

## What Effect Does Cheating have on My Divorce?

One of the biggest betrayals you can ever experience is to discover that your spouse has committed adultery. It's only natural to wonder how this might impact you in a divorce and whether or not the law holds your cheating spouse accountable for that behavior.

## Reasons for a Divorce: Fault vs. No Fault State

There are two reasons for divorce in California: 1) permanent legal incapacity to make decisions, which is a very rare reason; or, 2) irreconcilable differences, which is a vague and broad category that encompasses all other reasons for wanting a divorce. In other words, you won't be asked for specific reasons as to why you are wanting to get divorced. Although other states may require a finding of "fault" before allowing couples to get divorced, California is what is commonly referred to as a "no fault" state, meaning that either spouse may unilaterally seek a divorce for any personal reason.

As California sees things, if a couple experiences differences that cannot be fixed, they can divorce without having to specifically state the details of why the marriage failed. This allows both parties to move forward with their lives in a simpler and less painful manner. As a result of this process in California, adultery isn't recognized as a wrongful act. It's simply lumped into the category of irreconcilable differences.

## How do I Protect Myself from my Cheating Spouse?

When deciding on issues such as spousal support, the court takes a very objective view of the situation and looks at concrete information related to the financial situation of both parties involved. It doesn't, however, take into consideration the subjective view of each individual's behavior which may or may not have led to the divorce. Simply stated, cheating will not have an effect on the outcome of alimony. The *only* time behavior is taken into consideration is in cases of domestic violence. This circumstance can affect the amount and/or total eligibility of alimony altogether.

While the court may not place importance on whether or not a spouse cheated, the court does require both parties to uphold their fiduciary duty to the other. In other words, if your spouse was using large amounts of community money to fund the affairs, you may have a right to reimbursement if you can prove that the money was not spent to benefit the community. If your spouse has been cheating on you, you may wish to consider carefully reviewing your bank accounts and retirement accounts to see if your spouse has been making unusual purchases or large transfers of money.

If you feel strongly that the circumstances surrounding your situation affect other aspects of the divorce, it's suggested to bring it up with your family law attorney. Learning that your spouse has

cheated on you is obviously painful and embarrassing, and we advise you to seek out help to make sure you are physically and emotionally healthy. For more information regarding your rights, please [contact us](#).