

Alimony:

How Will I Support Myself?

By Audrey B. Schneiderman, Esq.



When going through a divorce,

a very real concern of the parties is future support and well being. One party is worrying about how they will be able to support themselves and the other is concerned about supporting the departing spouse forevermore.

While there is no hard and fast rule regarding alimony, the court considers certain guidelines and factors when deciding on an alimony award. Among those factors are age and health of the parties, the financial resources of the parties, the education and ability of each to support themselves, the contributions during the marriage, the incomes of the parties, the length of the marriage and the lifestyle of the parties. Additionally, although Florida is a “no fault” state, the court may consider adultery of either spouse in determining alimony or any other factor necessary to do justice between the parties.

I have been married for five (5) years. Will I pay alimony to my wife for the rest of her life?

The court does consider the length of the marriage and generally speaking, a five (5) year marriage is considered “short term”. Usually, in a short term marriage, (the court will only award short term alimony, or rehabilitative alimony, if awarded at all.) However, the length of the marriage must be considered in relation to other factors, i.e., the support-seeking spouse’s age, health, and earning ability. If the other

factors justify permanent alimony, then permanent alimony will result even in a short term marriage. If your wife is elderly, or in poor health or without any assets, she could be a permanent alimony candidate, in spite of the short term marriage.

My husband and I have been living well above our means during the marriage. Will I still be able to keep my lifestyle?

Usually, when a spouse has provided a family with a standard of living for a number of years, the court will accept this as appropriate. However, no court will order one spouse to continue to pay more than he has the ability to do, even though the parties had done this throughout the marriage.

My husband was a successful doctor during our marriage. Now that we are separated, he has threatened to quit his practice and not work. Can he do this and avoid paying support?

When determining a party’s income, the court can “go beyond” the actual income and look to a party’s earning capacity. The court can determine that although a party is earning “X”, he has shown throughout the years that he has the ability to earn “2X”.

If said unemployment is voluntary, the court will use his prior (higher) income as the basis for an alimony award. Conversely, when a party’s unemployment is the result of involuntary forces beyond his/her control and as such this underemployment is permanent and substantial, the court will look to current earnings.

I have been married for 30 years. I am 62 years old. Will I have to support my ex-wife for the rest of my life?

Alimony/support is conditional on many factors, i.e., age of the parties, health of the parties, lifestyle during marriage, income of the parties and contributions during marriage. If you are still

working and the lifestyle during marriage dictated that your wife never worked, alimony most likely will be permanent. However, if you both have financial resources which enables the past lifestyle to continue, alimony might not be warranted. Additionally, at age 65, the courts recognize retirement. At that time alimony could be modified or eliminated, depending on your financial abilities.

What happens if my husband dies? Who will pay my alimony?

Generally, when one spouse receives an alimony award, the court will place a value on said payments and will order the payor spouse to maintain a life insurance policy equivalent or greater than the support award. ^(sb)

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