



Does Adultery Affect Spousal Support/Alimony? A State by State Survey

Alabama – No.

Alaska – No.

Arizona – No.

Arkansas – Yes. Adultery can be considered when deciding whether to award alimony, how much alimony to award, and how long to award alimony.

California – No.

Colorado – No.

Connecticut – Yes. It's up to the judge to decide whether and how adultery should be considered when awarding alimony.

Delaware – No

Florida - Yes. Courts *may* consider adultery when determining whether to award spousal support, how much to award and how long to award it.

Georgia – Yes. Adultery can bar alimony but ONLY if the adultery is the reason/ground for divorce.

Hawaii – No.

Idaho - Yes. Adultery is one of the many factors that courts can consider when making an alimony award.

Illinois – No.

Indiana - Yes. Courts *can* consider adultery when making decisions about alimony.

Iowa – No.

Kansas - Yes. Adultery **can** be a factor in considering an award of **alimony**,

Kentucky - Yes, but the judge can only consider adultery when deciding *how much* alimony to award. The judge can't *prevent* a guilty spouse from receiving alimony just because that spouse committed adultery.

Louisiana – Yes. Spouses who commit **adultery** which leads to the breakup of the marriage are not eligible for **alimony**.

Maine – No.

Maryland – Yes. Judges can consider adultery that resulted in divorce and destroyed the marital home when awarding alimony. However, the fault can only be considered when it affects the economic needs of the spouse who's asking for alimony. This means that adultery is only relevant to alimony if it somehow affected the finances of the supported spouse.

Massachusetts – Yes. Adultery will not prevent the “guilty spouse” from receiving alimony if that spouse is otherwise entitled to it. But, when an adulterous spouse dissipates (wastes) marital money during the course of an affair, judges are likely to consider that fact when making alimony decisions.

Michigan – Yes. Judges in Michigan are not only permitted, *but required* to look at the issue of fault when analyzing alimony.

Minnesota – No.

Mississippi – Yes. Alimony can't be used as a sanction for bad behavior, but the court must at least consider the facts about any marital misconduct or fault that has occurred, including adultery when awarding alimony. The only exception is if the court is awarding lump sum alimony, in which case fault can't be considered.

Missouri – Yes. In awarding alimony, the court has to at least consider the facts about the way the spouses behaved while they were married. The judge can reduce or increase an alimony award if there's been adultery, or even deny alimony altogether.

Montana – No.

Nebraska – No.

Nevada – No.

New Hampshire – Yes. Adultery does not automatically bar a cheating spouse from receiving alimony, but it can. A spouse's adultery can also affect the alimony s/he receives. For adultery to make the cheating spouse ineligible for alimony, the following three factors must be met:

- the adultery must be the cause of the divorce

- the adultery must cause substantial mental or physical suffering to the faithful spouse, and
- the adultery must cause significant financial harm to the faithful spouse or the couple's estate.

New Jersey – Yes. Adultery, may affect an alimony award, but *only if* it negatively affected the couple's economic situation, or where the misconduct was so bad that an ordinary person would recoil from the idea of the innocent spouse being forced to support the guilty one.

New Mexico – No.

New York – No.

North Carolina – Yes. If the court finds that the paying spouse committed adultery, the law states that the court **shall order that alimony be paid** to the dependent spouse. If the court finds that the dependent spouse committed adultery, the court **will not award alimony**. If the court finds that both spouses have committed adultery, the court has discretion in whether to award or deny alimony. If either spouse condoned the other's adultery, then that adultery can't be considered in an alimony claim.

North Dakota – Yes. Adultery will not automatically result in an award of alimony to the innocent spouse, and it will not automatically bar or prohibit an award of spousal support to the cheating spouse. But, marital misconduct *is* one of many factors that the court will consider when making a decision on spousal support.

Ohio – Yes. Adultery may be considered when awarding alimony. In addition, if one spouse begins to cohabit (live together) with a romantic partner during the divorce proceeding, a judge may consider that as a factor as well if the cohabiting spouse requests alimony. However, the court is *not required* to consider the adultery and, the court may also find that the adultery is irrelevant when deciding on spousal support.

Oklahoma – Yes. Adultery usually doesn't affect alimony. Courts only consider adultery if that adultery somehow affects the paying spouse's ability to pay support, or the supported spouse's need for it. For example, if a spouse only needs alimony because that spouse's affair got the spouse fired, the court may choose not to award that spouse alimony.

Oregon – Yes, but ... Adultery will only impact alimony if it impacts one of the factors that the court considers when granting alimony. In other words, if the adultery created the need for the alimony in some way, then the adultery affects alimony.

Pennsylvania – Yes. Once a husband or wife commits adultery, he or she is *not* entitled to receive spousal support or alimony if the adultery caused the divorce.

Rhode Island – Yes. Adultery can affect a court's decision about whether to award alimony. Also, if a cheating spouse's infidelity caused the divorce, it's unlikely the cheating spouse will receive alimony.

South Carolina – Yes. A spouse who commits adultery isn't eligible to receive alimony. Significantly, "adultery" includes the activities of spouses who live separately while their divorce is pending. If separated spouses have sex outside their marriage before their divorce is final, the "unfaithful" spouse is barred from receiving alimony. However, if the faithful spouse condoned the adultery, (i.e. s/he knew about and allowed the affair) then the unfaithful spouse's conduct may not bar him/her from receiving alimony.

South Dakota – Yes. An affair will not necessarily prevent a spouse from receiving alimony, if the affair was a reason for the divorce, the court may consider it when making its alimony award.

Tennessee - Yes. A court can deny alimony to a spouse who committed adultery if the adultery was the main reason for the breakup of the marriage. If the unfaithful spouse would be the one to pay alimony, his/her adultery won't have any effect on his/her obligation to pay alimony.

Texas – Yes. Although adultery alone does not make the faithful spouse eligible for alimony, many Texas courts will consider adultery when deciding how much a lower-earning spouse should receive in alimony or spousal support. A court may deny alimony to a spouse who has committed adultery. Courts also consider the adultery of a spouse asked to pay alimony, if the affair was the reason for the breakup of the marriage. As in South Carolina, adultery can still be considered if it was committed after the spouses separated but while they were still married.

Utah – Yes. If one spouse was unfaithful, and his/her infidelity led to the breakup of the marriage, the court may deny alimony to the unfaithful spouse. The adultery has to be a

major cause for the breakup of the marriage for it to prevent an unfaithful spouse from receiving alimony. As in some other states, forgiveness of an affair erases its impact. If your spouse was unfaithful, but you forgave your spouse and continued to live together for a significant time after the affair, the court won't consider the adultery when deciding alimony.

Vermont – No.

Virginia – Yes. Adultery can play a big part in the alimony decision. Judges have to consider the factors which contributed to the divorce, and specifically adultery, as a threshold issue **before** deciding whether to award spousal support. If a marriage ended because of adultery, the innocent spouse can't be ordered to pay permanent alimony to the guilty spouse – with one exception. If denying alimony to the guilty spouse would be a “manifest injustice” (meaning, grossly unfair), then the guilty spouse can receive alimony.

Washington – No.

West Virginia – Yes. If adultery is the grounds for divorce, then the judge can take the adultery into account when making decisions about alimony. The judge can adjust the amount or duration of an alimony award if a spouse committed adultery. The judge can also deny alimony altogether if adultery occurred. However, when determining spousal support issues, the judge has to consider **both** parties' misconduct and the effect that misconduct had in contributing to the breakdown of the marriage.

Wisconsin – No.

Wyoming – Yes. Judges can't use alimony to punish adulterous spouses, but they are allowed to consider adultery when awarding alimony.

NOTE: The information contained in this document is general divorce information and does **NOT constitute legal advice. PLEASE CONSULT WITH A LAWYER IN YOUR STATE TO FIND OUT EXACTLY WHAT THE DIVORCE LAWS ARE IN YOUR STATE, AND HOW THEY MIGHT APPLY IN YOUR DIVORCE CASE.**