

Legal Assistance of Western New York, Inc. ®



We provide free legal aid to people with civil legal problems in western New York.

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FAQ's Regarding Family Court During the COVID-19 Emergency

Due to the current outbreak of COVID-19, many courts are closed or are only hearing limited matters. Because the situation is constantly changing, all answers are subject to change. If you require a specific answer to a unique legal situation, please contact an attorney. Here are some Frequently Asked Questions:

CUSTODY/VISITATION

1. **Do I need to send my child for court-ordered visitation?**

Answer: There is currently no “shelter in place” order. Based on the current laws as of March 24, 2020, there is no order that suspends custody or visitation orders. If, however, you, your child, a member of your household, or your ex or a member of their household exhibit symptoms of seasonal flu or COVID-19, you may choose to not send your child. If you do so, please plan for make-up time when the symptoms have cleared.

Make sure the other parent can visit by telephone calls, and ideally use video options like Facetime, Skype, or Google Hangouts to allow “virtual visitation.”

2. **What can I do if my ex violates the Order of Custody?**

Answer: Currently, the Courts are not hearing violation matters. If you require assistance in retrieving your child, you may file an “Order to Show Cause” and ask the Court to issue an order for immediate return of the child and for police assistance in executing that order.

3.
Can I file a new custody petition right now?

Answer: Yes, provided that it is an emergency, affecting the child’s safety. If you only need to put a custody agreement in writing, you should not file for custody at this time. But in cases of domestic violence, child abuse, or child neglect, the Chief Judge of the State of New York has required that the Courts be available to hear these matters.

SUPPORT

1.
Can I file a support petition right now?

Answer: The Courts are not currently open for filing a support proceeding. However, you may download a petition, complete it, and mail it to Family Court for filing. Here is a link to the Support petitions: <http://ww2.nycourts.gov/forms/familycourt/childsupport.shtml>.

The effective date for support orders or modifications is retractive to the date of filing. Therefore it would be a good idea to send your petition, even though you will not have a court date for many weeks.

2.
What if I stop receiving support?

Answer: If your ex is in violation of the support order, you can file a support violation petition by downloading the petition from this link:
<http://ww2.nycourts.gov/forms/familycourt/childsupport.shtml>

and completing the petition and mailing it to the court. Because the Courts are only hearing limited matters, the Court will likely not schedule this matter until the Courts are back to full schedules.

If your support is payable through the Support Collection Unit, they can change their income deduction without going to court. For example, if your child's parent loses their job and is collecting Unemployment or short-term disability because of the COVID-19 emergency.

FAMILY OFFENSE

1. **Can I file for an Order of Protection?**

Answer: Yes. The Chief Judge of the State of New York has required that the Courts be available to hear these matters. If you are granted an Order of Protection, the Court will arrange for it to be served on the other party.

2. **My Temporary Order of Protection expires soon. How can I make sure it gets extended?**

Answer: Your order will automatically be extended for 90 days and you are not required to do anything to extend it.

3. **The Respondent has violated the order of Protection. What should I do?**

Answer: You can still call the police for assistance. Violating an order can result in arrest or an appearance ticket for criminal contempt of court.

OTHER

1. **My court date has been postponed. What do I do?**

Answer: All court matters are adjourned until after April 30. You need not do anything at this point. You will be notified by the court, your attorney, or both, of the new date, time, and location for your court appearance. If you absolutely must know the next court date immediately, you may try to call the Court. However, given the volume of calls, it may take some time to reach someone and the Court may not have an updated date at this time.

If you have not received a new notice, you can check at this web site, using the File# you see on your notices or court orders:

<https://iapps.courts.state.ny.us/fcasfamily/>

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<http://www.lawny.org/FamilyCourtDuringCOVID19>

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