

Pertinent portions of the alimony statute are as follows:

NJSA 2A:34-23(b) provides:

in all actions brought for divorce, dissolution of a civil union, divorce from bed and board, legal separation from a partner in a civil union couple or the nullity the court may award one or more of the following types of alimony: open durational alimony; rehabilitative alimony; limited duration alimony or reimbursement alimony to either party. In so doing the court shall consider, but not be limited to, the following factors:

- 1) The actual need and ability of the parties to pay;
- 2) The duration of the marriage or civil union;
- 3) The age, physical, and emotional health of the parties;
- 4) The standard of living established in the marriage or civil union and the likelihood that each party can maintain a reasonably comparable standard of living, with neither party having greater entitlement to that standard of living than the other;
- 5) The earning capacities, educational levels, vocational skills, and employability of the parties;
- 6) The length of absence from the job market of the party seeking maintenance;
- 7) The parental responsibilities for the children;
- 8) The time and expense necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment, the availability of the training and employment, and the opportunity for future acquisitions of capital assets and income;
- 9) The history of the financial or non-financial contributions to the marriage by each party including contributions to care and education of the children and the interruption of personal careers or educational opportunities;
- 10) The equitable distribution of property ordered and any payouts on equitable distribution, directly or indirectly, out the current income, to the extent this consideration is reasonable, just, and fair;
- 11) The income available to either party through investment of any assets held by that party;
- 12) The tax treatment and consequences to both parties of any alimony award, including the designation of all of a portion of the payment as on-taxable payment;
- 13) The nature, amount, and length of pendente lite support paid, if any;
- 14) Any other factor which the Court may deem relevant.

NJSA 2A:34-23(b) provides:

In any case in which there is a request for an award of alimony, the court shall consider and make specific findings on the evidence about all of the statutory factors set forth in subsection b. of this section.

For any marriage or civil union less than 20 years in duration, the total duration of alimony shall not, except in exception circumstances, exceed the length of the marriage or civil union. Determination of the length and amount of alimony shall be made by the court pursuant to consideration of all of the statutory factors set forth in subsection b. of this section. In addition to those factors, the court shall also consider the practical impact of the parties' need for separate residences and the attendant increase in living expenses on the ability of both parties to maintain a standard of living reasonably comparable to the standard of living established in the marriage or civil union, to which both parties are entitled, with neither party having a greater entitlement thereto.

Exceptional circumstances which may require an adjustment to the duration of alimony include:

- 1) The ages of the parties at the time of the marriage or civil union and at the time of the alimony award;
- 2) The degree and duration of the dependency of one party on the other party during the marriage or civil union;
- 3) Whether a spouse or partner has a chronic illness or unusual health circumstance;
- 4) Whether a spouse or partner has given up a career or a career opportunity or otherwise supported the career of the other spouse or partner;
- 5) Whether a spouse or partner has received a disproportionate share of equitable distribution;
- 6) The impact of the marriage or civil union on either party's ability to become self-supporting, including but not limited to either party's responsibility as primary caretaker of a child;
- 7) Tax considerations of either party;
- 8) Any other factor which the court deems equitable, relevant and material.

NJSA 2A:34-23(j) provides:

Alimony may be modified or terminated upon the prospective or actual retirement of the obligor.

- 1) There shall be a rebuttable presumption that alimony shall terminate upon the obligor spouse or partner attaining full retirement age, except that any arrearages that have accrued prior to the termination date shall not be vacated or annulled. The court may set a different alimony termination date for good cause shown based on specific written findings of fact and conclusions of law.

The rebuttable presumption may be overcome if, upon consideration of the following factors and for good cause shown, the court determines that alimony should continue:

- (a) The ages of the parties at the time of the application for retirement;
- (b) The ages of the parties at the time of the marriage or civil union and their ages at the time of entry of the alimony award;
- (c) The degree and duration of the economic dependency of the recipient upon the payor during the marriage or civil union;
- (d) Whether the recipient has foregone or relinquished or otherwise sacrificed claims, rights or property in exchange for a more substantial or longer alimony award;
- (e) The duration or amount of alimony already paid;
- (f) The health of the parties at the time of the retirement application;
- (g) Assets of the parties at the time of the retirement application;
- (h) Whether the recipient has reached full retirement age as defined in this section;
- (i) Sources of income, both earned and unearned, of the parties;
- (j) The ability of the recipient to have saved adequately for retirement; and
- (k) Any other factors that the court may deem relevant.

2) Where the obligor seeks to retire prior to attaining the full retirement age as defined in this section, the obligor shall have the burden of demonstrating by a preponderance of the evidence that the prospective or actual retirement is reasonable and made in good faith. Both the obligor's application to the court for modification or termination of alimony and the obligee's response to the application shall be accompanied by current Case Information Statements or other relevant documents as required by the Rules of Court, as well as the Case Information Statements or other documents from the date of entry of the original alimony award and from the date of any subsequent modification.

In order to determine whether the obligor has met the burden of demonstrating that the obligor's prospective or actual retirement is reasonable and made in good faith, the court

shall consider the following factors:

- (a) The age and health of the parties at the time of the application;
- (b) The obligor's field of employment and the generally accepted age of retirement for those in that field;
- (c) The age when the obligor becomes eligible for retirement at the obligor's place of employment, including mandatory retirement dates or the dates upon which continued employment would no longer increase retirement benefits;
- (d) The obligor's motives in retiring, including any pressures to retire applied by the obligor's employer or incentive plans offered by the obligor's employer;
- (e) The reasonable expectations of the parties regarding retirement during the marriage or civil union and at the time of the divorce or dissolution;
- (f) The ability of the obligor to maintain support payments following retirement, including whether the obligor will continue to be employed part-time or work reduced hours;
- (g) The obligee's level of financial independence and the financial impact of the obligor's retirement upon the obligee; and
- (h) Any other relevant factors affecting the obligor's decision to retire and the parties' respective financial positions.

NJSA 2A:34-23(n) provides:

Alimony may be suspended or terminated if the payee cohabits with another person.

Cohabitation involves a mutually supportive, intimate personal relationship in which a couple has undertaken duties and privileges that are commonly associated with marriage or civil union but does not necessarily maintain a single common household.

When assessing whether cohabitation is occurring, the court shall consider the following:

- (1) Intertwined finances such as joint bank accounts and other joint holdings or liabilities;
- (2) Sharing or joint responsibility for living expenses;

- (3) Recognition of the relationship in the couple's social and family circle;
- (4) Living together, the frequency of contact, the duration of the relationship, and other indicia of a mutually supportive intimate personal relationship;
- (5) Sharing household chores;
- (6) Whether the recipient of alimony has received an enforceable promise of support from another person within the meaning of subsection h. of R.S.25:1-5; and
- (7) All other relevant evidence.

In evaluating whether cohabitation is occurring and whether alimony should be suspended or terminated, the court shall also consider the length of the relationship. A court may not find an absence of cohabitation solely on grounds that the couple does not live together on a full-time basis.

As used in this sec