

Modifying Child Support Orders During COVID-19

By Sophie Hill

While New York is set to reopen in phases, COVID-19's "[rolling shock](#)" to the economy will persist. Our state has suffered a devastating number of lost jobs, widespread layoffs, furloughs, and business closures – and with school and daycare closures also being part of the equation, parents' everyday lives have changed in practically every aspect.

You may be struggling to meet your child support obligations due to COVID-19's collateral consequences. If you are paying child support each month, you might be wondering how you will be able to continue doing so. On the other hand, if you are receiving support, the monthly amount may no longer be sufficient to cover your child's living expenses, if his or her needs have considerably changed or your own income has significantly dropped.

However COVID-19 has affected your finances, your existing support obligations and rights will continue as they are unless and until a Court either modifies or terminates your existing support order. Therefore, if you are facing issues with your monthly child support, it is important that you take action. What are your options?

Mutual Agreement:

At a time when the courts are just reopening, and even then only virtually, the best-case scenario is that you and your co-parent reach a mutual agreement to adjust child support. You may be able to communicate directly with one another about changed circumstances that have altered your child's needs or your ability to contribute towards your child's support. However, most parents find it easier to engage lawyers to help them negotiate new child support terms. If you can reach a mutual agreement to permanently or temporarily change child support, your lawyer can file a written stipulation with the court, which, once approved, will replace your existing support order.

Filing for a Modification of Child Support:

Where you are unable to reach a mutual agreement, you may need to ask a court to reduce or increase your child support. The standard a court will apply will depend on whether your child support was set by agreement or by a decision of the court during your divorce.

If you do have a child support agreement, the agreement will likely contain a provision that indicates the available grounds to modify of your child support. If you do not have a child support agreement, there are three valid grounds under law for a modification of a child support order: (1) a substantial change of circumstances; (2) a change in income by 15% or more from the last support order; or (3) three or more years has elapsed since the last support order.

At this point it is too early to predict with any certainty how a Court will weigh the collateral consequences of COVID-19 under your agreement or these standards. However, if you are the party requesting a modification to your child support order, it's your responsibility to prove to the Court that your circumstances have changed sufficiently to warrant modification of your child support order.



Accordingly, you will want to assess your situation and gather proof. How have your expenses changed due to the pandemic? Have your child's expenses, extracurricular activities, childcare, medical costs, or custody and visitation arrangements changed. For example, is your child living with one parent more than contemplated by your support

order? Have your income or assets seen a significant decline? Has the other parent also suffered financial setbacks? These are just some of the questions your lawyer will explore with you.

Although Courts are not scheduling in-person hearings, they are now accepting e-filing for new motions in existing cases. Once granted, child support modifications can be retroactive to the date of filing. The earlier you file, the more financial relief you stand to receive. Therefore, do not delay in filing your modification motion.

How to Prepare in the Meantime:

Try to find another job. Even if this task seems hopeless, assess your skills, freshen up your resume, and document all of your efforts to become employed. If your income has

been reduced but you are still employed, you should also make diligent attempts to find new employment that would compensate you at your prior amount of income. It is important for the court to see that you are trying to become gainfully employed again.

Consult your attorney. The bottom line is that you cannot assume modifying your child support obligations will be quick or easy. An attorney can help guide you through this process and may assist you and your co-parent in finding a middle ground that you have not yet considered.

The pandemic has changed practically all aspects of everyday life, and there are many things out of our control. The added challenges of meeting your financial responsibilities as a parent makes this an especially difficult time. Take control of what you can by making sure your child support needs or obligations reflect your new financial situation.
