



Help Yourself

Alimony in D.C.

Alimony (sometimes called spousal support) is financial support paid by one former spouse to the other after a divorce or a legal separation. It may be granted for a specific period of time or indefinitely until the court changes it. Either spouse may request alimony. The purpose of alimony is to provide “reasonable and necessary” support. The person requesting alimony must prove that he or she needs financial support, and that the other spouse can provide financial support.

■ What do I do if I want alimony?

Parties in a divorce or legal separation proceeding can privately agree to an alimony arrangement, or the person in need of support can ask the judge to grant alimony as part of the divorce or legal separation. If you are seeking an *annulment*, you could receive temporary alimony while the case is pending, but cannot receive indefinite alimony after an annulment is granted.

■ Can I get alimony before the divorce is final?

Temporary alimony (sometimes called *pendente lite* alimony) can be granted while the divorce is in progress, to help one spouse get by until the divorce is final. When the divorce becomes final, the temporary alimony will stop, and the court will decide whether to award post-divorce alimony. If alimony is awarded, the amount may be different from the amount of the temporary alimony.

■ What if I don't ask for alimony during the divorce, but later decide I need it?

You must request alimony during your divorce or legal separation proceedings. You will not be allowed to request it for the first time after the case is over.

■ What do I do if my spouse wants alimony and I do not agree?

If you do not think you can afford to pay alimony, or if you think your spouse does not need financial support from you, you can tell the judge, in your *pleadings* (legal documents) or in court, why you should not have to pay alimony. The judge will decide if an alimony award should be made and, if so, for what amount and for how long.

■ How long can I receive alimony?

If you and your spouse agree, alimony can be for however long you want. If you do not agree, the judge will decide whether alimony

will be temporary, indefinite, or structured in some other way that is appropriate for your situation.

Indefinite alimony lasts until the death of one party or a change ordered by the court or agreed upon by the parties. *Term-limited alimony* (also called *rehabilitative alimony*) lasts for the period of time ordered by the court or agreed upon by the parties, generally while the receiving spouse obtains work experience or training necessary to become self-supporting.

■ What if I am receiving alimony and I get remarried?

Often alimony orders provide that the alimony terminates on remarriage. If the order does not include such a provision, remarriage is one of the reasons your ex-spouse could ask a court to end an alimony award.

■ What if I want alimony and my spouse disagrees with me?

You can ask the court to decide. The court may require either party to pay alimony “if it seems just and proper.”

The judge will look at all of the relevant factors in your situation. The law states that those factors include:

- ▲ Your ability to support yourself;
- ▲ Time necessary for you to get a job or get training so you can become employed;
- ▲ The standard of living established during the marriage;
- ▲ Length of the marriage;
- ▲ Circumstances leading to the separation;
- ▲ Each party's age;
- ▲ Physical and mental condition of each party;
- ▲ Ability of the spouse paying alimony to support him- or herself while making payments;

- ▲ Financial needs and resources of each party, including income, potential income, previous awards of child support, financial obligations, rights to receive retirement benefits, and other factors.

Whether you are asking for alimony or defending against a claim for alimony, you will be required to complete a financial statement showing your income and expenses (a budget).

■ **What do I do if my former spouse is behind in alimony payments?**

You can file a Motion for Contempt asking the court to enforce the alimony order.

■ **Can my alimony be changed after the divorce?**

Yes, if there has been a *significant change in circumstances*. The party seeking the change must return to court to file a request to modify the order. The judge may modify an alimony award if the ability of the paying ex-spouse to make payments has changed or if there has been a change in the needs of the person receiving the payments. If you and your spouse agree upon alimony, the agreement you sign should say whether alimony can be modified or not.

■ **Do I have to pay taxes on alimony?**

If the court awards you alimony, you must claim the alimony as income on your tax return. The payor can deduct the alimony from income on his or her tax return. Sometimes there are reasons for not having the tax paid in this way. The tax laws permit you and your spouse to agree in writing that the alimony will not be taxable to the recipient, or claimed as a deduction by the payor.

If you and your spouse have a written agreement about alimony, but do not get it entered as a court order, your alimony agreement must follow the IRS regulations if you want it to be tax deductible. Currently, that means that:

- ▲ The alimony must end upon the death of the payee;
- ▲ Payments must be made periodically (weekly or monthly, for example);
- ▲ Payments must be made in cash, by check or money order

to the payee, or by paying a specific obligation, such as the payee's rent or mortgage;

- ▲ The parties must not live together after the divorce;
- ▲ If the parties are not divorced, they may not file a joint tax return;
- ▲ There must be a written separation or divorce agreement; and
- ▲ The money must not be for child support.

The IRS can decide that all or part of the alimony is really child support, if the amount decreases or terminates based on a circumstance or event related to a child (for example, when a child graduates from high school, or six months before or after the child turns 18). You may want to talk to a professional tax preparer for more information.

■ **How can I file for alimony?**

You can consult an attorney about your case, or you can file your case yourself. You can get the necessary court pleadings at www.dcbbar.org/pleadings, or at the D.C. Superior Court Family Court Self-Help Center (500 Indiana Avenue NW, room JM-570), open Monday through Friday, 8:30 a.m. to 5 p.m. (202-879-1471). The Self-Help Center staff can explain the process and help you fill out the pleadings.

For more information, you can go to www.lawhelp.org/dc or see “Help Yourself: Divorce in D.C.” or “Annulment in D.C.”

There is a **free Pro-Se-Plus Divorce Clinic** each month at D.C. Superior Court where people without lawyers can learn about the divorce laws and process, and get help with questions and paperwork. To register, go to www.dcbbar.org/divorceclinic, or call the D.C. Bar Pro Bono Program at 202-737-4700 ext. 292 for more information.

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