

Alimony and APL and Spousal Support in PA

Sometimes after a marriage ends (or is in the process of ending,) one of the spouses is left unable to support themselves financially. In these cases, it may be appropriate for the higher-earning spouse make periodic payments to the financially dependent spouse. These payments are referred to as *spousal support*.

Sometimes the parties are able reach an agreement between themselves in which they decide that support payments are appropriate. In these cases, the parties can decide how long it will last and how much the support will be. More commonly, however, the parties will not agree to support. In these cases, the financially dependent spouse must ask a Family Court judge to issue an order granting support.

In Pennsylvania there are three different types of support: spousal support, alimony pendente lite (APL), and alimony. The main difference between the three types of support orders is *when* the court will grant them. If you are seeking any form of support in Pennsylvania, the experienced family law attorneys at Notaro & Associates can help. For any questions, [contact us](#).

1. Spousal Support

Spousal support is a court order that requires one spouse to make periodic payments to the other *before* anyone has filed for divorce. Yes, you read that correctly. The financially dependent spouse doesn't need to wait until he or she files for divorce, but rather, can file for spousal support after the parties have separated. The order will only last for as long as the parties are separated and will end once a spouse files for divorce. However, spousal support may automatically convert into APL (see below,) in which case, payments will be ordered to continue.

Spousal support is not available to all financially dependent spouses. Even if the parties are technically "separated," the court usually wont grant spousal support if they are still living together. Additionally, if one spouse can show that the other has committed a fault-based ground for divorce, the spouse at fault will not be entitled to spousal support. Thus, a financially dependent spouse who had an affair may not be entitled to spousal support. For more information on fault-based divorces, click [here](#).

If the court decides to issue an order for spousal support, the amount of the payments will be calculated by using a mathematical formula. The difference in the parties' net incomes (or earning capacity) is multiplied by 30% (if there is already a child support order in place) or 40% (if there is no child support order currently in place), and the resulting number is the amount that the higher-earning spouse will be ordered to pay. There are also some other factors that a court might consider in deciding whether a specific case requires the court to deviate from this formula (e.g., the standard of living during the marriage, other support orders, etc.) As you can see, even in the simplest form calculating spousal support can be extremely confusing. If you have any questions about spousal support, the experienced divorce attorneys at Notaro & Associates can help. [Contact us](#) today.

2. Alimony Pendente Lite (APL)

An order granting Alimony Pendente Lite (APL) requires the higher-earning spouse to make periodic support payments to the financially dependent spouse *during* the divorce proceedings. A financially dependent spouse can ask the court for APL any time after a complaint in divorce has been

filed but before the divorce is finalized. The main purpose of this type of support is to “even out the playing field” and to ensure that the financially dependent spouse has enough money to litigate the divorce. Because APL is founded on this purpose, the order will only last until the divorce is finalized. To continue receiving support payments, the financially dependent spouse would have to ask the court for alimony (see below.)

As with spousal support, if the court decides to grant APL it will determine the amount by using a mathematical calculation based on fixed percentages and the net incomes (or earning capacity) of the parties. Unlike for spousal support, however, claiming that your financially dependent spouse cheated on you will not get you out of paying. Acts that constitute a fault-based ground for divorce cannot be used as a defense to paying APL. If you have any questions about whether APL is a possibility in your case, we can help. [Contact us](#) today.

3. Alimony

Alimony is a court order that requires the higher-earning spouse to make periodic support payments to the financially dependent spouse *after* the divorce has been finalized. In Pennsylvania, a court will only award alimony if it finds that it is *necessary*. Unlike the other two forms of support, there is no mathematical formula to calculate a spouse’s eligibility for alimony or the amount of alimony that he or she would be entitled to. Rather, in determining the necessity, nature, amount, and duration of alimony, the court will consider all relevant factors including:

- The relative earnings and earning capacities of the parties
- The ages and the physical, mental and emotional conditions of the parties
- The sources of income of both parties (e.g., medical, retirement, insurance or other benefits)
- The expectancies and inheritances of the parties
- The duration of the marriage
- The contribution by one party to the education, training or increased earning power of the other party
- The extent to which the earning power, expenses or financial obligations of a party will be affected by reason of serving as the custodian of a minor child
- The standard of living of the parties established during the marriage
- The relative education of the parties and the time necessary to acquire sufficient education or training to enable the party seeking alimony to find appropriate employment
- The relative assets and liabilities of the parties
- The property brought to the marriage by either party
- The contribution of a spouse as homemaker
- The relative needs of the parties
- The marital misconduct of either of the parties *during* the marriage
- The Federal, State and local tax ramifications of the alimony award
- Whether the party seeking alimony lacks sufficient property to provide for the party's reasonable needs
- Whether the party seeking alimony is incapable of self-support through appropriate employment

If the court decides to grant alimony, it can order that the payments last for a specified period of time or can simply order that they last indefinitely. In either case, the judge will choose a duration that is reasonable under the circumstances. A common misconception is that a spouse will receive one year of alimony payments for every three years the couple was married for. While some counties in Pennsylvania may favor this approach- it is NOT the law. There is no bright-line rule for calculating the duration of alimony payments. Rather, if the parties cannot reach an agreement on their own, the court will decide how long alimony should last based on the specific circumstances of the parties. The duration of alimony may also depend on the type of alimony that is awarded.

In Pennsylvania, there are three different types of alimony that can be awarded: rehabilitative alimony, permanent alimony, and reimbursement alimony. *Rehabilitative alimony* is granted to allow the financially dependent spouse to obtain the education or skills necessary to support themselves. In other words, a court can order rehabilitative alimony to allow the financially dependent spouse to get back on his or her feet. The duration of this type of alimony can vary depending on the specific amount of time the financially dependent spouse needs in order to be “rehabilitated.” For example, the court can order rehabilitative alimony until the financially dependent spouse gets his or her undergraduate degree. The court also has the discretion to order rehabilitative alimony for a specific amount of time (e.g., six years.) In contrast, *permanent alimony* will require the paying spouse to continue making alimony payments for the rest of the dependent spouse’s life. However, don’t be fooled by the word “permanent.” Alimony by its nature is modifiable (see below.) Thus, even though an order for permanent alimony appears on its face to be indefinite, it is still subject to modification and termination. The third type of alimony is called *reimbursement alimony*, in which the court orders one spouse to reimburse the other for money spent during the marriage for the benefit of the paying spouse. For example, if one spouse paid for the other spouse’s graduate education, a court may grant reimbursement alimony. This type of alimony will usually only last until the other spouse has been reimbursed.

Modifications and terminations:

Once you have received a court order granting alimony, the paying spouse is expected to comply with the terms of the order for its entire duration. This means that if a court orders one spouse to pay the other \$1,200 per month for 15 years, he or she is expected to make these monthly payments for the entire 15 years. But what if, say, after 5 years, the paying spouse gets injured and can no longer work? Or the spouse receiving alimony remarries? Does the paying spouse have to continue making alimony payments for the remaining duration of the order? Because Pennsylvania law allows for the modification and termination of alimony, the answer may be no.

A spouse can ask the court to *modify* an existing order for alimony if either one of the spouses has experienced a large and ongoing change in their financial circumstances. The court also has the discretion to terminate or suspend the order all together. So, taking the example from above, if a paying spouse gets injured and can no longer work, he can ask the court to modify or terminate alimony. The same applies if the receiving spouse is the one who experienced a change in financial circumstances. For example, if the spouse receiving alimony wins \$5,000,000 in the lottery, the paying spouse can ask the court to modify or terminate the order since the receiving spouse no longer needs it. If the court decides to modify alimony the amount of the payments will be reduced to a number that better reflects what the paying spouse can afford, given his or her change in financial circumstances. Thus, although the alimony

payments will be reduced, they will not stop all together. In contrast, if the court decides to terminate alimony the payments will stop completely.

Alimony payments (excluding reimbursement alimony) can also be terminated for other reasons. For example, alimony is terminated when the spouse receiving the payments gets remarried or begins living with another partner. This means that if an order for alimony states that a spouse will receive payments for 20 years, and that spouse gets remarried (or begins living with a significant other) after 6 months, he or she will miss out on 19 years and 6 months of alimony payments. Crazy, huh? Alimony payments will also terminate earlier than the order says if either spouse dies. If you have any questions about modifying or terminating your current alimony order, [contact us](#).

2019 Tax Ramifications:

For many higher-earning spouses, one of the most attractive aspects of alimony is the tax deduction. As the law currently stands, the paying spouse can deduct alimony from his or her income and the spouse receiving alimony must treat it as income (e.g., pay taxes on it.) For example, if the paying spouse makes \$100,000 per year and pays \$20,000 in alimony, the paying spouse's income is reduced to \$80,000 and thus, is not taxed on the amount paid in alimony and may even be put in a lower tax bracket. At the same time, that \$20,000 is treated as part of the receiving spouse's income and he or she is taxed on it. However, this will all change at the end of 2018. *For all divorce and separation agreements signed after December 31, 2018, alimony is no longer going to be deductible to the paying spouse and is no longer going to be taxable to spouse receiving it.*

You might be thinking, what does this mean for alimony? Well, the lure of tax deductions can create an incentive for the higher-earning spouse to be more agreeable to alimony. This in turn can reduce the amount of time the parties spend in court fighting about it. However, when alimony is no longer deductible to the paying spouse, he or she will lose that incentive and may be less inclined to pay alimony. So, what impact will this have on your case? It depends on your circumstances. For some people, it may be best to enter into an agreement before the new tax bill goes into effect but for others, it may be more beneficial to wait. Regardless, the new law will go into effect soon, so you may want to consider reaching out to an attorney now.

(For more information on this topic or any topic in divorce, custody, mediation, child support, collaborative law, PFA matters, alimony, or other family law matters, visit www.Pittsburgh-Divorce-Lawyer.com or contact Notaro & Associates, PC at 412-281-1988 for a free phone consultation with an attorney. You can also schedule online by clicking [here](#).)