

Sample Q&A: Family Law

Child Support Modification



I lost my job about 6 months ago. I can't keep paying child support. I am very far behind. I do not have enough to pay my rent and buy food. What can I do?

-- Kevin T., Lake County



Dear Kevin,

I am sorry about your lost job. That must be overwhelming even more so with the child support payments. You need to try to get your child support payments changed right away.

Were your child support payments started through a court order or the Department of Health and Family Services?

If through the Dept of HFS, then you need to contact them directly. You can do so through their [website](#). If this was done through a court order, then you need to file some paperwork with that court.

Here is an article that tells you how to do it: [Starting a case to change child support payments](#). Here is the form: [Child support modification](#).

It costs money to file paperwork with the court. Sometimes those fees can be waived. Since you were able to create an account on this website, then you probably can get your fees waived. Use this form: [Fee waiver](#).

It may seem a little bit overwhelming, but these are just some easy forms and a trip to the courthouse to file. You need to do it as soon as possible. You still owe for the last 6 months and can only get the amount changed going forward from when you ask.

Let me know if you have any further questions.

Best wishes, Nicole

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Applicable Law

- 15 U.S.C. § 1681. Fair Credit Reporting Act
 - (s)(1). Information on overdue child support obligations
- 305 ILCS 5/ Illinois Public Aid Code
- 750 ILCS 5/ Illinois Marriage and Dissolution of Marriage Act
 - 505. Child Support
 - 510(a), (b), (d). Modification and termination of child support
- 750 ILCS 28/ Income Withholding for Support Act

Background of the Law

Child Support

Determining child support

Child support may be ordered in a proceeding for dissolution of marriage 750 ILCS 5 or in a proceeding for allocation of parental responsibilities. 750 ILCS 46. In determining the minimum amount of support, the court must apply the child support guidelines established by the Department of Healthcare and Family Services (DHFS). 750 ILCS 5/505(a)(1).

As of July 1 2017, child support is no longer calculated as a percentage of the supporting parent's income. Rather, the income of both parents is used to determine child support. *Id.* [The Department of Healthcare and Family Services' Child Support Estimator](#) can be used to get an idea of child support obligations.

Enforcement of child support

An existing support order or dissolution order can be enforced through a petition for a rule to show cause. 750 ILCS 5/502(e). It can also be enforced by the Department of Health and Human Services (DHS), through the State's Attorney Child Support Enforcement Division if the obligee is a recipient of public aid. 750 ILCS 5/505.3(e)

Modification of child support

An order for child support may be modified as follows:

1. Upon showing of a substantial change in circumstances; and
2. Without the necessity of showing a substantial change in circumstances, as follows:
 - a. Upon a showing of inconsistency of at least 20%, but no less than \$10 per month, between the amount of the existing order and the amount of child support that results from application of the guidelines specified in Section 505 of this Act unless the inconsistency is due to the fact that the amount of the existing order resulted from a deviation from the guideline amount and there has not been a change in the circumstances that resulted in that deviation; or
 - b. Upon a showing of a need to provide for the health care needs of the child under the order through health insurance or other means. In no event shall the eligibility for or receipt of medical assistance be considered to meet the needs to provide for the child's health care needs.

Termination or reduction of child support upon emancipation of one child

Termination or reduction of child support does not typically happen automatically, even where the divorce decree or order for support specifies a termination date. Rather, the supporting parent needs to file a *Petition to modify* to ask the court to reduce or stop payments. If the support parent fails to do this, the child support obligation will remain the same and continue to accrue. Gitlin *supra* §17-1(b)(7).

Relevant ILAO Content

Pro se

[Enforcing my child support order](#)

[How to enforce an order for child support](#)

[Petition for rule to show cause](#)

[Fee waiver \(Easy Form\)](#)