

The Frequently Asked Questions on Alimony

What is the difference between Alimony and Spousal Support?

There is no difference between alimony and spousal support. Alimony, or spousal support as it is called in California, is a payment made by one spouse to the other in order to support them at the end of the marriage. Spousal Support is not child support; it is intended to enable the non-working or the lower earning spouse to maintain a similar lifestyle as when they were married. Years ago alimony was awarded to the wife as it was generally accepted that the woman was home with the children while the man worked to support the family. Now there are many more women in the workplace and there are cases where the stay-at-home parent is the father. There are households where the high earner is the wife. In these circumstances, the wife is the payor of support to the husband.

Am I entitled to spousal support when I get divorced?

Many of my clients want to know whether they will be entitled to spousal support when they divorce. There are many factors involved which will determine whether or not a spouse is entitled to support. A lower earning spouse may be entitled to support regardless of who decided to end the marriage and without consideration to any factors such as infidelity of either spouse.

The goal of the California Courts is that each party shall be self-supporting within a reasonable time and to the best of their ability. Support may be increased or decreased over a certain amount of time as well.

The amount and length of time for support is determined by the amount of time the parties have been married as well as the respective incomes of the spouses. A long term marriage is considered to be a marriage of over ten years. Any marriage that lasted under 10 years is considered a short term marriage. Where there is a short term marriage a court will generally make orders that spousal support be paid for one half the time of the marriage. Where there is a marriage that is considered to be a long term marriage some amount of support is generally paid until death of one of the parties, the remarriage or cohabitation of the supported party, retirement of the supporting spouse, or various other factors considered by the court, such as the age and health of the parties at the time of divorce as well as the marital standard of living.

The court will look at the respective incomes of the parties and will also look at whether the earning capacity of each party is sufficient to maintain the marital standard of living. In determining the earning capacity of the spouse to be supported the court will look at their marketable skills of the supported party; the job market; the time and expenses required to acquire the appropriate education or training to develop job skills; and the possible need for retraining or education to acquire marketable skills or employment.

The courts will also look at whether the spouse seeking support was unemployed during the marriage to care for the children or for the benefit of the other spouse. Where there is a stay-at-home parent who has been out of the workforce for several years a court will often make orders for support to enable the stay-at-home spouse to be able to become employable. The courts will determine the ability of the supported party to find work without disrupting the lives of the minor children in the custody of the party. When the

parties have young children, it is likely that spousal support will be ordered in addition to any child support to enable the stay-at-home parent to care for the children until they are able to enter school.

Where a spouse contributed to the attainment of an education, training, a career position, or a license by the supporting party, the court may consider that as a factor in awarding support. Many times one spouse may work while the other party attends graduate school, such as law school or medical school. The degree obtained by the graduating spouse cannot be considered to be community property, however the graduating spouse may be required to pay spousal support based on their income.

The court will consider the ability of the supporting party to pay spousal support and will also take into account the supporting party's earning capacity, earned and unearned income, assets, and standard of living. There are instances where a high earning spouse will quit their job or take a lower paying job in order to avoid a support obligation. The court will then be required to look at the income of the spouse during the marriage as well as any assets they have. They can then make orders based on earning capacity and assets.

The needs of each party shall be considered and the court will take into account the standard of living established during the marriage. A person who is accustomed to an extravagant lifestyle may be awarded an amount sufficient to continue in that lifestyle. A court must also consider the obligations and assets, including the separate property, of each party. Where the spouse seeking to be supported has a significant property settlement or separate property assets, the court may see that as being a factor which would lower the amount of support required to maintain the lifestyle.

A court will not award spousal support to a party where there is documented evidence of any history of domestic violence towards their spouse. They will also consider documented evidence of domestic violence against the supported spouse, including, but not limited to, consideration of emotional distress resulting from domestic violence. The criminal conviction of an abusive spouse shall be considered in making a reduction or elimination of a spousal support award.

While a divorce will obviously require adjustments in the lifestyles of both parties, the goal of the family law courts is to be fair to each spouse and to enable each spouse to move on with their lives with as minimal a financial impact as possible. Awarding alimony is one of the methods the courts use to ensure that this is possible. It is not used as a punishment, but rather as a way to make sure each party can continue to live the same lifestyle that they lived while they were married.



About Patricia C. Van Haren: Prior to attending law school and obtaining her degree, Patricia C. Van Haren worked in the legal industry for over 20 years as an Office Manager, Paralegal and Law Clerk. She also had her own business as a family law paralegal and mediator. She has assisted numerous couples through uncontested dissolutions. She has also worked extensively with law firms and attorneys through highly litigious contested dissolutions and custody battles. Ms. Van Haren went through her own divorce in the 90s,

so she knows firsthand how difficult and trying a divorce can be. She uses this knowledge to help her clients deal with both the legal and emotional issues involved in getting a divorce. In addition to handling a divorce, Patricia can help in matters such as paternity matters, child custody and visitation, child support, spousal support, adoption, guardianship, and estate planning. She serves all of the Los Angeles County and Orange County areas.