

New Jersey Alimony Law

Traditionally, New Jersey Courts were empowered to order permanent alimony or rehabilitative alimony, or even reimbursement alimony (usually to a spouse who contributed significantly to the acquisition of a higher education of the other spouse) but not alimony for a specifically predetermined period of time.

Effective September 13, 1999 New Jersey's alimony laws were expanded to allow a Judge to order a supporting spouse to pay alimony for a specific period of time.

Prior to the enactment of this new law, parties were free to contract to what was called "term alimony" but Courts were not authorized to award it if the parties did not contract to it.

The new law specifically states that court shall not award limited duration alimony as a substitute for permanent alimony in those cases where permanent alimony would otherwise be awarded.

An award of alimony for a limited duration may be modified based either upon changed circumstances, or upon the nonoccurrence of circumstances that the court found would occur at the time of the award.

The new law says that the Court may modify the amount of such an award, but shall not modify the length of the term except in unusual circumstances.

In determining the length of the term, the court shall consider the length of time it would reasonably take for the recipient to improve his or her earning capacity to a level where limited duration alimony is no longer appropriate.

Historically a New Jersey court has been empowered to make such order as to the alimony of the parties as the circumstances of the parties and the nature of the case shall render fit, reasonable and just.

Now the Court may award one or more of the following types of alimony:

1. permanent alimony;
2. rehabilitative alimony;
3. limited duration alimony (ie, term alimony), or
4. reimbursement alimony

to either party.

In making its order, the statute requires that the Court shall consider the following factors:

1. The actual need and ability of the parties to pay;
2. The duration of the marriage;
3. The age, physical and emotional health of the parties;
4. The standard of living established in the marriage and the likelihood that each party can maintain a reasonably comparable standard of living;
5. The earning capacities, educational levels, vocational skills, and employability of the parties;
6. The length of absence from the job market and custodial responsibilities for children of the party seeking alimony;
7. The parental responsibilities for the children;
8. The time and expense necessary to acquire sufficient education or training to enable the party seeking alimony to find appropriate employment, the availability of the training and employment, and the opportunity for future acquisitions of capital assets and income;
9. The history of the financial or non-financial contributions to the marriage by each party including contributions to the care and education of the children and interruption of personal careers or educational opportunities;
10. The equitable distribution of property ordered and any payouts on equitable distribution, directly or indirectly, out of current income, to the extent this consideration is reasonable, just and fair;
11. The income available to either party through investment of any assets held by that party;
12. The tax treatment and consequences to both parties of any alimony award, including the designation of all or a portion of the payment as a non- taxable payment; and
13. Any other factors which the court may deem relevant.

When a share of a retirement benefit is treated as an asset for purposes of equitable distribution of property, the court shall not consider income generated thereafter by that share for purposes of determining alimony.

If the court determines that an award of permanent alimony is not warranted, the court shall make specific findings on the evidence setting out the reasons therefor.

The court shall then consider whether alimony is appropriate for any or all of the following: (1) limited duration; (2) rehabilitative; (3) reimbursement. In so doing, the court shall consider and make specific findings on the evidence about factors set forth above.

Rehabilitative alimony shall be awarded based upon a plan in which the payee shows the scope of rehabilitation, the steps to be taken, and the time frame, including a period of employment during which rehabilitation will occur.

An award of rehabilitative alimony may be modified based either upon changed circumstances, or upon the nonoccurrence of circumstances that the court found would occur at the time of the rehabilitative award.

Permanent alimony may be modified if there should be a substantial change in circumstances, such as the ex-spouse remarrying, the ex-spouse cohabiting with someone else permanently under circumstances where one is helping support the other, or the ex-spouse no longer needing the alimony from the former spouse.

Reimbursement alimony may be awarded under circumstances in which one party supported the other through an advanced education, anticipating participation in the fruits of the earning capacity generated by that education.

In all actions for divorce other than those where judgment is granted solely on the ground of separation the court may consider also the proofs made in establishing such ground in determining an amount of alimony or maintenance that is fit, reasonable and just.

Alimony orders may be revised by the court from time to time as circumstances may require.

The court may order one party to pay a retainer on behalf of the other party for expert fees or for legal services when the respective financial circumstances of the parties make the award reasonable and just.

In sum, now the New Jersey Court has the authority to award not only permanent alimony, and/or rehabilitative alimony and/or reimbursement alimony, separately or in any combination, but the court now has a new tool available to it-- limited duration alimony-which is to be awarded by Courts as warranted by the circumstances of the parties and the nature of the case.

Our law firm handles a significant number of alimony cases. Please feel free to [contact us](#) if we may be of service to you.

This article is not intended to be viewed as legal advice. Every case is

different, and the reader should be advised to contact an attorney for complete legal advice on a given issue.

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