

Is a spousal support issue standing in the way of your Ohio divorce?

Our law firm's attorney Michael J. Davis handles all areas of family law. Our 20 years worth of experience can help you with your agreement or settlement through mediation or litigation if necessary.

We can help you with your spousal support issues and with modifications of those arrangements in the future.

[Contact](#) our law office today for an initial consultation. We're available by phone, fax and e-mail.

Handling All Areas of Family Law

Alimony laws provide spousal support to either spouse and are determined by factors such as earning capacity, lost income, education of the parties, and assets and liabilities. Other factors the court may consider are:

- Ages and physical, mental, emotional conditions of the parties
- Retirement benefits of the parties
- Length of the marriage
- Standard of living of the parties
- Relative assets and liabilities of the parties
- Time and expense necessary for the spouse seeking support to acquire education, training or job experience
- Tax consequences for each party of an award of spousal support
- Lost income production capacity of either party resulting from marital responsibilities

When living conditions change and affect spousal support or child support arrangements, we can efficiently handle any post-decree modifications that may be necessary.

Contact our law offices for **your initial consultation** with our spousal support lawyer **Michael J. Davis**.

For over 20 years, we've helped divorcing couples throughout Ohio to go about their uncontested divorces in a timely, inexpensive manner.

[Call, fax or e-mail us](#) today to schedule that important first visit. We're flexible with schedules and availability and handle all areas of family law.

What is "spousal support"?

Ohio no longer uses the term "alimony." Instead, Ohio uses the term "spousal support" when referring to an allowance of money or property that is not intended as a division of marital property. Ohio's current law defines spousal support as "the payment or payments to be made to a spouse or former spouse...that is both for sustenance and for support of the spouse or former spouse."

When may spousal support be ordered?

The court may order spousal support in a divorce action (including temporary spousal support during the time the divorce action is pending), or in an action for support only (i.e. a spouse may request only that the court order spousal support while not requesting that the court terminate the marriage, sometimes referred to as a "legal separation").

Ohio law requires that a married person support his or her spouse. Spousal support is an allowance for nourishment or sustenance which the court may compel one spouse to pay to the other when they are living apart or have been divorced. While spousal support, whether temporary support during the pendency of the divorce action ("spousal support *pendente lite*," also commonly referred to as "temporary alimony") or permanent (regardless of the actual length of time) is ordinarily granted to the wife, Ohio law provides that in appropriate cases, spousal support may be granted to the husband.

An award of spousal support *pendente lite* is discretionary with the court. The court may include in a temporary spousal support award expenses for such items as housing (i.e. rent or mortgage payment), food, medical expenses, transportation and attorney fees. A temporary spousal support award automatically terminates after a divorce, annulment or legal separation decree has been entered.

How is the amount of temporary spousal support determined?

With regard to a temporary spousal support award, there is no precise formula for determining the amount that will be awarded. The court must use its judicial discretion and take into consideration the ability to pay of the party who is to be paying the temporary spousal support and the present needs of the party to whom the temporary spousal support is to be paid. The court is required to take into consideration the standard of living of the parties immediately prior to the time of separation of the parties or the beginning of the marital discord.

How is the issue of whether permanent spousal support is to be ordered determined and if it is to be awarded how is the amount determined?

When determining whether to grant permanent spousal support and if it is granted, the nature, amount and duration of the payments, the trial court is required to consider fourteen factors. These factors are:

1. The income of the parties, from all sources, including, but not limited to, income derived from property awarded as part of the property division in the divorce proceeding;
2. The relative earning abilities of the parties;
3. The ages and the physical, mental and emotional conditions of the parties;
4. The retirement benefits of the parties;
5. The duration of the marriage;
6. The extent to which it would be inappropriate for a party, because he/she will be custodian of a minor child or children of the marriage, to seek employment outside the home;
7. The standard of living of the parties established during the marriage;
8. The relative extent of education of the parties;
9. The relative assets and liabilities of the parties, including, but not limited to any court-ordered payments by the parties;
10. 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;
11. 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;
12. The tax consequences, for each party, of an award of spousal support;
13. The lost income production capacity of either party that resulted from that party's marital responsibilities; and
14. Any other fact that the court expressly finds to be relevant and equitable.

If the court determines that permanent spousal support is warranted, when determining the amount of the award, the court must consider the ability to pay of the party who is to be paying the spousal support and the needs of the party to whom the spousal support is to be paid.

How long does spousal support last?

Spousal support can be for a specified length of time (i.e. 24 months, 48 months, etc.), may be

ordered, in the appropriate case, to continue indefinitely, or may be ordered to terminate upon the occurrence of a specified event (i.e. remarriage of the payee-spouse or death of either party). The preference is for the termination of support "at a date certain," but the court has discretion in making the determination. The court may order spousal support for a specified length of time and maintain jurisdiction of the support issue so that it can be reviewed again to see if it should continue as is, be modified or terminated.

Can permanent spousal support be modified or terminated?

If the decree that orders permanent spousal support makes a specific provision that permits the court to modify the spousal support award, the court retains jurisdiction to hear any motion requesting a modification of the existing award. The court can expressly reserve jurisdiction in its order in a contested divorce matter or the parties can agree, in a separation agreement that is subsequently incorporated into a divorce decree, to make spousal support modifiable. If there is no provision contained in the divorce decree (or a separation agreement incorporated into a divorce decree) that reserves the jurisdiction of the court to modify the spousal support award, the award is not modifiable.

Because of a change in the law, divorce decrees filed before May 2, 1986, and not arising out of a separation agreement incorporated into a decree, do not have to have a specific reservation of jurisdiction in order for the court to consider a modification or termination of spousal support.

Divorce decrees which incorporate separation agreements and which were entered on or before June 23, 1976 are not modifiable unless there has been a mistake, misrepresentation, fraud, or an express reservation of jurisdiction to modify. Divorce decrees which incorporate separation agreements and which were entered after June 23, 1976 but before May 2, 1986 are modifiable and such modification is not limited only to situations of mistake, misrepresentation, fraud, and the separation agreement or decree does not have to have an express reservation of jurisdiction to modify.

If the court has retained jurisdiction to modify spousal support (or under the other situations described above where the court may modify), it may only do so where the court determines that there has been a material or substantial change in the circumstances of either party that could not reasonably have been anticipated at the time of the original decree. A change in circumstance includes:

1. Altered economic conditions (i.e. an involuntary decrease in income);
2. Remarriage of the recipient;
3. Death;
4. Entering into a relationship in another state that would constitute a valid marriage in Ohio;
5. Post-decree cohabitation in certain situations;
6. Payor's increased ability to pay;
7. Retirement; and

8. Other circumstances.

Contact the Law Office of Michael J. Davis

To talk to Michael J. Davis about your legal concerns, please contact us by calling 513-604-8391 or emailing us at davislaw01@gmail.com

Michael J. Davis is located in Mason, Ohio, and serves clients throughout Ohio, including Lebanon, Maineville, Mason, Morrow, Springboro, South Lebanon, West Chester, Warren County, Butler County, Hamilton County, Clermont County and Clinton County, Ohio.