

**CHAPTER 113**  
**SB 16 - FINAL VERSION**

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

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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.

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Explanation:        Matter added to current law appears in ***bold italics***.  
                         Matter removed from current law appears ~~[in brackets and struckthrough]~~  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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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            113:1 Annulment, Divorce and Separation; Term Alimony. Amend the introductory paragraph  
2 of 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            113:2 New Subparagraph; Annulment, Divorce and Separation; Term Alimony; Formula  
8 Percentage. Amend RSA 458:19-a, II to insert after subparagraph (b) the following new  
9 subparagraph:

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

14            113:3 Annulment, Divorce and Separation; Term Alimony; Consideration of Special  
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  
20 inserting after paragraph I the following new paragraph:

21            I-a. Any modification may be retroactive as the parties may agree. If contested, an alimony  
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.

24            113:5 New Paragraphs; Modification of Alimony Orders; Applicable Law Based on Filing Date of  
25 Initial Petition For Divorce or Legal Separation. Amend RSA 458:19-aa by inserting after paragraph  
26 IX the following new paragraphs:

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

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

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

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

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

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

9                         (2) In modifying any court order.

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

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

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

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

113:6 Effective Date. This act shall take effect upon its passage.

Approved: July 09, 2021

Effective Date: July 09, 2021