

# Types of Support Matters

## Child Support

Child Support is awarded by the court to the party or parent who has custody of a child or children, whether or not they are a parent of the child. Typically, only biological parents of a child are liable for Child Support but in some rare circumstances Child Support may also be able to be sought from people other than parents who have previously acted, or attempted to act, in a parental role.

## Spousal Support

Spousal Support is awarded to a, lesser earning, “innocent” spouse. Spousal Support differs from APL and Alimony in a few ways. Alimony and APL require the filing of a divorce whereas Spousal Support does not. To collect Spousal Support, the party seeking support is often required to prove that they are an “innocent” party, such proof is not required for APL or Alimony.

## Alimony Pendente Lite - APL

APL, short for Alimony Pendente Lite, may be awarded to a lesser earning spouse to allow him or her to provide for expenses, including legal expenses, between the time a divorce is filed and the time a divorce is finalized. Unlike Spousal Support, collection of APL is not subject to the multiple of defenses available to Spousal Support.

## Alimony

Alimony, unlike Spousal Support and APL, is only collectable after a divorce has been finalized. As a typical rule of thumb, the Court will award one (1) year of alimony for every three (3) years of marriage. Depending on the terms of a divorce, Alimony may or may not cease upon the collecting party’s co-habitation with another individual.

Spirale Vargo Madsen & Blair

680 Wolf Avenue  
Easton, Pennsylvania 18042  
(610) 258-3757

www.SVMBLAW.com

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# Child & Marital Support

## Client Guide

This brief guide will provide you with a roadmap regarding a typical support case as well as a checklist of items to bring to the conference.

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## Stages of a Support Case

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### You may need to appear at the Domestic Relations Office for some or all of the following reasons:

1. **Initial Filing** - In order to file for support or to file for modification of an existing support order you will need to go to the Domestic Relations Office and file the appropriate form. Call ahead because some counties may charge a fee to file an initial Complaint or a Petition for Modification.
2. **Support Conference** - A support conference is a meeting with a neutral county employee whose job is to attempt to either obtain an agreement or to produce a recommendation for the Court. If the parties cannot agree to a support amount the conference officer may tell you the recommended amount before you leave the conference, or they may take the matter under advisement and mail the recommended order to the parties a few days later.
3. **De Novo Hearing** - If the parties are unable to agree to a support amount at the time of the conference or if either party disagrees with the amount recommended by the conference officer, the case may be listed for a hearing *de novo*. Depending on the county this hearing is either with a Judge or someone appointed by the Judge (usually called a master or hearing officer).

If the hearing is with a judge, the judge will typically issue a final order within a few days. If the hearing is with a master of hearing officer, a recommended order will be issued in a few days.
4. **Exceptions** – If and only if the hearing *de novo* was before a master or a hearing officer and the hearing officer makes a legal error in calculating child support, you or your attorney can take exceptions to the recommendation and ask for a judge to review the decision of the master or hearing officer.
5. **Appeal** – After a judge makes a final decision in your case, you have 30 days to appeal the decision to a higher court. A higher court will not reconsider the facts of your case, it will only review the judge's decision to determine if the judge made any legal errors.

## Important Support Facts

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### All Support Matters

Social Security Disability (*SSD*) does count as income for calculating child support. Supplemental Security Income (*SSI*) does NOT count as income for calculating child support.

Although the domestic relations section cannot attach **Veterans Disability Benefits**, such benefits DO count as income for calculating child support.

Generally, support cannot be collected if **both party's live in the same residence**, there are some rare exceptions.

### Child Support Matters

**Shared or 50/50 Custody** - Equal shared physical custody does not mean that there will be no support obligation. Even if custody of the children is shared equally, the parent that earns more may have some support obligation to the other parent.

**Relative Income of Parties** - For child support cases in which the parents do not share custody equally, the income of the party receiving support has little effect on the total support obligation.

**Education** - Unless a parent previously agreed in writing to pay for a child's college, Pennsylvania will not order a parent to pay support for a child university education. However, Pennsylvania will enforce an out of state order that requires a parent to pay for a child in college.

**Support Deviations** - The paying party having more than 40% of overnight custody with the child is a basis for lowering the support obligation. The paying party having less than 30% of overnight custody of the child may be a basis for an increase of the support obligation.

### Marital Support Matters

**Adultery, Abandonment and Abuse** - are very relevant to determinations of Spousal Support but often have little to no impact on APL and Alimony determinations.

**APL has a two-year limit** with some rare exceptions.

Although there is typically an **alimony liability of one (1) year for every three (3) years of marriage** this is often negotiated downwards for a number of reasons

## Conference Checklist

Bring the following items to your support conference:

- Paystubs (six months if possible)
- Most Recent Tax Return (plus all schedules)
- Proof of Childcare Expenses (if applicable)
- Proof of Student Loan Expenses
- Proof of Extraordinary Medical Expenses
- Medical Form (if applicable)
- Unemployment Documentation (if applicable)
- Driver's License
- Child's Health Insurance Card (if applicable)

## Contempt

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If you do not pay as required you can go to jail. If you are summoned to court for failing to pay, the following can help reduce your chance of going to jail:

1. Bring as much money as possible to court.
2. Gather proof of all of your attempts to find work. (copies of job applications etc.).
3. Obtain medical evidence of any disability that prevents you from working.
4. File a modification (if warranted by a change in circumstances).
5. Obtain employment.

## Additional Tips

1. Hearings are at domestic relations building not the main courthouse
2. Do not allow the other party or attorney to provoke you
3. Dress as if you were going to an important job interview