

## Delta Spousal Support and Alimony Definitions and Concepts

**Date of Separation:** This is the date when the parties start living separate and apart. The courts define separate and apart by looking at when the parties have separate budgets and bank accounts and live like roommates but not a couple. Also, the parties must no longer be intimate. This involves having separate bedrooms or sleeping areas. Thus, parties can still live under the same roof and be separated. A presumption arises that the date of separation is the date when a party files a divorce complaint.

**NOTE: The Date of Separation is extremely important because it is used to determine the value of the marital estate and also when a party can start receiving spousal support and child support.**

**Spousal Support:** In Pennsylvania, a spouse has a duty to support the other spouse. This unspoken duty begins the moment the parties are married and continues through divorce. A spouse can file and receive spousal support only after becoming **separated** but need not file for divorce. The amount of support is calculated using the **Income Shares Formula** discussed in **Step 2 – Child Support** and is designed to allow the spouse receiving support to meet their basic needs similar to how they did this when married, given the combined income of the parties. When determining the duration of support the court will consider the length of the marriage (i.e., **Spousal Support** goes for a relatively longer period for longer marriages).

**Alimony Pendente Lite (APL):** This is a claim for the Defendant to pay the Plaintiff monthly payments to get them through the divorce process and put them on the same footing in the divorce as the spouse with more income. **APL** is sometimes confused with spousal support because they are calculated using the same formula and **Spousal Support** in effect becomes **APL** after a divorce complaint is filed. When determining the duration of **APL**, the court will consider the length of the marriage.

**Alimony:** This is financial support paid by one party to the other after the divorce is complete. The amount and length of time that **Alimony** is paid depends on what is fair and equitable and allows a party to transition from marriage to the single life. **Alimony** is not awarded in every divorce. **Alimony** is not awarded today as much as in the past because spouses are now more on an even footing financially than in the past when the man earned most of the marital income. However, a simple rule of thumb is that a party awarded alimony gets 1 year of **Alimony** for every year of the marriage. **Alimony** typically ends if the party receiving it gets remarried or cohabitates with a member of the opposite sex who is not a family member. There are many factors that the court must consider when awarding **Alimony** as follows:

- (1) The relative earnings and earning capacities of the parties.
- (2) The ages and the physical, mental and emotional conditions of the parties.
- (3) The sources of income of both parties, including, but not limited to, medical, retirement, insurance or other benefits.
- (4) The expectancies and inheritances of the parties.
- (5) The duration of the marriage.
- (6) The contribution by one party to the education, training or increased earning power of the other party.
- (7) 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.
- (8) The standard of living of the parties established during the marriage.
- (9) 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.
- (10) The relative assets and liabilities of the parties.
- (11) The property brought to the marriage by either party.
- (12) The contribution of a spouse as homemaker.

- (13) The relative needs of the parties.
- (14) The marital misconduct of either of the parties during the marriage. The marital misconduct of either of the parties from the date of final separation shall not be considered by the court in its determinations relative to alimony, except that the court shall consider the abuse of one party by the other party.
- (15) The Federal, State and local tax ramifications of the alimony award.
- (16) Whether the party seeking alimony lacks sufficient property to provide for the party's reasonable needs.
- (17) Whether the party seeking alimony is incapable of self-support through appropriate employment.

**Earning Capacity:** See **Step 2 – Child Support** for this definition.