



Top Three Things You Need to Know About The COVID-19 Child Support Crisis

Many people are facing serious financial hardship due to the coronavirus and the related panic. What does this economic slowdown mean for your child support obligation? Here are the top three key facts everyone who owes child support needs to know right now to protect themselves from legal action, loss of money, and even jail.

1. Will there be forgiveness for child support obligations during this economic slowdown?

Most people watching the news have noticed certain debts being forgiven or at least placed on pause. The feds have suspended student loan payments, and local governments have suspended the requirement to pay rent in some areas. People wonder if child support obligations will get the same type of treatment. Rest assured, they won't. Let's talk about why.

Child support obligations won't receive the same type of mercy as other financial burdens. First, child support is a duty, not a debt. Child support cannot be discharged in bankruptcy. Second, the duty to pay child support survives in some cases even after the noncustodial parent passes away. Third, our country has experienced economic slowdowns before, but that never stops the courts from enforcing child support duties. The economy maybe down, but that doesn't change the child's need for support.

Reason 1

Consider, all the noncustodial parents who go to jail every year over unpaid child support. Certainly, many of those people are experiencing financial hardship. It could be from a lost job or health condition that prevents full-time employment. Whatever the reason, the duty to pay child support persists through the economic hardship of the obligor parent. Simply put, the court presumes a parent who pays child support will take legal action to adjust the child support amount as his or her employment changes. Failure to



take legal action to reduce a child support burden is not an excuse for failing to pay child support. If an economic slowdown or loss of a job was enough to prevent jail time for parents who don't pay, no parent whatever go to jail. Consequently, the fact that parents do go to jail is an indicator that child support and the economy at large are not codependent.

Reason 2

In an economic slowdown, the custodial parent needs the child support more than ever. Of course, we would all like the courts to show some mercy to the obligor who just lost his or her job. But where is the mercy for the custodial parent who may also face furlough, reduced hours, or layoff? The custodial parent still has the duty to feed the children, to support them, and keep them in clothing. In fact, in our current situation with schools being closed, the custodial parent can no longer send the kids to school for a school lunch or maybe even breakfast. The custodial parent is feeding the kids three times a day plus snacks. The custodial parent's duties to the children persist through the economic slowdown, and therefore, so does the duty to pay child support.

Pro tip

Unfortunately, we suspect a bit of a breakdown in normal coparenting relationships — especially in regard to child support payments. We believe that parents who have historically been flexible about late or missed child support payments will become much more rigid on this point. Keep in mind as well,



that the Child Support Division of the Texas Attorney General's Office files suit to go after the noncustodial parent at no cost to the custodial parent. Meanwhile, the custodial parent is likely staying home with the kids during the school closure time with nothing to do except call the Attorney General's office every hour on the hour until he or she can get through to a person. When this coronavirus scare blows over, we anticipate a rush of new Attorney General filings for child support. Taking legal action today can keep the Attorney

General and the custodial parent at bay if you are in danger of missing ordered child support payments.

2. When will a change in your child support take effect if you file now?

The courts are nearly at a standstill right now. Due to the coronavirus, courts in Tarrant County and surrounding counties are working with reduced staff and reduced caseloads. Filing a child support modification right now will likely not have much effect for 2 to 3 months, maybe more. HOWEVER, if

you have lost your job, been furloughed, or otherwise can't work right now, we recommend filing to modify your child support right away!

Why would you need to file to modify your child support ASAP if we do not expect relief for a few months? The answer is simple. The date on which you file your modification suit is the day your new child support amount can begin. That is, your adjusted child support amount could be effective retroactively to the date on which you file. Alternatively, waiting 3 to 6 months to start your process means you would have all those months at your current child support amount due and owing. If you file suit right away, your child support amount will temporarily stay the same, but on final order would likely be adjusted to a smaller amount, and that amount would be retroactive back to the date of filing.

Pro tip

Because the courts are currently working fewer cases, there will be a huge backlog of hearings when everything gets back to normal after the corona scare. The courts are only hearing emergency type cases right now, so regular child support cases will be pushed off until further notice. Filing now means your case will get on the court's docket. Waiting a few months to file means your case will be filed along with everyone else who is waiting. Then you must factor in the hearings that are currently being pushed out. All of these hearings mean that every individual case will take longer, thereby slowing your results.

3. Why you should fix your child support now

Filing as soon as possible prevents a large arrears. In 3 to 6 months, thousands of dollars of arrears could build up on your account if you are unable to pay child support. All of those arrears also draw interest at 6% per year. Filing sooner rather than later prevents accumulation of thousands of dollars of child support that you should not have to pay. If you have lost your job, been furloughed, or had your hours reduced, your current child support burden should be lower than your fully employed rate that was previously ordered. Therefore, getting your amount adjusted as soon as possible means that the days of paying your current child support amount are limited. The sooner you get a court order that reduces your child support burden, the better. Even if you struggle paying that amount, it is still a smaller amount than what you would currently be facing.

Pro tip 1

Another good reason to start your case now is your tax return. If you get seriously behind on your child support, the Attorney General's office will seize your tax return and apply it to your child support arrears. If you have an active child support case, you may be able to avoid having your tax return garnished. Keep in mind your current family obligations do not matter at all to the Attorney General. Simply, the Attorney General does not care at all about your current family commitments, what you planned to spend your tax return on, or even if your tax return includes income from your new spouse. If there is a tax return coming, the Attorney General will garnish that tax return to apply to child support arrears.

Pro tip 2

You may have heard the federal government is considering sending most Americans a check for thousand dollars or so. This situation with the coronavirus is unprecedented. And we don't know how the Atty. Gen. will deal with these stimulus checks coming from Uncle Sam. If you have a child



support arrears right now, we strongly suggest you do not deposit this check into your checking account instead, consider having that check cashed. This includes joint checking accounts if you have a new significant other. Depositing the government stimulus checks into your checking account could lead to those funds being garnished and deliver to the custodial parent to square up

your child support arrears.

We do recommend paying some child support arrears with some of that stimulus money if you receive it. In our experience, parents most likely to go to jail for unpaid child support are parents who have not tried in good faith to make payments. While the courts try to give some parents a chance to pay their support as ordered, the courts have little or no mercy for parents who don't even try. As always, it is best practice to make a good faith payment on your child support even if a full payment is impossible under your economic facts. Everyone gets behind occasionally, but making good faith payments goes a long way in keeping you out of jail.

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