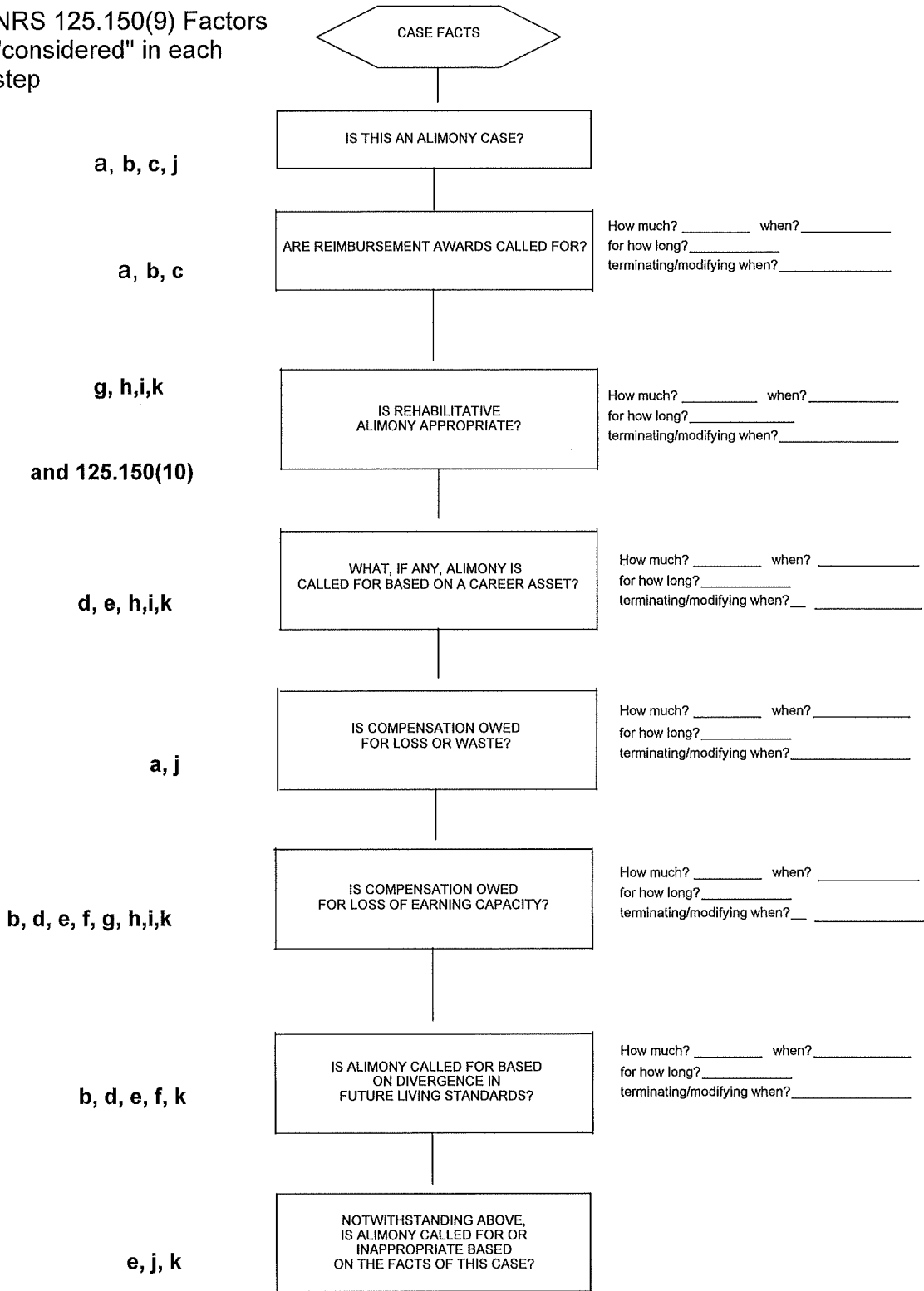


ALIMONY ANALYSIS FLOWCHART

NRS 125.150(9) Factors
"considered" in each
step



XI. APPENDIX 4 – WORKSHEETS

I. CASE FACTS

Value of non-retirement property divided upon divorce:

Plaintiff: Defendant:

Notable facts re: liquidity, timing, or division of property & debt:

Length of marriage:

Plaintiff:

Age & notable matters relating to health:

Income at Divorce:

Notable facts relating to current income relative to historical career path:

Amount and date of known/anticipated changes in income:

Notable separate property income streams:

Years until anticipated retirement/end of career path:

Value of notable separate property assets:

Estimated pension/retirement or other income expected upon retirement:

Defendant:

Age & notable matters relating to health:

Income at Divorce:

Notable facts relating to current income relative to historical career path:

Amount and date of known/anticipated changes in income:

Notable separate property income streams:

Years until anticipated retirement/end of career path:

Value of notable separate property assets:

Estimated pension/retirement or other income expected upon retirement:

II. IS THIS AN ALIMONY CASE?

Does the court have sufficient information as to the assets, debts, and incomes of the parties to make a reasonable projection of their needs, abilities, and anticipated career paths?

If not, what steps are to be taken, by whom, to obtain, refine, or create the information necessary?

Is this a case in which there are no significant community property or separate property assets or income, and no reasonable likelihood of either existing in the foreseeable future?

If so, irrespective of need, no further analysis is to be done.

Is this a case where the property distributed makes any potential alimony award essentially irrelevant to the future living standards of the parties?

If so, no further analysis is to be done, except for reimbursement, loss or waste, career asset division, and final equitable review.

Does the divorce leave the parties with any significant divergence in future incomes, assets, or standards of living?

Given the ages and career paths of the parties, for how long could or should an alimony order remain in effect?

Except in cases in which the court can definitively state that the case is *not* an alimony case from a review of basic case facts, the court should step through the detailed analysis for each alimony component and make individual determinations as to each of them.

III. ARE REIMBURSEMENT AWARDS CALLED FOR?

Is this a marriage of sufficiently short term that the court is concerned with attempting to restore the parties to a pre-marital standard of living?

Did one party liquidate a disproportionate amount of pre-existing property to enter into the marriage?

Did one party suffer a disproportionate expense or loss to enter into the marriage, that is inequitable based on the financial circumstances of the parties?

Did one party subsidize the marriage from separate property, or contribute funds to the other for the separate interest of the other or for a marital purpose for which there has been no return?

Was there any breach of fiduciary duty in investments of separate property into community property, or of the disposition of community property created during the marriage?

Do the parties have any divergence in their abilities to re-achieve their pre-marital standards of living?

If not equally, in what proportions should the parties bear the additional cost for one of them to regain the premarital standard of living?

Is it possible to pay any such reimbursement in lump sum? By compensatory award of assets? By time payments if necessary?

Is the recipient in a sufficiently superior economic position to the obligor that reimbursement should not be ordered?

Is there any reason that this award should not be payable irrespective of the future marital status of either party (i.e., any reason that the obligation should not survive remarriage)?

IV. IS REHABILITATIVE ALIMONY APPROPRIATE?

Is there a periodic obligation remaining from the prior element?

If so, how much, for how long?

Given the orders from the prior elements, what are the gross incomes of the parties, and for how long are those income levels expected to remain so?

Is there any remaining capacity of time and money to examine an ability for a further award?

If not, should such an award be deferred to a future date, or jurisdiction reserved?

Does one party have a need for training or education relating to a job, career, or profession?

Did the obligor obtain job skills or education during the marriage?

Was there an offsetting investment in the job skills or education of the obligee?

Did the recipient provide financial support while the obligor did so?

Are there other factors relevant to determining whether such rehabilitative alimony is appropriate here?

If rehabilitative alimony is appropriate:

When will such rehabilitation begin?

How much money will be required, on what schedule, to pay for that rehabilitation?

How long will the rehabilitation payments last?

Are there any conditions, reporting, required achievements or timing for such rehabilitation?

At the conclusion of the period of rehabilitation, will the recipient's property award plus post-rehabilitation earnings permit self-support?

What income level is the recipient expected to achieve?

When is such self-support expected to be possible?

At that time, will the parties continue to have a divergence in income-earning potential?

Should rehabilitative alimony survive remarriage of the recipient?

V. WHAT, IF ANY, ALIMONY IS CALLED FOR BASED ON A CAREER ASSET?

Is there a periodic obligation remaining from the prior elements?

If so, how much, for how long?

Given the orders from the prior elements, what are the gross incomes of the parties, and for how long are those income levels expected to remain so?

Is there any remaining capacity of time and money to examine an ability for a further award?

If not, should such an award be deferred to a future date, or jurisdiction reserved?

Has one party developed or enhanced the capacity for a career, profession, or business during the term of the marriage?

For how long into the future can the career asset developed during the marriage be reasonably expected to continue producing future income?

What is the percentage of attribution to be given to the future income to be expected from the career asset developed during the marriage:

Separate Components

___ Natural Ability

___ Premarital Education/Training

___ Premarital Contacts/Reputation

___ Status/Position/Seniority

___ Efforts/Experience/Opportunities

___ Other

Marital Components

___ Direct Assistance by Spouse

___ Marital Education/Training

___ Marital Contacts/Reputation

___ Status/Position/Seniority

___ Efforts/Experience/Opportunities

___ Other

Taking into account all evidence, to what extent is the career asset with which one party leaves the marriage attributable to development during the marriage?

The spousal share of that marital interest (50%) is:

The future income stream attributable to the career asset developed during marriage: \$

That figure, multiplied by the spousal share of the marital interest = \$

For how long post-marriage can the career asset developed during the marriage be expected to continue producing an income stream:

How long until the career asset is expected to finish converting potential income into realized income?

Is there clear and convincing evidence that the marital contribution of the future income stream should be further devalued going forward?

By what extent, over what time period?

At what date should career-asset alimony terminate?

Which party has the burden of filing a motion to alter that termination date, and are there any limitations as to how soon or how late such a motion may be filed?

Is there any reason that this award should not be payable irrespective of the future marital status of either party (i.e., any reason that the obligation should not survive remarriage)?

VI. IS COMPENSATION OWED FOR LOSS OR WASTE?

Is there a periodic obligation remaining from the prior elements?

If so, how much, for how long?

Given the orders from the prior elements, what are the gross incomes of the parties, and for how long are those income levels expected to remain so?

Is there any remaining capacity of time and money to examine an ability for a further award?

If not, should such an award be deferred to a future date, or jurisdiction reserved?

Has the court found that a party has committed waste of marital property, or caused the loss of marital property in violation of a fiduciary duty, such that the other spouse should be compensated?

Was there financial misconduct of one of the parties, such as waste or secretion of community assets in violation of court order?

Has the court made a finding of a basis for an unequal division of property based on negligent loss or destruction of community property, unauthorized gifts of community property, or compensation for losses occasioned by marriage and its breakup?

Note: this question does *not* review alleged “undercontributing to or overconsuming of assets during the marriage,” permit a “retrospective accounting of expenditures made during the marriage,” or ask whether there has been any “disproportion” in contribution or consumption, which are not compensable.

Has the court otherwise made a finding of compelling reasons for an unequal disposition of community property?

If any of those findings were made, was sufficient property or funds set aside to the non-wasting spouse to fully compensate for the loss or waste?

Should compensatory alimony be awarded to accomplish such compensation?

How much, and for how long?

Is there any reason that this award should not be payable irrespective of the future marital status of either party (i.e., any reason that the obligation should not survive remarriage)?

VII. IS COMPENSATION OWED FOR LOSS OF EARNING CAPACITY?

Is there a periodic obligation remaining from the prior elements?

If so, how much, for how long?

Given the orders from the prior elements, what are the gross incomes of the parties, and for how long are those income levels expected to remain so?

Is there any remaining capacity of time and money to examine an ability for a further award?

If not, should such an award be deferred to a future date, or jurisdiction reserved?

Has one of the parties provided the majority of care for the parties' children, the obligor's children, or any third party that the parties explicitly or implicitly agreed required care?

Has it been established by clear and convincing evidence that the party providing care did *not* suffer a detriment to the career path or a loss of future earning capacity by reason of providing such care?

For how long was such care provided?

Has it been established by clear and convincing evidence that any such loss of future earning capacity is temporary, and can be recovered by the party providing care?

If so, how long will that take?

What is the estimated economic loss to the party providing care until that recovery can be accomplished?

What is the current monthly earning-capacity of the recipient?

What would the current monthly earning-capacity of the recipient have been in the absence of the care provided?

For how long is such loss of future income likely to continue?

In the circumstances of this case, is the loss-suffering party's responsibility for making the decision to suffer the loss of future income any greater or less than 50%?

What is the expected time period from the divorce until the first to occur of:
the end of the obligor's expected career path; or
the end of the career path that the recipient would otherwise have followed; or

the recipient is able to recover the lost potential?

Is there any reason that this component of alimony should not terminate upon the remarriage of the recipient?

VIII. IS ALIMONY CALLED FOR BASED ON DIVERGENCE IN FUTURE LIVING STANDARDS?

Is there a periodic obligation remaining from the prior elements?

If so, how much, for how long?

Given the orders from the prior elements, what are the gross incomes of the parties, and for how long are those income levels expected to remain so?

Is there any remaining capacity of time and money to examine an ability for a further award?

If not, should such an award be deferred to a future date, or jurisdiction reserved?

How long was the marriage?

During the marriage, was the marital standard of living increasing, decreasing, or remaining relatively constant?

Is the marital standard of living at the time of divorce consistent with the marital standard of living prior to breakdown of the marriage?

If not, does the evidence indicate that it is appropriate to use some standard of living other than that present at the moment of divorce, and why?

On the basis of the prior findings and rulings, and prior awards under other alimony elements, is there a discernable expected divergence in the future standard of living each of the parties might reasonably be expected to have?

If so, what is the extent of the divergence?

Has there been an award of rehabilitative alimony that is expected to impact projected future earning capacity?

If so, how much and when?

Is a reservation of jurisdiction appropriate to determine the impact of any rehabilitative award on future earning capacity?

Will retirement or another foreseeable event have the effect of largely or completely eliminating the divergence?

Will that foreseeable event happen within five years?

Even if there is such a divergence, does the combined gross income of the parties exceed \$1,000,000 a year?

If the calculation is performed, would the calculation result in the recipient having a total income of 40% or more of the combined gross income of the parties?

Is this a marriage of sufficient length that the recipient spouse should enjoy as nearly as possible the "station in life" she had prior to the divorce until remarried, death, or financial circumstances change?

The calculation to be performed:

The payor's gross income is multiplied by .3.

The recipient's gross income is multiplied by .2.

The second number is subtracted from the first number.

To determine duration, the length of the marriage is multiplied by:

0-3 years: (.3)
3-10 years: (.5)
10-20 years: (.75)
over 20 years: permanent alimony.

Does the calculation performed cause a projected alimony award greater in amount or longer in time than the actual or expected resources of the obligor of income or time until retirement?

If so, should the obligation be reduced to match resources, the obligation remain irrespective of the resources, or some compromise be made between the figures?

Is this an appropriate case for a change in the order made to be scheduled at this time, based on retirement or any other anticipated change in status of either party?

Should this order be expressly modifiable or non-modifiable?

If modifiable, are there any restrictions on when a modification may be requested, or whether a request should be restricted to any kind of modification (i.e., shorter, longer, higher, lower)?

IX. NOTWITHSTANDING ABOVE STEPS, IS ALIMONY CALLED FOR OR INAPPROPRIATE BASED ON THE FACTS OF THIS CASE?

In combination, and taking into account all offsetting awards, is there a periodic obligation remaining from the prior elements?

If so, how much, for how long?

Given the orders from the prior elements, what are the gross incomes of the parties, and for how long are those income levels expected to remain so?

Is there any remaining capacity of time and money to examine an ability for a further award?

If not, should such an award be deferred to a future date, or jurisdiction reserved?

Are there considerations not adequately reflected in the components addressed above that indicate that the award of alimony, if any, derived from those components is insufficient to satisfy equity under the facts of this case?

What are those considerations?

Why would an award of alimony in accordance with the prior elements be unfair?

Are there considerations not adequately reflected in the components addressed above that indicate that the award of alimony derived from those components is excessive or improper to satisfy equity under the facts of this case?

What are those considerations?

Why would an award of alimony in accordance with the prior elements be unfair?