

# Alimony Is Not Forever, So Plan Ahead

---

July 11, 2017 | by Bonnie Frost

You've seen those jewelry commercials telling you, "A diamond is forever." This is not the case with alimony, however.

Too often, spouses who receive support mistakenly believe that alimony is a permanent entitlement. They think they will receive alimony forever regardless of the future circumstances of the payor spouse or one's cohabitation with another person. That is not and never has been the case, so spouses who are going through a divorce might need to plan for a time when alimony is no longer being paid.

Until September 2014, when New Jersey's Legislature passed alimony reform, courts could award "permanent alimony," "rehabilitative alimony," "limited duration alimony," and/or "reimbursement alimony." But even before alimony reform, an alimony arrangement labeled as "permanent" could be reduced or terminated based on substantially changed circumstances of the payor or payee. For example:

- A payee could come into a large inheritance or win the lottery and not need alimony any longer. Either substantial change in circumstances would warrant a modification or termination of alimony.
- A good faith retirement, cohabitation with another person (which reduces the payee's needs), medical issues, or lack of employment (especially after the 2008 financial crash) could present legitimate changes of circumstances, for which a court could modify or terminate alimony.

In the case of Reese v. Weis, after a short-lived marriage, the wife had been awarded permanent alimony at a time when limited-duration alimony did not exist. She then began cohabiting with a man who provided her an extraordinary lifestyle; this obviated her need for alimony. She believed, however, that because the judge had awarded her "permanent" alimony, she would continue to receive it forever regardless of her new cohabitation and lifestyle. The trial court and the appellate division both disagreed and terminated her alimony.

In some cases, both parties agree that a payor could retire at 65 (a good faith retirement age), but the payor nonetheless works until 70 and acquires a second family. In this instance, alimony would still be paid as long as the payor is working, but it may be terminated at age 70 as the courts believe that a payor should be relieved of the obligation to pay alimony when he or she retires in good faith.

Other unforeseen circumstances can derail an alimony arrangement. For example, a payor spouse could disappear and stop paying support—stranger things have happened—and the spouse who relied on the alimony with no plan to support him/herself would be in a sorry financial state of affairs.

Under New Jersey's comprehensive alimony reform bill, only spouses in marriages that have lasted more than 20 years can be awarded "open durational alimony" which is akin to the "permanent alimony" previously granted. If a couple is married less than 20 years, unless there are extraordinary circumstances (such as a spouse's disability), alimony can only be awarded for a term no longer than the length of the marriage. To date, there have been no reported cases where a judge has ordered open durational alimony after a marriage of less than 20 years based on "extraordinary circumstances."

But even before alimony reform, alimony in New Jersey was never permanent. The moral is: An alimony recipient should always plan for the time when alimony stops—whether that means getting a job, getting a better job, or saving more and spending less.