

LEGISLATIVE COMMITTEE MINUTES

SB16

Bill as
Introduced

SB 16 - AS INTRODUCED

2021 SESSION

21-0963
05/10

SENATE BILL

16

AN ACT

amending the alimony statute due to changes in federal tax law.

SPONSORS:

Sen. Carson, Dist 14

COMMITTEE:

Judiciary

ANALYSIS

This bill revises the formula for term alimony because of recent changes in federal income tax law. The bill recognizes that alimony is no longer either deductible by the payor or taxable to the payee.

Explanation:

Matter added to current law appears in ***bold italics***.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT amending the alimony statute due to changes in federal tax law.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Annulment, Divorce and Separation; Term Alimony. Amend the introductory paragraph of
2 RSA 458:19-a, II(a) to read as follows:

3 II.(a) The amount of a term alimony order shall be the lesser of the payee's reasonable need,
4 or a formula based on ~~[30]~~ 23 percent of the difference between the parties' gross incomes at the time
5 the order is created, unless the court finds that justice requires an adjustment. In making this
6 calculation, gross income as defined in RSA 458:19, V shall be:

7 2 New Subparagraph; Annulment, Divorce and Separation; Term Alimony; Formula Percentage.
8 Amend RSA 458:19-a, II to insert after subparagraph (b) the following new subparagraph:

9 (c) The formula percentage in subparagraph (a) of 23 percent is based on alimony not
10 being deductible to the payor and taxable to the payee under federal income tax law. If alimony
11 becomes deductible to the payor and taxable to the payee under federal income tax law, the formula
12 shall be based on 30 percent of the difference between the parties' gross incomes.

13 3 Annulment, Divorce and Separation; Term Alimony; Consideration of Special Circumstances;
14 Impact of Federal Tax Law. Amend RSA 458:19-a, IV(j) to read as follows:

15 (j) *The impact of federal tax law on the parties including the allocation of*
16 *applicable tax-related benefits.*

17 (h) Any other reason the court deems material and relevant.

18 4 New Paragraph; Alimony Modification; Effective Date. Amend RSA 458:19-aa by inserting
19 after paragraph I the following new paragraph:

20 I-a. Any modification may be retroactive as the parties may agree. If contested, an alimony
21 modification shall not be effective prior to the date that the notice of the petition for modification
22 was given to the other party.

23 5 New Paragraphs; Modification of Alimony Orders; Applicable Law Based on Filing Date of
24 Initial Petition For Divorce or Legal Separation. Amend RSA 458:19-aa by inserting after paragraph
25 IX the following new paragraphs:

26 X.(a)(1) The provisions of RSA 458:14, 458:19, 458:19-a, and 458:19-aa, as amended or
27 inserted by 2018, 310, shall not apply to modifications of orders in cases whose initial petition for
28 divorce or legal separation was filed prior to January 1, 2019, unless the court finds that the original
29 order:

30 (A) Was based on an agreement of the parties adopting some or all of the
31 provisions of that act; or

SB 16 - AS INTRODUCED

- Page 2 -

1 (B) Specified that the court was adopting some or all of the provisions of that act.

2 (2) Absent such a finding, modifications of these orders shall be controlled by the law
3 in effect on the date the initial petition for divorce or legal separation was filed.

4 (b) Parties to any case in which the initial petition was filed prior to January 1, 2019
5 may agree to adopt some or all of the provisions of 2018, 310:

6 (1) In the original agreement or any modification of it; or

7 (2) In modifying any court order.

8 XI. An alimony order effective on or after January 1, 2019, including one based on an
9 agreement of the parties, may be modified in accordance with RSA 458:19-a, II, without the need to
10 demonstrate the findings in RSA 458:19-a, VI, provided that:

11 (a) The alimony order was issued pursuant to RSA 458:14, 458:19, 458:19-a, and 458:19-
12 aa, as amended or inserted by 2018, 310;

13 (b) The alimony amount is greater than 23 percent of the difference in the parties gross
14 incomes as defined in RSA 458:19-a, II(a); and

15 (c) The petition for modification is filed by July 1, 2022.

16 6 Effective Date. This act shall take effect upon its passage.

CHAPTER 113
SB 16 - FINAL VERSION

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15 Circumstances; Impact of Federal Tax Law. Amend RSA 458:19-a, IV(j) to read as follows:

16 (j) *The impact of federal tax law on the parties including the allocation of*
17 *applicable tax-related benefits.*

18 (k) Any other reason the court deems material and relevant.

19 113:4 New Paragraph; Alimony Modification; Effective Date. Amend RSA 458:19-aa by
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22 modification shall not be effective prior to the date that the notice of the petition for modification
23 was given to the other party.

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1 (A) Was based on an agreement of the parties adopting some or all of the
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113:6 Effective Date. This act shall take effect upon its passage.

Approved: July 09, 2021

Effective Date: July 09, 2021

Committee Minutes

**AMENDED
SENATE CALENDAR NOTICE
Judiciary**

Sen Sharon Carson, Chair
Sen Bill Gannon, Vice Chair
Sen Harold French, Member
Sen Rebecca Whitley, Member
Sen Jay Kahn, Member

Date: January 7, 2021

HEARINGS

Tuesday	01/12/2021	
(Day)	(Date)	
Judiciary	REMOTE 000	1:00 p.m.
(Name of Committee)	(Place)	(Time)
1:00 p.m. SB 16	amending the alimony statute due to changes in federal tax law.	
1:15 p.m. SB 28	naming a courtroom in the second circuit courthouse in Plymouth in honor of Judge Edwin W. Kelly.	

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/92341942226>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: +13126266799,,92341942226# or +16465588656,,92341942226#
4. Webinar ID: [923 4194 2226](https://www.zoom.us/j/92341942226)
5. To view/listen to this hearing on YouTube, use this link:
<https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link:
<http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 16

Sen. Carson

SB 28

Sen. Giuda

Rep. Fellows

Rep. Suzanne Smith

Rep. Lynn

Rep. Weston

Rep. Gordon

Jennifer Horgan 271-7875

Sharon M Carson
Chairman

Senate Judiciary Committee

Jennifer Horgan 271-7875

SB 16, amending the alimony statute due to changes in federal tax law.

Hearing Date: January 12, 2021

Time Opened: 1:07 p.m.

Time Closed: 1:37 p.m.

Members of the Committee Present: Senators Carson, Gannon, French, Whitley and Kahn

Members of the Committee Absent : None

Bill Analysis: This bill revises the formula for term alimony because of recent changes in federal income tax law. The bill recognizes that alimony is no longer either deductible by the payor or taxable to the payee.

Sponsors:

Sen. Carson

Who supports the bill: Senator Carson; Honey Hastings; Cathy McKay; Mary Krueger, NH Legal Assistance; Marissa Chase, NHAJ

Who opposes the bill: None

Who is neutral on the bill: Carollynn Lear, NHDRA

Summary of testimony presented in support:

Senator Carson (provided written testimony)

- This bill revises the formula for term alimony because of recent changes in federal income tax law.
- The bill recognizes that alimony is no longer either deductible by the payor or taxable to the payee.
- This was filed last year (SB444) and got rolled into an omnibus bill, which was vetoed.
- Provided copies of the public hearing from last year.
- Senator Whitley asked if the amendments introduced to the bill last year were included in this version.
 - Yes.
- Senator Kahn asked what has happened during the intervening period, where the federal law has changed, but NH law has not.
 - Would defer that to others testifying.

Honey Hastings (provided written testimony)

- The effort to modernize the alimony law started in 2015
- The old law was unpredictable and made it hard to settle cases as it was vague and involved so much discretion by judges.
- SB71 passed in 2018 and it achieved predictability and consistency in the alimony law through a formula that seemed to result in fair and predictable amounts of alimony in appropriate cases.
- When this formula took effect, alimony was a deduction for the payor and taxable income for the recipient.
- Federal law changed and removed the deductibility of alimony.
- Under the previous federal law 30% came out to a fair after tax result for the payer and the payee.
- When the federal law changed the 30% no longer worked.
- After calculations with divorce financial analysts a working group came up with 23%.
- This new number produces similar outcomes for payers and payees to what it was before the tax law changed.
- This is really just housekeeping to deal with the federal changes.
- The bill adds a new section to make it clear that one of the special circumstances that would justify varying from the formula would be if there was an impact of federal tax law change.
- The bill also puts in that if the federal government puts it back to being deductible NH would go back to 30%.
- The bill also indicates that if alimony was decided from January 1, 2019 on and used the 30%, then those people could get back in for modification with an easy standard, not the general tough standard.
- It also clarifies that the 2019 alimony statute applies only to divorces filed in 2019 and later.
- That clarification was in the original bill but it was in the Session law part and this puts it in the RSAs so everyone can find that provision.
- Senator Kahn asked what happens to settlements that were made in the last year that have the 30% without taxation.
 - On page 2, line 8 it outlines that any alimony settled on or after Jan 1, 2019 may be modified without the need to demonstrate the tough standard, provided it was issued pursuant to the old law and if the alimony amount is greater than 23%. Those individuals do have to file a petition for modification by July 1, 2022. People have settled these cases and some of them have just said we understand 23% is the right number and used that. Some have agreed to an intermediate percentage and some did the 30% but knew that when the law changes it will be 23%. Judges have been using 30% but they do have discretion, and some have been using the 23%.
- Senator Kahn asked if there will be instances of people feeling a negative impact.

- Regrets what happened last spring to the bill. It passed in the Senate, but then COVID struck. It was put in an omnibus bill and unfortunately that bill was vetoed.
- Senator Whitely asked what other states use as a formula number.
 - When doing the original calculation, the working group worked with divorce financial analysts that can take all the factors like child support and then determine the tax implications of getting the exemption for the children, the tax bracket the person is in and then the alimony. What they came up with was a determination of looking at what each household is going to have at the end of the day after taxes. MA's original number was 30-35% which was adopted in 2013. The working group wanted predictability, so a range of numbers was determined to not be very helpful. The law has in it a section allowing the judge to use discretion to vary the formula for various reasons. When people reach agreements, they look at discretionary factors in setting a number. When the federal law changed the working group did not look at any other states when setting the new number. Determined the 23% based off the work they had done on the 30%.

Marissa Chase (NH Association for Justice)

- This is an issue that she has heard about from many family law attorneys over the past year.
- Her members are looking forward to further guidance on this law through this bill.

Mary Kruger (NH Legal Assistance)

- Was part of the alimony working group Honey Hastings chaired.
- Looking at this through the lens of how this would impact low-income survivors of abuse, sees 23% as a fair way to adjust this formula to reflect the changes in federal tax law.
- Senator Kahn asked if 23% is sufficient for sustaining people who have gone through domestic violence and is it a fair number today.
 - Believes it is. It is 23% of the difference in the income. In the cases they have seen where there is financial abuse, the person they are advocating for has little to no income or disability income. Advocated to ensure this would be a sustainable income for the spouse who is the abuse survivor, who may not have a lot of prospects, especially in later in life situations. The 30% took into account it being taxable income for the recipient, in addition to it being a tax deduction for the payor. Looked at a bunch of different models, and 23% really seemed to track with what the 30% accounted for. The formula has allowed for a much more predictability. Felt some of the courts misunderstood the ability for abuse survivors who may have many effects of trauma to join the workforce. The gains of having a formula like this is amazing.
- Senator Whitely asked what formulas other states use.

- May defer to Ms. Hastings on this. Does not have those models in front of her. Believes MA has a similar number to this. Not all states use a formula.

Cathy McKay

- Is an attorney in Londonderry who handles a large number of family cases.
- This is an important change that needs to be done.
- Has seen a number of cases applying the 30% and with the tax change that is really devastating to the paying party, who is losing out on a large portion of income that they would have gotten back through tax deductions.

Summary of testimony presented in opposition:

None

jch

Date Hearing Report completed: January 15, 2021

Speakers

Judiciary Committee Testify List for Bill SB16 on 2021-01-12**Support: 5 Oppose: 0 Neutral: 1 Total to Testify: 3**

Name	Title	Representing	Position	Testifying	Signed Up
Carson Sharon	An Elected Official	Myself	Support	Yes	1/8/2021 7:12
Hastings Honey	A Member of the Public	Myself	Support	Yes	1/8/2021 10:31
McKay Cathy	A Member of the Public	Myself	Support	Yes	1/11/2021 15:41
Lear Carollynn	State Agency Staff	NH Dept. of Revenue	Neutral	No	1/11/2021 9:53
Chase Marissa	A Lobbyist	NH Association for Justice	Support	No	1/11/2021 15:42
Krueger Mary	A Member of the Public	New Hampshire Legal Assistance	Support	No	1/12/2021 12:06

Testimony

Senate Bill 16: A PROPOSED AMENDMENT TO THE ALIMONY STATUTE

By Honey Hastings, JD, CFM # 75 654.5000

The elimination of the federal tax deduction for alimony effective January 1, 2019 changed the expected after-tax outcomes for payors and payees using the NH alimony formula. The Alimony Working Group that drafted the original alimony legislation has drafted corrective legislation that is now SB16.

After reviewing alternate formulas over a range of incomes with the help of divorce financial analysts, the Alimony Working Group concluded that 23% of the difference in gross incomes under the new tax law produced similar results to 30% of the difference under the old tax law. The key provision of SB16 is this change in percentage.

The amendment provides a window for people with alimony orders effective on or after January 2019 to request modification of the amount of alimony used in their case. The window would be open for any orders amounting to more than 23% of the difference in gross incomes. Such requests for modification must be made by July 1, 2022.

The 30% alimony formula also took effect January 1, 2019. However, under the enacting legislation, prior to that date, divorcing parties could choose to use the formula and many did in mediation and other settlement negotiations. If the divorce was effective in 2018, the 30% formula works, as the new tax law continues alimony deductibility for these cases.

Another provision of SB16 adds the “impact of federal tax law on the parties” to the list of special circumstances that may result in adjustment to the formula or duration limitation. The amendment also clarifies that any modifications of alimony orders may be retroactive to the date the other party received notice of the modification petition.

The bill clarifies that the 2019 alimony statute applies only to divorces filed in 2019, not to old cases or modifications thereof. The bill also adds a provision on retroactivity of any alimony modification (not just changes to the percent used) that mirrors RSA 458-C:7.

SB 444 - AS AMENDED BY THE SENATE

01/30/2020 0166s

2020 SESSION

20-2948
05/10

SENATE BILL **444**

AN ACT amending the alimony statute due to changes in federal tax law.

SPONSORS: Sen. Carson, Dist 14; Sen. French, Dist 7; Rep. Rice, Hills. 37; Rep. M. Smith, Straf. 6; Rep. Wall, Straf. 6

COMMITTEE: Judiciary

ANALYSIS

This bill revises the formula for term alimony based on the fact that under current federal income tax laws, alimony is not deductible to the payor and taxable to the payee. The bill adjusts the formula in the event that such a deduction is permitted in the future. The bill also explicitly provides that consideration of federal income tax consequences may warrant adjustment to the amount of term alimony.

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SB 444 - AS AMENDED BY THE SENATE

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21 modification shall not be effective prior to the date that the notice of the petition for modification
22 was given to the other party.

23 5 Applicability; Grounds for Modification of Alimony Order.

24 I. The amount of term alimony in any order effective on or after January 1, 2019, including
25 those based on an agreement of the parties, shall be subject to modification based solely on the
26 passage of this act; provided that:

27 (a) The alimony amount is greater than 23 percent of the difference in the parties gross
28 incomes as defined in RSA 458:19-a, II(a); and

29 (b) The petition for modification is filed by July 1, 2021.

30 II. The findings required for modification under RSA 458:19-aa, I(a) shall not apply.

31 6 Effective Date. This act shall take effect upon its passage.

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Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struck through~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty

AN ACT amending the alimony statute due to changes in federal tax law.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Annulment, Divorce and Separation; Term Alimony. Amend the introductory paragraph of
2 RSA 458:19-a, II(a) to read as follows:

3 II.(a) The amount of a term alimony order shall be the lesser of the payee's reasonable need,
4 or a formula based on [30] 23 percent of the difference between the parties' gross incomes at the time
5 the order is created, unless the court finds that justice requires an adjustment. In making this
6 calculation, gross income as defined in RSA 458:19, V shall be:

7 2 New Subparagraph; Annulment, Divorce and Separation; Term Alimony; Formula Percentage.
8 Amend RSA 458:19-a, II to insert after subparagraph (b) the following new subparagraph:

9 (c) The formula percentage in subparagraph (a) of 23 percent is based on alimony not
10 being deductible to the payor and taxable to the payee under federal income tax law. If alimony
11 becomes deductible to the payor and taxable to the payee under federal income tax law, the formula
12 shall be based on 30 percent of the difference between the parties' gross incomes.

13 3 Annulment, Divorce and Separation; Term Alimony; Consideration of Special Circumstances;
14 Impact of Federal Tax Law. Amend RSA 458:19-a, IV(j) to read as follows:

15 (j) *The impact of federal tax law on the parties including the allocation of*
16 *applicable tax-related benefits.*

17 (k) Any other reason the court deems material and relevant.

18 4 New Paragraph; Alimony Modification; Effective Date. Amend RSA 458:19-aa by inserting
19 after paragraph I the following new paragraph:

20 I-a. Any modification may be retroactive as the parties may agree. If contested, an alimony
21 modification shall not be effective prior to the date that the notice of the petition for modification
22 was given to the other party.

23 5 New Paragraphs; Modification of Alimony Orders; Applicable Law Based on Filing Date of
24 Initial Petition For Divorce or Legal Separation. Amend RSA 458:19-aa by inserting after paragraph
25 IX the following new paragraphs:

26 X.(a)(1) The provisions of RSA 458:14, 458:19, 458:19-a, and 458:19-aa, as amended or
27 inserted by 2018, 310, shall not apply to modifications of orders in cases whose initial petition for
28 divorce or legal separation was filed prior to January 1, 2019, unless the court finds that the original
29 order:

30 (A) Was based on an agreement of the parties adopting some or all of the
31 provisions of that act; or

SB 444 - AS AMENDED BY THE SENATE

- Page 2 -

1 (B) Specified that the court was adopting some or all of the provisions of that act.

2 (2) Absent such a finding, modifications of these orders shall be controlled by the law
3 in effect on the date the initial petition for divorce or legal separation was filed.

4 (b) Parties to any case in which the initial petition was filed prior to January 1, 2019
5 may agree to adopt some or all of the provisions of 2018, 310:

6 (1) In the original agreement or any modification of it; or

7 (2) In modifying any court order.

8 XI. An alimony order effective on or after January 1, 2019, including one based on an
9 agreement of the parties, may be modified in accordance with RSA 458:19-a, II, without the need to
10 demonstrate the findings in RSA 458:19-a, VI, provided that:

11 (a) The alimony order was issued pursuant to RSA 458:14, 458:19, 458:19-a, and 458:19-
12 aa, as amended or inserted by 2018, 310;

13 (b) The alimony amount is greater than 23 percent of the difference in the parties gross
14 incomes as defined in RSA 458:19-a, II(a); and

15 (c) The petition for modification is filed by July 1, 2021.

16 6 Effective Date. This act shall take effect upon its passage.

Amendments

Amendment to SB 444

1 Amend the bill by replacing all after section 4 with the following:

2

3 5 New Paragraphs; Modification of Alimony Orders; Applicable Law Based on Filing Date of
4 Initial Petition For Divorce or Legal Separation. Amend RSA 458:19-aa by inserting after paragraph
5 IX the following new paragraphs:

6 X.(a)(1) The provisions of RSA 458:14, 458:19, 458:19-a, and 458:19-aa, as amended or
7 inserted by 2018, 310, shall not apply to modifications of orders in cases whose initial petition for
8 divorce or legal separation was filed prior to January 1, 2019, unless the court finds that the original
9 order:

10 (A) Was based on an agreement of the parties adopting some or all of the
11 provisions of that act; or

12 (B) Specified that the court was adopting some or all of the provisions of that act.

13 (2) Absent such a finding, modifications of these orders shall be controlled by the law
14 in effect on the date the initial petition for divorce or legal separation was filed.

15 (b) Parties to any case in which the initial petition was filed prior to January 1, 2019
16 may agree to adopt some or all of the provisions of 2018, 310:

17 (1) In the original agreement or any modification of it; or

18 (2) In modifying any court order.

19 XI. An alimony order effective on or after January 1, 2019, including one based on an
20 agreement of the parties, may be modified in accordance with RSA 458:19-a, II, without the need to
21 demonstrate the findings in RSA 458:19-a, VI, provided that:

22 (a) The alimony order was issued pursuant to RSA 458:14, 458:19, 458:19-a, and 458:19-
23 aa, as amended or inserted by 2018, 310;

24 (b) The alimony amount is greater than 23 percent of the difference in the parties gross
25 incomes as defined in RSA 458:19-a, II(a); and

26 (c) The petition for modification is filed by July 1, 2021.

27 6 Effective Date. This act shall take effect upon its passage.

Amendment to SB 444

1 Amend the bill by replacing all after section 4 with the following:

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3 5 New Paragraphs; Modification of Alimony Orders; Applicable Law Based on Filing Date of
4 Initial Petition For Divorce or Legal Separation. Amend RSA 458:19-aa by inserting after paragraph
5 IX the following new paragraphs:

6 X.(a)(1) The provisions of RSA 458:14, 458:19, 458:19-a, and 458:19-aa, as amended or
7 inserted by 2018, 310, shall not apply to modifications of orders in cases whose initial petition for
8 divorce or legal separation was filed prior to January 1, 2019, unless the court finds that the original
9 order:

10 (A) Was based on an agreement of the parties adopting some or all of the
11 provisions of that act; or

12 (B) Specified that the court was adopting some or all of the provisions of that act.

13 (2) Absent such a finding, modifications of these orders shall be controlled by the law
14 in effect on the date the initial petition for divorce or legal separation was filed.

15 (b) Parties to any case in which the initial petition was filed prior to January 1, 2019
16 may agree to adopt some or all of the provisions of 2018, 310:

17 (1) In the original agreement or any modification of it; or

18 (2) In modifying any court order.

19 XI. An alimony order effective on or after January 1, 2019, including one based on an
20 agreement of the parties, may be modified in accordance with RSA 458:19-a, II, without the need to
21 demonstrate the findings in RSA 458:19-a, VI, provided that:

22 (a) The alimony order was issued pursuant to RSA 458:14, 458:19, 458:19-a, and 458:19-
23 aa, as amended or inserted by 2018, 310;

24 (b) The alimony amount is greater than 23 percent of the difference in the parties gross
25 incomes as defined in RSA 458:19-a, II(a); and

26 (c) The petition for modification is filed by July 1, 2021.

27 6 Effective Date. This act shall take effect upon its passage.

Committee Minutes

SENATE CALENDAR NOTICE

Judiciary

Sen Martha Hennessey, Chair
 Sen Shannon Chandley, Vice Chair
 Sen Melanie Levesque, Member
 Sen Sharon Carson, Member
 Sen Harold French, Member

Date: January 8, 2020

HEARINGS

	Tuesday	01/21/2020
	(Day)	(Date)
Judiciary	State House 100	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m. SB 602	establishing a committee to study the issue of unmarried cohabitants, domestic partnerships, and common law marriage.	
9:15 a.m. SB 444	amending the alimony statute due to changes in federal tax law.	
9:30 a.m. SB 440	establishing the New Hampshire collaborative law act.	
10:00 a.m. SB 442	relative to alternative dispute resolution.	
10:30 a.m. SB 573	relative to criminal threats to school safety.	

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 602

Sen. Sherman
 Rep. Cali-Pitts

Sen. Fuller Clark
 Rep. K. Murray

Sen. Kahn

Rep. Maggiore

SB 444

Sen. Carson
 Rep. Wall

Sen. French

Rep. Rice

Rep. M. Smith

SB 440

Sen. Chandley

Sen. Carson

Rep. Mulligan

Rep. B. Griffin

SB 442

Sen. Chandley
 Sen. Kahn

Sen. Hennessey
 Rep. M. Smith

Sen. Levesque

Sen. Carson

SB 573

Sen. Kahn
 Sen. Chandley

Sen. Watters
 Sen. Morgan

Rep. Ladd
 Rep. Luneau

Sen. Hennessey

Jennifer Horgan 271-2609

Martha S. Hennessey
 Chairman

Senate Judiciary Committee
Jennifer Horgan 271-2609

SB 444, amending the alimony statute due to changes in federal tax law.

Hearing Date: January 21, 2020

Time Opened: 9:22 a.m.

Time Closed: 9:45 a.m.

Members of the Committee Present: Senators Hennessey, Chandley, Levesque, Carson and French

Members of the Committee Absent : None

Bill Analysis: This bill revises the formula for term alimony based on the fact that under current federal income tax laws, alimony is not deductible to the payor and taxable to the payee. The bill adjusts the formula in the event that such a deduction is permitted in the future. The bill also explicitly provides that consideration of federal income tax consequences may warrant adjustment to the amount of term alimony.

Sponsors:

Sen. Carson

Sen. French

Rep. Rice

Rep. M. Smith

Rep. Wall

Who supports the bill: Senator Carson; Marissa Chase, NHAJ; Erin Jasina, NHLA; Honey Hastings; Marilyn Maloney; Anna Goulet Zimmerman

Who opposes the bill: No one

Summary of testimony presented in support:

Senator Carson (provided an amendment)

- A few years ago, legislation passed to change the alimony law, but once it was passed and signed into law the federal government changed the tax laws.
- This bill aligns the state statute with those federal changes.

Honey Hastings and Marylin Maloney

- The effort to modernize the alimony law began in 2015.
- There were real problems with the alimony law prior to 2015, most importantly how unpredictable it was; whether there would be alimony, how much it would be, how long it would be for, etc.
- Lawyers were unable to advise clients well and it resulted in a lot of litigation.
- A group of lawyers got together with divorce financial analysts and developed SB71 which passed in 2018 with the purpose of achieving predictability and consistency in the alimony law.

- SB71 came up with a workable formula that seemed to result in fair amounts of alimony in appropriate cases.
- One of the important factors of the SB71 formula was the fact that at the time and until the beginning of 2019, alimony was a taxable event: income to the recipient and deductible from the income of the payer.
- Factoring the taxable aspect into the formula resulted in a 30% determination.
- The federal government changed the laws to make alimony no longer be a taxable event. This had a huge impact, especially on higher earning payers because 30% of their income was no longer deductible.
- This resulted in certain situations of the payer having a lower household income than the payee.
- The group got back together to try to find and identify what a fair percentage would be.
- After doing a lot of calculations, 23% turned out to be the magic number.
- This will result in similar numbers to what they were prior to the tax change.
- This is really a housekeeping correction to deal with the federal tax law changes.
- Decided to also add a new section to say that one of the special circumstances that could justify varying from the formula would be an impact of federal tax laws in case the federal government makes another change.
- Section 5 of the bill states the amount of alimony to be changed if the alimony is effective January 1, 2019 and it was more than the 23%, and they also have until July 1, 2021, giving people a year to find out and file for modification.
- Heard from a judge in the family division that the judges are not sure which cases this bill would apply to.
- Wants to limit the number of cases; old cases are meant to be governed by the old law.
- Often alimony and property division are intertwined; people may compromise trading property division for alimony or alimony for property division.
- Property division cannot be changed unless people agree.
- Also heard from a lawyer that this was causing confusion in the courts.
- To address this confusion has an amendment that replaces everything after Section 4.
- The amendment makes it clear that old cases cannot get the new law.
- If the parties agree in a case where the initial petition was filed prior to January 1, 2019 they may agree to adopt some or all of the provisions of 2018.
- Senator French asked if this caps alimony at the 23%.
 - Ms. Hastings replied that it doesn't cap it. There is a special list of circumstances that would justify the court varying it up or down for the amount or the duration.
- Senator French asked if the 23% is taxable to the recipient under this.
 - Ms. Hastings responded that there is no tax impact anymore. All that tax stuff is gone. He pays the amount and she gets it. They group established the 23% to be similar to what the amounts would be prior to the tax laws changing.
 - Ms. Maloney stated that the thing to remember is that this is a guideline; judges have discretion.

- Senator Levesque asked if all states doing the same thing,
 - Ms. Hastings responded that there has definitely been movement in other states.

Summary of testimony presented in opposition:

None

jch

Date Hearing Report completed: January 24, 2020

Speakers

Voting Sheets

Senate Judiciary Committee

EXECUTIVE SESSION

Bill # 63444

Hearing date: _____

Executive session date: _____

Motion of: 0047

VOTE: 5-0

<u>Made by</u> Hennessey <input type="checkbox"/>	<u>Seconded</u> Hennessey <input type="checkbox"/>	<u>Reported</u> Hennessey <input type="checkbox"/>
<u>Senator:</u> Chandley <input type="checkbox"/>	<u>by Senator:</u> Chandley <input checked="" type="checkbox"/>	<u>by Senator:</u> Chandley <input type="checkbox"/>
Carson <input checked="" type="checkbox"/>	Carson <input type="checkbox"/>	Carson <input type="checkbox"/>
Levesque <input type="checkbox"/>	Levesque <input type="checkbox"/>	Levesque <input type="checkbox"/>
French <input type="checkbox"/>	French <input type="checkbox"/>	French <input type="checkbox"/>

Motion of: OTPA

VOTE: 5-0

<u>Made by</u> Hennessey <input type="checkbox"/>	<u>Seconded</u> Hennessey <input type="checkbox"/>	<u>Reported</u> Hennessey <input type="checkbox"/>
<u>Senator:</u> Chandley <input type="checkbox"/>	<u>by Senator:</u> Chandley <input checked="" type="checkbox"/>	<u>by Senator:</u> Chandley <input type="checkbox"/>
Carson <input checked="" type="checkbox"/>	Carson <input type="checkbox"/>	Carson <input type="checkbox"/>
Levesque <input type="checkbox"/>	Levesque <input type="checkbox"/>	Levesque <input type="checkbox"/>
French <input type="checkbox"/>	French <input type="checkbox"/>	French <input type="checkbox"/>

Consent Levesque → Carson 5-0

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Hennessey, Chairman	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Chandley, Vice-Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carson	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Senator Levesque	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator French	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Amendments: _____

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Wednesday, January 22, 2020

THE COMMITTEE ON Judiciary

to which was referred SB 444

AN ACT

amending the alimony statute due to changes in
federal tax law.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 2020-0166s

Senator Sharon Carson
For the Committee

This bill revises the formula for term alimony based on the fact that under current federal income tax laws, alimony is not deductible to the payor and taxable to the payee. The bill also adjusts the formula in the event that such a deduction is permitted in the future, and explicitly provides that consideration of federal income tax consequences may warrant adjustment to the amount of term alimony. Making this update to the alimony statute will simply align New Hampshire's alimony law with recently changed federal income tax laws.

Jennifer Horgan 271-2609

FOR THE CONSENT CALENDAR

JUDICIARY

SB 444, amending the alimony statute due to changes in federal tax law.

Ought to Pass with Amendment, Vote 5-0.

Senator Sharon Carson for the committee.

This bill revises the formula for term alimony based on the fact that under current federal income tax laws, alimony is not deductible to the payor and taxable to the payee. The bill also adjusts the formula in the event that such a deduction is permitted in the future, and explicitly provides that consideration of federal income tax consequences may warrant adjustment to the amount of term alimony. Making this update to the alimony statute will simply align New Hampshire's alimony law with recently changed federal income tax laws.

General Court of New Hampshire - Bill Status System

Docket of SB444

Docket Abbreviations

Bill Title: amending the alimony statute due to changes in federal tax law.**Official Docket of SB444.:**

Date	Body	Description
1/8/2020	S	To Be Introduced 01/08/2020 and Referred to Judiciary; SJ 1
1/8/2020	S	Hearing: 01/21/2020, Room 100, SH, 09:15 am; SC 2
1/23/2020	S	Committee Report: Ought to Pass with Amendment #2020-0166s, 01/30/2020; Vote 5-0; CC; SC 4
1/30/2020	S	Committee Amendment #2020-0166s, AA, VV; 01/30/2020; SJ 2
1/30/2020	S	Ought to Pass with Amendment 2020-0166s, MA, VV; OT3rdg; 01/30/2020; SJ 2
2/3/2020	H	Introduced 01/09/2020 and referred to Children and Family Law HJ 2 P. 59
6/30/2020	H	Vacated and Laid on Table MA VV 06/30/2020

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB444

Senate Committee: Judiciary

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: (Legislative Aides)

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: (Legislative Aides)

All amendments considered in committee (including those not adopted):

- amendment # 0047s - amendment # _____

- amendment # 0166s - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: (Clerk's Office)

All floor amendments considered by the body during session (only if they are offered to the senate):

- amendment # _____ - amendment # _____

- amendment # _____ - amendment # _____

Post Floor Action: (if applicable) (Clerk's Office)

Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

Enrolled Bill Amendment(s)

Governor's Veto Message

All available versions of the bill: (Clerk's Office)

as amended by the senate as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Jennifer Horgan
Committee Aide

7/23/20
Date

Senate Clerk's Office JM

Voting Sheets

Senate Judiciary Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # **SB16**

Hearing date: _____

Executive Session date: _____

Motion of: OTP Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: ~~Whitley~~ consent Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Carson

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Wednesday, January 13, 2021

THE COMMITTEE ON Judiciary

to which was referred **SB 16**

AN ACT

amending the alimony statute due to changes in
federal tax law.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 5-0

Senator Sharon Carson
For the Committee

This bill revises the formula for term alimony in order to be in compliance with recent changes in federal income tax law. The bill recognizes that alimony is no longer either deductible by the payor or taxable to the payee and sets the formula at 23% of the difference in gross incomes under the new tax law; this produces a similar result to previous 30% of the difference under the old tax law. The Committee believes this is a necessary change to bring the State into compliance with federal law and recommends the bill be Ought to Pass.

Jennifer Horgan 271-2609

FOR THE CONSENT CALENDAR

JUDICIARY

SB 16, amending the alimony statute due to changes in federal tax law.

Ought to Pass, Vote 5-0.

Senator Sharon Carson for the committee.

This bill revises the formula for term alimony in order to be in compliance with recent changes in federal income tax law. The bill recognizes that alimony is no longer either deductible by the payor or taxable to the payee and sets the formula at 23% of the difference in gross incomes under the new tax law; this produces a similar result to previous 30% of the difference under the old tax law. The Committee believes this is a necessary change to bring the State into compliance with federal law and recommends the bill be Ought to Pass.

Docket of SB16

Docket Abbreviations

Bill Title: amending the alimony statute due to changes in federal tax law.*Official Docket of SB16.:*

Date	Body	Description
1/5/2021	S	To Be Introduced 01/06/2021 and Referred to Judiciary; SJ 2
1/7/2021	S	Remote Hearing: 01/12/2021, 01:00 pm; Links to join the hearing can be found in the Senate Calendar; SC 6
1/14/2021	S	Committee Report: Ought to Pass, 02/04/2021; Vote 5-0; CC; SC 9
2/4/2021	S	Ought to Pass: RC 23Y-1N, MA; OT3rdg; 02/04/2021; SJ 3
3/10/2021	H	Introduced (in recess of) 02/25/2021 and referred to Children and Family Law HJ 4 P. 48
4/14/2021	H	Public Hearing: 04/21/2021 10:00 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/93446087542 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
5/11/2021	H	Committee Report: Ought to Pass (Vote 14-0; CC) HC 26 P. 4
6/3/2021	H	Ought to Pass: MA VV 06/03/2021
7/1/2021	H	Enrolled (in recess of) 06/24/2021
7/1/2021	S	Enrolled Adopted, VV, (In recess 06/24/2021); SJ 20
7/13/2021	S	Signed by the Governor on 07/09/2021; Chapter 0113; Effective 07/09/2021

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB16

Senate Committee: Judiciary

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

- Bill version as it came to the committee
- All Calendar Notices
- Hearing Sign-up sheet(s)
- Prepared testimony, presentations, & other submissions handed in at the public hearing
- Hearing Report
- Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

___ - amendment # _____ ___ - amendment # _____
 ___ - amendment # _____ ___ - amendment # _____

- Executive Session Sheet
- Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment # _____ ___ - amendment # _____
 ___ - amendment # _____ ___ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

- ___ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
- ___ Enrolled Bill Amendment(s)
- ___ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

as amended by the senate ___ as amended by the house
 final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Jennifer Horgan
Committee Aide

8/12/21
Date

Senate Clerk's Office [Signature]