

WHEN IS CHILD SUPPORT MODIFIABLE???

El Derecho Del Pueblo

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The People's Right

A column of social commentary [Destiny](#) and legal advice by attorney and teacher Matthew "Mateo" Katz.

Have you ever lost your job, been demoted, fired, expelled from the workplace or otherwise taken a big hit with regard to your income YET you still have those seven hungry, expensive and constantly needy kids to send that child support check to??? Does your babies' momma get mad every time you're late with a payment or for some other legitimate reason just can't make that support payment??? If so, then keep reading.

In Illinois, any court order requiring that you pay child support is your law, and if you break it by not paying, you can be scolded by the judge, fined, or locked up until you or someone who loves you comes up with an amount of your child support debt to post as bond to bail you out! A child support order can be sent to your employer who MUST begin to withhold the income stated in the order and mail that money to the State Disbursement Unit, which is the office in charge of collecting and distributing child support payments.

If no court order is in place, it's a good idea anyway to keep paying support because a retroactive support order can be entered against you which will assess the amount of past support not paid toward your current payment until it is paid. This means that once child support is ordered to be paid by you, if your weekly payment is \$100 but you have a retro amount of \$2,000 for twenty weeks not paid, you may have to pay another \$20 on top of the \$100 until the \$2,000 is satisfied. After that, you just pay the \$100.

If there is no support order in place, however, you can't be locked up or punished by the court for non compliance. The worst that can happen is that a retro amount is assessed, as I explained above. BUT if you lose your job and there IS a court order in place, you must act quickly to modify that court order!

Section 510 of the Illinois Marriage and Dissolution of Marriage Act (applies to non-married folks, as well, on this issue) states that a child support order may be requested of the court to be modified where a “substantial change of circumstances” has occurred which, among other possible effects of the changes, reduces the ability of the payor to pay.

BUT this doesn't mean you can voluntarily reduce your income and then file a motion with the court to reduce your child support. The appellate courts of our state have ruled that, for example, where a father's unemployment resulted from his own decision to quit his job, this was no good! He still had to pay and if he didn't he would be in contempt of court, even though now he had much less ability to pay!

The moral of the story, folks, is do everything you can to get the court order you need and live by that order until it's changed by the judge!