

## **Financial Effects of COVID-19 for Separated, Divorced Couples**

Many separated and divorced couples are dealing with a compounded level of stress due to the lockdown imposed by the COVID-19 pandemic.

With countless businesses closed or forced to curtail activity, people across the country are facing reduced hours, job loss, and struggling to meet their financial obligations, including child support payments. In the past month, nearly [six million](#) Canadians have applied for COVID-19 emergency benefits, and that number is expected to increase in the weeks ahead.

### **Child support payments in a crisis**

I've had numerous calls with clients — child support payors and recipients — asking for advice on how to handle non-payment of child support or, for support payors, what to do if they've lost their job or have been forced to close their business. In normal circumstances, these types of issues would be dealt with in the courts, but with everything shut down except for [urgent or emergency matters](#), that option isn't available.

Under the law, if there's a court order or an agreement in place for child support, the parties must comply. If we weren't in the middle of a pandemic, support payors who lost their job would bring a motion to change the final order but would have to keep up payments until that order was changed.

There are no easy answers to these complicated matters in a global crisis. In the short term, I'm advising clients to try and negotiate with the other party to work out a mutually agreeable temporary solution. If you receive child support and your spouse is struggling to make payments or hasn't paid, can you manage? Your rights are preserved, so think about whether you really need to strongarm the payor right now if you have enough money in the bank to get through. If you pay child support, but have lost your job or had to close your business, is there another option available to you — such as drawing on your line of credit — to ensure you comply with your obligation?

One caveat: don't use the pandemic as an excuse to get out of your support obligations. If there's a court order and agreements in place, the legal onus is on the person trying to pay less or not at all. Once the courts open more broadly, each individual's circumstance will be revisited to determine the date they were financially impacted, either through job loss, reduced hours or closure of a business, and whether they had the means to continue paying.

All of these issues will be sorted out once the threat from the pandemic is over and the courts reopen. Each case will be determined based on the specific circumstances of the parties. Perhaps a support payor is out of work right now, but in a couple of months, they will resume their normal duties. There's a financial impact, but it's not permanent. In other cases, businesses may go under, and owners will suffer a complete financial devastation. As family lawyers, we look at the history: Is the payor someone who has done everything in their power in the past to avoid paying support, or have they always been a good payor?

### **Alternative dispute resolution**

Many separation agreements lay out a remedy for how couples will deal with issues that are in dispute, and often it's mediation. The good news is that mediations are still being conducted, albeit virtually by videoconference.

In a recent Instagram Live [event](#), Leanne Townsend discussed the fact that alternative dispute resolution (ADR), including mediation and arbitration, is a good option for resolving family law matters while the courts are closed.

### **Property settlements in a pandemic**

Divorce is stressful at the best of times, but with COVID-19, everyone's stress levels are amplified by the uncertainty around job security, income, and for those couples dealing with property division and real estate valuations.

When a marriage ends, there's an equalization of net family property, which means that the value of any assets acquired during the marriage will be divided equally between the spouses. At this point, there are more questions than answers when it comes to how the economic fallout from the pandemic will impact any property settlements negotiated before COVID-19 affected the economy.

For example, let's say you and your former partner negotiated a settlement in February, whereby you agreed to buy out their share of the matrimonial home that was appraised at \$700,000. Can you get out of the agreement if the market plummets and the property is worth much less?

In another Instagram Live [event](#) Leanne Townsend explored a couple of potential scenarios from "in-flow" divorces that may come to light post-pandemic.

### **Stock portfolios**

If you and your spouse decide to divorce during the current lockdown and you have a stock portfolio that was worth \$1 million in February but is now only worth \$600,000 because the market has gone down, you will be equalizing this asset based on its current value, \$600,000. Under the [Family Law Act](#), which governs property division for married people in Ontario, the date of separation is used to determine the value of the assets and debts for the purposes of equalization.

### **Business owners**

If one spouse in a couple owns a business, their divorce can't be settled until there's a valuation of that business. But if the valuation took place in January, can the business owner request a new evaluation based on the adverse impact of COVID-19?

It depends on the case. For instance, the owner of a dental practice that has been closed for a month and had to lay off employees might be feeling the pinch financially, but it's unlikely to impact the value of the business.

But someone who owns a restaurant may be in a different situation. The business's revenues may have dropped to zero, but there are still fixed costs, such as rent and utilities, that must be paid. If it's unable to sustain those costs, the business could be forced to close permanently.

Stay strong and healthy. These are uncertain times, but there will be a light at the end of this dark tunnel.