

ALIMONY

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Generally speaking, alimony is often the hardest part of my job. Unlike child support, there are no alimony guidelines.

Alimony is based on statutory factors and case law interpreting these factors. Our statute has the following twelve factors:

1. The actual need and ability of the parties to pay;
2. The duration of the marriage;
3. The parties' age, physical and emotional health;
4. The standard of living established in the marriage and the likelihood that each party can maintain a reasonably comparable standard of living;
5. The earning capacities, educational levels, vocational skills, and employability of the parties;
6. The length of absence from the job market of the party seeking maintenance;
7. The parental responsibilities for the children;
8. The time and expense necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment, and the opportunity for future acquisitions of capital assets and income;
9. The history of the financial or non-financial contributions to the marriage by each party, including contributions to the care and education of the children and interruption of personal careers or educational opportunities;
10. The equitable distribution of property and any payouts on equitable distribution, directly or indirectly, out of current income, to the extent this consideration is reasonable, just and fair;
11. The income available to either party through investment of any assets held by that party; and
12. The tax treatment and consequences to both of any alimony award, including the designation of all or a portion of the payment as a non-taxable payment.

The factors that generally are provided the most weight, although each one is equally important, include the actual need of the receiving spouse and the ability of the paying spouse to pay. In analyzing this factor, each party's respective income, or their ability to earn income, as well as both parties' budgets are examined. To figure out a budget, the parties are required to complete a Case Information Statement, which is a detailed document that requires full disclosure of a host of information relevant to the marriage.

As part of their budget, the parties have to list their shelter expenses, transportation expenses and personal expenses. Once budgets are itemized and income is known, alimony can be weighed, considered and calculated.

Another important factor is the duration of a marriage. Alimony generally is not an issue in a short-term marriage. However, in a long-term marriage, alimony often is an issue. Another statutory factor that is given great consideration is the parties' age and health.

Once the amount of alimony is either agreed upon by the parties or ordered by the Court, the length of alimony is yet another issue that must be resolved. Alimony can be for a long term or a set number of years. It can also be pursuant to a set, detailed rehabilitative plan.

Alimony, both length and amount, are challenging aspects of any divorce, and there are numerous considerations relevant to a final determination as to alimony. It is extremely fact and case sensitive. As such, it is important to have the guidance of an attorney when negotiating this important issue.

Jeralyn Lawrence, a member of the Norris McLaughlin & Marcus Matrimonial Law Group, was recently honored as an Outstanding Woman in Somerset County for 2008 by the Somerset County Commission On the Status Of Women. She has been selected as one of the Top 50 Female New Jersey Super Lawyers® 2008 and is included in the Family Law section of Super Lawyers. Jeralyn has been selected by her peers as one of New Jersey's Top 10 matrimonial lawyers under the age of 40 and has been recognized by the New Jersey Law Journal as one of 40 accomplished and promising attorneys in the State of New Jersey under the age of 40. Jeralyn is a frequent speaker at matrimonial law programs and seminars. jllawrence@nmmlaw.com.