

Minnesota's Spousal Maintenance Law

Including August 2024 Statutory Updates

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Effective Date

The new spousal maintenance law is effective August 1, 2024, and applies to all cases decided after August 1, 2024, including modification cases. **New laws are highlighted in orange.**

Threshold Inquiry for Spousal Maintenance

Does the spouse seeking maintenance:

- Lack sufficient property to meet reasonable needs;
- Is unable to provide adequate self-support, after considering the marital standard of living;
- Is the custodian of a child whose condition makes it appropriate that the custodian not work outside the home.

Terminology

- **Temporary Maintenance is now called "Transitional" Maintenance.**
- **Permanent Maintenance is now called "Indefinite" Maintenance.**
- **Temporary Maintenance is now defined as spousal maintenance ordered pursuant to Minn. Stat. § 518.131 (temporary proceedings).**

Changes to Amount Factors

"Amount" requires the 8-factor spousal maintenance analysis:

- 1) Financial resources of party seeking maintenance, including marital property awarded to the party, and their ability to meet needs independently;
- 2) Time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment, and their ability to become fully or partially self-supporting;
- 3) Standard of living established during the marriage and **extent it was funded by debt**;
- 4) Duration of marriage and earnings, benefits and opportunities forgone by spouse seeking maintenance;
- 5) Age, physical, **mental or chemical health of both spouses**;
- 6) Ability of spouse from whom maintenance is sought to meet needs while meeting those of the spouse seeking maintenance;
- 7) Contribution of spouse in furtherance of the other party's employment or business; and
- 8) **Need and ability of each spouse to prepare for retirement and anticipated time of retirement.**

Changes to Duration

Statute defines length of marriage – **period from the date of marriage until the commencement date of the divorce action.** See Minn. Stat. 518.552, subd. 3.

There is a **rebuttable** presumption for the duration of the maintenance award. **The Court must determine duration of spousal maintenance based on length of marriage as follows:**

Years of Marriage	Rebuttable Presumption
Less than 5 years	No Maintenance
5 years to less than 20	Transitional maintenance should be awarded with a duration no longer than one-half the length of the marriage if the "amount" factors support an award of maintenance
20 years or more	Indefinite maintenance should be awarded if the "amount" factors support an award of maintenance

Maintenance on Death or Remarriage

Minn. Stat. 519A.39, Subd. 3 moved to Minn. Stat. 518.552, Subd. 5a: Unless otherwise agreed in writing or expressly provided for in decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

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Modification

Minn. Stat. 518.552 now contains its own modification provisions (instead of going to Minn. Stat. 518A.39) "the terms of a maintenance order may be modified upon a showing of one or more of the following circumstances that make the terms of the of the existing order unreasonable and unfair:

- Substantially increased or decreased gross income of an obligor or obligee;
- Substantially increased or decreased need of an obligor or obligee; or
- Substantial changes in the federal or state tax laws that affect spousal maintenance."

Reapplication of Spousal Maintenance Factors. Same concept as prior statute – when determining a motion to modify the Court must apply the grounds for spousal maintenance (subd. 1), amount of spousal maintenance (subd. 2), and duration of spousal maintenance (subd. 3) that exist at the time of the motion.

Retroactivity. Modified spousal maintenance, including any interest accrued, can go back as follows:

- For any period the petitioning party has a motion for modification pending;
- From the date that the notice of motion to modify was served on the responding party;
- From the date the notice of motion to modify was served on the public authority if public assistance is received; or
- From the date that notice of the motion to modify was served on the county attorney if the county attorney is the attorney of record.

No Hearing Required: The court "need not hold" an evidentiary hearing on a motion to modify spousal maintenance.

Alternative Effective Date: Court can select an alternative effective date for a maintenance order if the parties enter into a binding agreement for an alternative date. The court's adoption of an alternative effective date must not be considered a retroactive modification of maintenance.

Cohabitation

Maintenance may be modified based on cohabitation of the obligee with an adult following the divorce. Cannot modify due to cohabitation within one year of the date of the decree. Modification may consist of a reduction, suspension, reservation or termination of maintenance. Factors the court must consider:

- Whether obligee would marry cohabitant but for the receipt of maintenance;
- Monetary benefit obligee receives from the cohabitation;
- Length of cohabitation and likely future duration;
- Economic impact on obligee if maintenance is modified and cohabitation ends.

Spousal Maintenance Modification Based Upon Retirement

If an obligor retires, maintenance may be reduced, suspended, reserved or terminated. The Court shall consider:

- Good faith retirement vs. unjustifiable self-limitation of income.
- Whether obligor has attained the age to receive the party's full retirement benefits under section 216 of the Social Security Act, or the customary age for retirement in the party's occupation.
- Whether a party has reasonably and prudently managed the party's assets since the divorce (burden on both parties).
- The financial resources available to both parties.

Presumption that Both Parties Use Income and Assets to Meet Needs. It is presumed that when a party has attained the age to receive the party's full retirement benefits (under section 217 of the Social Security Act) or the customary age for retirement in the party's occupation, the party will use both income and assets to meet the party's needs.

Guidance on When to Bring Motion. A motion to modify based on retirement may be brought before a party actually retires provided that the moving party specifies the date by which the party's retirement will occur. The Court may then make modification effective as of the date of retirement.

Key Rules and Tips

- Spousal maintenance awards are not automatic. They are based on consideration of a wide range of factors, including the length of the marriage, both parties' earning capacities, and the marital standard of living.
- Minnesota Courts have broad discretion in determining the amount of spousal maintenance to be paid.
- Under the new 2024 spousal maintenance law, the duration of spousal maintenance is based upon the length of the marriage.
- Obtain full financial disclosure of both parties' income from employment and income from assets.
- Determine the marital standard of living early in the case and to what extent it was funded by debt.
- It may be necessary to use a financial expert in modification cases due to retirement to determine each party's available income and principal from their retirement assets based upon their life expectancy.