

## Legal Beat: Spousal Support for Ex-Husband?

By Mathew B. Tully Question:

My soon-to-be-ex-husband makes less than I do. Does that mean I have to pay spousal support after we divorce?

The short answer here is probably

; however, it can sometimes be impossible to predict what a court is going to do when it comes to spousal support. In assessing whether you would owe spousal support, the court would look at a number of factors such as your respective incomes, the duration of your marriage, standard of living during the marriage, how property was distributed, and the decisions made during the marriage as they affect your earning potential. So if the difference between incomes is slight and it was a short marriage, it is unlikely that you will pay support. In contrast, if there was a sizable difference in income and you were married a long time, you will most likely pay support. Even after you owe spousal support, the next step is to figure out how much and for how long you will pay it. Unlike child support which has a set duration and guidelines, there are no statewide guidelines for determining either the amount or duration of spousal support. For duration, the general rule of thumb is half the length of the marriage, but exceptions often occur for exceptionally short or long marriages. If you have been married for a long time, you may owe permanent spousal support. In terms of the amount, some courts have adopted their own guidelines for determining support, even on a temporary basis, as is the case in Fairfax. But most courts, including Arlington, base the amount on each spouse's financial needs and the totality of the circumstances. On other side of the coin, if you are the one filing for spousal support before filing for divorce (during the separation period), you can seek temporary support from the Juvenile and Domestic Relations District Court. As you can see, there are many different factors to consider when it comes to spousal support – it is a complicated area of law that you should not take on without seeking the advice of an attorney. Question: I've been paying spousal support to my ex-wife for two years. Throughout most of that time she has been in a relationship with some guy who lives in her home. Even if they don't get married, at some point will this relationship allow me to stop paying spousal support?

One of the most frustrating parts of paying spousal support is the idea that you're subsidizing your ex-spouse's new relationships. While many people know that spousal support terminates when you remarry, spousal support also terminates when the recipient has cohabitated with another person for one year or more. So what exactly does cohabitating mean? Cohabitation occurs when two people live together in a situation analogous to marriage. If your ex is in a relationship with someone with whom she shares a certain level of intimacy and they live together, they're cohabitating. If that type of relationship continues for a year, you can request for the court to terminate spousal support. Much will depend on the circumstances in which you were ordered to pay spousal support. Oftentimes, spousal support is agreed to in a separation or post-marital agreement and, therefore, there may be different standards or rules regarding the termination of your support obligation. Also, the court can refuse to terminate the spousal support if doing so would be "unconscionable." Before seeking any termination of support, you will want to meet with an attorney who can help determine whether your situation

reflects these exceptions.