

# The Legal Relationship Between Adultery and Divorce in Utah

 [utahdivorce.biz/legal-relationship-adultery-divorce-utah/](http://utahdivorce.biz/legal-relationship-adultery-divorce-utah/)

By David Pedrazas

September 10, 2014



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 complicates 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.

## 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.

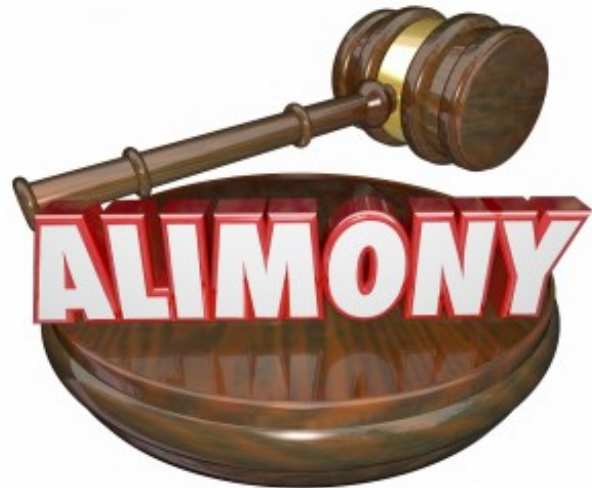
Utah, however, is a “no fault” state. A couple may simply file for divorce on the grounds of “irreconcilable differences.” Thanks to this, adultery does not factor into the basic mechanics behind receiving a divorce.

It can, however, factor into a number of 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”), and 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 includes debts and other obligations.
- Earning ability of the potential recipient after the divorce, which includes previous employment history, ability to work, and other streams of income.
- 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 into 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 his or her 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, then 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. If the adulterous spouse is also the spouse seeking alimony, however, 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 taken into consideration. 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. It's vital for the accuser to speak with an attorney before going forward with these claims, as proving adultery can be very difficult.

## Child Custody and the Division of Property in a Utah Divorce

---

Generally speaking, adultery does not factor into concerns over child custody. It would only affect it if the child was somehow psychologically traumatized by an event pertaining to the affair. A child catching a parent in the act of cheating would definitely impact the court's perception of that parent's responsibility.

Adultery does not have an effect over a couple's division of property.

## Contact Us for a Free 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 the reality of your situation, 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 free consultation. 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.