

# ALBUQUERQUE DIVORCE LAWYER BLOG

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## **Child Support and Bankruptcy**

Given the current state of the economy, many people in New Mexico and here in Albuquerque are considering or are in the process of filing for bankruptcy. These folks often have child support obligations. In fact, the child support obligations, and child support arrearages, themselves may add to the pressure to file bankruptcy. Some may erroneously believe that back child support is dischargeable in bankruptcy. It is not!

An individual filing bankruptcy is called the debtor and the bankruptcy petition lists all of the debts for which the debtor is responsible and asks the court to discharge their debts, which means that creditors can no longer try to collect those debts, or organize a repayment plan for the debts.

Again, not all debts are dischargeable in bankruptcy. This means that these debts are unaffected by bankruptcy. Section 523(a) of the bankruptcy codes provides a list of the types of debts that are non-dischargeable, which includes both child support and alimony/spousal.

The bankruptcy code takes the responsibility to support a family very seriously, which is why child support and spousal support are non-dischargeable. Part of the reason behind this heightened protection that children and former spouses are often in a very vulnerable financial position following a divorce. They are not like other creditors, i.e. credit card companies, that assume a certain amount of risk when they lend money. Further, children and ex-spouses often relied on that support for their very survival and without that support the government may have to step in and carry that burden through programs like TANF, food stamps and Medicaid.

Prior to moving forward with bankruptcy, it is critical to consult a **New Mexico attorney** particularly if the objective is to circumvent child support. In fact, if you are faced with this situation, you would be well advised to consult with both a **New Mexico divorce and family law attorney** as well as a bankruptcy attorney. Doing otherwise will surely result in disappointment with the results.

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