

Wendy E. Prince, *Attorney Mediator*

Robin Cotler, *Attorney, CT, NY & FL*

What's Up With Alimony

Alimony is statutory and governed by C.G.S.A. 46b-82.

Alimony is basically money damages for loss of marital support and maintenance *Crowley v Crowley (1997) 46 Conn. App. 87*. The purpose of alimony is to provide support to a spouse. Alimony is given purely at the broad discretion of the Court and it can be given for a fixed time or for the life time of spouse. The amount can be structured in specific payments, by percentage of income, or a combination of both; the basis for the amount must be based on net income, not gross income.

The Connecticut Alimony statute enables the Superior Court to enter an order for either of the parties to pay alimony to the other, in addition to or in lieu of an award of property distribution. The order may direct that payments be secured by the purchase of insurance, unless the party can show by a preponderance of the evidence that they are uninsurable, or they cannot afford to pay for insurance.

The Court may hear witnesses to determine whether an alimony award should be made and as to the duration and amount of the award. The factors to be considered are: length of the marriage, cause for the dissolution or separation of the marriage, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate and needs of each of the parties and in the case of a parent, the desirability of such parent securing employment. Alimony may and often is awarded, not merely because the payee spouse needs the money to survive on their own but because the payee spouse is entitled to maintain their current lifestyle. Alimony awards are often based not so much on the "needs" of the spouse as the amount the payor spouse can "afford to pay".

The Court must consider all of the statutory criteria, stated above, when making an alimony award however it need not make explicit reference to the factors it considers or make express finding as to each factor, nor give each factor equal weight *Dombrowski v Noyes-Dombrowski, (2005) 273 Conn. 127*. Specifically the Court does not use alimony as a means of punishing an adulterous spouse. In fact a Court may decide to assign less weight to the issue of fault than to other statutory factors, see *Chyung v Chyung (2004) 86 Conn. App. 665 cert denied*.

There does not appear to be specific guidelines for alimony awards; the judgment is truly at the discretion of the Judge's evaluation of the statutory factors. However, there does seem to be a pattern running against life time alimony unless it is an exceptional case. Term seems to run either one half the length of the marriage or until the children are 18. Sale of the house seems to run around 50% with maybe another 5% if the other spouse is culpable or there are unusual circumstances. Alternatively if there are young kids and the parties have enough assets without forcing them to sell the house; they usually wait until the kids are 18 to sell it.