

# SPOUSAL SUPPORT / ALIMONY

*But those that understood him smiled at one another and shook their heads; but for mine own part, it was Greek to me.*

## I. Jurisdiction

- NRS 125.150 (1)(a) / Creation of Statute / Personal Jurisdiction
- Pleading / Alimony Incident to Divorce

*Woodruff v. Woodruff*, 94 Nev. 1, 573 P.2d 206 (1978)

## II. Alimony Types

### A. **Permanent Alimony / Periodic Payments/ Lump Sum**

- Not Permanent / Support for a period of time is modifiable

*Kogod v. Cioffi-Kogod*, 135 Nev. 64, 439 P.3d 397 (2019)

- Creation of Statute / NRS 125.150

NRS 125.150 (1). In granting a divorce, the court: (a) May award such alimony to either spouse, in a specified principal sum or as specified periodic payments, as appears just and equitable;

NRS 125.150 (5). In granting a divorce, the court may also set apart such portion of the separate property of either spouse for the other spouse's support or the separate property of either spouse for the support of their children as is deemed just and equitable.

*Heim v. Heim*, 104 Nev. 605, 763 P.2d 678 (1988)  
*Rodriguez v. Rodriguez*, 116 Nev. 993, 13 P.3d 415 (2000)

- Lump Sum Considerations / Age, Infirmary, Risk

*Schwartz v. Schwartz*, 126 Nev. 87, 225 P.3d 1273 (2010)  
*Daniel v. Baker*, 106 Nev. 412, 794 P.2d 345 (1990)

**B. Rehabilitative Alimony / NRS 125.150 (10) and (11)**

- Creation of Statute / NRS 125.150

NRS 125.150 (10). 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.

NRS 125.150 (11). If the court determines that alimony should be awarded pursuant to the provisions of subsection 10:

(a) The court, in its order, shall provide for the time within which the spouse who is the recipient of the alimony must commence the training or education relating to a job, career or profession.

(b) The spouse who is ordered to pay the alimony may, upon changed circumstances, file a motion to modify the order.

(c) The spouse who is the recipient of the alimony may be granted, in addition to any other alimony granted by the court, money to provide for:

(1) Testing of the recipient's skills relating to a job, career or profession;

(2) Evaluation of the recipient's abilities and goals relating to a job, career or profession;

(3) Guidance for the recipient in establishing a specific plan for training or education relating to a job, career or profession;

(4) Subsidization of an employer's costs incurred in training the recipient;

(5) Assisting the recipient to search for a job; or

(6) Payment of the costs of tuition, books and fees for:

(I) The equivalent of a high school diploma;

(II) College courses which are directly applicable to the recipient's goals for his or her career; or

(III) Courses of training in skills desirable for employment.

- Education/ Job Training to Re-Enter Job Market

- Specific Time Frame Required

**C. Pre-Judgement Support / Temporary Maintenance/  
NRS 125.040**

- Not Alimony / Allocation of Community Property

- Allocation of Separate Property

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### III. Policy Mandates / Alimony Factors / Need / Economic Loss

- Need and Ability to Pay / Alimony's Elementary Form
- Based on Financial Need / Not Based on Financial Need
- Alimony can be "just and equitable" when necessary to support economic needs
- Alimony can be "just and equitable" when not based on economic needs
- Alimony can be "just and equitable" when there is a need to compensate for a spouse's economic losses
- Alimony can be "just and equitable" when there is a need to equalize post-divorce earnings
- Alimony can be "just and equitable" when there is a need to maintain marital standard of living

*Kogod v. Cioffi-Kogod*, 135 Nev. 64, 439 p.3d 397 (2019)

- No Fault / Economic Loss

*Rodriguez v. Rodriguez*, 116 Nev. 993, 13 P.3d 415 (2000)

*Kogod v. Cioffi-Kogod*, 135 Nev. 64, 439 p.3d 397 (2019)

- Narrow Large Gaps in Post-Divorce Earning Capacity
- NRS 125.150 (9) / Mandatory Findings

NRS 125.150 (9) 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.

*Kogod v. Cioffi-Kogod*, 135 Nev. 64, 439 p.3d 397 (2019)

*Buchanan v. Buchanan*, 90 Nev. 209, 523 P.2d 1 (1974)

*Heim v. Heim*, 104 Nev. 605, 763 P.2d 678 (1988)

*Rutar v. Rutar*, 108 Nev. 203, 827 P.2d 829 (1992)

*Sprenger v. Sprenger*, 110 Nev. 855, 878 P.2d 284 (1994)

*Shydler v. Shydler*, 114 Nev. 192, 954 P.2d 37 (1998)

*Gardner v. Gardner*, 110 Nev. 1053, 881 P.2d 645 (1994)

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#### IV. Modification / Termination

- Permanent Alimony is Modifiable
- Rehabilitative Alimony is Modifiable
- Changes in Economic Needs

*Gilman v. Gilman*, 114 Nev. 416, 956 P.2d 761 (1998)

*Shydler v. Shydler*, 114 Nev. 192, 954 P.2d 37 (1998)

*Schryver v. Schryver*, 108 Nev. 190, 826 P.2d 569 (1992)

- Changes in Ability to Pay
- Accrued Payments are Non-Modifiable absent Equitable Defenses / Waiver, Estoppel, Laches
- Creation of Statute / NRS 125.150 (12)

NRS 125.150 (6). 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.

NRS 125.150 (12). 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" means the total amount of income received each month from any source of a person who is not self-employed or the gross income from any source of a self-employed person, after deduction of all legitimate business expenses, but without deduction for personal income taxes, contributions for retirement benefits, contributions to a pension or for any other personal expenses.

V. **Miscellaneous**

Bankruptcy / Retaining Jurisdiction

*Siragusa v. Siragusa*, 108 Nev. 987, 843 P.2d 807 (1992)