

§ 50-16.1A. Definitions.

As used in this Chapter, unless the context clearly requires otherwise, the following definitions apply:

- (1) "Alimony" means an order for payment for the support and maintenance of a spouse or former spouse, periodically or in a lump sum, for a specified or for an indefinite term, ordered in an action for divorce, whether absolute or from bed and board, or in an action for alimony without divorce.
- (2) "Dependent spouse" means a spouse, whether husband or wife, who is actually substantially dependent upon the other spouse for his or her maintenance and support or is substantially in need of maintenance and support from the other spouse.
- (3) "Marital misconduct" means any of the following acts that occur during the marriage and prior to or on the date of separation:
 - a. Illicit sexual behavior. For the purpose of this section, illicit sexual behavior means acts of sexual or deviate sexual intercourse, deviate sexual acts, or sexual acts defined in G.S. 14-27.20(4), voluntarily engaged in by a spouse with someone other than the other spouse;
 - b. Involuntary separation of the spouses in consequence of a criminal act committed prior to the proceeding in which alimony is sought;
 - c. Abandonment of the other spouse;
 - d. Malicious turning out-of-doors of the other spouse;
 - e. Cruel or barbarous treatment endangering the life of the other spouse;
 - f. Indignities rendering the condition of the other spouse intolerable and life burdensome;
 - g. Reckless spending of the income of either party, or the destruction, waste, diversion, or concealment of assets;
 - h. Excessive use of alcohol or drugs so as to render the condition of the other spouse intolerable and life burdensome;
 - i. Willful failure to provide necessary subsistence according to one's means and condition so as to render the condition of the other spouse intolerable and life burdensome.
- (3a) through (3d) Reserved for future codification purposes.
- (3e) "Payor" means any payor, including any federal, State, or local governmental unit, of disposable income to an obligor. When the payor is an employer, payor means employer as defined under 20 U.S.C. § 203(d) of the Fair Labor Standards Act.
- (4) "Postseparation support" means spousal support to be paid until the earlier of any of the following:
 - a. The date specified in the order for postseparation support.
 - b. The entry of an order awarding or denying alimony.
 - c. The dismissal of the alimony claim.
 - d. The entry of a judgment of absolute divorce if no claim of alimony is pending at the time of entry of the judgment of absolute divorce.
 - e. Termination of postseparation support as provided in G.S. 50-16.9(b).

Postseparation support may be ordered in an action for divorce, whether absolute or from bed and board, for annulment, or for alimony without divorce. However, if postseparation support is ordered at the time of the entry of a judgment of absolute divorce, a claim for alimony must be pending at the time of the entry of the judgment of divorce.

- (5) "Supporting spouse" means a spouse, whether husband or wife, upon whom the other spouse is actually substantially dependent for maintenance and support or from whom such spouse is substantially in need of maintenance and support. (1995, c. 319, s. 2; 1998-176, s. 8; 2005-177, s. 1; 2015-181, s. 20.)