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Attorney Carmela M. Miraglia explores the challenge of enforcing orders for child support and alimony during the coronavirus outbreak.



The [coronavirus](#) has [shut down courts throughout the Commonwealth, including those hearing divorce and family law cases](#), and has [forced Massachusetts trial courts to postpone all scheduled hearings](#). Now, the toll of the virus' spread is rippling out to the work force in the form of [mass layoffs](#) due to the closure of all non-essential businesses. Although many of the workers affected by the layoffs are eligible for unemployment, unemployment income is significantly less than what the individual would earn at his/her job.

The effects of these layoffs will be especially hard on individuals who pay or receive alimony or child support. Unless modified, orders for support are based on the payor's average weekly earnings, not their reduced unemployment compensation. Individuals who pay support, but who have been laid off or who have seen their hours cut drastically by the impact of the pandemic on the economy, will struggle to pay their support obligation.

With courts closed, what should individuals who rely upon Court ordered support to provide for themselves or their children do to enforce alimony and child support orders? Alternately, what should individuals who are required to pay support do to reduce their obligation in light of the present economic circumstances?

- [Coronavirus News: Mass. Probate & Family Courts Release Tidal Wave of New Rules](#)
- [Coronavirus News: Enforcing Child Support and Alimony Orders During the Crisis](#)
- [Coronavirus News: County-by-County Info for Massachusetts Probate & Family Courts](#)
- [Massive Coronavirus Layoffs Trigger Child Support and Alimony Reductions Across MA and US](#)
- [Massachusetts Trial Court Announces Comprehensive Response to Coronavirus for MA Courts](#)
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- [Court Filings and Covid-19: How to File Agreements in MA Probate & Family Courts During Crisis](#)
- All [Lynch & Owens Coronavirus Blogs](#)
- Our [Coronavirus Legal Services Page](#)

The Coronavirus Will Make It More Difficult for Ex-Spouses to Pay Support

The U.S. Treasury Secretary Steve Mnuchin has warned that the [unemployment rate could rise to 20%](#) because the effect of COVID-19 on the U.S. economy. To date, the number of [initial unemployment claims has reached unprecedented territory](#). Experts worry that it could [triple the previous record](#), set back in 1982.

Many of the individuals applying for unemployment pay child support or alimony. Without an income, they are going to struggle to make those payments. Even once unemployment benefits are received, the support order will cause additional financial strain as individuals struggle to pay their living expenses with their reduced income while still obligated to pay support.

Parties Should File Modification and Motion Immediately, Despite Court Closures

Typically, when an individual subject to a court order to pay child support or alimony loses his or her job, he or she files a [Complaint for Modification](#) with the Probate and Family Court, asking a judge to reduce the support obligation. The same individuals typically file a Motion for Temporary Order asking for immediate relief while the modification proceeds through the proper channels. If an individual can provide evidence to the court that he or she experienced a significant change in circumstances that warrants a reduction in their support payments, the court can reduce the support on a temporary basis, giving the individual some immediate relief, until the matter can be fully resolved.

It is important for the individual who can't afford to pay support to file the Complaint for Modification and Motion for Temporary Orders immediately, even if the courts won't hear their Motion to temporarily reduce the support for the time being. The court has the authority to make the reduction retroactive to the date of filing the Complaint, meaning that the court, once it hears the Motion, may reduce the support as of the date the Motion was filed. Moreover, once regular business resumes, courts are likely to schedule motions for hearing in the order received. Accordingly, parties who file a complaint and motion immediately will be best-positioned to receive relief as soon as possible.

If an individual paying support does not file a Complaint for Modification, and instead unilaterally stops paying the full amount of support (or any support at all) without filing, the person receiving and relying on support can file a [Complaint for Contempt](#), asking the court to hold the payor in contempt of court for violating the court order. Again, it is important to file the Complaint for Contempt, even though the courts Massachusetts are closed and you may not get a hearing right away.

[Standing Order 2-20](#) pushed back most non-emergency hearings and motions until May 1, 2020 in an effort to combat the spread of the coronavirus. However, hearings may be delayed even further if the closure is extended (or the court may begin hearing non-emergency matters by phone or video conference before the crisis ends). While a threat to your child support or alimony payments is certainly serious, courts are unlikely to view all motions related to support issues as an emergency. That said, Standing Order 2-20 does allow for emergency hearings for temporary support orders, including modifications and contempt motions, where exceptional or exigent circumstances are shown. [Motions for emergency hearings](#) are being reviewed on a case by case basis and must be accompanied by an affidavit explaining the nature of the emergency requiring immediate court attention.

While any motions that are filed will be docketed, they will not be scheduled for a hearing until after May 1, at the earliest. Again, if the court closure is extended,

scheduling will be delayed even further, unless courts make the leap to hearing non-emergency matters by phone or video conference.

Therefore, individuals with support obligations who have lost their ability to pay their support obligations will not be heard by a judge on their Motion to modify their support until after at least May 1st. Likewise, parents or ex-spouses who are entitled to receive that support will not be able to be heard by the court on their contempt for their non-payment. Nevertheless, both parties have incentives to file responsive pleadings sooner rather than later.

What Can a Recipient Spouse Do to Enforce an Order While the Courts are Closed

If expected weekly child support or alimony payments are not received, or are not in the full amount, the recipient should file a [Complaint for Contempt](#) with the court. Although it most likely not be heard until the courts reopen, filing sooner rather than later may offer an earlier hearing date once matters are again being scheduled.

If the payor of the support order has filed a Complaint for Modification and Motion for temporary relief, both the Motion and Contempt may be scheduled for hearing together. If the party obligated to pay support has not filed for a modification, the contempt will be the only filing before the court to alert the judge that his or her orders are not being obeyed.

While the courts are temporarily closed to non-emergency business, parties can, and should, initiate communication with each other in an effort to reach a compromise until they can be heard by the court.

Be mindful, however, that whatever is said, either in conversation, text or email, can potentially be used in subsequent court proceedings. Compromising and remaining professional when attempting to discuss a touchy subject such as support can bolster your position once you are before the judge. Most judges will frown upon litigants with support obligations who refuse to compromise or appear to be using the court shutdown to avoid making court ordered support payments.

Compromise, however, can be difficult in the best of times. If reaching a temporary compromise regarding support during these trying times proves difficult, it may be worth considering [hiring a mediator](#) or an attorney to intervene and offer suggestions to temporarily resolve the issue until a judge can hear the matter.

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Carmela M. Miraglia
Senior Associate Attorney

More Coronavirus Coverage from Lynch & Owens

The attorneys of Lynch & Owens have been blogging about the impact of the coronavirus on divorce and family law issues, as well as Massachusetts Probate & Family Courts, since the earliest days of the pandemic. Our coverage has been featured in the [New York Times](#) and the [Boston Globe](#). Check out the links below for more Covid-19 coverage from Lynch & Owens.

Coronavirus Impacts on Family Law:

- [Nine Ways to Plan for Divorce During Quarantine](#) (5/13/20)
- [Ask Our Attorneys: How has the Coronavirus Impacted Family Law in Massachusetts?](#) (5/6/20)
- [Coronavirus News: Enforcing Child Support and Alimony Orders During the Crisis](#) (4/7/20)
- [Massive Coronavirus Layoffs Trigger Child Support and Alimony Reductions Across MA and US](#) (3/19/20 with updates)
- [Coronavirus Court Closures: How Covid-19 is Shutting Courts in Divorce and Family Law Cases](#) (3/14/20 with updates)
- [Can Coronavirus Fears Allow Parents to Cancel Court-Ordered Visitation?](#) (3/2/20 with multiple updates)

Massachusetts Probate & Family Court Updates:

- [Coronavirus News: Mass. Probate & Family Courts Release Tidal Wave of New Rules](#) (4/9/20 with multiple updates)
- [Coronavirus News: County-by-County Info for Massachusetts Probate & Family Courts](#) (3/26/20 with multiple updates)
- [Massachusetts Trial Court Announces Comprehensive Response to Coronavirus for MA Courts](#) (3/15/20 with updates)

Mediation and Coronavirus:

- [Mediation is the Best Divorce Option During the Coronavirus Crisis](#) (4/15/20)
- [Court Filings and Covid-19: How to File Agreements in MA Probate & Family Courts During Crisis](#) (4/9/20)
- [Surviving Coronavirus: Video Mediation for Divorce and Family Law Issues](#) (3/19/20)

Other media featuring Lynch & Owens and coronavirus:

- [NY Times: For Divorced Parents, Navigating Coronavirus Is a Balancing Act](#) (3/27/20)
- [Boston Globe: For divorced couples with children, coronavirus creates added challenges](#) (4/10/20)

A Message to Our Readers Outside of Massachusetts

As a Massachusetts law firm, much of the information provided in our blogs is tailored to Massachusetts law and practices. Although portions of this and our other [blogs covering coronavirus-related issues](#) are likely to be broadly applicable outside of Massachusetts, it is important to note that every state has its own specific body of law and domestic relations best practices that can differ from Massachusetts in important ways. The options available to individuals facing domestic relations concerns during the coronavirus outbreak may also be greatly impacted by [local court closures](#) and government restrictions that are specific to your area, such as state-mandated quarantine and shelter in place orders. Please consult with a legal professional in your state for guidance.

Coronavirus Related Legal Services at Lynch & Owens

Lynch & Owens has adjusted our service delivery model in response to the coronavirus crisis. In addition to providing traditional divorce and family representation, during the outbreak, we are focused on delivering rapid-response legal services (including same-day service) to clients facing emergency financial and child-related issues, as well as assisting self-represented clients with document preparation and filings while the courts are closed for most regular business.

Clients can schedule same-day, 1-hour paid consultations with our attorneys by phone and we are accepting retainers as low as \$750 for additional consultation services. We are also offering same-day video mediation for parents, spouses and former spouses who are seeking to mediate coronavirus-related issues such as visitation, parenting time, and child support and alimony orders impacted by layoffs and unemployment. Our staff and attorneys have full remote access to all our office's resources in the event of mandatory quarantine or shelter-in-place order.

Please see our dedicated [Coronavirus Legal Services page](#) and [Coronavirus Mediation Services page](#) for more about services provided by Lynch & Owens and South Shore Divorce Mediation during the coronavirus crisis.

About the Author: [Carmela M. Miraglia](#) is a Massachusetts divorce lawyer and Cape Cod family law attorney for Lynch & Owens, located in [Hingham](#), Massachusetts and [East Sandwich](#), Massachusetts. She is also a mediator for [South Shore Divorce Mediation](#).

Schedule a free consultation with [Carmela M. Miraglia](#) today at (781) 253-2049 or send [her an email](#).

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