



LANDERHOLM FAMILY LAW

Advocating for your better life.

How Does COVID-19 Impact Your Family Law Matter?

A Q&A for New Family Law Questions
Being Asked in Light of COVID-19



COVID-19 Q&A

With the recent events surrounding the Covid-19 viral outbreak, this is a very difficult time for people globally who are facing upended routines, uncertain financial standings, and who feel that they are navigating uncharted waters.

We, at Landerholm Family Law,

as part of our commitment to be an ongoing resource for our clients and our community, want to address some of the most frequently asked questions we have been receiving pertaining to how the coronavirus and its ramifications are affecting family law matters and what steps can be taken to protect families during this time.

It should be noted that the answers to many of these questions are evolving and still being developed as the courts, government agencies, private industries and professionals work hard to develop solutions to these unforeseen complications. We will continue to send out emails to our clients as we receive updated responses to these important family law issues. If you have any questions regarding a family law matter, you can contact our firm at (503) 227-0200 or via our website:

<https://www.landerholmlaw.com/contact-us/>

Disclaimer: this is not legal advice. If you require legal assistance, you can call our office to set up a consultation with one of our seasoned family law attorneys.

DIVORCE

Can I still pursue my case even though the courts are closed?

With the recent developments of Covid-19 and state-wide lockdowns, courts have temporarily made changes to how they prioritize hearings while they address these unprecedented measures. **However, this does not mean that you cannot continue pursuing your family law matter.** In fact, now is a great time to take action and get your case started. While some non-emergency hearings are being pushed to later dates, newly filed and ongoing cases will continue to be processed, and as the courts determine the best way to handle all the legal matters they deal with, in light of the current events, they will be resolved.

There are multiple benefits to pursuing a family law matter during this time.

Filing now will allow your case to be a frontrunner once the courts have resumed processing cases. By getting your case in the system now, you can effectively shave months off of the waiting process that will likely occur when the courts reopen.

Despite current delays with the court, our firm is still able to arrange for an opposing party to be served and start the process of negotiating on your behalf. If your case will require Discovery, now is a great time to get started on this arduous and often time-consuming process. Additionally, by starting the process now, you are able to segment payments in a manner that can be easier to manage. You will experience less cost up front to get things started, allowing you to plan and save for the secondary, and often bulkier, financial portion of your legal matter.

Depending on the type of family law matter you are pursuing, it's possible that the majority of your case can be handled virtually, such as estate planning. If you require mediations or other forms of meetings, telecommunication options are available. As a part of this determination as to how to most efficiently handle their caseloads, the courts, in concurrence with government and private agencies, professionals and individual court-related practices, are incorporating more telecommunication and electronic filing options wherever possible in order to continue moving family law matters forward. Examples of this include phone conferences, video mediations and other court decisions being resolved without the need for in-court appearances. We can employ many of these tools now, and as more are developed, we will keep you updated as to how they can be utilized throughout your case.

In the event that you are in immediate danger, the court is still taking emergency hearings. This includes cases such as protection orders, restraining orders, stalking orders, elderly abuse cases, and anything relating to domestic violence or child abuse. If you find yourself in this situation, please do not wait to file and begin your case—our firm, along with the court, are here to ensure that you receive the protection needed as quickly as possible.

DIVORCE

I'm in the middle of a divorce and was scheduled for in-person meetings, such as parenting classes and mediation. Are there remote options?

There are definitely some options available to substitute in-person meetings with remote options. This is a rapidly evolving issue as providers such as child and family therapists, evaluators, mediators and other divorce related professionals move to set up remote options that are workable with the divorcing couple, their children and the court systems involved. Our Director of Client Relations, Steve Altishin, is working with all of our professional partner referral resources to stay updated on their capabilities for remote servicing within the family law realm. Parenting classes are contingent on the court, so telecommunication options will rely on their ability to address this issue in coming weeks.

I am considering filing for divorce- is it possible to do so under the restrictions of social distancing and state lockdowns?

Yes, you are still able to still file for divorce amidst social distancing and state-wide lockdown regulations in place. Our office is fully able to consult with you telephonically, gather necessary information for initiating a divorce, prepare the documentation, obtain required signatures and have all of the paperwork filed electronically, without the need for a face to face meeting or trip to the courthouse.

Will social distancing and lockdowns prevent a third party from being able to serve my divorce papers?

While third-party service may prove to be difficult under current lockdown measures, there are circumstances when service can be handled electronically. For example: if a party agrees to be served then there is no need for a Sheriff or process server to personally serve documents on the responding party, which in turn avoids the issue of person-to-person contact. Instead, the opposing party can acknowledge receipt and thereby service of process by executing an Acceptance of Service, avoiding the necessity and expense (and sometimes embarrassment) of hiring a Sheriff or process server to personally serve the initiating documents. If a party is unwilling to accept service, an order may be applied for and if conditions are met, the court may order that documents may be delivered in alternative means.

CUSTODY & PARENTING TIME

If my ex-spouse has traveled from a highly infected area, or has been exposed to a person with Covid-19, am I allowed to deny them parenting time and visitation?

While we understand that exposure is a very serious concern to many parents, ultimately you are required to follow your current parenting plan orders. If your order does not specifically address acceptable protocol for circumstances such as these, you will have to get the order modified, either by agreement or by a judge's order. By denying court ordered parenting time without an agreement from your ex-spouse, even for reasons such as this, you are exposing yourself to be held in contempt for violating a court order.

If I'm a custodial parent and I lose my job, will I run into issues if I need to relocate further than 60 miles from my ex?

In the event that you lose your job and have to move due to extenuating circumstances, you cannot simply pack up and leave without communicating with your ex-spouse and following the conditions of your parenting plan. Most orders will have parameters for how far you can move and how much notice you need to give your ex so that they have the opportunity to object. Typical parameters state that you cannot move further than 60 miles from the child's other parent and that a 30-day notice needs to be given, but each order is unique and varies, so you need to review it to make sure that you follow the provisions given in your judgment.

If you and your ex-spouse are able to mutually agree that it is acceptable for you and the children to move outside of these parameters, you will want to receive written confirmation of this agreement. While a written document signed by both of you is best, you should at least have an email or text message from your ex-spouse acknowledging the agreement, in order to make sure you have proof of an agreement.

CUSTODY & PARENTING TIME

My ex-spouse has custody and lost their job, how can I protect my rights with the children if they move?

If your ex-spouse notifies you that they intend to move outside of the parameters set in your parenting plan and you want to prevent this from happening, you will have to file an objection with the court within the timeframe indicated in your judgement order. This is a filing that we can get done electronically without violating state lockdown regulations.

Is a non-custodial parent considered “household family” in regard to quarantining and social distancing?

We understand that, with the recent lockdown, people are being encouraged to limit their social interactions outside of household members, which raises the question of if non-custodial parents are considered a risk to their child since they don't live in their primary household. While there are no set guidelines for this specific scenario at this time, the fact of the matter is that you have to follow your judgment. In all cases of this sort, the best interests of the child are paramount and must be the primary consideration. You cannot simply tell your ex-spouse, “you don't get parenting time”, because you feel a certain way. Ultimately, this decision is up to the judge, and until you receive a confirmed court order, you will need to continue following your parenting plan.

I'm required to have supervised visitation with my child- can a third party still join this visitation, considering lockdown and social distancing?

Yes, however you and the third party need to follow the rules regarding state lockdown regulations and social distancing rules, which are currently stated as remaining 6 feet away.

CUSTODY & PARENTING TIME

If I make a health decision for my child regarding Covid19 exposure, is that a legal custody or a parenting time matter?

The answer to this depends on the parameters set within your parenting plan, but typically that would be considered a custodial decision. Again, you need to make sure that you are making a health decision based on the best interest of your child and are not using it as an excuse to restrict parenting time.

Recent school closures have impacted personal schedules and our parenting plan- what are some solutions to stabilize this situation?

We understand that the recent school closures and change to work schedules has likely interrupted many parent's usual schedules and parenting time availability. This is an unprecedented situation, and unfortunately there are no clear-cut answers on how parents are expected to handle this situation. Something to consider as you and your ex-spouse work together to address new scheduling conflicts is that, if a judge is looking at these events down the line, they will want to determine whether you acted in a way that is considered reasonable for the circumstances.

If you and your ex are able to agree on a new temporary schedule that works for you both, we advise that you memorialize this agreement in writing. If you and your ex are not able to agree on a new schedule, you will want to follow your current parenting plan to the best of your ability.

If I've been exposed to Covid19 and don't get to see my kids for two weeks, do I get that time back at a later date?

There is no clear-cut answer on if you will get this time back or not. Review your parenting plan to see if offers solutions in the event of illnesses and how that time should be made up. If your parenting plan does not offer guidance on this matter, it's possible you will not receive this time back.

CHILD & SPOUSAL SUPPORT

Are you allowed to postpone or suspend spousal or child support payments due to a job loss or financial concerns?

No, you cannot abate your support payments, and are required to follow your judgement, regardless of personal circumstances. If you are unable to make payments and would like to challenge your current support order, you will need to file for a temporary modification. We advise staying updated via the Oregon Child Support Division, which is working on addressing support concerns amidst the Covid-19 outbreak. You can stay updated via their website:<https://www.doj.state.or.us/child-support/>

What can I do if my ex-spouse lost their job and is refusing to pay support?

Typically in this situation, you would file to enforce the judgement. Currently the courts are not hearing these cases as they work to address the recent lockdown, so this is a situation that you will have to wait to resolve until the courts are able to hear your case. That being said, it's typical for the months of support payments lost to be accounted for once a case is heard. If you are needing to enforce a support order, you may want to consider the process of filing now, as once the hearings are again being scheduled, they will likely start hearing older cases first.

CHILD & SPOUSAL SUPPORT

If my child is no longer going to college because their classes are terminated, do I still have to pay child support?

In the event that your child is no longer able to attend college courses due to campus shutdown, you will have to continue paying child support until a modification to your current order is made. Assuming your child is planning on returning to school once the Covid-19 ban is lifted, your order will remain the same and you will need to continue paying child support. If your child has decided to no longer pursue their higher education, you can file to have your support order modified.

If I pay alimony but my income has changed and I am now making less than my ex-spouse, what's the process to modify spousal support and child support?

If your income has changed and you want to make changes to your current support order, you will have to file a modification request with the court. This process can take 6-8 months typically, not considering the current delay in court hearings, so it will take some time. Until this modification has been approved, you will be expected to continue making your issued support payments.

ESTATE PLANNING, RESTRAINING ORDERS, & ADOPTION

I want to pursue a restraining order- what are my options?

There are four types of restraining orders available in Oregon, and courts are currently still scheduling restraining order hearings. The four types of restraining orders are:

Family Abuse Prevention Act (FAPA)- Pursuant to the FAPA, a victim can file a Petition with the court requesting a restraining order if the abuser is a spouse, former spouse or a person with whom you are cohabiting or have cohabited. You can also petition for a restraining order if the abuser is a person with whom you have had a sexual relationship within the past two years.

Elderly Persons and Persons with Disabilities Abuse Prevention Act Restraining Order (EPPDAPA)- An elderly or disabled person who is being abused can apply for a restraining order by filing a civil action for abuse of the elderly or disabled.

Stalking Protective Order (SPO)- Stalking protection orders provide protection from someone who is stalking you or your immediate family or household member.

Sexual Abuse Protective Order (SAPO)- A sexual abuse protective order is a civil order that provides protection if someone who is not your family or household member sexually abuses or sexually assaults you.

ESTATE PLANNING, RESTRAINING ORDERS, & ADOPTION

I'm experiencing domestic violence but am not sure how to seek out support with social distancing. What are my options?

We understand that these are unusual times, and social distancing has created hurdles in being able to travel or reach out for help. If you are in immediate danger, please call 911 right away. We recommend anyone who is in need of support to call the National Domestic Violence Hotline at 1-800- 799-7233. If you are unable to speak safely, you can logon onto the hotline.org or text LOVEIS to 22522.

I've named my elderly parents as the guardian of my children. Should I temporarily change that will or add a secondary guardian in the event that my parents are unable to fulfill their role, or are especially susceptible and need to be quarantined from all family?

If you have guardians named in your will who are unable or unwilling to fulfill this role in light of current events (and the same hold true if they are named as a trustee, conservator, or personal representative), now is the time to modify your safe planning within your will. Our office is currently offering free estate planning consultations, as well as 25% of all estate planning services, to help aid clients who are hoping to create a will or trust, or need to make revisions to their current estate plan documents.

Much of the estate planning process can be handled virtually and efficiently even amidst a lockdown, so now is the perfect time to address any questions or concerns you may have regarding your estate plan.

Will Covid-19 impact my adoption due to lockdown and required home studies?

If you are required to receive a home study for your adoption case, the impact of Covid-19 on this process will be determined by your agencies steps to address this concern, however it is possible that the timing of your home study schedule will be impacted. At this time, adoption agencies are working hard to offer solutions-we advise that you check in with your agency for further updates.