

## COVID-19 FAMILY LAW UPDATE

### Filing for Divorce

With the spread of Coronavirus and most of our lives on hold, many are asking whether plans to file for divorce must also be put on hold. The answer is - not necessarily. Before parties can obtain a divorce, they must meet a statutory waiting period, which is 60 days for a divorce without minor children and six (6) months for a divorce with minor children. However, in cases with minor children, the court can shorten the six (6) month waiting period under certain circumstances, but not less than 60 days from the filing of the Complaint for Divorce. That means, the soonest parties can get divorced is 60 days after the filing of the Complaint for Divorce in cases without minor children and between 60 days and six (6) months after the filing of the Complaint for Divorce in cases with minor children. Courts throughout the State of Michigan are currently open for limited business, which includes accepting new divorce filings. So, one reason to file sooner rather than later is to start the 60-day clock ticking. Of course, whether to file now or wait must be decided on a case-by-case basis.

#### WHAT CAN WE DO NOW WHILE STILL ADHERING TO THE STAY-AT-HOME ORDER?

- *Consult with you.* We are all working remotely and able to consult and confer about any and all family law matters.
- *File and commence an action for divorce.* Courts are accepting new filings.
- *Prepare financial disclosures.* In the early stages of a pending divorce, the parties are required to exchange Verified Financial Information Forms.
- *Pursue discovery.* In addition to exchanging Verified Financial Information Forms, parties may also pursue discovery as to financial and other information, which may include interrogatories, requests for production of documents, and service of subpoenas on banks and other financial institution.
- *Negotiate and reach settlement.* As our goal in every divorce is to avoid contested litigation, and as most attorneys are working remotely, settlement discussions can and should continue.
- *Mediate.* If parties cannot reach settlement on their own, most courts require mediations. Mediations are proceeding remotely via Zoom and telephone.
- *Court assistance on certain "emergency" matters.* While access to the trial courts is currently limited to essential functions, these essential functions as to family court matters include reviewing and determining requests for *ex parte* relief in domestic relations proceedings necessary for the safety and well-being of a party and/or children and other emergency motions in the discretion of the court.

- *Finalization of settlements.* While courts are currently not required to engage in non-essential business, many judges are available to finalize divorce and family law matters and enter final Consent Judgments of Divorce and other Final Orders.

#### **WHAT MUST WAIT WHILE ADHERING TO THE STAY-AT-HOME ORDER?**

- *Personal service.* If your spouse will not accept service via email, mail, or through his or her attorney, we will be unable to effectuate personal service through a process server until the Stay-at-Home Order is lifted. However, even when not ordered to stay in place, personal service is always a last resort. Most parties agree to accept service.
- *Court assistance on “non-emergency matters”.* Although most cases settle and only a small percentage of cases go to trial, even as to the cases that settle, we sometimes need court assistance during the pendency of case on matters that would be considered “non-emergency” under the current Stay-at-Home Order. Such matters could include motions to compel discovery or for financial assistance. We expect, however, that even if the stay in place order continues, the courts will adapt and start hearing these matters remotely via Zoom or telephone. Some courts are already doing this.

#### **OTHER CONSIDERATIONS**

We would be remiss if we did not point out the obvious - most couples continue to live together while their divorce is pending. Even for the most amicable of cases, this can be difficult. Of course, during a Stay-at-Home Order, living 24/7 with your soon-to-be ex-spouse can be especially difficult. This may also affect your decision as to when to file.

As always, the Jaffe team is available to discuss your concerns, answer your questions, and work with you to create solutions during this difficult time. While our offices may be physically closed, we are virtually open for business to assist you.

Stay safe.

For questions, please reach out to Susan Lichterman at 248.727.1423 or [slichterman@jaffelaw.com](mailto:slichterman@jaffelaw.com).



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