

**Alimony SUPPORT AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Keven J. Stratton**

Senate Sponsor: Lyle W. Hillyard

**LONG TITLE**

**General Description:**

This bill amends provisions related to the Utah Child Support Act.

**Highlighted Provisions:**

This bill:

provides for the court to consider whether a parent ~~was a stay-at-home parent when determining alimony~~ **has lost workplace experience opportunities while caring for a child**

**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 2013, Chapters 264 and 373

*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.**

(1) When a decree of divorce is rendered, the court may include in it equitable orders



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59 dependent children, necessitated by the employment or training of the custodial parent. If the  
 60 court determines that the circumstances are appropriate and that the dependent children would  
 61 be adequately cared for, it may include an order allowing the noncustodial parent to provide  
 62 child care for the dependent children, necessitated by the employment or training of the  
 63 custodial parent.

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

67 (4) Child support, custody, visitation, and other matters related to children born to the  
 68 mother and father after entry of the decree of divorce may be added to the decree by  
 69 modification.

70 (5) (a) In determining parent-time rights of parents and visitation rights of grandparents  
 71 and other members of the immediate family, the court shall consider the best interest of the  
 72 child.

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

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

81 (7) If a petition alleges noncompliance with a parent-time order by a parent, or a  
 82 visitation order by a grandparent or other member of the immediate family where a visitation or  
 83 parent-time right has been previously granted by the court, the court may award to the  
 84 prevailing party costs, including actual attorney fees and court costs incurred by the prevailing  
 85 party because of the other party's failure to provide or exercise court-ordered visitation or  
 86 parent-time.

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

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

89 (ii) the recipient's earning capacity or ability to produce income **§→ , including the impact**  
 89a **of diminished workplace experience resulting from primarily caring for a child of the payor**  
 89b **spouse ←§** ;

- 90 (iii) the ability of the payor spouse to provide support;
- 91 (iv) the length of the marriage;
- 92 (v) whether the recipient spouse has custody of minor children requiring support;
- 93 (vi) whether the recipient spouse worked in a business owned or operated by the payor

94 spouse; ~~§~~ → [f] ← ~~§~~ and ~~§~~ → [f] ← ~~§~~

- 95 (vii) whether the recipient spouse directly contributed to any increase in the payor
- 96 spouse's skill by paying for education received by the payor spouse or enabling the payor
- 97 spouse to attend school during the marriage ~~§~~ → [f] ← ~~§~~ . ~~§~~ → [f] ← ~~§~~ ~~§~~ → [;and

98 ~~—— (viii) whether the recipient spouse was primarily a stay-at-home parent caring for a~~

99 ~~child of the payor spouse, and ~~§~~ → [if] not ← ~~§~~ found ~~§~~ → [not] ← ~~§~~ to be at fault ~~§~~ → [; the court~~

99a ~~may order alimony:~~

100 ~~—— (A) for a duration of at least the number of years that the marriage existed; and~~

101 ~~—— (B) to cover any decrease in child support to the recipient spouse if the payor spouse~~

102 ~~has corresponding decrease in child support obligations] under Subsection 30-3-5(8)(c) ← ~~§~~ .] ← ~~§~~~~

103 (b) The court may consider the fault of the parties in determining whether to award

104 alimony and the terms thereof.

105 (c) "Fault" means any of the following wrongful conduct during the marriage that

106 substantially contributed to the breakup of the marriage relationship:

- 107 (i) engaging in sexual relations with a person other than the party's spouse;
- 108 (ii) knowingly and intentionally causing or attempting to cause physical harm to the
- 109 other party or minor children;
- 110 (iii) knowingly and intentionally causing the other party or minor children to
- 111 reasonably fear life-threatening harm; or
- 112 (iv) substantially undermining the financial stability of the other party or the minor
- 113 children.

114 (d) The court may, when fault is at issue, close the proceedings and seal the court

115 records.

116 (e) As a general rule, the court should look to the standard of living, existing at the

117 time of separation, in determining alimony in accordance with Subsection (8)(a). However, the

118 court shall consider all relevant facts and equitable principles and may, in its discretion, base

119 alimony on the standard of living that existed at the time of trial. In marriages of short

120 duration, when no children have been conceived or born during the marriage, the court may