



9 Tactics to Decrease Your Child Support and Spousal Maintenance Payments



If you are the parent paying child support and alimony in a divorce, we hope you understand how important it is that you stay up to date on your payments from month to month. While you may be separated from your spouse, your child or children are still your financial responsibility and the courts have several avenues to force your child support payments.

With that said, we completely understand that life happens and circumstances change, sometimes unexpectedly. The courts are also aware of this fact and will generally be understanding if you need to decrease your monthly child support and/or alimony payments.

If you decided you must decrease your payments, act quickly. We cannot emphasize enough: Do not wait until you've fallen behind on your payments before you contact your former spouse or the courts. The amount you owe will not retroactively decrease and does not disappear with bankruptcy. As soon as your circumstances change, begin the

process of modifying your payments. But understand that the courts will almost never allow a retroactive change; everything begins from the date that the petition for modification is filed.





What's the Difference Between Child Support and Maintenance/Alimony?

To begin with, child support and maintenance (formerly known as alimony) are not the same thing. They are two different payments determined in different ways. Child support is money to be used for the express purpose of child-rearing expenses such as food, clothing, and shelter. Maintenance, sometimes called spousal support, allows the recipient of the payments to maintain the same standard of living after the marriage is over. While maintenance is not a given, you can expect to see it applied in cases when the loss of income from one parent will drastically change the quality of life in the custodial parent's home.

Additionally, maintenance is taxable while child support is not. Generally, payments are deductible by the person paying them and they are taxable income to the person receiving them. Child support payments, on the other hand, are neither deductible by the payer nor income to the recipient.





Decreasing Your Payments Through Changed Circumstances

You can modify your payments using several different methods, but the most common and least litigious of these methods is to change your payments due to changed circumstances, meaning your situation when the initial child support and spousal support payments were set is no longer the same.

Involuntary unemployment or reduction in income

Sometimes the unexpected happens and you are let go from your job. It could be due to workforce cutbacks or performance related. However it happened, if you are involuntarily fired from your job, you can ask to have your payments modified. The same holds true if you are given a pay cut at work.

Please note that you cannot ask for modified payments if you voluntarily left your company. If you quit your job, no matter what the reason, you are still accountable to maintain the same monthly payments that you would were you still employed.

For this reason, if you are considering leaving your job, ensure that you have enough saved up for not only your own support while between jobs, but your child support and maintenance payments as well.



Disability

This circumstance is just as undesirable as unemployment for all parties involved. A sudden disability can wreak havoc on your life in so many ways and one of them can be your ability to afford your current support payments.

Whether your income is decreased due to an inability to work or mounting rehabilitation costs, disability affects your bottom line and it's important to have your support payments modified as soon as possible so that the payments don't pile up on top of medical bills.

We understand that your divorce will probably not be at the top of your priorities when you're injured or disabled, but you should make it a priority or the courts will eventually make it a priority for you.

Increase in former spouse's income

Not all reasons for decreases your child support and/or spousal support payments are negative. If your former spouse gets a substantial raise or a new, better paying job, then you can ask for a modification in your payments.

While added income is always great news, this situation should be handled with care when addressing it with the custodial parent. Strong demands for a reduction in payments will likely be met with an equally aggressive denial. Yes, you can take the matter to the courts, but the responsibility falls to you to prove that your former spouse's additional income is enough to replace the payments you're making. If your ex will not agree to a modification, then you must file the petition as soon as possible, as the change is not retroactive.

A civil discussion between you and your ex can go a long way in helping your case to reduce your monthly payments.

Increase of income due to cohabitation

Another way to decrease your payments can be to show that the custodial parent has an increase in income due to a significant other living in their home and who is contributing in a substantial way to the household and childcare costs.

Once again, this can be a slightly tricky topic to broach with your former spouse, so tread lightly and try to manage the arrangement as delicately as possible. Proving that the new income is enough to warrant a decrease in your payments falls largely on your shoulders and if done in a way that's not civil, you could wind up costing yourself more than you could save.



Decreasing Your Payments Through Custody

Your child support payments and maintenance are not only related to income. The courts use the amount of parenting time you have with your children as one of the variables in the formula for establishing your payment amounts.

File for modification based on change of parenting time

One way to decrease your child support and/or maintenance payments is to increase your parenting time, which can be a doubly positive situation. Develop a new parenting time schedule and discuss it with the custodial parent. If you can come to an agreement on increased time spent with your children, you not only get to see your kids more, you can also file for modification of your child support payments since you are directly responsible for them while they are at your home.

Additionally, if your teenage child decides that he or she would prefer to live with you rather than the current custodial parent, you can file to modify your support payments based on the change in custody.

Terminate support for children who are no longer minors

In Colorado, once your child turns 19 they are no longer considered a minor and you are therefore no longer required to continue making child support payments to the custodial parent. If your child turns 19 during the middle of his or her senior year of high school, the courts will likely require you to continue payments until they graduate.

It's worth noting that most states have an exemption that extends child support payments for adult children with disabilities. These disabilities can be physical or mental, but the reasoning is that these children are unable to support themselves on their own and, as such, both parents must continue to offer financial support to their child.

Colorado law is complex - if you have a disabled child it's worth talking to your lawyer to get more insight into the state regulations.



Decreasing Your Payments Through Mediation

If you have unique circumstances that aren't covered by the standard provisions for changing your support payments, you have the option of hiring a mediator to help you and your former spouse come to a mutually agreeable support payment.

Unless your divorce was extremely amicable, using a mediator when dealing with the arrangements of your divorce can help walk through these decisions. These experienced individuals can help you and your ex navigate some contentious topics without it escalating into a confrontation. Keep in mind, however, that a mediator's objective is to reach a settlement. This is important to consider because while mediators may have formal training, they are not necessarily bound to reach an equitable agreement and are subject to persuasion and strong personalities. You will still need to advocate for your best interests – something an attorney would be able to do if you're not comfortable doing so yourself.





Decreasing your payments through litigation

While we never like to see divorces get ugly, the fact of the matter is that many of the items that must be divided are extremely emotional matters that can cause couples to bristle quickly. Hiring a lawyer to represent your best interests helps to create a buffer for some of the more volatile topics. Support payments are certainly a hot topic.

Hire an attorney to fight for the lowest possible payments

As your lawyers, we use our knowledge of divorce law to minimize your child support and maintenance payments and maximize the time you get to spend with your children. Lawyers are more familiar with the formulas used to calculate your support payments and we will go over each variable with you to ensure all of your bases are covered.

Prove your spouse is underemployed

Proving that your former spouse is underemployed can be a very difficult task, which is why we suggest letting a lawyer tackle the situation. You may need to provide some of the necessary evidence and paperwork, but we will work to demonstrate that the custodial parent could be earning more than they currently are and request that the court impute income to them. We may need to call a vocational/career expert witness to provide testimony on salary expectations for their job. Once we've done this, we will be able to reduce your monthly payments.



Conclusion

We understand that one of your priorities as a parent is always going to be supporting the welfare and growth of your children through financial and emotional support. We will keep that in mind as we fight for fair child and spousal support payments. However, you should not be forced into paying support that limits your ability to support your own welfare and growth as a newly single person.



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