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Alimony or Child Support: Are You or Your Spouse Entitled to Either of These?

by Monica Rossi Baylis



Divorce can bring about many financial issues and because it is such a difficult time, these financial issues are usually not front and center on your mind when you are contemplating divorce. Some of the large financial issues include debts that were incurred during your marriage, the large assets you own like your house, business entities, among others. Because it can be such a financial burden for some, one of the biggest questions people want to know is if your spouse is entitled to alimony (spousal support) and/or child support.

It is important to understand the difference between the two so you are prepared if you ever find yourself at this point. The main difference is that alimony is used to benefit the spouse and child

support is used to benefit the child or children from the marriage.

Alimony (Spousal Support)- What is it and how is it determined?

Alimony is when the dependent spouse receives money from the supporting spouse. The dependent spouse typically is the one that makes substantially less money and relies on the supporting spouse financially, and therefore can be entitled to receive money from the supporting spouse. Alimony may be sought after if the dependent spouse chose to forgo a career and raise the children or to maintain the lifestyle and standard of living that was kept throughout the marriage. Alimony can be an agreement between the couple or it can go through the court, but it isn't something that the courts automatically calculate, you have to ask for it.

There are a few different types of alimony. They are temporary and/or rehabilitative, permanent, and lump sum. The dependent spouse can receive alimony from the supporting spouse in any of these capacities depending on the circumstances and certain qualifying factors. There is no one size fits all way of determining alimony. The court takes each one case by case to determine if alimony should be issued and how much the dependent spouse should receive.

The courts take many different factors into consideration when determining alimony. Historically, alimony was determined by the fault of the divorce, but with no-fault divorces today, these are some of the factors that determine alimony payment:

- The length of the marriage.
- The age of both parties.
- The income of each of the parties.

- The role each of the parties played in the marriage.
- The health of each of the parties.
- The past relations and conduct of the parties.
- The needs of the parties.
- The source and amount of property awarded to the parties.

The terms and conditions of alimony, length of time it will be paid, and when it can be modified or terminated may vary from case to case and is based on what is equitable under the circumstances based on the factors that are considered in determining the need for alimony. Alimony is typically terminated when the recipient of the alimony remarries or dies, although other conditions for termination or modification can be agreed upon by the parties. When alimony terminates after a certain term of years, it is considered rehabilitative in nature. Long term marriages where one spouse has clearly been a dependent of a high-income earning spouse, and is over 50 years of age, would constitute a case for permanent alimony.

Child Support-What is it and how is it determined?

Child support is court ordered payment from one spouse to another, which is meant to help

with costs associated with raising a child. These costs include the basic necessities a child needs like food, clothing, child care, and medical expenses. If the parties want to share in the cost of things like travel expenses, education, and extracurricular activities a child may be involved in, it is usually written into their Consent Judgment as a separate enforceable matter. The parties can choose to deviate upward from the child support recommendation to allow for the additional child related expenses. Child support payments usually end when the child turns 18, but sometimes they can go until age 19 1/2 if the child is still in high school.

Unlike alimony that does not have a set way of determining payment, child support payments are determined using a calculator. The Michigan Child Support Formula helps determine which parent should pay the child support and the amount that is paid. Factors that go into the calculator to determine this are:

- Parents’ monthly incomes.
- The number of children that qualify for support.
- The number of nights a year the child spends with each parent.
- Health care and child care costs.

Parents can come to their own child support agreement and the Judge may take that into consideration. Should the parents wish to agree to more or less than the child support guidelines recommend, they will need to fill out a child support deviation form articulating acceptable reasons for the deviation.

Upon approval of the court at the close of any action regarding child support, a Uniform Child Support Order (USCO) will be entered by the court and will be enforceable against the parent who is to provide the support. Generally, the USCO is accompanied by an income withholding order so that child support payments are deducted right from the payer’s paycheck and sent to the payee.

If you fail to pay child support, Friend of the Court (FOC) will pursue enforcement proceedings starting with a civil contempt hearing. Penalties for not paying child support could result in:

- Fines.
- Jail time.
- Driver’s license suspension.
- Garnishment on your tax refunds.
- Passport denial.

If financial hardships fall upon the parent paying child support, they should communicate that to the other parent and the court,

but they should continue making an effort to support the child anyway they possible can for the child's benefit and so the court can see the effort is still being made.

Divorce can be a very difficult time for all parties directly involved or indirectly involved. There is a lot of information to know and process when it comes to alimony and child support. To make sure you receive the best

legal care, advice, knowledge, and guidance, the best thing to do is to reach out to a trusted Family Law attorney to walk you through everything step by step.◇

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