

Key Legal Terms: Financial Support after Breakup: Spousal Support

Spousal support

Spousal support is money paid from one spouse to the other after they separate or divorce. Spousal support is almost always paid by the person with the higher income to the person with the lower income. The gender of the spouses does not matter. It is usually paid in monthly payments, but sometimes it is paid all together in one payment called a “lump sum”. After a separation, married spouses and some unmarried partners may be entitled to spousal support, but it is not paid in every case.

Who can get spousal support?

Both married and unmarried (common-law) partners may be able to get support payments, or may have to pay financial support. If the partners are not married, they must have lived together as a couple:

- for at least 3 years, or
- for any length of time if they have a child together and were in a relationship of “some permanence”.

The Payor

The spouse or partner who pays financial support

The Dependent

The spouse or partner who gets financial support

Purposes of spousal support

When a relationship ends, one of the partners may be in a better financial position than the other. This may be because of how the partners shared responsibilities during the relationship. For example, if one partner stayed home to raise the children, she or he may not have earned as much money as the other partner. One of the reasons for spousal support is to equal out these economic advantages and disadvantages caused by the relationship, and to recognize a partner's contributions to the relationship.

Other purposes of spousal support are to relieve financial hardship, to help a partner become self-supporting, and to share the financial consequences from caring for children.

How much are spousal support payments?

Partners can agree to an amount of spousal support themselves and should put the agreement in writing. If partners cannot agree, the court may order an amount. The court will consider such factors as:

- length of the relationship
- each partner's financial situation (now and in the future)
- ability for the lower income partner to support her/himself
- ability for the higher income partner to pay
- arrangements for children of the relationship
- age and health of each partner
- role and contributions (paid and unpaid) of each partner during the relationship

Spousal Support Advisory Guidelines

The court may also consider the spousal support guidelines developed by the Ontario government. The guidelines are used to help people decide how much spousal support should be paid and for how long. They are only guides, but judges and lawyers often use them as a starting point to help determine the amount of support in a particular case.

How long does spousal support continue?

Some agreements or court orders for spousal support set a date when support payments will end, and some do not. If no end date is set, support continues unless the agreement or order is changed. Support does not automatically end if either partner begins a new relationship.

Changing spousal support

If the partners have a private agreement and they both agree, they can make a change to their agreement or make a new agreement. Any change to an agreement must be dated, signed by both partners and signed by a witness. If the partners cannot agree, then either one of them can go to court and ask for a change to their support agreement.

If there is a court order for Spousal Support, it can only be changed by the court. Either partner can apply to the court to change the order. If the partners both agree to the change, the court is more likely to make the change. If the partners do not agree, the court will only change an order for support if there has been a significant change in circumstances. For example, if:

- one partner's income has changed significantly,
- the arrangements about the children have changed, or

- the judge thinks the partner getting support should now be self-supporting.

Family Responsibility Office (FRO)

The Family Responsibility Office is a provincial government office responsible for making sure that support orders (spousal support and child support) are followed in Ontario. Every court order for support is automatically filed with the FRO. If partners have an agreement about support, they can choose to file a copy with the FRO, to make sure it is followed. The payor makes all support payments to the FRO. When the FRO gets the payment, it sends a payment to the other partner. If payments are missed, the FRO can take action to get the payor to make payments.

Spousal support and social assistance

A separated spouse or common-law partner who is on social assistance must try to get spousal support. If they do not make reasonable efforts to get a support agreement or court order, they may get less social assistance or none at all. There are some exceptions. They may not have to try to get support if:

- there is violence or abuse against the partner or child
- the payor partner cannot be found, or
- the payor partner is not working and cannot afford to pay.

In most cases, the amount of support a person gets will be taken out (or deducted) from her or his social assistance amount. If the payor partner has a history of missing payments, the payor may have to send the support payments directly to the government, and the dependent receiving support will get the full social assistance amount without deductions.



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There is a greater risk of violence when an intimate relationship is ending. If you are in immediate danger, call 911. If you or

someone you know is at risk, visit the FLEW website for information on getting support.

If you are a francophone woman living in Ontario, you have the right to access French language services in family law court proceedings. For more information regarding your rights, contact a lawyer, a community legal clinic, or the support line Femaide at 1-877-336-2433, TTY 1-866-860-7082.

You can find more information on how to access services in French on our website at www.onefamilylaw.ca or www.undroitdefamille.ca.