~~ consider
the fault of the parties in determining alimony {+} . {+} {₂}

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.}~~

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

(i) sexual relations outside of the marriage;

(ii) physical abuse of the spouse or children;

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

(iv) felonious criminal behavior.

104 ~~{(c)}~~ (d) As a general rule, the court should look to the standard of living,
existing at the

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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 ~~{(d)}~~ (e) The court may, under appropriate circumstances, attempt to
equalize the parties'
111 respective standards of living.
112 ~~{(e)}~~ (f) When a marriage of long duration dissolves on the threshold of a
major 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 ~~{(f)}~~ (g) 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.

Respectfully,

Kay L. McIff
Committee Chair

Voting: 9-3-1

3 HB0491.HC1.WPD 3/1/11 8:06 pm /JDH ECM/JDH

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