

What You Need to Know About Alimony/Maintenance in Texas

Until recent years, Texas did not allow for the payment of alimony and, even now, it is available in extremely limited circumstances and limited duration.

A spouse can be awarded alimony/maintenance under the Texas Family Code only if one of two specific conditions exists.

The first is if the other spouse was convicted of a crime involving family violence within the two years prior to the filing of the divorce suit. This includes class C misdemeanor convictions if the allegation involved family violence. It also includes occasions where the defendant received deferred adjudication in exchange for a plea of guilty.

The other starts with a 10-year marriage, where the spouse seeking maintenance lacks sufficient property (including property awarded in the divorce) to provide for his or her minimum reasonable needs. If that factor exists, then, the inquiry turns to whether the spouse can or cannot work outside the home because he/she has an incapacitating personal physical or mental disability; or, he/she is the primary caregiver of a child requiring substantial care due to a physical or mental disability; or the spouse clearly lacks adequate skills to find a job to support minimum reasonable needs.

Most alimony claims rely on the second of the conditions. But for the request to be successful, the spouse must be able to show a reasonable attempt to find an appropriate job or get job training.

Judges are further limited in the right to award maintenance by state law that says support can continue for no longer than necessary to provide for the spouse's needs, but no more than three years after the divorce is finalized. The exception to this rule is when the maintenance is awarded based on a disability of either the spouse receiving maintenance or caring for a disabled child, in which case the award may be indefinite in duration. Also, monthly payment amount is limited to either \$2,500 or 20 percent of the paying spouse's average gross income - whichever amount is lower.