

COVID-19 AND THE EFFECT IT IS HAVING ON FRO ENFORCEMENT OF COURT ORDERS

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COVID-19 has been an unprecedented medical pandemic which has greatly affected everyone in society no matter what his/her financial situation. Unfortunately many individuals have lost their job or have suffered a drastic reduction in his/her income due to the pandemic and the forced closure of many businesses and operations. Everyone must do their part to 'flatten the curve' but understandably it has come at a clear financial cost.

Many individuals are left wondering how they can afford their support payments in light of the current financial realities. Many Payors have frantically contacted their lawyers or FRO directly seeking to urgently lower his/her support payments while many support Recipients have been left with no payments being made to them. This harsh reality has left everyone in the family law world wondering what if any changes has FRO implemented during this time of crisis.

Everyone must understand that this crisis is a new phenomenon never seen before by our judicial system, FRO, or any other government agencies involved in the family law realm. Policies and procedures are being developed and amended each and every day to try and balance the need for support payments to continue with the reality that many Payors simply do not have the money to make the ordered payments.

FRO has not officially changed any of its rules or regulations but has indicated in a general way that they will be reviewing support enforcement on a 'case by case' basis. What I take from this statement is that the obligation to continue to make payments as per a valid court order/enforced agreement must continue. However, if a support Payor has suffered a change in circumstances due to COVID-19, then he/she should contact his/her FRO caseworker to advise them of the change and the case will be reviewed.

While there is no exhaustive list of evidence required to prove a change in circumstance nor is there any guarantee that a claim will be successful and an order will be reduced, I have prepared the following suggested list of evidence for one's consideration when speaking to his/her FRO caseworker:

1. Record of Employment or any other proof of termination;
2. Proof of severance pay or lack thereof;
3. Proof of ongoing monthly personal expenses compared to new current income;
4. Proof E.I has been applied for or any other form of government assistance; and
5. Proof of other income earners in the residence.

In addition to the suggested evidence above, I highly recommend being reasonable with FRO and suggesting an alternate payment plan to show good faith and that you the Payor are committed to paying some form of support.

Every Payor must remember that FRO's ability to negotiate payments during this time seems to be reserved for arrears cases only. FRO has stated that it does not have the ability to negotiate ongoing support payments as they must be altered by way of family court order. Perhaps with more and more cases coming forward of individuals losing his/her jobs, parties in a family law dispute will comprehend the effect COVID-19 is having on the world economy and agree on consent to amend court ordered obligations to pay support.

One point of caution I wish to bring forward is that FRO does have the ability to garnish E.I. Therefore, should a support payor apply for E.I. during these difficult times, then he/she must remember that up to 50% of E.I. will be garnished by FRO.

Besides collecting support payments, FRO has a wide variety of powers to enforce amounts owed. During a recent seminar, Ms. Deann Nixon (senior solicitor at FRO) reminded all family law litigants who are involved with FRO enforcement that there was an emergency order made under *Emergency Management and Civil Protection Act* on about March 20, 2020 stating that all limitation periods under the statute were '*paused*' which effectively stated that FRO's ability to enforce suspension of driver's licenses has been halted. Furthermore, the Director of FRO's ability to issue any new suspension of driver's licenses has been '*paused*' as well. These measures appear to allow some flexibility to Payors during the pandemic.

Should you have any questions regarding FRO enforcement during this difficult time, please do not hesitate to contact an experienced family law lawyer. We at Nathens, Siegel LLP are happy to assist and are open for business.

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