

Alimony

NRS 125.150 deals with alimony and adjudication of property rights. NRS 125.150(1) provides:

1. In granting a divorce, the court:

(a) May award such alimony to the wife or to the husband, in a specified principal sum or as specified periodic payments, as appears just and equitable; and

(b) Shall, to the extent practicable, make an equal disposition of the community property of the parties, except that the court may make an unequal disposition of the community property in such proportions as it deems just if the court finds a compelling reason to do so and sets forth in writing the reasons for making the unequal disposition.

Pursuant to NRS 125.150(4), the Court may also utilize a party's separate property for the support of a spouse and/or children:

4. In granting a divorce, the court may also set apart such portion of the husband's separate property for the wife's support, the wife's separate property for the husband's support or the separate property of either spouse for the support of their children as is deemed just and equitable.

As such, an award of alimony is in the discretion of the Court. With regard to the award of alimony, NRS 125.150(8) spells out the factors the court is required to examine to determine whether an award of alimony is "just and equitable."

NRS 125.150(8) provides:

8. In addition to any other factors the court considers relevant in determining whether to award alimony and the amount of such an award, the court shall consider:

- (a) The financial condition of each spouse;
- (b) The nature and value of the respective property of each spouse;
- (c) The contribution of each spouse to any property held by the spouses pursuant to NRS 123.030;
- (d) The duration of the marriage;
- (e) The income, earning capacity, age and health of each spouse;
- (f) The standard of living during the marriage;

- (g) The career before the marriage of the spouse who would receive the alimony;
- (h) The existence of specialized education or training or the level of marketable skills attained by each spouse during the marriage;
- (i) The contribution of either spouse as homemaker;
- (j) The award of property granted by the court in the divorce, other than child support and alimony, to the spouse who would receive the alimony; and
- (k) The physical and mental condition of each party as it relates to the financial condition, health and ability to work of that spouse.

With regard to rehabilitative alimony, NRS 124.150(9) governs and provides:

9. In granting a divorce, the court shall consider the need to grant alimony to a spouse for the purpose of obtaining training or education relating to a job, career or profession. In addition to any other factors the court considers relevant in determining whether such alimony should be granted, the court shall consider:

- (a) Whether the spouse who would pay such alimony has obtained greater job skills or education during the marriage; and
- (b) Whether the spouse who would receive such alimony provided financial support while the other spouse obtained job skills or education.

Note that the factors the court **must** consider are "a" and "b."

In addition to the above-referenced statutory authority for alimony, there are a number of cases addressing additional alimony factors for the court to consider. For example, Buchanan v. Buchanan, 90 Nev. 209 (1974), Sprenger v. Sprenger, 110 Nev. 855 (1994), and Rodriguez v. Rodriguez, 116 Nev. 993 (2000), to name a few.

This is also statutory authority for termination and/or modification of alimony. There are two (2) sections in NRS 125.150 that address modification and/or termination of alimony:

7. If a decree of divorce, or an agreement between the parties which was ratified, adopted or approved in a decree of divorce, provides for specified periodic payments of alimony, the decree or agreement is not subject to modification by the court as to accrued payments. Payments pursuant to a decree entered on or after July 1, 1975, which have not accrued at the time a motion for modification is filed may be modified upon a showing of changed circumstances, whether or not the court has expressly retained jurisdiction for the modification. In addition to any other factors the court considers relevant in determining whether to modify the order, the court shall consider whether the income of the spouse who is ordered to pay alimony, as indicated on the spouse's federal income tax return for the preceding calendar year, has been reduced to such a level that the spouse is financially unable to pay the amount of alimony the spouse has been ordered to pay.

5. In the event of the death of either party or the subsequent remarriage of the spouse to whom specified periodic payments were to be made, all the payments required by the decree must cease, unless it was otherwise ordered by the court.

A party can modify alimony that has *not* yet accrued. Additionally, alimony terminates if either party dies or the payee spouse remarries.

NRS 125.150(11) defines “changed circumstances” as:

11. For the purposes of this section, a change of 20 percent or more in the gross monthly income of a spouse who is ordered to pay alimony shall be deemed to constitute changed circumstances requiring a review for modification of the payments of alimony. As used in this subsection, “gross monthly income” has the meaning ascribed to it in NRS 125B.070.

As far as cohabitation, the Nevada Supreme Court has adopted the "economic needs" test to determine whether the cohabitation of an ex-spouse who receives spousal support has a financial effect that justifies a reduction or termination of support. Gilman v. Gilman, 114 Nev. 416, 956 P. 2d 761 (1998).