

# Alimony is not an option for most divorcing in Texas

---



By Trey Yates

The term alimony is commonly used to describe all forms of post-divorce payments from one former spouse to the other. Actually, there are two forms of such payments – one is court-ordered *spousal maintenance*, and the other is an agreed contractual obligation known as *contractual alimony*.

The Texas Legislature enacted the *spousal maintenance* statute in 1995. Qualifying for maintenance can be complicated and must fit specific parameters. In determining an award of maintenance, the court typically considers: whether domestic violence was a factor in the marriage, if one spouse is disabled or cares for a disabled child of the marriage, the duration of the marriage, the needs of the requesting spouse, and the ability to pay by the other spouse.

Several statutes relating to **eligibility** and **duration** of spousal maintenance were amended in 2011.

## **Eligibility**

Now, spouses who are unable, for specific reasons, to “earn sufficient income to provide for minimum reasonable needs,” may be eligible for maintenance.

Previously, couples were required to have been married at least 10 years, regardless of circumstances. This failed to take into consideration whether a requesting spouse was unable to support himself or herself due to a severe disability, was custodian of a child requiring substantial care, or lacked the education and skill to gain employment.

Now, the ten-year marriage requirement applies only when the requesting spouse cannot provide for his or her minimum reasonable needs.

## **Duration**

The court may now award maintenance for 5, 7 or 10 years, depending on the duration of the marriage. Also, if a spouse cannot support himself or herself due to an incapacitating physical or mental disability, or is the custodian of a child of the marriage with a physical or mental disability, the court may order maintenance for as long as the disability continues, or indefinitely.

Maintenance is still limited to the shortest reasonable period that allows the requesting spouse to begin earning sufficient income to provide for minimum reasonable needs.

*Contractual alimony* is post-divorce support paid by one former spouse to another based upon a written agreement between former spouses. There are no court imposed limits on eligibility, duration or amount in a contractual alimony agreement.

Many people seeking divorce worry about how they will manage financially during and after divorce. To be fully informed in this area, seek the counsel of a qualified, experienced attorney.

For more information on divorce law in Texas, or to register for Trey Yates' July 26, 2014, *The Guide to Good Divorce*<sup>SM</sup> seminar, visit [www.GuideToGoodDivorce.com](http://www.GuideToGoodDivorce.com) or call 713-932-7177.