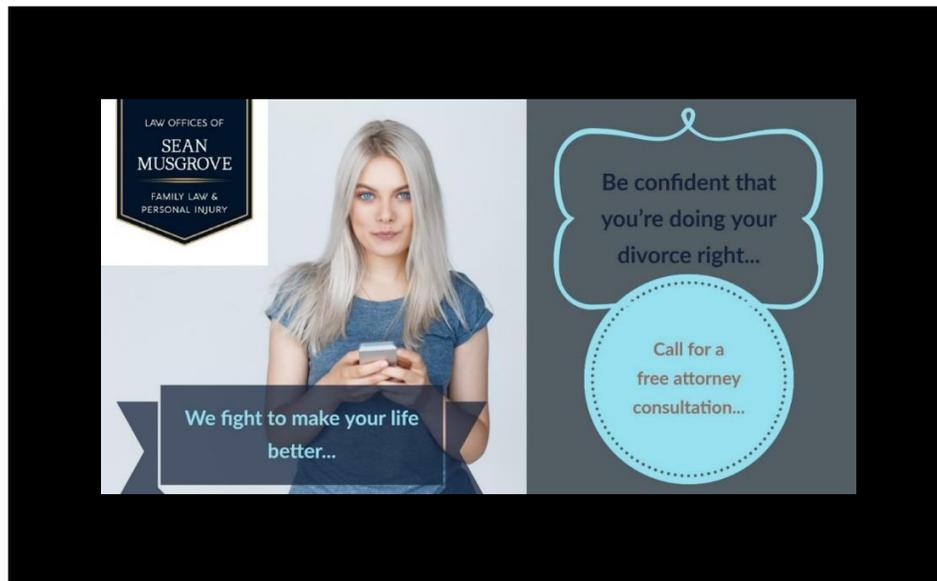




*THIS IS A COVID-19 Update regarding a person's ability to seek changes to child support and spousal support if they lose their job because of the COVID-19 crisis. My office has been inundated with calls from people who are seeking relief from support orders because they have lost her job because of the COVID-19 crisis. We are hopeful that this piece gives good information to those who read it.*



**DATED March 25, 2020.**

Dear Friends,

California's "stay-in-place" order is a social and economic disruptor. It is having large impacts on all Californians. California's Governor has announced that there have been over ONE MILLION filings for unemployment.

## **THE LUCKY ONES**

With California's "stay-in-place" order, the lucky people are able to work from home or their jobs are considered to be essential so they can continue to work.

Economically, these people are fortunate. During the COVID-19 crisis, they will experience little to any drop in income due to the "stay-in-place" order. People who can work from home are fortunate that we live in an age where technology allows for such a thing to occur. Just twenty years ago, this would have been impossible for as many people to work from home.

Essential workers will be working long and hard hours to make sure that our society moves along. They will be putting themselves at risk of infection of the novel corona virus. The people who come to mind are the brave people in health care, law enforcement, and the people in the grocery industry. We all owe them gratitude for what they are doing for us during the COVID-19 crisis.

## **THE UNLUCKY ONES**

However, there are other people who are suffering economically because of California's "stay-in-place" order. These are the many men and women who work in service industries, like restaurants and hotels, and other "nonessential businesses" that do not lend themselves at this time to remote working.

These people are facing catastrophic economic losses from the COVID-19 crisis. They will need to either pay their rent/mortgage late or not at all. They will have to go to food banks in order to have food to feed themselves and their family. They will not be able to pay their credit card bills, their auto loans, and their insurance payments. These people may be driven into bankruptcy because of the COVID-19 crisis.

Anyone who loses her job because of the COVID-19 crisis and who is paying a child support or spousal obligation needs to consider going to court immediately.

It is obvious that there are two types of people in any support order, whether that be child support or spousal support.

There are those who pay support.

There are those who receive support.

**Those who pay support...**

If you are paying either child support or spousal support, or both, and you lose your job because of the COVID-19 crisis, it is essential that you file a motion with the court to modify the support orders immediately.

The reason why you should file a modification of support immediately is support will only be modified if you file a Request for Order asking for the modification. Additionally, under Family Code section 3653, support will be made retroactive only back to the date of filing or the date of unemployment.

Let me explain this another way. If you lose your job because of the COVID-19 crisis, you are still expected to comply with all of the Court's orders. If you lose your job because of the COVID-19 crisis, and you do not seek a modification, your monthly payment will still be owed. If you have a support order of \$1,000.00 per month and you are out of work for six months, you will owe arrearages in the amount of \$6,000.00.

If you file for the modification of support six months after being unemployed, the court can either retroactively change your support order to the date of your filing or the date of your unemployment. That means it's a roll of the dice whether your support will be modified back to your date of unemployment.

Again, whether a court chooses to make support go back retroactively to the unemployment date or to the date that you filed a motion, is completely up to the court and it is discretionary. It is best not to wait.

### **Avoid paying a 10% penalty for unpaid support ...**

In addition to the fact that if you wait too long to file for a modification of support the court may decide not go back to your unemployment date, there is another huge reason why you should seek modification of your support immediately if you lose your job. The reason: 10% interest per annum.

According to California Code of Civil Procedure section 685.010, arrearages are in most situations calculated with an additional 10% interest per annum. I have seen numerous people with arrearages of \$60,000.00, but the interest has increased the total amount due to over \$100,000.00. Do not risk paying money that you do not need to. If you lose your job because of the COVID-19 crisis, file for a modification of support immediately.

### **People receiving support...**

If you are receiving support and you have lost your job, you should also consider filing a motion immediately so your support can be increased. Of course, you will need to consider whether or not the other party is also making less and whether or not going to court would be detrimental to you.

For example, if you are married for only five years, the court will presume that you only need spousal support for half the duration of the marriage. There is a chance that if you go back and asked for an increase of support, your support could be terminated. It is always best to consult with an attorney to make sure your situation is safe to go back to court.

### **One final warning...**

There is one additional warning that I want to make. You will need to consider the payor's financial situation insofar as you want to make sure that you are not making more than them on unemployment. Under Family Code section 213, a person responding to a motion may ask for alternative affirmative relief. This means that if you asked for support to be increased, they can do the same if supported by facts.

In either situation, it is important that you talk to an attorney immediately to see if this is an option for you.

**Support modification and court closures because of the COVID-19 crisis.**

There is a complication to this situation because the Courts are effectively closed for the near future. That means when you file for a motion to reduce support orders, you may not have a court date for months. However, Sacramento County, Placer County, and El Dorado County are excepting filings and will be assigning dates later.

This is helpful as support can be modified back to the date of filing. While no attorney can guarantee any outcome of a motion, if you lost your job solely because of the COVID-19 crisis, it is hard for me to fathom a situation where your support would not be reduced. There may be other factors that the courts consider in denying such a request, however, those would normally be limited to issues of imputing income or other bad behavior.

**The Law Office of Sean Musgrove wants to help.**

It is important to me my office helps as many people as we can.

My office is developing a flat fee motion for the reduction of support orders, whether they be child-support or spousal support, for people suffering because of the COVID-19 crisis. This flat fee will be offered to any and all clients if they can prove that they lost her job because of the COVID-19 crisis.

The flat fee package that we are working on will include several options. Regardless of which option a person chooses, they will receive exemplary service from my staff. The first option will be that we draft and file the documents on your behalf and you appear at the hearing without us. The second option is that we will draft and file the documents on your behalf and we will appear with you at the hearing.

People who are offered a flat fee because of the COVID-19 crisis under this program will not be allowed to seek any other relief. No other relief will be sought in these motions except for child and spousal support.

If you are a current client and you have lost your job or been laid off temporarily because of the COVID-19 crisis, please will call my office immediately for details. You will be eligible for a flat fee support modification motion regardless of what type of client you are.

If you are a former client, even one who has a debt owed to this office, and you have lost your job or been laid off temporarily because of the COVID-19 crisis, we want to help you too.

If you are reading this and someone you know has lost her job or been laid off temporarily because of the COVID-19 crisis, the offer is the same. We want to help them too. Please have them call us.

Please feel free to call the office and talk to me if you have any questions or concerns.

Cordially,

A handwritten signature in black ink that reads "Sean Musgrove". The signature is written in a cursive, flowing style.

Sean Musgrove

**DISCLAIMER: This is meant to be general advice and not legal advice. If you have a custody situation, please consult an attorney familiar with family law issues because each case is individual in nature. One fact can change the legal analysis of any hypothetical or situation mentioned in this document. Please consult an attorney before you do anything.**