

Support rules are matters for court

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QUESTION: Will the court award spousal support or alimony after the initial divorce is filed but before the judgment of divorce is entered?

ANSWER: A judgment of divorce can not be finalized for at least six months and one day after a spouse is served appears in court for the divorce action or files court papers agreeing to let the court decide the issues of divorce.

During this six-month time period (or longer in complicated divorces) between the filing and serving of the divorce papers and the final divorce decree temporary spousal support can be given to one spouse.

The need and amount of temporary spousal support lies solely within the court's discretion based broadly upon need and ability to pay.

QUESTION: Will the court award spousal support or alimony after the final judgment of divorce is entered?

ANSWER: Permanent spousal support after the judgment of the divorce decree is entered is dependent upon many factors. These factors include the standard of living during the marriage the marketable skills of each party a spouse's ability to pay the age and health of each party and the duration of the marriage.

All of these factors must be weighed by the court and the court should use a balancing test to determine the proper amount of spousal support.

QUESTION: I am a divorced father who has one minor child age 16. My ex-wife has primary physical custody and I have visitation every other weekend and half of the summer.

How long am I responsible for paying child support?

ANSWER: You would have to pay child support as long as the custody/visitation arrangement remains the same until the minor child is 18 and has graduated high school or is 19 if he or she has not graduated high school.

The only exemptions are if the minor child dies marries or becomes emancipated before turning 18.

QUESTION: The minor child graduated high school at 18. Now the child is 19 and my wages are still being garnished by the court. What can I do to stop the wages from being garnished from my paycheck?

ANSWER: You can bring a motion in court for the appropriate relief which would be to stop the garnishment and to be reimbursed for any overpayment in child support since the child turned 18 and graduated from high school.

QUESTION: I was in court a year ago and the final divorce decree awarded joint physical custody of our daughter to my husband and me. The judge mentioned that the time share was 50/50.

My husband moved out of state and now only sees our daughter for 90 days during the summer. Can I go back into court to get my child support increased?

ANSWER: It depends on whether each party has the same income tax-filing status dependency exemptions day-care amount health-care costs and additional factors the court used a year to determine the child support calculation.

Also it would depend on whether the only thing that has changed is your ex-husband's visitation factor which has decreased from 50 percent to around 25 percent.

If this is now the scenario chances are your child support could go up based upon this decreased visitation factor.

QUESTION: Will the court require my ex-husband to pay for child care on top of his court - ordered child support?

ANSWER: Child-care costs related to your employment or your reasonably necessary education or training for employment skills must or shall be ordered for additional child support according to state statute. As a local practice these practitioners find that most courts in Los Angeles and Ventura counties split child care equally and allocate their costs 50 percent to each parent.

Thus for example if child-care costs for a 6-year-old daughter cost \$300 monthly each parent would be responsible for \$150 of the costs.

There is however nothing these practitioners have seen that does not allow argument for one party to pay more than 50 percent of the day-care costs if that party is disproportionately better off financially than the other party.

In other words if the ex-husband makes \$40000 more per year than the ex-wife the ex-husband is in a better position financially to shoulder more than 50 percent of the day-care costs.

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