GORDON & PERLUT, LLC

ATTORNEYS AT LAW

Navigating Family Law Issues During the COVID-19 Outbreak

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Access to Court During Coronavirus Pandemic

Agreed Orders. If parties are able to reach agreements on any pending issues in their case, including financial or temporary matters, such as parenting time orders, support orders, or any other agreements, those agreements can be entered by the Court. The agreement will need to be put into writing and can be submitted electronically to the Court for review and entered by the Judge.

Non-Emergency Motions. Either party can still file non-emergency motions, such as requests for child support, parenting time or other temporary relief, at any time. However, instead of attorneys and litigants having to appear in person in court to present their motions and for the other party to obtain time to respond to the new pleading, and ultimately set a hearing for the court to rule, the Chief Judge of the Domestic Relations Division has entered a General Order to streamlines this process during the crisis. The General Order automatically grants the responding party 21 days to file their response in writing to the Petition or Motion, and the party who filed the Petition or Motion an additional 7 days thereafter to reply, with neither party having to appear in Court. Thereafter, the Judge, in their discretion, has the option to rule on the matter or to schedule a telephonic or Zoom hearing depending on the nature of the request. While the Court will not be able to address all issues in this manner, it allows Judges to move some cases forward until Courts reopens.

If a Motion or Petition was filed prior to the Court closure and the other side has already filed their response, a new motion can be filed requesting that that the matter be set for Hearing. The Judge, in his or her discretion, has the option to rule on the matter, schedule a telephonic or Zoom hearing depending on the nature of the request, or deny the request until Court resumes.

Emergency Motions. A few Judges are available each day to hear emergency motions. However, the standard as to what constitutes an "emergency" at this time is extremely high. If the Court determines the matter to be an emergency, the Judge can rule on the matter based solely on the pleading filed, schedule a telephonic or Zoom hearing, or require the attorneys and litigants to appear in person as a last resort.

If you have an issue that need to be addressed in court, contact us today so that we can get it on file.

Financial Problems During Your COVID Divorce

If you are going through a divorce you are probably very concerned about how COVID-19 will impact your finances. We have seen a large financial decline in the economy, which spills over into many issues that need to be addressed in a divorce case.

Paying the Bills. If you lose your job as a result of the coronavirus pandemic, how you pay the bills is going to be on the top of your mind. You may need to seek financial assistance from your spouse (if they are still employed), even though you are going through a divorce. You may need to file a motion in court requesting maintenance (aka alimony) on a temporary basis from your employed spouse to help support yourself while you are temporarily unemployed.

Real Estate. A major asset that the Court must address during a divorce case is the marital residence. It is possible that the decline in the economy because of this pandemic may impact the value of your home. It may mean that there is less equity to divide if the house is sold, or it could mean that one spouse may be able to buyout the other spouses' interest in the home for a much lower value.

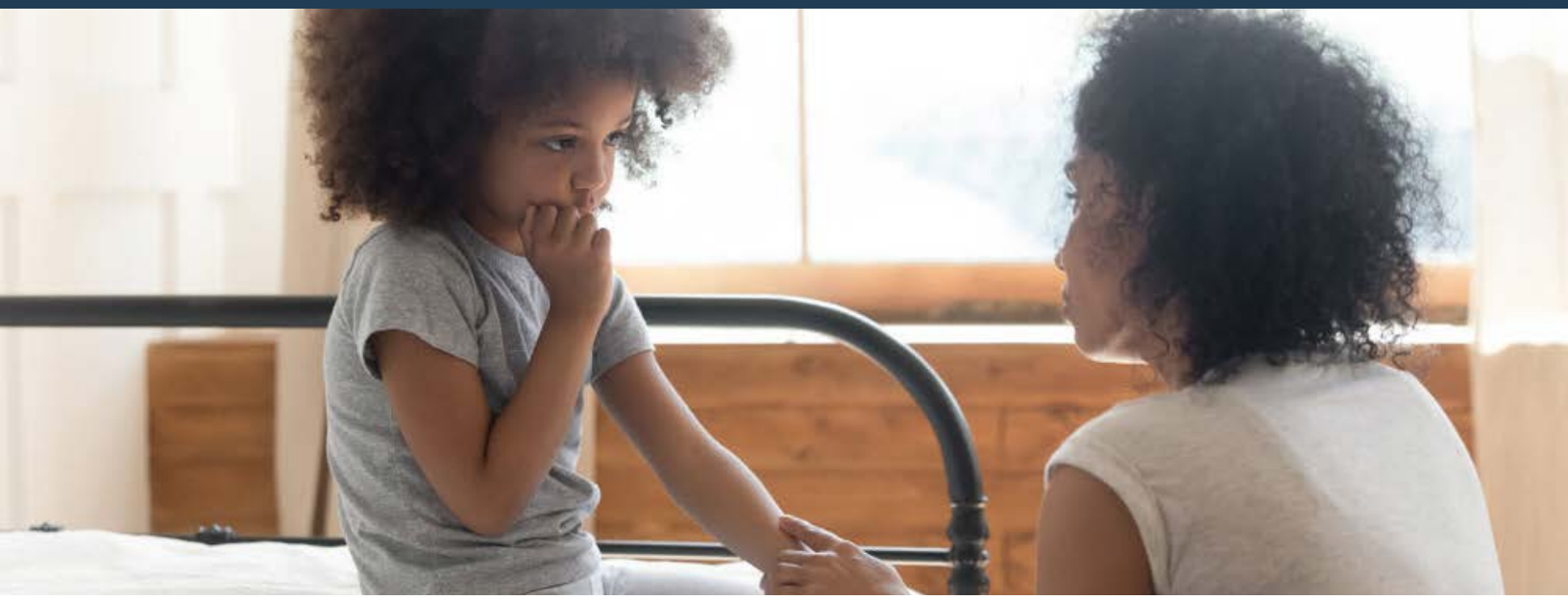
Retirement. Many people saw a drastic drop in the value of their retirement accounts over the past few weeks. Often retirement accounts are divided at the end of a divorce case. When the Court divides retirement accounts, they will look at the value of those retirement accounts at the time the divorce is finalized, not today or when the divorce was filed. Hopefully, by the time your divorce is complete, the economy will have improved and the value of those retirement accounts will have returned.

Joint Tax Returns and Stimulus Check.
If you have not yet filed your 2019 incomes tax returns, you know that the deadline for filing has been extended to July 15, 2020. When filing a joint return with your spouse, the IRS will not divide the refund between you and your spouse, but rather deposit it into one bank account. Make sure this is a joint account that you both have access to, so that your spouse does not take the entire refund.

Another problem people are facing is the stimulus checks that are to be issued by the government. If you earn less than $75,000, you are entitled to receive a $1,200 stimulus check. However, the IRS does not know you are going through a divorce and will deposit that stimulus check into the last account your tax refund was deposited into. If you do not have control over that account, your spouse may not turnover your share of the stimulus check. If that happens, you may be forced to file a motion in court for a judge to order him or her to turn it over. If you owe child support, you are not eligible to receive a stimulus check.

If you have questions about your divorce and how COVID 19 may impact financial matters in your case, please give us a call.

How Does Coronavirus Effect Parenting Time?



COVID-19 and the restrictions caused by this pandemic are creating additional problems for many parents who are subject to the terms of court ordered parenting time schedules.

The biggest challenge is that many parents are concerned about exchanging children for parenting time during travel bans, and worry that it is unsafe for children to travel between two different households. While parents are trying to argue that the stay-at-home order in Illinois is a basis for keeping the children at one parent's house, this is not true. Governor Pritzker's executive order specifically states "essential travel" includes "travel required by law enforcement or court order, including to transport children pursuant to a custody agreement."

One situation we have seen developing over the past few weeks is simply a difference in how strict each parent is in enforcing the "stay in place" mandate. While most parents interpret the rule strictly and restrict any type of meetings outside of the family home and allow no one inside (such as friends), others are not as strict. We have already had to file an emergency Petition where one parent was allowing their child to see his friends, thus exposing himself and others to the virus in a clear violation of the Governor's order.

Obviously, there are always exceptions, and a different set of facts and circumstances may warrant a different requirement. For example, if one parent or household member has been exposed to the virus then you may need to file an emergency motion to stop parenting time, if there is no agreement between the parents. Therefore, when in doubt consult an attorney. However, absent any unusual circumstances, parenting schedules are to remain in effect.

Mediation is always an option to assist your family while access to court is limited. With all of the stress and anxiety around COVID, many parents in separate households are having difficulty managing the situation. This only creates more nervousness for your children; they see what is going on and pick up the tension. Mediation can help you immediately address these concerns while courts are closed. We have already found through Zoom mediations that most parents want to resolve disputes during this crisis, but don't know how. Using one of our skilled mediators could be the key to helping your family manage during this difficult time.

If you have a parenting issue that cannot wait, we can assist you with mediation or filing the matter in court if appropriate.

Child Support during COVID-19

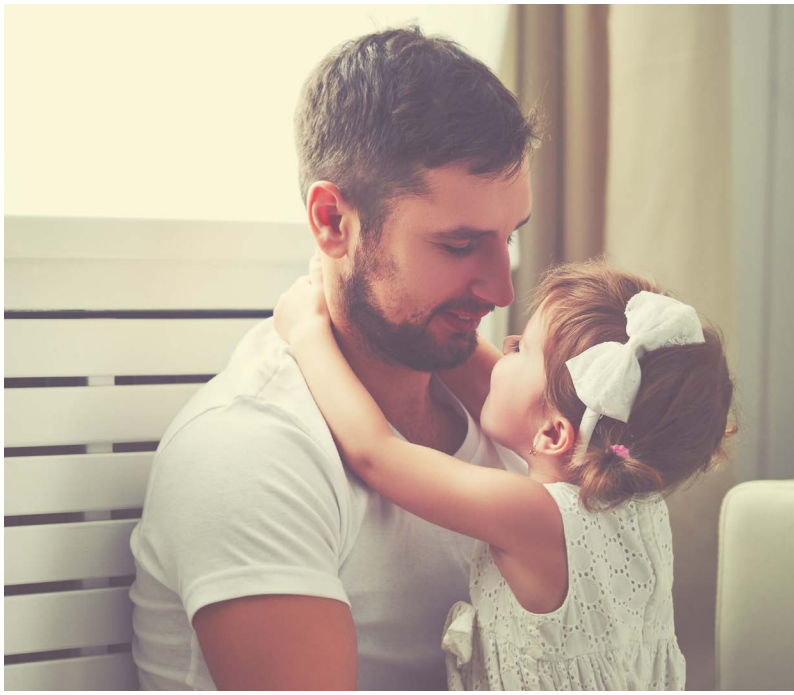
COVID (Coronavirus) has disrupted everything in our daily lives. What if you owe child support but are not working, or if you receive and depend upon child support, during this crisis? The first question is, has the income / employment of the parent paying child support changed? If the answer is no, then nothing should change. Child support should continue to be paid.

What if you have lost your job, been furloughed, laid off, etc. and are required by Court Order to pay child support? Your child support obligation does not automatically stop. You MUST take action to relieve yourself of the responsibility to pay child support. How? You need to file a Petition with the Court now to modify or abate your child support obligation until you return to work. Even though the courthouses are closed, they are in fact operating, and an attorney can help you put on file the necessary documents. The Court cannot lower, suspend or abate your support before the date you file a Petition, so getting a petition on file now is essential. If you do not, you can be held responsible for any child support you did not pay, even if you were not working. Eventually, the Petition will be presented, and even if (by that time) you have returned to work, the Court can modify your support between the date you filed your Petition and when you return to work.

If you are not working and are eligible to apply for unemployment, make sure you request a dependency allotment. This will increase the benefit you receive and often the Judge will order that the additional benefit be turned over to the party for child support while you are not working.

Lastly, if you have an outstanding child support arrearage, you are not eligible to receive a stimulus check.

If you have lost your job and have a child support obligation, we can help you file the appropriate petition to reduce your child support until you are able to get back to work.



What if you are owed child support and the other parent (the "payor") stops paying? The first question is, did his or her income decrease or did he or she lose their job or get laid off? If the answer is yes, then you may want to wait a few weeks and see what happens. If you run into court now, the other parent will probably file a Petition to modify the child support, and the Judge will almost certainly agree to suspend support for now. You could always wait and see what happens over the coming weeks: the payor may quickly get back to work. But, what about the child support for the weeks that went unpaid? Technically, the payor still owes it if they did not file a Petition to stop their obligation; it is up to you if you want to enforce that requirement or work with the payor to reach an alternative resolution.

Domestic Violence During Stay at Home Order

The pressure on couples right now is intense, especially for people already under stress. Initial reports nationwide are that incidents of violence in the home have increased exponentially over the past month. If you are trapped at home during this crisis and are being abused, you do not need to accept that situation. Our Courts are open during this COVID crisis to get you the help you need, and you should not hesitate to seek protection.

Not everyone can file a Petition For Order of Protection, but if you are trapped at home with an abusive spouse, boyfriend/girlfriend, or other family member, you certainly qualify under the law to ask for help. "Protection" is not just protection from physical violence; it can also be "harassment" (conduct that has no purpose except to cause emotional distress) - this also includes stalking or hiding your child from you. "Protection" may also be needed for an older or otherwise dependent adult who is being "intimidated", either physically or by depriving that person of what they need, or taking advantage of them financially.

This is not a complete summary of the Illinois Domestic Violence law, but we want you to understand that while millions of Americans are "staying-in-place" at home, many are trapped in terrible situations. While the Courts appear closed, they are in fact open to a certain extent, especially in situations to protect individuals from abuse.

You can file your Petition For Order of Protection without notice to your abuser. If the Court grants your request, you will be given a 21 day order and your case will be heard again with the abuser given the opportunity to defend him or herself. While it is not assured, the Judge has the power to remove the abuser from the home immediately, utilizing the police to accomplish this.

If you need help, call us to assist you in preparing the proper Petition and other documentation, so that we can then present the Petition in Court.