
SPOUSAL SUPPORT

This pamphlet contains general information about your rights. Consult a lawyer if you have specific questions.

CENTRAL VIRGINIA LEGAL AID SOCIETY, INC.
101 WEST BROAD STREET, SUITE 101
P.O. BOX 12206
RICHMOND, VA 23241

**CENTRAL VIRGINIA LEGAL AID
SOCIETY, INC.**

**101 WEST BROAD STREET,
SUITE 101**

P.O. Box 12206

RICHMOND, VIRGINIA 23241

1-804-648-1012

1-800-868 1012

WWW.CVLAS.ORG

WWW.VALEGALAID.ORG

CVLAS is a non-profit organization providing free legal advice, and representation to low income or elderly people in Central Virginia. Contact us Monday - Thursday 9-12 to see if you qualify for services.

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Spousal support is court ordered payment to a spouse or ex-spouse. You may get spousal support if you are divorced or married, but living separate and apart from your spouse. Spousal support is sometimes called alimony.

HOW DO I GET SPOUSAL SUPPORT?

You file a Petition for Spousal Support with the Juvenile and Domestic Relations Court (J&DR) in the County or City where your spouse lives. You can do this by yourself, without an attorney, and without a filing fee. The court will usually hear your Petition within a few weeks.

WHAT HAPPENS AT A SPOUSAL SUPPORT HEARING?

The judge hears evidence about your and your spouse's income and expenses. If the judge decides to give spousal support, she will issue a Spousal Support Order.

HOW DOES THE JUDGE DECIDE WHO GETS SPOUSAL SUPPORT AND THE AMOUNT?

Judges look at many factors in deciding spousal support. These include:

- How long you've been married.
- How much money each person has contributed to the marriage.
- Other than money, what has each person contributed to the marriage.
- Whether either person gave up money by getting married.
- The debts, needs, income and resources of you and your spouse.
- The standard of living of your marriage.
- Your ages and your physical and mental conditions.
- The earning ability, skills, education, and work history of you and your spouse.

- How much each of you helped the other during the marriage.

If you are divorced, the judge will also look at the reasons your marriage ended. If the divorce was based on your fault you probably will not get spousal support. Virginia has five reasons for a fault based divorce:

- Adultery.
- Conviction of a felony and sentence to more than one year in prison.
- Physical cruelty.
- Desertion. This means leaving your spouse without a good reason.
- Constructive desertion. This means forcing your spouse to leave.

DO I NEED A LEGAL SEPARATION TO GET SPOUSAL SUPPORT?

No. There is no such thing as a "legal separation" or "legal separation proceedings" in Virginia. Separation is simply not living together. You don't need any papers to live separate and apart from your spouse.

HOW LONG DOES SPOUSAL SUPPORT LAST?

It depends. Usually, spousal support is ordered for an indefinite length of time, until the person being paid remarries or dies. But, sometimes spousal support also may be ordered for a set length of time. For example, the court can order that spousal support stop if the person being paid lives with a person of the opposite sex for a year the way married people do.

CAN SPOUSAL SUPPORT BE CHANGED?

Once spousal support has been set, it can't be changed unless there has been a material change in circumstances since the last Spousal Support Order. A material change in circumstances might include a significant increase or decrease in income because of unavoidable unemployment.

WHAT IF I CAN'T PAY MY SPOUSAL SUPPORT?

You must pay spousal support. Spousal support won't go away even if you file for bankruptcy. Unlike most other debts, you can be jailed if you intentionally fail to pay spousal support.

CAN I GET SPOUSAL SUPPORT IF I'M NOT MARRIED BUT HAVE LIVED WITH SOMEONE?

No. Virginia is not a "Palimony" state. Unmarried people who live with each other, even for many years, don't owe each other any duty of support when they separate.

HOW DOES PROPERTY OWNED BY MARRIED PEOPLE GET DIVIDED?

As part of spousal support a court can not divide the property that you and your spouse own. A court can divide your property only in a divorce proceeding. For more information about the division of property, please contact us or read the brochure "Equitable Distribution".