



THE OBLIGATION OF SUPPORT FOR SPOUSES

Marie and Robert have been married for 25 years. During their marriage, Robert worked as an engineer in a well-known company and, on average, earned \$150,000 a year. Marie stayed home to look after their three children and their home. During this time, Marie never held a paying job, because she was very involved in her children's lives. The children are now independent adults.

Recently, things have changed and Robert and Marie are no longer getting along. After drawn-out discussions, they decide to divorce.

However, Marie is concerned. How will she make ends meet? Although she graduated from high school, she did not complete the nursing program she had begun, because she became pregnant soon after meeting Robert. She is therefore worried about her future and wonders what she can do.

Pursuant to the *Divorce Act*¹, she will be able to ask Robert to pay her spousal support (alimony). If Robert refuses to help her financially, she will be able to go to court, where the judge will assess the file and determine if she is entitled to support. The court will take into account her needs, Robert's means as well as the general situation of each of the parties. For example, the court will consider the length of the marriage, Marie's level of schooling, the role she played while they lived together and the fact that Robert was the family's breadwinner all those years.

The court will take into consideration the positive and negative effects of the marriage and its failure on Marie's situation and Robert's situation. It will also try to apportion and mitigate the economic consequences of the breakdown for both spouses. To the extent possible, the court will aim for the economic self-sufficiency of each spouse.

If applicable, based on the circumstances, the court will establish an amount of support to be paid by Robert to Marie. The court may ask her to take steps in an effort to become financially self-sufficient, to the extent possible and in accordance with the circumstances of the case. Thus, the court could impose a term on the obligation to pay support; the support payments would therefore stop after a specific period of time.

It is important to note that spousal support applies **only to married spouses or spouses in a civil union**.

Thus, if Robert and Marie had lived in a *de facto* (common law) union all those years (that is, without getting married or entering into a civil union), Robert would not have any legal obligation to pay Marie support. The state of the law does not currently provide an obligation to pay spousal support between *de facto* spouses.

¹ R.S.C. 1985, c. 3 (2nd suppl.), section 15.2.

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* The information set out in this document is not a legal interpretation.

The masculine is used to designate persons solely in order to simplify the text.