

Family Law Update: Changes in Financial Circumstances Due to COVID-19 May Justify a Modification of Support Obligations

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The COVID-19 pandemic has touched virtually everyone's life. On the economic side, the impact of losses and reductions in income have been personally devastating. Individuals who now find themselves in a situation where they cannot afford their child support or alimony payments are certainly struggling– but it is not only the individual whose income has changed, but also those who rely upon that flow of income who may suffer.

So, what can be done when someone is no longer able to meet their financial support obligations? The answer to this question lies in the court's response to the global pandemic. A loss or reduction of income today, when related to the pandemic, can no longer be easily defined in terms of temporary versus permanent. How long will the changes in our world from COVID-19 last? How will the process of opening our economy proceed, and how long will economic recovery take? Will incomes return to pre-COVID 19 levels, and if so, when? It is these questions, among others, that our courts will need to address in the coming days and months.

A person seeking to modify their support obligations must demonstrate a change in circumstances which took place after the support obligation was imposed. Our courts only enforce orders or agreements to the extent they are fair and equitable. If an individual's income has substantially decreased, leading to a conclusion that the initial support amount is no longer fair or equitable, the court is empowered to provide relief. While the reduction might only be temporary given the temporary nature of the change, the court will nonetheless seek a remedy that addresses current economic realities.

Any decision on this issue needs to be based on an analysis of the facts presented. Spouses, even in a post-judgement setting, have ongoing duties to be fair to each other. The question of the appropriate judicial response to the financial impact of the COVID-19 pandemic emphasizes the challenges we face due to the devastation caused by widespread losses or reductions in income, and the uncertainty inherent in those changes.

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