

George Mason Inns of Court

Developments in the Law of Spousal Support

**Family Law Presentation
September 19, 2016**

Exhibit A

ALABAMA

1. Eligibility Requirements

If after being granted a divorce, “either spouse has no separate estate or if it is insufficient for the maintenance of a spouse,” the judge may, at his discretion, order spousal support. Ala. Code § 30-2-5.

2. Determination of Amount

The court may consider

- a. The value of the paying spouse’s estate “and the condition of th[at] spouse’s family.” Ala. Code § 30-2-51.
- b. If the divorce is granted in favor of either spouse based on the misconduct of the other party, the court may grant (or refuse to grant) an allowance based on that misconduct. Ala. Code § 30-2-52

3. Determination of Duration

Support ends upon “petition of a party to the decree and proof that the spouse receiving such alimony has remarried or that such spouse is living openly or cohabiting with a member of the opposite sex.” Ala. Code § 30-2-55.

ALASKA

1. Eligibility Requirements

Spousal support is appropriate for cases of dissolution of marriage, divorce, or annulment. Alaska Stat. Ann. §§ 25.24.230, 25.24.160 (West).

2. Determination of Amount

An “award of maintenance must fairly allocate the economic effect of divorce based on a consideration of the following factors:

- (A) The length of the marriage and station in life of the parties during the marriage;
- (B) The age and health of the parties;
- (C) The earning capacity of the parties, including their educational backgrounds, training, employment skills, work experiences, length of absence from the job market, and custodial responsibilities for children during the marriage;
- (D) The financial condition of the parties, including the availability and cost of health insurance;
- (E) The conduct of the parties, including whether there has been unreasonable depletion of marital assets;
- (F) The division of property under (4) of this subsection; and
- (G) Other factors the court determines to be relevant in each individual case.” Alaska Stat. Ann. § 25.24.160(a)(2) (West).

The court may not consider which party may be at fault. § 25.24.160(a)(2) (West).

3. Determination of Duration

“[F]or a limited or indefinite period of time, in gross or in installments, as may be just and necessary.” Alaska Stat. Ann. § 25.24.160(a)(2) (West).

ARIZONA

1. Eligibility Requirements

The court may grant maintenance for either spouse in a proceeding for dissolution of marriage or legal separation if it finds that the spouse seeking maintenance:

1. Lacks sufficient property, including property apportioned to the spouse, to provide for that spouse's reasonable needs.
2. Is unable to be self-sufficient through appropriate employment or is the custodian of a child whose age or condition is such that the custodian should not be required to seek employment outside the home or lacks earning ability in the labor market adequate to be self-sufficient.
3. Contributed to the educational opportunities of the other spouse.
4. Had a marriage of long duration and is of an age that may preclude the possibility of gaining employment adequate to be self-sufficient." Ariz. Rev. Stat. Ann. § 25-319

2. Determination of Amount

The court must consider these "relevant factors:

1. The standard of living established during the marriage.
2. The duration of the marriage.
3. The age, employment history, earning ability and physical and emotional condition of the spouse seeking maintenance.
4. The ability of the spouse from whom maintenance is sought to meet that spouse's needs while meeting those of the spouse seeking maintenance.
5. The comparative financial resources of the spouses, including their comparative earning abilities in the labor market.
6. The contribution of the spouse seeking maintenance to the earning ability of the other spouse.
7. The extent to which the spouse seeking maintenance has reduced that spouse's income or career opportunities for the benefit of the other spouse.
8. The ability of both parties after the dissolution to contribute to the future educational costs of their mutual children.
9. The financial resources of the party seeking maintenance, including marital property apportioned to that spouse, and that spouse's ability to meet that spouse's own needs independently.
10. The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment and whether such education or training is readily available.
11. Excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common.
12. The cost for the spouse who is seeking maintenance to obtain health insurance and the reduction in the cost of health insurance for the spouse from whom maintenance is sought if the spouse from whom maintenance is sought is able to convert family health insurance to employee health insurance after the marriage is dissolved."
13. All actual damages and judgments from conduct that results in criminal conviction of either spouse in which the other spouse or child was the victim." Ariz. Rev. Stat. Ann. § 25-319

The court may not consider marital misconduct. Ariz. Rev. Stat. Ann. § 25-319.

3. Determination of Duration

"The maintenance order shall be in an amount and for a period of time as the court deems just." Ariz. Rev. Stat. Ann. § 25-319.

ARKANSAS

1. Eligibility Requirements

After a divorce decree is entered, a court may order support. Ark. Code Ann. § 9-12-312 (West).

2. Determination of Amount

The alimony award must be “reasonable from the circumstances of the parties and the nature of the case.” Ark. Code Ann. § 9-12-312 (West).

3. Determination of Duration

“Unless otherwise ordered by the court or agreed to by the parties, the liability for alimony shall automatically cease upon the earlier of:

- (A) The date of the remarriage of the person who was awarded the alimony;
- (B) The establishment of a relationship that produces a child or children and results in a court order directing another person to pay support to the recipient of alimony, which circumstances shall be considered the equivalent of remarriage;
- (C) The establishment of a relationship that produces a child or children and results in a court order directing the recipient of alimony to provide support of another person who is not a descendant by birth or adoption of the payor of the alimony, which circumstances shall be considered the equivalent of remarriage;
- (D) The living full time with another person in an intimate, cohabitating relationship;
- (E) The death of either party; or
- (F) Any other contingencies as set forth in the order awarding alimony.” Ark. Code Ann. § 9-12-312 (West).

CALIFORNIA

1. Eligibility Requirements

“In a judgment of dissolution of marriage or legal separation of the parties, the court may order a party to pay for the support of the other party.” Cal. Fam. Code § 4330 (West).

“[W]here there are no children, and a party has or acquires a separate estate, including income from employment, sufficient for the party’s proper support, no support shall be ordered or continued against the other party.” Cal. Fam. Code § 4322 (West).

A spouse who has been the subject of the attempted murder or the solicitation of murder for which the other spouse was convicted” “shall be entitled to a prohibition of any temporary or permanent award for spousal support from the injured spouse to the other spouse. Cal. Fam. Code § 4324 (West).

Where there is a criminal conviction for a violent sexual felony perpetrated by one spouse against the other spouse, an award of spousal support to the convicted spouse from the injured spouse is prohibited. Cal. Fam. Code § 4324.5 (West).

Where there is a criminal conviction for an act of domestic violence perpetrated by one spouse against the other spouse, there shall be a rebuttable presumption that the abusive spouse is not entitled to support.

Cal. Fam. Code § 4325 (West).

2. Determination of Amount

The court shall award support “based on the standard of living established during the marriage, taking into consideration the circumstances as provided in Chapter 2 (commencing with Section 4320).” Cal. Fam. Code § 4330 (West).

“In ordering spousal support under this part, the court shall consider all of the following circumstances:

- (a) The extent to which the earning capacity of each party is sufficient to maintain the standard of living established during the marriage, taking into account all of the following:
- (b) The marketable skills of the supported party; the job market for those skills; the time and expenses required for the supported party to acquire the appropriate education or training to develop those skills; and the possible need for retraining or education to acquire other, more marketable skills or employment.
- (c) The extent to which the supported party's present or future earning capacity is impaired by periods of unemployment that were incurred during the marriage to permit the supported party to devote time to domestic duties.
- (d) The extent to which the supported party contributed to the attainment of an education, training, a career position, or a license by the supporting party.
- (e) The ability of the supporting party to pay spousal support, taking into account the supporting party's earning capacity, earned and unearned income, assets, and standard of living.
- (f) The needs of each party based on the standard of living established during the marriage.
- (g) The obligations and assets, including the separate property, of each party.
- (h) The duration of the marriage.
- (i) The ability of the supported party to engage in gainful employment without unduly interfering with the interests of dependent children in the custody of the party.
- (j) The age and health of the parties.
- (k) Documented evidence, including a plea of nolo contendere, of any history of domestic violence, as defined in Section 6211, between the parties or perpetrated by either party against either party's child, including, but not limited to, consideration of emotional distress resulting from domestic violence perpetrated against the supported party by the supporting party, and consideration of any history of violence against the supporting party by the supported party.
- (l) The immediate and specific tax consequences to each party.
- (m) The balance of the hardships to each party.
- (n) The goal that the supported party shall be self-supporting within a reasonable period of time. Except in the case of a marriage of long duration as described in Section 4336, a "reasonable period of time" for purposes of this section generally shall be one-half the length of the marriage. However, nothing in this section is intended to limit the court's discretion to order support for a greater or lesser length of time, based on any of the other factors listed in this section, Section 4336, and the circumstances of the parties.
- (o) The criminal conviction of an abusive spouse shall be considered in making a reduction or elimination of a spousal support award in accordance with Section 4324.5 or 4325.
- (p) Any other factors the court determines are just and equitable." Cal. Fam. Code § 4320 (West).

3. Determination of Duration

Support shall be "for a period of time . . . that the court determines is just and reasonable. Cal. Fam. Code § 4330 (West).

"Except in the case of a marriage of long duration (i.e. 10 years), a "reasonable period of time" for purposes of this section generally shall be one-half the length of the marriage. However, nothing in this section is intended to limit the court's discretion to order support for a greater or lesser length of time, based on any of the other factors listed in this section, Section 4336, and the circumstances of the parties." Cal. Fam. Code § 4320 (West).

The court may order support to terminate on the basis of a contingency. Cal. Fam. Code § 4334 (West).

“Except as otherwise agreed by the parties in writing, the obligation of a party under an order for the support of the other party terminates upon the death of either party or the remarriage of the other party.” Cal. Fam. Code § 4337 (West).

COLORADO

1. Eligibility Requirements

The court must find “that the spouse seeking maintenance lacks sufficient property, including marital property apportioned to him or her, to provide for his or her reasonable needs and is unable to support himself or herself through appropriate employment or is the custodian of a child whose condition or circumstances make it inappropriate for the spouse to be required to seek employment outside the home.” Colo. Rev. Stat. Ann. § 14-10-114(3)(d) (West).

2. Determination of Amount

The court may award support that is fair and equitable to both parties after considering the guideline amount and term of maintenance set forth in paragraph (b) of this subsection based upon the duration of the marriage and the combined gross incomes of the parties and the factors relating to the amount of term set out below. Colo. Rev. Stat. Ann. § 14-10-114(3)(a) (West).

Guideline amount- If the marriage lasted “at least three years and the parties’ combined, annual adjusted gross income does not exceed the greater of [\$240,000] or the uppermost limits of the schedule of basic child support obligations set forth in section 14-10-115, the guideline amount of maintenance is calculated as follows:

The amount of maintenance under the guidelines is equal to forty percent of the higher income party’s monthly adjusted gross income less fifty percent of the lower income party’s monthly adjusted gross income; except that, when added to the gross income of the recipient, shall not result in the recipient receiving in excess of forty percent of the parties’ combined monthly adjusted gross income.” Colo. Rev. Stat. Ann. § 14-10-114(3)(b) (West).

The maintenance guidelines in § 14-10-114(3)(b) do not create a presumptive amount or term of maintenance.” Colo. Rev. Stat. Ann. § 14-10-114 (West).

In determining the amount and duration of the term the court shall consider all relevant factors, including but not limited to:

- (I) The financial resources of the recipient spouse, including the actual or potential income from separate or marital property or any other source and the ability of the recipient spouse to meet his or her needs independently;
- (II) The financial resources of the payor spouse, including the actual or potential income from separate or marital property or any other source and the ability of the payor spouse to meet his or her reasonable needs while paying maintenance;
- (III) The lifestyle during the marriage;
- (IV) The distribution of marital property, including whether additional marital property may be awarded to reduce or alleviate the need for maintenance;
- (V) Both parties’ income, employment, and employability, obtainable through reasonable diligence and additional training or education, if necessary, and any necessary reduction in employment due to the needs of an unemancipated child of the marriage or the circumstances of the parties;

- (VI) Whether one party has historically earned higher or lower income than the income reflected at the time of permanent orders and the duration and consistency of income from overtime or secondary employment;
- (VII) The duration of the marriage;
- (VIII) The amount of temporary maintenance and the number of months that temporary maintenance was paid to the recipient spouse;
- (IX) The age and health of the parties, including consideration of significant health care needs or uninsured or unreimbursed health care expenses;
- (X) Significant economic or noneconomic contribution to the marriage or to the economic, educational, or occupational advancement of a party, including but not limited to completing an education or job training, payment by one spouse of the other spouse's separate debts, or enhancement of the other spouse's personal or real property;
- (XI) Whether the circumstances of the parties at the time of permanent orders warrant the award of a nominal amount of maintenance in order to preserve a claim of maintenance in the future; and
- (XII) Any other factor that the court deems relevant.” Colo. Rev. Stat. Ann. § 14-10-114(3)(c) (West).

3. Determination of Duration

For marriages of at least three but fewer than twenty years, follow the table in this subsection. Colo. Rev. Stat. Ann. § 14-10-114(3)(b) (West).

For marriages over twenty years, “the court may award maintenance for a specified term of years or for an indefinite term, but [not] less than the maintenance term under the guidelines for a twenty-year marriage without making specific findings that support a reduced term of maintenance.” Colo. Rev. Stat. Ann. § 14-10-114(3)(b) (West).

CONNECTICUT

1. Eligibility Requirements

The court may enter an award for alimony when entering a divorce decree. Conn. Gen. Stat. Ann. § 46b-82 (West).

with respect to a permanent award of alimony.” Conn. Gen. Stat. Ann. § 46b-83 (West).

2. Determination of Duration and Amount

In determining whether alimony shall be awarded, and the duration and amount of the award, the court shall consider the evidence presented by each party and shall consider the length of the marriage, the causes for the annulment, dissolution of the marriage or legal separation, the age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate and needs of each of the parties and the award, if any, which the court may make pursuant to section 46b-81 (division of marital property), and, in the case of a parent to whom the custody of minor children has been awarded, the desirability and feasibility of such parent’s securing employment. Conn. Gen. Stat. Ann. § 46b-82 (West).

3. Determination of Duration Only

Support terminated upon the death of either party or the remarriage of the alimony recipient. § 46b-82 (West).

DELAWARE

1. Eligibility Requirements

A party may only be awarded alimony if, after considering the relevant factors, [the party] is dependent such that the party:

- (1) “Is dependent upon the other party for support and the other party is not contractually or otherwise obligated to provide that support after the entry of a decree of divorce or annulment;
- (2) Lacks sufficient property, including any award of marital property made by the Court, to provide for his or her reasonable needs; and
- (3) Is unable to support himself or herself through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that he or she not be required to seek employment.” Del. Code Ann. tit. 13, § 1512 (West).

2. Determination of Amount

The relevant factors include, “but not limited to:

- (1) The financial resources of the party seeking alimony, including the marital or separate property apportioned to him or her, and his or her ability to meet all or part of his or her reasonable needs independently;
- (2) The time necessary and expense required to acquire sufficient education or training to enable the party seeking alimony to find appropriate employment;
- (3) The standard of living established during the marriage;
- (4) The duration of the marriage;
- (5) The age, physical and emotional condition of both parties;
- (6) Any financial or other contribution made by either party to the education, training, vocational skills, career or earning capacity of the other party;
- (7) The ability of the other party to meet his or her needs while paying alimony;
- (8) Tax consequences;
- (9) Whether either party has foregone or postponed economic, education or other employment opportunities during the course of the marriage; and
- (10) Any other factor which the Court expressly finds is just and appropriate to consider.” Del. Code Ann. tit. 13, § 1512 (West).

The court may not consider marital misconduct. Del. Code Ann. tit. 13, § 1512 (West).

3. Determination of Duration

Alimony may not be awarded for a period more than “50% of the term of the marriage.” Del. Code Ann. tit. 13, § 1512 (West).

But “if a party is married for 20 years or longer, there shall be no time limit as to his or her eligibility.” However, the factors considered for the amount of alimony shall also be considered for the duration of the award. Del. Code Ann. tit. 13, § 1512 (West).

An obligation to pay alimony terminates “upon the death of either party or the remarriage or cohabitation of the party receiving alimony” unless the parties have otherwise agreed in writing. Del. Code Ann. tit. 13, § 1512 (West).

DISTRICT OF COLUMBIA

4. Eligibility Requirements

“When a divorce or legal separation is granted,” or when a domestic partnership terminates, “and one partner has filed a petition for relief available, . . . the Court may require either party to pay alimony to the other party if it seems just and proper. D.C. Code Ann. § 16-913 (West)

5. Determination of Amount

The “Court shall consider all the relevant factors necessary for a fair and equitable award, including, but not limited to, the:

- a. ability of the party seeking alimony to be wholly or partly self-supporting;
- b. time necessary for the party seeking alimony to gain sufficient education or training to enable that party to secure suitable employment;
- c. standard of living that the parties established during their marriage or domestic partnership, but giving consideration to the fact that there will be 2 households to maintain;
- d. duration of the marriage or domestic partnership;
- e. circumstances which contributed to the estrangement of the parties;
- f. age of each party;
- g. physical and mental condition of each party;
- h. ability of the party from whom alimony is sought to meet his or her needs while meeting the needs of the other party; and
- i. financial needs and financial resources of each party, including:
 - (A) income;
 - (B) income from assets, both those that are the property of the marriage or domestic partnership and those that are not;
 - (C) potential income which may be imputed to non-income producing assets of a party;
 - (D) any previous award of child support in this case;
 - (E) the financial obligations of each party;
 - (F) the right of a party to receive retirement benefits; and
 - (G) the taxability or non-taxability of income.” D.C. Code Ann. § 16-913 (West).

6. Determination of Duration

“The award of alimony may be indefinite or term-limited and structured as appropriate to the facts. The Court shall determine the amount and the time period for the award of alimony.” D.C. Code Ann. § 16-913 (West)

FLORIDA

1. Eligibility Requirements

“In a proceeding for dissolution of marriage, the court may grant alimony to either party.” The alimony may be “bridge-the-gap, rehabilitative, durational, or permanent in nature or any combination of these forms of alimony.” Fla. Stat. Ann. § 61.08(1) (West).

The court must make a specific finding that either “party has an actual need for alimony or maintenance and whether either party has the ability to pay alimony or maintenance.” Fla. Stat. Ann. § 61.08 (West).

2. Determination of Amount

The court may consider the adultery of either spouse. Fla. Stat. Ann. § 61.08(1) (West). The court shall also consider, but is no limited to, the following factors:

- (a) “The standard of living established during the marriage.
- (b) The duration of the marriage.

- (c) The age and the physical and emotional condition of each party.
- (d) The financial resources of each party, including the nonmarital and the marital assets and liabilities distributed to each.
- (e) The earning capacities, educational levels, vocational skills, and employability of the parties and, when applicable, the time necessary for either party to acquire sufficient education or training to enable such party to find appropriate employment.
- (f) The contribution of each party to the marriage, including, but not limited to, services rendered in homemaking, child care, education, and career building of the other party.
- (g) The responsibilities each party will have with regard to any minor children they have in common.
- (h) The tax treatment and consequences to both parties of any alimony award, including the designation of all or a portion of the payment as a nontaxable, nondeductible payment.
- (i) All sources of income available to either party, including income available to either party through investments of any asset held by that party.
- (j) Any other factor necessary to do equity and justice between the parties.” Fla. Stat. Ann. § 61.08(2) (West).

“The award of alimony may not leave the payor with significantly less net income than the net income of the recipient unless there are written findings of exceptional circumstances.” Fla. Stat. Ann. § 61.08(9) (West).

3. **Determination of Duration**

“[T]here is a rebuttable presumption that a short-term marriage is . . . less than 7 years, a moderate-term marriage is . . . greater than 7 years but less than 17 years, and long-term marriage is . . . 17 years or greater. The length of a marriage is the period of time from the date of marriage until the date of filing of an action for dissolution of marriage.” Fla. Stat. Ann. § 61.08(4) (West).

Types of Alimony

1. Bridge-the-gap alimony helps the “party to make a transition from being married to being single [and assists] a party with legitimate identifiable short-term needs.” It “may not exceed 2 years” and “terminates upon the death of either party or upon the remarriage of the party receiving alimony.” It is not modifiable. Fla. Stat. Ann. § 61.08(5) (West).
2. Rehabilitative alimony may be awarded to help a party acquire new skills or reacquire old skills. There “must be a specific and defined rehabilitative plan which shall be included as a part of any order awarding rehabilitative alimony,” and it may be modified. Fla. Stat. Ann. § 61.08(6) (West).
3. Durational alimony may be awarded “to provide a party with economic assistance for a set period of time following a marriage of short or moderate duration or following a marriage of long duration if there is no ongoing need for support on a permanent basis.” It “terminates upon the death of either party or upon the remarriage of the party receiving alimony.” The “the length of an award of durational alimony may not be modified except under exceptional circumstances and may not exceed the length of the marriage. Fla. Stat. Ann. § 61.08(7) (West).
4. Permanent alimony may be awarded to provide for the needs and necessities of life as they were established during the marriage of the parties for a party who lacks the financial ability to meet his or her needs and necessities of life following a dissolution of marriage.” Fla. Stat. Ann. § 61.08(8) (West). It may be awarded after any length of marriage, subject to specific findings.

1. For a marriage of long duration, it may be awarded after considering “the factors set forth in subsection (2).” Fla. Stat. Ann. § 61.08(8) (West).
2. For a marriage of moderate duration, it may be awarded “if such an award is appropriate based upon clear and convincing evidence after consideration of the factors set forth in subsection (2).” Fla. Stat. Ann. § 61.08(8) (West).
3. For a marriage of short duration, it may be awarded “if there are written findings of exceptional circumstances.” Fla. Stat. Ann. § 61.08(8) (West).

The court must “include a finding that no other form of alimony is fair and reasonable under the circumstances of the parties.” Fla. Stat. Ann. § 61.08(8) (West).

It “terminates upon the death of either party or upon the remarriage of the party receiving alimony” and may be modified. Fla. Stat. Ann. § 61.08 (West).

GEORGIA

1. Eligibility Requirements

Alimony is authorized “to be awarded to either party in accordance with the needs of the party and the ability of the other party to pay.” “[T]he court shall consider evidence of the conduct of each party toward the other.” Ga. Code Ann. § 19-6-1 (West).

A party shall not receive alimony “if it is established by a preponderance of the evidence that the separation between the parties was caused by that party’s adultery or desertion.” Ga. Code Ann. § 19-6-1 (West).

2. Determination of Amount

When considering the amount of permanent alimony, the finder of fact shall consider:

- (1) “The standard of living established during the marriage;
- (2) The duration of the marriage;
- (3) The age and the physical and emotional condition of both parties;
- (4) The financial resources of each party;
- (5) Where applicable, the time necessary for either party to acquire sufficient education or training to enable him to find appropriate employment;
- (6) The contribution of each party to the marriage, including, but not limited to, services rendered in homemaking, child care, education, and career building of the other party;
- (7) The condition of the parties, including the separate estate, earning capacity, and fixed liabilities of the parties; and
- (8) Such other relevant factors as the court deems equitable and proper.” Ga. Code Ann. § 19-6-5 (West).

3. Determination of Duration

If a party dies before the “court’s order on the issue of alimony, any rights of the other party to alimony shall survive and be a lien upon the estate of the deceased party.” Ga. Code Ann. § 19-6-1 (West).

“All obligations for permanent alimony . . . shall terminate upon remarriage of the party to whom the obligations are owed unless otherwise provided.” Ga. Code Ann. § 19-6-5 (West).

If the spouses voluntarily re-cohabit before there is total divorce between them, any award of permanent alimony will be set aside. Ga. Code Ann. § 19-6-12 (West).

HAWAII

1. Eligibility Requirements

As part of the final decree for divorce, or after granting a divorce, “the court may make any further orders as shall appear just and equitable . . . compelling either party to provide for the support and maintenance of the other party.” Haw. Rev. Stat. Ann. § 580-47 (West).

2. Determination of Amount

The court shall consider “the respective merits of the parties, the relative abilities of the parties, the condition in which each party will be left by the divorce, the burdens imposed upon either party for the benefit of the children of the parties, the concealment of or failure to disclose income or an asset, or violation of a restraining order . . . , and all other circumstances of the case.” Haw. Rev. Stat. Ann. § 580-47 (West).

“In addition to any other relevant factors considered, the court, in ordering spousal support and maintenance, shall consider the following factors:

- (1) Financial resources of the parties;
- (2) Ability of the party seeking support and maintenance to meet his or her needs independently;
- (3) Duration of the marriage;
- (4) Standard of living established during the marriage;
- (5) Age of the parties;
- (6) Physical and emotional condition of the parties;
- (7) Usual occupation of the parties during the marriage;
- (8) Vocational skills and employability of the party seeking support and maintenance;
- (9) Needs of the parties;
- (10) Custodial and child support responsibilities;
- (11) Ability of the party from whom support and maintenance is sought to meet his or her own needs while meeting the needs of the party seeking support and maintenance;
- (12) Other factors which measure the financial condition in which the parties will be left as the result of the action under which the determination of maintenance is made; and
- (13) Probable duration of the need of the party seeking support and maintenance.” Haw. Rev. Stat. Ann. § 580-47 (West).

3. Determination of Duration

Unless the parties have agreed (or the decree orders) otherwise, remarriage shall terminate the duties of maintenance. Haw. Rev. Stat. Ann. § 580-51 (West).

Maintenance may be ordered “for an indefinite period or until further order of the court; provided that” if maintenance is ordered “for a specific duration wholly or partly based on competent evidence as to the amount of time which will be required for the party seeking . . . maintenance to secure . . . qualifications necessary to qualify for appropriate employment, . . . the court shall order . . . maintenance for a period sufficient to allow completion of [qualifications], and shall allow, in addition, sufficient time for the party to secure appropriate employment.” Haw. Rev. Stat. Ann. § 580-47 (West).

IDAHO

1. Eligibility Requirements

“Where a divorce is decreed, the court may grant a maintenance order if it finds that the spouse seeking maintenance:

- (a) Lacks sufficient property to provide for his or her reasonable needs; and

(b) Is unable to support himself or herself through employment.” Idaho Code Ann. § 32-705 (West).

2. Determination of Amount and Duration

The order shall be in “such amounts and for such periods of time that the court deems just, after considering all relevant factors which may include:

- (a) The financial resources of the spouse seeking maintenance, including the marital property apportioned to said spouse, and said spouse's ability to meet his or her needs independently;
- (b) The time necessary to acquire sufficient education and training to enable the spouse seeking maintenance to find employment;
- (c) The duration of the marriage;
- (d) The age and the physical and emotional condition of the spouse seeking maintenance;
- (e) The ability of the spouse from whom maintenance is sought to meet his or her needs while meeting those of the spouse seeking maintenance;
- (f) The tax consequences to each spouse;
- (g) The fault of either party.” Idaho Code Ann. § 32-705 (West).

ILLINOIS

1. Eligibility Requirements

In a proceeding for dissolution of marriage or legal separation the court may grant a maintenance award for either spouse in amounts and for periods of time as the court deems just. To determine whether to award maintenance, the court shall consider:

- (1) the income and property of each party, including marital property apportioned and non-marital property assigned to the party seeking maintenance as well as all financial obligations imposed on the parties as a result of the dissolution of marriage;
- (2) the needs of each party;
- (3) the realistic present and future earning capacity of each party;
- (4) any impairment of the present and future earning capacity of the party seeking maintenance due to that party devoting time to domestic duties or having forgone or delayed education, training, employment, or career opportunities due to the marriage;
- (5) any impairment of the realistic present or future earning capacity of the party against whom maintenance is sought;
- (6) the time necessary to enable the party seeking maintenance to acquire appropriate education, training, and employment, and whether that party is able to support himself or herself through appropriate employment or any parental responsibility arrangements and its effect on the party seeking employment;
- (7) the standard of living established during the marriage;
- (8) the duration of the marriage;
- (9) the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, and the needs of each of the parties;
- (10) all sources of public and private income including, without limitation, disability and retirement income;
- (11) the tax consequences of the property division upon the respective economic circumstances of the parties;
- (12) contributions and services by the party seeking maintenance to the education, training, career or career potential, or license of the other spouse;
- (13) any valid agreement of the parties; and

(14) any other factor that the court expressly finds to be just and equitable. DIVORCE—CHILDREN AND MINORS—CUSTODY, 2016 Ill. Legis. Serv. P.A. 99-763 § 504(a) (H.B. 3898) (WEST).

The court may not consider marital misconduct. DIVORCE—CHILDREN AND MINORS—CUSTODY, 2016 Ill. Legis. Serv. P.A. 99-763 § 504 (H.B. 3898) (WEST).

2. Determination of Amount and Duration

“If the court determines that a maintenance award is appropriate, the court shall order maintenance in accordance with either paragraph (1) or (2).”

(1) Maintenance award in accordance with guidelines. In situations when the combined gross income of the parties is less than \$250,000 and the payor has no obligation to pay child support or maintenance or both from a prior relationship, maintenance payable after the date the parties' marriage is dissolved shall be in accordance with subparagraphs (A) and (B) of this paragraph (1), unless the court makes a finding that the application of the guidelines would be inappropriate.

(A) The amount of maintenance under this paragraph (1) shall be calculated by taking 30% of the payor's gross income minus 20% of the payee's gross income. The amount calculated as maintenance, however, when added to the gross income of the payee, may not result in the payee receiving an amount that is in excess of 40% of the combined gross income of the parties.

(B) The duration of an award under this paragraph (1) shall be calculated by multiplying the length of the marriage at the time the action was commenced by whichever of the following factors applies: 5 years or less (.20); more than 5 years but less than 10 years (.40); 10 years or more but less than 15 years (.60); or 15 years or more but less than 20 years (.80). For a marriage of 20 or more years, the court, in its discretion, shall order either permanent maintenance or maintenance for a period equal to the length of the marriage.

(2) Maintenance award not in accordance with guidelines. Any non-guidelines award of maintenance shall be made after the court's consideration of all relevant factors set forth in subsection (a) of this Section.” (factors in determining whether to award maintenance). DIVORCE—CHILDREN AND MINORS—CUSTODY, 2016 Ill. Legis. Serv. P.A. 99-763 § 504 (H.B. 3898) (WEST).

3. Determination of Duration

“Unless otherwise agreed [in writing] by the parties . . . set forth in the judgment or otherwise approved by the court, the obligation to pay future maintenance is terminated upon the death of either party, or the remarriage of the party receiving maintenance, or if the party receiving maintenance cohabits with another person on a resident, continuing conjugal basis.” DISSOLUTION OF MARRIAGE—CHILDREN AND MINORS—SUPPORT, 2016 Ill. Legis. Serv. P.A. 99-764 § 510 (H.B. 3982) (WEST).

“If a court grants maintenance for a fixed period . . . before the tenth anniversary of the marriage, the court may also designate the termination of the period during which this maintenance is to be paid as a ‘permanent termination,’ [which will bar maintenance] after the ending date of the period during which maintenance is to be paid.” DIVORCE—CHILDREN AND MINORS—CUSTODY, 2016 Ill. Legis. Serv. P.A. 99-763 § 504 (H.B. 3898) (WEST).

INDIANA

1. Eligibility Requirements

“The court may order maintenance in . . . final dissolution of marriage decrees [and] legal separation decrees.” Ind. Code Ann. § 31-15-7-1 (West).

2. Determination of Amount and Duration

The “court may find that maintenance is necessary for the spouse in an amount and for a period of time that the court considers appropriate” if it “find[s] that:

- (A) a spouse lacks sufficient property, including marital property apportioned to the spouse, to provide for the spouse's needs; and
- (B) the spouse is the custodian of a child whose physical or mental incapacity requires the custodian to forgo employment.” Ind. Code Ann. § 31-15-7-2 (West).

A “court may find that rehabilitative maintenance” is necessary for a period of time “not to exceed three (3) years from the date of the final decree” after “considering:

- (A) the educational level of each spouse at the time of marriage and at the time the action is commenced;
- (B) whether an interruption in the education, training, or employment of a spouse who is seeking maintenance occurred during the marriage as a result of homemaking or child care responsibilities, or both;
- (C) the earning capacity of each spouse, including educational background, training, employment skills, work experience, and length of presence in or absence from the job market; and
- (D) the time and expense necessary to acquire sufficient education or training to enable the spouse who is seeking maintenance to find appropriate employment.” Ind. Code Ann. § 31-15-7-2 (West).

IOWA

1. Eligibility Requirements

Maintenance may be awarded in a judgment for annulment, dissolution, or separate maintenance. Iowa Code Ann. § 598.21A (West).

2. Determination of Amount and Duration

The court considers the following factors upon a judgment for annulment, dissolution, or separate maintenance in considering the amount and length of support payments:

- a. “The length of the marriage.
- b. The age and physical and emotional health of the parties.
- c. The distribution of property made pursuant to section 598.21.
- d. The educational level of each party at the time of marriage and at the time the action is commenced.
- e. The earning capacity of the party seeking maintenance, including educational background, training, employment skills, work experience, length of absence from the job market, responsibilities for children under either an award of custody or physical care, and the time and expense necessary to acquire sufficient education or training to enable the party to find appropriate employment.
- f. The feasibility of the party seeking maintenance becoming self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage, and the length of time necessary to achieve this goal.
- g. The tax consequences to each party.

- h. Any mutual agreement made by the parties concerning financial or service contributions by one party with the expectation of future reciprocation or compensation by the other party.
- i. The provisions of an antenuptial agreement.
- j. Other factors the court may determine to be relevant in an individual case.” Iowa Code Ann. § 598.21A (West).

KANSAS

1. Eligibility Requirements

“A decree in an action” for divorce, separate maintenance, or annulment “may include orders . . . regarding spousal support.” Kan. Stat. Ann. § 23-2711 (West).

2. Determination of Amount

The court may order maintenance (spousal support) in the amount it “finds to be fair, just and equitable under all of the circumstances.” Kan. Stat. Ann. § 23-2902 (West).

3. Determination of Duration

“[T]he court may not award maintenance for a period of time in excess of 121 months.” If the recipient files for reinstatement of the maintenance order before the 121 month period ends, the court may reinstate maintenance, but for no longer than another 121 months.” Kan. Stat. Ann. § 23-2904 (West).

KENTUCKY

1. Eligibility Requirements

In a proceeding for dissolution of marriage or legal separation, the court may grant a maintenance order for either spouse only if it finds that the spouse seeking maintenance:

- (a) Lacks sufficient property, including marital property apportioned to him, to provide for his reasonable needs; and
- (b) Is unable to support himself through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home. Ky. Rev. Stat. Ann. § 403.200 (West).

2. Determination of Amount and Duration

“The maintenance order shall be in such amounts and for such periods of time as the court deems just, and after considering all relevant factors including:

- (a) The financial resources of the party seeking maintenance, including marital property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;
- (b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;
- (c) The standard of living established during the marriage;
- (d) The duration of the marriage;
- (e) The age, and the physical and emotional condition of the spouse seeking maintenance; and
- (f) The ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance.” Ky. Rev. Stat. Ann. § 403.200 (West).

3. Determination of Duration

“Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.” Ky. Rev. Stat. Ann. § 403.250 (West).

LOUISIANA

1. Eligibility Requirements

In a proceeding for divorce or thereafter, the court may award interim periodic support to a party or may award final periodic support to a party who is in need of support and who is free from fault prior to the filing of a proceeding to terminate the marriage in accordance with the following Articles. La. Civ. Code Ann. § Art. 111

2. Determination of Amount

A. When a spouse has not been at fault prior to the filing of a petition for divorce and is in need of support, based on the needs of that party and the ability of the other party to pay, that spouse may be awarded final periodic support in accordance with Paragraph C of this Article.

B. When a spouse has not been at fault prior to the filing of a petition for divorce and the court determines that party was the victim of domestic abuse committed during the marriage by the other party, that spouse shall be awarded final periodic support or a lump sum award, at the discretion of the court, in accordance with Paragraph C of this Article.

C. The court shall consider all relevant factors in determining the amount and duration of final support, including:

- (1) The income and means of the parties, including the liquidity of such means.
- (2) The financial obligations of the parties, including any interim allowance or final child support obligation.
- (3) The earning capacity of the parties.
- (4) The effect of custody of children upon a party's earning capacity.
- (5) The time necessary for the claimant to acquire appropriate education, training, or employment.
- (6) The health and age of the parties.
- (7) The duration of the marriage.
- (8) The tax consequences to either or both parties.
- (9) The existence, effect, and duration of any act of domestic abuse committed by the other spouse upon the claimant, regardless of whether the other spouse was prosecuted for the act of domestic violence.

D. The sum awarded under this Article shall not exceed one-third of the obligor's net income; however, where support is awarded pursuant to Paragraph B of this Article, the sum awarded may exceed one-third of the obligor's net income.

La. Civ. Code Ann. § Art. 112.

3. Determination of Duration

The obligation of spousal support is extinguished upon the remarriage of the obligee, the death of either party, or a judicial determination that the obligee has cohabited with another person of either sex in the manner of married persons. La. Civ. Code Ann. § Art. 115.

MAINE

1. Eligibility Requirements

The court may, after consideration of all factors set forth in subsection 5, award or modify spousal support for one or more of the following reasons:

A. General support may be awarded to provide financial assistance to a spouse with substantially less income potential than the other spouse so that both spouses can maintain a reasonable standard of living after the divorce.

a. There is a rebuttable presumption that general support may not be awarded if the

parties were married for less than 10 years as of the date of the filing of the action for divorce. There is also a rebuttable presumption that general support may not be awarded for a term exceeding 1/2 the length of the marriage if the parties were married for at least 10 years but not more than 20 years as of the date of the filing of the action for divorce.

- b.** If the court finds that a spousal support award based upon a presumption established by this paragraph would be inequitable or unjust, that finding is sufficient to rebut the applicable presumption.
- B.** Transitional support may be awarded to provide for a spouse's transitional needs, including, but not limited to:
 - a.** Short-term needs resulting from financial dislocations associated with the dissolution of the marriage; or
 - b.** Reentry or advancement in the work force, including, but not limited to, physical or emotional rehabilitation services, vocational training and education.
- C.** Reimbursement support may be awarded to achieve an equitable result in the overall dissolution of the parties' financial relationship in response to exceptional circumstances. Exceptional circumstances include, but are not limited to:
 - a.** Economic misconduct by a spouse; and
 - b.** Substantial contributions a spouse made towards the educational or occupational advancement of the other spouse during the marriage. Reimbursement support may be awarded only if the court determines that the parties' financial circumstances do not permit the court to fully address equitable considerations through its distributive order pursuant to section 953.
- D.** Nominal support may be awarded to preserve the court's authority to grant spousal support in the future.

Me. Rev. Stat. tit. 19-A, § 951-A-2.

2. Determination of Amount

The court shall consider the following factors when determining an award of spousal support:

- A. The length of the marriage;
- B. The ability of each party to pay;
- C. The age of each party;
- D. The employment history and employment potential of each party;
- E. The income history and income potential of each party;
- F. The education and training of each party;
- G. The provisions for retirement and health insurance benefits of each party;
- H. The tax consequences of the division of marital property, including the tax consequences of the sale of the marital home, if applicable;
- I. The health and disabilities of each party;
- J. The tax consequences of a spousal support award;
- K. The contributions of either party as homemaker;
- L. The contributions of either party to the education or earning potential of the other party;
- M. Economic misconduct by either party resulting in the diminution of marital property or income;
- N. The standard of living of the parties during the marriage;
- O. The ability of the party seeking support to become self-supporting within a reasonable period of time;

- P. The effect of the following on a party's need for spousal support or a party's ability to pay spousal support:
 - a. Actual or potential income from marital or nonmarital property awarded or set apart to each party as part of the court's distributive order pursuant to section 953; and
 - b. Child support for the support of a minor child or children of the marriage pursuant to chapter 63; and
- Q. Any other factors the court considers appropriate.

Me. Rev. Stat. tit. 19-A, § 951-A-5.

3. Determination of Duration

Cessation upon Death of Payee or Payor.

An order awarding, denying or modifying spousal support may provide that the award survives the death of the payee or payor, or both. Unless otherwise stated in the order awarding spousal support, the obligation to make any payment pursuant to this section ceases upon the death of either the payee or the payor with respect to any payment not yet due and owing as of the date of death. Me. Rev. Stat. tit. 19-A, § 951-A-8.

MARYLAND

1. Eligibility Requirements

Support may be ordered upon final decree of divorce. Md. Code Ann., Fam. Law § 11-101.

2. Determination of Amount and Duration

In making the determination, the court shall consider all the factors necessary for a fair and equitable award, including:

- 1) the ability of the party seeking alimony to be wholly or partly self-supporting;
- 2) the time necessary for the party seeking alimony to gain sufficient education or training to enable that party to find suitable employment;
- 3) the standard of living that the parties established during their marriage;
- 4) the duration of the marriage;
- 5) the contributions, monetary and nonmonetary, of each party to the well-being of the family;
- 6) the circumstances that contributed to the estrangement of the parties;
- 7) the age of each party;
- 8) the physical and mental condition of each party;
- 9) the ability of the party from whom alimony is sought to meet that party's needs while meeting the needs of the party seeking alimony;
- 10) any agreement between the parties;
- 11) the financial needs and financial resources of each party, including:
 - a. all income and assets, including property that does not produce income;
 - b. any award made under §§ 8-205 and 8-208 of this article;
 - c. the nature and amount of the financial obligations of each party; and
 - d. the right of each party to receive retirement benefits; and
- 12) whether the award would cause a spouse who is a resident of a related institution as defined in § 19-301 of the Health - General Article and from whom alimony is sought to become eligible for medical assistance earlier than would otherwise occur.

Md. Code Ann., Fam. Law § 11-106

MASSACHUSETTS

1. Eligibility Requirements

Support may be ordered upon final decree of divorce.

2. Determination of Amount

- a) In determining the appropriate form of alimony and in setting the amount and duration of support, a court shall consider: the length of the marriage; age of the parties; health of the parties; income, employment and employability of both parties, including employability through reasonable diligence and additional training, if necessary; economic and non-economic contribution of both parties to the marriage; marital lifestyle; ability of each party to maintain the marital lifestyle; lost economic opportunity as a result of the marriage; and such other factors as the court considers relevant and material.
- b) Except for reimbursement alimony or circumstances warranting deviation for other forms of alimony, the amount of alimony should generally not exceed the recipient's need or 30 to 35 per cent of the difference between the parties' gross incomes established at the time of the order being issued. Subject to subsection (c), income shall be defined as set forth in the Massachusetts child support guidelines.
- c) In setting an initial alimony order, or in modifying an existing order, the court may deviate from duration and amount limits for general term alimony and rehabilitative alimony upon written findings that deviation is necessary. Grounds for deviation may include:
 - a. advanced age; chronic illness; or unusual health circumstances of either party;
 - b. tax considerations applicable to the parties;
 - c. whether the payor spouse is providing health insurance and the cost of health insurance for the recipient spouse;
 - d. whether the payor spouse has been ordered to secure life insurance for the benefit of the recipient spouse and the cost of such insurance;
 - e. sources and amounts of unearned income, including capital gains, interest and dividends, annuity and investment income from assets that were not allocated in the parties divorce;
 - f. significant premarital cohabitation that included economic partnership or marital separation of significant duration, each of which the court may consider in determining the length of the marriage;
 - g. a party's inability to provide for that party's own support by reason of physical or mental abuse by the payor;
 - h. a party's inability to provide for that party's own support by reason of that party's deficiency of property, maintenance or employment opportunity; and
 - i. upon written findings, any other factor that the court deems relevant and material.

Mass. Ann. Laws ch. 208, § 53.

3. Determination of Duration

- a) General term alimony shall terminate upon the remarriage of the recipient or the death of either spouse; provided, however, that the court may require the payor spouse to provide life insurance or another form of reasonable security for payment of sums due to the recipient in the event of the payor's death during the alimony term.
- b) Except upon a written finding by the court that deviation beyond the time limits of this section are required in the interests of justice, if the length of the marriage is 20 years or less, general term alimony shall terminate no later than a date certain under the following durational limits:
 1. If the length of the marriage is 5 years or less, general term alimony shall continue for not longer than one-half the number of months of the marriage.

2. If the length of the marriage is 10 years or less, but more than 5 years, general term alimony shall continue for not longer than 60 per cent of the number of months of the marriage.
 3. If the length of the marriage is 15 years or less, but more than 10 years, general term alimony shall continue for not longer than 70 per cent of the number of months of the marriage.
 4. If the length of the marriage is 20 years or less, but more than 15 years, general term alimony shall continue for not longer than 80 per cent of the number of months of the marriage.
- c) The court may order alimony for an indefinite length of time for marriages for which the length of the marriage was longer than 20 years.
 - d) General term alimony shall be suspended, reduced or terminated upon the cohabitation of the recipient spouse when the payor shows that the recipient spouse has maintained a common household, as defined in this subsection, with another person for a continuous period of at least 3 months.
 - e) Once issued, general term alimony orders shall terminate upon the payor attaining the full retirement age. The payor's ability to work beyond the full retirement age shall not be a reason to extend alimony, provided that:
 1. When the court enters an initial alimony judgment, the court may set a different alimony termination date for good cause shown; provided, however, that in granting deviation, the court shall enter written findings of the reasons for deviation.
 2. The court may grant a recipient an extension of an existing alimony order for good cause shown; provided, however, that in granting an extension, the court shall enter written findings of:
 - i. a material change of circumstance that occurred after entry of the alimony judgment; and
 - ii. reasons for the extension that are supported by clear and convincing evidence.

Mass. Ann. Laws ch. 208, § 49.

MICHIGAN

1. Eligibility Requirements

In every action brought, either for a divorce or for a separation, the court may require either party to pay alimony for the suitable maintenance of the adverse party. Mich. Comp. Laws Serv. § 552.13(1).

2. Determination of Amount

Upon entry of a judgment of divorce or separate maintenance, if the estate and effects awarded to either party are insufficient for the suitable support and maintenance of either party and any children of the marriage who are committed to the care and custody of either party, the court may also award to either party the part of the real and personal estate of either party and spousal support out of the real and personal estate, to be paid to either party in gross or otherwise as the court considers just and reasonable, after considering the ability of either party to pay and the character and situation of the parties, and all the other circumstances of the case. Mich. Comp. Laws Serv. § 552.23(1).

3. Determination of Duration

An award of alimony may be terminated by the court as of the date the party receiving alimony remarries unless a contrary agreement is specifically stated in the judgment of divorce. Mich. Comp. Laws Serv. § 552.13(2).

MINNESOTA

1. Eligibility Requirements

In a proceeding for dissolution of marriage or legal separation the court may grant a maintenance order for either spouse if it finds that the spouse seeking maintenance:

- a) Lacks sufficient property, including marital property apportioned to the spouse, to provide for reasonable needs of the spouse considering the standard of living established during the marriage, especially, but not limited to, a period of training or education, or
- b) is unable to provide adequate self-support, after considering the standard of living established during the marriage and all relevant circumstances, through appropriate employment, or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home. Minn. Stat. Ann. § 518.552

2. Determination of Amount and Duration

The maintenance order shall be in amounts and for periods of time, either temporary or permanent, as the court deems just, without regard to marital misconduct, and after considering all relevant factors including:

- a) the financial resources of the party seeking maintenance, including marital property apportioned to the party, and the party's ability to meet needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;
- b) the time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment, and the probability, given the party's age and skills, of completing education or training and becoming fully or partially self-supporting;
- c) the standard of living established during the marriage;
- d) the duration of the marriage and, in the case of a homemaker, the length of absence from employment and the extent to which any education, skills, or experience have become outmoded and earning capacity has become permanently diminished;
- e) the loss of earnings, seniority, retirement benefits, and other employment opportunities forgone by the spouse seeking spousal maintenance;
- f) the age, and the physical and emotional condition of the spouse seeking maintenance;
- g) the ability of the spouse from whom maintenance is sought to meet needs while meeting those of the spouse seeking maintenance; and
- h) the contribution of each party in the acquisition, preservation, depreciation, or appreciation in the amount or value of the marital property, as well as the contribution of a spouse as a homemaker or in furtherance of the other party's employment or business. Minn. Stat. Ann. § 518.552.

MISSISSIPPI

1. Eligibility Requirements; Determination of Amount and Duration

“When a divorce shall be decreed from the bonds of matrimony, the court may, in its discretion, having regard to the circumstances of the parties and the nature of the case, as may seem equitable and just, make all orders . . . for the maintenance and alimony of the wife or the husband.” Miss. Code. Ann. § 93-5-23 (West).

MISSOURI

1. Eligibility Requirements

“In a proceeding for dissolution of marriage or legal separation, the court may grant a maintenance order to either spouse, but only if it finds that the spouse seeking maintenance:

- (1) Lacks sufficient property, including marital property apportioned to him, to provide for his reasonable needs; and
- (2) Is unable to support himself through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.” Mo. Ann. Stat. § 452.335 (West).

2. Determination of Amount and Duration

“The maintenance order shall be in such amounts and for such periods of time as the court deems just, and after considering all relevant factors including:

- (1) The financial resources of the party seeking maintenance, including marital property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;
- (2) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;
- (3) The comparative earning capacity of each spouse;
- (4) The standard of living established during the marriage;
- (5) The obligations and assets, including the marital property apportioned to him and the separate property of each party;
- (6) The duration of the marriage;
- (7) The age, and the physical and emotional condition of the spouse seeking maintenance;
- (8) The ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance;
- (9) The conduct of the parties during the marriage; and
- (10) Any other relevant factors.” Mo. Ann. Stat. § 452.335 (West)

3. Determination of Duration

“The court may order maintenance which includes a termination date.” Mo. Ann. Stat. § 452.335 (West).

MONTANA

1. Eligibility Requirements

“In a proceeding for dissolution of marriage or legal separation, the court may grant a maintenance order for either spouse only if it finds that the spouse seeking maintenance:

- (a) lacks sufficient property to provide for the spouse's reasonable needs; and
- (b) is unable to be self-supporting through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.” Mont. Code Ann. § 40-4-203 (West).

2. Determination of Amount and Duration

“The maintenance order must be in amounts and for periods of time that the court considers just, without regard to marital misconduct, and after considering all relevant facts, including:

- (a) the financial resources of the party seeking maintenance, including marital property apportioned to that party, and the party's ability to meet the party's needs independently,

- including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;
- (b) the time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;
 - (c) the standard of living established during the marriage;
 - (d) the duration of the marriage;
 - (e) the age and the physical and emotional condition of the spouse seeking maintenance; and
 - (f) the ability of the spouse from whom maintenance is sought to meet the spouse's own needs while meeting those of the spouse seeking maintenance.” Mont. Code Ann. § 40-4-203 (West).

NEBRASKA

1. Eligibility Requirements:

“When dissolution of a marriage is decreed, the court may order payment of such alimony by one party to the other and division of property as may be reasonable.” Nebraska Revised Statute 42-365.

2. Determination of Amount:

A court may consider “the circumstances of the parties, duration of the marriage, a history of the 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, and the ability of the supported party to engage in gainful employment without interfering with the interests of any minor children in the custody of such party.” Nebraska Revised Statute 42-365.

3. Determination of Duration:

“Except as otherwise agreed by the parties in writing or by order of the court, alimony orders shall terminate upon the death of either party or the remarriage of the recipient.” Nebraska Revised Statute 42-365.

NEVADA

1. Eligibility Requirements:

Alimony may be granted to either spouse upon granting of divorce. NRS 125.150-1.

2. Determination of Amount:

The court may consider:

- (a) the financial condition of each spouse;
- (b) The nature and value of the respective property of each spouse;
- (c) The contribution of each spouse to any property held by the spouses pursuant to NRS 123.030;
- (d) The duration of the marriage;
- (e) The income, earning capacity, age and health of each spouse;
- (f) The standard of living during the marriage;
- (g) The career before the marriage of the spouse who would receive the alimony;
- (h) The existence of specialized education or training or the level of marketable skills attained by each spouse during the marriage;
- (i) The contribution of either spouse as homemaker;
- (j) The award of property granted by the court in the divorce, other than child support and alimony, to the spouse who would receive the alimony; and

(k) The physical and mental condition of each party as it relates to the financial condition, health and ability to work of that spouse. NRS 125.150-9

Further, the court shall consider the need to grant alimony to a spouse for the purpose of obtaining training or education relating to a job, career or profession. In addition to any other factors the court considers relevant in determining whether such alimony should be granted, the court shall consider:

- (a) Whether the spouse who would pay such alimony has obtained greater job skills or education during the marriage; and
- (b) Whether the spouse who would receive such alimony provided financial support while the other spouse obtained job skills or education. NRS 125.150-10

3. Determination of Duration:

In the event of the death of either party or the subsequent remarriage of the spouse to whom specified periodic payments were to be made, all the payments required by the decree must cease, unless it was otherwise ordered by the court. NRS 125.150-6.

NEW HAMPSHIRE

1. Eligibility Requirements:

Upon motion of either party for alimony payments, the court shall make orders for the payment of alimony to the party in need of alimony, either temporary or permanent, for a definite or indefinite period of time, if the motion for alimony payments is made within 5 years of the decree of nullity or divorce and the court finds that:

(a) The party in need lacks sufficient income, property, or both, including property apportioned in accordance with RSA 458:16-a, to provide for such party's reasonable needs, taking into account the style of living to which the parties have become accustomed during the marriage; and

(b) The party from whom alimony is sought is able to meet reasonable needs while meeting those of the party seeking alimony, taking into account the style of living to which the parties have become accustomed during the marriage; and

(c) The party in need is unable to be self-supporting through appropriate employment at a standard of living that meets reasonable needs or is allocated parental rights and responsibilities under RSA 461-A for a child of the parties whose condition or circumstances make it appropriate that the parent not seek employment outside the home. NH Rev Stat § 458:19-I.

2. Determination of Amount:

In determining the amount of alimony, the court shall consider the length of the marriage; the age, health, social or economic status, occupation, amount and sources of income, the property awarded under RSA 458:16-a, vocational skills, employability, estate, liabilities, and needs of each of the parties; the opportunity of each for future acquisition of capital assets and income; the fault of either party as defined in RSA 458:16-a, II(l); and the federal tax consequences of the order. NH Rev Stat § 458:19-IV(b).

The court may also consider the contribution of each of the parties in the acquisition, preservation, or appreciation in value of their respective estates and the noneconomic contribution of each of the parties to the family unit. NH Rev Stat § 458:19-IV(d).

NEW JERSEY

1. Eligibility Requirements:

“Pending any matrimonial action or action for dissolution of a civil union brought in this State or elsewhere, or after judgment of divorce or dissolution or maintenance, whether

obtained in this State or elsewhere, the court may make such order as to the alimony or maintenance of the parties.” N.J.S.2A:34-23

2. Determination of Amount:

The court shall consider, but not be limited to, the following factors:

- (1) The actual need and ability of the parties to pay;
- (2) The duration of the marriage or civil union;
- (3) The age, physical and emotional health of the parties;
- (4) The standard of living established in the marriage or civil union and the likelihood that each party can maintain a reasonably comparable standard of living, with neither party having a greater entitlement to that standard of living than the other;
- (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, the availability of the training and 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 or civil union 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 ordered 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;
- (12) The tax treatment and consequences to both parties of any alimony award, including the designation of all or a portion of the payment as a non-taxable payment;
- (13) The nature, amount, and length of pendente lite support paid, if any; and
- (14) Any other factors which the court may deem relevant. N.J.S.2A:34-23(b).

3. Determination of Duration:

If after the judgment of divorce or dissolution a former spouse shall remarry or a former partner shall enter into a new civil union, permanent and limited duration alimony shall terminate as of the date of remarriage or new civil union. N.J.S.2A:34-35.

NEW MEXICO

1. Eligibility Requirements

Support may be ordered upon final decree of divorce. There are different forms of spousal support which may be granted:

- (1) “rehabilitative spousal support that provides the receiving spouse with education, training, work experience or other forms of rehabilitation that increases the receiving spouse’s ability to earn income and become self-supporting.”
- (2) “transitional spousal support to supplement the income of the receiving spouse for a limited period of time.” N.M.S.A. 1978, § 40-4-7

2. Determination of Amount

“When making determination concerning spousal support...the court shall consider:

- (1) the age and health of and the means of support for the respective spouses;
- (2) the current and future earnings and the earning capacity of the respective spouses;

- (3) the good-faith efforts of the respective spouses to maintain employment or to become self-supporting;
- (4) the reasonable needs of the respective spouses, including:
 - a. the standard of living of the respective spouses during the term of the marriage;
 - b. the maintenance of medical insurance for the respective spouses; and
 - c. the appropriateness of life insurance, including its availability and cost, insuring the life of the person who is to pay support to secure the payments, with any life insurance proceeds paid on the death of the paying spouse to be in lieu of further support;
- (5) the duration of the marriage;
- (6) the amount of the property awarded or confirmed to the respective spouses;
- (7) the type and nature of the respective spouses' liabilities;
- (8) income produced by property owned by the respective spouses; and
- (9) agreements entered into by the spouses in contemplation of the dissolution of marriage or legal separation.

3. Determination of Duration

For rehabilitative spousal support, it depends on adherence to the rehabilitative plan. "The court may include a specific rehabilitation plan with its award of rehabilitative spousal support and may condition continuation of the support upon compliance with the plan." N.M.S.A. 1978, § 40-4-7
 For transitional spousal support, the "period shall be clearly stated in the court's final order." N.M.S.A. 1978, § 40-4-7

There is spousal support for an "indefinite duration." N.M.S.A. 1978, § 40-4-7

The rehabilitative spousal support, transition spousal support, and indefinite duration support will also terminate "upon the death of the receiving spouse, unless the court order of spousal support provides otherwise." N.M.S.A. 1978, § 40-4-7

NEW YORK

1. Eligibility Requirements

"A married person is chargeable with the support of his or her spouse and, except where the parties have entered into an agreement pursuant to §425 of this article...the court...shall make its award for spousal support pursuant to the provisions of this part." McKinney's Family Court Act § 412.

"If the court finds after a hearing that a husband or wife is chargeable under §412 with the support of his or her spouse....the court shall make an order requiring the husband or wife to pay weekly or at other fixed periods a fair and reasonable sum for or towards the support of the other spouse." McKinney's Family Court Act § 442

2. Determination of Amount

When the payor's income is lower or equal to the income cap¹:

- (1) the court shall subtract 25% of the payee's income from 20% of the payor's income.
- (2) The court shall then multiple the sum of the payor's income and the payee's income by 40%
- (3) The court shall subtract the payee's income from the amount derived from paragraph 2.
- (4) The court shall determine the lower of the two amounts derived by paragraphs 1 and 3.

¹ Income cap, for the purposes of this statute, means up to and including \$167,000 of the payor's annual income. The office of court administration shall determine and publish the income cap. McKinney's Family Court Act § 412.

- (5) The guideline amount of spousal support shall be the amount determine by paragraph 4 except that, if the amount determined by paragraph 4 is less than or equal to zero, the guideline amount of spousal support shall be 0 dollars. McKinney's Family Court Act § 412

For when the payor's income exceeds the income cap:

- (1) the court shall perform the calculations set forth in the prior section above up to and including the income cap; and
- (2) for income exceeding the cap, the amount of additional spousal support awarded, if any, shall be within the discretion of the court (factors are in the next section below)
- (3) the court shall set forth the factors it considered and the reasons for its decision in writing or on the record
- (4) notwithstanding the provisions of this section, where the guideline amount of spousal support would reduce the payor's income below the self-support reserve for a single person, the guideline amount of spousal support shall be the difference between the payor's income and the self-support reserve. If the payor's income is below the self-support reserve, there shall be a rebuttable presumption that no spousal support is awarded. McKinney's Family Court Act § 412

Factors used in determining the additional spousal support for when the payor's income exceeds the income cap:

- (1) the age and health of the parties
- (2) the present or future earning capacity of the parties, including a history of limited participation in the workforce;
- (3) the need of one party to incur education or training expenses;
- (4) the termination of a child support award during the pendency of the spousal support award when the calculation of spousal support is based upon child support being awarded which resulted in a spousal support lower than it would have been had child support not been awarded;
- (5) the wasteful dissipation of marital property, including transfers or encumbrances made in contemplation of a support proceeding without fair consideration;
- (6) the existence and duration of a pre-marital joint household or pre-support proceedings separate household;
- (7) acts by one party against another that have inhibited or continue to inhibit a party's earning capacity or ability to obtain meaningful employment. Such acts include but are not limited to acts of domestic violence as provided in § 459(a) of the social services law;
- (8) the availability and cost of medical insurance of the parties;
- (9) the care of children or stepchildren, disabled adult childrew or stepchildren, elderly parents or in-laws provided during the marriage that inhibits a party's earning capacity;
- (10) the tax consequences to each party;
- (11) the standard of living of the parties established during the marriage
- (12) the reduced or lost earning capacity of the payee as a result of having forgone or delayed education, training, employment or career opportunities during the marriage
- (13) the contributions and services of the payee as a spouse, parent, wage earner, and homemaker and to the career or career potential of the other party;

- (14) any other fact which the court shall expressly find to be just and proper.
McKinney's Family Court Act § 412

NORTH CAROLINA

1. Eligibility Requirement

In a divorce proceeding, "either party may move for alimony." N.C.G.S.A. § 50-16.3A

"If the court finds that the dependent spouse participated in an act of illicit sexual behavior, as defined in G.D. 50-16.1A(3), during the marriage and prior to or on the date of separate" no alimony will be awarded. N.C.G.S.A. § 50-16.3A

"If the court finds that the supporting spouse participated in an act of illicit sexual defined in G.S. 50-16.1A(3), during the marriage and prior to or on the date of separation" then alimony will be awarded to the dependent spouse. N.C.G.S.A. § 50-16.3A

If both spouses engaged in illicit sexual behavior during and prior to or on the date of separate, the court can choose whether to deny or award alimony. N.C.G.S.A. § 50-16.3A

2. Determination of Amount

The court has discretion in the amount, duration, and manner of the award. The court will consider:

- (1) The marital misconduct of either of the spouses. Nothing herein shall prevent a court from considering incidents of post date-of-separation marital misconduct as corroborating evidence supporting other evidence that marital misconduct occurred during the marriage and prior to date of separation;
- (2) The relative earnings and earning capacities of the spouses;
- (3) The ages and the physical, mental, and emotional conditions of the spouses;
- (4) The amount and sources of earned and unearned income of both spouses, including but not limited to, earnings, dividends, and benefits such as medical, retirement, insurance, social security, or others;
- (5) The duration of the marriage;
- (6) The contribution by one spouse to the education, training, or increased earning power of the other spouse;
- (7) The extent to which the earning power, expenses, or financial obligations of a spouse will be affected by reason of serving as the custodian of a minor child;
- (8) The standard of living of the spouses established during the marriage;
- (9) The relative education of the spouses and the time necessary to acquire sufficient education or training to enable the spouse seeking alimony to find employment to meet his or her reasonable economic needs;
- (10) the relative assets and liabilities of the spouses and the relative debt service requirements of the spouses, including legal obligations of support;
- (11) the property brought to the marriage by either spouse;
- (12) the contribution of a spouse as homemaker;
- (13) the relative needs of the spouses;
- (14) the federal, State, and local tax ramifications of the alimony award;
- (15) any other factor relating to the economic circumstances of the parties that the court finds to be just and proper.

3. Determination of Duration

The court has discretion in determining the duration. "The duration of the award may be for a specified or for an indefinite term." N.C.G.S.A. § 50-16.3A

The factors used to determine the amount also apply to determining the duration. N.C.G.S.A. § 50-16.3A

NORTH DAKOTA

N.D. Century Code 14-05-24.1

1. Eligibility Requirements

Person seeking support must not be remarried or by preponderance of the evidence, habitually cohabitating with another individual analogous to a marriage.

2. Determination of Amount

The court may consider:

- a. the income and earning abilities of each spouse
- b. the age and physical, mental and emotional health of the spouses
- c. the length of the marriage
- d. the conduct of the spouses during the marriage
- e. the needs of each spouse and the ability of the supporting spouse to pay, and
- f. the financial circumstance of each spouse based on the property owned, the value of the property, whether it is income-producing property, and whether the property was acquired before or during marriage

3. Determination of Duration

Support is to be award for a “limited amount of time,” but the court may modify.

OHIO

Ohio Revised Section, 3105.18

1. Eligibility Requirements

An award of support must be for the reasonable sustenance and support of the spouse or former spouse

2. Determination of Amount

The award of support shall be based on the following factors:

- a. The income of the parties, from all sources, including, but not limited to, income derived from property divided, disbursed, or distributed under section 3105.171 of the Revised Code;
- b. The relative earning abilities of the parties;
- c. The ages and the physical, mental, and emotional conditions of the parties;
- d. The retirement benefits of the parties;
- e. The duration of the marriage;
- f. The extent to which it would be inappropriate for a party, because that party will be custodian of a minor child of the marriage, to seek employment outside the home;
- g. The standard of living of the parties established during the marriage;
- h. The relative extent of education of the parties;
- i. The relative assets and liabilities of the parties, including but not limited to any court-ordered payments by the parties;
- j. The contribution of each party to the education, training, or earning ability of the other party, including, but not limited to, any party's contribution to the acquisition of a professional degree of the other party;
- k. The time and expense necessary for the spouse who is seeking spousal support to acquire education, training, or job experience so that the spouse will be qualified to obtain

appropriate employment, provided the education, training, or job experience, and employment is, in fact, sought;

- l. The tax consequences, for each party, of an award of spousal support;
- m. The lost income production capacity of either party that resulted from that party's marital responsibilities;
- n. Any other factor that the court expressly finds to be relevant and equitable

3. Determination of Duration

Support terminates upon the death of either party and remarriage of the recipient.

OKLAHOMA

Oklahoma Statutes §§ 43-110, 42-121, 43-134

1. Eligibility Requirements

Support may be ordered upon final decree of divorce.

2. Determination of Amount

No guideline calculations, but the court will look at each spouses' circumstances, considering the needs of each spouse and the ability of the supporting spouse to pay. The court will also consider the length of marriage and spouses' ability to be self-supporting. The court will take "due regard" for the value of property "at the time of dissolution."

3. Determination of Duration

The duration of alimony orders made in the divorce decree will depend on what the court finds is reasonable under the circumstances. The court will consider the length of the marriage and how long it will take the supported spouse to become self-supporting. Support will end automatically upon: (1) remarriage, (2) death.

OREGON

ORS 107.095(1)(a), 107.105, 107.135

1. Eligibility Requirements

Support may be ordered upon final decree of divorce.

2. Determination of Amount

The following factors shall be taken into consideration when determining an award of spousal support:

- a. the length of the marriage
- b. the ages of each spouse
- c. the spouses' physical, mental and emotional health
- d. the standard of living during the marriage
- e. each spouse's incomes
- f. the training and employment skills of the supported spouse
- g. the work experience of the supported spouse
- h. each spouse's financial needs and resources
- i. the effect spousal support will have on each spouse's taxes
- j. whether either spouse has custody of a child and/or pays child support, and
- k. any other factors that are appropriate to consider in making a fair order.

3. Determination of Duration

Spousal maintenance may be ordered for a set period of time or it may be ongoing based on discretion of the judge and the foregoing factors.

PENNSYLVANIA

23 Pa. C.S.A. § 3701; 231 Pa. Code Rule 1910.16-4

1. Eligibility Requirements

Support may be ordered upon final decree of divorce.

2. Determination of Amount

Pennsylvania law requires that the court use set guidelines to calculate the amount of the order under 231 Pa. Code Rule 1910.16-4. Additionally, the court will consider the following factors:

- a. the relative earnings and earning capacities of the parties.
- b. The ages and the physical, mental and emotional conditions of the parties.
- c. The sources of income of both parties, including, but not limited to, medical, retirement, insurance or other benefits.
- d. The expectancies and inheritances of the parties.
- e. The duration of the marriage.
- f. The contribution by one party to the education, training or increased earning power of the other party.
- g. The extent to which the earning power, expenses or financial obligations of a party will be affected by reason of serving as the custodian of a minor child.
- h. The standard of living of the parties established during the marriage.
- i. The relative education of the parties and the time necessary to acquire sufficient education or training to enable the party seeking alimony to find appropriate employment.
- j. The relative assets and liabilities of the parties.
- k. The property brought to the marriage by either party.
- l. The contribution of a spouse as homemaker.
- m. The relative needs of the parties.
- n. The marital misconduct of either of the parties during the marriage.

3. Determination of Duration

Court shall determine duration of the order (either definite or indefinite) based on what is reasonable under the circumstances. The alimony order will end automatically if:

- a. the spouse receiving the alimony gets remarried
- b. the spouse receiving the alimony is living with a person of the opposite sex who is not a family member
- c. the spouse receiving alimony dies, or
- d. the spouse paying alimony dies, unless the order or agreement says that it will continue.

RHODE ISLAND

Rhode Island Statute § 15-5-16

1. Eligibility Requirements

Support may be ordered upon final decree of divorce.

2. Determination of Amount

The Court must consider the following factors:

- a. the length of the marriage
- b. the spouses' conduct during the marriage
- c. the age and health of the spouses, their employment situation and income, and their job skills and ability to work
- d. whether a spouse has custody of a minor child of the marriage and as a result is unable to work enough to earn sufficient income

- e. if one spouse was a homemaker during the marriage, whether that spouse will need training or education to earn sufficient income to be self-supporting, and if so, the expense and time the training or education would take
- f. the standard of living during the marriage
- g. the opportunity of either spouse to earn income or acquire property in the future, and
- h. the ability of the supporting spouse to pay alimony, considering that spouse's earning ability, income, property, debts, and standard of living.

3. Determination of Duration

Payments may be for a set duration or "life time" based on the discretion of the court. Payments terminate upon death or remarriage.

SOUTH CAROLINA

SC Code of Laws 20-3-130

1. Eligibility Requirements

The spouse seeking support must not have committed adultery before the earliest of these two events: (1) the formal signing of a written property or marital settlement agreement or (2) entry of a permanent order of separate maintenance and support or of a permanent order approving a property or marital settlement agreement between the parties.

2. Determination of Amount

The court must consider the following factors:

- a. the length of the marriage
- b. the age of the spouses when they got married and at the time of the divorce
- c. each spouse's educational background, and -whether either spouse needs additional education or training to increase earning ability
- d. each spouse's physical and mental condition
- e. each spouse's employment history and earning ability
- f. the standard of living during the marriage
- g. the current earnings of the spouses and any expected changes in their incomes
- h. the current expenses of the spouses and any expected changes in their expenses
- i. each spouse's separate and marital property, including property awarded in the divorce or separation proceedings
- j. which spouse has custody of the children and whether that spouse can be expected to work outside of the home or on a full-time basis
- k. any misconduct or fault of either spouse that affected the couple's financial circumstances or contributed to the breakup of the marriage, if the misconduct happened before the spouses signed an agreement dividing their property or before the court entered a permanent order for separation or divorce
- l. tax consequences of support payments to each spouse, and
- m. whether either spouse is paying support to another person.

3. Determination Duration

The duration of the support award depends upon the type of support ordered:

If periodic alimony, it is ongoing, but it will end early if the supported spouse remarries or lives with another person in a romantic relationship for 90 days or more. It also ends if either spouse dies, unless the order states that the payments continue after the paying spouse dies.

If rehabilitative alimony, it ends when the total amount is paid. It will also end early if the supported spouse remarries or lives with another person in a romantic relationship for 90 days or more. This type of order also ends if either spouse dies, unless the order states that the payments continue after the paying spouse dies. The court may end the order early if the paying spouse is no longer able to continue the payments due to changed circumstances.

If reimbursement alimony, it ends when the total amount is paid in full. It will end early if the supported spouse remarries or lives with another person in a romantic relationship for 90 days or more. It also ends if either spouse dies, unless the order states that the payments continue after the paying spouse dies.

SOUTH DAKOTA

S.D.C.L. 25-4-38; S.D.C.L. 25-4-40; S.D.C.L. 25-4-41; *Hill v. Hill*, 763 N.W.2d 818 (S. D. 2009)

1. Eligibility Requirements

Support may be ordered upon final decree of divorce.

2. Determination of Amount

While no factors are mentioned within the statute, case law provides that the following will be considered: (1) the duration of the marriage; (2) the value of the property owned by the parties; (3) the ages of the parties; (4) the health of the parties; (5) the competency of the parties to earn a living; (6) the contribution of each party to the accumulation of the property; and (7) the income-producing capacity of the parties' assets. (See *Hill v. Hill*, 763 N.W.2d 818 (S. D. 2009))

3. Determination of Duration

Support terminates upon death of either party or remarriage of the recipient spouse, or as otherwise ordered by the court based upon the circumstances of the case.

TENNESSEE

Tenn. Code § 36-5-121

1. Eligibility Requirements

Support may be ordered upon final decree of divorce based on the financial needs of each spouse and the financial ability of each spouse to meet those needs

2. Determination of Amount

The court must consider the following factors:

- a. each spouse's earning ability, obligations, needs, and financial resources (including from pension or retirement accounts)
- b. each spouse's training and education, and whether they have the need and ability to obtain further education and training to improve their earning ability
- c. the length of the marriage
- d. the age and mental condition of each spouse
- e. the physical condition of each spouse, including any physical incapacity due to a chronic disease
- f. whether a spouse has custody of a minor child of the marriage and as a result finds it difficult to work outside the home
- g. each spouse's separate property
- h. how the court divided the marital property in the divorce or separation
- i. the standard of living the spouses shared during the marriage
- j. how each party contributed to the marriage financially or as a homemaker, and whether either spouse helped the other achieve training, education, or increased income

- k. the fault of each spouse, if the court finds it appropriate to consider fault, and
- l. tax consequences of support payments to each spouse.

3. **Determination of Duration**

How long an alimony order lasts depends on what type of alimony order the court makes:

If it is a rehabilitative alimony order, it will last as long as the judge thinks it should reasonably take the supported spouse to reach the income goals. The court may increase or decrease the amount of the order, terminate the order early, or extend the end date if circumstances change. Rehabilitative alimony will end automatically if the supported spouse dies, and also if the paying spouse dies, unless the order states otherwise.

If it is alimony in futuro, it will be on a long-term basis. The order will end if the supported spouse dies or remarries, or if the paying spouse dies, unless the order specifically states otherwise. The court may end or reduce alimony in futuro if the supported spouse begins to live with someone else, unless there's evidence that the other person is not supporting or receiving support from the supported spouse.

The court will order transitional alimony to last for as long as it's anticipated the supported spouse will need to adjust to the new financial circumstances resulting from the divorce or separation. The order will end before its termination date if the supported spouse dies, and will also end if the paying spouse dies, unless the order specifically states otherwise. In addition, the court may end or reduce alimony in futuro if the supported spouse begins to live with someone else, unless there's evidence that the other person is not supporting or receiving support from the supported spouse.

If it is alimony in solido it does not end when a party dies, remarries, or lives with another person. The obligation to pay the lump sum amount continues until all payments are made.

TEXAS

Tex. Fam. Code § 8.051-056.

1. **Eligibility Requirements**

The court may order spousal maintenance if the spouse seeking support will not have enough property at the time of the divorce to provide for basic needs and one of the following circumstances exists:

- 1. one spouse is convicted of committing family violence against the other spouse or the other spouse's child during the marriage, if the violence occurred during the divorce proceedings or within two years before the filing of the divorce action;
- 2. the spouse seeking support is unable to earn enough income to provide for basic needs because of a physical or mental disability;
- 3. the spouses were married for ten years or longer, and the spouse seeking support is unable to earn enough income to provide for basic needs; or
- 4. the spouse seeking support has custody of a child of the marriage who requires special care and supervision because of a mental or physical disability, preventing the custodial spouse from earning enough income for basic needs.

2. **Determination of Amount**

The court must consider the following factors:

- a. each spouse's financial resources at the time of the divorce and the ability to provide for that spouse's own basic needs

- b. each spouse's education and employment skills, how long it would take and how manageable it would be for the spouse seeking maintenance to receive education or training, and the availability of the training or education
- c. the length of the marriage
- d. the age, employment history, earning ability, and physical and emotional health of the spouse seeking maintenance
- e. whether either spouse is paying child support and, if so, how the child support payments affect that spouse's ability to also provide for his or her own basic needs
- f. whether either spouse spent community property funds excessively or destroyed, concealed, or fraudulently disposed of joint property
- g. whether the spouse seeking support contributed to the education or training or increased the earning ability of the other spouse
- h. the property each spouse brought to the marriage
- i. whether one spouse was a homemaker during marriage
- j. any acts of adultery or cruel treatment by either spouse, and
- k. any history or pattern of family violence.

3. Determination of Duration

An order for spousal maintenance can last no longer than:

- a. 5 years, if the marriage lasted less than 10 years and the court ordered maintenance because the paying spouse committed an act of family violence;
- b. 5 years, if the marriage lasted between ten and 20 years;
- c. 7 years, if the marriage lasted between 20 and 30 years, and
- d. 10 years, if the marriage lasted 30 years or longer.

A maintenance order will end before its termination date when: one of the spouses dies; the spouse receiving maintenance remarries, or if the court finds after a hearing that the spouse receiving maintenance lives in a permanent home with another person in a dating or romantic relationship.

UTAH

Utah Codes Section 30-3-5

1. Eligibility Requirements

Support may be ordered upon final decree of divorce

2. Determination of Amount

There is no set formula for determining the amount of support, but the court may attempt to equalize the parties' respective standard of living.

In making that determination the court shall consider the following factors:

- a. the financial condition and needs of the recipient spouse;
- b. the recipient's earning capacity or ability to produce income;
- c. the ability of the payor spouse to provide support;
- d. the length of the marriage;
- e. whether the recipient spouse has custody of minor children requiring support;
- f. whether the recipient spouse worked in a business owned or operated by the payor spouse;
- g. whether the recipient spouse directly contributed to any increase in the payor spouse's skill by paying for education received by the payor spouse or enabling the payor spouse to attend school during the marriage
- h. fault in the relationship
- i. standard of living

3. Determination of Duration

Alimony may not be ordered for a duration longer than the number of years of the marriage unless, at any time prior to termination of alimony, the court finds extenuating circumstances that justify the payment of alimony for a longer period of time. Support automatically ends by remarriage, cohabitation, or death.

VERMONT

Vermont Statutes Sections 15:752 and 15:758

1. Eligibility Requirements

Spouse must (1) lack sufficient income, property, or both, to provide for his or her reasonable needs; and (2) is unable to support himself or herself through appropriate employment at the standard of living established during the civil marriage or (3) is the custodian of a child of the parties.

2. Determination of Amount

The court considers all relevant factors, including but not limited to:

- a. the financial resources of the party seeking maintenance,
- b. the property apportioned to the party,
- c. the party's ability to meet his or her needs independently,
- d. the extent to which a provision for support of a child living with the party contains a sum for that party as custodian;
- e. the time and expense necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;
- f. the standard of living established during the civil marriage;
- g. the duration of the civil marriage;
- h. the age and the physical and emotional condition of each spouse;
- i. the ability of the spouse from whom maintenance is sought to meet his or her reasonable needs while meeting those of the spouse seeking maintenance; and
- j. inflation with relation to the cost of living.

3. Determination of Duration

Payment occurs for such periods of time as the court deems just. While the court may modify payments, payment does not automatically cease upon the remarriage of the recipient spouse.

VIRGINIA

Code of Virginia § 20-107.1

1. Eligibility Requirements

Support may be ordered upon final decree of divorce. No permanent maintenance and support shall be awarded from a spouse if there exists in such spouse's favor a ground of divorce under the provisions of subdivision A (1) of § 20-91 [including adultery, felony, cruelty]. However, the court may make such an award notwithstanding the existence of such ground if the court determines from clear and convincing evidence, that a denial of support and maintenance would constitute a manifest injustice, based upon the respective degrees of fault during the marriage and the relative economic circumstances of the parties.

2. Determination of Amount

The court shall consider the following factors in making an award of spousal support:

1. The obligations, needs and financial resources of the parties, including but not limited to income from all pension, profit sharing or retirement plans, of whatever nature;
2. The standard of living established during the marriage;

3. The duration of the marriage;
4. The age and physical and mental condition of the parties and any special circumstances of the family;
5. The extent to which the age, physical or mental condition or special circumstances of any child of the parties would make it appropriate that a party not seek employment outside of the home;
6. The contributions, monetary and nonmonetary, of each party to the well-being of the family;
7. The property interests of the parties, both real and personal, tangible and intangible;
8. The provisions made with regard to the marital property under § 20-107.3;
9. The earning capacity, including the skills, education and training of the parties and the present employment opportunities for persons possessing such earning capacity;
10. The opportunity for, ability of, and the time and costs involved for a party to acquire the appropriate education, training and employment to obtain the skills needed to enhance his or her earning ability;
11. The decisions regarding employment, career, economics, education and parenting arrangements made by the parties during the marriage and their effect on present and future earning potential, including the length of time one or both of the parties have been absent from the job market;
12. The extent to which either party has contributed to the attainment of education, training, career position or profession of the other party; and
13. Such other factors, including the tax consequences to each party and the circumstances and factors that contributed to the dissolution, specifically including any ground for divorce, as are necessary to consider the equities between the parties.

3. Determination of Duration

Spousal support may be awarded for a defined duration or undefined duration based on the discretion of the court. Spousal support automatically terminates if either spouse dies or if the recipient spouse remarries. The paying spouse may also seek to terminate payments if the recipient spouse has been living with a person in a relationship analogous to marriage for one year.

WASHINGTON

Revised Code of Washington Section 26-09-090 & 170

1. Eligibility Requirements

Support may be ordered upon final decree of divorce.

2. Determination of Amount

There is no formula for determining the amount of support. The Court shall consider the following factors:

- (a) The financial resources of the party seeking maintenance,
- (b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find employment appropriate to his or her skill, interests, style of life, and other attendant circumstances;
- (c) The standard of living established during the marriage or domestic partnership;
- (d) The duration of the marriage or domestic partnership;
- (e) The age, physical and emotional condition, and financial obligations of the spouse or domestic partner seeking maintenance; and
- (f) The ability of the spouse or domestic partner from whom maintenance is sought to meet his or her needs and financial obligations while meeting those of the spouse or domestic partner seeking maintenance

3. Determination of Duration

Payment ends upon remarriage, registration of a new domestic partnership or death.

WEST VIRGINIA

Code of West Virginia Sections 48-8-101 through 106.

Code of West Virginia Section 48-6-301.

1. Eligibility Requirements

Support may be ordered upon final decree of divorce. An award of spousal support cannot be ordered unless the parties are actually living separate and apart from each other.

2. Determination of Amount

The court shall consider the following factors:

- (1) The length of time the parties were married;
- (2) The period of time during the marriage when the parties actually lived together as husband and wife;
- (3) The present employment income and other recurring earnings of each party from any source;
- (4) The income-earning abilities of each of the parties, based upon such factors as educational background, training, employment skills, work experience, length of absence from the job market and custodial responsibilities for children;
- (5) The distribution of marital property to be made under the terms of a separation agreement;
- (6) The ages and the physical, mental and emotional condition of each party;
- (7) The educational qualifications of each party;
- (8) Whether either party has foregone or postponed economic, education or employment opportunities during the course of the marriage;
- (9) The standard of living established during the marriage;
- (10) The likelihood that the party seeking spousal support, child support or separate maintenance can substantially increase his or her income-earning abilities within a reasonable time by acquiring additional education or training;
- (11) Any financial or other contribution made by either party to the education, training, vocational skills, career or earning capacity of the other party;
- (12) The anticipated expense of obtaining the education and training described in subdivision (10) above;
- (13) The costs of educating minor children;
- (14) The costs of providing health care for each of the parties and their minor children;
- (15) The tax consequences to each party;
- (16) The extent to which it would be inappropriate for a party, because said party will be the custodian of a minor child or children, to seek employment outside the home;
- (17) The financial need of each party;
- (18) The legal obligations of each party to support himself or herself and to support any other person;
- (19) Costs and care associated with a minor or adult child's physical or mental disabilities; and
- (20) Such other factors as the court deems necessary or appropriate to consider in order to arrive at a fair and equitable grant of spousal support, child support or separate maintenance.

3. Determination of Duration

Payment is terminated upon remarriage or death.

WISCONSIN

Wisconsin Statutes § 767.56 & 531

1. Eligibility Requirements

Support may be ordered upon final decree of divorce.

2. Determination of Amount

The Court shall consider the following factors:

(a) The length of the marriage.

(b) The age and physical and emotional health of the parties.

(c) The division of property

(d) The educational level of each party at the time of marriage and at the time the action is commenced.

(e) The earning capacity of the party seeking maintenance,

(f) The feasibility that the party seeking maintenance can become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage, and, if so, the length of time necessary to achieve this goal.

(g) The tax consequences to each party.

(h) Any mutual agreement made by the parties before or during the marriage

(i) The contribution by one party to the education, training or increased earning power of the other.

(j) Such other factors as the court may in each individual case determine to be relevant.

3. Determination of Duration

Support may be granted for an indefinite or limited time based on the discretion of the court.

Support automatically terminates upon death of payer or payee.

WYOMING

Wyoming State Statutes § 20-2-114 and Section 20-2-116

4. Eligibility Requirements

Support may be ordered upon final decree of divorce.

5. Determination of Amount

There is no guideline calculation. The Court has wide discretion in awarding alimony based on all relevant evidence.

6. Determination of Duration

Payments may be for a set duration or “life time” based on the discretion of the court. Payments terminate upon death or remarriage.