



## **WHAT IS SEPARATE SUPPORT AND MAINTENANCE**

An "Order of Separate Support and Maintenance" is South Carolina's version of a "legal separation." While our state does not recognize a "legal separation," this type of Order functions in a very similar way, with one very important exception – in South Carolina, you are married until you are divorced. This means under no circumstances should you date or engage in any activity that could be construed as inappropriate behavior for a married person. It IS adultery if you date while you are separated and doing so may have very serious legal consequences on issues such as custody, visitation, and alimony.

- According to the South Carolina Bar, Orders for Separate Support and Maintenance are documents that set forth a formal arrangement issued by a judge.
  - The judgment legally declares a husband and wife to be living apart and details the responsibilities for each of the parties.
  - This does not mean that such an order has to be entered before a husband and wife can live apart, but if it is not, the split will lack the formality that comes with such an order and financial issues can (and often do) continue to arise.
- When one party petitions for such an Order, the judge can settle certain issues, such as:
  - Amount of support to be paid by one spouse to the other
  - Who will get the family home
  - Division of assets and debts
  - Child custody and visitation
- Such an Order may vary from an actual divorce.
  - A Decree of Separate Maintenance and Support does not allow either partner to marry or have sex with anyone else until a divorce has taken place.
  - The main financial difference between a separation and a divorce is that in a separation, the two parties can keep sharing benefits such as health insurance.
  - There are also tax savings and eligibility for certain benefits that come with remaining married which helps explain the decision by some to wait before deciding to formally divorce.

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