What to Do When COVID-19 Impacts Your Alimony or Child Support

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Angie Gambone

With the COVID-19 pandemic rattling our work, home, social, and personal lives at a rapidly-evolving pace, many families are dealing with unprecedented financial insecurity and uncertainty. This can be even more intimidating and confusing for divorced and separated families, where oftentimes there are court-ordered or contracted legal obligations that are challenged in the wake of these tumultuous financial times.

As a recipient of financial contributions incident to a divorce or dissolution, it can be daunting to worry about whether your ex-spouse or ex-partner will be able to continue to meet those obligations. Those obligations include things such as alimony, child support, or other monetary contributions to your family, such as payment towards college tuition or health insurance premiums. Unquestionably, folks rely upon those contributions in order to meet their needs and the needs of their family so it is understandable to want assurance that those contributions continue.

At the same time, an individual who is legally obligated to pay money to an ex-spouse or ex-partner may be experiencing a decline in their discretionary income as a direct result of the COVID-19 crisis. In both New Jersey and Pennsylvania, the governments have shut down or deeply curtailed almost all non-essential business practices, sidelining a large segment of the working class, through no fault of their own. Many individuals have taken pay cuts, are working reduced hours, have been forced to use PTO or sick time, or, in the worst case scenarios, have stopped working altogether, without pay. If this occurs, it can render it challenging, if not impossible, to satisfy all expenses in full and on time, including expenses like alimony or child support. Many folks find themselves faced with the difficult decision of choosing which bills to pay out of a limited supply of cash: Do I pay my mortgage in full, and slash my child support? Do I pay for health insurance, and skip my alimony? Should I stop paying anything to my ex until this is over? Can I just socially-distance myself entirely and hope this all goes away on its own?

These questions are valid, and there are equally compelling arguments on both sides as to how these issues should be addressed. Folks relying on the support of an ex-partner want (and need) to be paid, and folks obligated to provide support to an ex simply might not have the funds available.

If you find yourself on either side of this equation, it is important to address the situation early on before it spirals out of control. While rushing to initiate litigation might seem premature or perhaps not cost-effective, nonetheless you also don’t want to ignore the situation or engage in self-help mechanisms that do more harm than good. Below are some options for dealing with financial complications or disputes with your ex-spouse or ex-partner brought about by the COVID-19 crisis.
One good place to start is by opening the lines of communication with your ex-spouse or ex-partner. Transparency and honesty will go a long way towards understanding the situation from both sides. If you and your ex are able to reach an interim agreement about continued (but perhaps reduced) financial support on a short-term basis, you should contact an attorney who can codify that agreement into an appropriate legal document. This enables you and your ex to amicably reach an agreement without court intervention, which saves you both time and money, while also ensuring that your agreement is legally-enforceable should problems arise in the future.

If you and your ex-spouse or ex-partner are not in regular contact, have an acrimonious relationship, or simply cannot agree on a resolution, then it might be time to consult with an attorney. Your attorney can suggest interim financial arrangements that can be presented to your ex in the hopes of reaching an agreement. Sometimes all it takes is a little nudge from an attorney to compel both sides to put in the effort to achieve a resolution to emergent situations. If this is successful, then the agreement would be summarized in a legal document and made binding.

If all else fails and you and your ex-spouse or ex-partner cannot reach an agreement even with the assistance of attorneys, it might be necessary to seek court intervention. Despite the COVID-19 pandemic, most courts are attempting to operate as close to “normal” as possible, seeking to ensure that folks still have access to the judicial process as needed. The family courts are equipped to receive filings electronically and to schedule court appearances via telephone and video conferences.

In both New Jersey and Pennsylvania, there are laws that permit an individual to petition for a modification to their alimony or child support if that person’s financial circumstances have changed. A loss of income or cash flow due to COVID-19 could be viewed as a substantial, involuntary, and unforeseen change that would justify the court evaluating the situation to determine whether to provide appropriate relief. As the COVID-19 situation is unique as far as its widespread financial impact on New Jersey and Pennsylvania families, there is little precedential guidance to help us understand how the courts might respond to petitions regarding alimony and child support issues. However, below are some possible outcomes that might result from such litigation:

1. The court could grant a temporary reduction to an obligor’s alimony and child support payments, with a mandatory re-evaluation to take place in 1-2 months, at which time the support figures could be increased back to their original amounts.

2. The court could keep the alimony and child support at the same rate, but could suspend enforcement and collection efforts. Any deficiencies in payments would continue to accrue as “arrears” and the obligor would be required to pay back those arrears at a later date. Essentially, this would enable the obligor to pay less towards their obligations during the financial crisis while ensuring that the recipient of support is ultimately made whole at some point in the future.

3. The court could look to alternative financial resources for both parties, examining each party’s respective access to alternate sources of cash. This could include exploration of lines of credit, loans against retirement assets, trust distributions, advances on inheritances, or relief to one or both parties under the Federal CARES Act. While every family’s situation will be unique, it is hoped that the courts will explore every option for getting folks through these tough times.
These are scary situations that are facing many people throughout our community right now, and it is completely understandable to worry about keeping your family financially secure while you also manage your family’s physical and emotional well-being, as well as your own. If you find that your legal rights or obligations pursuant to a divorce or dissolution have been negatively impacted by COVID-19, you should consult with an attorney today. Through diligence, advocacy, and creativity, it is possible to develop a plan that can help you and your family navigate these uncertain times with an emphasis on positive and fair results.

Know that you are not alone.

As a shareholder and member of the firm’s Family Law Department, Angie Gambone concentrates her practice in the areas of complex family law, divorce and custody matters. She also focuses her practice on adoption, family formation and the family law needs of nontraditional and LGBT families. Angie can be reached at angie.gambone@flastergreenberg.com or 856.382.2217.

**covid-19 resource page**

To serve as a central repository of information and contributions from Flaster Greenberg attorneys on legal developments during the COVID-19 crisis, we have launched a **COVID-19 Resource Page** on our website. Feel free to check back frequently for Flaster Greenberg’s ongoing analyses of important legal updates that may affect you or your business.

**ATTORNEYS MENTIONED**

Angie Gambone