

Q: I am a stay-at-home mom and haven't worked in 10 years. My husband is the CFO of his company, with a mid six-figure salary. Am I eligible for alimony in the event of a divorce? What about child support?



A: Alimony, or spousal maintenance as it is called in Arizona, is controlled by statute as to what the court must consider in making an award. Arizona also has a public policy, where the purpose of spousal maintenance is to be “rehabilitative.” This means that the award is meant to consider the timeframe to get you back into the workplace, so that you can be self-sufficient, if possible. Arizona law is also clear that just because one party makes more money than the other, spousal maintenance is not automatic. In reality spousal maintenance is one of the more complicated issues to correctly litigate, given the 17 different factors the court must consider, and the multitude of variables involved in determining an amount and duration of the award.

There are actually two “prongs” that Arizona courts use to determine spousal maintenance. The first prong must be satisfied before the Court gets into the determination as to the amount or duration; the second prong contains the factors that the court uses to determine the amount and duration of spousal maintenance.

To satisfy the first prong, the spouse seeking maintenance must meet any one of the following conditions: The spouse lacks sufficient property to account for their reasonable needs; is unable to be self-sufficient through appropriate employment; is the custodian of a young child and should not be required to seek employment; contributed to the educational opportunities of the other spouse; or was married a long time and is of an age that may preclude the possibility of gaining employment adequate to be self-sufficient.

Once this prong is satisfied, the court will then take a look at the factors which will help it in determining how much spousal maintenance the spouse should receive. These factors include: standard of living; the duration of the marriage; the age, employment history, earning ability and physical and emotional condition of the spouse seeking maintenance; the financial wherewithal of the spouse providing maintenance to provide for himself and the other spouse; the comparative financial resources of both spouses; and the extent to which one spouse limited the earning ability of the other spouse during the marriage. This is the complicated part of the test, as there are many variables that can drastically change the amount or duration of an award. A change of a couple hundred dollars per month in a budget, could result in tens' of thousands' of dollars' difference over the entire period spousal maintenance is paid.

From the basic information at this point it would appear that you most likely will be eligible for spousal maintenance, but an in-depth analysis of all of the statutory factors as well as consideration of the other property that will be or is being awarded to you would need to be done as well. Staying home to raise the children is a common reason for a spouse to receive spousal maintenance. However, every individual's situation is different, so you should consult with an attorney to make sure you get what you deserve. Arizona is also a “no-fault” divorce state, which means that it also does not matter whether a spouse was unfaithful or who initiated the dissolution of marriage.

Keith Berkshire is a Certified Specialist in Family Law by the State Bar of Arizona, the head of the Family Law Department at the Rose Law Group, pc., and can be contacted at 480-291-0736 or at kberkshire@roselawgroup.com.