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Divorce (Part 4): Asking for Spousal Support or Alimony

Hello. Welcome to the Maryland Courts video series on divorce. In this nine-part series, you'll learn about the process used by the court to end a marriage.

This series talks about divorce only. If you would like the court to end your marriage and establish custody of the children you and your spouse share, you should also view the series on Child Custody. You will be learning a lot of new material, and some of it can be quite dense. Consider using the Tip Sheet and taking notes. Let's get started with a look at three types of alimony.

CHAPTER HEADING FULL SCREEN TEXT: TYPES OF ALIMONY: PENDENTE LITE, REHABILITATIVE, INDEFINITE

Pendente lite alimony refers to temporary support payments made before the court grants a final divorce. The purpose of pendente lite support is to maintain the status quo, and there is no guarantee that the court will grant alimony in the final divorce order.

When the divorce is granted, the court may order rehabilitative alimony for a limited time. This allows the spouse receiving alimony to get the education or training needed to become self-supporting.

In some cases, the court may award indefinite alimony when a spouse cannot make reasonable progress toward becoming self-supporting. This is usually because of age, illness, infirmity, or disability. The court may also award indefinite alimony if the standard of living of one spouse after divorce will be significantly affected.

Income is just one component the court will contemplate when deciding whether to grant alimony. There are several other factors the court will consider.

CHAPTER HEADING FULL SCREEN TEXT: FACTORS CONSIDERED BY THE COURT

As we mentioned earlier, the court will consider the ability of the spouse seeking alimony to be self-supporting, and the time they may need to become self-supporting. In addition, the court will consider the age and health of each spouse, the length of the marriage, and the reasons the marriage ended. It will also look at each spouses' contributions to the family. This includes monetary and non-monetary contributions. The court will consider the standard of living during the marriage and the financial resources of each spouse, which may include financial needs, income and assets. Finally, the court will take into consideration how marital property will be divided and the right of each spouse to retirement benefits.

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You need to keep in mind an important time element about alimony.

CHAPTER HEADING FULL SCREEN TEXT: TIMING IS EVERYTHING

The court may award alimony only before your divorce is final. If you or your spouse do not ask for alimony as part of the divorce case, you cannot come back later after your marriage is ended to ask the court for alimony. It is a longstanding rule in Maryland that your right to ask for alimony is extinguished at the moment your marriage ends.

If the court grants alimony in your divorce case, you should know about how to change the payments and when payments may end.

CHAPTER HEADING FULL SCREEN TEXT: TERMINATION AND MODIFICATION

There are three ways alimony payments may terminate: death, remarriage or to avoid a harsh result. Alimony will no longer be paid if either spouse dies. Also, if the spouse receiving payments remarries, the other person is no longer required to pay alimony, unless the spouses have agreed otherwise. Finally, the court may terminate alimony payments to avoid a harsh result.

Alimony payments may be modified if there is a material change in circumstances. But there are exceptions. For example, if your divorce judgment states that no modification may be made, then you cannot change alimony payments.

Finally, it is important you understand the tax consequences of alimony.

CHAPTER HEADING FULL SCREEN TEXT: TAX CONSEQUENCES

A spouse who pays alimony or spousal support cannot deduct those payments from income. A spouse receiving alimony does not have to pay taxes on that income. In negotiating a settlement agreement or divorce, you and your spouse may agree otherwise. The tax consequences of alimony are complicated, and you should consider talking to a lawyer.

That was a lot of complex information about spousal support. Remember, if you want to speak to a lawyer, you may call the Maryland Courts Self-Help Center at 410-260-1392. Those lawyers can't represent you in court, but they can answer questions about alimony. Let's summarize.

CHAPTER HEADING FULL SCREEN TEXT: SUMMARY

Remember, there are three types of alimony – pendente lite, rehabilitative, and indefinite. The court will consider several factors when contemplating alimony in a divorce case, including financial resources, health, length of marriage and standard of living. If you want to ask the court to award alimony, you must ask before your marriage has ended. Alimony may end if one spouse dies, remarries, or the court issues an order. You may modify alimony if there is a material change in circumstances. Finally, be sure to understand the tax consequences of alimony payments.

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Thanks for watching. On behalf of the Maryland Courts, we hope this information about alimony or spousal support in divorce cases has been helpful.

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