

[Music playing in the background]

[No other audio]

[Images of a living room with furniture, plants, and a window]

How Does Cohabitation Affect Alimony in California?

Presented by: farzadlaw.com

What Does California Law State Regarding Cohabitation and Alimony?

[Image of an open book]

California Family Code 4323 sets the rule for cohabitation's effect on alimony.

(a) (1) Except as otherwise agreed to by the parties in writing, there is a rebuttable presumption, affecting the burden of proof, of decreased need for spousal support if the supported party is cohabiting with a nonmarital partner. Upon a determination that circumstances have changed, the court may modify or terminate the spousal support as provided for in Chapter 6 (commencing with Section 3650) of Part 1.

(2) Holding oneself out to be the spouse of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this subdivision.

(b) The income of a supporting spouse's subsequent spouse or nonmarital partner shall not be considered when determining or modifying spousal support.

(c) Nothing in this section precludes later modification or termination of spousal support on proof of change of circumstances.

- Family Code 4323

What is California Law Really Telling Us About Cohabitation's Effect on Alimony?

[Image of a folder, envelope, calendar, notebook, and money]

1) California Family Code 4323: The parties can agree to something different from what California Family Code 4323 states about the cohabitation's effect on alimony.

2) Presumptive Reduced Need: Absent that agreement, the ex-spouse (or if they are still married, the spouse) who lives with a non-marital partner has a presumptive reduced need for alimony.

3) Spousal Support: The code section uses the word spousal support, which is synonymous with alimony.

[Image of a house being torn apart by a female hand and a male hand]

4) Rebuttable Presumption: This presumption is not absolute. Rebuttable means the cohabiting spouse can offer evidence to show why he or she does not have a reduced need and should continue to receive the same alimony amount.

5) Modification or Termination: If the court determines there is cohabitation with a non-marital partner, the court has the power to modify or terminate the alimony.

6) Non-marital Partner: Cohabitation does not require one non-marital partner to hold the other non-marital partner out as his or her spouse.

[Image of forms and a pen resting on folders]

7) Income: The income of the ex-spouse's (or spouse) subsequent spouse is not a factor when determining or modifying alimony.

8) Future Modification: Just because a court modifies alimony because of cohabitation does not mean the California court cannot modify it again at a future date. This presumes the court did not forever terminate alimony.

[Image of documents, a dollar sign, and a courthouse]

What Does Cohabitation Really Mean?

In practical application, cohabitation usually refers to an interpersonal relationship that goes beyond a platonic, roommate relationship.

[Image of books, furniture, and a framed picture]

What Arguments Does the Ex-Spouse Who Wants to Reduce or Terminate Alimony Make?

[Image of a couple with speech bubbles in between them]

Once a person shows cohabitation with the nonmarital partner, he or she can delve into the reduced need for spousal support.

That ex-spouse already has a presumption working for him or her. However, that does not mean the ex-spouse should assume he or she has a winning case.

Demonstrating the Reduced Need for Spousal Support

We recommend gathering all available evidence to show the reduced need.

This reduced need may be significantly fewer personal expenses and/or the pooling of money between the nonmarital partners.

[Image of tax forms, an envelope, a pen, a calculator, and a folder]

What are Some Arguments the Cohabiting Ex-Spouse (or Spouse) Has Against an Alimony Modification Request?

Depending on the facts of the case, a cohabiting ex-spouse or spouse could argue: the rebuttable presumption of Family Code 4323 does not apply, there is not a reduced need, or the cohabitation is not a significant change in circumstance but a circumstance that existed on the date of the most recent order.

Read Our Informative Guide on Cohabitation and Alimony in California to Learn More

[Image of a bookcase, mug with pencils, and a desktop]

[Image of a laptop and Wi-Fi signal that reads visit us today at farzadlaw.com]

[Image of an outline of California with three office building photos]

We have offices in Los Angeles, Orange County, and San Diego.

[Image of the U.S. Bank Tower]

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