

Spousal Support

What is spousal support?

Spousal support is money paid by one partner to the other after they separate or divorce. It is almost always paid by the partner with the higher income to the partner with the lower income.

Who can get spousal support?

A partner might have the legal right to support if they were:

- married,
- a common-law partner for at least 3 years, **or**
- in a relationship for some time and had a child together.

Spousal support is not an automatic right. A partner may have the right to support because:

- they did unpaid work during the relationship
- they need financial support after the relationship ends and the other partner can afford to pay
- there is an agreement for one partner to pay

Even if a partner has the right to support, the law still expects them to try to support themselves as soon as possible after they separate. This is called the “duty to become self-sufficient”.

How much support and for how long?

The **amount** of support a partner gets and **how long** they get it for, depends on things like:

- how long they were together,
- if there are children and who is taking care of them,
- each partner's role during the relationship,
- each partner's age, and
- each partner's financial situation.

The **Spousal Support Advisory Guidelines** (SSAGs) are often used by lawyers and judges to help decide spousal support.

There is also a spousal support calculator at mysupportcalculator.ca.

Some agreements or court orders set a date when support payments will end or be reviewed. If there is no end date, support continues unless the agreement or order is changed.

Spousal support does not automatically end if the partner getting support remarries or starts living with someone else.

Retroactive support

It is sometimes possible to get spousal support for a period of time before the application for support was made.

Partner on income assistance

In most cases, a partner on income assistance must try to get any spousal support they might have a right to. If they do not make reasonable efforts, they may get less income assistance or none at all.

How is spousal support paid?

Spousal support is usually paid each month, but sometimes it can be paid in a "lump sum" or all together.

How are spousal support payments taxed?

Monthly spousal support is taxable for the “recipient” or the partner receiving support. And it is tax deductible for the “payor” or the partner paying support.

But if the support is paid all at once in a lump sum it is not taxable for the recipient and the payor cannot claim it as a tax deduction.

How is spousal support enforced?

The **Family Responsibility Office** (FRO) is a government agency that can enforce support payments that are in a:

- written agreement filed with the court
- court order

This means that FRO collects support directly from the payor partner and pays that amount to the recipient partner.

FRO has different ways to collect unpaid support from the payor. It can:

- have the payments automatically deducted from their wages or other income
- register a charge or a lien against their personal property
- take money from or garnish their bank account

And, if the payor misses a payment, FRO can also suspend their driver’s licence, report them to credit bureaus, or cancel their passports.

How can support be changed?

If both partners agree, they can change their order or agreement.

If the partners do not agree, they can try an **alternative dispute resolution** like mediation or arbitration. If that does not work, either partner can ask the court that made the original order to change the order or agreement. The court will do this only if there has been a **significant** change in the situation. For example, if:

- the payor's or recipient's income has gone up or down,
- the arrangements about the children have changed, or
- the judge thinks that the recipient should now be self-supporting.

More information and legal help

See stepstojustice.ca/legal-topic/family-law and CLEO's other print family law publications for more information.

For help finding a lawyer or a mediator, see the publication **Family Law: Legal Help**. It also has information on where to get help if you cannot afford the fees.

For help filling out family court forms, see CLEO's **Family Law Guided Pathways**.



Visit stepstojustice.ca/legal-topic/family-law for more information about family law and how to get legal help. This is general information for people in Ontario, Canada. It is not intended to be used as legal advice.

Si vous parlez français

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