

Terminating versus Reserving Spousal Support in California

What does it matter if spousal support is set at zero, which is also commonly referred to as a reservation of support, as opposed to being terminated? Turns out, a lot! There is a very important legal difference between the two concepts under California law, and it is in your best interest to understand the distinction.

Reservation of Spousal Support

Think of a reservation (zero order) of spousal support like shutting the door on the issue. While you won't be paying or receiving spousal support under a reservation order, that does not mean the issue is automatically over. In other words, that door can be opened at a later time if circumstances change. For example, if the issue of spousal support was reserved and one of the former spouses lost his or her job, that spouse could ask for spousal support.

Termination of Spousal Support

On the other hand, terminating spousal support does more than just shut the door. A terminating order locks the door and the key is thrown away. In other words, no matter what happens in the future, regardless of any change in circumstances, spousal support cannot be ordered. Using the same example above, if the issue of spousal support was terminated and one of the former spouses lost his or her job, that spouse cannot ask for spousal support.

When does Spousal Support Terminate?

In California, under Family Code Section 4337, spousal support automatically terminates by operation of law in limited circumstances: the supported spouse's remarriage, or either spouse's death. That means that there is no need to obtain a new or updated court order in one of those events. In other words, the day a supported spouse remarries, spousal support ends. Even if your divorce judgment does not specifically state that spousal support terminates if the supported spouse remarries or if either party dies (though it's always a good idea to make sure it's in there if you're paying spousal support), unless there is a specific agreement to the contrary, support ends. Spousal support can also be terminated on a specific date that is clearly set forth in your judgment under Family Code Section 4335 or by a court order.

Cohabitation

Family Code Section 4323 creates a rebuttable presumption that if a supported party is cohabiting (living) with a nonmarital partner, there is a decreased need for spousal support. Notice that the presumption does not refer to terminating spousal support and only refers to decreasing spousal support, which can mean lowering it all the way to zero. In short, reducing and/or reserving spousal

support is an option; however, terminating spousal support solely on the basis of cohabitation is not supported by the law. This is another reason why it is so important to understand the difference between reserving and terminating spousal support.

Conclusion

Learning the difference between a reservation order and a termination order for spousal support is extremely important, but that is just scratching the surface of the complicated and intricate laws regarding California spousal support. For more information and specific advice for your situation, please feel free to [contact us](#).