



SPOUSAL SUPPORT



What is a temporary spousal support order?

When a divorce action is filed in court, if you do not have enough money to support yourself, you can file a Motion for Temporary Orders asking the court to Order your spouse to pay you temporary spousal support. If ordered, these payments will end when the divorce is over. You can also request final spousal support to start after the temporary spousal support ends.

There is no formula for calculating temporary spousal support. The court must use its discretion, considering each spouse's earning capacity and other resources while the divorce is pending.



What is a final spousal support order?

At the final divorce hearing, the court will determine whether it will grant the request for a final support order and will state the amount of any spousal support awarded, the length of time the support will be awarded for, and whether the support order can be modified in the future.

1. How does the Court determine the amount of the spousal support order?
There is no formula for calculating spousal support so the court must consider the statutory factors below when deciding how much spousal support to award and the length of the support order.
 - the income of the parties, from all sources, including, but not limited to, income derived from property awarded as part of the property division in the divorce proceeding;
 - the relative earning abilities of the parties;
 - the ages and the physical, mental and emotional conditions of the parties;
 - the retirement benefits of the parties;
 - the duration of the marriage;
 - the extent to which it would be inappropriate for a party, because he/she will be custodian of a minor child or children of the marriage, to seek employment outside the home;
 - the standard of living of the parties established during the marriage;
 - the relative extent of education of the parties;
 - the relative assets and liabilities of the parties, including, but not limited to any court-ordered payments by the parties;
 - the contribution of each party to the education, training, or earning ability of the other party, including, but not limited to, any party's contribution to the acquisition of a professional degree of the other party;
 - the time and expense necessary for the spouse who is seeking spousal support to acquire education, training, or job experience so that the spouse will be qualified to obtain appropriate employment provided the education, training, or job experience, and employment is, in fact, sought;
 - the tax consequences, for each party, of an award of spousal support;

- the lost income production capacity of either party that resulted from that party's marital responsibilities; and
- any other fact that the court expressly finds to be relevant and equitable.

2. How does the Court determine the length of the spousal support order?

The length of the final spousal support order is determined by the Court. It could end of a specific date (i.e., 5 years); it could be indefinite; or it could terminate upon the occurrence of a specific event (i.e., the recipient's remarriage or death or either party).

3. Can a final spousal support order be modified or terminated?

Yes, IF the Court includes a provision in the Decree stating that it retains jurisdiction to review the spousal support order. If there is no such provision in the Decree, then the terms of the spousal support order cannot be changed or terminated.



How do I modify a spousal support order?

To modify your spousal support, you must file a Motion with the Court. The Court can only order a modification if you can show that there has been a material or substantial change in the circumstances of either party that could not reasonably have been anticipated at the time of the original decree.

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