

Coronavirus (COVID-19): The Stimulus Payment in Family Law Cases

❖ Read this only if you live in the state of Washington.

❖ You can find all the packets we link to here at WashingtonLawHelp.org.

I am a survivor of domestic violence. I am still married to my abuser. We do not live together anymore. We filed a joint-married tax return in 2018. Neither of us has filed a 2019 return. My spouse has the direct deposit account the IRS last used. Can I get any of the stimulus money?

It depends. You can:

- **File your own 2019 tax return as married, filing separately as soon as possible.** The IRS will use the information in your return to figure out the payment amount, and deposit it in the bank account you provide them.

There can be problems with filing separately. You may not get certain deductions or other financial benefits that you get filing jointly. And only one parent can claim a child as a dependent. If you and your spouse cannot agree on who can claim the child as a dependent, the right to do so usually goes to the parent with whom the child lived for most of the year. This might not work out for you.

- **Fill out a “Get My Payment” Application.** It is available at <https://www.irs.gov/coronavirus/economic-impact-payments>. If any information has changed from the 2018 tax filing, you should file your 2019 tax return electronically **as soon as possible**.

I filed my own return in 2019. I did not know my spouse already filed one. Both of us claimed our child. What will happen?

It is still unclear. Your competing tax returns might trigger an alert with the IRS. This might delay the processing of both tax returns and the stimulus checks.

We divorced recently. My ex always filed the taxes when we were married. I tried to get a check as a non-filer. I keep getting an "unavailable" message on the IRS website. My ex denies getting the check or hasn't responded. I can't prove that my ex got the check.

Try checking Get My Payment (<https://www.irs.gov/coronavirus/get-my-payment>). This might tell you the status of the payment and if your ex got it.

You may also be able to prove your ex got the check by **filing a trace on the payment**. If the check was cashed, the Bureau of the Fiscal Service will send a claim package that includes a copy of the cashed check. This should include the signature of the cashing party. Read <https://www.irs.gov/coronavirus/economic-impact-payment-information-center> to learn more.

My ex got the stimulus money for our family. My ex is not going to give me my money (and/or the children's). What can I do?

You should file a motion in a family law case so a court can address this issue. If you do not have a family law case currently filed, talk to a lawyer right away. Figure out what type of case makes sense for you. See contact information below.

Given the pandemic, it is unclear if you will get a hearing on your motion. Many Washington courts have had hearings only on emergency matters until recently. Those hearings have been by phone or video. Some courts have considered financial issues emergencies. Others have not. Even if you get a court to consider your motion, you might only get a court to rule on the papers you have filed, without being able to make your argument over the phone or in person.

If you believe you have an emergency need for this money right away, get help from a lawyer. A lawyer might be able to help you write a motion that persuades the judge, with or without a hearing. See contact information below.

How will a judge decide which of us should get the stimulus money?

At this time, there is no law saying how a judge in a family law case should treat the stimulus money.

If you do not have a court order saying which parent gets to claim your child as a dependent on your tax returns, the IRS tax code may help. The tax code says dependent claims and child tax credits belong to the parent who has the children most of the time in the tax year. A judge could apply the logic of the tax code to your situation.

The tax code will **not** help your situation if you have a court order saying you and the other parent must take turns claiming the child on your tax return. The most common type of order where you would find this is a child support order. It is also in other family law orders. Talk to a lawyer. See contact information below.

We have a court order saying which parent gets to claim our child as a dependent on our tax returns. Does this cover the stimulus money?

It is unclear. If the court order says you and the other parent must take turns claiming the child on your tax return, this court order may not help your situation. Talk to a lawyer. See contact information below.

I got my spouse's \$1,200. I want to spend it on past community obligations (such as back child support, past-due mortgage payments) instead of giving my spouse their \$1,200. Can I do that?

This may not be a good idea. It is usually better to get court permission to spend the money how you want. At least one Washington court has given the public notice that it expects parties **not** to spend their stimulus checks until the court tells them how to use it. To learn more, visit

www.benton-franklinsuperiorcourt.com/administration/coronavirus. Scroll down to "**State Stimulus Checks.**"

If you believe you have emergency reasons for using this money right away, get help from a lawyer. A lawyer might be able to help you write a motion that persuades the judge, with or without a hearing. See contact information below.



www.WashingtonLawHelp.org

I want to try to file a motion on my own.

We have packets at WashingtonLawHelp.org to help depending on your type of family law case:

- [Parentage Cases](#)
- [Divorce cases](#)
- [Non-Parent Custody Cases](#)
- [Petition to Change Parenting Plan](#)

Get Legal Help

- **Outside King County**, call the CLEAR Hotline at 1-888-201-1014 weekdays between 9:15 am - 12:15 pm.
- **In King County**, call 2-1-1 weekdays between 8:00 am - 6:00 pm. They will refer you to a legal aid provider.
- **Seniors** (age 60 and over) can also call CLEAR*Sr at 1-888-387-7111, statewide.
- You can also apply online with CLEAR*Online: nwjustice.org/get-legal-help.
- Contact your local volunteer lawyer program. Check the list at <https://bit.ly/39yv9m7> to find one in your county.

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