

## Domestic Violence and Spousal Support in California

Domestic violence in any form is not a pleasant subject to discuss. The reality, though, is that it happens often, and unfortunately a lot of our clients have experienced it. In this article, we want to cover the implication that [domestic violence](#) has when related to spousal support in California family law.

First, let's look at the potential scenarios in a case:

1. You're the intended recipient of spousal support, and you committed domestic violence against the intended paying spouse
2. You're the intended paying spouse, and domestic violence was committed against you by the intended receiving spouse.

There exists certain areas of divorce and family law where fault is actually a factor (recall that for divorce in California, we're a "no fault" state, meaning that the court system here doesn't care the reason why a couple wants to dissolve their marriage). A domestic violence conviction and the consequences on California spousal support is one of the areas where fault is heavily examined.

**Scenario: Husband is the intended paying spouse, and wife, the intended recipient. She was convicted of committing an act of domestic violence against him 2 years before he filed for divorce.**

In a California family law case where one spouse has been convicted of an act of domestic violence against the other spouse within 5 years before the divorce proceeding (usually based with the petition for dissolution being filed), there is a "rebuttable presumption" that the convicted spouse should not receive a spousal support award.

Note that "**rebuttable presumption**" indicates that it's not automatic. The spouse convicted of domestic violence can submit evidence to the court in order to rebut the presumption against them. In situations where both spouses were each convicted of domestic violence against each other, this rebuttal oftentimes is successful. In addition, the court can take any other factors that it determines to be sound to rebut the presumption. If the wife attempts to rebut and is unsuccessful, it's likely the court will eliminate an order for the husband to pay spousal support to her. The domestic violence conviction rule applies to both temporary spousal support and a permanent spousal support award.

### False Allegations of domestic violence

What about false allegations of domestic violence? This can be a valid concern. An obvious example is a spouse who imposed self-inflicted harm on themselves, and then contacts the authorities to claim their spouse committed harm. If you have any feeling that your spouse would

be capable of this type of behavior, it's best to reach out to us right away.

## **Examination by the Courts**

Trial courts are required to examine and consider any documented domestic violence between parties when making the determination of spousal support (in regard to both need and amount). Included in this consideration is emotional distress that an individual experienced as a result of the violence committed against them. Any history of arrests and/or other convictions during the relationship are also examined.

In California, there's a wide range of behavior that can fall under the area of domestic violence, including "disturbing the peace" of another individual. If a judge takes offense to the actual behavior in question, he or she can define it as domestic violence. Regardless of which side of this scenario you find yourself on, please contact us with your questions. This area is very serious in the eyes of California family law, courts, and judges.