

Top Reasons to Seek Spousal Support Modifications in San Diego

By Bonnie A. Rabinovitch-Mantel, CFLS.

When it comes to requesting an adjustment in spousal support in San Diego County, there are a variety of factors that may come into play—changes in income, cohabitation, and other considerations. To best understand your legal options, let's take a look at some of the top reasons for spousal modifications in San Diego:



*** The Support-Payor's Income Decreases**

A reduction in the support-payor's income is the most common reason an individual might seek an adjustment in spousal support. A modification due to a downward change in income can be sought in the midst of a divorce or even after the court's final spousal support judgment.

In order for a reduction in spousal support to be approved by the court, the individual seeking the reduction in San Diego must provide adequate evidence that his or her income has been significantly reduced, and thus warrants a modification in support payment.

*** The Support-Payee's Income Increases**

On the flip side, what happens if you are receiving spousal support and you enjoy an increase in income? Can your former spouse make a case to pay less in spousal support? In temporary support situations—i.e., before the final spousal support judgment has been made—a spouse can (a) file a motion to modify spousal support based on the belief of a change in income and then both parties will need to provide current income information to each other and the court, (b) informally request the other's gross income information to confirm the change in circumstances before filing a motion

to modify spousal support. If the other side refuses to provide the information, one can always subpoena their bank or employer to obtain the information. However, when a final judgment has already been entered, then the support-paying party can submit a formal request for an income and expense declaration to be provided by the support-receiving former spouse, which is then required to be completed in 30 days. In this post-judgment scenario, subpoenas are not an option unless a motion has already been filed to request the modification which re-opens the issue of the payee's income and will allow for the discovery of that party's income, even by way of subpoena.

*** The Support-Payee is Living With Someone Else**

Cohabitation is another valid reason why a spousal support payor in San Diego might seek a modification in what he or she pays. If your former spouse is living with someone else, in a non-landlord tenant situation, it's not unreasonable to assume that their cohabitee is sharing some of the expenses associated with the residence and therefore the payee has less expenses and essentially more income. Though that presumption makes some sense—and will be presumed by a family court judge, too—it's also not a certainty. The support-receiving former spouse will have the right to offer evidence to rebut the presumption and show that there is no reduced need, regardless of cohabitation. It's important to note that the partner he or she is cohabitating with does not have to provide their financial information or background, other than what is being contributed to the support-receiver's expenses, and it won't be taken into account. The only question is whether or not the former spouse who is receiving support has a reduced need that would call for a reduction in support payment.

The bottom line is this: there are certainly valid reasons for a spouse or former spouse to seek a modification in spousal support in San Diego. Income, living situations, and needs change—so, it is entirely possible that any accompanying spousal support payments might change, too. That's where a San Diego divorce attorney comes in. Because spousal and child support payments are complicated areas of family law, which often require a lot of documentation and careful calculation, it's essential to enlist the expertise of a San Diego divorce attorney who can ensure that your legal rights are accurately, fairly, and effectively represented.

For questions, concerns, inquiries, or to explore our free 30 minute phone consultations, please use the links below:

info@primusfamilylaw.com

[619.574.8000](tel:619.574.8000)

www.primusfamilylaw.com