

The Legal Relationship Between Adultery and Divorce in Utah

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Divorce is an unfortunate, complicated circumstance that no one hopes to go through. But, with 40 to 50 percent of marriages ending in divorce, it's an inevitable one for many.

Factoring in adultery, alimony, and Utah laws complicate the situation even further. That's why we at The Law Office of David Pedrazas PLLC seek to help those entangled in these complicated factors and make things more clear.

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Adultery in Utah

Definition of Adultery – Voluntary sexual intercourse between a married person and someone who is not his or her spouse.

In Utah, adultery affects thousands of marriages each year. Other concerns regarding sex and fidelity, such as fornication, bigamy, and polygamy, are also illegal. Before discussing how adultery affects divorce proceedings, it is necessary to discuss the concept of “fault.”

In some states, a divorce must prove that one of the two parties is at “fault” for the divorce. A common indicator of fault is adultery. This means that fault is required for the divorce to proceed. In recent years, however, much of the fault legislation has been overturned across the country.

Utah, however, is a “no-fault” state. A couple may simply file for divorce on the grounds of “irreconcilable differences.” Thanks to this, adultery does not factor into the basic mechanics behind receiving a divorce.

It can, however, factor into several aspects relating to the divorce, especially alimony.

Alimony in Utah

Alimony is the court-ordered financial provision from one spouse to another during separation, during, or after a divorce. It cannot last longer than the marriage (unless there are “extenuating circumstances”), terminates when the paying spouse dies, the recipient remarries, or if the paying spouse proves that the recipient has moved into a home with a new lover and benefits financially from it.

- Both a husband or wife may ask for alimony, and its approval and size depends on a variety of factors:
- Financial needs of both parties after the divorce, which include debts and other obligations.
- The earning ability of the potential recipient after the divorce includes previous employment history, ability to work, and other income streams.
- Earning ability of the paying spouse, which includes the same pieces from the previous bullet point.
- Marriage length. As time passed, the potential recipient may have grown increasingly dependent on the other spouse.
- Child custody.
- The marriage’s potential basis in employment. A boss marrying a former employee would factor in the employee’s ability to work post-marriage.
- Standard of living for both parties before, during, and after the marriage.
- Fault, which can include adultery, physical intimidation, fear, or undermining financial stability.

By engaging in sexual relations with someone other than their spouse, someone may be at fault for the divorce. The court, however, does not look at the situation without investigation.

Adultery cannot be used as fault (pertaining to alimony) years after the incident and the couple’s subsequent reconciliation. The reveal of such an event had to have been relatively recent. If both spouses committed adultery, both are at fault, and the alimony wouldn’t change either way.

The committing of adultery doesn’t necessarily mean that alimony won’t be delivered, as it’s just one of the many factors for the judge to consider. However, if the unfaithful spouse is also the spouse seeking alimony, it doesn’t paint that person in a sympathetic light.

Likewise, if significant marital funds were spent either perpetuating or hiding the affair, that will also be considered. Spouses are expected to share funds, just not on extra-marital affairs.

In the absence of a confession, spouses seeking to claim they were cheated on need to provide the court with sufficient evidence. This can include phone records, credit card statements, bank statements, receipts, or other circumstantial evidence. The accuser needs to speak with an attorney before going forward with these claims, as proving adultery can be very difficult.

Will The Court Always Consider Adultery When Deciding Alimony?

When it comes to committing adultery, this is not always going to impact alimony payments. For example, suppose someone commits adultery, and then the couple reconciled and got back together before deciding to divorce years later. In that case, the judge may not consider adultery when deciding alimony payments. Furthermore, if both partners in the marriage committed adultery, then adultery is unlikely to be considered when it comes to a divorce. In this case, it is simply better for both parties if a divorce is received as amicably as possible.

Furthermore, and longer marriages, Utah courts may try to make sure that both marriage members have an equal standard of living. If the marriage was shorter, courts might decide to return each partner to their standard of living prior to getting married. If adultery took place and is seen as a cause for the divorce, then the court may decide to use adultery laws in Utah to award the other partner a more favorable outcome. This is where a divorce attorney in Utah can be helpful.



Does Adultery Impact the Division of Property in Utah?

When it comes to Utah adultery laws, this is usually not seen as a major factor when it comes to the division of property; however, there are situations where Utah laws on adultery may impact the division of property. For example, if one partner spent a significant amount of money on the affair, such as flying worldwide and paying for hotel rooms, this could be deducted from the amount of money that he or she is going to receive. In this situation, the other partner might be awarded a larger portion of the shared marital assets. Of note, any assets that each partner brought with him or her into the marriage are usually returned to that person, particularly if the couple was married for a shorter period.

Because adultery is not seen as a typical factor when it comes to the division of property, it is important for anyone who believes that he or she is entitled to a larger share of the assets to produce proof that the affair had a drastic income on the financial status of the family. This is where working with a divorce lawyer is helpful. A divorce lawyer understands how to file discovery motions that can uncover evidence of money that was spent on the affair. This could include receipts that show evidence of hotel rooms and plane tickets in addition to social media posts from hidden accounts that show evidence of one partner spending time and money on his or her affair. This can place one partner in a position to pursue a greater proportion of the shared marital assets during the divorce proceedings. Work with an experienced divorce law office to make sure that your rights are protected during your divorce proceedings.

Why Choose David Pedrazas?

- Experience Quality: Practicing divorce and family law since 1998 (20+ years' experience)
- Best Advice: David Pedrazas has been recognized at Salt Lake City's best divorce attorney by many associations year after year. including
 - Voted Top 10 Attorneys in Salt Lake City, UT by the National Academy of Family Law Association
 - Premier Top 100 Trial Attorneys in Family & Divorce category by the American Academy of Trial Attorneys
 - In the 10 Best Divorce Attorney for two years, 2014-2015 by the American Institute of Family Law

Compassionate and client-centered

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Contact Us for a Legal Consultation

Undergoing a divorce, especially in the wake of possible infidelity, is an emotionally taxing event like few others. The confusing, dense world of legalese and Utah law does not make such an event any easier.

Let the legal experts at The Law Office of David Pedrazas PLLC ease your burden and work with your case on an individual basis. The information outlined above is a great start to learning more about your situation's reality, but our offices can help out even more.

If you're facing a divorce in the state of Utah, feel free to swing by our offices for a Legal Case Review. David Pedrazas has helped people through over 1,000 divorce and family law cases, and he would love to share his experience to guide you through yours.