



# T B A

## — LAW —

### Spousal Maintenance

Spouse maintenance is financial support paid by a party to a marriage to their former husband or wife in circumstances where they are unable to adequately support themselves.

The most usual circumstance where it is paid is where, following separation, there are few assets to distribute between the parties, but one party has an income while the other party (the “needy party”) has little to no income as a result of the separation. If this has the effect that the needy party has inadequate means of supporting themselves, while the income earning party has the capacity to provide that support, then, provided it would be fair in the circumstances, the higher income party should provide financial support to the needy party. The support may be for a fixed period of time, indefinitely, or until the occurrence of a specific event.

The court considers the needs of an applicant and the respondent's capacity to pay and in particular:

- your age and health

- your income, property, and financial resources
- your ability to work
- what is a suitable standard of living, and
- if the marriage has affected your ability to earn an income.

If it is appropriate in your circumstances for a party to pay spousal maintenance, it can be done so pursuant to a Court order or by agreement. In some cases, spousal maintenance is paid in a lump sum rather than over a period of time. When this occurs, it will be included in the actual property settlement, usually expressed as a specific percentage distribution rather than an ongoing payment.

Whether it is you or your ex-spouse who is seeking spousal maintenance, consult our team at TBA Law to get an accurate idea about entitlements and how to give legal effect to a maintenance order or agreement.

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