

Can I get permanent alimony?

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Dear Ask the Attorney:

After 36 years my husband wants a divorce. Apparently he fell in love with another woman (younger of course). We have three grown children who are fully on their own. However I have never worked outside the house. I raised our kids and helped him grow his business, entertain clients, etc. Since I have never worked, can I ask for permanent alimony?

L.L.

*Our guest blogger, **Thomas J. Snyder, Esq.**, is a partner with **Einhorn Barbarito**. Mr. Snyder concentrates his practice solely in **Matrimonial and Family Law**. He has provided testimony in front of the Senate and Assembly Judiciary Committee's with regard to the New Jersey Marriage Equality Act and testified before the state legislators and the New Jersey Assembly Judiciary Committee on proposed modifications to both the New Jersey Adoption and New Jersey Alimony Statutes.*

Dear LL:

The answer to your question, "am I entitled to permanent alimony?" is unfortunately not simple. In fact, resolution of issues involving alimony are often the most litigated and contentious aspect of a divorce. Reaching a resolution as to the questions of:

- how much alimony?
- how long should alimony be paid?
- What terms and conditions should or will trigger a review or modification of alimony?

these questions often result in months, if not years of costly and stressful litigation.

In New Jersey, determination of a spouse's or civil union partner's entitlement to alimony is dictated by statutory law.

The law in New Jersey specifically states that, a court may make such orders as to alimony or maintenance of the parties based on what the court considers reasonable and just. The law also provides the court with specific factors that it must consider in determining what the court believes, under the circumstance, is reasonable and just support.

Under the law a court may award one (or a combination of) four different "types" of alimony:

- permanent alimony;
- rehabilitative alimony;
- limited duration alimony or
- reimbursement alimony.

The distinction between these "types" of alimony is, generally, duration. Permanent alimony is the only type of alimony which is paid for a relatively indefinite period of time.

In making a determination of the type and amount of alimony which a court may award, the court must consider a multitude of factors including, but not limited to, the needs of the parties and, ability, or a lack thereof, to meet those needs. The court will consider also the duration of the marriage or the civil union, the age, physical and emotional health of the parties and, the standard of living established during the marriage or civil union.

These are just a few of the factors a court is mandated to consider in determining the amount, type, and duration of alimony.

As to your specific inquiry whether or not you would receive "permanent alimony", the most compelling factors a court will consider in answering that question are the duration of the marriage or civil union, the disparity in income between yourself and your soon to be former spouse or civil union

partner and, your marital/civil union standard of living. Duration of the marriage or civil union tends to be the most significant factor in a court's consideration relative to whether or not permanent alimony is appropriate. The longer the marriage, the more likely permanent alimony will be awarded.

Perhaps the most compelling aspect to any alimony case is the fact that a trial court has broad and substantial discretion with respect to its decision in rendering an alimony award. Anticipating how a Judge will exercise his or her discretion is the key to successfully and effectively litigating in alimony case and requires an attorney with experience in this area of law.

Ask the Attorney” is a blog in which answers to your legal questions submitted to asktheattorney@einhornlawyers.com may be answered. The answers to the questions are for informational purposes only and are not to be construed as legal advice or the creation of an attorney–client relationship. The facts of each case are different and you should therefore seek competent legal representation.