



New Chapter Ahead: Retirement and Modification of Spousal Maintenance



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There are various reasons why former spouses may seek to modify the amount and duration of a maintenance obligation. Minnesota law provides different options to seek a modification of spousal maintenance, including retirement, which the Minnesota Legislature has now strengthened as a justification for reducing or terminating spousal maintenance. The Legislature has now defined a normal retirement age for spousal maintenance modification purposes and the assets that parties have available to them to meet expenses in their retirement.

Effective August 1, 2024, Minnesota law now outlines special considerations for a former spouse who is obligated to pay spousal maintenance (obligor or payor) seeking a modification of their obligation when entering their next chapter in life, retirement. Under Minnesota law, a “modification” of spousal maintenance may consist of a reduction, suspension, reservation, or termination of maintenance.

Before rushing to the courthouse to file a motion to modify based on a pending retirement or retirement, former spouses will need to understand the following changes to Minnesota law on spousal maintenance modifications related to retirement.

“Normal” Retirement Age

The Minnesota Legislature has now tied the definition of a normal retirement age for the modification of spousal maintenance to the definition of a normal retirement age in the Social Security Act. Under the Social Security Act, to receive full benefits one must reach **full retirement age**, which is currently age 66 for

people born prior to 1954 and 67 for most everyone else. When considering a modification of spousal maintenance based on retirement, the Court must consider if the payor is eligible to receive full retirement benefits based on their age. Alternatively, the Court must consider the payor’s occupation and the **customary age** in that occupation at which retirement occurs.

To Use Retirement Assets or Not?

Prior to the new law, there was conflict on whether a former spouse had to use their retirement assets during retirement or only the income they could earn on their retirement assets. The Minnesota Legislature has now determined that once the obligor has reached the age to receive full retirement benefits under the Social Security Act or age customary to obligor’s occupation, that the obligor will **use both income and assets** to meet their needs.

Planning Ahead: Future Retirement Date

Additionally, the new law also allows the payor to be preemptive in seeking a modification request. Previously, the payor had to wait until retirement commenced to seek relief. Now, payors who have a specific date by which retirement will begin, may bring a motion for the Court to consider a maintenance modification motion. If a modification is granted, then the Court may make the modification effective as of the actual retirement date.

Conclusion

The above inclusion to Minnesota’s spousal maintenance statute is intended to recognize good-faith modification requests made by obligors/payors based on retirement. Modification based on retirement is not guaranteed, but a Court may modify if (1) retirement is in good-faith, (2) at the age of full retirement under the Social Security Act or customary age designated by occupation/industry standard reached, (3) prudent management of their assets since the divorce, and (4) financial resources available to both former spouses. Moss & Barnett’s Family Law attorneys are available and ready to assist with spousal maintenance modification claims.