

## **Divorce Part 4: Alimony**

In this video we'll talk about alimony, also called spousal support. Alimony is a regular support payment that one former spouse makes to the other.

Let's start by discussing the different types of alimony.

### **CHAPTER HEADING: TYPES OF ALIMONY**

There are three types: *pendente lite*, rehabilitative, and indefinite.

*Pendente lite* alimony, which means "pending the litigation," refers to temporary support payments made before the court grants a final divorce. Be aware that if the court orders this kind of alimony, there is no guarantee it will also grant alimony in the divorce decree.

The second type of alimony is rehabilitative. This is the most common type. It provides support payments for a limited time or for a limited purpose. The goal is to provide one spouse with temporary financial support so they can become self-supporting, or able to meet their own needs without alimony. For example, the court can order alimony for two years to give a spouse time to earn a degree or get a job.

The third type is called indefinite alimony. It provides support to one spouse with no end point. This type of alimony is rare, but may be awarded if one spouse cannot make reasonable progress toward becoming self-supporting. This could be because of their age, an illness, or a disability. It may also be ordered if there will be a significant difference in the standards of living of the spouses after divorce.

You and your spouse can reach an agreement about alimony, or the court can order alimony as part of your divorce case.

### **CHAPTER HEADING: IF YOU AND YOUR SPOUSE REACH AN AGREEMENT**

If you and your spouse can reach an agreement about alimony that's great! Your agreement can state the amount, method, and frequency of payments and how long alimony will last. It can also state whether alimony is modifiable or non-modifiable. Let me explain.

Once alimony is set in your case, if it is modifiable, that means it can change. You and your former spouse can reach an agreement about how it can change. For example, you can both agree to increase or decrease the amount. Put that agreement in writing. If you're not able to agree, the spouse who wants a change can ask the court to decide whether a change is appropriate. Again, that's only if your alimony agreement or order is modifiable.

If it is non-modifiable, you and your former spouse can still agree to change it. If you cannot agree, the spouse who wants that change will not be able to ask the court to intervene. You should talk to a lawyer before agreeing to this.

You and your spouse can also agree to waive alimony. This means you agree that neither of you will pay alimony to the other. Talk to a lawyer before agreeing to this. You won't be able to come back to court to ask for alimony after your divorce is finalized.

If you want your agreement included in your divorce decree, put it in writing. This will allow the court to take steps to enforce your agreement. A lawyer can help you draft it and make sure your rights are protected. Your signed and dated agreement can be filed with a Complaint for Absolute Divorce or submitted after the complaint is filed. If you're divorcing on the ground of mutual consent, the terms should be included in your marital settlement agreement. Learn more about mutual consent in Part 3 of this series.

If you cannot reach an agreement about alimony, that's OK. The court can decide whether alimony is appropriate in your case. You should know that if you do not ask for alimony before your divorce is finalized, the court probably will not have the authority to award it.

#### **CHAPTER HEADING: WHEN THE COURT DECIDES**

When the court decides whether to award alimony, it will consider a variety of factors, including the length of your marriage, each spouse's financial situation, how any marital property is divided, the reasons for your divorce, and your ages and health. The court will look at the ability of the spouse seeking alimony to be self-supporting or how much time they may need to become self-supporting. It will look at each spouse's monetary and non-monetary contributions to the family; the standard of living during the marriage; and each spouse's needs, income, and assets. The court will also consider how any marital property will be divided, including any retirement benefits. Finally, the court will take into account any other factor it thinks is relevant to come up with a fair result.

Let's talk about what happens to alimony payments after your divorce is finalized.

#### **CHAPTER HEADING: AFTER YOUR DIVORCE IS FINALIZED**

If alimony is being paid for an unspecified or indefinite period of time, payments will stop when one spouse dies or the spouse receiving alimony remarries. However, the court can end alimony payments sooner if continuing payments would result in an unfair outcome for the paying spouse.

Unless your agreement or the divorce decree says that the alimony is non-modifiable, alimony can be changed. You and your former spouse can agree to modify alimony in writing and file it with the court to have it made into a court order. If you can't agree, you or your

former spouse can file a motion asking to modify alimony. The court will only modify it if there has been a material change in circumstances since the divorce. Examples of material changes include a spouse's income or living expenses significantly increasing or decreasing. If there is a material change, the court can decrease, increase, stop, or extend alimony payments.

Before you go, let's talk about how alimony affects your taxes.

#### **CHAPTER HEADING: HOW ALIMONY AFFECTS YOUR TAXES**

Alimony payments are not tax-deductible for the paying spouse and not treated as income for the receiving spouse. This means that alimony payments do not reduce taxes for the spouse who pays and will not increase taxes for the spouse who receives alimony. This is something to keep in mind as you negotiate. If alimony was set before January 1, 2019, the tax consequences may be different. Talk to a lawyer or your tax advisor if you have questions.

Alimony is complicated, and you should talk to a lawyer to explore your options and protect your rights, especially before signing any agreement. You can talk to one for free by calling the Maryland Court Help Center at 410-260-1392 or visiting [mdcourts.gov/helpcenter](https://mdcourts.gov/helpcenter).

I hope this was helpful.