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What You Should Know About Spousal Support

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"We've been married for 43 years, and now this divorce is happening!"

"I got a protection order and the police put him out of the house, and now I can't afford to pay the bills by myself."

"He gets a big pension plus Social Security, but keeps it all – my check is too small to buy much except food- that's not right!"

These are some of the things you might hear from individuals who need help getting **spousal support**. Spouses have a legal duty to support each other according to the amount of their income, whether they reside together or not.

The first questions you will be asked by your attorney concern "entitlement" to receive this support. That is, if you and your spouse are separated, do the circumstances under which you separated warrant an order of support against one of you and in favor of the other?

An order for spousal support is proper when one spouse deserts the other without reasonable cause, and, although having sufficient financial ability, neglects or refuses to provide suitable financial maintenance for the one with lower income.

To make out your case, you must be able to show that there is a valid marital relationship that has not been dissolved by divorce. Pennsylvania law does recognize common law marriage, so you may be able to establish a legal marriage even if you never obtained a marriage license, but the standards for establishing a common law marriage are high. A common law marriage exists when there is a "present agreement" to be married; merely "living together," even for a long time, may not be enough to create a common law marriage. This is an area of law which is complex and you should consult an attorney to determine whether your specific situation qualifies as a common law marriage.

A kind of support called alimony pendente lite is available to a spouse who is going through a divorce and does not have enough income to pay bills until the order is final. A spouse also needs to show that there aren't "fault grounds," such as would be considered for a divorce. For example, these fault grounds could be indignities, abuse, or adultery.

A spouse who has wrongfully moved out of a marital home (abandoned the other) and did so without adequate legal cause may be required to pay support. A spouse who left the marital residence voluntarily, with the consent of the spouse who remained, or who left

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with "adequate legal cause," such as to avoid abuse, may also be eligible to claim support.

You must prove that your spouse has refused or neglected to provide suitable maintenance. When there is no physical separation of households of the husband and wife (you may still be in the same house, but living "separate and apart"), then this refusal to support requires a clear showing of neglect. The court will not get involved in the budget disputes between a husband and wife.

The court must also be satisfied that the spouse you are requesting support from actually is financially capable of paying a support obligation. Any person whose income is less than \$550/month cannot have an order entered against him.

While spousal support does not always get paid to wives, in reality, it is husbands who often receive larger Social Security checks, pensions, etc., than their wives do. The person with the greater income and is responsible to pay support to the other is the "obligor"; the spouse who receives the support is the "obligee."

Spousal support awards are based upon statewide guidelines so people will be treated the same all over the state. The guidelines are based on "reasonable needs" of the person seeking support, and the ability of the other person to pay it. Again, by law, no one whose income is less than \$550/month would have an order entered against him.

To begin the spousal support process, the person seeking support must file a petition at Family Court – Domestic Relations. The clerk's office is now located at 1133 Chestnut Street, Philadelphia (next to the PGW office). The filing fee is \$5.00. The matter is then scheduled for a conference date in about four weeks. Both parties receive notice of the date, will receive Income and Expense Statements to fill out, and told to bring proof of income to the conference.

At the support conference, the conference officer determines the net income of the parties. Net income is the amount received, minus federal, state, and local income, and Social Security taxes, as well as any other support obligations (for families of other marriages). Any unusual needs and extraordinary expenses which a senior citizen may have will also be considered.

Each case is dependent upon its specific facts and parties. However, the individual who is entitled to receive spousal support commonly receives approximately 40% of the difference between the net incomes of the spouses. For example, if the husband's total net income is \$2,000 and wife's social security is only \$435/month, the difference between the two is \$1,565. Forty percent of that is \$626 and the husband would be ordered to pay \$626/month. This would bring the wife's income up to \$1,061 and the husband would retain \$1,374.

Those interested in seeking spousal support should discuss their situation with an attorney. SeniorLAW Center provides legal services and representation to older Philadelphians, focusing on those most in need. If you are a senior citizen in need of assistance, SeniorLAW Center may be able to assist you. For more information, contact SeniorLAW Center's intake line, Monday through Friday, 9

a.m. – 1 p.m. at (215) 238-6361.

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