

# Spousal Support and Alimony in Nevada

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## Spousal Support/Alimony

Nevada law provides four basic kinds of alimony or spousal support that might be awarded in a divorce case. First, there is “temporary spousal support,” permitted under NRS 125.040, which refers to sums awarded from one spouse to another during a divorce action as “temporary maintenance.”

The other three types of alimony concern post-divorce payments from one spouse to the other, payable either in lump sum or periodic installments. “Permanent” alimony is alimony for which there is no termination date or event specified (other than the death of a party or, usually, re-marriage of the recipient).

“Temporary” alimony is similar, but has a specific termination date set out in the future, or a terminating event with an uncertain date.

“Rehabilitative” alimony is specifically contemplated by NRS 125.150(8), and is support for the purpose of allowing the receiving spouse to obtain training or education relating to a job, career or profession. In deciding whether to grant rehabilitative alimony, a court must explicitly consider whether the spouse who would pay such alimony has obtained greater job skills or education during the marriage, and whether the spouse who would receive such alimony provided financial support while the other spouse obtained job skills or education.

Other than for rehabilitative alimony, there is virtually no legislative guidance as to when alimony is appropriate, or how much should be

paid. The general statute, NRS 125.150(1), says only that such an award should be “just and equitable.”

The Nevada Supreme Court has issued many opinions over the years attempting to give some guidance, and established a “non-exclusive” list of factors to be considered. In 2007, the Nevada Legislature codified 11 “guideline factors” lifted directly from Nevada Supreme Court decisions, which a district court is required to “consider” in making an alimony award:

1. The financial condition of each spouse.
2. The nature and value of the respective property of each spouse.
3. The contribution of each spouse to any property held by the spouses pursuant to section 123.030 of the Nevada Revised Statutes.
4. The duration of marriage.
5. The income, earning capacity, age and health of each spouse.
6. The standard of living during the marriage.
7. The career before the marriage of the spouse who would receive the alimony.
8. The existence of specialized education or training or the level of marketable skills attained by each spouse during the marriage.
9. The contribution of either spouse as homemaker.
10. The award of property granted by the court in the divorce, other than child support and alimony, to the spouse who would receive the alimony.

11. The physical and mental condition of each party as it relates to the financial condition, health and ability to work of that spouse.

The legislative history adopting those factors is devoid of any discussion or consideration of whether the factors listed make any sense individually or in combination or how they were to be prioritized, weighted, or applied in making awards.

The Nevada Supreme Court has been quite clear in noting, however, that simple “fault” or “bad acts” not directly causing economic harm do not qualify and are explicitly not to be considered in the granting or not granting of alimony. Also, there is no longer any difference between genders — either husbands or wives may receive, or be ordered to pay, alimony.

In 2010, the Court held that whenever the potential alimony obligor was wealthy, old, and sick, the possibility of awarding lump sum alimony must be explicitly considered when an alimony award is made. *Schwartz v. Schwartz*

This office has put together an Alimony Factor Table showing all of the important alimony cases decided in the past 20 years, and the facts, legal tests, and results in those cases, to show what the Court has actually ordered in various scenarios. Additionally, the State Bar Family Law Section attempted to create a mathematical abstract of those cases, assigning mathematical weights to the actual factors used by the Court. Called the “Tonopah Formula” Gross or Net, it allows a totally objective review of the numbers involved in a given case, which

might give a starting point to a party, attorney, or judge, in figuring whether a case is facially an “alimony case,” and what kinds of sums might be considered reasonable in view of precedent.

One peculiarity of the Uniform Interstate Family Support Act (“UIFSA”) is that only the State which made an original alimony award may modify it — no matter how many years have passed, and even if all parties have left the State of issuance. This makes alimony modifications follow very different rules from those relating to child support.

There is extensive case law regarding the award, modification, and termination of alimony awards, and it is among the most subjective of questions presented to a court in a given case. It is still possible to make a reasonable projection of whether and how much alimony might be reasonable in any given case, but such a projection requires the client to provide complete and accurate information to experienced and knowledgeable counsel.

