

Plain Facts about Support

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The question of support, “How much will I get?” and “How much do I have to pay?” are among the most emotionally fraught issues during a divorce. I have worked with dozens of individuals who come to us in a state of deep anxiety regarding these matters.

The good news is that the State of California, in 1993, created a statutory standard that equals the playing field for couples who divorce in California. The role of the attorney is to work with the client to determine and clarify the facts. Once this part of the process has been completed, statutes dictate how much each spouse will receive, pending the final judgment of divorce, and provide strong parameters to post-judgment financial arrangements.

Generally, the State of California takes the position that both parties in a marriage should enjoy approximately the same standard-of-living after the marriage as they did during the marriage. In some instances, both parties need to take a small step down in their standard-of-living. However, it is neither the intent nor the goal of the State of California for one party to retain an opulent lifestyle while the other party becomes financially destitute.

The State has built accountabilities and responsibilities for both parties, depending on the facts, into the system. Clients sometimes ask me, “If it is all dictated by statute, why do I even need an attorney?” The process of calculating support is complex, and your attorney has special training in knowing what questions to ask, how to interpret your financial information, and how to use that information when determining support calculations.

Unfortunately, because of the emotional nature of divorce, which often includes bitter and angry feelings, money and support become hotly contested issues. In some cases, one side tries to hide money or other assets, or misrepresents his/her financial position. An attorney’s role is to objectively determine what facts are relevant, sort through issues and emotions, and guide the client when considering important issues.

Often, when a couple is first separated, interim support is required before a final settlement is reached. Statutory calculations are used to determine the amount of interim support, and this amount can differ from the long-term support figures that are agreed upon at final settlement.

In other cases the higher-earning spouse may, during or after the divorce proceedings, intentionally change their economic status to try to avoid paying support. In such a case, the court can impute income to reflect the income that the spouse has the

capability to earn. Likewise, if one of the spouses has not been employed for several years, or is working part-time, the court will create a plan that helps the supported spouse become self-supporting. The law views a marriage as partially a financial arrangement and expects the higher earning spouse to support a non- or low-income earning spouse until that person becomes financially self-sufficient.

If you have been financially supported, you can relax. With the help of your attorney and the courts, a plan will be created to get you on your feet financially. If you have been supporting a spouse, you can also relax, because the court will insist that efforts be made, depending on the duration of the marriage, to help your spouse become self-supporting and for that spouse to use their assets wisely.

Another important issue is child support. Again, the California courts are very clear that both parents are equally obligated to provide financial support to their children. Statutory guidelines determine what support is necessary from each parent to ensure that the basic needs of the children are met. Again, your attorney's role is to help sort out the facts and work with you and your spouse's attorney to agree upon, or alternatively have the court determine, the child support.

In the end, California's statutory spousal and child support framework is established with fairness in mind, and fairness is usually the end result. Your attorney's role is to understand all of the variables, and based upon that, create a strategy that gets what you are entitled to. It is also his or her job to be your advocate in looking out for your short-term and long-term objectives. Be certain that your attorney understands your situation thoroughly and has a passion for you and your case.