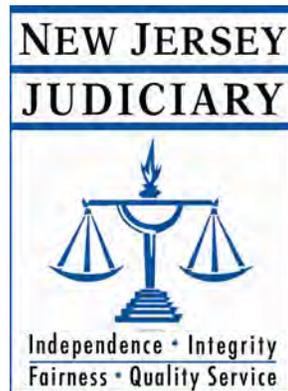


**NEW JERSEY
JUDICIARY
CHILD SUPPORT
HEARING OFFICER
PROGRAM
OPERATIONS MANUAL**



**Approved by the Judicial Council
March 26, 2009**

NOTICE

This Manual is intended to provide procedural and operational guidance for New Jersey Judiciary staff in the processing and management of cases within their area of responsibility. The Manual was prepared under the supervision of the Conference of Family Presiding Judges and the Chief Probation Officers along with the Conference of Family Division Managers, the Committee of Child Support Managers and the Family Practice Division of the Administrative Office of the Courts (AOC). This Manual is intended to embody the policies adopted by the New Jersey Supreme Court, the Judicial Council and the Administrative Director of the Courts, but does not itself establish case management policy. It has been approved by the Judicial Council, on the recommendation of the Management and Operations Committee, in order to promote uniform case management statewide and, as such, court staff is required to adhere to its provisions.

While the Manual reflects court policies existing as of the date of its preparation, it is subject to change as the law changes or upon approval of a modification to a specific provision or procedure. In the event there is a conflict between the Manual and any statement of policy issued by the Supreme Court, the Judicial Council, or the Administrative Director of the Courts, that statement of policy, rather than the Manual, will be controlling. Other than in that circumstance, however, this Manual is binding on court staff.

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1001 Introduction

In 1985 the New Jersey Supreme Court adopted R. 5:25-3 and established the Child Support Hearing Officer Program as a permanent and integral part New Jersey's expedited process. The Child Support Hearing Officer Program Operations Manual (Manual) represents the collective experience of the Child Support Hearing Officers and all who work with them to meet the needs of children and families. The Manual is written primarily as a guide for the Child Support Hearing Officer (CSHO). It is not intended to include all policy and procedure for partners working with child support such as the Family and the Probation Child Support Enforcement Unit. In fact there will references made to other manuals for more detailed instructions and/or procedures regarding certain issues. Pursuant to Title IV-D of the Social Security Act, New Jersey Rules of Court, R. 5:25-3, and federal and state law, the CSHO is authorized to hear child support cases and make recommendations to a judge. Unless a party objects and seeks a hearing before the judge, the recommendation becomes an order of the court. The Manual is useful to all who work with the CSHO such as judges, team leaders, probation officers, court administrators, mediators, welfare and other counsel, and other child support personnel.

The Manual details the history of the program, the role of the CSHO, expedited process and procedures authorized by Title IV-D of the Social Security Act and enabling state law. It covers how the program is organized, operated, and how hearings to establish, modify and enforce orders proceed. It discusses customer service, program data, and facilities among other topics. The goal of the Manual is to guide users through established procedures and practices in order to foster an expeditious system for resolving child support matters through effective and productive case management. The Child Support Hearing Officer Program consistently meets all expectations for effective expedited process. Standardization of the practices and procedures is a goal to be maintained and this Manual will be a living document to be updated in the future.

1002 Mission Statements

1002.1 The Mission of the New Jersey Judiciary

We are an independent branch of the government constitutionally entrusted with the fair and just resolution of disputes in order to preserve the rule of law and to protect the rights and liberties guaranteed by the Constitution and laws of the United States and this state.

1002.2 The Mission of the Child Support Hearing Officer Program

The Child Support Hearing Officer Program is comprised of judicial decision makers appointed by the New Jersey Supreme Court to hear and fairly and justly resolve family support cases, subject to judicial review and approval, in accordance with federal and state law.

1003 Authority and History of the Child Support Hearing Officer Program

1003.1 The History of the Child Support Hearing Officer Program

Following the establishment of the Child Support Enforcement Program pursuant to Title IV-D of the Social Security Act in 1975, states across the country increased efforts to expedite case processing and improve child support collections. With the 1984 Child Support Amendments, effective October 1, 1985, states were mandated to use expedited processes (non-judge establishment and enforcement) to be eligible for federal funding.

As far back as 1975, the New Jersey Judiciary had taken steps to expedite case processing and improve child support collections. One effort was the use of Family Intake Consent Conferences to divert cases from the court. While the consent conferences were a good start, the volume of cases was such that the availability of time and staff were insufficient. Recognizing the need for increased attention to child support matters, the Supreme Court Committee on Juvenile and Domestic Relations Courts created a Subcommittee on Referees to investigate the use of quasi-judicial professional staff for case resolution from Fall 1982 to Spring 1983.

The Subcommittee's report was submitted to the New Jersey Supreme Court in February 1983, it favored the use of referees to hear child support cases, concluding that the use of referees was less costly and appointments to the positions could be accomplished more quickly than adding judges. Use of intake officers was ruled out because the Subcommittee preferred the more structured use of referees with the ability to make findings of fact and to make recommendations based upon those findings. The report also pointed out that use of referees was already permitted by statute, N.J.S.A. 2A:4-12, and R. 5:10-3. Additionally, the subcommittee stated that constitutionality was not an issue so long as judges retained authority over all the final decisions. The report also suggested that the position could be filled by either an attorney or non-attorney so long as they were properly trained in legal principles and support cases. Two members objected to non-attorney hearing officers and another to giving referees final decision-making power.

The report was reviewed by various conferences and the Executive Committee of the Family Law Section of the Bar Association. There were no objections but some expressed concern about the weight being given to hearing officer recommendations. The editor of the New Jersey Family Lawyer, in the spring of 1984 did object to the use of referees stating that "Judging should be done by Judges."

In March 1984, the Administrative Director presented a proposal for Child Support Hearing Officers to the Supreme Court and in June of that year the New Jersey Supreme Court authorized a pilot to test the use of hearing officers who would hear cases and recommend orders to judges, but not have the ultimate power of decision. The Court ordered that an evaluation of the pilot be completed after 12 months. The project became known as the Child Support Hearing Officer Program. A conscious decision was made to

use the title of hearing officer. Guidelines were developed for the program after discussion with the Family Practice Committee and the Conference of Family Division Presiding Judges and employment qualifications were developed. The purpose of the project was to provide trained professionals to counties to "hear" child support cases (both establishment and enforcement) and to make recommendations to local judges that could be incorporated into an order. The initial criteria established for the hearing officer was comprised of the following:

- hearing officer takes testimony from both parties
- hearing officer makes findings of fact
- hearing officer recommends a determination to Presiding Judge
- if approved, the Judge executes the order including the new provisions (recommended ones)
- parties may object to the hearing officer recommendation and request hearing *de novo* before judge
- incarceration recommendations referred to judge

The Child Support Hearing Officer Program was designed to be administered at the state level so as to permit assignment and reassignment of staff to the counties as the needs arise. The assignments to the counties were based on the request of local Assignment and Presiding Judges. Accordingly the hearing officers were employees of the Administrative Officer of the Courts with their hiring and salary the responsibility of the state.

The pilot program's major goals are set forth below:

- ensure compliance of child support orders while preserving the rights of the litigants.
- to decrease case processing time in order to reduce backlogs and allow judicial time to be reallocated to more serious and complex family matters.
- to increase the cost effectiveness of handling child support establishment and enforcement cases.
- to determine whether hearing officers need to be attorneys.

In order to submit an evaluation of the program at the end of twelve months, the Administrative Office of the Courts maintained statistical measures of the program's accomplishments and hired a consultant (Michael Nittoli, Ph. D., Trenton State College) to independently ascertain the reaction of the judges, Family Division, local legal community and staff involved with the project. Data from the Administrative Office of the Courts and the consultant reflected that between June 1984 and May 1985, \$2,406,647.00 in payments was collected and a significant number of orders for enforcement measures were approved. Processing time and case backlogs were reduced and waiting time for enforcement hearings decreased from 26 weeks to 6 weeks. The cost effectiveness of hearing child support cases, improved from \$38.36 for judges hearing cases to \$4.16 for a Child Support Hearing Officer. Interviews with judges and the legal community showed that the program was well received and the judges were pleased with it. There continued to be some dissent from the bar about using non-attorneys. Data suggested that trained personnel were able to perform the functions regardless of whether they were attorneys or not. Their knowledge allowed them to be effective in making

sound recommendations. The conclusion of the evaluation was that the Child Support Hearing Officer Program had shown success in its first year and that it should be continued with some modifications, e.g. standardization of procedures and additional training.

1003.2 The Authority of the Child Support Hearing Officer Program

In 1985, following the successful pilot, the Supreme Court adopted R. 5:25-3 which permanently established the Child Support Hearing Officer Program as an integral part of New Jersey's child support process. The court rule sets forth the limited jurisdiction of the Child Support Hearing Officer to hear Title IV-D child support matters, taking testimony, reviewing evidence, making findings of fact, recommending an order that parties may accept or object to and have a *de novo* hearing before a judge.

1004 Organizational Structure of the Child Support Program

The Child Support Hearing Officer Program operates under the larger Child Support Program. The Child Support Program consists of many different governmental agencies and divisions which are described below.

1004.1 The Federal Government

Under Title IV-D of the Social Security Act, the Child Support Program is federally operated and funded. The role of the federal government is to assist in the development of child support guidelines by all state programs and to assist when necessary in the administration of the state programs. The federal government periodically audits the state programs. There may be financial sanctions if a state fails all or part of an audit. The federal government also provides financial incentives. The federal government works closely with the New Jersey Department of Human Services (DHS).

1004.2 The Department of Human Services, The Division of Family Development, The Office of Child Support Services

In New Jersey, the federal government delegates the responsibility of the operation of the Child Support Program to the designated state IV-D agency. The Department of Human Services, Division of Family Development (DFD), Office of Child Support Services in the Executive Branch is New Jersey's designated IV-D agency. See 42 U.S.C.A. §654 (3). The New Jersey Department of Human Services (DHS) is responsible for ensuring that the State's Child Support Program is operating properly, efficiently, and effectively, as well as all of its agents are in compliance with all aspects of federal law under the state plan. Every state has to submit a state plan for child support to the federal government. The Office of Child Support Services is responsible for administration of the Child Support Program. See 45 C.F.R. §302.10 and N.J.A.C. 10: 110-1.2.

1004.3 The Administrative Office of the Courts

The Administrative Office of the Courts is responsible for supervising the Family, Probation, Finance and Information Technology Divisions as well as all Superior Court staff with regard to establishing procedures, implementation of procedures, practices and forms regarding establishment of parentage, establishment of child support, modification and enforcement of child support, medical support and location of non-custodial parents. R. 1:33-1, 2 and 3. There are four divisions under the Administrative Office of the Courts working with the Child Support Program operating under Trial Court Services, Management Services and Information Technology Office:

Trial Court Services

- the Family Practice Division,
-CSHOs

- the Probation Services Division
-Probation Child Support Enforcement Services

Management Services

- the Finance Division.

Information Technology Office

- the Information Technology Office (Vicinage)

The Administrative Office of the Courts and the Division of Family Development shall enter into a cooperative agreement concerning the child support program that is reviewed annually. The cooperative agreement defines the roles of the Division of Family Development, the Administrative Office of the Courts, the Family, Probation and Finance and Information Technology Divisions.

1004.4 The Child Support Hearing Officer Program

The Child Support Hearing Officer Program is a statewide program that operates under the Family Practice Division of the Administrative Office of the Courts. The CSHO has authority to hear establishment, modification and enforcement of child support matters. The CSHO also facilitates the establishment of parenting time/custody consent orders combined with establishment of parentage and child support. The purpose of the Child Support Hearing Officer Program is to facilitate the “expedited process” which is essentially quicker access and relief from the courts. In Non-Dissolution matters this means that from the date of filing to the establishment of the child support order should be no longer than 90 days. N.J.A.C 10:110-13. 1(a). 45 CFR § 303.4. The CSHO:

- hears testimony and evidence,
- makes findings of fact,
- reaches conclusions of law,
- and prepares a Uniform Summary Support Order with a recommended disposition for submission to a Family Part Judge for ratification. R. 5:25-3(d)(1).

The CSHO works closely with vicinage Family and Probation Division staff on child support matters.

1004.5 The Family Division

The Family Division facilitates the establishment of parentage, child and spousal support orders and modifications in accordance with Title IV-D of the federal Social Security Act and state law. The Family Division processes and schedules both Dissolution (Divorce filings) and Non-Dissolution cases. The majority of cases before the CSHO are Non-Dissolution cases. The Family Division updates information on the parties on both the Judiciary computer system and the NJKiDS. After the hearings, the Family Division updates these same systems and verifies data entry and provides a completed file to the Probation Child Support Enforcement Unit.

1004.6 The Family Part Judge

The judge plays a critical role in the Child Support Program. The judge hears complex child support cases; both Dissolution and Non-Dissolution matters. Most important, only the judge has exclusive jurisdiction to enter orders for:

- Judgment of divorce,
- Final domestic violence restraining order,
- Terminating parental rights,
- Adoption of a child,
- Changing venue R. 5:2-1 and R. 5: 2-2,
- Contested paternity,
- Modification and enforcement of custody and parenting time,
- Stand alone custody and parenting time,
- Direct pay (not IV-D) child support cases,
- Non-guidelines cases,
- Child Support for children over 18,
- College Tuition,
- Claiming child as a dependent for tax purposes,
- Setting aside default orders and judgments R. 5:4-4 (4), R. 4:50,
- Granting motion for new trials R. 4:49,
- Appointing experts and attorneys R. 5:3-3 and R. 5:3-4,
- Counsel fees R. 5:3-5
- Child Support Hearing Officer Appeals and Referrals R. 5:25-3(d) (2).

Finally, the judge has exclusive jurisdiction to incarcerate, execute or vacate a bench warrant.

1004.7 The Probation Child Support Enforcement Unit

At the vicinage level the Probation Child Support Enforcement Unit monitors, and enforces child and spousal support orders. 42 U.S.C. §601 to 669, N.J.S.A. 2A: 17-56 et seq. and R. 5:7-4 and R. 5:7-5. The Probation Child Support Enforcement Unit is responsible for updating the NJKiDS and for locate activity after a support order has been established.

1004.8 The Finance Division

The Finance Division collects fees, monitors payments, distributes and reconciles collections in conjunction with the Probation Child Support Enforcement Unit and the State Disbursement Unit to ensure that monies are properly accounted for and disbursed. The Finance Division staff updates the NJKiDS and conducts audits at the request of a party to the action (upon the Probation Child Support Enforcement Unit's completion of a financial review of the case), the Probation Child Support Enforcement Unit or by order of a court of competent jurisdiction. Probation Child Support Enforcement Units and Finance Divisions work cooperatively to resolve any discrepancies in the account records in accordance with the guidelines established in Section 2403 of the Probation Child Support Enforcement Operations Manual 1.

1004.9 Information Technology Office

The Information Technology Office supplies technical assistance and support with the computer systems and equipment used with digital recording of the child support hearings and providing IV-D services.

1004.10 Judiciary Committees

There are several Judiciary committees that address issues involving child support. The Judicial Council consists of the Chief Justice, the Administrative Director of the Courts, the Deputy Director of the Courts, the Assignment Judges, and the Chairs of the Conferences. The Administrative Council Management Committee consists of various Directors and Assistant Directors from the Administrative Office of the Courts Trial Court Services, Office of Communications and Community Relations, Vicinage Trial Court Administrators, Vicinage Division Managers and Administrative Director Staff.

The Supreme Court Family Practice Committee addresses rules, practice and procedure pertaining to family case types. This committee has several subcommittees such as the Child Support Subcommittee that reviews recommendations for changes in rules affecting child support. The members of the Committee include private practice attorneys, agency attorneys and legal services.

There are also several conferences and a committee that address child support. They are the Conference of Family Presiding Judges, Conference of Chief Probation Officers, Conference of Family Division Managers and the Conference of Finance Division Managers and the Probation Child Support Enforcement Committee of Child Support Managers.

1004.11 The County Welfare Agency

The County Welfare Agency is responsible for providing child support services. The recipient of Temporary Assistance to Needy Families (TANF) assigns his or her right of support to the County Welfare Agency upon application for TANF. N.J.S.A. 44:10-49 and N.J.A.C. 10:110-6.1. The County Welfare Agency attempts to resolve parentage and child support matters by consent. If the consent process is not successful, the County Welfare Agency files a complaint for establishment of parentage and support. The County Welfare Agency also provides locate services for both TANF and non-TANF cases to assist in the establishment of parentage and/or support.

1004.12 The County Welfare Attorney

The County Welfare Agency is required to provide representation for child support cases. N.J.A.C. 10:110-3.2. The County Welfare Attorney represents the County Welfare Agency in matters involving TANF and the IV-D agency in interstate matters. N.J.S.A. 2A: 4-30.85.

1005 Customer Service

1005.1 Overview

The goal of New Jersey Court System is to serve our customers courteously, effectively and efficiently. The Child Support Hearing Officer (CSHO) should strive to treat customers with respect, dignity and courtesy. Our diverse customers include, but are not limited to, self-represented litigants, attorneys, and employees from different divisions, and different agencies that are part of or interface with the Child Support Hearing Officer Program. At every phase of the child support process, good customer service should be employed. We are committed to delivering quality service which court users expect.

The purpose of the Child Support Hearing Officer Program is to facilitate the “expedited process” which is essentially quicker access and relief from the courts. The Child Support Hearing Officer hears testimony, reviews documents, weighs evidence, makes findings of fact in the case and makes recommendations to a Family Part Judge which once reviewed becomes a binding court order. See Child Support Hearing Officer Brochure.

The CSHO should be aware of the Judiciary’s Vision and Mission Statements and its Core Values of Independence, Integrity, Fairness and Quality Service. The CSHO should also be aware of the Mission Statement of the Child Support Hearing Officer Program and try to meet those goals.

1005.2 Delivery of Quality Service

The CSHO should always maintain a professional demeanor. The CSHO should demonstrate:

- Respect – Be courteous and respectful
- Empathy – The customers need to be aware that the CSHO understands and appreciates their circumstances and requests
- Fairness – Give adequate impartial attention and remain neutral, free from personal biases and prejudices.
- Control – During the hearing, the CSHO should allow the customers to be heard and have input, so the litigants would be allowed to be active participants while still maintaining control of the hearing.

The same demeanor should be used when conducting a hearing, when corresponding with someone via e-mail, and when participating in meetings.

1005.3 Explaining the Role of the Child Support Hearing Officer (CSHO)

Providing quality service incorporates direction to the customer in plain language to assist them in resolving their child support issue. For example, at each hearing the CSHO gives an opening statement to explain the role of the CSHO. The opening statement contains the following elements:

- The CSHO must be identified by name. (This requirement is supported by the CSHOs placing their nameplate at their bench/desk at the onset of the day).
- The CSHO must inform the litigants that he or she is not a judge.
- The CSHO must inform the litigants that the CSHO will be conducting a hearing and recommending a decision which becomes a binding Court Order once signed by a judge.
- The CSHO must inform the litigants of their right to object or “appeal” the CSHO’s decision.
- The CSHO must inform the litigants of how they may exercise that right to appeal.
- The opening statement must conclude with the CSHO asking the litigants if they have understood the opening statement.

1005.4 Dealing Effectively with Difficult Customers

Child support and family related matters are potentially volatile areas that require a great deal of sensitivity. Customers may be emotional and exhibit signs of joy, sadness, frustration, anxiety or anger. The CSHO should:

- not take it personally. When you take the customer’s anger or frustration personally, it is much easier to become defensive and argumentative. This will ultimately make a bad situation worse and may compromise control and the integrity of the hearing.
- listen actively. Active listening requires the listener to devote his or her full attention to the speaker, trying to understand what is being said from the speaker’s point of view. In order to do this you must:
 - give the speaker your undivided attention. Try to make eye contact. Look directly at the person speaking as often as possible. While it may be necessary to look away, (Example: turning toward the computer to use the child support guidelines) let the speaker know that your main focus is on what he or she is

saying. Avoid being distracted by other things going on in or outside the hearing room. Do not get preoccupied with thoughts of rebuttal and refrain from any side conversations.

-show that you are listening. Display body language which expresses your understanding such as nodding in an affirmative manner. Be aware of your posture and make sure it expresses openness. Lean forward and face the customer, and encourage them to continue.

-clarify what is being said by the speaker. Ask questions to confirm you understand what is being said and to learn as much as you can about the situation before you make a recommendation.

-attempt to summarize the speaker's comments. This will let the speaker know you are listening and lets you know that you understood the situation correctly. For example, paraphrase what has been said (Example: "It sounds like your overtime is limited to the first two months of the year.")

-watch tone of voice – always convey respectfulness. Do not raise your voice in frustration or anger no matter how difficult or tiresome or loud a customer may become.

-empathize-attempt to both understand what the speaker is saying and what he or she is feeling. Do not be judgmental or critical but make an effort to be positive and supportive.

-be aware of your body language and the body language of the customer.

- Eyes – Try to maintain eye contact. Look at the person talking. It shows that you are focused and paying attention, while looking away can be viewed as indifference.
- Arms – When a person is angry or disapproving one tends to fold his or her arms. Folded arms can be construed as a negative gesture, while open arms indicate the person is accepting.
- Hands/Fingers – Gestures should be limited but generally opened hands show relaxation while a closed hand or fist tend to demonstrate frustration.

-avoid sarcasm- Maintain a neutral demeanor.

1005.5 Providing Additional Assistance

Most litigants have questions that they wish to ask during the hearing. The CSHO must balance providing answers to the litigants while controlling the calendar. The CSHO should answer questions in plain language with explanation for any acronyms used.

The CSHO must remember:

- the CSHO is not an attorney for the litigant. See R. 1:21-1,1:21-3(b) and R. 1:22
- the CSHO is not a party to the case, but is an independent decision maker that should not display any bias or prejudice.
- the Code of Conduct for Judiciary Employees, Canon 4.

The Judiciary provides a Welcome to the New Jersey State Courts and Delivery of Quality Service. See Appendix 1.

1005.6 Security

The CSHO must strive to deliver quality service, while being aware of security issues. Due to the potentially volatile nature of the matters being discussed, a litigant may lose control. While Sheriff Officers are present in many hearing rooms, panic buttons should be utilized when a situation escalates and the safety of the CSHO, staff or litigants is jeopardized.

1005.7 Working with Child Support Program Colleagues

It is essential for the CSHO to relate to the colleagues in the Judiciary and in the Child Support Program on a professional level. Creating good working relationships enhances the effectiveness of the Child Support Hearing Officer Program.

1006 Confidentiality

THIS SECTION IS UNDER DEVELOPMENT.

1100 Case Processing

Proper case processing beginning with the filing of the complaint through disposition is crucial to the effectiveness of resolution of child support matters and the subsequent monitoring and enforcement of a case. The Family Division staff must be aware of the important elements of the complaint procedure, effective service and calendaring and post-disposition processing for the CSHO to be able to establish parentage and child support.

1101 Responsibility of the Family Division

The Family Division Intake staff is responsible for processing complaints which request the establishment of parentage and/or support or the motions for modification of support in the Judiciary. In Non-Dissolution matters this means that from the date of filing to the establishment of the child support order should be no longer than 90 days. N.J.A.C. 10:110-13 (a). 45 CFR § 303.4. Several key tasks that the Family Division staff performs are explained below.

1102 Self-Represented Litigants

Most of the litigants appearing in child support matters before the CSHO are self-represented or pro-se. The Family Division staff should have a clear understanding of their individual issues and challenges. Every effort should be made by the CSHO and staff to explain the process and answer questions in plain language. Awareness of the court's function and quality customer service will increase the court's effectiveness, promote compliance with court orders, and make the court more accessible to all. The Family Division staff may refer self-represented litigants to the Vicinage Ombudsman for further assistance. The Office of the Ombudsman provides services in the areas of the public information, community relations, and court user assistance. The role of the Ombudsman is to:

- assist court users navigate through the court system
- explain processes, procedures and options available for the court user
- inquire to find answers for self-represented litigants
- handle complaints and
- provide publications and materials.

1103 Process the Complaint

The Family Division staff does not have authority to reject the filing of any party based upon merit nor may staff advise any party as to whether they will or will not prevail on the issue. Whenever possible, the Family Division staff should interview the filing party to assist in the proper collection of information and completion of the complaint. The Family Division staff must also accept all filings made by attorneys and County Welfare Agencies.

1103.1 Review of the Complaint

The Family Division staff should:

- confirm that the proper reliefs have been requested and recorded on the complaint
- review the legal basis for the filing. R. 5:4-1

- confirm if parentage was established or ensure it is checked as a relief
- confirm proper jurisdiction and venue
- collect or confirm demographic information, including but not limited to: the names of and addresses of the parties, names and birth dates of the children
- check for prior case activity
- check for prior contact with other courts
- check for current or prior welfare involvement in a county or State
- ensure that for self-represented litigants, the filing party has signed the complaint
- names of the parties

If during the hearing, the CSHO ascertains that the complaint is incorrect, the CSHO may orally amend the complaint if the non-filing party has no objection. If the non-filing party objects, the hearing must be rescheduled.

When the above information has not been properly gathered, the CSHO must inquire of the parties at the hearing and proceed accordingly.

If it is ascertained that there has been a prior order of support that is still in effect, the CSHO must dismiss the complaint and record the finding on the Uniform Summary Support Order including the docket number of the other case and when the support order was entered. Below are more detailed discussions of critical parts of the complaint process.

1103.2 Parentage Status

The CSHO cannot proceed on the issue of child support until the issue of parentage is requested, addressed and determined. Most of the cases before the CSHO involve the issue of paternity rather than maternity. The Family Division staff must research to ascertain whether there has been a prior determination of paternity. The Family Division staff should investigate to see if there is a:

- Certificate of Parentage
- Affidavit/Certification of Paternity
- prior adjudication by the court
- voluntary acknowledgement of paternity in another State
- legal Adoption
- marriage of the parties

If there has been no prior determination of paternity, the Family Division staff must ensure that the issue of paternity is checked as a relief by the filing party on the complaint.

If possible the plaintiff should supply the birth certificate of the child(ren). However, the birth certificate is not a final legal determination of paternity, but is evidence that can be used to establish paternity in accordance with N.J.S.A. 9:17-43(a)(3)(b).

If possible the plaintiff should also supply a marriage certificate if the parties are or were married. There is a rebuttable presumption that a child born of a marriage is the child of the husband. N.J.S.A. 9:17-43 a(1).

If the CSHO determines from testimony of the parties that there is a Certificate of Parentage and it has not been provided by the Family Division staff, the CSHO may contact the Family Division staff to request a copy of the Certificate of Parentage from the Paternity Opportunity Program Office.

If there is a Certificate of Parentage, the CSHO must state this fact on the Uniform Summary Support Order.

During testimony if the CSHO determines that a court order exists in which the defendant has admitted paternity, or paternity has been established by a court based on genetic testing or default, the CSHO must state the docket number and date of the order establishing paternity on the Uniform Summary Support Order.

Please note that the CSHO does not have authority to hear contested paternity matters.

1103.3 Gather Important Demographics

The Family Division staff gathers the initial demographic information on the primary parties. The accuracy of this information is essential to the effective resolution of the child support case. Demographic information for both parties may include but is not limited to the following information:

- Social Security number
- date of birth
- address
- employer
- employer address

Each child's information may include but is not limited to:

- Social Security number
- date of birth
- place of birth
- Parentage status

1103.4 Collection of Social Security Numbers

The CSHO is authorized to obtain Social Security numbers on the record for child support purposes. See 42 U.S.C. §405. The litigant is required to supply his or her Social Security number for the purpose of establishing and enforcing child support. The CSHO shall verify or retrieve this information as needed by written submission by the litigant completing the Confidential Litigant Information Sheet or requiring the litigant to submit

the information in writing at the time of the hearing. The CSHO shall not require that the litigant give the Social Security number verbally on the record and shall not place the Social Security number on the Uniform Summary Support Order.

1103.5 Application for IV-D Child Support Services

The Family Division staff must inform the party of his or her right to file for IV-D Child Support Services and what those services offer. If the party requests IV-D Child Support Services the Family Division staff must ensure:

- completion of the IV-D Application (to the extent possible)
- proof of the IV-D Fee paid

Both the IV-D Application and receipt showing payment must be kept in the court file and a copy is provided to the Probation Child Support Enforcement Unit after disposition of the case.

1103.6 Financial Statement for Summary Support Actions

If possible, the Family Division staff should obtain from each party a Financial Statement for Summary Support Actions. It is an affidavit/certification of income assets, needs, expenses liabilities and other important information to assist the CSHO in being able to determine support. R. 5:5-3. See Appendix 4.

If either or both parties do not submit Financial Statement for Summary Support Actions, the CSHO may review documents submitted such as paystubs, Income Tax Returns, W-2 Forms and testimony.

1103.7 Confidential Litigant Information Sheet

The Family Division staff must have the party complete a Confidential Litigant Information Sheet. R. 5:4-2 (g) and Appendix XXIV. This information is confidential and is used for the purpose of establishing, modifying and enforcing support orders. See Appendix 4.

1103.8 Certification of Non-Military Service

The Family Division staff should obtain an Affidavit or Certification of Non-Military Service from the filing party. The CSHO may only recommend a default order upon proper service and sufficient proofs for the action, when this document has been provided. CSHOP Standard 1, R. 1:5-7 and R. 5:6-8. See Appendix 4.

In the absence of the Certification of Non-Military Service, the CSHO may take testimony or dismiss the complaint without prejudice. The CSHO must state the dismissal and the reason on the Uniform Summary Support Order.

1103.9 Serving the Complaint

In accordance with due process, a party has a right to notice and an opportunity to be heard in front of a court. The Due Process Clause of the Constitution provides procedural

safeguards before an individual can be deprived of life, liberty or property. Due process requires that the non-moving party be given notice and an opportunity to be heard. The summons or notice must provide the date, time and place for hearing as well as the issue to be addressed. The mail is sent to the address provided by the filing party. R. 5:4-1 and R. 5:4-2(a) (2). It is specifically done by:

- mailing the complaint/motion
- simultaneously mailing the summons/notice of date, time and place of the hearing by regular and certified mail within a sufficient time frame to assure proper service R. 5:4-1(b) and R. 5:5-4

The Family Division advises the parties to bring to court current income information, 3 pay stubs, W-2 forms and tax returns and proof of health coverage for children named in the complaint. If the parties do not come with income information a resolution of the case may be delayed. For example, if one of the parties does not bring current proof of income to the hearing, the other party disagrees with the stated income, the CSHO may determine a temporary support order, but the case will need to be rescheduled for determination of a final support order.

1104 Calendar Preparation

The Family Division should take certain considerations into account when scheduling the number of cases scheduled on a calendar. Only cases for which the CSHO has authority to hear should be scheduled. The number of cases scheduled should be based on the type of cases and needs of the parties. For example, the CSHO cannot hear contested paternity cases which may only be scheduled before a judge. See R. 5:25-3(b)(1). The CSHO may take longer to hear cases requiring interpreters, attorneys, and telephonic hearings. The Family Division staff may use the following resources to determine if a matter may be scheduled before the CSHO:

- CSHOP Standards
- R. 5:25-3
- Child Support Hearing Officer Proceedings Case Screening Guide
See Appendix 2.

1104.1 Special Needs

A party to the case may have special needs that the Family Division staff should communicate to the CSHO. For example a party may need an interpreter or to have the hearing conducted telephonically.

1104.2 Screen Cases Scheduled before the CSHO

Prior to the hearing, Family Division staff should again review the calendar and confirm that only appropriate child support cases have been scheduled. The CSHO is not a judge and has limited authority. Careful screening is essential to the effective case processing. Scheduling inappropriate matters before the CSHO will require that the CSHO refer the matter to be heard before a judge which will delay entry of the order.

The Family Division staff should supply the following to the CSHO prior to each hearing:

- a copy of the calendar
- court files
- proof of service on the non-moving party for each case in the file

The Family Division staff supplies a Judiciary Clerk at the hearing (in some instances for hearings scheduled by the Family Division as well as by the Probation Child Support Enforcement Unit in accordance with CSHOP Standard 10 to assist with clerical functions). The Judiciary Clerk:

- records the proceeding
- makes notations for the file of updates to demographic information
- obtains signature of the parties agreeing with the CSHO recommendation
- distributes copies of the signed recommendations to the parties in the hearing.

1105 Post-Hearing Case Processing of Establishment Cases by the Family Division

Following the hearing, the Family Division staff:

- updates the NJKiDS with any changes to the demographics
- enters all paternity, medical and child support orders into the NJKiDS
- provides copies of the order, signed by a judge and Child Support Guidelines Worksheet (if applicable) to:
 - parties
 - Probation Child Support Enforcement Unit
 - County Welfare Agency if applicable
 - Initiating State in Interstate Matters
- maintains the original signed court and a copy of the Child Support

- Guidelines Worksheet in the court file
- provides a complete file to the Probation Child Support Enforcement Unit which includes, but is not limited to:
 - the order
 - the complaint (a FM complaint need not be provided)
 - the IV-D Application
 - Proof of payment of the IV-D Application Fee
 - Certificate of Parentage
 - Confidential Litigant Information Sheet
 - The Child Support Guidelines Worksheet

1106 Post-Hearing Case Processing by the Probation Child Support Enforcement Unit

The Probation Child Support Enforcement Unit staff should ensure that demographic and order information has been correctly entered to the NJKiDS by the Family Division staff.

1107 Direct Payment

When arrears have not been determined at the establishment hearing, it may be necessary for the Probation Child Support Enforcement Unit staff to send a letter to the obligor which requests verification of any direct payments.

The obligor has 10 working days to advise the Probation Child Support Enforcement Unit of any direct payments. One of the following certified types of documentation is required as proof of direct payments:

- certified statement from the obligee
- letter from the obligee's attorney of record, or
- statement of obligee properly witnessed by Probation Child Support Enforcement Unit staff

The obligor needs to supply a complete Direct Payment Form including copies of the front and back of cancelled checks and/or money orders from the obligor.

If the obligee does not respond to the request for verification of the direct payment information or if the parties disagree on the amount of direct payments, the Probation Child Support Enforcement Unit staff will schedule the matter for a Status Review hearing before the CSHO to resolve the direct payment issue. See Probation Child Support Enforcement Operations Manual #1, Intake Procedures, Sections 1100 and Status Review Hearings Procedures, Section 1620.

1108 The County Welfare Agency Complaint

The recipient of Temporary Assistance to Needy Families (TANF) assigns his or her support rights to the County Welfare Agency. The County Welfare Agency may file a complaint for parentage and/or child support with the court. The County Welfare Agency sends their complaint to the Family Division for filing, processing and scheduling before

the CSHO. The County Welfare Agency should be aware of what is required for the CSHO to proceed to establish parentage and child support.

1109 The Filing of the Complaint

The County Welfare Agency must correctly state in the complaint:

- relief sought,
- names of the parties
- names of children
- birth dates of the children and
- legal basis for the filing. R. 5:4-2(a)(2).

If the complaint is filed with incorrect information, the CSHO may dismiss the complaint without prejudice indicating the dismissal and the reason for the dismissal on the Uniform Summary Support Order.

Sometimes the County Welfare Agency files complaints for support for the child(ren) against the defendant who is already on an order. The CSHO may dismiss the complaint without prejudice if the defendant is on a child support order for the same children. The CSHO must state on the Uniform Summary Support Order the reason and provide the docket number for the other child support order, if different, and the date of the order.

1110 Affidavit or Certification of Paternity

The CSHO has the authority to proceed by default in the absence of the non-filing party. In order to proceed with establishment of paternity by default in cases filed by the County Welfare Agency, the CSHO must have an Affidavit or Certification of Paternity. Under the New Jersey Parentage Act, if there is a sworn statement by the mother of the child that the defendant is the father of the child and proper service exists for the defendant, the CSHO may recommend a default order for paternity and child support in the defendant's absence. CSHOP Standard 1, N.J.S.A. 9:17-41 and N.J.S.A. 9:17-52.1

The County Welfare Agency has no personal knowledge of the alleged father on its complaints. Therefore, an Affidavit or Certification of Paternity is needed from a person who has personal knowledge. Sometimes third parties such as grandmothers and grandfathers may have personal knowledge pertaining to the paternity of an alleged father. The third party may submit an Affidavit or Certification of Paternity. However, if the Affidavit or Certification of Paternity is not provided, the CSHO may dismiss the complaint without prejudice for insufficient proof of paternity. The CSHO must state the dismissal and the reason on the Uniform Summary Support Order.

1111 Certification of Non-Military Service

In order to proceed by default against a defendant, the CSHO must have a Certification of Non-Military Service filed by the party. The Certification of Non-Military Service must be provided. If the County Welfare Agency fails to provide the Certification of Non-Military Service, the CSHO shall dismiss the complaint without prejudice. The CSHO must state the dismissal and the reason on the Uniform Summary Support Order. The CSHO must not recommend a default order. R. 1:5-7 and R. 5:6-8.

1112 The Family Division

The Family Division staff should screen the County Welfare Agency filings that are scheduled before the CSHO. For example, if domestic violence is involved, the Family Division staff must ensure that the conditions specified in CSHP Standard 7 have been followed.

1113 Application for Post-Dispositional Relief

When the party wishes to modify a Non-Dissolution child support court order, the party files a application for post-dispositional relief with the Family Division. The Family Division staff is responsible for processing and scheduling the application for post-dispositional relief before the CSHO. The parties must submit a Financial Summary Support Statement in Non-Dissolution matters and a Family Case Information Statement in Dissolution matters. See Appendix 4. The CSHO has authority to review and modify support orders and make recommendations to the judge. R. 5:25-3 (b) (4).

1114 Screen the Post-Dispositional Application

The CSHO are allowed to hear post-judgment Dissolution matters involving child support. However, all issues in the motion and cross-motion must be within the jurisdiction of the CSHO. If an issue raised either in the motion or the cross-motion is not within the jurisdiction of the CSHO such as counsel fees, the Family Division staff must schedule the case before the judge.

1115 Service of Process

In accordance with due process, a party has a right to notice and an opportunity to be heard before a court. The Due Process Clause of the Constitution provides procedural safeguards before an individual can be deprived of life, liberty or property. Due process requires that the non-moving party be given notice and an opportunity to be heard. The notice must provide the date, time and place for hearing as well as the issue to be addressed. The mail is sent to the address provided by the filing party. R. 5:5-4. The Family Division staff sends:

- the notice of the post-disposition application and the supporting papers
- by simultaneously mailing the notice of date, time and place of the hearing by regular and certified mail within a sufficient time frame to assure proper service R. 5:5-4.

If the CSHO ascertains that the Family Division staff has not sent the notices out properly, the CSHO may recommend that the case be rescheduled.

1115.1 Responsibilities of the Family Division for the Hearing

The Family Division staff should provide the CSHO with the following for the hearing:

- calendar
- court files
- proof of service in the court file
- Judiciary Court Clerk

If the CSHO ascertains that the Family Division staff has not provided any or some of the above, the CSHO should contact the Family Division in the county in which the cases are being heard.

1116 Post-Hearing Case Processing of Establishment Cases

1116.1 The Family Division

After the hearing for establishment of parentage and/or child support, the Family Division staff has to update the NJKiDS. The Family Division staff must enter all child support orders into the NJKiDS. Again, data reliability is crucial. The Family Division staff must follow the court order and supply copies of the order and Child Support Guidelines Worksheet (if applicable) to:

- parties
- Probation Child Support Enforcement Unit
- Finance Division
- County Welfare Agency if applicable
- Initiating State in Interstate Matters.

The Family Division staff must ensure that the order and a copy of the Child Support Guidelines are kept in the court file.

1117 Appeal to the Judge

A party who appears before a CSHO has the right to object, or “appeal” a CSHO’s recommendation and be heard immediately (usually on the same day) before a Family Part Judge. R. 5:25-3(d)(2). When either or both parties request an appeal to the judge, the Family Division staff schedules the matter before the judge usually on the same day. CSHOP Standard 6. The Family Division staff must schedule the case before a judge. The Family Division staff provides the judge with the court file, the Uniform Summary Support Order, the Child Support Guidelines Worksheet if applicable and the Child

Support Hearing Officer Referral Form. See Memorandum to Assignment Judges, February 14, 2003, Child Support Hearing Officer Program-Protocol for Appeals and Referrals to Judges. See Appendix 4.

1118 Referral to the Judge

Similarly, a CSHO may make a preliminary determination that the matter is either outside the jurisdiction of a CSHO or sufficiently complex that it must be heard by a judge. Some reasons for referral of a matter to the judge include:

- Active Warrant
- Active Domestic Violence Restraints
- Recommendation of Incarceration
- Parties Not Amenable to Appearing Before the CSHO (Standard 7)
- Matter Outside the Authority of the CSHO
- Complex Issue
- Other

The Family Division staff schedules the appeal for the parties usually on the same day before a judge. The Family Division staff provides the judge with the court file, the Uniform Summary Support Order, the Child Support Guidelines Worksheet if applicable and the Child Support Hearing Officer Referral Form. See Memorandum to Assignment Judges, February 14, 2003, Child Support Hearing Officer Program-Protocol for Appeals and Referrals to Judges. See Appendix 4.

1119 Responsibility of the Probation Child Support Enforcement Unit

The Probation Child Support Enforcement Unit receives the following from the Family Division:

- the order,
- the complaint,
- the IV-D Application,
- proof of payment of the IV-D Application Fee,
- Certificate of Parentage,
- the Confidential Litigant Information Sheet
- the Child Support Guidelines Worksheet

Then, the Probation Child Support Enforcement Unit staff ensures that the information received is correctly entered into the NJKiDS and a Probation Child Support Enforcement Unit file is created.

The parties have 10 days to advise Probation Child Support Enforcement Unit of any direct payments made on the case after the hearing. The obligor may have made direct payments to the obligee prior to the case becoming payable through the Probation Child Support Enforcement Unit. If there is a response from the obligor and the obligee does not agree or does not respond, the matter is scheduled before a CSHO for hearing to

resolve the direct payment issue. See Probation Child Support Enforcement Operations Manual 1, Intake Procedures, Section 1100.

The State Disbursement Unit (SDU) in accordance with N.J.S.A. 2A:17-56.63(a) is responsible for collection and disbursement of child support payments.

The Probation Child Support Enforcement Unit is responsible for attempting to locate the obligor and obligee when a support order is in effect.

1200 Conducting Hearings

1201 Authority of the Child Support Hearing Officer

A Child Support Hearing Officer (CSHO) is appointed to hear cases and make recommendations for court orders pertaining to parentage and/or support filed under Title IV-D of the Social Security Act. R. 5:25-3(b). A CSHO's role is that of a quasi-judicial decision maker. The CSHO conducts a hearing in open court (unless otherwise prohibited by court rule or statute).

1202 Summary Proceedings

Matters before a CSHO are heard in a summary manner on the noticed return date. R. 5:6-3. The summary proceedings are brought on short application to the court not a formal application. The defendant in a summary action for support may be heard on the scheduled hearing date without the necessity of having to file an answer or appearance. R. 5:4-3(b). A primary goal of the Child Support Hearing Officer Program is to allow for the expeditious resolution of child support matters. CSHOP Standards, Background. Cases in a summary action before a CSHO are usually resolved on the day of the hearing. Pre-trial discovery and financial disclosure generally is limited to the production of those documents which litigants must produce when summoned to a support hearing. The CSHO does however have the authority to order the production at the hearing of books, papers, vouchers, documents and writings. R. 5:25-3(c)(4) and to issue summonses or subpoenas R. 5:25-3(c)(6).

1203 Expedited Case Processing

Both federal and state law requires expedited resolution of child support matters. *See generally*, Title IV-D of the Social Security Act. New Jersey has ensured expeditious resolution of child support matters, in significant part, by implementation of the Child Support Hearing Officer Program. *See* CSHOP Standards, Background. Accordingly, a CSHO must be aware that a delay of the final resolution of a matter impacts on both the child in need of support and of federal and state requirements for expeditious resolution.

1204 Participants in the Hearing Process

The litigants in the child support hearings may or may not be represented by an attorney. The majority of litigants appearing before a CSHO are self-represented.

1204.1 Self-Represented Litigants

Most of the litigants appearing in child support matters before the CSHO are self-represented or pro-se. The Family Division staff should have a clear understanding of their issues and challenges. Every effort should be made by the CSHO and staff to explain the process and answer questions in plain language. Awareness and quality customer service will increase the court's effectiveness, promote compliance with court orders, and make the courts more accessible to all. The Family Division staff may refer self-represented litigants to the Vicinage Ombudsman for further assistance. The Office

of the Ombudsman provides services in the areas of the public information, community relations, and court user assistance. The role of the Ombudsman is to:

- assist court users navigate through the court system
- explain processes, procedures and options available for the court user
- inquire to find answers for self-represented litigants
- handle complaints and
- provide publications and materials.

1204.2 Represented Litigants

In those cases where a litigant is represented by an attorney, the attorney will be present at the hearing to represent his or her client's interests. In all proceedings initiated by the County Welfare Agency, an attorney on behalf of the agency will be present to represent the agency's interests. If the County Welfare Attorney does not appear, the CSHO does have authority to dismiss the complaint or motion filed by County Welfare Agency. CSHOP Standard 11. In all enforcement actions initiated by the Probation Child Support Enforcement Unit, the Probation Officer will present the motion for enforcement filed pursuant to R. 5:7-5 and R. 1:10-3.

1205 Responsibilities and Functions of the CSHO during a Hearing

A discussion of the various responsibilities and functions performed by the CSHO follows.

The CSHO performs the following tasks during the hearing:

- hears testimony and evidence,
- makes findings of fact,
- reaches conclusions of law,
- and prepares a Uniform Summary Support Order with a recommended disposition for submission to a Family Part Judge for ratification. R. 5:25-3(d)(1).

1205.1 Calendar Management and Regulation of Proceedings

The CSHO is responsible for the management of all proceedings before him or her including the management and disposition of all scheduled cases. R. 5:25-3(c)(1). The Family Division or the Probation Child Support Enforcement Unit or a judge may schedule cases before the CSHO. The CSHO determines the order of the calendar, balancing and prioritizing amongst competing considerations. These considerations include, respect for the attorney's and litigant's time, the availability of interpreters, and the needs of litigants and staff. All proceedings are conducted in open court unless otherwise prohibited by court rule or statute. R. 1:2-1. All paternity cases are statutorily closed. N.J.S.A. 9:17-42. Occasionally restricted space or other safety concerns necessitate limiting attendance in the hearing room.

1205.2 Establishing a Record

The CSHO is responsible for establishing and maintaining a record of the proceeding. R. 5:25-3(c)(2) and R. 1:2-2. A Judiciary Clerk 3 (clerk) or equivalent shall be provided for

the CSHO for clerical support in the hearing room, particularly to ensure the proper sound recording of the proceeding. CSHOP Standard 10. The CSHO is responsible for ensuring that the clerk is present and able to record before beginning the proceeding and to direct the clerk to record the proceeding such that an appropriate record is maintained. The CSHO is responsible for ensuring that the verbatim record of the proceeding includes references to all exhibits. R. 1:2-3.

1205.3 Opening Statement

The CSHO begins each proceeding with an opening statement identifying himself or herself and his or her role as CSHOs. The opening statement is to ensure that litigants understand that they have a right to object to any recommendation of a CSHO and a right to be heard before a Family Part Judge if they do object. R. 5:25-3(d)(2).

Specifically, each CSHO's opening statement must include six elements:

- The CSHO must be identified by name. (This requirement is supported by a CSHO placing his/her nameplate on the bench/desk at the onset of the day).
- The CSHO must inform the litigants that he or she is not a judge.
- The CSHO must inform the litigants that the CSHO will be conducting a hearing and recommending a decision which becomes a binding Court Order once signed by a judge.
- The CSHO must inform the litigants of their right to object or "appeal" the CSHO's decision.
- The CSHO must inform the litigants of how they may exercise that right to appeal.
- The opening statement must conclude with the CSHO asking the litigants if they have understood the opening statement.

1205.4 Review of Pleadings and Initial Determinations

After the opening statement the CSHO will determine and review the application before the court, which in most cases will be to either establish, modify support or to enforce a support obligation. If the proceeding is scheduled by the Family Division, a litigant will have filed a request for relief either by way of complaint or motion. The pleading should be contained in the Family Division's file produced for the CSHO. If the proceeding is an enforcement proceeding initiated by the Probation Child Support Enforcement Unit, a motion for enforcement will have been filed by the Probation Child Support Enforcement Unit. The Probation Child Support Enforcement Unit's file is available for review if requested by the CSHO.

The CSHO's initial review of the pleadings may result in a dismissal of the pleadings. For example initial determinations as to jurisdiction, venue, standing, ripeness, entire

controversy, joinder of all interested parties, sufficiency of pleadings, sufficiency of service and adequacy of due process may result in a dismissal of the pleadings.

1205.5 Conduct of the Proceedings

Provided that none of the initial determinations of the CSHO result in a dismissal or in a recommendation for the matter to be rescheduled, or referred to a judge, the CSHO will conduct a hearing determining the facts, evaluating the evidence, reaching conclusions of law and rendering a recommendation. R. 5:25-3(c)(8). As the fact-finder, the CSHO has the responsibility to determine the facts relevant to decide the controversy. CSHOs' factual determinations are primarily reached based on consideration of the testimony and evidence offered by litigants. In enforcement proceedings initiated by the Probation Child Support Enforcement Unit, a CSHO will review and consider the facts contained in the verified statement offered in support of the motion as well as other documents from the Probation Child Support Enforcement Unit. R. 5:7-5. See Probation Child Support Enforcement Operations Manual, Attachment 1604C, *Recommended Script for Probation Officers Assisting at Child Support Hearings*. See Appendix 4. For every case in which child support is either established or modified the CSHO will apply the Child Support Guidelines or make a determination as to their inapplicability. R. 5:25-3(f), R. 5:6A.

1205.6 Role of CSHO with Custody/Parenting Time

If the CSHO hears a child support case where the issues of custody and/or parenting time are combined with the issue of child support, the CSHO has to make clear to the litigants that he/she has no authority to make a recommendation on custody and/or parenting time. The authority of the CSHO in these matters is to attempt to help the parties reach consent with regard to custody and/or parenting time. If the parties do not consent, the CSHO refers the case to mediation for custody and/or parenting time. The CSHO has to be prudent as to the hearing time spent trying to resolve these issues.

1205.8 Collecting Demographic Information

The CSHO shall obtain from the litigants and place on the record necessary demographics while ensuring the protection of confidential information. CSHP Standard 3. The necessary demographic information may include but not be limited to:

- proper name of each litigant
- proper name (s) of each child
- address of each litigant
- Social Security number of each litigant
- date of birth of each litigant
- date of birth of each child
- name of the employer of the obligor (the person required to pay child support)
- address of the employer of the obligor

1205.8.1 Collection of Social Security Numbers

The CSHO is authorized to obtain Social Security numbers on the record for child support purposes. See 42 U.S.C. §405. The litigant is required to supply his or her Social Security number for the purpose of establishing and enforcing child support. The CSHO

shall verify or retrieve this information as needed by written submission by the litigant completing the Confidential Litigant Information Sheet or requiring the litigant to submit the information in writing at the time of the hearing. The CSHO shall not require that the litigant give the Social Security number verbally on the record and shall not place the Social Security number on the Uniform Summary Support Order.

1205.9 Taking Testimony

The CSHO is authorized to administer oaths, to take testimony and to examine parties and witnesses under oath. R. 5:25-(c)(2) and (c)(6). The CSHO must ensure that any party or witness offering testimony is properly sworn and competent to testify. New Jersey Rules of Evidence (N.J.R.E.) 601. In reviewing the testimony of the parties and of any witness, a CSHO may make a determination as to credibility. In appellate review, deference as to credibility determinations is generally afforded to the decision maker who has had the benefit of observing both the verbal and non-verbal testimony. The CSHO must clearly set forth any credibility determination for the record such that a proper record is maintained as required by R. 5:25-3(c)(2).

1205.10 Evidence

1205.10.1 Authority of Child Support Hearing Officer

Evidence is a thing that is used to prove or disprove the existence of an alleged fact. It is the duty and responsibility of the CSHO to evaluate evidence necessary to make appropriate recommendations as to the establishment and enforcement of child support orders. R. 5:25-3(c)(8). A CSHO is authorized and required to rule upon the admissibility of evidence. R. 5:25-3(c)(5). A CSHO is further required to ensure that the verbatim record of the proceedings includes references to all exhibits. R. 1:2-3.

The majority of litigants appearing before a CSHO are self-represented and have limited knowledge of the Rules of Evidence. Therefore the CSHO must carefully establish a proper evidentiary foundation while accommodating the litigants' ability to present that evidence. In the interests of justice, the CSHO may, in his or her discretion, relax the rules of evidence to admit relevant and trustworthy evidence. R. 1:1-2.

1205.1.2 Probative Relevant Evidence

A CSHO will consider probative relevant evidence. Evidence is probative if it tends to prove or disprove a fact. Evidence is relevant when it relates to the issue before the CSHO. A CSHO may nevertheless exclude relevant evidence if, in his or her discretion, the admission of such evidence is outweighed by undue prejudice or, more commonly, by the risk of undue delay, waste of time, or needless presentation of cumulative evidence. N.J.R.E. 403.

1205.1.3 Authenticity of Documents

A CSHO is regularly required to rule upon the authenticity of documents. N.J.R.E. 901. Typically a litigant will submit verification of earnings or of inability to work such as pay stubs, tax returns or letters from an employer or physician. If a CSHO is satisfied that there is sufficient evidence to support a finding that "the matter is what its proponent

claims” the CSHO will determine that the document is authentic and admit it into evidence. N.J.R.E. 901. Sometimes a long and complex evidentiary argument, e.g., the authenticity of a doctor’s note, may have to be referred to a judge as a complex matter.

1205.1.4 Hearsay

A CSHO will also commonly make evidential determinations as to hearsay. N.J.R.E. 802. Hearsay is testimony that is given by a witness who does not personally know about an alleged fact but who testifies about what he or she has heard others say. Hearsay testimony is not usually allowed because the person with personal knowledge cannot be cross-examined or there is no opportunity for cross-examination. The CSHO will make determinations as to whether hearsay evidence will be allowed. These determinations are necessary to ensure that the information upon which a recommendation is based is reliable. Some common exceptions to the hearsay rule invoked by a CSHO are:

- Rule 803 (c)(17) allows for the admission of certain commercial publications; for example, a CSHO is permitted to rely upon a Wage Compendium prepared by the Department of Labor.
- Rule 803 (c)(9) admits vital statistic registrations of births and marriages.
- Rule 803 (c)(8) governs the admissibility of public records or reports; these commonly may include institutional records of Social Security Administrative determinations or State licensing documents.
- Rule 803 (c)(6) governs the admissibility of business records, for example, a payment record which is regularly and contemporaneously maintained.

1206 Conflict of Interest

When the CSHO determines that he or she has a conflict of interest with hearing a particular case, the CSHO must recuse himself or herself from hearing the case. A conflict of interest may arise for many reasons, eg., the CSHO knows the party as a friend or colleague and may not be able to be impartial or may have represented the individual if the CSHO is an attorney. It may also be that there is an appearance of impropriety if the CSHO proceeds to hear the case. If such circumstances occur in a location where there is more than one CSHO assigned, the CSHO must refer the case to another CSHO to conduct the hearing. If it is not possible for another CSHO to hear the case on the same day (e.g. staff has already left and no one can record the hearing), the CSHO must refer the case to a judge with a completed Child Support Hearing Officer Referral form stating that there is a conflict of interest and explaining why the CSHO may not hear the case. The CSHO needs to be aware of the Code of Conduct for Judiciary Employees. See Canon 4.

1206.1 Transfers for Conflict of Interest

The CSHO may not hear requests to transfer venue or enforcement for a case due to a conflict of interest held by an employee in the county. Such matters shall not be scheduled before the CSHO.

1207 Nonappearance of a Party

1207.1 Dismissals (Lack of Prosecution) and Rescheduling for Lack of Service

A CSHO is responsible for entering a disposition for all scheduled matters including those for which only one party or neither party appeared. If the complaining or moving party fails to appear, a CSHO must first determine if that litigant was properly notified of the time and date that his or her application would be heard. If so, the CSHO will prepare a recommended Uniform Summary Support Order dismissing the complaint or motion for lack of prosecution. If proper notice was not effectuated upon the complaining or moving party, the CSHO may recommend that the matter would be rescheduled to assure proper notice. The CSHO may recommend this rescheduling by either preparing a Uniform Summary Support Order requiring same or by completing a Post Hearing Case Processing Form, used by some vicinages. The Post Hearing Case Processing Form may be used by the CSHO when authorized by the county. Since the Post Hearing Case Processing Form is signed by the CSHO not by a judge, it is not a court order and not recognized by other states pursuant to Uniform Interstate Family Support Act. See Appendix 4.

1207.2 Default Judgments (Proper Service)

A default judgment is an order entered in the absence of a party. If the filing party appears but the non-moving party or respondent fails to appear the CSHO must determine if that litigant was properly served with notice of the action in accordance with the service provisions of the court rules. R. 5:25-3(e) and *see generally*, R. 5:4-4 and R. 5:5-4. If the non-moving party was properly served, the CSHO will proceed to hear the matter in default, making appropriate determinations as to paternity and/or support based on the proofs submitted by the plaintiff or moving party. CSHOP Standard 1, R. 5:4-1(b), R. 5:14-2 and R. 5:25-3(c)(9). The CSHO's recommendation is incorporated into a Uniform Summary Support Order for review by the litigant present at the hearing and, if not appealed, thereafter submitted to a judge for ratification.

1207.3 Dismissal or Rescheduling (Lack of Service)

If the CSHO does not find that proper service was effectuated, a decision must be made to either dismiss the matter or reschedule the case to assure proper service. This decision is based on a consideration of various factors including a judgment as to the likelihood of successful service if the matter is carried, the number of attempts at service, and the accuracy of the missing litigant's whereabouts. If the matter is dismissed the Uniform Summary Support Order incorporating the dismissal and the basis is prepared, reviewed by the litigant present at the hearing and if not appealed, thereafter submitted to a judge for ratification. If the matter is to be rescheduled, the CSHO will either recommend the rescheduling on a Uniform Summary Support Order or on the above-mentioned Post Hearing Case Processing Form as applicable.

1208 Accuracy of Uniform Summary Support Order

The CSHO must ensure that the Uniform Summary Support Order is carefully reviewed for accuracy. The litigants must be properly named and properly identified as either obligor or obligee. The caption on the Uniform Summary Support Order must also have both the correct docket number and the correct NJKiDS number. If the correct information is not provided, it may take significant time to correct the mistakes. Moreover, the wrong party will be subject to automated and administrative enforcement remedies. The CSHO is ultimately responsible for the accuracy of the Uniform Summary Support Order. If a mistake is made, an amended Uniform Summary Support Order must be prepared to correct the mistake. R. 1:13-1. The amended order must be identified as an amended order, the mistake corrected, and the order then submitted to a judge for ratification. See Appendix 4.

1209 Post-Hearing Case Processing

Thereafter, the Uniform Summary Support Order is submitted to a judge for signature and ratification. The final, judicially ratified Uniform Summary Support Order is to be provided to the parties by mail. R. 5:25-3(d)(3) and CSHOP Standard 3. See Section Case Processing, 1116, Post-Hearing Case Processing of Establishment Cases.

1210 Appeal to the Judge

A party who appears before a CSHO has the right to object, or “appeal” a CSHO’s recommended decision and be heard immediately (usually on the same day) before a Family Part Judge. R. 5:25-3(d)(2). See Appendix 4.

1211 Referral to the Judge

A CSHO may make a preliminary determination that the matter is either outside the jurisdiction of a CSHO or sufficiently complex that it must be heard by a judge. Some reasons for referral of a matter to the judge include:

- Active Warrant
- Active Domestic Violence Restraints
- Recommendation of Incarceration
- Parties Not Amenable to Appearing Before the CSHO (Standard 7)
- Matter Outside the Authority of the CSHO
- Complex Issue See Appendix 4.

See generally, Memorandum to Assignment Judges, February 14, 2003, Child Support Hearing Officer Program-Protocol for Appeals and Referrals to Judges.

1212 Motion for Reconsideration

The parties may also file a motion for reconsideration within 20 days of the date the judge signs the Uniform Summary Support Order. R. 4:49-2 and R. 5:25-3(d)(2). A motion for reconsideration is filed when a party states that there is new information that the CSHO did not consider or information that was overlooked or an error was made.

1213 Motion for Relief from Judgment or Order

The parties may file a motion for relief from the final judgment or order for various reasons. R. 4:50 and R. 5:25-3(d(2)). The reasons may include:

- a) mistake, inadvertence, surprise or excusable neglect
- b) newly discovered evidence which would probably alter the judgment or order and which by due diligence could not have been discovered in time to move for a new trial under R. 4:49
- c) fraud, misrepresentation, or other misconduct of an adverse party
- d) the judgment or order is void
- e) the judgment or order has been satisfied, released or discharged, or a prior judgment or order upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment or order should have prospective application; or
- f) any other reason justifying relief from the operation of the judgment or order.

1214 Appeal to the Appellate Division

The record of some CSHO determinations, once ratified, may be the only proceeding subject to review, if a party files a direct appeal with the Appellate Division from the Family Part order. R. 2:2-3(a)(1). The party must file a Notice of Appeal within 45 days from the date the judge signs the Uniform Summary Support Order. R. 2:4-1(a). Therefore, it is the responsibility of the CSHO to ensure the integrity of that record.

1300 Conducting Telephonic Hearings

Many litigants for various reasons may be unable to appear in person for a hearing before the Child Support Hearing Officer (CSHO). In order to assure that the child support hearings are heard timely, matters may be scheduled by telephonic hearing. There are particular requirements for telephonic hearings.

1301 Authority of the Child Support Hearing Officer

In accordance with CSHOP Standard 13, the CSHO has authority to conduct a child support hearing by telephone in establishment and modification hearings in Non-Dissolution and post-judgment Dissolution motions.

1302 Responsibility of the Family Division

In accordance with CSHOP Standard 13, the Family Division staff is responsible for processing the requests for telephonic hearings and deciding whether there is good cause for a telephonic hearing. The Family Division staff performs the following tasks:

- advise the party requesting the telephonic hearing that he or she must submit his or her request in writing with a copy to his or her adversary by no less than 15 days prior to hearing date.
- use the approved form for processing the telephonic hearing requests and ensure that it is provided in the court jacket for the hearing. See Telephonic Hearing Request Form, Appendix 4.
- indicate on the form whether the telephonic hearing has been granted.
- place the submitted proofs into the court file.
- clearly identify on the calendar and case notes which matters are scheduled for telephonic hearings and the time of the hearing.
- indicate if an interpreter is needed on the case.
- notify the parties, counsel of record and the County Welfare Attorney, if applicable, of any requests for telephonic hearings 10 days before the hearing.
- provide the telephone number and names of contact persons for the party appearing by telephone.
- obtain the party's commanding officer and military base, if the party appearing by telephone is in the military.
- instruct the party requesting the telephonic hearing to have his or her information to confirm identity and proofs sent in no later than 5 days before the hearing. The

proofs may include proof of income such as three last federal tax returns and four current pay stubs.

- instruct the party appearing by telephone to remain available and wait for the call.
- consider when scheduling a calendar that telephonic hearings are more time consuming, especially those requiring an interpreter.
- schedule telephonic hearings in modification of child support in domestic violence cases and Dissolution post-judgment motions to modify with the same screening requirements as in person hearings. See CSHOP Standard 7 and CSHOP Standard 9.
- use Polycom equipment for the telephonic hearings when available

For parties appearing at the child support enforcement agency, the Family Division staff shall:

- coordinate with courts of other states in determining an appropriate location for the testimony and advise the party appearing by telephone if he or she must contact the child support enforcement agency to arrange to appear at the state agency
- advise the party appearing at the child support enforcement agency that he or she will need information to confirm his or her identity.

See Memorandum dated July 24, 2007, Child Support Hearing Officer (CSHO) Program Standards-Amendment to Standard 7; and a New Standard (Standard 13). See Appendix 5.

1303 The Hearing Process

The CSHO reviews the calendar to see if any matter is scheduled for a telephonic hearing and notes the time the telephonic hearing is scheduled. The CSHO has the ability to initiate the telephonic hearing considering his or her calendar. The approved telephonic hearing form should be in the file listing the telephone number for the party requesting the telephonic hearing or numbers and names of contact persons. See Appendix 4.

1304 Opening Statement

The CSHO begins each proceeding with an opening statement identifying himself or herself and his or her role as a CSHO. The primary purpose of the opening statement is to ensure that litigants recognize that they have a right to object to any decision a CSHO makes and a right to be heard before a judge if they do object. R. 5:25-3(d)(2).

Specifically each CSHO's opening statement must include six elements:

- The CSHO must be identified by name. (This requirement is supported by a CSHO placing his or her nameplate on the bench/desk at the onset of the day).
- The CSHO must inform the litigants that he or she is not a judge.
- The CSHO must inform the litigants that the CSHO will be conducting a hearing and recommending a decision which becomes a binding Court Order once signed by a judge.
- The CSHO must inform the litigants of their right to object or “appeal” the CSHO’s decision.
- The CSHO must inform the litigants of how they may exercise that right to appeal.
- The opening statement must conclude with the CSHO asking the litigants if they have understood the opening statement.

1305 Ensure Identity of Party Appearing by Telephone

The CSHO must ask appropriate questions to ensure the correct party is participating in the telephonic hearing. The CSHO may verify the identity of the party appearing by telephone by asking the following questions included but not limited to:

- name of the party
- date of birth of party
- name of child(ren) on the case

1306 Integrity of the Record

The CSHO is responsible for establishing and maintaining a record of the proceeding. R. 5:25-3(c)(2) and R.1:2-2. The CSHO has to ensure the integrity of the record during the telephonic hearing. The telephonic hearing equipment may affect the ability to hear parties during the telephonic hearing. Nonetheless, the CSHO has to attempt to conduct the telephonic hearing. For example, the Polycom equipment is preferred but not required. Furthermore, the parties are not limited to calling in or being called from a land line. However, if the CSHO decides that the integrity of the record is being compromised by the telephonic hearing, the CSHO may in his or her discretion terminate the hearing. For example, there may be a bad connection and the CSHO is not able to hear the party clearly. The CSHO must provide the reason for the termination of the telephonic hearing on the Uniform Summary Support Order.

1307 After the CSHO makes the Recommendation

In addition to placing the recommendation and the basis on the Uniform Summary Support Order, the CSHO must also provide that the hearing was conducted by telephone.

Furthermore, the CSHO must ensure that the party appearing in person signs the Uniform Summary Support Order if he or she is in agreement with the recommendation and is supplied with a copy of the Uniform Summary Support Order and the Child Support Guidelines Worksheet (If applicable). See Appendix 4.

1308 Dismissals for Lack of Prosecution

If the CSHO is not able to reach the moving party by telephone or in person, the motion will be dismissed for lack of prosecution. The dismissal and the reason for the dismissal must be stated on the Uniform Summary Support Order.

1309 Default Orders

If the CSHO is satisfied that there is service on the non-moving party appearing by telephone or in person, the CSHO may recommend a default order. R. 5:4-1(b), R. 5:25-3(c)(9).

1309.1 Effective Service

The CSHO must determine whether there is effective service on the party in accordance with R. 5:4-4 and R. 5:5-4. Effective service is when the party was personally served or mail was sent to the party simultaneously by regular and certified mail and return of service may include but is not limited to:

- certified mail returned unclaimed and regular mail not returned
- certified signed by the party
- certified mail signed by a household member over 14

1309.2 Certification or Affidavit of Non-Military Service

The CSHO has to proceed according with the requirement of the Certification of Non-Military Service before entering a default order. See R. 5:4-4(4), R. 5:6-8, R. 5:7-9 and R. 1:5-7. The moving party must supply the CSHO with evidence that the non-moving party is not on active duty in the military. See Memorandum dated April 1, 2008, Certification of Non-Military Service (Family) Form and Updates for Non-Dissolution and Dissolution Operations Manual. See Appendix 4.

1310 Dismissal or Reschedule for Ineffective Service

1310.1 Ineffective Service

If the CSHO is not satisfied that either party has been properly served, the CSHO will dismiss or reschedule the hearing. The CSHO may consider ineffective service in

accordance with R. 5:4-4 and R. 5:5-4. Some of the reasons for finding ineffective service and a reason to dismiss the action may include but are not limited to:

The mail has been returned:

- moved unable to forward
- addressee not known
- no such number/street
- insufficient address
- forwarding order expired
- or the CSHO has other reason to believe that service was not affected.

When the CSHO is not satisfied that either one or both parties have been properly served, the CSHO may reschedule the hearing by using the Uniform Summary Support Order or the Post Hearing Case Processing Form authorized in some counties. See Appendix 4.

1311 Appeal to the Judge

A party who appears before a CSHO has the right to object, or “appeal” a CSHO’s recommended decision and be heard immediately (usually on the same day) before a Family Part Judge. R. 5:25-3(d)(2). See Appendix 4.

1312 Referral to the Judge

A CSHO may make a preliminary determination that the matter is either outside the jurisdiction of a CSHO or sufficiently complex that it must be heard by a judge. Some reasons for referral of a matter to the judge include:

- Active Warrant
- Active Domestic Violence Restraints
- Recommendation of Incarceration
- Parties Not Amenable to Appearing Before the CSHO (Standard 7)
- Matter Outside the Authority of the CSHO
- Complex Issue See Appendix 4.

See Memorandum to Assignment Judges, February 14, 2003, Child Support Hearing Officer Program-Protocol for Appeals and Referrals to Judges.

1313 Responsibility of the Family Division

The Family Division staff will schedule the appeal or referral of the telephonic hearing before the judge the same day or make suitable arrangements when the appeal or referral can be heard.

1314 Post-Hearing Case Processing Procedures

1314.1 Post-Hearing Responsibility of the Family Division

The Family Division staff is responsible for:

- obtaining the signature of the judge
- processing and following the order
- updating information on the case
- sending a copy of the order signed by the judge along with the Child Support Guidelines Worksheet (if applicable) to both parties.

1314.2 Post-Hearing Responsibility of the Probation Child Support Enforcement Unit

The Probation Child Support Enforcement Unit is responsible for processing, monitoring and enforcing the order and updating information.

1400 Conducting Hearings with Interpreters

The Standards for Delivering Interpreting Services in the New Jersey Judiciary set clear direction to Judiciary staff for the delivery of interpreting services to the many court users who have no, or limited, proficiency in understanding or speaking English, whether that lack of proficiency stems from having a different native language or a hearing loss. See Administrative Office of the Courts Directive #3-04. All people, including those with limited proficiency in English, should have equal access to court proceedings, programs and services.

1401 Interpreters Who May Be Used

At any proceeding on the record, the Child Support Hearing Officer (CSHO) must use an interpreter if a language barrier exists. For spoken languages, the CSHO should use only interpreters registered with the New Jersey Administrative Office of Courts. When interpreting services are provided by any other interpreters, the CSHO should administer a voir dire to determine the interpreter's qualifications. See Standards for Delivering Interpreting Services in the New Jersey Judiciary, Standard 1.3. For sign languages only interpreters certified by the Registry of Interpreters for the Deaf and registered with an appropriate New Jersey entity must be used. See Standards for Delivering Interpreting Services in the New Jersey Judiciary, Standard 2.2.

1402 Who Should Be Assigned an Interpreter

All persons who request interpreters should be provided interpreters. See Standards for Delivering Interpreting Services in the New Jersey Judiciary, Standard 1.2. In addition, when a CSHO commences a hearing and determines that an interpreter is necessary to complete the proceeding (e.g., when the CSHO cannot understand a party or is not certain that the party can understand the CSHO), the CSHO should suspend the hearing until such time as an interpreter can be provided.

1403 Responsibility of the Family Division and Probation Child Support Enforcement Unit

The need for an interpreter should be determined as far in advance of a hearing as possible and requests for interpreting services should be filed with the Vicinage Coordinator of Interpreting Services with as much advance notice as possible, following whatever procedures have been established by the Vicinage Coordinator of Interpreting Services under the oversight of the Vicinage's Operation Manager or Assistant Trial Court Administrator.

If the Family Division or the Probation Child Support Enforcement Unit is aware that an interpreter is needed for a party, a request should be made to the Vicinage Coordinator of Interpreting Services to provide an interpreter for the hearing in advance of the hearing.

1404 Calendar Management

If the CSHO ascertains that an interpreter is needed and no prior arrangements for interpreting services have been made, the CSHO should let the court clerk know and the

Vicinage Coordinator of Interpreting Services should be contacted to ensure that an interpreter is provided. If an interpreter will not be available for the hearing, the CSHO must adjourn the hearing and state on the Uniform Summary Support Order that an interpreter is needed for the next hearing.

1405 Hearing Process

1405.1 Interpreter Oath

At the beginning of each hearing, the CSHO must ensure that the interpreter shall be given the following Interpreter oath at the outset of each separate case:

"Do you solemnly swear or affirm that you will interpret accurately and impartially, follow all guidelines for court interpreting that are binding on you, and discharge all of the solemn duties and obligations of an official interpreter?"

No unsworn interpreter shall be permitted to interpret. See Standards for Delivering Interpreting Services in the New Jersey Judiciary, Standard 3.1.

1405.2 Name and Status of Interpreter

In any proceeding in which an interpreter is used, the CSHO conducting that proceeding shall have the interpreter state on the record his or her name and status as an official interpreter before beginning to interpret. See Standards for Delivering Interpreting Services in the New Jersey Judiciary, Standard 3.2.

1405.3 Speaking on the Record to Limited English Proficient (LEP) Persons

When on the record, CSHOs should speak only English and Limited English Proficient (LEP) persons should be addressed in their language only by the official interpreter.

1406 Handling Allegations of Interpreter Error

The CSHO should follow procedures set forth in Standards for Delivering Interpreting Services in the New Jersey Judiciary, Standard 3.5, when an attorney, a party or a CSHO believes an interpreter has made an error in summary the following procedure should be followed:

1406.1 Correction of Errors Caught by the Interpreter during the Hearing

- In order to ensure the most accurate possible interpretation on the record, the CSHO should accept the correction of errors when offered by the interpreter. This should be done by permitting the record interpreter, if still interpreting, to correct the error at once, first identifying himself or herself in the third person (e.g., "The interpreter wishes to correct an error") for the record and then proceeding to make the correction.

1406.2 Correction of Errors Caught by the Interpreter after the Testimony Has Been Completed

- The CSHO should determine whether the error should be corrected on the record.

1406.3 Handling of Allegations of Errors by Others

- When anyone other than the interpreter alleges that an interpreting error has been made, the CSHO should presume the interpreter to have interpreted correctly, unless the interpreter agrees that he or she made a mistake; the burden of proof in any such situation should be on the person challenging the interpretation.
- If the interpreter stands by the interpretation that is alleged to have been incorrect, then the CSHO should determine whether the issue surrounding the allegedly inaccurate interpretation is so substantial or potentially prejudicial as to warrant further attention. If it is not, the allegation of error should not be pursued further. If, however, the issue is substantial or potentially prejudicial, then the CSHO should:
 - 1) ask the person whose speech was allegedly misinterpreted to clarify the term or terms in question. If that does not resolve the allegation of interpreter error, the CSHO should then hear evidence as to the correct interpretation from experts submitted by attorneys for all parties if they so wish, from the interpreter who made the alleged error, and from any other linguistic expert the CSHO may select or allow. In some situations, it may be advisable or necessary to play back the recording of what a witness has said since many perceived interpreting errors are a function of what was said in a foreign language rather than its interpretation; and
 - 2) make a final determination as to the correct interpretation in view of the evidence. If the determination is different from the original interpretation, then, the CSHO should amend the record accordingly.

1407 Conducting a Hearing with an Interpreter by Telephone

When interpreting services are provided by telephone instead of face-to-face, the CSHO shall follow the Operational Standards for Telephone Interpreting (Administrative Office of the Courts Directive #14-01) and be guided by the *Manual for Judges and Other Court Officials Who Use Interpreting Services Delivered by Telephone* and the *Telephone Interpreting Bench Guide*. In summary, the CSHO must ensure that:

- The Interpreter by telephone is sworn and the interpreter's appearance is placed on the record.
- If using an agency, the interpreter is administered a voir dire to determine interpreter's qualifications per Evidence Rule 604.
- An explanation of the process is provided to the party (ies) and the interpreter's readiness to proceed is confirmed.

1408 Problems with Interpreters

Any time a CSHO experiences an interpreter who appears to be engaging in unprofessional conduct or is otherwise impeding the CSHO's ability to move forward with the hearing, the CSHO should attempt:

- to address and resolve the problem during the hearing.
- if the problem can be resolved, then the CSHO should continue with the hearing and report the problem and its resolution to the Vicinage Coordinator of Interpreting Services.
- if the problem cannot be resolved, the CSHO should adjourn the hearing until such time as another interpreter can be provided by the Vicinage Coordinator of Interpreting Services and report the problem to the Vicinage Coordinator of Interpreting Services.

1500 Establishment Proceedings

1501 Jurisdiction of Child Support Hearing Officer

The Child Support Hearing Officer (CSHO) is not a judge and has limited jurisdiction. The CSHO has jurisdiction in accordance with R. 5:25-3 and with the Child Support Hearing Officer Program (CSHOP) Standards. Pursuant to R. 5:25-3(b) Jurisdiction, the CSHO is authorized to hear only matters where a party has filed for Title IV-D (IV-D) child support services. The CSHO has jurisdiction to hear establishment matters only under the FD docket type. The CSHO has limited jurisdiction to hear matters involving domestic violence filed under the FD docket. See CSHOP Standard 7. The CSHO has jurisdiction over the following issues:

- uncontested establishment of parentage
- establishment of child support
- establishment of other financial obligations regarding the care, maintenance, and medical coverage of children
- modification of child support obligations
- enforcement of child support obligations.

1502 Case Preparation

1502.1 Responsibility of the Family Division

Complaints for parentage and/or child support may be initiated by the parent/care giver or an authorized agency and filed in the Family Division. R. 5:6-1 and R. 5:6-2. The Family Division staff is responsible for processing complaints for establishment of parentage and /or child support.

The Family Division staff should carefully screen the filings prior to scheduling before the CSHO. Effective use of resources occurs when a matter is properly scheduled before a CSHO. The CSHO is not a judge and has limited jurisdiction. Therefore, some relief on the complaints cannot be addressed by the CSHO. See Appendix 2, the Child Support Hearing Officer Proceedings Case Screening Guide. The Supervising Family Division staff should review the CSHO calendar prior to the day of the hearing to ensure that cases are scheduled properly. If screening indicates that a case should be removed from the calendar but it still physically remains on the calendar (i.e. there was insufficient time to edit the calendar before the hearing date), it should be noted that the case has been withdrawn or taken off the calendar.

In accordance with the Non-Dissolution Manual, the Family Division Intake staff interviews the plaintiff. The information and demographics obtained are essential to the effectiveness of the CSHO proceedings. The Family Division staff should ensure that the

plaintiff files for all relief that he or she requests for both the most productive use of the CSHO calendar and to ensure good customer service. Further, due process requires that parties be given notice and an opportunity to be heard regarding issues to be addressed on the day of the hearing. If the plaintiff requests IV-D services, an application must be completed and the IV-D Application Fee paid.

The Family Division also gives the plaintiff a Confidential Litigant Information Sheet to complete. The plaintiff returns the completed Confidential Litigant Information Sheet at the time of the first pleading. R. 5:4-2(g), R. 5:5-3 and R. 5:6A, and Appendix XXIV. See Appendix 4. In addition the Confidential Litigant Information Sheet shall contain a certification consistent with R. 1:4-4(b) The Confidential Litigant Information Sheet is used for establishing, modifying and enforcing support orders. Family Division staff must ensure that the Confidential Litigant Information Sheet remains confidential and should not be disclosed to other parties or the public.

The responsibilities of the Family Division staff are thoroughly specified in the Non-Dissolution Operations Manual.

1502.2 Responsibility of the Finance Division Staff

The Finance Division staff's responsibilities include collection of the IV-D Services Application Fee. The current IV-D Application Fee is \$6.00.

1503 Self-Represented Litigants

Most of the litigants appearing in child support matters before the CSHO are self-represented or pro-se. The Family Division staff should have a clear understanding of their issues and challenges. Every effort should be made by the CSHO and staff to explain the process and answer questions in plain language. Awareness and quality customer service will increase the court's effectiveness, promote compliance with court orders, and make the courts more accessible to all. The Family Division staff may refer self-represented litigants to the Vicinage Ombudsman for further assistance. The Office of the Ombudsman provides services in the areas of the public information, community relations, and court user assistance. The role of the Ombudsman is to:

- assist court users navigate through the court system
- explain processes, procedures and options available for the court user
- inquire to find answers for self-represented litigants
- handle complaints and
- provide publications and materials.

1504 Procedural Due Process, Subject Matter Jurisdiction

The CSHO hears establishment of parentage and child support which are civil and family actions governed by Part V. R. 5:1-1, R. 5:1-2 and R. 5:25-3. The authority to hear cases involving child support and paternity is in the Superior Court of New Jersey. N.J.S.A. 9:17-48 and 9:17-49.

1505 Venue

The Family Division staff should determine whether the parties have filed the complaint in the appropriate county. The CSHO has no authority to change venue. The presiding judge or his or her designee has authority to change venue. R. 4:3-3. If the venue is not properly laid, the CSHO may recommend a dismissal of the complaint.

1506 Service of Process

When a party files a complaint for paternity and/or child support under the FD docket, the Family Division staff should:

- send the summons and complaint to the parties simultaneously by regular and certified mail. The filing party supplies the Family Division with the mailing address of the defendant. R. 5:4-4. The summons and complaint may be sent to a post office box.
- send the mailing out on a timely basis (sufficient time to allow for the return of certified mailings)
- place the proof of service or service information when received in the court file prior to the hearing.

Upon review, the CSHO may decide based on the return of service or other reasons that service was not effective. Therefore, the CSHO may recommend dismissing the complaint without prejudice, subject to reinstatement retroactive to the original filing date. R. 5:4-4(b)(2) and (3). If, at a subsequent hearing, the only proof of service showing that service was effective was from the first hearing, the CSHO may determine that service was valid.

1507 Summary Proceedings

The establishment matters heard by the CSHO are summary proceedings. R. 5:6. The defendant is not required to file an answer prior to hearing. R. 5:4-3(b). The parties appear in person to present their case. The summons should comply with R. 5:4-1(b) and notify the defendant of the time, date and place of the hearing. A copy of the complaint should be attached to the summons. Furthermore, the summons should advise the defendant that unless the defendant appears at the time, date and place of the hearing a default order may be entered against the defendant.

The Family Division staff should search to ensure that there are no other filings by the parties regarding parentage and/or child support. A CSHO is authorized to hear a child support matter only if there is no prior family action pending in which the issue of child support has been or could be raised. R. 5:6-1.

1507.1 Hearings on the Papers

The CSHO does not have authority to hear matters on the papers. A matter is heard on the papers when the judge makes a decision based on the documents submitted and parties are not required to appear for a hearing. The CSHO hears testimony given by the parties. R. 5:25-3(c)(2). Those cases, typically motions, in which a party seeks to rely on his or her papers must be scheduled before a judge. If the CSHO heard the matter on the papers, the party would not be able to exercise the right of appeal. In accordance with due process, a party appearing before the CSHO has a right of appeal to a judge.

1508 Non-Dissolution

If the parties were never married or the parties are married but no divorce has been filed and a party seeks to address paternity and/or support, the Family Division staff usually schedules these child support matters before the CSHO (on the FD docket). The CSHO hears establishment of parentage and/or child support in these Non-Dissolution cases. Both parties are required to submit a Financial Statement for Summary Support Actions, See R. 5:5-3 and Rule of Court Appendix XIV. See Appendix 4. It is an affidavit or certification of income, assets, needs, expenses, liabilities and other important financial information that will assist the CSHO in being able to determine support. R. 5:5-3. The CSHO does not hear spousal support only matters.

1509 Dissolution

The CSHO usually does not hear establishment of paternity and/or child support in Dissolution matters (FM docket). The CSHO may be permitted to address child support on a post-judgment divorce motion where the divorce was silent on the issue of child support or to modify the term of child support. See CSHOP Standard 9.

1509.1 Bifurcation

Only in extraordinary circumstances, and for good cause shown, and with the approval of the Family Presiding Judge of the Family Part, the Judiciary permits bifurcation of divorce matters. R. 5:7-8.

1510 Establishment of Parentage

Determining parentage is a critical issue in initial child support matters. The CSHO hears parentage issues in accordance with the New Jersey Parentage Act. It applies to child (ren) born in and out of wedlock. N.J.S.A. 9:17-38 et seq. In accordance with the Non-Dissolution Manual, the Family Division staff should search to see if the parties had any prior child support cases wherein parentage may have been addressed. In addition, the Family Division staff should ask if the parties signed a Certificate of Parentage, the voluntary acknowledgement of parentage. If a Certificate of Parentage exists, a copy of it is to be placed in the file.

1511 Mandatory Joinder

The Family Division staff should have the filing party complete a Certification of Parentage in order for the CSHO to determine how the issue of parentage should be addressed. There is a requirement of joinder of any presumed father and named father on

the birth certificate and anyone who has attempted to file an acknowledgement. N.J.S.A. 9:17-47 and R. 5:14-1. Therefore, if the mother was married to the alleged father and/or if there were any other possible fathers, their names should be joined to the complaint and the summons and complaint should be sent to all of them. The CSHO may dismiss the complaint without prejudice if one or more other possible fathers are not joined to the action unless good cause is shown.

1512 Statutory Limitation

The CSHO shall deny a party relief who has filed a complaint for parentage if the party has filed after the statutory time period. The party must file the complaint no later than five years after the child reaches majority (i.e., a complaint is filed out of time on or after the child's 24th birthday), N.J.S.A. 9:17-45 b.

1513 Confidentiality

The hearings before the CSHO involving parentage of the child (ren) should be closed and only persons necessary to the proceeding may be present. All documents relating to the parentage action that could identify a party to the action other than the final judgment of parentage or the birth certificate are confidential. N.J.S.A. 9:17-42. Confidentiality in the courts and the IV-D Program is governed by statutes, regulations and R. 1:38.

THIS SECTION IS UNDER DEVELOPMENT.

1514 Standing (Who May File for Paternity and/or Child Support)

A person or entity must have legal standing in order to file and be heard regarding the issue of parentage. The following persons or entities may file to establish the parentage of a child:

- a child
- a legal representative of the child
- the natural mother
- the estate or legal representative of the mother if the mother has died or is a minor
- a man alleged or alleging himself to be the father
- the estate or legal representative of the alleged father if the alleged father has died or is a minor
- the Division of Family Development in the Department of Human Services, (DFD)
- the County Welfare Agency
- any person with an interest recognized as justiciable by the court may bring or defend an action or may be made a party to an action for determining parentage N.J.S.A. 9:17-45 a, R. 5:14, Proceedings to Determine Parent-Child Relationship, R. 5:6-1, Summary Action for Support, When and by Whom Filed and R. 5:6-2, Matters Brought by Assistance Agencies

Minor parents are allowed to file an action for paternity and/or child support. The Family Division staff should encourage the minor parent to have his or her legal parent file on behalf of the minor parent and attend the hearing.

1515 Prior Orders

The Family Division staff should question the plaintiff to find out if a judicial order exists that establishes that the defendant is the father of the child. If there was a prior legal determination of paternity, no further evidence need be taken. A prior legal determination of paternity may exist by:

- prior order either in state or out of state that has addressed the issue of paternity. Paternity may be determined based on a prior child support order in New Jersey or out-of-state pursuant to the Full Faith and Credit for Child Support Orders Act (FFCCSOA) that has addressed paternity and under UIFSA
- prior judgment of adoption from New Jersey, another state, or a foreign country. N.J.S.A. 9:3-43.2.

If an order exists, the plaintiff should supply a copy. The Family Division staff should place the copy in the court file. If a prior order exists for paternity and child support, the CSHO must dismiss the complaint without prejudice and reference the prior orders in the Uniform Summary Support Order. See R. 5:7-4, New Jersey Rules of Court Appendix XVI. The Uniform Summary Support Order must be completed for all non-dissolution support proceedings.

1516 Certificate of Parentage

The Certificate of Parentage (COP) sets forth both the names of mother and the father of the child and is determinative of the issue of parentage. The Certificate of Parentage is a voluntary acknowledgement of parentage which is signed by both the mother and the father of the child. It is often completed at the time of the birth of the child in the hospital. An individual who has signed the Certificate of Parentage is permitted to rescind the admission within 60 days of signing the document. After 60 days, the Certificate of Parentage becomes a legal determination of parentage.

If a Certificate of Parentage exists, the Family Division staff should retrieve it from the Certificate of Parentage database and place it in the file. The Certificate of Parentage is determinative of parentage. The Family Division staff should question the plaintiff to ascertain if a Certificate of Parentage was signed and retrieve a copy for the court file. The complaint should include a Certificate of Parentage according to N.J.S.A. 26:8-28.1 with a statement of the rights and responsibilities to encourage voluntary acknowledgment of paternity. R. 5:14-1. See Appendix 4.

1517 Establishment of Maternity

If the alleged mother of the child is the non-custodial parent against whom a support obligation is sought, the CSHO may be required to address the issue of maternity. Maternity may be proven by a Certificate of Parentage and/or birth certificate. N.J.S.A. 9:17-41 a.

The Family Division staff should request a copy of the birth certificate for the child (ren) from the filing party and place it in the file and the Certificate of Parentage if one exists.

1518 Establishment of Paternity

When the party filing has requested a determination of paternity as a relief in the complaint, the Family Division staff schedules the matter before the CSHO. The CSHO has the authority to make a recommendation concerning the issue of paternity. R. 5:25-3 (b)(1). The issue of paternity may be proven by several different ways.

1518.1 Certificate of Parentage

If a Certificate of Parentage exists, the Family Division staff should ensure that a copy is placed in the court file prior to the hearing.

1518.2 Birth Certificate

The Family Division staff should request a copy of the birth certificate from the filing party and place it in the file. Since the name of the father on the birth certificate is based only on the mother's statement, which may be contested, a birth certificate is not determinative and is only one element of evidence of paternity. Therefore, even if a birth certificate is provided, the issue of paternity should be checked as a relief if there has been no prior legal determination. Note that the plaintiff's allegation that the defendant has not denied paternity is not equal to a legal determination of paternity. Again, the paternity relief should be checked. N.J.S.A. 9:17-43(a)(3)(b).

1518.3 Legally Adopted

The child may be legally adopted by the defendant. The Family Division staff should request a copy of the order from the plaintiff and provide it in the court jacket.

1518.4 Marriage Certificate

The Family Division staff should request that if possible the plaintiff should supply a copy of the marriage certificate if the parties are or were married. There is a rebuttable presumption that a child born of a marriage is the child of the husband. N.J.S.A. 9:17-43 (1).

1518.5 Admission at the Hearing

The CSHO is allowed to take an admission at the hearing that the defendant is the father of the child. Prior to asking the defendant whether he is the father of the child, the CSHO should advise the defendant of his right to request genetic testing if he denies or has any doubt about the paternity of the child prior to asking the defendant whether he is the father of the child. R. 5:25-3(c)(7).

1518.6 Genetic Testing

If a defendant requests genetic testing at the hearing, the CSHO has the authority to recommend an order for genetic testing. R. 5:25-3 (c)(12)

THIS SECTION IS UNDER DEVELOPMENT WITH NJKiDS PROCEDURES.

1519 Non-Public Assistance Complaints

When a person is not receiving public assistance, he or she files a complaint with the Family Division. N.J.S.A. 9:17-45 a. and R. 5:6-1. The Family Division staff:

- interviews the individual filing the complaint
- ensures that the plaintiff checks all relief sought
- ensures that the filing party's demographics are accurate, (such as the personal information about the individual including date of birth, address and Social Security number)
- has the plaintiff review and sign the complaint.

The relief requested may be a request for the court to address paternity and/or child support. The Family Division staff then schedules these matters before the CSHO. The CSHO makes recommendations on paternity and child support issues on Non-Public Assistance cases.

1520 Responsibility of County Welfare Agency

When a custodial parent or third person is receiving public assistance, Temporary Assistance for Needy Families (TANF) or Medicaid, the County Welfare Agency initiates the complaint for establishment of parentage and child support (including medical support). The TANF recipient assigns his or her support rights to the County Welfare Agency as part of the eligibility requirements for TANF. N.J.S.A. 44:10-49, N.J.A.C. 10:110-6.1(a) and N.J.A.C. 10:110-5.4. The County Welfare Agency does not request that custody or parenting time be addressed.

1520.1 Consent Conferences

The County Welfare Agency staff interviews the public assistance recipient and prepares the complaint for paternity and/or child support. The County Welfare Agency schedules the matter for a consent conference. The County Welfare Agency should ascertain as much accurate information as possible concerning the defendant at the interview. When a defendant appears for a consent conference, he may request genetic testing to determine the issue of parentage. Sometimes the defendant will consent to paternity at the consent conference but not to the proposed child support order. If the defendant does not consent to the proposed child support amount, the County Welfare Agency forwards the complaint to the Family Division staff to be filed and scheduled for a hearing before the CSHO. The County Welfare Agency usually gives the defendant personal service for the hearing before the CSHO. Not all County Welfare Agencies schedule consent conferences.

1520.2 County Welfare Agency Complaints

If the consent conference is successful, the Uniform Summary Support Order is forwarded to the Judge for signature. The case does not go before a CSHO. However, if the consent conference is unsuccessful partially or completely or no consent conference is attempted, the County Welfare Agency files a complaint for paternity and/or child support with the Family Division. For example, the defendant may consent to genetic testing or paternity only. Then, the County Welfare Agency forwards the complaint to

the Family Division for the remaining issues to be heard. The County Welfare Agency should ensure that there is not an existing prior child support order before filing a new complaint with the Family Division. The County Welfare Agency may file for child support under the FD docket when domestic violence is involved with the parties under limited conditions. See CSHOP Standard 7.

The County Welfare Agency should ascertain if there is a Certificate of Parentage for each of the children. If it exists, a copy of the Certificate of Parentage should be supplied with the complaint to the Family Division. The County Welfare Agency complaint is not a verified complaint since the County Welfare Agency can not attest to (i.e., County Welfare Agency has no personal knowledge of) whether the defendant may or may not be the parent of the child(ren). Therefore, if the parties were not married and there is no Certificate of Parentage, an Affidavit or Certification of Paternity should be completed by the public assistance recipient and/or mother of the child and sent to the Family Division with the complaint or produced at the hearing before the CSHO. The County Welfare Agency should also include any birth certificates, marriage certificates and a copy of existing orders with the complaint. The complaint should be accurate and include the correct and relevant child(ren), names and birthdates. The County Welfare Agency should provide a current postal showing that the defendant may be served at the address provided by County Welfare Agency on the complaint.

If a person seeking to file a complaint is receiving Temporary Assistance to Needy Families (TANF) for the child(ren), the person should be allowed to file with the Family Division but he or she should also be referred to the County Welfare Agency. The Family Division must notify the County Welfare Agency of the hearing.

If the venue is not properly laid, the CSHO may recommend a dismissal of the complaint.

1520.3 County Welfare Attorney

The County Welfare attorney represents the County Welfare Agency in the establishment of paternity and child support matters. N.J.A.C. 10:110-3.2. If the County Welfare attorney is not present at the hearing, absent unusual extenuating circumstances, the CSHO may recommend dismissal of the complaint without prejudice. The CSHO has no authority to proceed. See CSHOP Standard 11. The County Welfare Agency representative appearing at the hearing should be an attorney authorized to practice law in New Jersey. See Advisory Committee on Professional Ethics, 117 N.J.L.J. 258, February 27, 1986.

1520.4 County Welfare Agency Complaints on Behalf of DYFS

The County Welfare Agency files a complaint with the Family Division on behalf of the Division of Youth and Family Services (DYFS) for parentage and/or child support in accordance with a cooperative agreement between the Division of Family Development (DFD) and DYFS. DYFS may render services to the child until age 21. N.J.S.A. 9:17-38 et seq. and N.J.S.A. 30:4C-29.1. DYFS should submit to the County Welfare Agency accurate and current information on the defendant and/or defendants. Moreover, DYFS should provide the current placement status of the child(ren) to the County Welfare

Attorney for the hearing. N.J.S.A. 30:4C-50 et seq. and R. 5:13 The County Welfare Agency should supply this information when filing a complaint with the Family Division. The CSHO may recommend a dismissal of the case if essential proof involving parentage and/or updated status on the placement of the child is not provided.

1520.5 Change of Beneficiary

If there is an existing child support order and another County Welfare Agency was the beneficiary of the order, the County Welfare Attorney may request administratively for a change of beneficiary.

If DYFS is seeking child support against a non-custodial parent who is already on a child support order where the County Welfare Agency was the beneficiary of a prior order involving the same parties and the child(ren), the County Welfare Attorney must file a motion for change of beneficiary. The change of beneficiary cannot be made administratively. The County Welfare Attorney should not file a new complaint for child support.

1520.6 Responsibility to Locate Defendants in County Welfare Agency Cases and Non-Public Assistance Cases

The County Welfare Agency has the responsibility to locate the defendant for public assistance and non-public assistance cases. When the CSHO makes a recommendation to dismiss the complaint because the defendant cannot be located, the matter is referred to parent locator services. If the County Welfare Agency finds locate information, it is forwarded to the Family Division staff. The Family Division staff may then place the matter back on a CSHO calendar. 42 U.S.C.A. §654, 45 C.F.R. §303.3, N.J.A.C. 10:80-1.2(b)(4) and N.J.A.C. 10:110-1.2(a), N.J.A.C. 10:110-1.2(b), and N.J.A.C. 10:110-1.3(b)(1).

1521 Kinship Legal Guardianship

A plaintiff who has Kinship Legal Guardianship of a child(ren) in accordance with N.J.S.A. 3B:12A-1 may file for child support. The Family Division staff schedules these matters before the CSHO. The CSHO hears matters involving Kinship Legal Guardianship. Many of these matters may be filed by County Welfare Agency as a result of DYFS involvement. The CSHO should inquire as to whether the kinship legal guardian is receiving a kinship subsidy for the child. Receipt of a subsidy may affect the Child Support Guidelines calculation.

1522 Domestic Violence

The CSHO is authorized to hear some cases with active domestic violence restraints, e.g. establishment, enforcement and modification of support. These matters are scheduled in accordance with CSOP Standard 7 and amendment thereto, which address facilities and security. The CSHO attends the annual domestic violence training required by N.J.S.A. 2C: 25-20b(1)(2)(3).

The CSHO is authorized to hear only welfare complaints for establishment of parentage and/or child support in Non-Dissolution cases that have active domestic violence

restraining orders when they are filed by the County Welfare Agency under the FD (non-dissolution) docket. The domestic violence restraints are filed under the FV docket and third parties are not permitted to intervene in the FV matter. N.J.S.A. 2C:25-28 (a) and CSHOP Standard 7.

The CSHO is required to complete the Uniform Summary Support Order and may not amend any of the domestic violence provisions. The CSHO will only address the child support issues. See CSHOP Standard 7 and the Domestic Violence Procedures Manual, § 4.15, 4.17.1, 4.17.2 and 4.17.3.

1523 Military

The plaintiff may file a complaint for parentage and/or child support with the Family Division against a military servicemember. In addition, the military servicemember may file an action. When the Family Division staff is aware that the defendant is in the military, staff should send the summons and complaint to the defendant at the defendant's military location.

In all support matters, the plaintiff must file an Affidavit and/or Certification of Non-Military Service before a default judgment may be entered. Certain due process protections attach to military servicemembers. Servicemembers Civil Relief Act, (SCRA) 50 U.S.C.A. App. §521 and N.J.S.A. 38:23C-4, N.J.S.A. 38:23C-7 and N.J.S.A. 38:23C-8, R. 1:5-7 and R. 5:6-8. The plaintiff should complete an affidavit or certification of Non-Military Service in order that the CSHO may proceed with recommending an order by default. If the CSHO is satisfied that the defendant has been properly served and there is a legal basis for establishing paternity, the CSHO may establish paternity by default except where there is evidence that the defendant is in the military. See Appendix 4.

If the Family Division staff is aware that the defendant is in the military, staff may attempt various ways to schedule the matter. The Family Division staff may attempt to schedule a telephone hearing with the military servicemember at his or her military base. See CSHOP Standard 13. In the alternative, the Family Division staff may ascertain when the servicemember would be authorized to take military leave to appear on the matter. If the County Welfare Agency is involved, then, the County Welfare attorney may assist in the scheduling of the matter.

If the Family Division staff is uncertain of where the defendant is stationed, information may be obtained through the use of the website provided under R. 1:5-7 Comment. Once the CSHO has ascertained that the defendant is in the military and a hearing cannot be scheduled either with the military servicemember appearing in person or by telephone, the CSHO may place these matters on the inactive list in accordance with R. 1:13-6 and the Assignment Judge memorandum dated April 24, 2004, entitled Uniform Statewide Policy on Inactivation of Cases/Excludable Time. The CSHO is not authorized to enter a default against a servicemember. The CSHO must refer the matter to a Family Part Judge who may appoint an attorney for the defendant. Title II, §201: Default Judgment, N.J.S.A. 38:23C-6; N.J.S.A. 38:23C-4, R. 5:3-4 and R. 5:25-3.

If the servicemember has filed a complaint for parentage and/or child support, the servicemember may give power of attorney to an individual to appear on his or her behalf. 50 U.S.C.A. §592.

1524 Social Security Benefits

The CSHO should determine what type of Social Security benefit the plaintiff or defendant is receiving through testimony and proof of any benefit, such as award letters from the Social Security Administration. The type of Social Security benefit affects the ability to recommend any child support or the amount of the child support award.

1524.1 Supplemental Security Income to the Parent

When the non-custodial parent is receiving Supplemental Security Income (SSI); then, the CSHO shall deny child support based on the defendant's inability to pay the child support in accordance with Guidelines. If either the custodial or non-custodial parent is receiving SSI (for his or her own disability); then, the CSHO shall not consider the Supplemental Security Income as income in the calculation of child support. See New Jersey Rule of Court Appendix IX-B Use of the Child Support Guidelines, 42 U.S.C.A. §1381(a), 42 U.S.C.A. §1382, 20 C.F.R. §416.202 and 20 C.F.R. §416.501.

1524.2 Supplemental Security Income to the Child

The child of the parent receiving SSI will not be entitled to any Social Security Dependent benefit. However, the child may receive SSI on his or her own behalf because of blindness or disability. That is to say, he or she may have a disability that entitles receipt of SSI in his or her own individual capacity not because of the status of either parent. See 20 C.F.R. §416.202. The CSHO does not consider this amount in the Guidelines.

1524.3 Social Security Disability Benefits to the Parent

If the defendant is receiving Social Security Disability Benefits, the CSHO may consider the monthly income dividing by 4.3 and inquire if the child is receiving a Social Security Disability Entitlement Benefit which is then considered dividing by 4.3 in the Guidelines. New Jersey Rule of Court, Appendix IX-B.

1524.4 Social Security Disability Dependent Benefit to the Child

The Guidelines allow consideration of the Social Security Disability Dependent Benefit. The deduction is made because the government benefit reduces the cost of the child's living expenses. If the government benefit is more than the child support award; then , child support will not be ordered as long as the child receives the government benefit. However, if the government benefit is less than the child support award, the obligor will be required to pay the amount of the remaining child support.

The government benefit paid to the child cannot be considered gross income. See New Jersey Rule of Court, Appendix IX-A, paragraph 10(c) to R. 5:6A and Appendix IX-B Instructions to Sole Parenting Worksheet Line 12 and Shared Parenting Worksheet Line 11 Deducting Government Benefits Paid for the Child and Types of Income Excluded from Gross Income (g).

1524.5 Pending Social Security Benefits

If one of the parties is awaiting the Social Security Benefit determination; then, the CSHO may recommend a temporary order based on the current status with a review hearing to be scheduled at a later date. The case cannot be allowed to age indefinitely.

1525 Bankruptcy

When the CSHO hears a child support matter, the defendant may have filed a petition for bankruptcy. In Superior Court, a defendant party may testify that he or she intends to file for bankruptcy. The action only has significance if there has been an actual filing of a bankruptcy petition with the Bankruptcy court. The person filing the bankruptcy petition for bankruptcy is referred to as the debtor. The purpose of the debtor in filing a bankruptcy petition is to eliminate any unsecured debt. Unsecured debt may include, but is not limited to credit card debt, medical bills, personal loans, and the like. The potential for discharge applies to pre-petition debt.

The defendant may file for Bankruptcy under three different Chapters of the federal Bankruptcy Code. An individual may file under Chapters 7, 11 or 13. See 11 U.S.C.A. §362. The debtor would file under a chapter based on his or her circumstances:

- in a Chapter 7 case, the debtor seeks to discharge all unsecured debt.
- under Chapters 11 and 13, the debtor proffers a plan subject to confirmation by the Bankruptcy court, to repay a portion of the unsecured debt, and to address the treatment of the secured creditors. The debtor gets a discharge only when all payments are made under the plan.
- the debtor would file under Chapter 11 for a business, reorganization, or
- under Chapter 13 for an individual who has debt that exceeds the debt limitations allowed to seek relief under Chapter 11.

When an individual files a bankruptcy petition, the Bankruptcy Code provides for an automatic stay of debt collection. 11 U.S.C.A. §362(a). The stay applies to any judicial or administrative action or proceedings making a claim against the debtor for debt that arose prior to the filing of the petition. However, the stay does not prevent establishing paternity or domestic support obligations.

The Bankruptcy Code was amended in October 2005 and the amendment expanded the ability of the CSHO to establish child support which is covered under the “domestic support obligation” or DRO which is the term of art defined by the Bankruptcy Code at 11 U.S.C.A. §101(14A) as a debt and incurred before the petition is filed. The domestic support obligation is owed to a spouse or child of debtor or government unit; in the nature of alimony or support; established by order or property settlement agreement (PSA).

The debtor may never discharge a child support obligation by filing a bankruptcy petition in any Chapter under the former or amended Bankruptcy code. 11 U.S.C.A. §523 (a)(5) and (a)(15), Domestic Support Obligation and some property settlement agreements.

The CSHO may recommend income withholding from the debtor's income or from property which is not property of the debtor's estate to pay the child support order.

1526 Immigration

The CSHO may make recommendations on cases where there may be immigration issues. The CSHO should not solicit information concerning the party's immigration status. If the CSHO is unable to resolve the child support matter due to a party's immigration status or because it involves any other complex issue, then the CSHO may refer the matter to the judge.

1527 Taxation

The CSHO addresses certain taxation issues in child support matters. When calculating the Guidelines, the CSHO deducts the federal, state, city (if applicable), Social Security, and Medicare withholding taxes for the parties gross income. See New Jersey Rules of Court, Appendix IX-B.2a. The CSHO usually uses Appendix IX-H. Sometimes, the CSHO may use different tax types based on testimony and documents supplied by the parties. The CSHO should carefully review income tax forms submitted by parties who are self-employed. For example, certain expenses listed on Schedule C of the income tax form, such as depreciation of assets, are not allowed when considering child support.

The CSHO does not have the authority to address whether a parent would be able to file for the IRS tax exemption for child(ren). This issue must be referred before a judge with explanation.

1528 Medical Support

1528.1 Requirement to Provide Health Coverage Insurance

Health insurance is included in the statutory definition of child support. The CSHO must address the issue of medical support and the provision for health coverage insurance should be completed on the Uniform Summary Support Order. The CSHO may recommend that either or both parents be required to provide health coverage insurance when available through an employer or union at a reasonable cost to the parent (s). If the health coverage insurance is available, the CSHO will recommend that the parent provide proof of it and a duplicate card for the other parent to be supplied to the Probation Child Support Enforcement Unit by a date certain. R. 5:7-4 (a).

1528.2 Medical Insurance Premium

During the establishment hearing, if the CSHO ascertains that a parent is already supplying health coverage insurance for the child at a reasonable cost to the parent; then, the child's share of the health insurance premium is added to the basic child support amount. When the parent has no proof of the cost per child, the CSHO divides the total cost of the policy by the number of persons covered and the parent is only given credit for the child(ren)'s share. Under the Guidelines, the parent providing the coverage receives credit for the marginal cost of adding the child to the health insurance policy. If both parents are providing insurance and they both pay a medical coverage premium;

then, both are entitled to credit. If the custodial parent and the child receive Medicaid, the non-custodial parent shall be ordered to enroll the child (ren) in a health insurance plan if available at a reasonable cost. New Jersey Rules of Court, Appendix IX-A, §9b and § 26 f. and Appendix IX-B, Line 9.

1528.3 Non-Recurring Unreimbursed Health-Care

If the child is receiving Medicaid, the non-custodial parent is required to provide health coverage insurance if it is available at a reasonable cost. Under those circumstances, the obligor is required to pay 100% of the unreimbursed extraordinary medical expenses. If the child is not receiving Medicaid, then, the percentages of extraordinary unreimbursed medical expenses is based on each parent's percentage of the combined income. See New Jersey Rules of Court, Appendix IX-A, §27 and Appendix IX B, Line 10.

In a Non-Medicaid case, the Guidelines state that the custodial parent is responsible for the first \$250 for the year of unreimbursed medical expenses.

1528.4 Recurring Extraordinary Unreimbursed Medical Expense

If the CSHO determines that there is a recurring extraordinary unreimbursed health expense for the child over \$250 per year, that amount is added to the child support award. See New Jersey Rules of Court, Appendix IX-A, §9. and Appendix IX-B, Line 10.

1529 Hearing Process

The CSHO must place on the record the necessary demographics and assist in the verification of demographics. See CSHOP Standard 3. The CSHO should review the pleadings in accordance with R. 5:4-2 and other appropriate law. According to R. 5:4-2, every complaint should include a statement of the essential facts supporting the basis for the relief sought, the relevant statute relied on by the plaintiff for the relief requested, the address for each party and where the welfare of a child is involved, the child's name, address, date of birth and statement of where and with whom the child resides. Further, in Non-Dissolution matters where paternity of the child was previously acknowledged, a copy of the Certificate of Parentage or other written acknowledgement of paternity must be filed with the complaint. The CSHO:

- hears testimony,
- evaluates evidence,
- and makes findings of fact based on the testimony, documents and conclusions of law.

During the hearing both the recommendation and the basis should be clearly stated on the record.

1529.1 Uniform Summary Support Order

In all child support matters, the CSHO must use the Uniform Summary Support Order for child support when there is a disposition. The CSHO must clearly and legibly state his or her recommendation and the basis for that recommendation on the Uniform Summary Support Order. When the CSHO dismisses a complaint for paternity and/or support, the Uniform Summary Support Order must be completed. See Appendix 4.

1529.2 Post Hearing Case Processing Form

The CSHO may use the Post Hearing Processing Form where the matter is being rescheduled because there is no service on the non-moving party. This form is optional and was approved for use by the Conference of Family Presiding Judges. Therefore, the Post Hearing Case Processing Form must be authorized for use in the county. See Appendix 4.

1529.3 Judiciary Clerk

A Judiciary Clerk 3 or equivalent should be available for the CSHO proceedings to provide clerical support in the hearing room. See CSHOP Standard 10. In addition a printer should be provided to facilitate the distribution of Guidelines Worksheets to the parties and counsel.

1529.4 Payment Instructions

The parties shall receive a child support number identifying their case for collection along with payment instructions for the obligor at the establishment hearing. See CSHOP Standard 3.

1530 Dismissals

The CSHO may dismiss a complaint for establishment of paternity and/or support for various reasons. For example, if the plaintiff does not appear for the hearing, the CSHO may dismiss the complaint without prejudice for lack of prosecution. If the complaint is dismissed without prejudice, the party may file for the same relief again in the future.

If the CSHO recommends a finding that the plaintiff did not provide sufficient proof to support the relief requested, the CSHO may dismiss the complaint without prejudice. The Child Support Hearing Officer Program has provided a list of some of the various reasons that the CSHO may recommend a dismissal in these matters. See Appendix 2.

1531 Default Orders

The CSHO has the authority to recommend a default judgment in paternity and/or child support matters N.J.S.A 9:17-52.1, R. 5:14-2, R. 5:25-3 (c)(9) and R. 5:4-1(b). CSHOP Standard 1 states that a default order rather than a bench warrant should be recommended for non-appearance when service is effective. Further, if there is no proof of the income of the obligor's or obligee's earnings or employment, the CSHO should use minimum wage. Further, income for a defaulting parent may be proven with evidence of actual income or evidence from which income can be imputed per New Jersey Rules of Court, Appendix IX-A §12. If TANF is involved, the CSHO may recommend the amount of public assistance. R. 5:6-2. The CSHO must ensure that there is a full record when a default is recommended.

The CSHO:

- hears testimony,
- evaluates evidence,

- and makes findings of fact based on the testimony, documents and conclusions of law.

During the hearing both the recommendation and the basis should be clearly stated on the record. The recommendation also must address service on the defendant.

1531.1 Military

The Family Division staff should indicate that the plaintiff must complete an affidavit or Certification of Non-Military Service in order for the CSHO to proceed with recommending an order by default in accordance with R. 1:5-7, R. 5:6-8 and the Servicemembers' Civil Relief Act 50 U.S.C.A.App.§521 and N.J.S.A. 38:23C-4, N.J.S.A. 38:23C-7 and N.J.S.A. 38:23C-8, R. 1:5-7 and R. 5:6-8. If the CSHO is satisfied that the defendant has been served properly and there is a legal basis for establishing paternity, the CSHO may establish paternity by default except where there is evidence that the defendant is in the military.

1531.2 Incarceration

If through screening the Family Division staff finds that the defendant is incarcerated and is unable to appear, that information should be placed in the court file for the CSHO. This procedure would prevent the CSHO from entering any default orders against an incarcerated defendant.

1531.3 Return of Service after the Default

If after a default order has been signed by a judge, the Family Division staff receives mail returned showing that there was not proper service on the defendant for the hearing, that information should be given to the Supervising Family Division staff to present to a judge to determine whether the default judgment should be vacated. R. 5:4-4 (5).

1532 Disestablishment of Paternity

The CSHO does not have authority to disestablish paternity. Disestablishment may be defined as a petition to the court to vacate a prior establishment of paternity by court order or by a voluntary acknowledgement such as a Certificate of Parentage. If a party is requesting that paternity be disestablished, paternity is contested. R. 5:25-3(b)(1). Therefore, a judge determines in the best interest of the child whether genetic testing or any other relief may be ordered. The Family Division staff should not place the matter on the CSHO calendar. See CSHOP Standard 5. The State of New Jersey does not have a statute that deals with disestablishment of paternity. If the father listed on the Certificate of Parentage states that he wants genetic testing after the 60 days (rescission period), the issue of paternity becomes contested and the individual must file a motion to vacate before a judge. The CSHO does not have authority to reopen the issue of paternity. A defendant may file a motion under R. 4:50 Relief from Judgment or Order to relieve him of a final judgment.

1533 Establishment of Support

The CSHO may proceed with the establishment of a child support order only after parentage has been determined. N.J.S.A. 9:17- 41(e) Proof of parent-child relationship and R. 5:25-3 (b)(2)(3).

1534 New Jersey Child Support Guidelines

The CSHO makes a determination of the child support to be paid based on the New Jersey Child Support Guidelines (Guidelines) N.J.S.A. 9:17-53(e) and R. 5:6A. The CSHO must calculate child support and place a copy of the Child Support Guidelines Worksheet in the court file and ensure that a copy is distributed to the parties and counsel. See CSHOP Standard 4. See Appendix 4. The Family Division staff is to ensure that a copy of the Child Support Guidelines worksheet is kept in the court file. See New Jersey Rules of Court, Appendix IX-A, § 28, Distribution of Worksheets and Financial Affidavits.

1534.1 Guidelines Calculation

The CSHO should recommend a temporary order if there are issues that prevent full resolution of the child support. If a matter is referred to the judge, the CSHO if possible should provide a child support guidelines calculation. R. 5:25-3(7) and CSHOP Standard 6.

1534.2 Deviation from the Guidelines

The CSHO may only deviate from the Guidelines for good cause and the reason must be stated on the Guidelines Worksheet. In addition, the CSHO is to include the amount that was recommended. New Jersey Rules of Court, Appendix IX-A, §3. A list of possible reasons to deviate from the Guidelines has been provided in the Appendix 2.

Although parties may consent to an amount other than the one calculated in accordance with the Guidelines, the CSHO must calculate child support based on the Guidelines to ensure there is an informed consent to a different amount.

1534.3 Determination of Income

The CSHO must make a determination as to the parties' incomes in order to determine the amount of child support. According to the Guidelines, gross income includes:

All earned and unearned income that is recurring or will increase the income available to the recipient over an extended period of time.

The CSHO hears testimony and reviews some of the following income sources to determine the income of the parties:

- pay stubs,
- W-2 forms,
- Income Tax Returns,
- disability awards

- the Financial Summary Support Statement (See Appendix 4)
- other relevant documentation.

The Guidelines provide that TANF and Supplemental Security Income are means tested income and must not be considered for the purposes of determining child support unless there is another source of income. After the CSHO has determined the amount of gross income, the CSHO should include the amount of income for each parent on the first page of the Uniform Summary Support Order.

1534.4 Imputation of Income

If the CSHO determines that one or both of the parties are without just cause voluntarily underemployed or unemployed, income may be imputed. The income may be imputed based on potential employment from the New Jersey Department of Labor wage or benefit records or Wage Compendium relating to former income or if no income information is available based on minimum wage at full time (40 hours). New Jersey Rules of Court, Appendix IX-A, §12.a, b and c Imputing Income to Parents.

If the case involves public assistance or DYFS, the CSHO may recommend an amount in consideration of the amount of public assistance received. R. 5:6-2.

The CSHO should include the imputed income for the parent on the first page of the Uniform Summary Support Order.

1534.5 After-Acquired Children

A parent is allowed an adjustment to the child support obligation for other children legally adopted or biological children regardless of the timing of birth and family association. New Jersey Rules of Court Appendix IX-A, §10, and CSHP Standard 12.

1534.6 Child in the Custody of Third Party

The income of the third party cannot be used in the Guidelines. The third party is the person who has physical and legal custody of the child is not a parent of a child. That person does not have a legal obligation under the Guidelines to support the child. New Jersey Rules of Court, Appendix IX-A, §16. Each parent has an obligation to pay child support. Often, parents are scheduled separately. However, sometimes both parents are scheduled for the same hearing. The CSHO may calculate Guidelines making each parent responsible for his or her share of the combined income.

1534.7 Split-Parenting Arrangement

In some instances, involving multiple children, the parents may each have physical custody of one of their children. Under the Guidelines, this would be a split-parenting arrangement. New Jersey Rules of Court, Appendix IX-A, §15.

1535 Establishment of Support Arrears

If the plaintiff requests to have the child support made effective as of the date of the filing, the CSHO is required to establish arrears at the establishment hearing. Therefore,

the CSHO must calculate the amount of arrears due as a result of the order being made effective the date of filing and giving the defendant credit for any direct payments made to the plaintiff. R. 5:7-4(c) Establishment of Support Arrears at the Hearing. The CSHO must place on the Uniform Summary Support Order the amount of support arrears established at the hearing. If credit is given for direct payments, an explanation should be provided on the second page of the Uniform Summary Support Order. Furthermore, the CSHO must determine the amount the defendant will pay regularly to reduce the arrears owed and record it on the Uniform Summary Support Order. The CSHO may advise the defendant that he or she has the option of paying the arrears in full.

1536 Custody

The Family Division staff may schedule multiple reliefs, (such as parentage, child support, custody and parenting time) before the CSHO. The CSHO also may address custody and/or parenting time matters combined with child support. However, the CSHO cannot hear standalone establishment of custody. In other words, there must be filing for custody and child support. The CSHO has no legal authority to make a recommendation regarding custody under R. 5:25-3. The CSHO may facilitate a custody or parenting time agreement between the parties. The CSHO enters the agreement on the Uniform Summary Support Order for the judge's review and signature. See CSHOP Standard 2. The CSHO must clearly advise the parties of his or her role with regard to custody during the hearing. Furthermore, a CSHO should not recommend a default order in these matters. If the parties cannot reach an agreement; then, the CSHO should refer the issue of custody for mediation.

The CSHO recommends a child support order in which the non-custodial parent would be paying the support. Parents may agree that one parent will have sole legal custody of the child or joint legal custody. However, physical or residential custody usually resides with one parent. The parent having physical custody of the child is the custodial parent. When the parents have shared-parenting time according to the Guidelines, the parent of alternate residence (PAR) must, at a minimum, have 28% parenting time with the children. The parent with the more parenting time is considered the parent of primary residence (PPR).

If there is no agreement regarding joint legal custody but there is an agreement as to which parent has physical custody, the CSHO should calculate the Guidelines and refer the legal custody issue for mediation.

1537 Parenting Time

If either of the parties files a complaint for multiple reliefs that includes parenting time, the Family Division staff may schedule it before the CSHO. The CSHO cannot hear a standalone complaint for parenting time only. See CSHOP Standard 2. The CSHO must clearly advise the parties of his or her role with regard to parenting time during the hearing.

Parenting time, previously called visitation, is important with regard to child support. In New Jersey, parenting time by the non-custodial parent is encouraged unless it would be

harmful to the child(ren). The non-custodial parent is more likely to pay the ordered support if he or she visits and bonds with the child(ren). Under the Guidelines, an adjustment is made when the non-custodial parent has a parenting time plan. See New Jersey Rules of Court, Appendix IX-A, §13. Parents should be encouraged to cooperate with each other concerning parenting time. This cooperation promotes the best interest of their children.

The law is clear concerning parenting time. The custodial parent cannot withhold parenting time because of non-payment of child support. Moreover, the non-custodial parent cannot withhold child support because of interference or lack of parenting time. Often the parents will raise the parenting time issues during the child support hearing. The CSHO should advise the non-custodial parent that he or she may file a complaint for or enforcement of parenting time.

The CSHO should attempt to help parties reach an agreement regarding parenting time. If the parties reach consent to parenting time, the CSHO enters the agreement on the Uniform Summary Support Order and it is sent to a judge for review and signature. See CSHOP Standard 2. If the parties do not reach consent, the matter is referred for mediation.

1538 Appeal to the Judge

A party who appears before a CSHO has the right to object, or “appeal” a CSHO’s recommended decision and be heard immediately (usually on the same day) before a Family Part Judge. R. 5:25-3(d)(2). See Appendix 4.

1539 Referral to the Judge

A CSHO may make a preliminary determination that the matter is either outside the jurisdiction of a CSHO or sufficiently complex that it must be heard by a judge. Some reasons for referral of a matter to the judge include:

- Active Warrant
- Active Domestic Violence Restraints
- Recommendation of Incarceration
- Parties Not Amenable to Appearing Before the CSHO (Standard 7)
- Matter Outside the Authority of the CSHO
- Complex Issue See Appendix 4.

See Memorandum to Assignment Judges, February 14, 2003, Child Support Hearing Officer Program-Protocol for Appeals and Referrals to Judges.

1540 Post-Hearing Processing Procedures

1540.1 Responsibility of the Family Division

The Family Division staff should enter the disposition in the automated systems after the hearing. The Family Division staff must carefully review the recommendation and the

Post Hearing Case Processing Form to ensure proper follow-up. If matters must be rescheduled for change of address or incorrect address, the Family Division staff should ensure that the notices for the next hearing are sent to the correct address to avoid any unnecessary rescheduling for the same reason. If the Family Division staff has any questions concerning the disposition, he or she should speak with a Supervising Family Division staff for direction. If the CSHO makes a recommendation and a judge ratifies it, the Family Division staff should follow procedures specified in the Non-Dissolution Operations Manual.

1540.2 Responsibility of the County Welfare Agency for Locate Services

If the County Welfare Agency has filed a complaint, the County Welfare Agency must review the recommendation to ensure proper follow-up. For example, if the CSHO dismisses the complaint and refers the case for parent locator services, the County Welfare Agency must make efforts to locate the non-custodial parent in both public assistance and non-public assistance cases. Parent locator services are part of IV-D services. The County Welfare Agency attempts to locate the non-custodial parent through locate information such as the non-custodial parent's:

- Social Security number,
- date of birth,
- place of birth,
- last known residence
- employer

Locate Resources used are automated and manual resources. The County Welfare Agency must go through the State Parent Locator Service (SPLS) to use the Federal Parent Locator Services (FPLS) a system that accesses multiple federal databases. It includes:

- Social Security Administration,
- Department of Veteran Affairs,
- Federal Bureau of Investigations,
- Internal Revenue Service
- Department of Defense
- National Director of New Hires
- Federal Case Registry

State resources include the Department of Corrections, the Department of Labor and the Motor Vehicle Commission.

1541 Inter-Divisional Post Hearing Intake Team

After the hearing establishing child support, each vicinage has or will have an Inter-Divisional Post Hearing Intake Team. The parties will meet with the Inter-Divisional Post Hearing Intake Team to:

- enter demographics and support obligations onto the NJKiDS
- explain the child support process to the parties.

The team will consist of child support staff from the Family, Probation Child Support Enforcement Unit and Finance Divisions designated by the Assignment Judge and the Trial Court Administrator. The intent of the Inter-Divisional Post Hearing Intake Team is to assist litigants with an orientation to the child support program to help them understand the collection and enforcement process after the child support order is established. The team will interview and instruct the litigants with regard to the child support order. See Memorandum to Assignment Judges, September 30, 2008, Inter-Divisional Post Hearing Intake Team-Statewide Implementation-Request for Implementation Plan.

1600 Modification Proceedings

A party may file an application/motion to modify a support order with the Family Division in the county of venue. A motion to modify and enforce a child support order may be consolidated. R. 5:7-6. In Non-Dissolution matters, post-disposition relief/modification of a court order can be requested by using an application for Post-Disposition Relief. Either the obligee, the person entitled to the child support or the obligor, the person paying the child support, or both may file the motion to modify support at any time.

1601 Authority of the Child Support Hearing Officer

The Child Support Hearing Officer (CSHO) has authority to review and recommend modification of support orders. R. 5:25-3 (b)(4). All child support orders are modified in accordance with Child Support Guidelines. R. 5:6A. Additionally, under CSHP Standards 7 and 9 respectively, the CSHO is authorized to hear certain motions involving parties with Domestic Violence Restraining Orders and Post-Judgment Dissolution motions. In both of the above motions, the CSHOs may address only issues within their jurisdiction.

1602 Responsibility of the Family Division

The Family Division is responsible for processing and scheduling the motion to be heard before the CSHO. The Family Division staff should ensure that the moving party:

- clearly states the reason for the motion,
- completes the certification in support of the motion,
- signs the certification and
- provides financial documentation, the Financial Summary Support Statement or the Family Case Information Statement (See Appendix 4)

Additionally, the Family Division staff should send a copy of the order to the enforcing Probation Child Support Enforcement Unit and update the NJKiDS with the filing of the motion. The parties are to be advised to bring updated proof of income to the hearing.

1603 Calendar Preparation

The Family Division staff needs to supply the following to the CSHO:

- copy of the calendar
- court file, including
 - prior guidelines
 - supporting documents
 - financial proof
 - current order and
 - a case summary generated by the NJKiDS
- any pre-hearing adjournments or withdrawal of any cases from the calendar

1604 Self-Represented Litigants

Most of the litigants appearing in child support matters before the CSHO are self-represented or pro-se. The Family Division staff should have a clear understanding of their issues and challenges. Every effort should be made by the CSHO and staff to explain the process and answer questions in plain language. Awareness and quality customer service will increase the court's effectiveness, promote compliance with court orders, and make the courts more accessible to all. The Family Division staff may refer self-represented litigants to the Vicinage Ombudsman for further assistance. The Office of the Ombudsman provides services in the areas of the public information, community relations, and court user assistance. The role of the Ombudsman is to:

- assist court users to navigate through the court system
- explain processes, procedures and options available for the court user
- inquire to find answers for self-represented litigants
- handle complaints
- provide publications and materials.

1605 Service

The Family Division staff should send out the notice and motion papers to the non-moving party in a timely fashion simultaneously by regular and certified mail. R. 5:5-4. The notice advises the parties to bring proof of income, three current pay stubs, W-2s and Income Tax Returns.

1606 Hearing Process

When reviewing a modification request, the CSHO makes certain findings of fact.

1) Substantial Change in Circumstance

The CSHO determines whether there has been a substantial change of circumstances to warrant a review of the support.

Some examples of substantial change in circumstances may include but not be limited to:

- increase in the needs of the child
- increase or decrease in parent's income
- change in status of child
- child's maturation
- illness, disability of parent
- increase in cost of living

2) If the moving party meets the initial criteria; then, the CSHO reviews the financial proofs of the parties. The CSHO must use the Child Support Guidelines in accordance with R. 5:6A and Comments.

The CSHO needs to review many facts to make the comparison between the circumstances of the party at the time of the prior order and at the time of the filing.

If the party does not meet the first criteria showing substantial change of circumstances, the CSHO may recommend denial of the motion without prejudice based on the merits of the case.

1607 Prohibition of Retroactive Modification

Under N.J.S.A. 2A:17-56.23a no retroactive modification is allowed in child support orders.

1608 Dismissal

The CSHO's initial review of the pleadings may result in a dismissal of the pleadings. For example initial determinations as to jurisdiction, venue, standing, ripeness, entire controversy, joinder of all interested parties, sufficiency of pleadings, sufficiency of service and adequacy of due process may result in a dismissal of the pleadings.

If the party filing the motion does not appear for the hearing, the CSHO may recommend a dismissal of the motion without prejudice for lack of prosecution and record on the Uniform Summary Support Order that the prior order continues.

1609 Default Order

If the CSHO is satisfied that there is proper service on the non-moving party and the testimony and supporting documents submitted by the moving party warrant a modification, the CSHO may recommend a default order.

1610 Triennial Review

All states receiving IV-D Funding are required to have periodic review and adjustment of child support orders. To comply with federal requirements, New Jersey enacted law that all child support orders be subject to triennial review. The Triennial Review is a review and adjustment of the order three years from date of establishment of the last review. The request for a Triennial Review is initially made to the Division of Family Development. It is an administrative process implemented by the County Welfare Agency which performs most of the process outside of the courts. 42 U.S.C. §666(a)(10), 45 C.F.R. § 303.8(d) and N.J.A.C. 10:110-14.1,2.

1610.1 Responsibility of the County Welfare Agency

The Triennial Review is an administrative process initiated by the County Welfare Agency. The County Welfare Agency sends notice to the parties advising them that the case will be reviewed and the order adjusted according to Child Support Guidelines. The County Welfare Agency:

- reviews the Financial information for both parties
- determines if there is a 20% increase in the amount of child support based on the Child Support Guidelines
- notifies the parties that an increase in the child support order is warranted if the 20 % increase in the child support exists.

- gives the parties an opportunity to execute a consent order
- files a motion for an increase with the Family Division when there is no agreement with the parties.

1610.2 Responsibility of the Family Division

The Family Division receives the motions from the County Welfare Agency and is responsible for processing and scheduling the matters before the CSHO.

1611 Hearing Process

The CSHO reviews the motion for Triennial Review without requiring a showing of changed circumstances. The CSHO determines the child support amount in accordance with the Child Support Guidelines. R. 5:6A. During the hearing, the CSHO:

- considers testimony and evidence,
- makes findings of fact,
- reaches conclusions of law,
- and prepares a Uniform Summary Support Order with a recommended disposition for submission to a Family Part Judge for ratification. R. 5:25-3(d)(1).
- if the parties agree with the recommendation, the CSHO ensures that the parties sign the Uniform Summary Support Order.

1612 Emancipation

In New Jersey, there is no statute requiring automatic emancipation of child(ren). Emancipation is when the age or circumstances of a child are such that he or she is no longer considered dependent upon a parent for financial support. Some orders will detail what events cause the child(ren) to be emancipated. However, in most cases, a party has to file for the child to be emancipated. Either the obligee, or the obligor, may file the motion in the Family Division. When it is the last or only child on an order, the Probation Child Support Enforcement Unit staff may initiate the emancipation.

1612.1 Responsibility of the Family Division

The Family Division is responsible for case processing and scheduling all motions for emancipation. The post-disposition application or the post-judgment motion may be scheduled before the CSHO.

1612.2 Responsibility of the Probation Child Support Enforcement Unit

The Probation Child Support Enforcement Unit is authorized to initiate motions for emancipation of a child under limited circumstances. If the youngest child or only child on the order is over 18, the Probation Child Support Enforcement Unit will send a notice to both parties by regular and certified mail requesting information on the status of the child. The Probation Child Support Enforcement Unit is responsible for processing, scheduling and providing a summary of the case at the hearing which includes any responses from the parties. If the parties do not agree that the child should be emancipated, the case may be scheduled before the CSHO for a Status Review hearing. When an obligor fails to respond to the request to emancipate and proof of service is obtained, a Probation Prepared Child Support Order may be used to emancipate the last or only child on the order. The order shall be entered without prejudice in the event the obligor later seeks to dispute an aspect of the order such as the effective date or outstanding arrears. Status Review hearings should not routinely be used to initiate emancipations on behalf of litigants. Typically, the litigant may be advised to file his or her own motion with the Family Division. See Child Support Enforcement Operations Manual, Emancipation Procedures, Section 2200 Status Review Hearing Procedures, Section 1620.

1613 Hearing Process

The determination of emancipation is fact sensitive. The CSHO reviews testimony and closely examines the facts to determine whether emancipation should be recommended. The fact of the child being 18 years or older creates a presumption of emancipation. However, the CSHO will review the facts to determine the current status of the child at the time of the hearing. The CSHO considers if the child is beyond the sphere of influence of the parents and has independent status. The CSHO considers the following including but not limited to if the child is:

- under 18 years old, there is a rebuttable presumption that the child should not be emancipated. N.J.S.A. 9:17-53
- disabled
- 18 years or older, the child support continues if the child suffers severe mental or physical incapacity that causes the child to be financially dependent on the parent. However, substance abuse by the child is excluded. N.J.S.A. 2A:34-2 and N.J.S.A. 9:17-53
- registered for secondary schooling (such as college) full time (a minimum of 12 credits)
- attending college full time
- doing well or poorly in college (grades of the child)

The party stating that the child is enrolled in college full time is expected to produce proof.

Some examples of situations warranting emancipation are:

- child is attending college part-time
- child is married
- child enrolls in the Armed Forces
- child has his or her own child.

1614 Emancipation Granted

If the CSHO recommends that the child be emancipated, the CSHO must state that the emancipation is granted, the reason for the emancipation and the date of emancipation on the Uniform Summary Support Order.

Emancipation may be retroactive to the date that the event of emancipation occurred. If no arrears are owed, the CSHO recommends that the Probation Child Support Enforcement Unit close the case. If the CSHO determines that there are arrears owed, perhaps to the obligee as well as the County Welfare Agency, the CSHO will recommend an arrears payback amount and the Probation Child Support Enforcement Unit will close the case once the arrears are paid.

1615 Recalculation of Child Support

If the CSHO recommends emancipation of one child on the case and there are remaining children, the CSHO must recalculate child support for the remaining child(ren) in accordance with the Child Support Guidelines. R. 5:6A.

1616 Denial of Emancipation

If the CSHO recommends a denial of the emancipation, the denial is without prejudice and the party may file another motion in the future. The CSHO should state the denial and the reason for the denial on the Uniform Summary Support Order.

1617 Post-Hearing Responsibility of the Family Division

The Family Division must ensure that the original order is signed by a judge and the Child Support Guidelines Worksheet is kept in the file (if applicable). A copy of the order is given to the:

- the parties
- the Probation Child Support Enforcement Unit
- the County Welfare Agency (if applicable).

The Family Division staff must also:

- update the NJKiDS with demographic changes and the details of the order on the comment screen,
- send the order to Finance Division staff to update any changes in the status of the child(ren) and obligation amount.

1618 Post-Hearing Responsibility of the Probation Child Support Enforcement Unit

When the emancipation hearing is scheduled by the Probation Child Support Enforcement Unit it must ensure that the original order is signed by a judge and a copy of the order is given to the:

- parties
- the Family Division
- the Probation Child Support Enforcement Unit (if enforcement of the order is in another county)
- the County Welfare Agency (if applicable)

1619 Post-Hearing Responsibility of the Finance Division

The Finance Division staff reviews and enters financial case modifications and account adjustments, as submitted by the Probation Child Support Enforcement Unit staff and/or specified by court order, into NJKiDS.

1620 Application for Direct Pay Conversions

Either the obligee or obligor may request to have his or her child support paid through the courts, the party files his or her application through the Family Division. The Family Division staff sends a Notice of Pay through Probation to the obligor, to the non-filing party, who has 20 days to object. If the party contests, the Family Division staff schedules matter before the CSHO. The person filing the request for pay through probation must complete a IV-D Application and pay the IV-D Application Fee.

The obligor does not have to owe money for child support in order to be required to pay through the court. The burden of proof is on the obligor to show good cause why the order should not be paid through the court.

1621 Cost of Living Adjustment (COLA)

Another type of administrative review is the Cost of Living Adjustment (COLA). The Cost of Living Adjustment is based on the Consumer Price Index (CPI). R. 5:6B requires that:

- all Temporary Assistance to Needy Families (TANF) and Non-Temporary Assistance to Needy Families (Non-TANF) child support orders are adjusted every two years in accordance with changes in the cost of living.
- all orders entered, modified, or enforced on or after September 1, 1998 and subject to a Cost of Living Adjustment,
- all orders entered prior to September 1, 1998 are reviewed by Triennial Review or by modification motion.

The Cost of Living Adjustment is based on the Consumer Price Index (CPI).

The NJKiDS initiates the Cost of Living Adjustment (COLA) process by:

- sending the parties notice of intended review

- noticing parties of their right to the challenge the adjustment and
- providing notice that either party is given 30 days to contest the adjustment within 30 days of receipt of the initial notice.

1621.1 Responsibility of the Probation Child Support Enforcement Unit

The Probation Child Support Enforcement Unit performs the initial review of any documentation contesting the COLA. When the Probation Division staff is unable to resolve a contest, the matter is scheduled before a CSHO for a Status Review hearing.

1622 Hearing Process

The parties may contest the Cost of Living Adjustment (COLA) based on:

- the wrong party
- the child support amount in the notice is incorrect
- the child support order includes another method of review
- the obligor's income did not increase at a percentage equal to or greater than the amount of the Consumer Price Index

The CSHO compares the income of the party two years prior with the current income.

If the contesting party fails to supply the financial proof or the financial proof supports the Cost of Living Adjustment, the CSHO recommends that the Cost of Living Adjustment (COLA) be made and the contest denied. The Cost of Living Adjustment (COLA) takes effect the date of the original notice.

If the contesting party provides the necessary proof and the proof shows that the obligor's income has not increased by a percentage equal to or greater than the amount of the Consumer Price Index, the CSHO will recommend that the Cost of Living Adjustment (COLA) not be implemented.

If the child support order has another method of adjustment, the COLA will not apply.

It is important to note that "Either party may contest the cost-of-living adjustment based on changed circumstances and may request that the Child Support Guidelines be applied to adjust the amount of child support to be paid. The application of Child Support Guidelines shall take precedence over cost-of-living adjustments". R. 5:6B.

1623 Status Review Procedures

Status Reviews are initiated by the Probation Child Support Enforcement Unit to determine the next appropriate action in a case. Status Review hearings are helpful in reducing the number of unenforceable cases, particularly in those instances where the parties have not initiated motions on their own behalf. See the Child Support Enforcement Operations Manual, Status Review Procedures, 1620.

1624 Responsibility of the Probation Child Support Enforcement Unit

The Probation Child Support Enforcement Unit identifies eligible cases, notifies the parties and schedules the Status Review hearing before the CSHO. There are various reasons a case may be scheduled for Status Reviews including but not limited to the following:

- death of the obligee
- obligor receiving means tested income
- custody/ change of beneficiary
- emancipation of the last (or only) child on the order when the parties are not in agreement or when the parties refuse to file a motion terminating the order

Before the Probation Child Support Enforcement Unit staff schedules the Status Review hearing they must perform the following tasks including but not limited to:

- review the case to determine if there is an order or correspondence that could resolve the issue using a Probation -Prepared Child Support Order
- determine if the case qualifies for administrative case closure
- check if there are any pending motions on the case
- confirm that the county of venue is correct

1625 Scheduling of the Status Review Hearing

The Probation Child Support Enforcement Unit must clearly state the reason for the Status Review hearing on the Notice and send the notice to the parties simultaneously by regular and certified mail. The Probation Child Support Enforcement Unit staff must provide the CSHO with the following:

- a copy of the calendar with each Status Review hearing clearly identified,
- the case/cases for Status Review clearly identified
- the Probation Child Support Enforcement Unit file
- current order
case history,
service for the hearing

1626 The Hearing Process

The CSHO will review the reason for the Status Review hearing and attempt to resolve by:

- hearing testimony and evidence,
- making findings of fact,

- reaching conclusions of law,
- preparing a Uniform Summary Support Order with a recommended disposition for submission to a Family Part Judge for ratification. R. 5:25-3(d)(1).
- ensuring that the parties sign the Uniform Summary Support Order when the parties agree with the recommendation.

1627 Role of the Probation Child Support Enforcement Unit Probation Officer during the Hearing

The Probation Child Support Enforcement Unit Probation Officer during the hearing follows the *Recommended Script for Probation Officers Assisting at Child Support Hearings*. See Probation Child Support Enforcement Operations Manual, Attachment 1604C and provides:

- the reason why the Status Review is scheduled
- a summary of the case
- service on the parties
- any responses from the parties
- any relevant documents for the CSHO to review such as death certificates
- records on any demographic changes

1628 Post-Hearing Case Processing

After the hearing, the Probation Division Child Support Enforcement Unit staff ensures that the recommendation is signed by a judge, updates the NJKiDS and monitors the provisions of the order.

1629 Appeal to the Judge

A party who appears before the CSHO has the right to object, or “appeal” a CSHO’s recommended decision and be heard immediately before a Family Part Judge. R. 5:25-3(d)(2). See Appendix 4.

1630 Referral to the Judge

A CSHO may make a preliminary determination that the matter is either outside the jurisdiction of a CSHO to decide or sufficiently complex that it must be heard by a judge. Some reasons for referral of a matter to the judge include:

- Active Warrant
- Active Domestic Violence Restraints
- Recommendation of Incarceration
- Parties Not Amenable to Appearing Before the CSHO (CSHOP Standard 7)
- Matter Outside the Authority of the CSHO
- Complex Issue or
- Other. See Appendix 4.

See Memorandum to Assignment Judges, February 14, 2003, Child Support Hearing Officer Program-Protocol for Appeals and Referrals to Judges.

1700 Enforcement Proceedings

The Probation Child Support Enforcement Unit is responsible for monitoring and enforcing the child, spousal and medical support provisions of child support orders. The objective of enforcement is to ensure consistent payment of current and past due child support by the party obligated to make payments, the obligor, and as well as to maintain health insurance coverage for the child(ren). See 45 C.F.R. §303.6, 303.100, 303.31, N.J.S.A. 2A:17-56.7a et seq., R. 1:10-3; R. 5:7-5; R. 5:4-4 (c) and N.J.A.C. 10:110-1.3.

When the obligor fails to make payments or maintain health coverage as required by the court's order, the Probation Child Support Enforcement Unit staff initiates administrative and/or judicial remedies. A discussion of the various administrative remedies will be provided below.

Additionally, a party or attorney for a party may file a motion with the Family Division for enforcement of a child support order.

1701 Authority of the Child Support Hearing Officer

The CSHO has authority to hear enforcement of IV-D child support orders including both financial and non-financial provisions. R. 5:25-3 (b)(5)(6) N.J.S.A. 2A:4-30.65 et seq., and R. 5:7-4.

1701.1 Types of Obligations

The order contains both the financial and non-financial child support obligations.

- **Financial Obligations**

The obligor is ordered to pay a certain amount of support at a certain frequency effective a certain date. The obligor may also be required to reimburse the County Welfare Agency for the cost of genetic testing to determine paternity.

- **Non-Financial Obligations**

There may also be non-financial obligation requirements. These are obligations that do not require a monetary payment such as obtaining medical coverage for the child(ren) by date certain. However, a party may be required to provide a percentage of unreimbursed medical coverage which is included in the child support order.

The CSHO has limited enforcement authority in that he or she does not have jurisdiction to hear enforcement of custody and/or parenting time orders. Nor can the CSHO hold any litigant in contempt or incarcerate any obligor. For such actions, the CSHO must refer the obligor to the judge.

1702 Confidentiality

The Probation Child Support Enforcement Unit records for child support are confidential. R. 1:38. See Probation Child Support Enforcement Operations Manual, Confidentiality, Section 1005.

THIS SECTION IS UNDER DEVELOPMENT.

1703 Self-Represented Litigants

Most of the litigants appearing in child support matters before the CSHO are self-represented or pro-se. The Probation Child Support Enforcement Unit staff should have a clear understanding of their issues and challenges. Every effort should be made by the CSHO and the Probation Child Support Enforcement staff to explain the process and answer questions in plain language. Awareness and quality customer service will increase the court's effectiveness, promote compliance with court orders, and make the courts more accessible to all. The Probation Child Support Enforcement Unit staff may refer self-represented litigants to the Vicinage Ombudsman for further assistance. The Office of the Ombudsman provides services in the areas of the public information, community relations, and court user assistance. The role of the Ombudsman is to:

- assist court users navigate through the court system
- explain processes, procedures and options available for the court user
- inquire to find answers for self-represented litigants
- handle complaints
- provide publications and materials.

1704 Responsibility of the Probation Child Support Enforcement Unit

The Probation Child Support Enforcement Unit identifies cases which need support and /or medical enforcement and determines the appropriate enforcement remedy whether it be an Enforcement to Litigant's Rights hearing, issuance of a warrant or other administrative action. The Probation Child Support Enforcement Unit is responsible for performing locate activities, scheduling the hearings, noticing the parties, participating at the hearings, completing post-hearing case processing and updating the NJKiDS. See the Child Support Enforcement Operations Manual, Court Enforcement Procedures, Section 1604 for more details.

The Probation Child Support Enforcement Unit staff ensures that a complete file is forwarded from the Family Division which includes:

- the order,
- the complaint (excluding Dissolution complaints),
- the IV-D Application,
- the proof of payment of the IV-D Application Fee,
- Certificate of Parentage,
- Confidential Litigant Information Sheet
- Child Support Guidelines Worksheet. See Appendix 4.

The parties have 10 days to advise the Probation Child Support Enforcement Unit of any direct payments made on the case after the hearing. The obligor may have made direct payments to the obligee prior to the case becoming payable through the Probation Child Support Enforcement Unit. If there is a response from the obligor and the obligee does

not agree or does not respond, the matter is scheduled before a CSHO for hearing to resolve the direct payment issue. See Probation Child Support Enforcement Operations Manual 1, Intake Procedures, Section 1100.

The Support Disbursement Unit (SDU) in accordance with N.J.S.A. 2A:17-56.63(a) is responsible for collection and disbursement of child support payments.

The Probation Child Support Enforcement Unit is responsible for attempting to locate the obligor and obligee when a support order is in effect.

1705 Responsibility of the Family Division

The Family Division staff is responsible for processing motions for enforcement filed by an individual or attorney on behalf of the obligee on IV-D support matters before the CSHO. The obligee has the option of filing his or her motion in the Family Division. The Family Division staff is also responsible for updating information on the NJKiDS.

1706 Responsibility of the Finance Division

The Finance Division is responsible for collecting child support locally and forwarding the payments to the state collection agency for processing. The Finance Division is also responsible for performing audits ordered by court order or referral from the Probation Child Support Enforcement Unit. The Finance Division is responsible for processing the obligation amount on the NJKiDS.

1707 Responsibility of the County Welfare Agency

The County Welfare Agency (CWA) is responsible for providing updated information on the obligee and obligor, and the status of the Division of Youth and Family Services (DYFS) matters when provided by DYFS.

1708 Arrears

Financial obligations also include arrearage.

- arrearage is “Past due, unpaid child support owed by the non-custodial parent.” See Glossary of Child Support Terms. See Appendix 6.
- retroactive arrears are the arrears that accrued on the support order between the effective date (usually the filing date of the complaint or application) and the date of the hearing
- the obligor may also be required to reimburse the County Welfare Agency for the cost of the genetic testing when used to determine the paternity or for monies received by the obligee while on TANF. This cost may be added to the arrears and payable to the state disbursement unit.

Some arrears may be owed to the County Welfare Agency and others owed to the obligee. The type of arrears is identified in the NJKiDS. The Probation Child Support Enforcement Unit is responsible for ensuring that arrearages are paid.

1709 Child Support Judgments and Post-Judgment Interest

Child support arrears are a judgment by operation of law on or after the date they are due. N.J.S.A. 2A:17.56.23a. Child support that is past due shall automatically be docketed as a civil judgment. Child support judgments accrue interest. R. 4:42-11(a) and R. 5:7-5(g). See Administrative Office of the Courts Directive #16-06.

1710 Enforcement Remedies Overview

1710.1 Administrative Enforcement Remedies

The Probation Child Support Enforcement Unit staff may discover the lack of payment through the Probation Child Support Enforcement Unit resources or because of contact from the obligee. If a delinquency is confirmed, the Probation Child Support Enforcement Unit must take appropriate enforcement action. 45 C.F.R. §303.6(c)(2). Once delinquency is discovered, the Probation Child Support Enforcement Unit staff will initiate administrative enforcement remedies to resolve the issue of noncompliance. The Probation Child Support Enforcement Unit staff should exercise every effort to exhaust administrative enforcement remedies before scheduling a matter for an Enforcement of Litigant's Rights hearing before the CSHO. Administrative enforcement remedies are actions that the Probation Child Support Enforcement Unit has authority to make without judicial authority such as a court order. For example, the Probation Child Support Enforcement Unit staff may attempt to contact the obligor by telephone or letter to ascertain why payments are not being sent. The Probation Child Support Enforcement Unit may also send an inquiry of employment, inquiry to the Postmaster and an income withholding notice if any employer is known. Some other administrative remedies include but are not limited to:

- credit bureau reporting
- tax offset program
- judgment/liens
- Financial Institution Data Match (FIDM)
- Lottery intercept. See *Generally* Probation Child Support Enforcement Operations Manual.

1710.2 Judicial Enforcement Remedies

The Probation Child Support Enforcement Unit staff identifies cases to be scheduled for enforcement. If an obligor fails to make payments pursuant to a court order or fails to provide health insurance after administrative remedies have been exhausted, the appropriate Probation Child Support Enforcement Unit will provide the obligor with notice that such a failure may result in an Enforcement of Litigant's Rights hearing under R. 1:10-3 and R. 5:4-1. When an obligor has accrued support arrearage equal to or in excess of the amount of support payable for 14 days or failure to provide health insurance coverage as ordered, the Probation Child Support Enforcement Unit staff shall file a verified statement including the facts establishing violation of the court order. The Probation Child Support Enforcement Unit staff may apply to the court for relief under R. 1:10-3. The Probation Child Support Enforcement Unit staff schedules an enforcement hearing in the county where the support case is being enforced before a CSHO.

1711 Procedural Due Process

In order to proceed on an enforcement motion, the CSHO has to find that the party or entity filing has the standing to bring the action and there is proper service on the defendant.

1711.1 Standing

The Probation Child Support Enforcement Unit and/or the obligee have standing to file a motion for enforcement of the support order. The beneficiary of the order may be an individual obligee, an in-state agency or an out of state agency. In an action brought on behalf of the County Welfare Agency, the custodial parent and/or guardian have assigned their support rights to the County Welfare Agency. The Probation Child Support Enforcement Unit files for relief on behalf of the obligee or the County Welfare Agency. R. 5:7-5. The obligee may also file a motion for enforcement individually through the Family Division.

1711.2 Case File Review

The Probation Child Support Enforcement Unit staff should review all orders, correspondence and relevant NJKiDSs screens before scheduling a matter in order to ensure efficient use of court time. The Probation Child Support Enforcement staff should organize the file confirming that all relevant court orders, proof of service and any relevant correspondence are present.

Prior to the enforcement hearing, the Probation Child Support Enforcement Unit staff should advise the Family Division staff if any of the litigants have special needs or if interpreter services are needed. The Family Division will coordinate with the Operations Division.

1711.3 Proper Service

The Probation Child Support Enforcement Unit or Family Division staff should send notice of the Enforcement of Litigant's Rights hearing and the motion papers to the parties including to the County Welfare Agency attorney if appropriate simultaneously by regular and certified mail in accordance with R. 5:5-4 , R. 5:4-4(c) and R. 5:25-3(e).

If the Probation Child Support Enforcement Unit staff has scheduled a case for an Enforcement of Litigant's Rights hearing, a Certification of Diligent Efforts may be provided in lieu of a signed return receipt from the certified mail. The document establishes that diligent efforts have been made to locate the obligor through inquiries to the U.S. Postal Service, the Motor Vehicle Commission, the Department of Labor, and the Department of Corrections. R. 5:4-4(c). The court notices are also sent by regular mail. See Probation Child Support Enforcement Operations Manual, Court Enforcement Procedures, Section 1604.

1712 Probation Child Support Enforcement Unit Probation Officer

On the day of the hearing, the Probation Child Support Enforcement Unit Probation Officer reviews the calendar to confirm whether any of the litigants have special needs or if interpreter services are required and Family Division staff is advised. The calendar and files are reviewed to ensure the necessary information is available for the CSHO and to remove any matters that are improperly scheduled.

The Probation Officer performs some the following additional functions on the hearing day:

- provides the CSHO with a copy of the CSHO Enforcement calendar and the Case Summary Report,
- advises the CSHO if a case has been adjourned or removed from the calendar,
- states the purpose of the Enforcement of Litigant's Right hearing on the record,
- states the case history according to the Probation Child Support Enforcement Unit file and the NJKiDS on the record,
- reports on the service on the obligor or obligee for the hearing,
- provides any other relevant information pertaining to the case such as if an obligor is incarcerated or if there is an outstanding warrant on the obligor for the CSHO to consider,
- makes the file available at the request of the CSHO,
- takes detailed notes and ensures the hearing disposition information is given to the appropriate Probation Child Support Enforcement Unit staff after the enforcement hearing.

The CSHO must allow the Probation Child Support Enforcement Unit Probation Officer to participate in the hearing process. The Probation Child Support Enforcement Unit Probation Officer will provide the Probation Division information on the record. The Probation Child Support Enforcement Unit Probation Officer may request certain enforcement remedies. However, he or she does not have any authority to appeal the recommendation of the CSHO. The Recommended Probation Officer Script is utilized by the Probation Officer. See Probation Child Support Enforcement Operations Manual, Attachment 1604C, *Recommended Script for Probation Officers Assisting at Child Support Hearings*. See Appendix 2.

The Probation Child Support Enforcement Unit Probation Officer should:

- take detailed notes and ensure the information is given to the appropriate Probation Child Support Enforcement Unit staff after the enforcement hearing
- ensure that the recommendation is signed by the parties and submits the order to the judge for signature
- ensure a copy of the signed order is supplied to the Family Division, the parties and the County Welfare Agency if appropriate

The Probation Child Support Enforcement Unit Probation Officer updates or obtains the demographic information and ensures the information and other relevant provisions of the order are entered into the NJKiDS. The Probation Child Support Enforcement Unit Probation Officer provides the payment instructions to the obligor when appropriate. See Probation Child Support Enforcement Operations Manual, Court Enforcement Procedures Section 1604.

1713 Hearing Process

At the Enforcement of Litigant's Rights hearing, the CSHO assists in obtaining and verifying demographics of the parties. The CSHO also takes employment information for the obligor specifically the full name and the address of the employer. The CSHO performs the following tasks:

- hears testimony,
- reviews documentation,
- makes findings of fact,
- makes recommendations regarding enforcement of the support order.

The CSHO should review the automated child support enforcement computer screens to ensure that all information is current. For example, the CSHO should be aware of the Public Assistance indicator on the NJKiDS.

The CSHO shall clearly state the recommendation and the basis on the Uniform Summary Support Order. See Appendix 4. Careful attention should be made to ensure the correct child support number, the correct parties as well as indicating accurately which party is the obligee or the obligor. If the Uniform Summary Support Order is incorrect, an amended order will need to be completed to address the problem and submitted to the judge for signature.

In an enforcement hearing, the issue before the CSHO is enforcement. Therefore, the CSHO has no jurisdiction to change the current support unless the matter is scheduled for a Status Review hearing. See Modification Section of this Manual, Section 1600.

1713.1 Address Changes

During the hearing, the CSHO may find out through testimony that one of the parties has changed addresses. Accurate address information is crucial for both the obligor and the obligee. The NJKiDS must be updated with correct address information in order to have

effective enforcement. The CSHO must instruct the obligor and obligee to go to the Probation Child Support Enforcement Unit and follow the address change procedure to update the Probation Child Support Enforcement Unit records. The obligor and obligee are required to notify the Probation Division of any change of address, employer and health care coverage within 10 days after the change. Failure to provide the information if a change does occur results in a violation of the order. R. 5:7-4 (f)(8).

If new address information is obtained at the enforcement hearing, the Probation Child Support Enforcement Unit Probation Officer should obtain the new information and give the information to the appropriate Probation Child Support Enforcement Unit staff to make the changes. See Probation Child Support Enforcement Operations Manual, Address Change Section 1621. See also Administrative Office of the Court Directive #11-04.

The CSHO should not place the new address on the Uniform Summary Support Order.

1713.2 Collection of Social Security Numbers

The CSHO is authorized to obtain Social Security numbers on the record for child support purposes. See 42 U.S.C. §405. The litigant is required to supply his or her Social Security number for the purpose of establishing and enforcing child support. The CSHO shall verify or retrieve this information as needed by written submission by the litigant completing the Confidential Litigant Information Sheet or requiring the litigant to submit the information in writing at the time of the hearing. The CSHO shall not require that the litigant give the Social Security number verbally on the record and shall not place the Social Security number on the Uniform Summary Support Order.

1713.3 Review of Payment History

The CSHO reviews the payment history during the enforcement hearing. The CSHO should be aware of bookkeeping adjustments made to the account and the significance of the adjustment codes. The CSHO should also be aware of the different ways child support payments may be received such as income withholding, unemployment, State, Federal Tax offset and Homestead Rebate, Financial Institution Data Match (FIDM) seizure, settlement of judgments, money order, cash, personal check or an out of state source of payment. This information is important in trying to resolve the enforcement issue. For example, if an obligor is sending in cash payments and an employer is known, the CSHO must recommend income withholding.

1713.4 Determination of Violation of the Order

The CSHO reviews the Probation Child Support Enforcement Unit record, the report from the Probation Child Support Enforcement Unit Probation Officer, the testimony of the parties and documentation submitted and determines if there has been a violation of the court order. If the CSHO finds that there has been a violation of the court order; then, the CSHO hears further testimony and reviews documentation to determine if the obligor has the ability to pay the order. The financial obligations are the child support and any payment toward the arrears. The non-financial obligations may consist of medical coverage.

1713.5 Determination of Inability to Pay the Order

If the CSHO finds that there was a violation of the court order, the CSHO hears testimony regarding the obligor's ability to pay. Then, the obligor is allowed an opportunity to assert defenses to non-compliance. For example, the obligor may assert that he or she has become disabled. The CSHO will review the proofs. Another example is where the obligor may at the time of the hearing be receiving means-tested income such as Supplemental Security Income (SSI) or welfare (TANF or GA). See Administrative Office of the Courts Directive #15-08, Enforcement Questions, Appendix 2.

If the CSHO recommends a finding of inability to pay, the CSHO does not proceed on the enforcement motion. The CSHO may dismiss or deny the enforcement motion or suspend the order. See this Manual on Suspension of Enforcement. The CSHO must indicate on the Uniform Summary Support Order the finding of inability to pay and the basis.

1713.6 Determination of Ability to Pay Support

If the CSHO finds that there was both a violation of the order and an ability to pay, the CSHO may recommend judicial enforcement remedies.

1714 Sources of Enforceable Incomes

Some sources of enforceable income are but not limited to:

- Commissions,
- Wages,
- Workers' Compensation,
- Accounts,
- Trusts,
- Retirement benefits,
- Unemployment compensation,
- Salaries,
- Rental income,
- Insurance benefits,
- Assets of estates,
- State lottery prizes,
- Veterans benefits,
- Casino and racetrack winnings,
- Earnings,
- Claims,
- Annuities,
- Inheritance,
- Homestead Rebates,
- Union income
- Federal/State income tax refunds. N.J.S.A. 2A:4-30.65.

Some incomes are not enforceable such as means tested income. Two examples of means tested income are welfare (TANF or GA) and SSI (SSI if that is the only source of income for the obligor and there are no other assets.).

1715 Judicial Enforcement Remedies

If the CSHO finds that there was a violation of the order and the obligor does have the ability to pay, the CSHO may recommend the following remedies including but not limited to:

- income withholding
- regular payment towards reducing the arrears
- lump sum payment
- bench warrant status
- employment Search
- referral for incarceration
- referral for work release
- medical coverage by a date certain. R. 5:3-7

These judicial remedies may be recommended cumulatively.

1715.1 Income Withholding

The CSHO may recommend income withholding of the obligor's income such as but not limited to wages, salaries, and unemployment or Workers' Compensation benefits. All child support orders established or modified after October 1, 1990 are subject to mandatory income withholding unless the order or judgment specifically provides for an alternate payment arrangement to which the parties agree in writing or the obligor/obligee demonstrates and the court finds good cause for establishing alternative arrangement. N.J.S.A. 2A:17-56.8, 9-11, 13, and 52. See also, 45 C.F.R. §303.100.

The CSHO will often ascertain through testimony at the hearing the information on the new employer. If the obligor leaves one employer, the income withholding provision is mandatory for the new employer. The full name and address of the employer should be obtained and clearly specified on the Uniform Summary Support Order.

The obligee may complain that the full amount of the child support order is not being withheld by the employer, also known as the payor. The CSHO should review the NJKiDS and the case summary sheet. If the obligor has more than one child support order through the courts; then, the withheld amount from the obligor's check would be prorated among the cases.

Under §303 (b) of the Federal Consumer Credit Protection Act, there is a limit on the amount that can be withheld from an obligor's check. For an individual with no spouse or dependent children, the amount is 60% and when more than 12 weeks of arrears are owed it is 65%. When the obligor is supporting a spouse or dependent children the amount is 50% and 55% when the child support arrears are more than 12 weeks.

Supplemental Security Income Benefits are not subject to income withholding.

1715.2 Unemployment Insurance Benefits

The CSHO may recommend income withholding of the Unemployment Insurance Benefits (UIB) for the obligor. If the obligor receives Unemployment Insurance Benefits by New Jersey, it will be withheld through an interface between the NJKiDS and the New Jersey Department of Labor. 45 C.F.R. §302.65. However, if the Unemployment Insurance Benefits are given to the obligor by another state, the Probation Child Support Enforcement Unit will have to send out a Notice to Payor of Income Withholding to attach those benefits.

1715.3 Regular Payment toward Reducing the Arrears

The CSHO may recommend that the obligor pay an additional amount per week to reduce the amount of arrears owed on the account. If no previous amount toward arrears existed, the CSHO may recommend an amount. If more arrears have accrued on the case, the CSHO may recommend an increase of the arrears payment amount. The CSHO may use along with testimony, the Child Support Arrearage Payment Schedule approved by the Conference of Family Division Presiding Judges to determine what amount the obligor should pay toward reducing the child support arrears. The arrears payment amount with the effective date should be listed on the Uniform Summary Support Order. Please note that the obligor is not charged with the arrears payment amount. The amount must be paid to reduce the arrears.

A modified income withholding notice generates to the employer when the arrears payback amount is updated on the NJKiDS.

1715.4 Lump Sum Payment

If the CSHO finds a violation of the order and the ability to pay the support, the CSHO has a basis to recommend that the obligor pay a certain amount on the day of the hearing to reduce the arrears. The CSHO considers the amount of time that the obligor had the ability to pay and failed to pay and the arrears accumulated during that time to determine a reasonable amount of arrears to pay as a lump sum.

If there is a finding of a violation of the order and the ability to pay the support, the CSHO may recommend a lump sum payment in the future or a bench warrant to issue. Again, the CSHO must have a basis for the recommendation of the lump sum payment. This recommendation must be recorded on the Uniform Summary Support Order.

1715.5 Bench Warrant Status

If the CSHO finds that the obligor has the ability to pay but has not been making consistent payments, the CSHO may recommend bench warrant status. Bench warrant status is effective a certain date if the obligor misses a certain specified number of payments, the Probation Child Support Enforcement Unit may proceed to get a warrant issued against the obligor without a further hearing. The obligor is put on notice by the recommendation of the CSHO that if he or she misses a certain number of payments that the Probation Child Support Enforcement Unit may proceed to request a bench warrant from a judge.

The CSHO may recommend this enforcement remedy when the obligor has shown a history of inconsistent payments and unreported change of employment to the Probation Child Support Enforcement Unit or the obligor is self-employed and has had the ability to pay. The purpose of the bench warrant status enforcement remedy is to ensure regular and consistent payments.

1715.6 Employment Search

If the obligor states that he or she has not been making payments because of not working and the CSHO finds that the obligor has the ability to work, the CSHO may recommend an employment search. The CSHO must place the recommendation for the employment search on the Uniform Summary Support Order.

The obligor would be required to look for work for a specified amount of places per week. An employment search form would be supplied to the obligor to complete. The obligor is required to present the employment search form to the enforcing Probation Child Support Enforcement Unit. If the obligor finds employment, he or she should provide proof of income and the full name and address of the employer to the enforcing Probation Child Support Enforcement Unit.

1715.7 Referral for Incarceration

If the CSHO finds that the obligor violated the support order and has the ability to pay the support order, the CSHO may refer the obligor to the judge for incarceration. The CSHO has limited jurisdiction and cannot recommend incarceration.

When the CSHO refers the case to the judge for incarceration, the CSHO must complete the Child Support Hearing Officer Referral Form. The CSHO will make findings regarding the obligor's indigency and take testimony needed to complete the Indigency Review Form. See Administrative Office of the Courts Directive # 15-08 . R. 5:25-3(c) (10)(A). See Appendices 2 and 4.

1715.8 Referral for Work Release

Some counties offer a work release enforcement remedy and the CSHO may refer the obligor to the program. However, the referral does not guarantee acceptance into the work release program. If accepted into the program, the obligor is incarcerated, but released during the day to find employment and then, required to return to jail in the evening.

1715.9 Enforcement of Medical Support

When medical support has been ordered, the Probation Child Support Enforcement Unit is responsible for monitoring and enforcement of the medical support. The obligor, the obligee or both may be required to provide medical coverage at a reasonable cost through the employer or union as long as it is available at a reasonable cost. The obligee may contact the Probation Child Support Enforcement Unit regarding noncompliance with the medical support order. The Probation Child Support Enforcement Unit may contact the obligor and/or the employer regarding the medical coverage.

If the Probation Child Support Enforcement Unit staff has been unsuccessful at administrative attempts to resolve the medical support issue, they may schedule the matter for a medical coverage enforcement hearing before the CSHO.

The CSHO reviews testimony and documents to determine if there has been a violation of the order. If the CSHO finds there has been a violation of the order, the CSHO must then determine if medical coverage is available as ordered. If the CSHO finds that there is medical coverage available at a reasonable cost to the obligated parent, the CSHO may recommend the obligor provide the medical coverage by date certain. If not, the matter may be referred to a judge for enforcement or a bench warrant to issue.

If the CSHO ascertains through testimony that the obligor does not have medical coverage for reasons such as lack of employment or the employer does not provide any medical coverage, the CSHO should ensure that the Probation Child Support Enforcement Unit Probation Officer notes the information for the Probation Child Support Enforcement Unit file. Then, the CSHO does not recommend a finding of violation of the order to provide medical coverage.

The CSHO may advise the obligor that he or she does not have to wait for an open enrollment period but must show the employer the court order mandating medical support for the child(ren).

The obligor may state that he or she has not complied because of lack of sufficient information about the child required by the medical company. The Probation Child Support Enforcement Unit must attempt to assist in having the necessary information supplied to the employer. The Probation Child Support Enforcement Unit may provide information such as the Social Security numbers of the child(ren) directly to the medical insurance company.

If medical expenses were incurred by the obligee and medical coverage was ordered and percentages established for unreimbursed medical coverage, the CSHO should advise the obligee that he or she may file a motion for enforcement of unreimbursed medical expenses in the Family Division. The Family Division staff schedules the motion before the CSHO.

1715.10 Lien on the Proceeds from a Lawsuit

The Child Support Lien Network is an administrative remedy to intercept personal injury and Workers' Compensation insurance settlements owed to obligors who are delinquent on child support. The minimum amount of \$1,000 must be owed by the obligor. N.J.S.A. 2A:27-56.56.23a and N.J.S.A. 2A:17-56.23b. See Probation Child Support Enforcement Operations Manual, CSLN Procedures, Section 1613.

If during the enforcement hearing, the CSHO ascertains that the obligor violated the order and has a pending lawsuit, the CSHO may recommend a lien against any proceeds received from the lawsuit. The CSHO should obtain the name of the attorney or firm representing the obligor in the lawsuit if possible. This information should be placed on the Uniform Summary Support Order. If the obligor does not have the information on the attorney at the hearing, he or she should be required to supply it to the Probation Child Support Enforcement Unit by a date certain in accordance with N.J.S.A. 2A:17-56.10(a).

The attorney has the obligation to run a child support judgment search (also known as a Charles Jones Search) and to contact the Probation Child Support Enforcement Unit to get an updated judgment amount before disbursing proceeds from a lawsuit.

1715.11 Qualified Domestic Relations Order

If the CSHO finds that the obligor is receiving monies from a pension plan at the enforcement hearing, the CSHO may recommend that the Probation Child Support Enforcement Unit pursue funds from the obligor's private or public pension. The Employee Retirement Income Security Act (ERISA) and IRS Code govern private pensions. A Qualified Domestic Relations Order (QDRO) may be made pursuant to a Judgment of Divorce or a property settlement agreement. See 26 U.S.C. §401 and 29 U.S.C. §1056 and §206.

The Probation Child Support Enforcement staff drafts the Qualified Domestic Relations Order for the judge's signature and sends it to the plan administrator who manages the pension plan. The Participant (the obligor) the one who is a member of the pension plan and the Alternate Payee (the obligee) the person to whom the money should be paid are notified by the Plan Administrator if the Qualified Domestic Relations Order is approved. See Probation Child Support Enforcement Operations Manual, QDRO Procedures, Section 1616.

1716 Suspension of Enforcement

If the CSHO finds that the obligor has a valid reason not to pay the child support, the CSHO may recommend a suspension of enforcement of the child support for a specified period of time. R. 5:7-10. For example, if the obligor is receiving Supplemental Security Income (SSI) and has no additional assets, the CSHO must find that the obligor does not have the ability to pay the support order. The CSHO should let the obligor know that he or she has a right to file a motion to have the child support order reviewed.

The CSHO must clearly state the reason for the suspension of enforcement and the length of the suspension such as suspension for a period of 60 days on the Uniform Summary Support Order. Some types of suspension of enforcement may be:

- judicial enforcement meaning no bench warrants will issue, the cases will not be scheduled for enforcement action and no relief to litigant's proceedings under R. 1:10-3 will be taken until further order of the court
- identified enforcement mechanisms such as judicial enforcement and income withholding of provisions of existing child support order
- unless otherwise ordered all other administrative remedies including but not limited to the following shall continue:

income withholding, automatic entry of judgments, tax offset, license suspension, credit agency reporting, Financial Institution Data Match (FIDM), lottery intercepts, passport denial, and Child Support Lien Network (CSLN) intercepts.

1717 Suspension of the Obligation

The CSHO has authority under R. 5:7-10 to suspend the obligation of child support. Some types of suspension of the obligation may be:

- all support provisions of an existing order, including the charging and enforcement of current support and enforcement of past due obligations until further order of the court
- the current support obligation only, but allowing enforcement of past due obligations to continue until further order of the court.

1718 Hold/Release

The CSHO has the authority to place an account on hold to prevent monies from being distributed in error. 42 U.S.C. §654(b). The CSHO may recommend release of the hold in its entirety or in a specific amount. For example, if there is a pending motion for termination of the child support order and there has been a change of custody and monies are going to the prior obligee, the CSHO may recommend a hold on the case.

The Probation Child Support Enforcement Unit is required to monitor all cases on hold. See Probation Child Support Enforcement Manual, Hold/Release Procedures, Section 2401.

1719 Dismissal of Enforcement Motion

If the CSHO finds that the obligor is in substantial compliance with the support order and there has been no violation of the support order, the CSHO may dismiss the enforcement motion. The CSHO must state the reason for the dismissal on the Uniform Summary Support Order.

1720 Misapplied Payments

The CSHO may determine during the hearing that monies were misapplied on the child support case. If the monies were given to the County Welfare Agency or the Division of Youth and Family Services (DYFS), the CSHO must recommend that the monies be recouped from the particular agency.

1721 Overpayment

During the enforcement hearing, the CSHO may recommend based on the testimony and documentation that the obligee has been overpaid. The CSHO may instruct the obligor to file a motion in the Family Division to recoup the overpayment. See N.J.A.C. 10:110-4.1(d).

1722 Pending Benefits

During the hearing, the CSHO may receive testimony that the obligor is unable to work and has pending a complaint for Social Security benefits.

The CSHO may recommend a suspension of enforcement for a specified period of time. See this Manual, Section Suspension of Enforcement. The CSHO should inquire whether the obligor has an attorney. If so, the CSHO should obtain the name of the attorney.

1723 Bench Warrants

1723.1 Nonappearance of the Obligor

The CSHO is authorized to recommend a bench warrant for nonappearance of an obligor when the CSHO is satisfied that there is proper service on the obligor. R. 5:25-3(c)(11). The purpose of the bench warrant is to have the obligor appear and give testimony regarding the enforcement motion. It is not issued for criminal or civil contempt. If the CSHO recommends a bench warrant, the CSHO must indicate a release amount on the Uniform Summary Support Order.

If the obligor appears late for the hearing, the CSHO may withdraw the recommendation for the bench warrant and have the enforcement hearing. If the obligee appears on the enforcement motion and is heard earlier, the CSHO should advise the obligee that the CSHO will hear the obligor if he or she appears later. The CSHO may inquire of the obligee what factual information he or she may know and types of enforcement remedies the obligee is seeking in the event that the obligor appears late.

When an obligor is late for an enforcement hearing and the CSHO has recommended a default order, whenever practical, the CSHO should hear the case. Hearing the testimony and reviewing documents is preferred to entering a default. The CSHO has more enforcement remedies available when the case is heard. For example, after testimony and review of documents, the CSHO may recommend a same day lump payment or bench warrant status. The CSHO may also be able to obtain current and accurate demographic information regarding addresses and employment.

1723.2 Active Bench Warrant

The Probation Child Support Enforcement Unit is authorized to schedule cases where the obligor has an active bench warrant before the CSHO. However, the CSHO cannot execute or vacate an active bench warrant. Only a judge has authority to vacate, execute or rescind a warrant. The Probation Child Support Enforcement Unit Probation Officer should advise the CSHO if there are any active bench warrants on the obligor. The CSHO must make the Sheriff's Office aware that there is an active bench warrant on the obligor. If the obligor does appear for the hearing, the CSHO has to refer the case to the judge to resolve the active bench warrant with a completed Child Support Hearing Officer Referral Form. See Appendix 4.

1724 Default

The CSHO may enter a default order against the obligor who is properly served and does not appear at the enforcement hearing. For example, the CSHO may have documentation from the Probation Child Support Enforcement Unit Probation Officer that the obligor is now employed. There may be no order of a payback amount toward the arrears. The CSHO may recommend a default order of an arrears payback amount toward reducing arrears.

1725 Nonappearance of Obligee

The obligee does not have to be present at the enforcement hearing. However, it may be in the best interest of the obligee to be present to offer testimony. The CSHO must not recommend a bench warrant for nonappearance of an obligee for an enforcement hearing.

1726 Dismissals

If the mail is returned indicating ineffective service on the obligor such as undeliverable as addressed, the CSHO shall dismiss the enforcement hearing and refer the case for Parent Locator Service. The CSHO completes the Uniform Summary Support Order indicating the service upon which the recommendation was based. Then, the CSHO specifically states that the enforcement motion was dismissed and the reason for the dismissal.

1727 Location Services by Probation Child Support Enforcement Unit Staff

When the CSHO refers the case to the Probation Child Support Enforcement Unit for Parent Locator Service, the Probation Child Support Enforcement Unit staff has to make an attempt to locate the obligor. 42 U.S.C. §663, 45 C.F.R. §303.3, 45 C.F.R. §307.11, N.J.S.A. 2A:17-56.13, 59, and 61. Location efforts mean ascertaining information with regard to the address of the obligor, the employer and other sources of assets that the obligor may have that may be considered to enforce the support order. The Probation Child Support Enforcement Unit staff checks such locate services as:

- WAGES
- LOOPS,
- Motor Vehicle Commission
- Department of Corrections

- other approved locate systems including data matches and interfaces such as Federal Parent Locator Service (FPLS) for information such as address and employer on the obligor.

1728 Direct Payment Credit

During the enforcement hearing, the obligor may testify that he or she has been paying the obligee directly.

The CSHO may adjust the arrears amount on the Uniform Summary Support Order if the obligee:

- is present and verifies that direct payments have been made
- is willing to give the obligor credit for direct payments made
- submits picture identification

The CSHO may not adjust arrears if:

- the monies are owed to the County Welfare Agency or
- there is any record of domestic violence or suspicion of coercion by the obligor

The CSHO must advise the parties that direct payments to the obligee are not permitted and that no future credit for direct payments will be given. The obligor is ordered to pay to the authorized payment center unless there is a court order authorizing direct payment.

The Uniform Summary Support Order is sent to the Finance Division to adjust the account to include the direct payment credit. If the CSHO decides based on testimony and documents presented not to address the direct payment, he or she may advise the obligor of the right to file a motion for credit for direct payments in the Family Division.

1729 Unreimbursed Medical Coverage

During the enforcement hearing, the obligee may raise the issue of unpaid unreimbursed medical expenses. The CSHO does not have jurisdiction to review the issue of unreimbursed medical expenses not paid by the obligor at an enforcement hearing. The CSHO should instruct the obligee to file a motion for enforcement of unreimbursed medical expenses in the Family Division.

If the obligee has filed a motion to address enforcement of payment of unreimbursed medical expenses in the Family Division, the CSHO will hear testimony and review documents and make a recommendation. The CSHO will review the prior order to see if parties were required to pay a particular percentage of unreimbursed medical expenses. The obligor is entitled to review the medical bills. If the obligee has submitted the medical bills, the CSHO determines what amount is owed by the obligor. The CSHO should recommend that the obligor's share of the unreimbursed medical expenses be paid to the obligee directly since payment of unreimbursed medical expenses is not a IV-D child support issue.

1730 Transfer of Enforcement of Case

The CSHO has authority to transfer enforcement of a case from one county to another. The Probation Child Support Enforcement Unit must schedule the request for transfer before the CSHO or a judge before any transfer is made. Only in limited circumstances is a case to be transferred for enforcement. There are two reasons that a case may be transferred:

- Conflict of Interest (In the event an employee in the county of venue has a real or apparent conflict of interest arising from a personal interest or a relationship to a party with an interest in a child support case). These cases are handled administratively.
- Effective Enforcement (The court may order a case transferred to another county if it finds the transfer necessary to properly enforce or monitor the matter.)

See Administrative Office of the Courts Directive #3-05 and the Probation Child Support Enforcement Operations Manual, Intercounty Case Management Procedures, Section 2000.

1730.1 Responsibility of the Probation Child Support Enforcement Unit

The Probation Child Support Enforcement Unit determines whether there would be more effective enforcement including the likely execution of a warrant in the county of residence or conflict of interest. The case should be scheduled for a hearing with notice to the parties before a CSHO or a judge on the issue of enforcement and the transfer. The Probation Child Support Enforcement Unit staff must ensure that all relevant orders are in the file and that there is no pending litigation involving the case. Additionally, proof of address confirmation for both parties must be present in the file.

Conflict of Interest matters are not scheduled before a CSHO, rather they are handled administratively by the Assignment Judge or his or her designee, in consultation with the Family Presiding Judge, the Trial Court Administrator and/or the Chief Probation Officer or their designee. The Conflict of Interest cover letter accompanies the file when sent to the new county of enforcement.

The Probation Child Support Enforcement Unit staff must ensure that all relevant orders are in the file and that there is no pending litigation involving the case. Additionally, proof of address confirmation for both parties must be present in the file.

1730.2 The Hearing Process

When a case is scheduled for an Enforcement of Litigant's Rights hearing and a request for transfer of enforcement, the CSHO has authority to hear both issues. The CSHO must consider:

- whether there has been effective enforcement in the current county

- whether there would be more effective enforcement and monitoring of the case in the proposed county
- if a showing of good cause is demonstrated by the Probation Child Support Enforcement Unit. The Probation Child Support Enforcement Unit would show that the enforcement efforts were unsuccessful and the possibility of better results in the proposed county. For example, when recommending a bench warrant enforcement efforts may be more successful in the county where the obligor resides.

The CSHO must not recommend transfer of enforcement of the case where the obligor is in compliance. The CSHO must not recommend a transfer of enforcement when the residence of the obligor is temporary such as a prison, halfway house, treatment center, hospital or psychiatric facility. See Probation Child Support Enforcement Operations Manual, Intercounty Case Management Procedures, Section 2000.

1731 Appeal of Administrative Enforcement Remedies

The Probation Child Support Enforcement Unit staff schedules the contest of administrative enforcement remedies before the CSHO. The law provides criteria that the CSHO must use in making a recommendation regarding the appeal. Some of the appeals of enforcement remedies are:

- income withholding
- License Revocation/Suspension
- Federal Tax Offset
- Set-Off of Individual Liability (SOIL)
- Credit Bureau Reporting

These appeals of administrative enforcement remedies are defined in more detail below.

1731.I Initiated Income Withholding Appeal

After receiving the Notice to Obligor of Income Withholding, the obligor has 10 days to contest the income withholding action initiated by the Probation Child Support Enforcement Unit. R. 5:7-5(b)(c) and N.J.S.A. 2A:17-56.10(a). The Probation Child Support Enforcement Unit staff schedules the appeal of the income withholding before the CSHO when the administrative review does not resolve the contest.

The CSHO examines whether:

- it is the correct obligor
- there is an arrears balance of 14 days or more and the amount of the arrears owed.

The CSHO may use the arrearage payment schedule approved by Conference of Family Division Presiding Judges to determine the amount of arrears payment to recommend.

1731.2 License Revocation/Suspension Appeal

If an obligor fails to pay child support, the Probation Child Support Enforcement Unit may administratively move to revoke or suspend a license held by the obligor. License suspension should only be implemented when all other enforcement actions have been exhausted. The Probation Child Support Enforcement Unit sends a notice to the obligor of the revocation/suspension of all licenses held by the obligor. The license may be a driver's license, a professional license (including attorney license) and/or a recreational license. The obligor has 30 days from the postmark date of the notice to request a hearing to contest the revocation/suspension of his or her licenses. The Probation Child Support Enforcement Unit schedules the contest to license revocation/suspension before the CSHO. The CSHO reviews the case in accordance with N.J.S.A. 2A:17-56.41, 43 and 45, N.J.S.A. 2A:17-56.47 and R. 5:7-5 (e). See the Probation Child Support Enforcement Operations Manual, License Suspension/Revocation Procedures, Section 1608.

The CSHO may revoke or suspend a license if the following factors exist:

- other appropriate enforcements methods have been exhausted
- the obligor holds a license
- the child support arrears (six months or more) exist
- health-care coverage has not been provided for six months or more
- no motion to modify the order was filed before the date of the notice to suspend or revoke the license
- no equitable reason exists (involuntary unemployment, disability) for the obligor's noncompliance

The obligor may contest the license revocation/suspension based on hardship. If the CSHO finds that hardship would result, the CSHO may recommend that:

- the obligor pay 25% of the past-due amount within three days of the hearing
- establish a payment schedule to pay the remainder of the arrears within one year
- require that the obligor comply with the current child support obligation

The CSHO may also consider whether in the case of a driver's license, the revocation/suspension would result in hardship to the obligor, his or her legal dependents under age 18 in the obligor's household, or the obligor's employees.

1731.3 Federal Tax Offset

An obligor becomes subject to Federal Tax offset when \$150 in past due support is owed on TANF or the New Jersey the New Jersey Department of Children and Families IV-E

cases and the minimum amount of \$500 for is owed on a Non-TANF case. If the obligor owes the statutory criteria, a Pre Set-Off Notice automatically generates from the NJKiDS which informs the obligor of the intent to offset any or all federal tax refund. The obligor has the right to appeal within 30 days from the date of the Pre-Offset Notice. If the obligor disagrees with the Probation Child Support Enforcement Unit's administrative review, the obligor may file a motion. If the Probation Child Support Enforcement Unit staff determines that the issue is too complex, he or she schedules the case before a CSHO. 42 U.S.C. §664 and 45 C.F.R. §301.1 and §303.72.

The criteria for Federal Tax offset is a statutory minimum amount of \$150 for support assigned to TANF or the obligor may contest the offset based on the following:

- wrong person
- not qualifying arrears
- no child support arrears
- court order exempting the obligor's case from tax offset or based on a bankruptcy petition filed

1731.4 Set-Off of Individual Liability (SOIL)

When the obligor owes the equivalent of one month of accrued support or \$25 on an arrears only case, the case is certified for the Set-Off of Individual Liability (SOIL) program. The obligor's State income tax refund and/or Homestead Property Tax Rebate may be held to pay the past due support. The obligor has 35 days from the date of the Notice to file with the Division of Family Development which is responsible for the preliminary review. If the Division of Family Development determines there is validity to the appeal, the matter is referred to the Probation Child Support Enforcement Unit for further investigation ie., an audit to verify arrears. If the Probation Child Support Enforcement Unit staff thinks it is too complex an issue, he or she schedules the matter before a CSHO. 45 C.F.R. § 303.102, N.J.S.A. 2A:17-56.16 and N.J.S.A. 54A: 9-8.1. When the Division of Family Development denies the appeal on its initial review and the obligor disagrees, he or she must file a motion. See the Probation Child Support Enforcement Operations Manual, State Tax Intercept Procedures, Section 1619.

The obligor may contest the offset based on the following:

- mistake of fact
- arrears do not qualify
- pending bankruptcy action

1731.5 Credit Bureau Reporting

If an obligor owes arrears of a minimum of \$1,000 on a IV-D child support case, the NJKiDS selects the case and generates the Notice of Intent which is a self-mailer. The

Notice of the Intent is sent to the obligor and gives him or her an opportunity to contest. The obligor has 35 days from the date of notice to appeal. The appeal is filed with Probation Child Support Enforcement Unit staff. The obligor may contest on the basis that:

- the incorrect person has been reported
- a court order exempts the obligor from credit bureau reporting
- the arrears are less than \$1,000
- the arrears are not for child support, rather medical, educational or dental expenses

If the Probation Child Support Enforcement Unit is not able to resolve the appeal through its administrative review or if the obligor is not satisfied with the administrative review the matter is scheduled before a CSHO. The CSHO makes a recommendation based on testimony and documentation supplied. See 15 U.S.C. §1681a (f), 42 U.S.C. §666, and N.J.S.A. 2A:17-56.21. See the Probation Child Support Enforcement Operations Manual, Credit Bureau Reporting Procedures, Section 1608.

1732 Bankruptcy

An obligor may indicate during an enforcement hearing that he or she has filed a bankruptcy petition with the United State Bankruptcy Court. The obligor may file a Chapter 7 or Chapter 13 Bankruptcy petition. The less common filing may be a Chapter 11. Under Chapters 7 and 13, the automatic stay prevents certain administrative enforcement procedures such as Financial Institution Data Match (FIDM) and seizure of assets.

Some enforcement actions are not stayed by the filing of a bankruptcy petition. These enforcement remedies include but are not limited to:

- income withholding for current support
- income withholding for regular payment towards arrears from post petition income,
- Federal and State tax offsets,
- driver's license and professional license suspensions
- credit bureau reporting
- New Jersey Child Support Lien
- medical support enforcement.

1733 Uniform Interstate Family Support Act Enforcement

The Uniform Interstate Family Support Act (UIFSA) orders scheduled before the CSHO for enforcement are when the initiating state is not New Jersey. See UIFSA Section of this Manual.

1734 Request for Termination of IV-D Services

Parties may appear before the CSHO at an enforcement hearing and the obligee may request that IV-D services be terminated. For example, the parties may have reconciled.

The CSHO must ask the obligee whether he or she wants to convert the order to direct pay or vacate the order. The CSHO will prior to making a recommendation to convert to direct pay or vacate the support order:

- take testimony
- request picture identification from the obligee
- ensure that the County Welfare Agency is not the beneficiary of the current support order
- ensure that there is no active Domestic Violence Case (The CSHO must be sensitive to any indication of coercion or intimidation by the obligor over the obligee)

The CSHO must address any arrears owed. If arrears are owed to the obligee, the CSHO must address his or her arrears. For example, the obligee may want to waive arrears. If arrears are owed to the County Welfare Agency, the CSHO must address the arrears and ensure that payment toward County Welfare Agency arrears are still through the court. The parties must be instructed to sign in the appropriate part of the Uniform Summary Support Order covering termination of the IV-D services.

1735 Request for Increase or Decrease in the Support Order

The obligor will often raise the issue that he or she is unable to pay child support because the amount is too high. On the other hand, the obligee may state that the order is too low. The CSHO may advise the obligor/obligee that he or she may file a motion for a decrease/increase in the Family Division.

1736 The Defense of Lack of Parenting Time

During the enforcement hearing, the obligor may assert that he or she is not receiving visitation or parenting time. The lack of parenting time is not a valid defense to non-compliance with the child support order. The CSHO may instruct the obligor to file a complaint for parenting time if he or she does not have a current plan. If there is a current parenting time plan through the court, the CSHO may advise the obligor to file a motion for enforcement of the parenting time.

1737 Employer Enforcement

In some instances, the obligor will submit a pay stub to the CSHO or the Probation Child Support Enforcement Unit showing that the child support is being withheld by the employer/payor. However, the NJKiDS may show that no payments have been received. After the administrative enforcement remedies have been exhausted, the Probation Child Support Enforcement Unit may file an Order to Show Cause against an employer for violating the order to withhold monies from the obligor's paycheck. R. 1:10-3. The Probation Child Support Enforcement Unit may schedule the Order to Show Cause before a CSHO. R. 5:7-5(d) and N.J.S.A. 2A:17-56.11 Notice to Payor; binding; N.J.S.A. 2A:17-56.11b Income withholding provisions extended to cover medical support coverage; N.J.S.A. 2A:17-56.12 No discharge or discipline; suit by obligor.

1737.1 Enforcement Remedies against the Employer

If the CSHO finds that the employer/payor violated the support order, the CSHO may recommend several enforcement remedies that may be cumulative. Some enforcement remedies may be:

- a lump sum payment on the day of the hearing for the entire amount or a portion thereof for the child support that the employer/payor should have withheld for the time that the obligor was working and monies were not being withheld
- a lump sum payment by date certain
- enrollment of child(ren) for medical coverage by date certain
- payment for unreimbursed medical expenses as a result of lack of coverage

If the employer/payor appeals the recommendation of the CSHO, the matter is sent to the judge. If the matter becomes complex, the CSHO may refer it to the judge with explanation.

1737.2 Nonappearance of Employer

If the employer fails to appear on the Order to Show Cause, the CSHO must refer the matter to a judge with a completed Child Support Hearing Officer Referral Form with explanation. See Appendix 4. The CSHO does not have authority to recommend a default order or a bench warrant against the employer.

1738 Audits

An audit may be initiated by one of the parties, the CSHO, the judge, another state agency and/or the Probation Child Support Enforcement Unit staff because of an arrears dispute.

1738.1 The Responsibility of the Probation Child Support Enforcement Unit

The Probation Child Support Enforcement Unit may schedule an arrears dispute before a CSHO after every effort to resolve the arrears dispute has failed. The Probation Child Support Enforcement Unit should identify the issue involved in the arrears dispute and report the information to the CSHO on the day of the hearing. The Probation Child Support Enforcement Unit must provide a copy of the audit and relevant payment histories for the arrears dispute hearing. Arrears dispute hearings may be time consuming; therefore, the Probation Child Support Enforcement Unit staff should take this into consideration when scheduling a calendar.

1738.2 The Hearing Process

During the arrears dispute hearing, the CSHO may ascertain that the issue is simple. For example, the CSHO may see that the Probation Child Support Enforcement Unit did not have a particular order on the case or direct payment was not credited. If the arrears

dispute involves a simple issue, the CSHO may be able to resolve the issue during the hearing by reviewing the payment record.

Nonetheless, if the arrears dispute is complex, the CSHO may recommend an audit if one has not been done. For example, the arrears may involve public assistance arrears and therefore, the times the welfare recipient received public assistance would be relevant. Sometimes an arrears dispute exists with a Uniform Interstate Family Support Act case and the Probation Child Support Enforcement Unit may need to communicate with the other state. For example, tax intercepts may be involved and may not have been credited. The CSHO should try to identify the possible error or time period that an error may exist to assist the Finance Division with the audit. The CSHO may consider if an order was entered incorrectly, if arrears were calculated incorrectly and if the case was transferred from another county whether the other county needs to perform an audit.

If an arrears dispute has been scheduled before the CSHO and no audit has been done, the CSHO may recommend the audit and the case to be rescheduled after the audit has been completed and a copy mailed to the parties and attorneys.

During an enforcement hearing scheduled by the Probation Child Support Enforcement Unit or on a motion filed by one of the parties in the Family Division, the parties may disagree with the automated child support enforcement computer arrears. If the arrears dispute is simple, again the CSHO will try to resolve it during the hearing. If it is not, the CSHO will recommend an audit be done.

However, the CSHO must not recommend an audit simply because the obligor states that he or she does not agree with the arrears. The CSHO may advise the parties to make an appointment with the Probation Child Support Enforcement Unit staff to go over the payment history. Then, the party may bring his or her proof and compare it with the automated child support enforcement computer payment history.

1738.3 Responsibility of the Finance Division

In accordance with the order, the Finance Division reviews the account, payment histories and completes the audit. The Finance Division provides a cover sheet explaining the results of the audit. Then, the Finance Division sends the cover letter and the audit to the Probation Child Support Enforcement Unit. Probation Child Support Enforcement Units and Finance Divisions work cooperatively to resolve any discrepancies in the account records in accordance with the guidelines established in Section 2403 of the Probation Child Support Enforcement Operations Manual¹. The Probation Child Support Enforcement staff is expected to process all routine requests for financial reviews. If the Probation Child Support Enforcement Unit staff efforts fail to resolve the customer's concern, the matter should then be referred to the Finance Unit for an independent evaluation.

1738.4 Responsibility of the Probation Child Support Enforcement Unit after the Audit is Completed

Once an audit has been recommended, the Probation Child Support Enforcement Unit staff refers the audit to the Finance Division. After the audit is completed and received, the Probation Child Support Enforcement Unit sends out a copy of the audit to the parties and attorneys. The Probation Child Support Enforcement Unit staff places the audit in the Probation Child Support Enforcement Unit file or sends it to the Family Division to be placed in the court file for the next hearing. See Probation Child Support Enforcement Operations Manual, Section 2403, Audits.

1739 Uniform Summary Support Orders

The CSHO must make the recommendation on the Uniform Summary Support Order. The Uniform Summary Support Order must accurately identify the obligor, the obligee and the particular child(ren) that are involved in the case.

If a mistake has been made, a Probation-Prepared Child Support Order (PPCSO) may be prepared. A Probation-Prepared Child Support Order is a Uniform Summary Support Order prepared by the Probation Child Support Enforcement Unit staff and submitted along with supporting documentation to a judge for signature. R 1:13-1. See Probation Child Support Enforcement Operations Manual, Probation-Prepared Child Support Order Procedures, Section 1619.

1740 Appeal to the Judge

A party who appears before a CSHO has the right to object, or “appeal” a CSHO’s recommended decision and be heard immediately (usually on the same day) before a Family Part Judge. R. 5:25-3(d)(2). See Appendix 4.

1741 Referral to the Judge

A CSHO may make a preliminary determination that the matter is either outside the jurisdiction of a CSHO or sufficiently complex that it must be heard by a judge. Some reasons for referral of a matter to the judge include:

- Active Warrant
- Active Domestic Violence Restraints
- Recommendation of Incarceration
- Parties Not Amenable to Appearing Before the CSHO (Standard 7)
- Matter Outside the Authority of the CSHO
- Complex Issue See Appendix 4.

See Memorandum to Assignment Judges, February 14, 2003, Child Support Hearing Officer Program-Protocol for Appeals and Referrals to Judges.

1742 Rescheduling of Enforcement Hearings

If the CSHO is not satisfied with the service on the obligor reported by the Probation Child Support Enforcement Unit Probation Officer, the CSHO will reschedule the case for hearing.

The CSHO may use the Post Hearing Case Processing form if approved in the county and if the case is not a Uniform Interstate Family Support Act (UIFSA) case. Since the Post Hearing Case Processing form is not signed by a judge, some states do not acknowledge the form. See Appendix 4.

1743 Post-Hearing Responsibility of the Probation Child Support Enforcement Unit

The Probation Child Support Enforcement Unit is responsible for complying with the order from the enforcement hearing. Accordingly, the Probation Child Support Enforcement Unit staff should update information in the NJKiDS after the enforcement hearing and monitor whether the obligor complies with the order.

1744 Post-Hearing Responsibility of the Finance Division

After receipt of the order, the Finance Division will comply with the order. If the CSHO has recommended an audit, the Finance Division should perform the audit upon receipt of the order and send out a copy to the parties.

1800 Uniform Interstate Family Support Act (UIFSA) Proceedings

The Uniform Interstate Family Support Act (UIFSA) is state law enacted in response to federal legislation governing interstate parentage and support proceedings. N.J.S.A. 2A:4-30.65-30.123. As a part of Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, states were required to adopt UIFSA and 1996 amendments. New Jersey adopted UIFSA effective March 5, 1998. UIFSA matters are summary actions for support. R. 5:6-1 and R. 6-4. The designated tribunal according to the law is the Superior Court, Chancery Division, Family Part. N.J.S.A. 2A:4-30.66. The tribunal is defined as “a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.” N.J.S.A. 2A:4-30.65. Please note that New Jersey has not adopted the 2001 amendments to UIFSA.

Several interstate authorities were enacted to address support issues when parties reside in different states. The Uniform Reciprocal Enforcement of Support Act (URESA) and the Revised Uniform Reciprocal Enforcement of Support Act (RURESA) attempted to address the problems with interstate support issues such as a state modifying another state’s order. Some cases entered under URESA still exist. Full Faith and Credit for Child Support Orders Act (FFCCSOA) specifically requires that a state grant full, faith and credit to an order issued by another state where the other state had jurisdiction over the individual.

UIFSA was created to address support issues when parties reside in different states. The law provides rules to ensure that there is only one order for the same child and parents. Important definitions are provided under UIFSA. N.J.S.A. 2A:4-30.65 related to child support proceedings.

1801 The Authority of the Child Support Hearing Officer

The Child Support Hearing Officer (CSHO) is authorized under R. 5:25-3 (b)(6) to hear UIFSA cases. Under UIFSA, parties may file regarding parentage and/or child and/or spousal support. N.J.S.A. 2A:4-30.77.

1802 Self-Represented Litigants

Most of the litigants appearing in child support matters before the CSHO are self-represented or pro-se. The Family Division staff should have a clear understanding of their issues and challenges. Every effort should be made by the CSHO and staff to explain the process and answer questions in plain language. Awareness and quality customer service will increase the court’s effectiveness, promote compliance with court orders, and make the courts more accessible to all. The Family Division staff may refer self-represented litigants to the Vicinage Ombudsman for further assistance. The Office of the Ombudsman provides services in the areas of the public information, community relations, and court user assistance. The role of the Ombudsman is to:

- assist court users navigate through the court system
- explain processes, procedures and options available for the court user

- inquire to find answers for self-represented litigants
- handle complaints and
- provide publications and materials.

1803 One State Process-Long-Arm Jurisdiction

In those circumstances where a defendant parent resides out-of-the state UIFSA provides two procedural routes. One route is for New Jersey to attempt to obtain long-arm jurisdiction over the out-of-state resident. This process, in appropriate circumstances, summons the out-of-state resident to New Jersey allowing the case to be heard in New Jersey pursuant to New Jersey law. In accordance with due process to exercise long-arm jurisdiction, there has to be some minimal contacts that the defendant has with New Jersey. N.J.S.A. 2A:30.68 Personal jurisdiction over nonresidents. If that is neither appropriate nor possible, a UIFSA petition is filed instead in New Jersey for forwarding to the state where the non-New Jersey resident resides to be heard in that state pursuant to that state's law.

1803.1 Responsibility of the Family Division in Long-Arm Cases

When a plaintiff files an action against a defendant who lives out-of- state, the Family Division staff should first attempt the long arm jurisdiction process. Under UIFSA, New Jersey is allowed under certain circumstances to exercise long-arm jurisdiction over a defendant non-resident of New Jersey to establish parentage and/or child support.

In order to establish long-arm jurisdiction, the plaintiff has to state the minimal contacts that the non-resident has with New Jersey by providing a written statement. UIFSA specifies under N.J.S.A. 2A:30.68 that minimal contacts exist where:

- person is personally served with a summons or notice in New Jersey
- person submits to jurisdiction of New Jersey by consent, entering a general appearance, or by filing a responsive document having the effect of waiving any objection to jurisdiction
- person resided with the child in New Jersey
- person resided in New Jersey and provided prenatal expense or support for the child
- the child resides in New Jersey as a result of the acts or directives of the person
- person had sex in New Jersey and the child may have been conceived by that sexual act; or
- there is any other basis consistent with the constitutions of New Jersey and the United States to exercise personal jurisdiction

The long-arm process is initiated by the filing of a verified complaint for parentage only or parentage and child support with the Family Division. Under R. 5:4-2, the underlying basic reason for the relief should be stated in the complaint. The statute relied upon should be included in the complaint. A separate document explaining the basis for the long arm jurisdiction should be attached to the complaint.

The Family Division staff has the plaintiff sign the complaint. If the plaintiff wishes to have IV-D services, the Family Division staff has the plaintiff complete a IV-D Application and pay the minimum fee for IV-D services. If parentage has been previously acknowledged by the parents, a copy of the Certificate of Parentage (COP) or other written acknowledgment is filed with the complaint for support. R. 5:4-2. Once the complaint is filed, the Family Division staff schedules the case before the CSHO.

1803.2 Responsibility of the Finance Division

The Finance Division staff is responsible for the recording and collection of the Title IV-D Application Fee.

1803.3 Hearing Process

The CSHO reviews the complaint, documentation and testimony in the case and applies the appropriate law. The CSHO determines whether there is a legal basis to exercise long-arm jurisdiction. If the CSHO finds that there is no legal basis for long-arm jurisdiction, the complaint will be dismissed without prejudice. The basis for the recommendation should be provided on the Uniform Summary Support Order. See Appendix 4.

If the CSHO recommends a finding that there is a legal basis to assert jurisdiction and is satisfied with the service on the defendant for the hearing; then, the matter may proceed as an in-state establishment of parentage and support proceeding. The CSHO will state the basis for exercising the long-arm jurisdiction on the Uniform Summary Support Order. See Establishment Section of this Manual.

1803.4 Post-Hearing Case Processing

Responsibility of the Family Division

When the CSHO recommends a finding that there is no legal basis for long-arm jurisdiction or when the filing party cannot state any minimum contacts upon which to file a long-arm in the interview with the Family Division Intake staff, the filing party may file an out-going UIFSA petition through the Family Division to the state where the defendant resides.

When the CSHO makes a recommendation for establishment of parentage and/or child support, the Family Division staff follows procedures under the Establishment Section of this Manual.

Responsibility of the Probation Child Support Enforcement Unit

If the CSHO makes a recommendation for establishment of parentage and/or child support, the Probation Child Support Enforcement Unit staff should proceed as under the Establishment Section of this Manual.

1804 UIFSA, Two State Process

1804.1 Authority of the Child Support Hearing Officer

The Child Support Hearing Officer (CSHO) is authorized to conduct hearings in two state proceedings under UIFSA. R. 5:25-3 (b)(6). In two state process UIFSA cases, the CSHO only hears matters in which New Jersey is the responding state (The other state initiates a petition requesting certain action be taken in New Jersey).

1804.2 Subject Matter Jurisdiction

Availability of Relief

The relief requested may be parentage only, parentage and child support and medical support and/or spousal support. N.J.S.A. 2A:4-30.93.

The CSHO has no jurisdiction to address custody and parenting time issues under UIFSA two state proceeding.

Standing

UIFSA allows both the obligee, the person who is authorized to receive the support and the obligor who is required to pay the support to file for relief as a petitioner. N.J.S.A. 2A:4-30.83.

1805 Responsibility of Interstate Central Registry

The UIFSA petition is sent by the initiating state to the Interstate Central Registry (ICR). In New Jersey, the Interstate Central Registry is the Administrative Office of the Courts, Probation Services Division. The Interstate Central Registry is responsible for:

- stamping the petition with the date received prior to forwarding the petition
- entering the case on the NJKiDS
- reviewing the petition for any missing documents
- sending the interstate petition to the appropriate county
45 C.F.R. § 303.7, N.J.S.A. 2A:4-30.86.

1806 Responsibility of the Family Division

Upon receipt, the Family Division staff is responsible for the following:

- reviewing the file to see if the matter has been forwarded to the proper county
- stamping the petition with the date received
- docketing

- scheduling the matters for hearing before the CSHO

There are no filing fees for UIFSA cases. N.J.S.A. 2A:4-30.89.

In accordance with the Non-Dissolution Manual, the Family Division staff researches to see if the parties named in the UIFSA petition have any New Jersey cases. If there is a New Jersey case, the file should be provided for the CSHO to review along with the UIFSA file. UIFSA allows and encourages communication between the states N.J.S.A. 2A:4-30.93. Therefore, if the Family Division staff sees that documents are omitted or additional clarification in what is being requested is needed, he or she may contact the initiating state.

1807 Service of Process

The Family Division staff sends out the petition and summons simultaneously by regular and certified mail to the respondent, the initiating state and the County Welfare Attorney. R. 5:4-4. The Family Division staff shall place any return of service in the court file prior to the hearing before the CSHO.

1808 Responsibility of County Welfare Agency

1808.1 County Welfare Attorney

The County Welfare Attorney is responsible for providing representation in UIFSA matters. Each case has an assigned attorney. The CSHO does not represent any party or agency and cannot prosecute the case. Therefore, if the County Welfare attorney does not appear for the hearing, the CSHO may recommend a dismissal of the case without prejudice for lack of prosecution. N.J.A.C. 10:110-3.2 (d).

1808.2 County Welfare Agency Locate Responsibilities

If the CSHO recommends that the petition will be dismissed because the defendant is not able to be located, the CSHO will refer the case for parent locator service. The County Welfare Agency has the responsibility to attempt to locate the non-custodial parent. The County Welfare Agency will communicate with the Family Division the results of the location efforts. If an address is found in New Jersey, an application may be filed to vacate the dismissal and reinstate the complaint. Then, the Family Division staff will reschedule the case before the CSHO after receipt of information from the County Welfare Agency. N.J.A.C. 10:110-3.2.

If the County Welfare Agency does not locate the respondent in New Jersey; then, the Family Division staff will send the UIFSA petition back to the initiating state for a better address.

1809 Hearing Process

The CSHO will carefully review the pleadings filed by the initiating state in accordance with N.J.S.A. 2A:4-30.87. The CSHO will hear the testimony and examine affidavits supplied by the initiating state in the petition. The CSHO will hear testimony from the respondent in the matter. The petition must be verified by the initiating state.

If other orders exist and/or other files regarding the same child and parties, the CSHO will review the other orders. The initiating state is required to supply copies of prior orders. The CSHO may recommend that other orders or files be produced. R. 5:25-3(c) (4).

Upon reviewing the matter as the responding state, the CSHO may recommend in accordance with law, relief specified under N.J.S.A. 2A:4-30.81.

Parentage matters are addressed in closed proceedings. If there has been a prior order or acknowledgement of parentage, the issue of the finding of paternity as a defense may not be argued under UIFSA. N.J.S.A. 2A:4-30.91. If there has not been a prior determination of parentage, the CSHO uses New Jersey law. N.J.S.A. 2A:4-30.96.

The Conference of Family Division Judges determined that the date of filing for incoming UIFSA petitions is the date of receipt by the Interstate Central Registry.

1809.1 Forwarding of Documents to Appropriate Tribunal

If the CSHO finds that the Interstate Central Registry sent the petition to an inappropriate tribunal, the CSHO will recommend that the petition be forwarded to the appropriate tribunal.

The Family Division Staff will notify the petitioner and the initiating tribunal where the petition was sent. N.J.S.A. 2A:4-30.82.

1809.2 Evidence

Under UIFSA, a verified petition, affidavit, documentation substantially in compliance with the federally mandated forms, or documents incorporated by reference if not excluded by the hearsay rule are admissible if given in person under oath by a party residing in another state. N.J.S.A. 2A:4-30.92(b).

The petitioner does not have to appear for the hearing. Under UIFSA, the petitioner may be allowed to give testimony by telephone. N.J.S.A. 2A:4-30.92(a). The evidence rules under UIFSA also allow for electronic transfer of information by telephone, telecopier or other means that does not provide the original writing, to be admitted into evidence at the hearing. N.J.S.A. 2A:4-30.92(e).

1809.3 Safeguarding Information

UIFSA provides for nondisclosure of identifying information if there is an ex parte finding or an order from a tribunal that disclosure would unreasonably put at risk health, safety, or liberty of a party or child. N.J.S.A. 2A:4-30.88. Once the request for nondisclosure is received the Family Division staff must diligently safeguard information and redact the victim's address before service.

1809.4 Valid Other State Orders

The CSHO has to recognize other states' child support orders. Federal law under the Full Faith and Credit for Child Support Orders Act (FFCCSOA) requires that a state grant full, faith and credit to an order issued by another state where the other state had jurisdiction over the individual. 28 U.S.C. §1738B.

1809.5 Choice of Law

Under UIFSA once an interstate petition has been filed, the law of the responding state applies. The CSHO will use New Jersey law. Therefore, as the responding state, New Jersey child support law applies such as the New Jersey Parentage Act and Child Support Guidelines. In interstate support proceedings, the CSHO hears only matters with New Jersey as the responding state. N.J.S.A. 2A:4-30.79.

1809.6 No Prior Order

If there is no prior court order, the CSHO conducts the hearing pursuant to N.J.S.A. 2A:4-30.96. A temporary order may be recommended if there is legal proof of parentage after a finding that due process requirements are met.

1809.7 Use of the Uniform Summary Support Order

Once a CSHO has conducted a hearing upon an interstate petition, the disposition of that hearing must be recorded on the Uniform Summary Support Order. Each Uniform Summary Support Order entered is forwarded to the initiating state which becomes the primary method of communicating to the foreign state the status of the New Jersey proceedings. Therefore, even if the CSHO is rescheduling a case for proper service, that disposition must be recorded on the Uniform Summary Support Order for submission to a judge and not on an alternate Post Hearing Case Processing form. R. 5:7-4(b), Appendix XVI. See this Manual, Appendix 4.

1809.8 Genetic Testing

THIS SECTION IS UNDER DEVELOPMENT.

1810 Post-Hearing Case Processing

1810.1 Responsibility of the Family Division

The Family Division staff must:

- obtain the signature of the judge
- enter the order establishing parentage and/or child support on the NJKiDS
- forward the child support order and complete file to the Probation Child Support Enforcement Unit for monitoring, collection and enforcement

1810.2 Responsibility of the Probation Child Support Enforcement Unit

Once the order and file are sent to the Probation Child Support Enforcement Unit; it is assigned to staff for monitoring, collecting and enforcing the order. The Probation Child Support Enforcement Unit assigns a Probation Child Support Enforcement Unit case worker to the case.

1811 Petition to Modify New Jersey Order

The initiating state may file a UIFSA petition on behalf of an individual or agency requesting modification or modification and enforcement of a New Jersey order such as an increase or decrease of the support order. The person or agency filing in the initiating state cannot be a current resident of New Jersey. The initiating state files a petition using federally approved forms. N.J.S.A. 2A:4-30.77 and N.J.S.A. 2A:4-30.73 b. New Jersey may act as the responding state if it has continuing exclusive jurisdiction.

1811.1 Responsibility of Interstate Central Registry

The Interstate Central Registry performs the following tasks:

- receives the petition for modification
- stamps the petition filed and date received
- reviews the petition for any missing documentation from the initiating state and and requests documents be forwarded
- forwards it to the appropriate county of venue

1811.2 Responsibility of the Family Division

The Family Division staff is responsible for:

- reopening the case
- scheduling the petition before the CSHO
- sending the notice and the moving papers simultaneously by regular and certified mail. R. 5:5-4

1811.3 Hearing Process

If the initiating state is filing for modification, the basis for the request for modification must be stated in the petition. The CSHO carefully reviews the petition and testimony of the respondent, and makes a recommendation. The basis for the recommendation should be stated on the Uniform Summary Support Order. See Appendix 4.

If either the respondent or the County Welfare Attorney who is representing the interests of the out-of-state petitioner, disagrees with the recommendation of the CSHO, either has a right of appeal before a judge. Moreover, the CSHO may also refer the matter to the

judge for appropriate reasons. See Establishment, Appeals and Referrals Section of this Manual.

1812 Multiple Orders

When the CSHO ascertains that there is more than one order in place for the same parties and the same child(ren), the CSHO must determine which order is controlling. The purpose of UIFSA is to ensure there is only one child support order for the same child at one time. UIFSA provides a mechanism for determining which order is controlling. N.J.S.A. 2A:4-30.74.

1812.1 Controlling Order

The controlling order is the order that governs the support prospectively. If only one tribunal has issued a child support order, the order of that tribunal controls. Continuing Exclusive Jurisdiction (CEJ) may or may not be a factor. N.J.S.A. 2A:4-30.74 a.

If only one tribunal has Continuing Exclusive Jurisdiction, that order is the controlling order. N.J.S.A. 2A:4-30.74 b (1).

If more than one jurisdiction has Continuing Exclusive Jurisdiction because one of the parties resides in the state; then, the child's current home state controls. N.J.S.A. 2A:4-30.74 (2). If there is no home state for the child, the state that has issued the most recent order has the controlling order. N.J.S.A. 2A:4-30.74 b (2).

If there is no tribunal with Continuing Exclusive Jurisdiction, the tribunal that has jurisdiction over the parties shall issue the controlling order. N.J.S.A. 2A:4-30.74 (3).

When there is more than one tribunal that has Continuing Exclusive Jurisdiction, the CSHO will have to determine which state has the controlling order. A party may request that New Jersey determine which order is the controlling order. The party must provide certified copies of each order. The party must also give notice of the request to each party whose rights may be affected by a determination. N.J.S.A. 2A:4-30.74 c.

1812.2 Arrearages

The CSHO must calculate and determine the arrearages. The amount collected and credited for a support order issued by a tribunal of another state must be credited against the amounts accruing under an order in New Jersey accruing for the same period. N.J.S.A. 2A:4-30.76. The highest child support order for the period it was in effect controls.

1812.3 After a Controlling Order Determination

The CSHO must state the basis for the determination of controlling order on the Uniform Summary Support Order. N.J.S.A. 2A:4-30.74 e. See Appendix 4.

1812.4 Post-Hearing Case Processing, Responsibility of the Family Division

The Family Division obtains the judges' signature and forwards the order to the Probation Child Support Enforcement Unit and the Finance Division. Within 30 days after the order is signed determining which order is controlling, a certified copy of it should be filed with each court that issued or registered an earlier child support order. N.J.S.A. 2A:4-30.74 f.

1812.5 Post-Hearing Case Processing, Responsibility of the Probation Child Support Enforcement Unit

Once the CSHO has made a determination of the controlling order and a judge signs the recommendation, the order and file are sent to the Probation Child Support Enforcement Unit where it is assigned to staff for monitoring, collecting and enforcing the order.

1812.6 Post-Hearing Case Processing, Responsibility of the Finance Division

The Finance Division staff is responsible for processing any modification of child support orders.

1813 Hearing Process

1813.1 Continuing Exclusive Jurisdiction

The CSHO reviews which jurisdiction has Continuing Exclusive Jurisdiction (CEJ) pursuant to UIFSA. Continuing Exclusive Jurisdiction is defined under N.J.S.A. 2A:4-30.72 Continuing exclusive jurisdiction of tribunal; exceptions; modifications.

The court of New Jersey issuing child support continues to have Continuing Exclusive Jurisdiction:

- as long as either the obligor, obligee or the child for whom the support is for continues to reside in New Jersey
- until all of the parties have filed a written consent for another state to modify the order and assume Continuing Exclusive Jurisdiction

In order for the CSHO to proceed to modify an order, New Jersey has to have Continuing Exclusive Jurisdiction. New Jersey loses Continuing Exclusive Jurisdiction if another state under UIFSA modifies the support order. N.J.S.A. 2A:4-30.72.

If the New Jersey order is modified by another state, then, New Jersey loses Continuing Exclusive Jurisdiction regarding prospective enforcement and can only enforce the order as to monies accrued before the modification, enforce non-modifiable aspects of the order and address violations of the order that occurred prior to the modification.

New Jersey must recognize another state's Continuing Exclusive Jurisdiction status.

Continuing Exclusive Jurisdiction is not created by a temporary order issued ex parte or pending resolution of a jurisdictional conflict in the issuing state.

Note that under UIFSA, a party who has a judgment of divorce in New Jersey and has moved from New Jersey has the option of filing for a modification of the child support/spousal support only directly with New Jersey or filing a UIFSA petition to modify the New Jersey divorce judgment.

1814 Application by Party Resident in New Jersey

Once New Jersey has entered an UIFSA order, the party residing in New Jersey, the respondent, may file a motion regarding the UIFSA case in the Family Division in New Jersey.

1814.1 Responsibility of the Family Division

The Family Division staff processes the respondent's motion with the Family Division. Then, the Family Division staff sends an initial informal notice to the initiating state including a copy of the motion to allow for initial comment, response or opposition. Any response must be placed in the file in advance of the hearing. Thereafter the Family Division schedules the motion for hearing before the CSHO and sends a formal notice of hearing and a copy of the motion for service upon the initiating state by both regular and certified mail. A copy is also served upon the moving party and the County Welfare Agency.

If the respondent is making a request for review of the arrears or an audit or an issue directly involving the Probation Child Support Enforcement Unit, the Family Division staff should alert the appropriate Probation Child Support Enforcement Unit. Otherwise, the CSHO may have to reschedule the hearing because of inability to proceed with sufficient information or documents.

1814.2 Responsibility of the County Welfare Attorney

The County Welfare attorney will represent the IV-D agency at the UIFSA modification hearing. N.J.A.C.10:110-3.2(d). The County Welfare Attorney may need to contact the initiating state regarding the issue raised by the respondent.

If the County Welfare Attorney is not present, the CSHO may proceed on the motion, and based on testimony and documents submitted enter a default order.

1814.3 Hearing Process

The CSHO will review the motion papers for modification. Again, except for non-modifiable terms, New Jersey law controls. The respondent must first show a prima facie case of substantial change of circumstances. Once the showing of substantial change of circumstances has been made, the CSHO will review the parties' financial proofs. The CSHO will make a recommendation on the modification based on testimony and documents presented at the hearing.

If the CSHO recommends a finding that there is no showing of substantial change in circumstances, the modification motion is denied without prejudice. The CSHO will not proceed to review any financial proofs. The CSHO must state the reason for the recommendation on the Uniform Summary Support Order. If the motion has been sent to the initiating state and there is no response from the initiating state, the CSHO may enter a recommendation by default. See the Modification Section of this Manual.

1814.4 Post-Hearing Case Processing

Responsibilities of the Family Division

The Family Division is required to advise the initiating state of the results of the hearing and send a copy of the Uniform Summary Support Order to the initiating State and to the Probation Child Support Enforcement Unit. If CSHO recommends that additional information is to be submitted by the initiating state, the Family Division staff places the received documentation or clarification in the file prior to the next hearing.

Responsibilities of the Probation Child Support Enforcement Unit

The Probation Child Support Enforcement Unit is required to follow the disposition on the Uniform Summary Support Order and make necessary adjustments in accordance with the order.

1815 Registration for Modification of Another State's Order

If an individual or agency from another state wishes to modify another state's order, the initiating state must file a petition to register the order for modification. N.J.S.A. 2A:4-30.112.

1815.1 Subject Matter Jurisdiction

When New Jersey does not have Continuing Exclusive Jurisdiction over a spousal support order, it cannot act as a responding tribunal to modify a spousal support order of another state. N.J.S.A. 2A: 4-30.73 c.

1815.2 Standing

If there is no party or child residing in the issuing state, the party seeking to modify or modify and enforce a child support order entered into in another state has to register the order in the state with jurisdiction over the nonmoving party for purpose of modification. N.J.S.A. 2A:4-30.114.

1815.3 Responsibility of Interstate Central Registry

The Interstate Central Registry processes the Interstate Petition for Registration. The petition for registration may be a petition for registration of modification or enforcement only or for modification and enforcement of another state's order. The Interstate Central Registry ensures that the Petition for Registration is sent to the appropriate county and is stamped with the date received. N.J.S.A. 2A:4-30.112.

1815.4 Responsibility of the Family Division

The Family Division staff receives the petition from Interstate Central Registry:

The Family Division staff is responsible for:

- reopening the case
- scheduling the petition before the CSHO
- sending the notice and the moving papers simultaneously by regular and certified mail. R. 5:5-4

1815.5 The Hearing Process

The CSHO has jurisdiction to recommend a modification of another state's order if: the child, obligee, and the obligor do not reside in the issuing State, the petitioner who is a nonresident of New Jersey is seeking the modification and the respondent is subject to the personal jurisdiction of New Jersey or the child or a party subject to personal jurisdiction in New Jersey and all of the individual parties consent to jurisdiction of New Jersey. N.J.S.A. 2A:4-30.114.

If the CSHO makes a recommendation to register the order for modification and modifies the order, New Jersey then becomes the state with Continuing Exclusive Jurisdiction. The New Jersey order then becomes the controlling order.

1815.6 Choice of Law

The CSHO applies New Jersey law. However, the CSHO must interpret the other states order in accordance with the law of the other state. The CSHO cannot modify non-modifiable portions of the order issued in the other state such as the date of emancipation. After the order is modified, New Jersey becomes the state with Continuing Exclusive Jurisdiction.

1815.7 Enforcement of Another State's Order Registered for Modification

The CSHO may hear enforcement of an order registered for modification in this state as if the order was issued in New Jersey. N.J.S.A. 2A:4-30.113.

1815.8 Responsibility of the Probation Child Support Enforcement Unit

The Probation Child Support Enforcement Unit assigns a caseworker to the case and is responsible for monitoring, collection and enforcement of the support order.

1816 Registration for Enforcement of Another State's Order

Another state on behalf of an individual or an agency may file a petition to register the order for enforcement only or modification and enforcement in New Jersey. N.J.S.A. 2A:4-30.105 and N.J.S.A. 2A:4-30.112. A support order issued in another state is registered in New Jersey when the certified order is filed with this state. N.J.S.A. 2A:4-30.106 a. A petitioner may file a petition for enforcement where the respondent lives, works or owns property.

1816.1 Responsibility of the Interstate Central Registry

The Interstate Central Registry receives the petition for enforcement of third state's order from the initiating state. The Interstate Central Registry is responsible for:

- stamping the petition with the date received prior to forwarding the petition
- entering the case on the NJKiDS
- reviewing the petition for any missing documents
- sending the interstate petition to the appropriate county

1816.2 Responsibility of the Family Division

The Family Division staff notifies the non-registering party that the support order from the other state has been registered in this state. The Family Division staff docket and processes the case. In addition, the Family Division staff sends the notice of registration, copy of the order and other relevant documents to the non-registering party.

The Family Division staff is responsible for advising the non-registering party that the registered order is enforceable as of the date of registration, that the non-registering party has within 20 days after the date of mailing of the notice to request a hearing to contest the validity of or enforcement of the registered order, and that failure to contest the validity of or enforcement of the registered order in the required time results in the confirmation and enforcement of the order and the alleged arrearages. Failure to contest also prohibits any future contest of whatever could have been raised at that hearing. In addition, the notification must also state the amount of arrearages. N.J.S.A. 2A:4-30.108.

If documents are missing from the petition, the Family Division contacts the other state to have those forwarded.

If the non-registering party requests a hearing to contest the registration within the specified time period, the Family Division staff sends a copy of the contest to registration to the registering party in the other state, the non-registering party, the Probation Child Support Enforcement Unit, and the County Welfare Attorney. The Family Division staff schedules the hearing before a CSHO. N.J.S.A. 2A:4-30.109(c).

1816.3 Hearing Process

The CSHO hears the contest hearing in accordance with N.J.S.A. 2A:4-30.110. The non-registering party may contest the validity, enforcement or request vacating registration based on the following grounds:

- the issuing tribunal lacked personal jurisdiction over the contesting party;
- the order was obtained by fraud;
- the order has been vacated, suspended, or modified by a later order;
- the issuing tribunal has stayed the order pending appeal;
- there is a defense under the law of this State to the remedy sought;
- full or partial payment has been made; ...

The CSHO reviews the petition and other federally approved forms submitted and the certified copy of the support order registered for enforcement. The CSHO also reviews the testimony and proof submitted by the respondent. The CSHO affords the order Full, Faith and Credit while considering the above factors that the respondent asserts. If the CSHO recommends a finding that the non-registering party established a defense, the CSHO may recommend a stay of enforcement of the registered order or continue the hearing to allow the non-registering party to present relevant evidence or recommend any other appropriate order.

If the CSHO recommends a finding that the non-registering party has not established a valid full or partial defense, the CSHO shall make a recommendation confirming the order which precludes any further contest of the order concerning any issue that could have been asserted at the hearing. N.J.S.A. 2A: 4-30.111.

The CSHO may recommend enforcement of any provision of the support order that is uncontested during a stay.

The CSHO must also determine the arrears. The highest child support order controls when there are multiple orders for the calculation of arrearages. N.J.S.A. 2A:4-30.76.

Once the order is registered for enforcement, the CSHO hears the matter for enforcement. Under UIFSA, income for purposes of enforcement is clearly defined. N.J.S.A. 2A:4-30.65. The CSHO does not have any authority to modify the order. See Enforcement Section.

1816.4 Choice of Law

When hearing a petition regarding enforcement, the CSHO applies the law of the issuing state for nature, extent, amount and duration of current payments and payment of arrearages. Please note that New Jersey does not have a statute of limitations regarding arrears. N.J.S.A. 2A:4-30.107.

1816.5 Responsibility of the Probation Child Support Enforcement Unit

The Probation Child Support Enforcement Unit acts as the support enforcement agency of New Jersey. N.J.S.A. 2A:4-30.65 The Probation Child Support Enforcement Unit staff creates a case file and monitors and enforces the case. The Probation Child Support Enforcement Unit staff schedules hearings for enforcement, obtains relevant information and notifies the petitioner if jurisdiction over the respondent cannot be obtained. N.J.S.A. 2A:4-30.83.

1817 International Support Orders

Some parents move from one jurisdiction to another. One parent may reside in the United States and the other parent may reside in a foreign jurisdiction. Under the Personal Responsibility and Work Reconciliation Act of 1996 (PRWORA), the United States Department of State may make International reciprocity agreements on behalf of

states. See 42 U.S.C.A. § 659a. It can be by agreement or declaration of reciprocity. The other jurisdiction establishes procedures for establishment and enforcement of duties of support owed to parties who are residents of the United States. The United States has reciprocity with several jurisdictions that are listed on the United States Department of Health and Human Services, Office of Child Support Enforcement Web site. Individual countries that New Jersey has reciprocity agreements with can be found on the Infonet. The law also permits individual states to have or continue reciprocating arrangements with foreign jurisdictions. Under UIFSA, a tribunal may act if the foreign jurisdiction has enacted a law or procedure similar to UIFSA or RURSEA. The petition filed by the foreign jurisdiction will be in the language of the foreign jurisdiction and in English. Similar to New Jersey the foreign jurisdiction will have a child support agency.

1817.1 The Authority of Child Support Hearing Officer

The Child Support Hearing Officer (CSHO) has jurisdiction to hear international child support cases under UIFSA. International and Interstate child support matters are treated similarly.

1818 Appeal to the Judge

A party who appears before a CSHO has the right to object, or “appeal” a CSHO’s recommended decision and be heard immediately (usually on the same day) before a Family Part Judge. R. 5:25-3(d)(2). See Appendix 4.

1819 Referral to the Judge

A CSHO may make a preliminary determination that the matter is either outside the jurisdiction of a CSHO or sufficiently complex that it must be heard by a judge. Some reasons for referral of a matter to the judge include:

- Active Warrant
- Active Domestic Violence Restraints
- Recommendation of Incarceration
- Parties Not Amenable to Appearing Before the CSHO (Standard 7)
- Matter Outside the Authority of the CSHO
- Complex Issue See Appendix 4.

See Memorandum to Assignment Judges, February 14, 2003, Child Support Hearing Officer Program-Protocol for Appeals and Referrals to Judges.

1900 Child Support Program Standards and Manuals

The New Jersey Judiciary is committed to a uniform system of justice and to excellence in the quality of service statewide. To that end the Judiciary has developed an approach for identifying, evaluating and implementing best practices in all substantive areas of the law. On April 30, 2002 The New Jersey Supreme Court approved Child Support Hearing Officer Program Standards. See Appendix 5. In 2007 those standards were expanded. The Following Child Support Hearing Officer Program Standards were developed in order to ensure that matters placed before the Child Support Hearing Officer would be processed in a uniform and expedited manner. This section sets forth a summary of the present 13 Child Support Hearing Officer Program Standards.

1. In all non-dissolution matters, the initial service of the complaint should be by certified and regular mail in accordance with R.5:4-4(b). A default order rather than a bench warrant shall be recommended when service is effective. In making recommendations for default orders, in the absence of any proofs or information as to the obligor or obligee's earnings or employment, minimum wage shall be used in imputing income. (The CSHO should establish a fair order that is supported by the findings of fact on the record. See New Jersey Rules of Court, Appendix IX-A, §12.)
2. The CSHO shall attempt to resolve custody and/or parenting time issues by consent when the complaint includes companion issues of paternity, support or medical support. Stand-alone custody and parenting matters, even when uncontested, should not be calendared for a hearing before a CSHO.
3. Parties present at the hearing shall receive a copy of the recommendation they and the CSHO sign before they leave the courthouse. An order signed by the judge will later be mailed to the parties. In support establishment cases, the parties shall receive a CS number on the order along with payment instructions for the obligor. The CSHO shall place on the record the necessary demographics and assist in the verification of demographics.
4. In each case involving the establishment or modification of support, the CSHO shall provide copies of the Guidelines Worksheet for the court file, to the parties and to counsel. Each county shall provide a laser printer (or a copier) in the hearing facility in order to facilitate compliance with this standard as well as assist in the processing of appeals and to provide good customer service.
5. The CSHO does not have the authority to reopen a Judgment of Paternity. Motions to reopen a Judgment of Paternity, regardless of how it was originally established, shall not be placed before a CSHO. These matters are essentially contesting the previously resolved issue of paternity and require that a judge weigh factors before genetic testing or other relief may be ordered.
6. R. 5:25-3 provides for an immediate *de novo* appeal to the judge from the CSHO proceeding. The same day appeal is the standard and counties should make every effort

to hear the appeals on the day the appeal is sought. The Child Support Hearing Officer Referral forms shall not be used to screen appeals sought by litigants from CSHO proceedings.

7. In order for the Family Division to better serve victims of domestic violence and to provide expedited service, vicinages may schedule child support modifications in domestic violence cases before a CSHO under the conditions set forth in this standard designed in recognition of the special dynamics and security concerns present in domestic violence matters.

8. In establishment cases where blood or genetic testing is recommended for the purpose of establishing paternity, it shall be the CSHO who determines whether the initial payment of the costs shall be paid by the County Welfare Agency, subject to the reimbursement provision set forth in the order or as determined at a later date.

9. In accordance with expedited process, CSHOs should hear post-judgment applications and motions to modify child support in all cases, including dissolution. This post-judgment motion must be properly filed and address only child support issues or seek relief that the CSHO is authorized to recommend.

10. A Judiciary Clerk 3 or equivalent shall be provided for the CSHO proceedings to provide clerical support in the hearing room.

11. In matters brought by the County Welfare Agency or their representatives, the complaint or motion should be dismissed, absent unusual circumstances, by the CSHO if venue is not properly laid or if counsel representing the County Welfare Agency is not present to proceed on the matter. The dismissal shall be without prejudice.

12. The treatment of after-acquired children (post divorce or following the entry of the first support obligation) should be in accordance with Appendix IX-A of the Child Support Guidelines, specifically Item 10, *Considerations in the Use of the Child Support Guidelines* regarding other legal dependents.

13. Sets forth protocol for telephonic participation at CSHO proceedings.

1901 Other Policies, Procedures, and Directives

Child Support Hearing Officers are also impacted by practices and procedures of the vicinage Family, Probation and Finance Divisions as well as those of the Conference of Family Presiding Judges, Judicial Council and the Administrative Office of the Courts.

Implementation of standards for the Child Support Hearing Officer Program requires a high level of interdivisional cooperation and a commitment toward the common goal of enhancing uniformity, efficiency and quality service. In particular, Child Support Hearing Officer practice requires the cooperation of Family, Probation and Finance Divisions. The following represents a number of such Operational manuals, reports and directives where additional standards and procedures may be found:

- Probation Child Support Enforcement Operations Manual
- New Jersey Family Court Non-Dissolution Operations Manual
- New Jersey Family Court Dissolution Operations Manual
- Domestic Violence Procedures Manual
- Administrative Office of the Courts Directive #3-04: Interpreting Standards
- Administrative Office of the Courts Directive #12-08: Probation Child Support Enforcement-Diligent Efforts Protocol
- Administrative Office of the Courts Directive #15-08: Use of Warrants and Incarceration in the Enforcement of Child Support Orders
- Assignment Judge Memorandum: Child Support Hearing Officer Program – Protocol for Appeals and Referrals to Judges

The New Jersey Judiciary has charged the Conference of Presiding Judges and Division Managers with the responsibility of identifying best practices in their respective divisions. This section sets forth promulgated practice and policy impacting the Child Support Hearing Officer Program.

2000 Information Technology

THIS SECTION IS UNDER DEVELOPMENT.

2100 Facilities and Security

THIS SECTION IS UNDER DEVELOPMENT.

2200 Child Support Hearing Officer Program Data

Each Child Support Hearing Officer (CSHO) is required to collect statistical information on all matters scheduled before him or her, which includes but is not limited to establishment, enforcement and modification of child support orders. This statistical information is collected daily on the Case Activity Report (See attached) and submitted monthly by the fifth working day of the month via an Excel Program spread sheet (See attached process and sample) that is uploaded to the Family Practice Division's Shared S Drive. On a monthly basis the summarized and reviewed data is forwarded to the Administrative Office of the Courts Probation Services Division by the appropriate Supervising Hearing Officer. The information is to be incorporated into their monthly Management Reports. All monthly Activity Reports are due by the fifth (5th) working day of the month. The Probation Services Division staff incorporates the CSHO statistics into their monthly Management Report which contains other child support statistical information for the current court year which commences on July 1st of the current year to June 30th of the following year.

Each Case Activity Report contains the name of the CSHO, the particular county where the hearings were conducted, the date of the hearing, the type of calendar, the number of calendared cases and whether the Family Division or the Probation Child Support Enforcement Unit scheduled the calendar.

The statistical information collected includes, but is not limited to:

- **Case Activity**
 - Cases Listed, Heard and not Heard
 - Age of Cases
- **Dispositions**
 - Paternity Established
 - Initial Orders
 - Modification of Orders
 - Enforcement of Litigants Rights
 - Medical Ordered/Enforced/Modified
 - Genetic Testing
 - Referrals to Judge
 - Appeals
 - Dismissals
 - Referrals for Parent Locator Service
 - Bench Warrants
 - Self-Executing Bench Warrants
 - License Suspension/Revocation
 - Defaults both Paternity and Support
 - Matters resolved prehearing

- **Collections**
- **Type**
 - Lump Sums Ordered
 - Lump Sums Received
 - Collections Pre Hearing Received
 - Collections At Hearing Received

- **Number of Cases**
- **Amount**

Periodically, the program data is reviewed to determine whether additional statistics need to be captured. For example, as the role of the CSHO has expanded, the various case types of modification hearings have been added to the Case Activity Report. The statistical information has consistently revealed that the Child Support Hearing Officer Program is effective and this is reflected in a Child Support Hearing Officer Fact Sheet each court year.

Appendix

Appendix 1

Customer Service

- a. Welcome to the New Jersey State Courts
- b. A Staff Guide to the Delivery of Quality Service

Appendix 2

Child Support Hearing Officer Program

- a. Screening for Child Support Hearing Officer Calendar (Case Screening Guide)
- b. Recommended Script for Probation Officers Assisting Child Support Hearing Officer Proceedings
- c. Complaint/Motion Dismissal and Adjournments/Continuances Reasons
- d. Child Support Guidelines: Common Reasons for Deviation or Adjustment
- e. Administrative Office of the Courts Directive #15-08, Use of Warrants and Incarceration in the Enforcement of Child Support Orders (Enforcement Questions)
- f. Administrative Office of the Courts Directive #12-08, Probation Child Support Enforcement-Diligent Efforts Protocol

Appendix 3

New Jersey Court Rules

- a. Child Support Hearing Officer Court Rule
R. 5:25-3
- b. Child Support Guidelines
R. 5:6A

Appendix 4

Forms for Child Support

- a. Uniform Summary Support Order
- b. Confidential Litigant Information Sheet
- c. Certification of Non-Military Service
- d. Certificate of Parentage
- e. Child Support Hearing Officer Referral Form
- f. Child Support Guidelines Sole Parenting Worksheet
- g. Child Support Guidelines Shared Parenting Worksheet
- h. Financial Statement for Summary Support Actions
- i. Family Part Case Information Statement
- j. Post Hearing Case Processing Form
- k. Telephone Hearing Request Form

Appendix 5

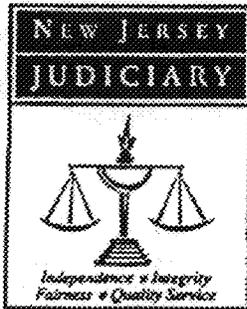
Child Support Hearing Officer Program Standards

- a. Child Support Hearing Officer Program Standards

- b. CSHO Program Standard 7(Amended) See Memorandum to Assignment Judges, July 24, 2007, Child Support Hearing Officer (CSHO) Program-Standards-Amendment to Standard 7 and a New Standard (Standard 13)

Appendix 6

- a. Child Support Acronyms
- b. Glossary of Child Support Terms



WELCOME TO THE NEW JERSEY STATE COURTS.

WE WILL BE HAPPY TO HELP YOU IF WE CAN. HOWEVER, WE ARE ALLOWED TO HELP YOU ONLY IN CERTAIN WAYS, SINCE WE WANT TO BE FAIR TO EVERYONE IN A CASE.

THIS IS A LIST OF SOME THINGS THE COURT STAFF CAN AND CANNOT DO FOR YOU. PLEASE READ IT CAREFULLY BEFORE ASKING THE COURT STAFF FOR HELP.

WE CAN explain and answer questions about how the court works.

WE CAN tell you what the requirements are to have your case considered by the court.

WE CAN give you some information from your case file.

WE CAN provide you with samples of court forms that are available.

WE CAN provide you with guidance on how to fill out forms.

WE CAN usually answer questions about court deadlines.



WE CANNOT give you legal advice. Only your lawyer can give you legal advice.

WE CANNOT tell you whether or not you should bring your case to court.

WE CANNOT give you an opinion about what will happen if you bring your case to court.

WE CANNOT recommend a lawyer, but we can provide you with the telephone number of a local lawyer referral service.

WE CANNOT talk to the judge for you about what will happen in your case.

WE CANNOT let you talk to the judge outside of court.

WE CANNOT change an order issued by a judge.

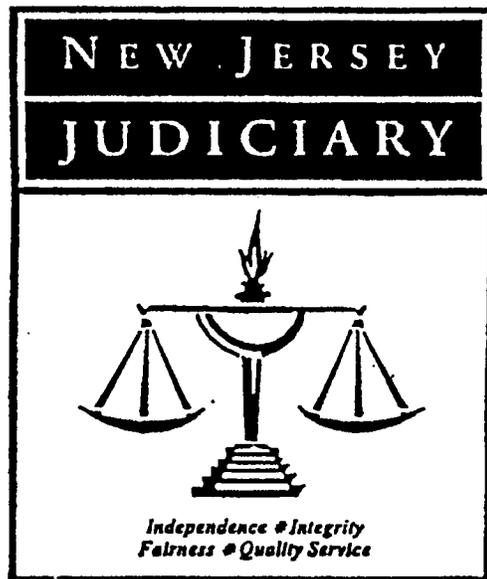
**WE LOOK FORWARD TO HELPING YOU IN ACCORDANCE
WITH THESE GUIDELINES.**

NEW JERSEY COURT SYSTEM MISSION STATEMENT

We are an independent branch of government constitutionally entrusted with the fair and just resolution of disputes in order to preserve the rule of law and to protect the rights and liberties guaranteed by the Constitution and laws of the United States and this State.

The New Jersey Courts

a staff guide to the delivery of quality
service



Mission Statement of the New Jersey Court System

We are an independent branch of government constitutionally entrusted with the fair and just resolution of disputes to preserve the rule of law and to protect the rights and liberties guaranteed by the Constitution and laws of the United States and this State.

Statement of Core Values of the New Jersey Court System

Required to accomplish our mission are four paramount values representing the core of what we stand for as an organization:

- Independence ■ Integrity
- Fairness ■ Quality Service

The Report of the Judiciary Strategic Planning Committee, approved by the Supreme Court in December 1998, provides as follows:

- "The Judiciary should take appropriate steps to ensure that all court users - litigants, witnesses, volunteers, attorneys, or others - are treated with civility, dignity, respect and without discrimination."

Delivering Quality Service In-Person

General Tips - Quality service is everyone's responsibility

- Project a professional image. Maintain a neutral and fair attitude. Dress appropriately for your duties.
- Be enthusiastic. Your voice and mannerisms should be welcoming, energetic, open, and genuine.
- Offer help eagerly. Let your voice radiate the message, "I would like to help you!"
- Maintain eye contact.
- Treat all persons impartially and with an equal degree of courtesy and respect, regardless of your personal feelings.
- Respect the rights and opinions of every person.
- Exhibit behavior and demeanor that reflect positively on the courts.
- Show sensitivity. Avoid inappropriate joking and kidding. Dealings with the court is frequently stressful for citizens. Unsolicited commentary and humor may aggravate such stress.
- Address all judicial officers by title in the presence of the public. Don't use first names, regardless of any level of personal familiarity that may exist.
- Let your relationships with co-workers promote teamwork and cohesion.

- Avoid interrupting and interfering with co-workers engaged in assisting the public. Promote positive morale in the organization by showing confidence in other employees.
- Use discretion in personal conversations with co-workers when members of the public are present.
- Explain “why” whenever you are unable to provide information.
Example: “Your question requires legal advice. I can refer you to an attorney referral service, because it’s inappropriate for me to give you legal advice.”
- Develop a referral list, including names, phone numbers and addresses of community resources, such as other agencies and programs.
- Post commonly requested information in prominent places, including lists of services and fee schedules. Requiring people to stand in line to ask simple questions may be needlessly irritating.
- Be aware of general information regarding the functions of other departments. This minimizes the chance of sending the public on an interdepartmental search and ensures that court users are directed to the correct department.
- Maintain uncluttered and organized work areas and public waiting areas.
- Keep food and beverages out of view.
- If you are on the phone and a member of the public arrives, acknowledge the person and politely conclude your phone conversation as soon as possible.

- If you are dealing with a person at the counter or on another line and the phone rings, say "Excuse me." Answer the phone, transfer the call if appropriate, ask the caller to hold, or offer to return the call promptly.

Greeting the Public

- Set a positive tone when a member of the public arrives. Stop doing paperwork or other tasks. Quickly acknowledge the person and say, "How may I help you?"
- Be conscious of others in line. Dispel frustration by assuring them that you will assist them shortly.
- Offer assistance if an individual appears to be confused or lost.

Responsiveness and Coverage

- Give priority to helping the public. If you are unable to help a court user promptly, request assistance from co-workers. Give the person the choice of waiting or returning later if you are unable to provide prompt assistance.
- Try to arrange for coverage when you will be absent from your work station.
- Offer to assist when those responsible for greeting the public are unavailable or preoccupied.

Assisting the Public

- Give the public your undivided attention whenever possible.
- Develop and use effective listening skills. This reflects your intent to help.

- Respond accurately, thoroughly and knowledgeably.
Example: "I'm not an attorney. If you need one for legal advice, here's a list of lawyer referral services that may help you."
- Be honest. If you can't provide answers to questions, reassure callers by referring them to reliable resources.
Example: "I don't know the answer to your question, but I will ask the person who handles such matters to help you."
- Provide clear and understandable responses. Conversations cluttered with excessive use of legal terminology or acronyms may dishearten and confuse your listener.
- Ask meaningful questions to ensure that court users have contacted the proper department.
- Set realistic time frames for responding to members of the public. Make them aware of expected response times, which should be as short as possible.
- Accomplish promised goals within the established time frames. If circumstances do not permit this, explain why not and then negotiate a new and reasonable time goal.
- When a person is directed to visit a specific court employee, make certain the employee is aware of the pending arrival. Advise the person who is being referred to a specific court employee of this employee's name and location.

Dealing with Persons in Distress

General Tips

- Notice a person's body language, tone of voice and other

signals indicating distress.

- Avoid body language and a tone of voice that will further aggravate the person's reaction. Maintain an open posture that will diffuse tension. Don't back away or cross your arms in front of you.
- Avoid sarcasm and negativity. Maintain your own level of self-control. Responding to anger with anger may enrage the person and will disengage you from your professional demeanor and purpose.
- Demonstrate empathy and sensitivity. Use language that conveys your understanding of the person's problem.
Example: "I understand that your ex-husband hasn't paid your child support. It must be very upsetting. We'll do everything we can to assist you. Try to relax while I arrange to have you speak to an appropriate staff person."
- Lead the person away from the front counter area if possible.
- Avoid argument. Maintain an objective attitude. Repeat brief statements of fact.
- Summon your supervisor immediately if the situation appears to be escalating.
- If your efforts to reason with an angry person have been exhausted, inform the person that you are unable to assist, and explain why.
Example: "It's impossible to help you when you continue this conversation under these circumstances. If you can compose yourself, I'll try to help you."
- If a person is completely out of control and the above efforts have been exhausted, you may need to contact

security personnel.

- In cases in which an individual feels threatened, such as domestic violence cases, arrange for appropriate security staff to escort that individual. Court employees should never act as security detail.

Delivering Quality Service Via Telephone

General Tips

- Answer the telephone in no more than three rings.
- Express a tone of energy and a willingness to help with a voice that reflects a pleasant attitude. Offer assistance eagerly.
- Attempt to help callers directly, rather than transferring their calls.
- Be as brief as possible, without demonstrating rudeness. If a question requires research, give the person the option of holding, having you return the call, or having the information sent to them. Indicate a time frame for a response.
- If you are unable to provide a person with information requested, provide an explanation. Whenever possible, refer the person to a reliable source from which the requested information can be obtained.
Examples: "We are prohibited from providing information regarding juvenile cases because children's identities must be protected." "The question you have asked requires legal advice, which I am unable to give. Let me refer you to our local lawyer referral service."
- Develop a quick list of frequently requested telephone numbers, such as other agencies or local bar referral

service.

Making the Initial Greeting

- An employee answering general lines should identify the court or department and offer help.

Example: "Civil Practice Division. Good Morning. How may I help you?"

- An employee answering phones for a department should identify the court or office, provide her/his name, and offer assistance.

Example: "Criminal Division. Mary Jones speaking. How may I help you?"

Putting Callers on "Hold"

- Let callers explain their needs before placing a call on hold.
- Ask, "Would you care to hold?" or "Would you prefer to have me call you?" Give the caller the option of holding or leaving a message.
- Allow the caller to respond before placing the call on hold.
- Do not keep callers on hold indefinitely. Try to return to the person within 30-60 seconds. Provide alternatives or take a message.

Transferring a Telephone Call

- Allow callers to fully explain their requests before transferring them.
- Inform callers that you will transfer the call to someone who can help them. Advise the caller of the name and telephone number of the person to whom the call will be

transferred.

- Remain on the line. Notify the recipient of the call transfer of the caller's name and the nature of the request.
- If the attempt to transfer is unsuccessful, take a message and assure the caller that the call will be returned as soon as possible.
- Empathize with the person who has been transferred repeatedly and exhibits frustration. Don't continue the cycle of transfers. Politely ask the caller to hold while the problem is investigated or offer to return the person's call as soon as possible.
- Learn general information about other courts and offices. This will reduce the number of calls requiring multiple transfers. Quick lists of departments and their general functions should be at hand.

Taking a Telephone Message

- Inform callers of the name of the person who will return the call and the time frame in which they may expect a response.
- Be sure to obtain critical information for the employee who will receive the message: Get the caller's name, organization or address if appropriate, and telephone number. Be sure to note the date and time of the call and initial the message form.

Closing a Telephone Conversation

- Provide the caller with clarifying feedback before ending the conversation. Briefly summarize your understanding of the problem or request, and the agreement as to any future action.

- Thank the person and politely conclude the conversation.

Making a Telephone Call

- Offer a greeting. Identify yourself, your court or office and department, and the reason for your call.
- Provide identifying information for a callback. State the purpose of your call.

Returning a Telephone Call

- Return calls as soon as possible after they are received.

Our goal is to serve all persons courteously, effectively and efficiently. This includes the general public, our co-workers, staff from other agencies, as well as attorneys, parties, witnesses and jurors. The challenge of quality service extends beyond the "front counter" to encompass every person in our system.

Providing Quality Service is Everyone's Responsibility



Distributed by the Judiciary for your assistance in dealing with court users. These materials are based upon a customer service training packet developed by the Alaska Court System through a State Justice Institute funded grant and used with the express permission of David Tevelin, Executive Director, State Justice Institute.

NEW JERSEY JUDICIARY
THE ADMINISTRATIVE OFFICE OF THE COURTS

Deborah T. Poritz, Chief Justice
Richard J. Williams, J.A.D., Administrative Director

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Internet site: <http://www.judiciary.state.nj.us>
InfoNet site: <http://home.aoc.judiciary.state.nj>

March 2001

Screening for Child Support Hearing Officer Calendar

Matters that may be heard by the Child Support Hearing Officer

Legal Authority, R. 5:25-3

All IV-D (of the Federal Social Security Act) Child Support Cases

All pay through probation conversion cases

Uniform Interstate Family Support Act (UIFSA) cases, N.J.S.A. 2A:4-30.65 TO -30.123

Combined Custody/Parenting Time/Child Support Cases

Establishment of Paternity, N.J.S.A. 9:17-38 et. seq.

Initial Requests for Genetic Testing

Establishment/Modification/Enforcement of Child Support Orders

Medical Support/Health Insurance Coverage/Applications/Motions for Unreimbursed

Medical Expenses

License Suspension Appeals

Federal/State Tax Offset Appeals

COLA appeals

Status Review Hearings Scheduled by Probation

Establishment of Support in FV cases filed by the County Welfare Agency under certain conditions, See Child Support Hearing Officer Standards

Enforcement and Modification of Child Support Orders under FV docket types under certain conditions, See Child Support Hearing Officer Program Standards

Post-Judgment Modification of Child Support Orders under FM docket types, See Child Support Hearing Officer Program Standards

Credit Bureau Appeals

Matters that may not be heard by the Child Support Hearing Officer

Non-IV-D cases, cases that are not pay through Probation

Standalone Custody/Parenting Time

Contested Custody/Parenting Time

Divorce

Equitable Distribution

Contested Paternity

Reopen Judgment of Paternity

Spousal Support/Alimony

Bifurcation of support

CSHO appeals

Incarceration

Execute or Vacate Bench Warrants

Counsel Fees

Non-Guidelines cases such as parties having combined net income of over 3,600 per week

College Tuition

Support for child 18 or older

Request to Claim child as dependent for tax purposes

Complex Issues

Recommended Script for Probation Officers Assisting at Child Support Hearings

Good morning/afternoon. My name is **[Probation Officer's Name]**. I am a Probation Officer with the **[County]** Probation Division, Child Support Enforcement Unit.

Support Enforcement

This is the matter of **[cite name of case and docket number]**. On **[date]** the Probation Division filed a motion seeking enforcement of an order for support. According to Probation's records, the obligor, **[name of obligor]** has failed to fully comply with the payment provisions of an order entered on **[date of last order]** requiring payment of **[payment conditions of order]** for the support of **[names and dates of birth of children and name of former spouse if applicable]**. **[Obligor]** last remitted a payment to Probation on **[date of last payment]** through **[payment source]** and as of **[run date of Payment History Report]** owes **[amount of arrears]** in back support to **[obligee's name/welfare agency]**. *At this time the Probation Officer may state for the record any unusual case conditions or request the type of relief being sought (e.g., lump sum payment, arrears obligation amount, warrant stipulation.) (If the obligor is not present, Probation should state whether or not service was effectuated and, if so, the method and date of service.)*

Medical Enforcement

This is the matter of **[cite name of case and docket number]**. On **[date of order requiring medical insurance coverage]** an order was entered requiring **[obligor/obligee name]** to provide medical insurance for the child(ren) as available at reasonable cost and that proof of insurance availability be provided to Probation by **[obligor/obligee]** by **[date stipulated by court order]**. This information was not provided to Probation by the required date, therefore, a letter was mailed to **[obligor/obligee]** on **[date of the letter]** requesting health insurance information. The obligor/obligee's employer **[name of the employer]** was also contacted by mail on **[date of request to the employer]** asking for health insurance. Probation has yet to receive verification of coverage or information concerning the availability of coverage. An administrative hearing, scheduled for **[date of administrative hearing]** failed to produce the requested information. According to our records, the obligor/obligee is employed by **[name and address of the employer if known]**. A *Notice to Enroll Children in Health Insurance Benefits* was mailed to **[employer]** by regular and certified mail on **[date of mailing]** and was acknowledged on **[date of the signature on certified green card]**. *(At this time if appropriate, Probation should state whether or not service to the obligor/obligee was effectuated and, if so, the method and date of service.)*

Appeal of Federal Income Tax Refund Offset

This is the matter of [cite name of case and docket number]. [Obligor] is presently under a court order to pay [order amount] for the support of [names and dates of birth of children and name of former spouse if applicable]. On [date of original certification] the County Probation Division certified that [obligor] owed [original certified amount] in child support/spousal support. In accordance with federal regulations, this amount was reported to the Federal Office of Child Support Enforcement for the purpose of securing [obligor] federal income tax refund for the [year] tax year. [Obligor] was notified of the intended offset by a Pre-Offset Notice/Notice of Intended Offset and has objected to the action based on the following reason(s): *The Probation Officer may at this time state the obligor's reason for opposing the offset if this information is known.* Probation has been unable to resolve this issue through an audit of the account or the scheduling of an administrative review. As of [run date of the Payment History Report] the account reflects a balance of [arrearage amount]. *(If both parties, and the County Welfare Agency if a public assistance matter, are not present, Probation should at this time state the nature of service.*

Appeal of SOIL (State Income Tax Refund/Homestead Rebate Offset)

This is the matter of [cite name of case and docket number]. [Obligor] is under a court order to pay [order amount] for the support of [names and dates of birth of children and name of former spouse if applicable]. In accordance with State statutes, [obligor] support debt was reported to the State Division of Taxation for purpose of securing [obligor] State Income Tax Refund and Homestead Rebate for the [year] tax year. The obligor was notified by the Division of Taxation of the intended offset and has advised the Division of Family Development of his objection to the action based on the following reason(s): *The Probation Officer may at this time state the obligor's reason for opposing the offset if this information is known.* Probation has been unable to resolve this issue through an audit of the account or by scheduling an administrative review. As of [run date of the Payment History Report] the account reflects a balance of [arrearage amount]. *(If both parties, and the County Welfare Agency if a public assistance matter, are not present, Probation should, at this time, state the nature of service.)*

Appeal of Credit Bureau Reporting

This is the matter of [cite name of case and docket number]. [Obligor] is under a court order to pay [order amount] for the support of [names and dates of birth of children and name of former spouse if applicable]. In accordance with N.J.S.A. 2A:17-56.21, a Notice of Reporting to Credit Bureau was sent to [obligor] on or about [date of credit reporting notice]. [Obligor] advised the New Jersey Administrative Office of the Courts of his objection to the action based on the following reason(s): *The Probation Officer may at this time state the obligor's reason for opposing the credit reporting action. This information may usually be found on the obligor's written appeal request to the AOC.* Probation has been unable to resolve this issue through an audit of the account or by scheduling an administrative review. As of [run date of payment history report] the account reflects a balance of [arrearage amount]. *(If both parties (and the County Welfare Agency if a public assistance matter) are not present, Probation should, at this time, state the nature of service.)*

Contesting Payments Through Probation and Immediate Income Withholding

This is the matter of [cite name of case and docket number]. On [date of affidavit] a request was made by [obligee] to have court ordered support, presently payable directly to the obligee, made payable through Probation in accordance with N.J.S.A. 2A:17-56.14. The present order of [date of order] submitted by [obligee] requires payment of [amount and frequency of support obligation] for the support of [names and dates of birth of children and name of spouse if applicable]. According to the affidavit signed by [obligee] an arrearage of [amount of arrearage stated in the affidavit] has accrued through [date of affidavit]. [Obligor] is opposed to the action and has requested a hearing. *(If both parties are not present, the Probation Officer should, at this time, state the nature of service.)*

Modification

This is the matter of [cite name of case and docket number]. On [date of order in which support amount was set] an order was entered requiring [Obligor] to pay [amount and frequency of support] for the support of [names and dates of birth of children and name of former spouse if applicable]. As of [run date of Payment History Report] the account reflects a balance of [balance of account]. [Obligor/obligee] is seeking to have support [decreased/increased] and filed a motion for modification on [date of motion for modification]. *At this time the Probation Officer may state the reason(s), if known, presented by the moving party for modification of support. Probation should also indicate for the record whether or not there is an active restraining order. (If both parties are not present, the Probation Officer should, at this time, state the nature of service.)*

Termination/emancipation

This is the matter of [cite name of case and docket number]. On [date of order in which support an amount was set] and order was entered requiring [obligor] to pay [amount and frequency of support] for the support of [names and dates of birth of children and name of former spouse if applicable]. As of [run date of Payment History Report] the account reflects a balance of [balance of account]. [Obligor] is seeking to have the support obligation terminated and filed a motion on [date of motion for termination/emancipation]. [Obligor] has stated the following reason(s) in his/her motion as the basis for termination of support: *The Probation Officer should state the reason(s), if known, presented by the moving party for termination of support. Probation should also indicate for the record whether or not there is an active restraining order. (If both parties are not present, the Probation Officer should, at this time, state the nature of service.)*

Order to Show Cause (Employer non-compliance with income withholding order)

This is the matter of [cite name of case and docket number] brought before the court on an *Order to Show Cause* issued to the obligor's employer [name and address of employer] on [date of service of Order to Show Cause] to answer why an *Order for Income Withholding for Support* has not been fully honored. On [date obligor's employment was verified] the Probation Division verified that [obligor] was employed by [name of employer]. On [date of income withholding notice], in accordance with *N.J.S.A. 2A:17-56.9*, an *Order for Income Withholding* was mailed by certified and regular mail to [name and address of employer]. Receipt of this order was acknowledged on [date of service]. The order requires that [amount and frequency of support order] be withheld from the obligor's earnings and remitted to Probation at the time the obligor is paid. *At this time the Probation Officer should clearly state the nature of default by the employer including the total amount of required payments since the withholding order was issued and the amount of support secured through the withholding process.* As of [run date of Payment History Report], the account reflects a balance of [balance of account]. *(If a representative of the obligor's employer is not present at the hearing, Probation should, at this time state the nature of service of the Order to Show Cause.)*

License Revocation

This is the matter of [cite name of case and docket number] brought before the court for consideration of revocation or suspension of the obligor's [describe the type of license being considered for revocation or suspension] in accordance with *N.J.S.A. 2A:17-56.43*. [Obligor] is presently under a court order to pay [amount and frequency of support obligation] for the support of [names and dates of birth of children and name of former spouse if applicable] and has [state the nature of default (e.g. arrearage equal to or exceeding the amount of support payable over a six month period, outstanding child support related warrant, failure to provide proof of medical insurance coverage)]. As of [run date of Payment History Report] the account reflected an arrearage of [arrearage amount]. All appropriate enforcement methods to collect the child support arrearage or secure the medical insurance information have been exhausted. *Probation may at this time state all enforcement means which were employed in an effort to secure court ordered support* A *Notice of Proposed License Suspension for Child Support Purposes* was issued to [obligor] by regular and certified mail on [date notice was issued]. *The Probation Officer should state whether or not a License Suspension Response Form was received from the obligor and, if so, the reason for opposition of the intended action as stated by the obligor.* A *Notice of Motion* for today's hearing was sent to the obligor by regular and certified mail on [date Notice of Motion was issued]. *(The Probation Officer should at this time state the nature of service).*

Complaint/Motion Dismissal and Adjournments/Continuances Reasons For Drop-Down Menu

Adjournments and Continuances of Complaints and Motions

- Matter adjourned at request of defendant
- Matter adjourned at request of plaintiff
- Matter continued for service on defendant
- Matter continued for service on plaintiff

Complaint dismissals

- Complaint dismissed subject to reinstatement retroactive to the original filing date as defendant could not be located for service of process.
- Complaint dismissed for lack of prosecution
- Complaint dismissed for lack of personal jurisdiction
- Complaint dismissed as there is an active order for current support subject to recognition
- Complaint dismissed as plaintiff failed to provide affidavit in support of paternity
- Complaint dismissed as plaintiff failed to provide documentation of parent-child relationship
- Complaint dismissed and genetic testing excludes defendant from being the biological father of the child(ren)
- Complaint dismissed as defendant is presently incarcerated
- Complaint dismissed as defendant only income source is Supplemental Security Income
- Complaint dismissed at request of plaintiff
- Complaint dismissed as plaintiff failed to provide certification of non-military service

Motion dismissals (Family Calendars)

- Defendant's motion for modification dismissed for lack of prosecution
- Plaintiff's motion for modification dismissed for lack of prosecution
- Defendant's motion to vacate support is dismissed for lack of prosecution
- Plaintiff's motion to vacate support is dismissed for lack of prosecution
- Defendant's motion for modification is dismissed as New Jersey lacks subject matter jurisdiction
- Plaintiff's motion for modification is dismissed as New Jersey lacks subject matter jurisdiction
- Defendant's motion for emancipation is dismissed as New Jersey lacks subject matter jurisdiction
- Plaintiff's motion for emancipation is dismissed as New Jersey lacks subject matter jurisdiction
- Motion for modification is dismissed at request of moving party

Motion dismissals (Probation Enforcement Calendars)

- Probation's motion for enforcement of litigants rights is dismissed as obligor is compliant with support obligation
- Probation's motion for enforcement of litigants rights is dismissed as obligor has no current ability to pay support
- Probation's motion for enforcement of litigants rights is dismissed as regular payments are being made through income withholding
- Probation's motion for enforcement of litigants rights is dismissed as obligor does not currently reside in the State of New Jersey
- Probation's motion for enforcement of litigants rights dismissed as enforcement has been stayed by Chapter 13 Bankruptcy filing

Child Support Guidelines: Common Reasons for Deviation or Adjustment

- Stipulated agreement of parties;
- Support amount calculated for minor child(ren) supplemented for unemancipated child over the age of majority;
- Obligor contributes directly to fixed expenses of household;
- Child(ren) in voluntary DYFS placement;
- Multiple family obligations of obligor;
- Combined net income exceeds Appendix IX-F limits;
- Obligor's net income below U.S. Poverty Guideline;
- Split-parenting arrangement;
- Self-Support reserve disregarded for good cause;
- For good cause as determined by the court.

**ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY**

**GLENN A. GRANT, J.A.D.
ACTING ADMINISTRATIVE DIRECTOR
OF THE COURTS**



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**DIRECTIVE #15-08
[Supersedes Directive #18-06]**

**To: Assignment Judges
Trial Court Administrators**

[Questions or comments
may be addressed to
609-633-2390 or 609-984-4853.]

From: Glenn A. Grant, J.A.D.

**Subject: Use of Warrants and Incarceration in the Enforcement of Child
Support Orders**

Date: November 17, 2008

This directive supersedes Directive #18-06 (issued August 29, 2006) and establishes an "Order for Relief to Litigant, Enforcement of Litigant's Rights (Form: CN 11213)," which replaces Appendix C "Order for Coercive Incarceration" and Appendix F "Order for Relief to Litigant" from the prior directive. The new form of order was endorsed by the Conference of Family Presiding Judges.

The orders promulgated under Directive #18-06 were designed specifically for use at expedited enforcement hearings before a judge. Their use required that the judge and probation officer have two orders ready for use, depending upon the reliefs determined by the court. One was to be used when incarceration was ordered and the other when alternative reliefs were ordered. Combining the orders will help to streamline probation's preparation for enforcement hearings and enable the judge to use a single, uniform order regardless of the outcome of the hearing. In addition, this new, combined order more clearly and comprehensively addresses the findings that need to be made (e.g., determinations of indigence and ability to pay) and the various other reliefs that may be ordered. This new order replaces the two existing ones and is to be used at expedited enforcement hearings before a judge. The Uniform Summary Support Order (See Appendix XVI in the New Jersey Court Rules) should continue to be used for orders resulting from scheduled enforcement hearings, usually before a child support hearing officer.

Besides the changes to the orders as described, no other substantive changes were made to the prior directive. Some editorial clarifications have been made. The

Probation Child Support Enforcement Operations Manual will be updated to include a new section on procedures involving the use of warrants and incarceration in the enforcement of child support orders.

Any questions about this directive may be directed to Richard R. Narcini, Chief, Child Support Enforcement Services at 609-633-2390.

G.A.G.

Attachment

- c: Chief Justice Stuart Rabner
- Family Presiding Judges
- Jennifer Velez, Commissioner, Department of Human Services
- Jeanette Page-Hawkins, Director, Division of Family Development
- AOC Directors and Assistant Directors
- Richard R. Narcini, Chief, Child Support Enforcement Services
- Elidema Mireles, Esq., Chief, Child Support Hearing Officer Program
- Vicinage Chief Probation Officers
- Family Division Managers
- Finance Division Managers
- Vicinage Assistant Chief Probation Officers, Child Support
- Child Support Hearing Officers
- Steven D. Bonville, Special Assistant
- Francis W. Hoeber, Special Assistant

Enforcement of Child Support Orders – Use of Warrants and Incarceration

A. Introduction

This Directive presents a conceptual and legal framework for the use of incarceration in cases involving obligors who are brought before the court on child support enforcement cases under Rule 1:10-3, Relief to Litigant. This sets forth standards on the conduct of proceedings, the use of forms, and the setting of an amount the payment of which will secure the obligor's release from custody, referred herein as a "release amount" In an opinion decided March 8, 2006, the Supreme Court in Pasqua v. Council, 186 N.J. 127 (2006) ("Pasqua"), held that indigent parents, charged with violating child support orders and subject to coercive incarceration at hearings to enforce litigants' rights, have a right to appointed counsel.

This Directive relates primarily to child support enforcement actions brought by the Probation Division and discusses the nature of the court's findings, the rights of the obligor, and the conduct of hearings. Although this Directive applies to all relief to litigant proceedings, including those initiated by individuals, it is not intended to involve the Probation Division's support enforcement staff in cases other than support matters enforced through the Probation Division.

New Jersey law defines three distinct bases for incarceration for refusal to comply with obligations established by child support orders:

- Relief to litigant proceedings pursuant to R. 1:10-3, R. 5:3-7.
- Contempt proceedings pursuant to R. 1:10-2.
- Criminal prosecution pursuant to N.J.S.A. 2C:24-5.

Of these three, relief to litigant proceedings under R. 1:10-3 are the most frequently used enforcement process and they are discussed in this Directive in the greatest detail. Since resort to either criminal prosecution under N.J.S.A. 2C:24-5 or contempt proceedings under R. 1:10-2 is rare in New Jersey, this Directive concludes with a brief description of these practices.

B. Rule 1:10-3 Relief to Litigant Proceedings

1. Two Types of Hearings

To coerce payment from an obligor who has become delinquent in the payment of court-ordered child support, the court may conduct a hearing to enforce litigant's rights under R. 1:10-3. Such a hearing may be either a scheduled enforcement of

litigants rights hearing (ELR hearing) or an expedited enforcement of litigants rights hearing (Expedited ELR hearing). In an ELR hearing an obligor is compelled to appear before a judge or a Child Support Hearing Officer (CSHO). In an Expedited ELR hearing, the obligor is compelled to appear before a judge and may be compelled to appear without additional notice. The Probation Division will recommend to the court whether an Expedited ELR hearing is required. The obligor's appearance for an Expedited ELR hearing may be compelled by either the issuance of a warrant or a notice to appear.

At ELR and Expedited ELR hearings, there must be a determination of the obligor's non-compliance with the child support order and the extent of such non-compliance. Having found there to be non-compliance, the court may then fashion a remedy to give appropriate relief to the obligee. Probation may indicate the remedies available to the court, which should take into consideration a number of factors, as more fully described below in Section B5 (ELR and Expedited ELR Hearing Procedures).

(a) ELR Hearings Before a Child Support Hearing Officer

Generally, the first enforcement activity in such matters is an ELR hearing scheduled before a Child Support Hearing Officer (CSHO) on notice of motion pursuant to R. 5:4-1, with that notice indicating that a warrant may issue for failure to appear. The notice directs the obligor to appear for the hearing at a specific date and time. The obligee is also provided notice of the proceeding, but the obligee's appearance at the hearing is optional. In the event a party disagrees with the CSHO's recommendation that party is entitled to an immediate de novo hearing before a judge.

The obligor is required to appear at the ELR hearing to respond to the allegations of non-compliance contained in the motion. The ELR hearing allows the obligor to present any defenses, with the CSHO making findings as to the validity of the defenses and the obligor's ability to pay or comply with the order. Any recommended order providing relief must take into consideration factors affecting the obligor's ability to pay, e.g., employment, disability, public assistance. Such hearings may result in an order in aid of litigant's rights requiring an additional payment or a series of periodic payments to liquidate the accrued arrears. As a further relief component, the order may provide that if future payments are missed, a warrant may be issued without any additional notice to the obligor. The purpose of such a warrant is to bring the obligor before the court on an expedited basis in the event of future alleged non-compliance.

In order to recommend that enforcement include coercive incarceration, the CSHO must make findings as to the obligor's non-compliance and ability to pay. The CSHO also will make findings with respect to the obligor's indigency, ensuring that all of the information required to complete the Probation Child Support Enforcement Obligor Questionnaire (Form: CN 10819) has been elicited from the obligor. As required by R. 5:25-3(c)(10)(B), once all of the information required to complete the Obligor

Questionnaire is elicited and the hearing is concluded, any recommendation by the CSHO for incarceration must go to a judge for determination.

(b) A Warrant for an Expedited ELR Hearing Before a Judge

A warrant for an Expedited ELR hearing before a judge is usually issued when there is a continued failure to make support payments or provide medical coverage subsequent to an ELR hearing or failure to appear at one or more ELR hearings. As noted above, the recommendation that such a proceeding occur is made by Probation based on consideration of several factors related to the case. A supervisory review within Probation also is required before any such recommendation to issue a warrant is forwarded to the judge.

A warrant requiring expedited appearance before a judge should, where appropriate, specify a release amount, the payment of which would eliminate the need for an enforcement hearing.

Characteristics of the Expedited ELR Hearing before a judge are described below in detail in Section B5 (ELR and Expedited ELR Hearing Procedures).

2. Use of Warrants and Incarceration in ELR and Expedited ELR Hearings

The court may issue warrants to arrest obligors or order the coercive incarceration of obligors in connection with ELR and Expedited ELR hearings in three basic circumstances: (See Sections B3 and B5 below for detailed explanation of what must occur prior to and during these hearings)

- **Failure to Appear for an ELR Hearing.** Where an obligor, after service of notice to appear, fails to appear for a ELR hearing and arrest thus is necessary to ensure obligor's appearance before the court. See "Warrant – Failure to Appear (Form: CN 10815)."
- **Future Failure to Make One or More Child Support Payments.** Where an order resulting from a ELR hearing provides that if the obligor fails to make one or more child support payments in the future, a warrant for arrest may issue in order to address the non-compliance expeditiously. See "Warrant – Failure to Pay After Order (Form: CN 10816)."
- **Coercive Incarceration.** Where an obligor has been ordered at an Expedited ELR hearing before a judge to make a payment toward child support arrears or provide medical coverage and refuses to do so, and incarceration is necessary to coerce compliance with the court's order. See

“Order for Relief to Litigant, Enforcement of Litigant’s Rights (Form: CN 11213).”

3. Circumstances for Issuance of Warrants and Subsequent Arrests

It is of great importance to have a clear understanding of the different circumstances that may form the basis for issuance of warrants and subsequent arrests. Each of the following circumstances raises different issues that must be addressed to ensure that the process is fair and that the rights of all parties are protected. Each such circumstance will be addressed here in turn.

(a) Failure to Appear for an ELR Hearing

When the obligor has failed to appear for a scheduled ELR hearing, a warrant may be issued. The purpose of the arrest and incarceration is to ensure the appearance of the obligor before the court to respond to the motion related to the obligor’s failure to pay court-ordered support. See “Warrant – Failure to Appear (Form: CN 10815).” Key points regarding the issuance of a Failure to Appear warrant are as follows:

- Warrant is issued because of obligor’s failure to appear.
- Purpose of warrant/incarceration is to ensure obligor’s appearance before a judge.
- Legal authority for warrant is in R. 1:10-3 and R. 5: 4-1 (c).
- Payment of a specified amount will secure release. (See Section B5(a) below.)

(b) Future Failure to Make One or More Child Support Payments

The court may prospectively and conditionally order issuance of a warrant based on one or more future missed payments. See “Warrant – Failure to Pay After Order (Form: CN 10816).”

The court has discretion to order the issuance of a warrant conditioned on a future failure to pay when it believes that bringing an obligor before the court on an expedited basis will be necessary. For example, this approach may be used when an obligor has demonstrated a history of failing to appear, of using scheduled hearings to delay payment of support, or has income sources that cannot be attached prior to the hearing (such as being self-employed or working “off the books”).

Additionally, a child support order requiring the obligor to make a lump sum payment toward arrears on or before a specified date may include a provision for the issuance of a warrant if the lump sum payment is not made. The child support order

requiring the lump sum payment would specify that the refusal by the obligor to make a lump sum payment by the specified date may result in the issuance of a warrant.

While appearance can be achieved by the less extreme use of a notice to appear at an ELR hearing, the issuance of a warrant is used to compel the obligor's expedited appearance to address non-compliance. Key points regarding the issuance of a Failure to Pay After Order Warrant are as follows:

- Warrant is issued for failure to make court-ordered payments.
- Purpose of warrant/incarceration is to ensure obligor's expedited appearance before a judge to address obligor's non-compliance with the order.
- Legal authority for warrant is found in R. 1:10-3 and R. 5: 4-1(c).
- Payment will secure release. (See Section B5(a) below.)

(c) Coercive Incarceration

Coercive incarceration, ordered pursuant to R. 1:10-3, is designed to force compliance with the payment ordered at ELR and Expedited ELR proceedings. See "Order for Relief to Litigant, Enforcement of Litigant's Rights (Form: CN 11213)." Unlike incarceration that takes place prior to an Expedited ELR hearing – that is, incarceration to ensure obligor's timely appearance before the court -- coercive incarceration that is ordered by the court during the course of such a hearing is based on the court's finding that the obligor has a support order established and possesses the ability to pay, but refuses to pay. Coercive incarceration may only occur after an obligor is advised of his or her right to counsel. If the court determines the obligor to be indigent, the obligor must be afforded counsel upon request. The court may proceed with the Expedited ELR hearing and make appropriate findings and order appropriate relief. However, the court may not incarcerate an indigent obligor to coerce compliance with the order unless a method is found to provide counsel to obligors who are determined to be indigent. Accordingly, coercive incarceration ordered pursuant to R. 1:10-3:

- **Must Be Based on a Finding of Failure to Comply with the Order.** The court must conclude that a child support order has been established and that the obligor has failed to comply with the order. The court must determine the extent of non-compliance by entering a finding as to the amount of arrears or other form of non-compliance. The court must then enter an order setting forth the nature and extent of compliance it deems required to enforce litigant's rights and the obligor must fail or refuse to comply with that enforcement order.
- **Must Not Infringe on the Rights of those Deemed Indigent.** A determination of the obligor's indigence must be made prior to the Expedited ELR hearing. If the court determines the obligor to be indigent, and obligor is

not afforded counsel, incarceration is not available as a relief. This does not preclude the court from ordering other reliefs, such as directing the obligor to seek employment or to report to Probation on a regular basis in order to keep the court apprised of his or her economic status.

- **Must Be Based on a Finding of Ability to Pay.** With respect to any payment or other action sought to be coerced by the incarceration, the court must make a finding that the obligor has the current ability to make payment or otherwise comply with its order. Since incarceration imposed under R. 1:10-3 is intended to be coercive, not punitive, it is essential that the court at the hearing find the obligor has an ability to pay an amount acceptable to the court. Such payment will secure obligor's release without delay. Therefore, it is within the obligor's control to avoid incarceration and such incarceration is considered coercive. If the obligor does not have the ability to pay, incarceration is not available as a relief, as such incarceration in that situation would be punitive in effect.

Key points with regard to coercive incarceration are as follows:

- Cause of incarceration is obligor's refusal to make a specified payment as ordered by the court.
- Purpose of warrant/incarceration is to coerce compliance with the order for payment.
- Legal authority for coercive incarceration is found in R. 1:10-3. Payment of a specified amount will secure obligor's release. (See Section B5(a) (Release Upon Payment of Arrears) below.)

4. Probation Division's Role in the Issuance of Warrants

The Probation Division will recommend to the court whether an expedited hearing is required. In such cases, the obligor's appearance may be compelled by the issuance of a warrant rather than a notice to appear. Such warrants must be issued by a judge. Probation's recommendation should take into consideration a number of factors that may include, but are not limited to the following:

- Prior compliance with the provisions of the court order over a significant period of time.
- Age of the order containing the self-executing warrant provision, if applicable, and whether the obligor has been regularly paying since issuance of that order. In cases where the obligor has been paying regularly for an extended period, subsequent non-payment would ordinarily be addressed by first scheduling an enforcement hearing.

- Whether or not some payments have been received.
- Whether a motion with a return date has been filed with the court for modification of the support obligation, determination of arrears, direct payment credit, emancipation, or termination of support.
- Amount of the order and unpaid support.
- Any known delays in posting payments to ACSES/NJKiDS¹ or pending payments due to known administrative enforcements such as tax offset and Financial Institution Data Match (FIDM).
- Age of the child or children covered by the court order and the likelihood that a child age 18 or older may be subject to emancipation.
- Enforcement history of the case.
- Pending civil settlements where the obligor anticipates a significant monetary award.
- Payments are being received through an income withholding order.
- Request of the obligee that a warrant for the obligor's arrest not issue.
- Any other relevant information about the case, e.g., a verified change of circumstances.

Note: If there is a current income withholding order in place and the employer is not remitting the payments directed by the order, Probation should proceed against the employer.

5. ELR and Expedited ELR Hearing Procedures

The purpose of ELR and Expedited ELR hearings is to enforce litigant's rights by determining whether there has been non-compliance with the child support order and, if so, taking appropriate action to effectuate compliance. Where an obligor through issuance of a warrant has been compelled to appear for an Expedited ELR hearing before a judge, the hearing must be conducted as expeditiously as possible, but not later than 72 hours after obligor's apprehension. This 72-hour maximum is intended for situations where obligors are held over weekends. It is otherwise expected that obligors will in most instances be brought before a judge within two business days.

(a) Release Upon Payment of Arrears.

An obligor may avoid the ELR or Expedited ELR hearing by acknowledging non-compliance and bringing his or her child support obligation into compliance with the order by making the required payments prior to the hearing. Warrants issued to compel

¹ The current statewide automated child support system, ACSES, will soon be replaced by a successor system named NJKiDS.

appearance at an Expedited ELR hearing typically specify the arrears amount – referred to as the “release amount” – the payment of which will eliminate the need for the hearing. Payment of the release amount is applied to the child support arrears, thus making the hearing no longer necessary. If the hearing thus is no longer necessary, so is incarceration of the obligor to ensure appearance at the hearing. The obligor at that point thus would be released from incarceration. See “Notice and Receipt for Child Support Release Payment (Form: CN 10818).”

This procedure provides a means to address the rare circumstance in which the obligor is willing to pay the release amount but wishes to contest the factual basis for the arrears at the hearing that follows his or her arrest. In this circumstance, release from incarceration may also be obtained where the obligor wants to contest the issue of non-compliance and demonstrates the probability of his/her subsequent appearance at the ELR or Expedited ELR hearing by posting the amount claimed due to be deposited in the support account and held in abeyance pending the hearing. Upon release under these conditions, the obligor must report to the Probation Division by noon of the following business day to confirm the contest and obtain a hearing date. See “Notice and Receipt for Child Support Release Payment (Form: CN 10818).” The Probation and Finance Division within each county should establish a protocol for communicating such contests to ensure that the release payments are held until a determination is made at the hearing.

(b) Pre-Hearing Interview.

Prior to an ELR or Expedited ELR hearing, in all cases in which coercive incarceration is a reasonable likelihood, the Probation Division must conduct an interview of the obligor and complete the “Probation Child Support Enforcement Obligor Questionnaire” (Form: CN 10819) in order to facilitate the court's determination as to the obligor's indigence.

(c) Right to Counsel and Indigence Determination.

At an Expedited ELR hearing, before coercive incarceration can be ordered, the obligor must first be advised of the right to counsel. If the obligor indicates that he or she wants to retain counsel, but the attorney is not present, the court in its discretion may release the obligor or may remand the obligor to the jail until such time as the attorney is able to appear.

At the hearing, the court must then make a determination as to non-compliance with the child support order and, if so, the extent of the non-compliance. The court will then gather information about the obligor's financial situation, based on information provided by Probation and through the obligor's testimony. See “Conducting the Ability to Pay Hearing for an Obligor Held on a Support Warrant (Form: CN 11212).”

Information provided by the obligee may also be considered. Based on these various information components, the court will make findings as to the obligor's ability to (1) retain private counsel (indigency), and (2) pay some or all of the current support obligations (ability to pay).

If the judge determines that an obligor is indigent, the court may proceed with the hearing and make appropriate ability-to-pay findings and consider the appropriate remedy for enforcement of its order. However, unless a method is found to provide counsel to obligors who are determined to be indigent, incarceration may not be used as an option to coerce compliance with support orders. If the judge finds that the obligor is not indigent and has the ability to pay but chooses not to, incarceration is available as a relief.

(d) Alternative Remedies

In addition to incarceration, other appropriate remedies that the court may consider for enforcement of its order include, but are not limited to:

- Wage execution, if not already in place
- Lump sum payable on the same date as the hearing
- Lump sum payable on a future date
- Missed payment status (also known as a "bench warrant stipulation," usually stating that missing two subsequent payments may result in issuance of a new bench warrant)
- Liens on any pending lawsuits
- Job search report to Probation (directing obligor to provide Probation with proof of application for a certain number of suitable jobs on a weekly or biweekly basis)
- Referral to the Department of Labor's "One Stop Center" (Work Requirements Program)
- Direct obligor to apply for benefits to which she/he may be entitled, such as Social Security
- Direct obligor to provide Probation/NMSN (National Medical Support Notice) Center with medical insurance information
- Initiation of driver's or professional license suspension
- Community service as provided in R. 5:3-7(b)
- Direct obligor to sell assets and turn over the proceeds to the court.

Where an obligor has been ordered at a Expedited ELR hearing to make a payment toward child support arrears or provide medical coverage and fails to do so, and relief other than incarceration has been deemed necessary to coerce compliance with the order, the court may set forth those requirements in the "Order for Relief to Litigant, Enforcement of Litigant's Rights" (Form: CN 11213).

If the obligor's responses lead the court to conclude that modification of the support order may be appropriate because of the obligor's incarceration, disability, or other change in circumstance, the court in its discretion may (1) recommend that the obligor file a support modification motion, or (2) arrange for a hearing to address the relevant change in circumstances, with such hearing to be on a date provided by the Family Division or the Probation Division, as appropriate, that will allow adequate time for service of notice on the obligee of the hearing.

(e) Ordering Coercive Incarceration

To order coercive incarceration, the court, after advising the obligor of his or her right to retain counsel, must make each of the following findings in the following sequence:

- Obligor is subject to an order to pay child support;
- Obligor has failed to comply with that order and thus owes arrears;
- The court previously has directed obligor to make a payment to be applied to arrears;
- Obligor is not indigent and is therefore not entitled to court-appointed counsel, or the obligor is indigent and appointed counsel is available
- The court has determined that the obligor has financial ability to pay the amount ordered by the court at the ELR hearing;
- Obligor refuses to pay the amount ordered at the ELR hearing; and
- Incarceration is necessary to coerce compliance.

When the court orders an obligor to be incarcerated, the obligor must be brought back before the court at least every two weeks to consider the obligor's particular circumstances and whether incarceration is still an effective means to coerce compliance. Since incarceration is coercive rather than punitive, a party must be released when the coercive purpose is deemed to have failed and continued incarceration would be punitive only. Marshall v. Matthei, 327 N.J. Super. 512, 527-529 (App. Div. 2000).

Releasing an Obligor

The court may also release the obligor on condition that the obligor makes certain payments or meet other conditions. Examples of conditions of release include, but are not limited to, requiring the obligor to seek employment and report back to the court on those efforts, requiring the obligor to apply for unemployment benefits, and taking action to provide health care coverage for his or her dependents. Most commonly, however, the relief requires the obligor to make payments.

Indigent Obligor

If the judge determines that an obligor is indigent, the court may proceed with the hearing and make appropriate findings and order appropriate relief. However, unless a method is found to provide counsel to those obligors whom the court finds to be indigent, incarceration may not be used as an option to coerce compliance with support orders.

C. Generating Warrants

Presently warrants are produced by Probation's automated Warrant Generator Program. (See Warrant – Failure to Appear (Form: CN 10815) and Warrant – Failure to Pay After Order (Form CN 10816)). In the future, they will be produced on the new automated system NJKiDS, once implemented. These warrants set out the accumulated arrears amount, with the full arrears amount as of the day the warrant is issued constituting the “release amount.” In the event that the warrant is issued for failure to provide medical support, the obligor's release should be conditioned on the obligor furnishing proof of medical coverage. The child support hotline phone number should be printed on the face of the warrant. This provides the Sheriff's Office with access to reliable information to verify, at the obligor's request, the current arrears amount. If that verified amount is less than the amount noted on the warrant, the arresting authority must accept payment of that lesser amount as the release amount. Payment of the amount stated on the warrant will satisfy the warrant even if the total arrears amount on ACSES/NJKiDS is greater than the amount at the time of obligor's arrest.

D. Receipts for Payment of Release Amount

Obligor's paying release amounts, payments of child support obligations, must be given receipts for those payments. It is important to maintain the distinction between release amounts and bail payments. Release amounts are not bail, nor should money paid as bail be used for release payment purposes. All vicinages must use the form of receipt attached as “Notice and Receipt of Child Support Release Payment (Form: CN 10818).” The form includes an acknowledgment by the payer that the payment will be applied to the support arrears and will not be returned to the payer. The form also provides for release of the obligor upon payment of the release amount, even if the obligor wishes to contest the arrears amount (see the procedure described in Section B5(a) above). This form is available at all locations where such payments are collected.

The Judiciary has enlisted the cooperation of the County Sheriffs and local municipalities to use this form consistently for arrests on child support warrants. Accurate reporting of child support warrant collections benefit the Title IV-D Child Support Program as well as the Sheriffs' Title IV-D cooperative agreements.

E. Rapid Notice to Probation of Obligor's Arrest

Since the Probation Division routinely receives rapid notification of an obligor's arrest, Probation generally is able to schedule an obligor to be brought before a judge the same day or the following day. The few exceptions occur either because Probation and the court are unavailable on the weekend or a holiday, or because the court is not available for these matters on Mondays or Fridays in some counties. Obligor's arrested on warrants for violating support orders must be brought before a court as soon as possible, but in any event within 72 hours of arrest.

F. Rapid Initial Contact with the Arrested Obligor

Some arrested obligors pay the support arrears amount (release amount) shown on the face of the warrant or the amount of their current arrears as verified by the Sheriff's Office and are released immediately.

Those obligors who do not pay the Sheriff either the release amount as shown on the face of the warrant or their full arrears amount as verified by the Sheriff are taken into custody. In addition to the indigency interview procedure outlined in Section B5(b) above, Probation is authorized in appropriate cases to attempt to reach agreement with the arrested obligor on a payment amount that will be recommended to the judge, which amount may be less than the full amount shown on the warrant. In such matters, the recommendation generally is accompanied by an agreement by the obligor to resume timely payment of the ongoing court-ordered obligation(s). Agreement is reached in the substantial majority of such cases. If the judge decides to accept Probation's recommendation, the terms of the agreement will be included in the judge's order. After that payment is made, the warrant should be discharged and the obligor released. In the majority of cases, this happens on the same day as the arrest or the following day. However, if no such agreement is reached, the Expedited ELR hearing shall proceed.

Probation conducts the required indigency interview and arranges for a prompt hearing before a judge, and, wherever practical, attempts to negotiate a release amount with the obligor prior to the obligor seeing the judge.

G. Notifying Obligees of Arrested Obligor's Expedited ELR Hearing

The obligee frequently has information that can help the judge determine the obligor's ability to pay. Probation thus should attempt to contact the obligee by telephone in all cases in which an arrested obligor will have an Expedited ELR hearing. In those cases where Probation is able to reach the obligee prior to such hearing, the obligee can submit relevant information over the phone or by fax to Probation, by the obligee appearing in person at the hearing, or by the obligee speaking by phone with the judge's staff. It should be emphasized to the obligee that he or she may appear in

person at the Expedited ELR hearing. Probation should ask for relevant information whenever an obligee calls regarding missed payments. The obligee can send the information in writing, or Probation can make a record of any oral report as a case note on ACSES/NJKiDS. This information would then be available to the judge at the hearing.

While Probation should make efforts to contact the obligee and while the obligee may appear at the hearing, such efforts must not delay the hearing. See Anyanwu v. Anyanwu, 339 N.J. Super. 278 (App. Div. 2000), cert. den. 170 N.J. 388 (2001).

H. Timing of the Expedited ELR Hearing Following Arrest – Within 72 Hours, Excluding Holidays

In all cases in which an obligor has been arrested on a warrant to compel appearance and where the release amount has not been paid, Probation shall arrange for the obligor to be brought before a judge for an Expedited ELR hearing. Probation also should attempt to contact the obligee. (See Section G above.) All arrested obligors should be seen by a judge as soon as possible. That normally means within two business days, unless a weekend intervenes or there is no judge available. In no case, however, should this occur any later than 72 hours after the time of arrest, excluding holidays. Video conferencing, where available, should be used in order to expedite the process.

I. Subsequent Hearing or Reviews

In cases where the judge orders coercive incarceration at the ELR hearing (See Section B5 above), the judge must conduct subsequent periodic reviews to determine whether incarceration continues to be an effective means to compel obligor's compliance. Such subsequent reviews should be held at least every two weeks. At each review, Probation should advise the judge as to how long the obligor has been incarcerated.

These subsequent reviews require that the court determine whether the continued incarceration is still coercive, rather than punitive. At the point that the incarceration is no longer coercive, the court has the discretion to release the obligor or to refer the case to the County Prosecutor pursuant to N.J.S.A. 2C:24-5.

J. Rule 1:10-2 Contempt Proceedings

It is contemplated that the great majority of those who are incarcerated subsequent to the ELR or Expedited ELR hearing will be jailed to coerce compliance under R. 1:10-3. However, the judge also may determine that the obligor's acts or

omissions are sufficiently severe to warrant punishment. In such cases, the judge may institute an order to show cause or for arrest specifying those acts or omissions to be contumacious under R. 1:10-2. It is important to keep in mind the important distinctions that differentiate these R. 1:10-2 proceedings from the R. 1:10-3 hearings: (1) R. 1:10-2 proceedings are punitive, rather than coercive, and (2) any sentence of incarceration must be determinate in length.

In R. 1:10-2 proceedings, the alleged contemnor (1) must receive notice of the specific acts alleged to be contumacious and must have the opportunity to be heard, (2) may have the right to a jury trial, (3) has the right to retain counsel or, if indigent, to have counsel appointed, and (4) has the right to be released on his or her own recognizance, unless the court determines that the imposition of bail is necessary to ensure appearance. For example, this approach may be appropriate where the obligor has demonstrated a pattern of failing to appear before the court, intentionally hiding assets, accumulating an excessive amount of unpaid support, and/or continuing to refuse to pay when the judge is satisfied that the ability to pay exists.

These R. 1:10-2 cases must be prosecuted by the Attorney General or the County Prosecutor. The aggrieved litigant's (obligee's) attorney should not prosecute except for good cause shown. If found guilty of contempt under R. 1:10-2, the obligor may be punished by serving up to six months in jail, paying a fine of not more than \$1,000, or both.

K. N.J.S.A. 2C:24-5 Criminal Prosecution

Notwithstanding any action taken by the court pursuant to R. 1:10-2 or R. 1:10-3, the Attorney General or the County Prosecutor may pursue criminal charges against the obligor under N.J.S.A. 2C:24-5. Such approach is appropriate if the obligor willfully fails to provide support that he or she (1) can provide, and (2) knows that he or she is legally obliged to provide. In such proceedings, the obligor would be charged with a fourth degree criminal offense. A person who is convicted of a fourth degree crime may be sentenced to imprisonment for a term not to exceed 18 months, a fine not to exceed \$10,000, or both. In addition, persons convicted of this offense may also be ordered to make restitution. As with R. 1:10-2 proceedings, in these matters the obligor has the right to be represented by counsel and, if indigent, is entitled to assigned counsel or a public defender. In such matters the accused (that is, the obligor) may be entitled to a trial by jury. If the obligor makes that demand, the Rules of Court require the prosecution to be transferred from the Family Part to the Criminal Division.

FORMS

- CN: 10815 Warrant – Failure to Appear
- CN: 10816 Warrant – Failure to Pay After Order
- CN: 10818 Notice and Receipt for Child Support Release Payment
- CN: 10819 Probation Child Support Enforcement Obligor Questionnaire
- CN: 11212 Conducting the Ability to Pay Hearing for an Obligor Held on a Support
Warrant
- CN: 11213 Order for Relief to Litigant, Enforcement of Litigant's Rights

SAMPLE

WARRANT
FAILURE TO APPEAR

DATE OF WARRANT: 2/4/2002



SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, FAMILY PART
COUNTY OF CAPE ESSEX

DOCKET FD-22-772-95
CS90090643Q DFD ID: C512345022

THE STATE OF NEW JERSEY,

TO THE SHERIFF OF THE COUNTY ABOVE OR ANY CONSTABLE OR POLICE OFFICER,

GREETINGS:

PURSUANT TO THE AUTHORITY OF THIS COURT AS DETAILED IN PART 1, SECTION 10,
SUBSECTION 3, OF THE RULES GOVERNING THE COURTS OF THE STATE OF NEW JERSEY,
YOU ARE HEREBY COMMANDED TO ARREST

JOHN JONES

AND CONFINE THIS PERSON TO THE COUNTY JAIL.

**SUBJECT HAS FAILED TO APPEAR IN COURT ON 12/23/2001 FOR A HEARING TO ENFORCE
LITIGANT'S RIGHTS**

IF THE ABOVE NAMED PERSON CANNOT SATISFY THE CONDITIONS OF RELEASE, YOU MUST
BRING THAT PERSON BEFORE A JUDGE OF THIS COURT THE SAME DAY OR NO LATER THAN 72
HOURS FROM THE TIME OF THE ARREST.

CONDITIONS OF RELEASE:

THE SUBJECT MAY BE RELEASED UPON THE PAYMENT OF **\$13,726.40**. IF SAID PERSON, UPON
ARREST, ALLEGES THAT THE TOTAL ARREARS ARE LOWER THAN THE AFORESTATED
AMOUNT, THE ARRESTING AGENCY MAY CALL THE CHILD SUPPORT HOTLINE AT
1-800-621-5437 TO CONFIRM THE ARREARS AMOUNT. IF, AFTER MAKING SAID CALL, THE
TOTAL ARREARS ARE DETERMINED TO BE LESS THAN THE AFORESTATED AMOUNT, THE
ARRESTING AGENCY IS AUTHORIZED TO ACCEPT THE LESSER AMOUNT AS A CONDITION OF
RELEASE AND SHALL NOTE SAME ON THE RETURN OF THIS WARRANT TO THE COURT. **THIS IS
A RELEASE PAYMENT. IT IS NOT BAIL AND IS NOT REFUNDABLE.**

I, THE HONORABLE I.A. JUDGE, JUDGE OF THE SUPERIOR COURT,
IN AND FOR THE COUNTY OF CAPE ESSEX,
DO HERewith ISSUE AND MAKE THIS YOUR WARRANT TO ARREST JOHN JONES TO ANSWER
FOR SAID TRESPASSES AGAINST THE DIGNITY, POWER, AND AUTHORITY OF THIS COURT.

HONORABLE _____, JSC

WARRANT INFORMATION

NAME: JONES, JOHN

ADDRESS: 216 FOB AVE VALDOSTA NJ 08000-1357

SUBJECT

DOB: 11/9/1950

SSN: 123-45-6789

SEX: M

RACE: CAUCASIAN

DESCRIPTION: HEIGHT: 6 FT. 01 IN. WEIGHT: 210 LB.

HAIR: BROWN EYES: BLUE

**ALL PAYMENTS RECEIVED MUST BE ACKNOWLEDGED WITH A NOTICE AND RECEIPT FOR
RELEASE PAYMENT. BAIL RECEIPTS MUST NOT BE USED.**

SAMPLE

WARRANT

FAILURE TO PAY AFTER ORDER

DATE OF WARRANT:2/4/2002



SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, FAMILY PART
COUNTY OF CAPE ESSEX

DOCKET FD-22-772-95
CS90090643Q DFD ID: C512345022

THE STATE OF NEW JERSEY,

TO THE SHERIFF OF THE COUNTY ABOVE OR ANY CONSTABLE OR POLICE OFFICER,

GREETINGS:

PURSUANT TO THE AUTHORITY OF THIS COURT AS DETAILED IN PART I, SECTION 10,
SUBSECTION 3, OF THE RULES GOVERNING THE COURTS OF THE STATE OF NEW JERSEY,
YOU ARE HEREBY COMMANDED TO ARREST

JACKIE DOE

AND CONFINE THIS PERSON TO THE COUNTY JAIL.

**SUBJECT HAS FAILED TO MAKE CHILD SUPPORT PAYMENTS AS DIRECTED UNDER THE
COURT ORDER DATED 5/13/1996 WHICH REQUIRES THAT IF PAYMENT IS NOT MADE HE/SHE
BE BROUGHT BEFORE THE COURT FOR AN ENFORCEMENT HEARING ON AN EXPEDITED
BASIS.**

IF THE ABOVE NAMED PERSON CANNOT SATISFY THE CONDITIONS OF RELEASE, YOU MUST
BRING THAT PERSON BEFORE A JUDGE OF THIS COURT THE SAME DAY OR NO LATER THAN 72
HOURS FROM THE TIME OF THE ARREST.

CONDITIONS OF RELEASE:

THE SUBJECT MAY BE RELEASED UPON THE PAYMENT OF **\$13,726.40**.

IF SAID PERSON, UPON ARREST, ALLEGES THAT THE TOTAL ARREARS ARE LOWER THAN THE
AFORESTATED AMOUNT, THE ARRESTING AGENCY MAY CALL THE CHILD SUPPORT HOTLINE AT 1-800-
621-5437 TO CONFIRM THE ARREARS AMOUNT. IF, AFTER MAKING SAID CALL, THE TOTAL ARREARS ARE
DETERMINED TO BE LESS THAN THE AFORESTATED AMOUNT, THE ARRESTING AGENCY IS AUTHORIZED
TO ACCEPT THE LESSER AMOUNT AS A CONDITION OF RELEASE AND SHALL NOTE SAME ON THE
RETURN OF THIS WARRANT TO THE COURT. **THIS IS A RELEASE PAYMENT. IT IS NOT BAIL AND IS NOT
REFUNDABLE.**

I, THE HONORABLE I.A. JUDGE, JUDGE OF THE SUPERIOR COURT,
IN AND FOR THE COUNTY OF CAPE ESSEX,
DO HEREWITH ISSUE AND MAKE THIS YOUR WARRANT TO ARREST JACKIE DOE TO ANSWER FOR SAID
TRESPASSES AGAINST THE DIGNITY, POWER, AND AUTHORITY OF THIS COURT.

HONORABLE _____, JSC

WARRANT INFORMATION

NAME: DOE, JACKIE
ADDRESS: 216 FOB AVE VALDOSTA NJ 08000-1357
SUBJECT
DOB: 11/9/1950 SSN: 761-55-7897 SEX: M RACE: AFRICAN-AMERICAN
DESCRIPTION: HEIGHT: 6 FT. 01 IN. WEIGHT: 210 LB. HAIR: BROWN EYES: BROWN

**ALL PAYMENTS RECEIVED MUST BE ACKNOWLEDGED WITH A NOTICE AND RECEIPT FOR RELEASE
PAYMENT. BAIL RECEIPT MUST NOT BE USED.**

**Notice and Receipt of
Child Support Release Payment**

In the Matter of

Docket / Warrant No. _____

Child Support Case No. _____

Amount Paid \$ _____

Obligor

NOTICE

The above named person (obligor) is subject to proceedings to enforce a court order to pay child support. In order to be released from custody on this matter the total amount printed on the warrant or a subsequent court order must be paid. **This amount IS NOT bail and will not be returned.** It will be used to satisfy all or part of the total amount in arrears on the obligor’s child support order.

Since the above amount **IS NOT** bail, no surety bonds or 10% (bail) of the arrears can be accepted. This amount must be paid in full by cash, check or money order. It must equal the amount shown on warrant, unless a lesser amount is determined by the arresting agency either by confirming the arrears amount on the 24-hour Child Support Hotline at 1-800-621-5437 or by a subsequent court order changing the amount.

ACKNOWLEDGMENT BY PAYER

I understand that my payment will be applied to the amount in arrears on the obligor’s child support order. I further understand that this amount will not be returned to me.

Payer Information:

Print Name: _____ Address: _____

Signed: _____

Date: _____ Telephone: _____

Check here if the obligor contests that this payment is owed and requests a hearing. If checked, the obligor must:

- Pay the release amount; **and**
- Appear at the Probation Division in the county enforcing the case by noon of the business day following release to obtain the date, time and place of the hearing; **and**
- Appear at that hearing and bring any proofs needed to support his/her position.

If contested, the funds will be deposited in the support account and placed on hold pending the outcome of the hearing. The obligor must appear at the Probation Division **AND** at the scheduled hearing, or the matter will be deemed uncontested.

Payment Received By:

Name: _____ Title: _____

Signature: _____ Agency: _____



New Jersey Judiciary
**Probation Child Support Enforcement
 Obligor Questionnaire**

1. Last Name		2. First Name		3. Middle Name	
4. Also Known As		5. CS#		6. Docket #	
7. Driver's License #		8. Date Of Birth		9. Age	
10. Place of Birth		11. Social Security #		12. Sex	
13. Race		14. Height		15. Weight	
16. Eye Color		17. Hair Color		18. Distinguishing Marks	
19. BW Date		20. Arrest Date		21. Release Amount	
22. Interpreter Needed?		23. Language		<input type="checkbox"/> Yes <input type="checkbox"/> No	

1. Residence

24. Residence Status <input type="checkbox"/> Rent <input type="checkbox"/> Own <input type="checkbox"/> Other		25. How Long at Current Address		26. Residence Phone No.		27. Cell Phone No.	
28. Street Address				29. City		30. State	
31. Zip				32. Name of Co-habitant		33. Relationship to Co-habitant	
34. Pay support on another case? <input type="checkbox"/> Yes <input type="checkbox"/> No Additional CS #				35. Number of Dependents		36. Is the Mortgage/rent payment current?	
37. Does the obligor have primary care of children or other dependents? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A		38. If yes, has the obligor made Alternate care arrangements? <input type="checkbox"/> Yes <input type="checkbox"/> No		39. Has alternate care information been obtained or referral made? <input type="checkbox"/> Yes <input type="checkbox"/> No			

2. Employment Status

40. <input type="checkbox"/> Employed <input type="checkbox"/> Unemployed <input type="checkbox"/> Disability <input type="checkbox"/> Workers Compensation <input type="checkbox"/> General Assistance <input type="checkbox"/> Other							
41. Current Employer's Name And Address						42. If Unemployed, How Long?	
						43. Applied/Receiving Unemployment?	
						44. Reason For Unemployment	
45. Employer Phone #			46. Occupation		47. Salary/Hourly Rate		48. Hours Per Work Week
49. Date Started		50. Skills			51. Supervisor's Name		
52. Does Your Employer Provide Medical Insurance? <input type="checkbox"/> Yes <input type="checkbox"/> No				53. Name Of Medical Insurance Company			
54. If Yes, Who Is Enrolled On The Medical Insurance?				55. Medical Insurance Policy Number			
56. Previous Employer's Name And Address						57. Date Employment Started	
						58. Date Employment Ended	
59. Phone No.			60. Salary		61. Reason Employment Ended		

3. Financial Status	
62. Monthly Income (Salary/Wages/Hourly Rate) \$	63. House(s)/Land Market Value \$
64. Unemployment/Disability/Worker's Comp \$	65. Value Of All Motor Vehicles \$
66. Social Security/Veterans Administration \$	67. Cash \$
68. Pension \$	69. Account Balances - Checking/Savings/etc. \$
70. Public Assistance/Subsidies/Food Stamps \$	71. Civil Judgment Awards/Pending \$
72. Child Support/Alimony \$	73. Current Value of Stocks/Bonds/CDs'/IRA \$
74. Other Income - Trust Fund/Insurance/etc. \$	75. Pending Law Suits \$
76. Misc. Income \$	77. Misc. Assets \$
78. Total Monthly Income \$	79. Total Assets \$
80. Rent/Mortgage Payment \$	81. Loan Balances - Mortgages/Vehicle \$
82. Loans - Vehicle/Boat/etc. \$	83. Medical/Dental/Hospital Debts \$
84. Child Support/Alimony Obligations \$	85. Fines Owed to Other Courts \$
86. Medical Insurance \$	87. Credit Card Balances \$
88. Household Utilities \$	89. Civil Judgments Owed \$
90. Other Household Expenses \$	91. Other Debts and Expenses \$
92. Total Monthly Expenses \$	93. Total Debts \$
Certification	
<p>I certify that the foregoing statements made by me in the above financial statement are true. I am aware that if any statements made by me in the financial statement are willfully false, I am subject to punishment as provided by R. 1:4-4(B).</p>	
94. Obligor's Signature	
95. Date	
96. Interviewer's Signature	97. Title
98. Date	
<p>Record notes related to special circumstances (e.g., disability, unemployment, etc.) below:</p>	

Conducting the Ability to Pay Hearing for an Obligor Held on a Support Warrant

Documents for review prior to the hearing:

- Obligor Questionnaire
- Wage and Hour report
- Payment History
- Current Support Order

Suggested Steps for obtaining all necessary information from the Obligor:

- Review the Obligor Questionnaire and other documents
- Swear the Obligor
- Begin with the Demographic Questions below, reviewing, as needed, the Questionnaire with the Obligor (the questions that are included in the Questionnaire *are in italics with the Questionnaire number (in parentheses)*)
- Clarify inconsistent, inconclusive or ambiguous answers
- Determine why the bligor is failing to pay support
- Ensure that the Obligor has a plan to address arrearages – memorialize the plan in an order

Demographic Questions: (to complete or confirm the information in the questionnaire)

- What is your current address? (28)*
(Do not accept only a Post Office Box number; obtain a residential address.) (28)
- What is your Social Security Number? (11)*
- What is your Date of Birth? (8)*
- Where were you born? (10)*
- Are you employed? (40)*

Current Support Order:

- Probation is saying you owe \$_____, do you agree?
- How many children are on the order, what are their ages?
- Do you have other children you are required to support? (34)*
- What are you prepared to pay today?
- How much can you raise?
- Why have you not paid the support amount? (Listen to the Obligor's responses before you initiate further questions.)
- What is your plan to try to satisfy the arrears and pay the child support?

Living Arrangements (Section 1):

Do you own your home, pay a mortgage or rent? (24)

Are you current with your rent or mortgage? (36)

What is the amount of your rent/mortgage? (80)

Who is paying for your rent and food?

Is the lease in your name?

If no, who rents the place?

How long have you lived there?

Are you living alone? (32)

If the Obligor is employed (Section 2)

Where are you employed? (41)

Please give the full address and telephone number of your employer. (41/45)

How long have you been employed? (49)

How many hours do you work? (48)

Are you salaried or paid by the hour? (62/47)

How often are you paid? (Weekly, monthly, twice a week or every two weeks)

Do you have any other source of income?

How much do you make?

Did you have a pay stub available?

Do you receive tips or other monies not reflected in your paycheck?

Medical Coverage:

Does your employer provide medical coverage? If no, are you a member of a union?

Have you applied for medical coverage for your child/children through this job or union?

Do you have the medical coverage for your child/children? Do you have proof? (such as a copy of the insurance card.)

If the Obligor is unemployed (Section 2)

How long have you been unemployed? Or, When was your last job? (42/58)

What happened to your prior job? (44)

What type of work did you do? (46/56)

How long were you there? Or, When did you start working in that job?

Did you apply for Unemployment Insurance payments? (43/64)

Are you collecting unemployment compensation? (43/64)

Do you have any prospects for a job? (*See Comment Section on Questionnaire*)

What have you done to try to find a job? (*See Comment Section on Questionnaire*)

Are you disabled in any way that I should know about? (See Comment Section on Questionnaire)

If so, do you have medical proof of the disability?

Did you apply for any type of disability income?

Are you collecting any disability payments? State? Social Security? Veterans? Worker's Compensation?

Do you have proof of the type of income you are receiving as a result of the disability?

Is the obligor receiving any Social Security income? Determine if it is SSI (Supplemental Security Income) or SSDI (Social Security Disability Insurance) payments.

Is your child receiving any kind of income as a result of your disability payment?

Other income source: (See Comment Section on Questionnaire)

Have you filed any lawsuit? (75)

If so, what is the name, address and phone number for your attorney?

What is the status of the lawsuit?

Do you have a workers compensation claim? (See Comment Section on Questionnaire)

What is the status of your case, and are you represented by counsel in this case?

Do you own any property, stocks and/or bonds, or annuities? (63/65/73)

Are you receiving any pension income? (68)

Have you had any winnings from the lottery or from a casino in the last six months?
(If yes) how much?

Do you have any other assets?

Ask the Obligee, if present, if she or he is aware of any assets the Obligor has?

If the Obligor states that she/he is disabled and is not receiving any benefits based on the Disability: (See Comment Section on Questionnaire)

What is the nature of your disability?

How did the injury or condition happen?

When did this happen?

Were you employed at the time of your injury? If yes, who was the employer?

Are you under the care of a doctor? Obtain the name and location of doctor.

What is the diagnosis and prognosis according to your doctor?

When did you last see the doctor? What was the reason? What did the doctor say? When is your next appointment?

Are you taking any prescribed medications? Do you have any medical coverage?

Does your condition affect your ability work? How – seek specific details.

Do you have anything in writing from your doctor as to your ability to work?

(If the Obligor is not under medical supervision ask if she/he plans to see a doctor and request medical documentation as to disability.)

If the Obligor is participating in a Rehabilitation, or “Back to Work” Program: (See Comment Section on Questionnaire)

- Is this a voluntary Program?
- What is the name of the Program?
- What is the address and phone number for the Program?
- Who can we contact to confirm your participation?
- Do you have any proof that you are participating in the Program?
- When did you start the Program?
- How long does the Program last?
- Is it an in-patient or outpatient Program?
- Are you allowed to work while your participate in the Program?
- If yes, where have you been looking for work?
- If working, what do you earn?
- Do you have to pay the Rehabilitation Program any fees?
- Are you receiving any training as part of the Program?
- When will you be completing the Program?

If the Obligor has been incarcerated: (See Comment Section on Questionnaire)

- How long were you incarcerated?
- When were you released?
- If unemployed, what have you been doing to find work?
- What type of work did you do before?
- Do you have any prospects for employment?
- Are you living alone?
- Are you on Criminal Probation or Parole? What is the name of your P.O.?
- Are Child Support payments a condition of your probation or parole?
- Do you have any criminal fines to pay?

For the Obligor who is unemployed and states he/she lacks income but is not disabled. (See Comment Section on Questionnaire)

(Note: Question carefully to ascertain how obligations are being met.)

- Do you have any income from any source?
- What is your cell phone number?
- Do you have a car? Is it yours? Is it leased or financed? Make, model and color.
- Is the car insured? What is the name of the insurance company? How much do you pay to insure it?
- If no car, how did you get here today?
- If by public transportation – how much did that cost? How did you get the money?
- If someone else drove Obligor, ask who. How does Obligor know the person who gave Obligor the lift. Did you provide money for gas?
- Do you have any consumer debt? Credit cards? (Get details of balance, and status of payments. Note that a good credit score means that a minimum payment is made on time.)
- Any loans? (If yes, obtain details)
- If Obligor lives at own place – Do you have cable? Internet access? How much is paid for these services?
- Besides this case, are you responsible for supporting anyone else?

Possible Orders:

Order to Return to Incarceration

Insure that specific findings necessary to support the Order are included on the face of the Order to facilitate appellate review.

Order for alternative disposition

Consider all possible remedies such as:

- Wage Execution, if not in place
- Lump Sum payable today
- Lump Sum payable on a future date
- Missed payment status (also known as a bench warrant stipulation, usually stating that missing two subsequent payments may result in issuance of a new bench warrant)
- Lien on lawsuit
- Job search report to Probation (directing Obligor to provide proof of application for X number of suitable jobs on a weekly or biweekly basis to Probation)
- Referral to DOL One Stop Center (Work Requirements Program)
- Direct Obligor to apply for benefits to which she/he may be entitled such as Social Security
- Direct Obligor to provide Probation/MNSM Center with medical insurance information
- Initiation of Drivers or Professional License Suspension or Restoration
- Community service as provided in R. 5:3-7(b)
- Direct Obligor to sell assets and tender proceeds into court.

If Obligor's responses lead the court to conclude that modification of the support order may be appropriate because of the Obligor's incarceration, disability, or other change in circumstance, the court, in its discretion, may (1) recommend that the Obligor file for a modification of support or (2) arrange for a hearing to address the relevant change in circumstances on a date provided by the Division Manager that will allow adequate time for service of notice to the Obligee.

Plaintiff

Obligor / Obligee

v.

Defendant

Obligor / Obligee

**Order for Relief to Litigant -
Enforcement of Litigants Rights**

With appearance by:

- Plaintiff Attorney for Plaintiff _____
- Defendant Attorney for Defendant _____
- IV-D Attorney _____
- _____ County Probation Division _____

THIS MATTER having come before the Court on the _____ day of _____, _____;

AND the Court having considered the evidence and arguments presented, and having found that:

The obligor is under a Court Order to pay \$_____ per _____ for the support of
_____ child(ren), \$_____ per _____ for spousal support and \$_____ per
_____ toward arrearages effective _____;

The obligor has failed to make payments and owes arrearages totaling \$_____ as of
_____ due to the Obligee and/or _____ County Welfare;

- The obligor is indigent and: qualifies for court appointed counsel, but none is available;
 qualifies for court appointed counsel and _____ is appointed;
- The obligor is not indigent and does not qualify for court appointed counsel;
- The obligor has the current ability to pay \$_____ toward the arrearages;
- The obligor has the financial ability to pay and refuses to do so, and that incarceration of the obligor is necessary to coerce compliance;

AND the Court having further found that:

Therefore it is hereby ORDERED that:

- The obligor be incarcerated in the _____ County Jail until the Obligor pays \$_____ to be applied to said arrears or until further Order of this Court. The Court will review the continuing efficacy of this Order for coercive incarceration no later than two weeks from the date of this Order so long as the above release payment is not paid and the Obligor remains incarcerated.

- The obligor be released from custody in this matter;
- The support-related bench warrant currently issued in this matter is discharged;
- Payments shall be made by Income Withholding on current and future income sources, including:

Name of income source	Address of income source
_____	_____
_____	_____
_____	_____

Obligor shall, however, make payments at any time that the full amount of support and arrears is not withheld.

- The Obligor shall make support payments of \$_____ per _____ plus \$_____ per _____ toward arrears for a total amount of \$_____ per _____.
- A lump sum payment of \$_____ must be paid by the obligor by _____ or a bench warrant for the arrest of the obligor shall issue without further notice.
- Effective _____ future missed payment(s) numbering _____ or more may result in the issuance of a warrant, without further notice.
- An employment search must be conducted by the obligor. Written records of at least #_____ contacts per week must be presented to the Probation Division. If employed, proof of income and the full name and address of employer must be provided immediately to the Probation Division.
- The obligor is hereby noticed to appear before this court on _____ at _____ in _____ for further review and possible modification of the child support obligation. The _____ Family/ Probation Division shall serve notice to the Obligee and other interested parties, if any, in this matter.
- The Motor Vehicle Commission, State of New Jersey, shall TAKE NOTICE that the suspension of the Obligor's Drivers License caused by the non-payment of child support is hereby removed; the Obligor must take note, however, that the Commission requires a fee for restoration of the license, and that this order does not pertain to any reason for license suspension other than non-payment of child support.
- It is further ORDERED:

It is further ORDERED that all provisions of any prior Orders in this matter, not in conflict with this Order, shall remain in full force and effect.

_____, Date _____, J.S.C.

**ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY**

**PHILIP S. CARCHMAN, P.J.A.D.
ACTING ADMINISTRATIVE DIRECTOR
OF THE COURTS**



**RICHARD J. HUGHES JUSTICE COMPLEX
P.O. Box 037
TRENTON, NEW JERSEY 08625-0037
(609) 984-0275**

DIRECTIVE #12-08

**To: Assignment Judges
Trial Court Administrators**

[Questions or comments
may be addressed to
(609) 633-2390]

From: Philip S. Carchman, P.J.A.D.

Subject: Probation Child Support Enforcement - Diligent Efforts Protocol

Date: July 9, 2008

The Judiciary's long-time use of certified mail for notice and service of process for child support enforcement proceedings is costly and not always effective. Individuals obligated to pay child support sometimes seek to evade that obligation by either asserting defect in notice and service or avoiding notice and service altogether. This is to advise you that, effective immediately, the attached Diligent Efforts Protocol (Protocol) provides an alternative method for meeting service of process requirements in child support enforcement matters. The Protocol details how service of process may be documented to the court or hearing officer by demonstrating that Probation Child Support Enforcement (PCSE) staff exercised "diligent efforts" to verify the obligor's address when serving notices by ordinary mail. The Protocol was approved by the Judicial Council on May 24, 2006. Implementation was delayed pending necessary enhancements to the Automated Child Support Enforcement System (ACSES).

History

The federal "Personal Responsibility Work Opportunity Reconciliation Act" (PRWORA), P.L. 104-193 (1996), a comprehensive welfare reform plan, included comprehensive provisions directed to child support enforcement. PRWORA established a legal presumption in child support enforcement actions that service has been effected when a notice is mailed and it is shown that diligent efforts were made to identify the address of the party served. If diligent efforts are made to confirm the obligor's address, then courts may presume that a notice mailed to that address was actually served on the obligor. In 1998, the New Jersey Legislature adopted this principle in the "New

Jersey Child Support Program Improvement Act,” N.J.S.A. 2A:17-56.7a et seq., as did the Supreme Court in Rule 5:4-4(c). While the use of diligent efforts has thus been available for some time, it has been a little-used tool because up to now the effort needed to verify and certify the obligor’s address has been burdensome and time consuming.

Diligent Efforts Protocol

The Diligent Efforts Protocol was developed to provide an alternative method to establish service of process by demonstrating that PSCE staff exercised “diligent efforts” to verify the obligor’s address. ACSES automatically interfaces with a number of external databases and uses information from those databases to update ACSES records, including address information. Because of these automatic updates to ACSES, PCSE staff use ACSES as the primary tool for obtaining address information for child support obligors. A recent enhancement to ACSES now automatically generates a Certification of Diligent Efforts (Form: 11224, CS 195), hereafter referred to as Certification, summarizing the results of these interfaces with external systems, any time the Notice of Motion to Enforce Litigants Rights (Notice) is generated. Along with documentation of other efforts to locate the obligor, the Certification eliminates the need to send a second copy of the Notice by certified mail in addition to the regular mail copy.

Under this Protocol, “diligent efforts” requirements are satisfied when the obligor’s address is searched by ACSES, with any new address having received verification from the U.S. Postal Service, and ACSES thereafter generates the Certification. When an obligor does not appear for a hearing and a judge or child support hearing officer is presented with the Certification, and Probation represents that the notice sent by regular mail has not been returned, the hearing should proceed, as effective service on the obligor is presumed at that point consistent with Rule 5:4-4(c). The court also is authorized to issue a bench warrant for failure to appear if appropriate.

The Probation Child Support Enforcement Operations Manual, Section 1604 – *Court Enforcement Procedures*, will be updated to reflect the new Protocol. Any questions about this memorandum may be directed to Richard R. Narcini, Chief, Child Support Enforcement Services at 609-633-2390.

P.S.C.

Attachments

c: Chief Justice Stuart Rabner
Hon. Glenn A. Grant, Acting Administrative Director Designate
Family Presiding Judges

AOC Directors and Assistant Directors
Richard R. Narcini, Chief, Probation Child Support Enforcement Services
Elidema Mireles, Esq., Chief, Child Support Hearing Officer Program
Vicinage Chief Probation Officers
Family Division Managers
Finance Division Managers
Vicinage Assistant Chief Probation Officers, Child Support
Stephen D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

DILIGENT EFFORTS PROTOCOL

The following protocol sets out the Diligent Efforts to be followed when serving process to enforce orders for child support and spousal support.

Authority

The New Jersey Rules of Court and statutes prescribe the manner of service of process that must be followed when enforcing a support order. Rule 5:4-4(c) and the 1998 “New Jersey Child Support Program Improvement Act,” N.J.S.A. 2A:17-56.7a et seq., provide the authority to use “diligent efforts” when serving process for the enforcement of a support provision in an order or judgment. Rule 5:4-4(c), which tracks the statutory language in N.J.S.A. 2A:17-56.54, specifically states:

For purposes of enforcing a support provision in an order or judgment, the court may deem due process requirements for notice and service of process to have been met with respect to the obligor on delivery of written notice to the most recent residential or employer address. If the obligor fails to respond to the notice and no proof is available that the obligor received the notice, the party bringing the enforcement action must show that diligent efforts have been made to locate the obligor by making inquiries to the U.S. Postal Service, the Division of Motor Vehicles, the Department of Labor, and the Department of Corrections. A certification documenting unsuccessful efforts to locate the obligor shall be provided to the court before any action adverse to the obligor is taken based on failure of the obligor to respond to a notice.

Moreover, the federal Personal Responsibility Work Opportunity Reconciliation Act (PRWORA) provides that there is a presumption of notice on a showing of diligent efforts to locate a party in any subsequent child support enforcement action involving the same parties. Under PRWORA, when notice is sent to the most recent address filed with the State, that notice shall be deemed to constitute sufficient service. See 42 U.S.C. § 666(c)(2)(A)(ii) (Supp. V 1999).

Rule 5:7-4(f)(8) requires the parties to provide changes of address to the Probation Child Support Enforcement (PCSE) unit administering the case. Despite that requirement, parties do not always provide this information on a timely basis. Use of standardized “diligent efforts” allows alternative methods for establishing service of process on delinquent obligors when enforcement of the judgment or order becomes necessary and no alternative addresses for the obligor are known or provided.

Diligent Efforts Protocol

The Automatic Child Support Enforcement System (ACSES) automatically interfaces with a number of external databases in order to update its records. When new addresses are identified and verified, they are used to update the obligor record on ACSES. Because of these periodic automatic updates to ACSES, PCSE staff use ACSES as its primary tool for obtaining address information for child support obligors. External automated systems that regularly interface with ACSES include those administered by the New Jersey Motor Vehicle Commission, New Jersey Department of Labor, New Jersey Department of Corrections, New Jersey Department of Taxation, Federal Parent Locator Service (includes National Directory of New Hires, Social Security Administration, Internal Revenue Service and Federal Case Registry data), and the New Jersey Department of Human Services New Hire Database. Verified mailing address information received from these sources as well as the sources themselves are automatically indicated on the Certification. Based on the approval of this Protocol by the Judicial Council, the Department of Human Services, Division of Family Development enhanced the ACSES system to automatically generate this Certification. A sample of the Certification is attached. Other supporting documents, e.g., letters of inquiry, additional automated locate results and/or verification of mail delivery by the Postal Service, are indicated and/or summarized on the Certification by staff.

The Certification is automatically generated when PCSE staff schedule Enforcement of Litigants Rights (ELR) cases via the ACSES UCRT screen. The Certification is produced along with the Notice of Motion to Enforce Litigants Rights (CS040) and the Certification in Support of the Motion (CS041) documents. The Notice of Motion to Enforce Litigants Rights (CS040) and the Certification in Support of the Motion (CS041) are sent by regular mail to the obligor at the verified mailing address and the Certification of Diligent Efforts is placed in the PCSE file. PCSE staff must also note on the Certification of Diligent Efforts any additional address information obtained from sources external to ACSES, such as the approved locate vendor or the obligee. PCSE staff may also note on the Certification that the Notice of Motion to Enforce Litigants Rights (CS040) and the Certification in Support of the Motion (CS041) were sent to a second address, if applicable. The Certification may also be generated using the ACSES UDOC or MDOC transaction in situations where the Certification via the ACSES UCRT screen failed to print or a more current Certification may be needed for the pending ELR hearing.

Should the obligor fail to appear at the scheduled ELR hearing, PCSE staff will present the Certification of Diligent Efforts to the judge or the Child Support Hearing Officer (CSHO). The Certification of Diligent Efforts will demonstrate that PCSE has exercised "diligent efforts" to verify the obligor's address. The CSHO or judge may infer service from the mailing to the verified mailing address noted on the Certification and proceed with the granting of relief, as appropriate. In the event service is not successful, i.e., regular mail is returned by the Postal Service, PCSE still has the option of seeking a

bench warrant so that the obligor might be taken into custody and brought before the court for an enforcement proceeding.

Questions regarding this protocol may be addressed to Richard R. Narcini, Chief, Child Support Enforcement Services at (609) 633-2390.

PLAINTIFF/ OBLIGEE

vs.

DEFENDANT/ OBLIGOR

SUPERIOR COURT OF NEW JERSEY
PROBATION DIVISION
COUNTY OF ESSEX
DOCKET NO.:
PROBATION ACCOUNT NO.:

CIVIL ACTION

Certification of Diligent Efforts

I am **F. CHRISTOPHER STANECKI** for **ESSEX** Probation Division and make this Certification pursuant to N.J.S.A. 2A:17-56.54 and R. 5:4-4(c). Utilizing the various locate sources set forth below, automated interfaces have been searched and the potential addresses obtained have been investigated and, if not verified by the United States Postal Service, eliminated:

- United States Postal Service - attached
- Motor Vehicle Commission - **MAY 30, 2008**
- Department of Labor - **MAY 08, 1999**
- Department of Corrections - **JUNE 04, 2008**
- Department of Taxation -
- Federal Parent Locator Service - **MAY 17, 2008**
- State New Hire Database -
- Other - Specify Manual locate attempts

I have determined that the address for the Obligor is:

This is the address used for serving the obligor on **JUNE 09, 2008** by regular mail of a Enforcement of Litigants Rights motion scheduled for a hearing on **AUGUST 11, 2008**

Additional service was attempted on motion scheduled for a hearing on **AUGUST 11, 2008** by regular mail of the Enforcement of Litigants Rights at the following addresses:

XX The obligor has not properly advised Probation of a change of employer or an address in accordance with Rule 5:7-4(b).

Based on the foregoing statements, Probation is requesting that the obligor be deemed served at the address of record and requests enforcement by all available means.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: _____

F. CHRISTOPHER STANECKI

Rule 5:25-3. Child Support Hearing Officers

(a) Appointment. There shall be established within the Family Part of the Chancery Division an Office of the Child Support Hearing Officer. The Office of the Child Support Hearing Officer shall consist of a Chief Child Support Hearing Officer, and as many other Child Support Hearing Officers as may be determined appropriate by the Supreme Court. The Chief Child Support Hearing Officer and other Child Support Hearing Officers shall be appointed by the Chief Justice and shall be under the direct supervision of the Family Part Presiding Judge of the county in which the Child Support Hearing Officer is assigned. The administrative supervision of the Child Support Hearing Officers shall be vested in the Administrative Director of the Courts.

(b) Jurisdiction. The Child Support Hearing Officer shall hear and make recommendations that the court enter orders based thereon in all Title IV-D, Federal Social Security Act, cases concerning:

(1) Establishment of Paternity or the Parent/Child relationship only when the matter is uncontested. When the issue of paternity is contested, the Child Support Hearing Officer shall refer the paternity issue to the court.

(2) Establishment of the obligation and amount of child support.

(3) Establishment of any other financial obligation regarding the care and maintenance of children as well as an obligation to provide medical coverage.

(4) Modification of the obligation of child support.

(5) Enforcement of the obligation of child support or any other support order.

(6) The establishment, modification and enforcement of support pursuant to N.J.S.A. 2A:4-30.65 to -30.123, the Uniform Interstate Family Support Act.

(7) If any establishment case involves a complex issue requiring judicial resolution, the Child Support Hearing Officer shall recommend a temporary order establishing the obligation of child support pending referral of the matter to the court.

(8) Advanced written and oral notice shall be given to the parties that their case will be heard by a Child Support Hearing Officer, and they may object to the recommendation of the Child Support Hearing Officer, which will result in an immediate hearing before a Superior Court Judge pursuant to Rule 5:25-3(d)(2).

(c) Duties, Powers, and Responsibilities. The Child Support Hearing Officer shall be responsible to the Presiding Judge in the establishment, modification, and enforcement of all Title IV-D child-support actions. Such Child Support Hearing Officers shall serve at the pleasure of the Chief Justice and his/her powers and duties shall be prescribed in the order appointing him/her or in the Rules of Procedure of the Family Part. Such Child Support Hearing Officers shall:

(1) regulate all proceedings before him/her;

(2) take testimony and establish a record;

(3) do all acts and take all measures necessary or proper for the efficient performance of his/her duties;

(4) recommend that the court order the production before him/her of books, papers, vouchers, documents, and writings;

(5) rule upon the admissibility of evidence;

(6) recommend the issuance of summonses or subpoenas for the appearance of parties or witnesses, administer oaths, examine parties and witnesses under oath;

(7) accept voluntary acknowledgment of support liability and stipulations or agreements setting the amount of child support to be paid and/or admitting paternity;

(8) evaluate evidence and make recommendations as to the establishment and enforcement of child-support orders;

(9) recommend entry of default judgments in appropriate cases;

(10) in appropriate cases and with the immediate review by the court, make written findings, and based thereon may:

(A) recommend that the court adjudicate that a person has failed to comply with an order in violation of litigant's rights, and recommend incarceration for failure to comply with an order of the court that provided for the payment of support or the performance of any other act;

(B) request that a witness or party be brought directly before the court for a judicial hearing;

(11) recommend that the court issue a warrant upon the failure of a party or a witness to appear after having been properly served, and recommend a release amount to satisfy full arrears;

(12) recommend that the court order a party to participate in blood or genetic tests for the purpose of establishing paternity.

(d) Review by Presiding Judge or Designee; Appeal; Time; Record.

(1) The Presiding Judge of the Family Part or a Judge designated by the Presiding Judge shall immediately review all recommendations of a Child Support Hearing Officer. Appropriate recommendations shall be signed and ratified by the Judge.

(2) A party not accepting a recommendation entered by the Child Support Hearing Officer shall be entitled to an immediate appeal of the recommendation to the Presiding Judge of the Family Part or a Judge designated by the Presiding Judge who shall conduct a hearing forthwith. The appeal may be made by either party, and shall be heard de novo not on the record below. Failure to request a de novo hearing does not bar a motion for a new trial pursuant to Rule 4:49 or a motion for Relief

from Judgment pursuant to Rule 4:50.

(3) Orders of the Family Part entered as a result of a Child Support Hearing Officer's recommendation shall be recognized as a final order of the Superior Court. Copies of the orders shall be provided to the parties or their attorneys. Orders may be appealed to the Appellate Division of the Superior Court within the time and according to the procedures prescribed by the Rules for appeals to the Appellate Division. The time for appeal shall run from the date of the signing of the order by a Judge of the Superior Court.

(e) Service. All rules concerning service of notice and due process rights applicable to the Family Part shall be applicable to the Child Support Hearing Officer hearings.

(f) Standards and Guidelines. The Child Support Hearing Officer shall use any support-setting guidelines that may be approved by the Supreme Court.

(g) Qualifications and Compensation. The qualifications and compensation for the Chief Child Support Hearing Officer and other Child Support Hearing Officers shall be established by the Administrative Director of the Courts, subject to the approval of the Supreme Court.

History:

Source-new. Adopted September 24, 1985 to be effective October 1, 1985; paragraph (c)(12) adopted June 28, 1996 to be effective September 1, 1996; paragraph (b)(6) amended May 25, 1999 to be effective July 1, 1999; paragraphs (c)(10) and (c)(11) amended June 15, 2007 to be effective September 1, 2007.

NOTES:

Amendment Note:

2007 amendment, deleted former (c)(10)(A), which read: "request that the court adjudicate a person in contempt, and recommend incarceration for failure to appear in response to a summons or refusal to answer questions or produce evidence or for behavior disrupting a proceeding", and redesignated the remaining provisions accordingly; in present (c)(10)(A), inserted "in violation of litigant's rights"; and in (c)(11), substituted "a release amount to satisfy full arrears" for "an amount to be fixed for bail, bond, or cash payment to satisfy arrears and the warrant."

Editor's Note:

Rule Relaxation Order for Child Support Matters: By Order dated Dec. 2, 2008, effective immediately and until further order, the New Jersey Supreme Court relaxed and supplemented Rule 5:25-3 "so as to permit an electronic or digital signature to have the same effect as an original signature for an order entered resulting from the recommendations of a Child Support Hearing Officer." The Court similarly relaxed several other rules of court, all in connection with the implementation of a new automated child support enforcement system, known as NJKiDS (New Jersey Kids Deserve Support).

LexisNexis (R) Notes:

1. LexisNexis NJ Court Rules Anno. P 5:25-3.02 Guston's Annotations to Rule 5:25-3

Case Notes:

Civil Procedure > Counsel > General Overview

1. Due Process Clause of the Fourteenth Amendment as well as the due process guarantee of N.J. Const. art. I, para. 1, mandate the appointment of counsel to indigent parents subject to incarceration at child support enforcement hearings. *Pasqua v. Council*, 186 N.J. 127, 892 A.2d 663, 2006 N.J. LEXIS 171 (2006).

Family Law > Child Support > Obligations > Enforcement > General Overview

2. Due Process Clause of the Fourteenth Amendment as well as the due process guarantee of N.J. Const. art. I, para. 1, mandate the appointment of counsel to indigent parents subject to incarceration at child support enforcement hearings. *Pasqua v. Council*, 186 N.J. 127, 892 A.2d 663, 2006 N.J. LEXIS 171 (2006).

3. At child support enforcement hearings, parents facing potential incarceration must be advised of their right to appointed counsel if they are indigent and, on request and verification of indigency, must be afforded counsel; otherwise, incarceration may not be used to coerce compliance with support orders. Parents arrested on warrants for violating support orders must be brought before a court as soon as possible, but, in any event, within 72 hours of their arrest. *Pasqua v. Council*, 186 N.J. 127, 892 A.2d 663, 2006 N.J. LEXIS 171 (2006).

[N.J. Court Rules, R. 5:25-3](#)

RULE 5:6A CHILD SUPPORT GUIDELINES

The guidelines set forth in Appendix IX of these rules shall be applied when an application to establish or modify child support is considered by the court. The guidelines may be modified or disregarded by the court only where good cause is shown. Good cause shall consist of a) the considerations set forth in Appendix IX-A, or the presence of other relevant factors which may make the guidelines inapplicable or subject to modification, and b) the fact that an injustice would result from the application of the guidelines. In all cases, the determination of good cause shall be within the sound discretion of the court.

A completed child support guidelines worksheet in the form prescribed in Appendix IX of these Rules shall be filed with any order or judgment that includes child support that is submitted for the approval of the court. If a proposed child support award differs from the award calculated under the child support guidelines, the worksheet shall state the reason for the deviation and the amount of the award calculated under the child support guidelines.

Note: Adopted May 9, 1986, to be effective immediately; amended November 7, 1988, to be effective January 2, 1989; amended June 23, 1992, to be effective September 1, 1992; amended May 13, 1997, to be effective December 1, 1997.

Supreme Court Family Practice Committee Explanatory Note

This Rule was originally adopted May 9, 1986 for the purpose of establishing guidelines for child support orders, the rule expressly providing that the guidelines may be modified or disregarded by the court only if good cause, as therein defined, is found.

Appendix IX contains the child support guidelines adopted with this Rule. Appendix IX is comprised of the following sections: Appendix IX-A (Considerations in the Use of the Child Support Guidelines), Appendix IX-B (Use of the Child Support Guidelines), Appendix IX-C (Child Support Guidelines Sole-Parenting Worksheet), Appendix IX-D (Child Support Guidelines Shared-Parenting Worksheet), Appendix IX-E (Net Child Care Expense Worksheet), Appendix IX-F (Schedule of Child Support Awards), Appendix IX-G (Schedule of Child Support Awards as a Percentage of Combined Income), and Appendix IX-H (Combined Income Tax Withholding Tables).

1. These child support guidelines were developed based on an income shares concept which apportions the average amounts spent on children by intact families between the parents in proportion to their relative incomes (for a detailed discussion of support guidelines and supporting data see New Jersey Administrative Office of the Courts, *Final Report of the Supreme Court Family Division Practice Committee on Proposed Revisions to the New Jersey Child Support Guidelines, Rule 5:6A and Appendix IX of the New Jersey Court Rules*, Report to the Supreme Court, March 1996). These guidelines are to be used in determining child support obligations only and do not relate to spousal support or maintenance.

2. The Schedule of Child Support Awards (Appendix IX-F) and the Schedule of Child Support Awards as a Percentage of Combined Income (Appendix IX-G) are derived from a 1990 study of the marginal cost of children conducted by Dr. David Betson of the University of Notre Dame. These schedules are based on averages of marginal spending on children by intact families.

3. The economic findings used to develop the child support guidelines will be reviewed by the Administrative Office of the Courts annually from the effective date of the adoption of this Rule to determine if modification of the guidelines is necessary either by legislation or Rule amendment.

PLAINTIFF VS DEFENDANT	SUPERIOR COURT OF NEW JERSEY <i>Chancery Division-Family Part</i> ORDER
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<input type="checkbox"/> <i>Obligor</i> <input type="checkbox"/> <i>Obligee</i> <input type="checkbox"/> <i>Obligor</i> <input type="checkbox"/> <i>Obligee</i>	COUNTY: _____
---	---------------

HEARING DATE / /	WELFARE / U.I.F.S.A. #	DOCKET # _____ CS# _____
---------------------	------------------------	-----------------------------

With appearance by: PL Atty for PL _____ DEF Atty for DEF _____
 IV-D Atty _____ County Probation Division _____

This matter having been opened to the court by: Plaintiff Defendant County Welfare Agency Probation Division Family Division
for an ORDER for: Paternity Support Visitation Custody Enforcement Modification / Increase / Decrease

1. State with Continuing Exclusive Jurisdiction:

CHILD'S NAME	BIRTH DATE	CHILD'S NAME	BIRTH DATE
2A.		2D.	
2B.		2E.	
2C.		2F.	

3. PATERNITY of child(ren) (# above) _____ is hereby established and an ORDER of paternity is hereby entered.

4. A Certificate of Parentage has been filed for child(ren) # _____ above.

5. IT IS HEREBY ORDERED THAT: The obligor shall pay support to the New Jersey Family Support Payment Center in the amount of:

	+		+		=		payable		effective	
Child Support		Spousal Support		Arrears Payment		Total		Frequency		Date

NOTE: Child support is subject to a biennial cost-of-living adjustment in accordance with *R. 5:6B*

6. Child Support Guidelines Order Deviation reason: _____

6A. Worksheet attached.

7. Support order shall be administered and enforced by the Probation Division in the county of Venue, _____ County.

8. ARREARS calculated at establishment hearing are based upon amounts and effective date noted above and total \$ _____.

9. ARREARS indicated in the records of the Probation Division, are \$ _____ as of ____/____/____.

10. GROSS WEEKLY INCOMES of the parties, as defined by the Child Support Guidelines, upon which this ORDER is based:
OBLIGEE \$ _____ OBLIGOR \$ _____

11. INCOME WITHHOLDING is hereby ORDERED on current and future income sources, including:
Name of income source: _____ Address of income source: _____

OBLIGOR SHALL, however, make payments AT ANY TIME that the full amount of support and arrears is not withheld.

12. Medical Support coverage as available at reasonable cost shall be provided for the child(ren) spouse,
by Obligor Obligee Both

The parties shall pay unreimbursable health care expenses of the child(ren) which exceed \$250.00 per child per year as follows:
_____ % Obligor _____ % Obligee

Pursuant to R 5:6A the obligee shall be responsible for the first \$250.00 per child per year.

If coverage is available, Medical Insurance I.D. card(s) as proof of coverage for the child(ren)/spouse shall be provided immediately upon availability to the Probation Division by the:

Obligee Obligor

12A. Insurance currently provided by a non-party: _____

12B. Health insurance benefits are to be paid directly to the health care provider by the insurer.

13. GENETIC TESTING to assist the court in determining paternity of the child(ren) (#_____) is hereby ORDERED. The county welfare agency or the foreign jurisdiction in the county of residence of the child shall bear the cost of said testing, without prejudice to final allocation of said costs. If defendant is later adjudicated the father of said child(ren), defendant shall reimburse the welfare agency for the costs of said tests, and pay child support retroactive to ___/___/___.

13A. Issues of reimbursement reserved.

13B. Issue of retroactive order reserved.

14. This matter is hereby RELISTED for a hearing on ___/___/___ before _____. A copy of this ORDER shall serve as the summons for the hearings. No further notice for appearance shall be given. Failure to appear may result in a default order, bench warrant, or dismissal. Reason for relist:

15. AN EMPLOYMENT SEARCH MUST BE CONDUCTED BY THE OBLIGOR. Written records of at least #____ employment contacts per week must be presented to the Probation Division. If employed, proof of income and the full name and address of employer must be provided immediately to the Probation Division.

16. SERVICE upon which this order is based:

Personal Service

Certified Mail:

Refused

Regular Mail (not returned)

Date: ___/___/___

Signed by: _____

Returned Unclaimed

Other:

17. A BENCH WARRANT for the arrest of the obligor is hereby ORDERED. The obligor was properly served with notice for court appearance on ___/___/___, and failed to appear. (Service noted above). An amount of \$ _____ shall be required for release.

18. EFFECTIVE ___/___/___ FUTURE MISSED PAYMENT(S) numbering _____ or more may result in the issuance of a warrant, without further notice.

19. A LUMP SUM PAYMENT OF \$ _____ must be made by the obligor by ___/___/___, or a bench warrant may be issued without further notice.

20. This complaint / motion is hereby DISMISSED: (reason) _____

21. Order of Support is hereby TERMINATED effective ___/___/___, as _____. Arrears accrued prior to effective date, if any, shall be paid at the rate and frequency noted on page number one of this ORDER.

22. THIS ORDER IS ENTERED BY DEFAULT. The obligor obligee was properly served to appear for a hearing on ___/___/___ and failed to appear. 22A. Affidavit of Non-Military Service is filed.

23. It is further ORDERED: _____

EXCEPT AS PROVIDED HEREIN, ALL PRIOR ORDERS OF THE COURT REMAIN IN FULL FORCE AND EFFECT.

I hereby declare that I understand all provisions of this ORDER recommended by a Hearing Officer and I waive my right to an immediate appeal to a Superior Court Judge:

PLAINTIFF _____ DEFENDANT _____

ATTORNEY FOR PLAINTIFF _____ ATTORNEY FOR DEFENDANT _____

24. INTAKE CONFERENCE BY AUTHORIZED COURT STAFF:

25. The parties request the termination of all Title IV-D services and consent to direct payment of support. They are advised that all monitoring, collection, enforcement and location services available under Title IV-D of the Social Security Act are no longer in effect. I understand I may reapply for Title IV-D services.

_____ obligee

_____ obligor

26. Copies provided at hearing to obligee obligor

26A. Copies to be mailed to obligee obligor

TAKE NOTICE THAT THE NEW JERSEY UNIFORM SUPPORT NOTICES WHICH ARE PROVIDED IN APPENDIX XVI OF THE RULES OF COURT, AND WHICH FOLLOW, ARE INCORPORATED INTO THIS ORDER BY REFERENCE AND ARE BINDING ON ALL PARTIES.

So Recommended to the Court by the Hearing Officer:

Date

/

/

H.O.

Signature

So Ordered by the Court:

Date

/

/

Judge

Signature

J.S.C.

APPENDIX XVI. UNIFORM SUMMARY SUPPORT ORDER (R. 5:7-4)

NEW JERSEY UNIFORM SUPPORT NOTICES

PURSUANT TO R. 5:7-4(f), TAKE NOTICE THAT THE FOLLOWING PROVISIONS ARE TO BE CONSIDERED PART OF THIS ORDER AND ARE BINDING ON ALL PARTIES:

1. You must continue to make all payments until the court order is changed by another court order.
2. You must file a WRITTEN request to the Family Division in the county in which the order was entered in order for the court to consider a change in the support order. Contact the Family or Probation Division to find out how to do this. It is important that you request a change as soon as possible after your income or the child(ren)'s status changes. In most cases, if you delay making your request, and you are the obligor, you will have to pay the original amount of support until the date of your written request.
3. Payments must be made directly to the New Jersey Family Support Payment Center, P.O. Box 4880, Trenton, NJ 08650, unless the court directs otherwise. Payments may be made by money order, check, direct debit from your checking account, or credit card. Gifts, other purchases, or in-kind payments made directly to the obligee or child(ren) will not fulfill the support obligation. Credit for payments made directly to the obligee or child(ren) may not be given without a court order.
4. No payment or installment of an order for child support, or those portions of an order that are allocated for child support, shall be retroactively modified by the court except for the period during which the party seeking relief has pending an application for modification as provided in *N.J.S.A. 2A:17-56.23a*. (*R. 5:7-4(e)*).
5. The amount of child support and/or the addition of a health care coverage provision in Title IV-D cases shall be subject to review at least once every three years, on written request by either party to the Division of Family Development, P.O. Box 716, Trenton, NJ 08625-0716, as appropriate, or upon application to the court. (*N.J.S.A. 2A:17-56.9a*; *R. 5:7-4(e)*).
6. In accordance with *N.J.S.A. 2A:34-23b*, the custodial parent may require the non-custodial parent's health care coverage provider to make payments directly to the health care provider by submitting a copy of the relevant sections of the order to the insurer. (*R. 5:7-4(e)*).
7. Social Security numbers are collected and used in accordance with section 205 of the Social Security Act (42 *U.S.C.* 405). Disclosure of an individual's Social Security number for Title IV-D purposes is mandatory. Social Security numbers are used to obtain income, employment, and benefit information on individuals through computer matching programs with federal and state agencies, and such information is used to establish and enforce child support under Title IV-D of the Social Security Act (42 *U.S.C.* 651 et seq.). Any person who willfully and with the intent to deceive, uses a Social Security number obtained on the basis of false information provided to Social Security Administration or provides a false or inaccurate Social Security number is subject to a fine or imprisonment. (42 *U.S.C.* 408(7); *R. 5:7-4(e)*).

8. The United States Secretary of State is required to refuse to issue or renew a passport to any person certified as owing a child support arrearage exceeding the statutory amount. In addition, the U.S. Secretary of State may take action to revoke, restrict or limit a passport previously issued to an individual owing such a child support arrearage. (42 U.S.C. 652(k)).
9. Failure to appear for a hearing to establish or to enforce an order, or failure to comply with the support provisions of this order may result in incarceration. The obligee and obligor shall notify the appropriate Probation Division of any changes in address, employment status, health care coverage, or a change in the address or status of the child(ren). Changes must be reported in writing to the Probation Division within 10 days of the change. Not providing this information is a violation of this Order. The last address you give to Probation will be used to send you notices. If you fail to appear, a default order may be entered against you or a warrant may be issued for your arrest (R. 5:7-4(e)).
10. Any payment or installment for child support shall be fully enforceable and entitled to full faith and credit and shall be a judgment by operation of law on or after the date it is due (N.J.S.A. 2A:17-56.23a). Any non-payment of child support you owe has the effect of a lien against your property. This child support lien may affect your ability to obtain credit or to sell your property. Failure to remit timely payment automatically results in the entry of a judgment against the obligor and post-judgment interest may be charged. Judgments [also] accrue interest at the rate prescribed by Rule 4:42- 11(a). (R. 5:7-4(e), 5:7-5(g)). Before the satisfaction of the child support judgment, any party to whom the child support is owed has the right to request assessment of post-judgment interest on child support judgments.
11. All child support obligations are payable by income withholding unless otherwise ordered. If immediate income withholding is not required when an order is entered or modified, the child support provisions of the order may be subject to income withholding when the amount due becomes equal to, or in excess of the amount of support due for 14 days. The withholding is effective against the obligor's current and future income from all sources authorized by law. (R. 5:7-4(e), R. 5:7-5).
12. The occupational, recreational, and professional licenses, including a license to practice law, held or applied for by the obligor may be denied, suspended or revoked if: 1) a child support arrearage accumulates that is equal to or exceeds the amount set by statute, or 2) the obligor fails to provide health care coverage for the child as ordered by the court, or 3) a warrant for the obligor's arrest has been issued by the court for obligor's failure to pay child support as ordered, or for obligor's failure to appear at a hearing to establish paternity or child support, or for obligor's failure to appear at a child support hearing to enforce a child support order and said warrant remains outstanding. (R. 5:7-4(e)).
13. The driver's license held or applied for by the obligor may be denied, suspended, or revoked if 1) a child support arrearage accumulates that is equal to or exceeds the amount set by statute, or 2) the obligor fails to provide health care coverage for the child as ordered by the court. The driver's license held or applied for by the obligor shall be denied, suspended, or revoked if the court issues a warrant for the obligor's arrest for failure to pay child support as ordered, or for failure to appear at a hearing to establish paternity or child support, or for failure to appear at a child support hearing to enforce a child support order and said warrant remains outstanding. (R. 5:7-4(e)).

14. The name of any delinquent obligor and the amount of overdue child support owed will be reported to consumer credit reporting agencies as a debt owed by the obligor, subject to all procedural due process required under State law. (*N.J.S.A. 2A: 17-56.21*).
15. Child support arrears may be reported to the Internal Revenue Service and the State Division of Taxation. Tax refunds/homestead rebates due the obligor may be taken to pay arrears (*N.J.S.A. 2A: 17-56.16*).
16. Child support arrears shall be paid from the net proceeds of any lawsuit, settlement, civil judgment, civil arbitration award, inheritance or workers' compensation award to a prevailing party or beneficiary before any monies are disbursed. (*N.J.S.A. 2A: 17-56.23b*).
17. Periodic or lump sum payments from State or local agencies, including lotteries, unemployment compensation, workers' compensation or other benefits, may be seized or intercepted to satisfy child support arrearages. (*N.J.S.A. 2A: 17-56.53*).
18. If you owe past due child support, your public or private retirement benefits, and assets held in financial institutions may be attached to satisfy child support arrearages. (*N.J.S.A. 2A: 17-56.53*).
19. A person under a child support obligation, who willfully fails to provide support, may be subject to criminal penalties under State and Federal law. Such criminal penalties may include imprisonment and/or fines. (*N.J.S.A. 2C: 24-5; N.J.S.A. 2C: 62-1; 18 U.S.C.A. 22*).
20. If this order contains any provision concerning custody and/or parenting time, both parties are advised: Failure to comply with the custody provisions of this court order may subject you to criminal penalties under *N.J.S.A. 2C: 13-4*, Interference with Custody. Such criminal penalties include, but are not limited to, imprisonment, probation, and/or fines.
Si usted deja de cumplir con las clausulas de custodia de esta orden del tribunal, puede estar sujeto (sujeta) a castigos criminales conforme a *N.J.S.A. 2C: 13-4*, Interference with Custody, (Obstruccion de la Custodia). Dichos castigos criminales incluyen pero no se limitan a encarcelamiento, libertad, multas o una combinacion de los tres.

Confidential Litigant Information Sheet (R. 5:4-2(g))

To Assure Accuracy of Court Records

To be filled out by plaintiff or defendant or attorney

Collection of the following information is pursuant to N.J.S.A. 2A:17-56.60 and R. 5:7-4.

Confidentiality of this information must be maintained.

Docket #		CS			
Your Name (last, first, middle initial): _____					
Are You: Plaintiff or Defendant? (circle one)	Social Security Number	Date of Birth	Place of Birth	Driver's License Number (state of issuance)	
Active Domestic Violence Order in this case? Yes or no (circle one)	- -				
Address			Telephone Number		
			()		
Employer Name and Address (or other income source)			Telephone Number		
			()		
Professional, Occupational, Recreational Licenses (Types and Numbers)			Attorney Name and Address		
Health Coverage for Children (available through parent filling out this form)					
<i>Health Care Provider</i> _____ <i>Policy #</i> _____ <i>Group #</i> _____					
<i>Dental Care Provider</i> _____ <i>Policy #</i> _____ <i>Group #</i> _____					
<i>Prescription Drug Provider</i> _____ <i>Policy #</i> _____ <i>Group#</i> _____					
Children Information					
Name (last, first, middle initial)	Date of Birth	Race	Sex	Social Security Number	Place of Birth
1.					
2.					
3.					
4.					
5.					
6.					
Sex					
Sex	Race	Height	Weight	Eyes	Hair
Auto License Plate # (State of issuance)	Car (model, make, year)	Mother's maiden name and address			
I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.					
_____			_____		
Date			Signature		

Note: Form adopted July 28, 2004 to be effective September 1, 2004; amended June 15, 2007 to be effective September 1, 2007.

Filer's Name
Address
City, State, Zip
Telephone Number

Plaintiff
vs.
Defendant

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION – FAMILY PART
COUNTY OF _____

DOCKET NO. _____
CASE ID _____

CIVIL ACTION
CERTIFICATION OF NON-MILITARY SERVICE

I _____, hereby certify that:

- 1. I am the (check one) plaintiff defendant in the above-entitled civil action
- 2. I am personally acquainted with the other party and know that he or she resides at

- 3. The other party is not in the Military Service of the United States.

I am supplying the Court with the following information as to how I know the other party is not in the military. (Check all statements below that apply to your case) In each case you must explain how any contact proves

- 4. that the other party is not in the military):

I have recently seen the other party (when, where, circumstances):

My child(ren) last had parenting time with him or her on (when, where, circumstances):
_____ at _____

I have recently had telephone contact with the other party.

I know where the other party works (indicate employer name and address):

To my knowledge, the other party's age exceeds the military requirements (state age) _____

The other party is disabled (indicate nature of disability):

The other party is incarcerated (indicate location):

Any other reason:

and/or

I have checked with the Department of Defense website and the printout is attached.
(<https://www.dmdc.osd.mil/scra/owa/home>) OR

I have attached statements from the 5 armed forces that the other party is not in the military service

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated

Plaintiff / Defendant

INSTRUCTIONS FOR VERIFYING A DEFENDANT'S MILITARY STATUS

Federal law requires the court to verify that an individual is not on active duty in the armed forces before it enters a default judgment against that person. You as the filer are required to provide this information to the court. There are three ways to show this military status.

1. If you have the defendant's Social Security Number you can search the Department of Defense website (<https://www.dmdc.osd.mil/scra/owa/home>.) and get verification of that person's military status. You can print out the result of this search and bring the printout to court.
2. You certify on the "*Certification of Non-Military Service*" form, or testify in court, that you have personal knowledge about the defendant's military status.
3. If you don't know the military status of the defendant, and if you do not have the defendant's Social Security Number, you must request and obtain verification from the sources listed below. You must contact each of the five branches of the military. Your request should contain as much information as you know about the defendant such as the full name, date of birth, last known address, service, rank or grade, or other information to properly identify the individual in question. You must also state why you are requesting this information.

Each request must be accompanied by a fee of \$5.20 payable by check or money order, as follows:

Air Force Worldwide Locator

HQ AFMPC/RMIQL
550 C Street, W., Suite 50
Randolph Air Force Base, TX 78150-4752
Make check payable to DAQ-DE

Bureau of Naval Personnel

Navy Personnel Command
PERS-312F
5720 Integrity Drive
Millington, TN 38055-3120
Make check payable to U.S. Treasurer

Commandant of the Marine Corps (MMSBO)

Headquarters U.S. Marine Corps.
Code MMSB-10
2008 Elliot Road, Suite 203
Quantico, VA 22134-5030
*Please mark on bottom of envelope
"OFFICIAL BUSINESS" and make check payable
to U.S. Treasurer*

Army Worldwide Locator

US Army Enlisted Records
and Evaluation Center
8899 East 56th Street
Fort Benjamin Harrison, IN 46249-5301
Make check payable to Finance Officer

U.S. Coast Guard

Coast Guard Personnel Command
2100 Second Street, SW
Washington, DC 20593-0001
Make check payable to U.S. Coast Guard

Bring all forms to court with you when you appear for your hearing.

child was born. If you have questions about filing this Certificate call 1-800-POP-6607.

WHAT DOES IT MEAN IF YOU SIGN THIS FORM?

By signing this *Certificate of Parentage* you are legally establishing your child's paternity. Paternity means fatherhood. For parents who are not married to each other, paternity may be established legally only by signing this form or by going to court. Parents who are married to each other do not need to sign this form because their child's paternity is already established.

Signing the form is voluntary. However, since signing this form has legal consequences, you may want to consult an attorney before you sign.

Paternity is legally established on the date both parents sign this form. **If you want to have a blood or genetic test to verify paternity, do not sign this form until you have received the results of the test.** Once signed by both parents and witnessed or notarized, this form will have the same binding effect as a court judgment of paternity.

This form allows a parent to seek a child support order without further court proceedings to establish paternity. This form may be filed in court and serve as the basis for orders of custody or visitation.

This form is not a public record. It will only be available to the parents and child named on this form, the child's legal guardian or legal representative, or government officials in the conduct of their official duties.

WHAT ARE YOUR RIGHTS AND RESPONSIBILITIES AS PARENTS?

Both parents are required by law to support their child from birth. If your child does not live with you, you may be ordered by the court to pay child support until the child's eighteenth birthday, or beyond in some circumstances.

A parent who does not live with the child may have the right to visit and establish a relationship with the child as you both agree or as ordered by the court.

HOW WILL YOUR CHILD BENEFIT IF YOU SIGN THIS FORM?

Every child has the right to know his or her mother and father and benefit from a relationship with both parents. Your child will have two legal parents. It will be easier for your child to learn the medical histories of both parents and to benefit from healthcare coverage available to you.

Your child has a right to financial support from both of you until age eighteen, or beyond in some circumstances. It will be easier for your child to receive benefits such as dependent or survivor's benefits from the Veteran's Administration or from the Social Security Administration.

It will be easier for your child to inherit through you.

WHAT IF I CHANGE MY MIND?

This *Certificate of Parentage* can be rescinded at any time within **60 days** of the date signed if **both parties** agree to rescind by filing a *Rescission of Certificate of Parentage* with the Bureau of Vital Records.

If **only one person** wants to rescind within the 60 day timeframe, an action must be filed with the court.

If the *Certificate of Parentage* is rescinded within the 60 day time frame, the father's name and information will be removed from your child's birth certificate. **Please note**, however, that either party can later bring a court action to establish paternity.

After this 60 day period, parents can challenge the *Certificate of Parentage* in court **only** on the basis of fraud, duress, or material mistake of fact. The parent attempting to rescind must provide proof of fraud, duress, or material mistake of fact.

ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY

RICHARD J. WILLIAMS
ADMINISTRATIVE DIRECTOR OF THE COURTS



RICHARD J. HUGHES JUSTICE COMPLEX
P.O. Box 037
TRENTON, NEW JERSEY 08625-0037

MEMORANDUM

TO: Assignment Judges

FROM: Richard J. Williams *RAW*

SUBJECT: Child Support Hearing Officer Program – Protocol for Appeals and Referrals to Judges

DATE: February 14, 2003

Proceedings before Child Support Hearing Officers (CSHOs) are governed by Rule 5:25-3, the *Expedited Process for Child Support*, approved by the Supreme Court in 1990, and the *Child Support Hearing Officer Program Standards* approved by the Supreme Court on April 30, 2002. Among other things, these policies provide for matters scheduled before a CSHO to be referred to a judge either upon an appeal by one of the parties or based on a referral of the matter from the CSHO (*CSHO Standard 6*).

Recognizing the need for an efficient and uniform means of processing such matters, the Conference of Family Presiding Judges has developed the attached *Protocol for Child Support Hearing Officer Proceedings: Appeal of Recommendations and Referral of Matters to a Superior Court Judge*, which includes a uniform *Child Support Hearing Officer Referral Form*. The use of this protocol will facilitate the appeal and referral process by providing the judge with a concise outline of the issues of the case without compromising the parties' right to a *de novo* hearing. This protocol is to be used statewide and replaces all locally developed alternatives which may currently be in use.

R. J. W.

c: Chief Justice Deborah T. Poritz
Family Presiding Judges
Theodore J. Fetter, Deputy Administrative Director
John P. McCarthy, Jr., Director, Trial Court Services
Trial Court Administrators
Harry T. Cassidy, Assistant Director, Family Practice

Family Division Managers
Vicinage Chief Probation Officers
Elidema Mireles, Chief, CSHOP
Child Support Hearing Officers
Steven D. Bonville, Special Assistant
Francis W. Hoerber, Special Assistant

Protocol for Child Support Hearing Officer Proceedings: Appeal of Recommendations and Referral of Matters to a Superior Court Judge

Background

The Child Support Hearing Officer Program (CSHOP) has been in operation since 1983 as a means of expeditiously resolving matters brought before the court for the establishment, modification, and enforcement of child support. A key element of New Jersey's expedited process, Child Support Hearing Officers (CSHO) are assigned by the Administrative Office of the Courts to hear over 100,000 summary child support matters annually. The jurisdiction, authority, and responsibilities of the CSHOs, as well as the due process rights of the parties appearing before the CSHO, are defined in Rule 5:25-3, Child Support Hearing Officers, and the *Expedited Process for Child Support*. The Program is federally funded under Title IV-D of the Social Security Act, requiring the Judiciary to meet certain expedited process standards.

In order to adhere to federal mandates and provide litigants scheduled before the CSHO with both due process and quality customer service, there needs to be a uniform process for referring appropriate matters to Superior Court judges for resolution. The following protocol is designed to meet that need.

Appeal of Hearing Officer Recommendation

R. 5:25-3(d)(2) provides that a party in disagreement with a Child Support Hearing Officer's recommendation is entitled to "an immediate appeal of the recommendation to the Presiding Judge of the Family Part or a judge designated by the Presiding Judge who shall conduct a hearing forthwith. The appeal may be made by either party, and shall be heard *de novo* not on the record below." *CSHO Standard 6* emphasizes that every effort should be made to ensure that the designated judge hears the appeal on the same day the appeal is requested. "Screening" of appeals is inappropriate because the Rule permits an appeal from the CSHO's recommendation without any reason except that the litigant disagrees with it. The CSHO is not required to ask a litigant to state a reason for objecting to the recommendation prior to referring the matter to a judge. The CSHO is, however, required to state the basis for his or her recommendation on the Uniform Summary Order which the judge can then review. The judge should also be made aware of the type of the proceeding (e.g., modification of child support), the party initiating the action, the party requesting the appeal, and the time of conclusion of the Hearing Officer proceeding. Such information will help facilitate the appeal process and assist the judge in reaching a prompt and appropriate disposition of the matter.

Referral of Matters to Superior Court Judge

Aside from appeals, there are a number of other reasons a matter scheduled before a CSHO may need to be heard by a Superior Court judge. These include:

1. **Incarceration:** Rule 5:25-3 authorizes the CSHO to recommend an individual be incarcerated for failure to comply with an order of the court or that the court find a litigant in contempt for refusing to answer questions or produce evidence or by disrupting a proceeding. CSHOs do not have the authority, however, to jail an individual, and a judge must therefore review such a recommendation and make a final determination.
2. **Active Warrant:** There may be times when an obligor appearing at an enforcement or modification proceeding has had a warrant issued against him or her for failure to appear at a prior proceeding or for failure to remit required support payments. Since CSHOs do not have the authority to rescind or vacate warrants, such a matter must be referred to a judge.
3. **Active Domestic Violence Restraints:** Although Hearing Officers are permitted to decide motions for modification and enforcement of support in which there are active domestic violence restraints, adequate security must be in place and modification requests must be screened in accordance with *CSHO Standard 7*. Because hearing facilities and the degree of security may vary from county to county, motions to modify the child support provisions of domestic violence restraining orders may need to be referred to a judge when security issues or the dynamics of the case preclude the CSHO from hearing the matter.
4. **Parties Not Amenable to Appearing Before the CSHO (Motions for Modification of Child Support in Cases with Domestic Violence Restraints):** *CSHO Standard 7* allows CSHOs to decide motions for modification of support in cases in which there are active domestic violence restraints where, among other things, both parties are amenable to appearing before the CSHO. Where either party chooses not to have the matter decided by the Hearing Officer, the matter would need to be referred to a judge.
5. **Matter Outside the Authority of the CSHO:** The authority of the CSHO is limited to the establishment of paternity and child support, enforcement of support orders, and the modification and termination of child support obligations. In the event that a matter is scheduled before the CSHO, and the pleading raises issues which the CSHO is not authorized to hear (e.g., motion or cross motion for paternity disestablishment), the matter must be referred to a judge for disposition.
6. **Complex Issues:** Occasionally, when hearing a matter, the CSHO may determine that issues relating to the case are "complex," (e.g., natural mother is under the age of sixteen and the putative father four years older) and therefore the matter should more appropriately be decided by a judge. In referring such matters as "complex," CSHOs are required to submit a written explanation to the judge describing the nature of the case complexity.
7. **Other:** If the CSHO feels that the matter should be heard before a judge for any other

reason, the basis for the referral must be articulated to the judge.

Use of Child Support Hearing Officer Referral Form

The attached Child Support Hearing Officer Referral Form should be completed and attached to the file of all cases sent to a judge by the CSHO, either as the result of an appeal of a recommendation, or referral for reasons such as those discussed above. The form is designed to facilitate the appeal and referral process by providing the judge with a concise outline of the case including the type of proceeding, who initiated the action, the person requesting the appeal, the reason for referral, and an explanation of the issues if required. If the reason for appeal is known to the CSHO, an explanation should be provided to the judge. However, the CSHO will not make an inquiry of the parties concerning the reason for appeal as such an inquiry is not contemplated by Rule 5:25-3(d)(2) and is discouraged by *CSHO Standard 6*.

This protocol must be followed by all vicinage staff and CSHOs; locally developed forms or process may not be substituted.

Child Support Hearing Officer Referral Form

Plaintiff (appearance) <input type="checkbox"/> obligee <input type="checkbox"/> obligor <input type="checkbox"/>	Counsel (appearance) <input type="checkbox"/>	Docket #
Defendant (appearance) <input type="checkbox"/> obligee <input type="checkbox"/> obligor <input type="checkbox"/>	Counsel (appearance) <input type="checkbox"/>	ACSES (CS) #

Type of Proceeding

- Establishment of Paternity/Support Modification of Support Emancipation Termination of Support
 Enforcement of Support Other:

Action Brought by

- Plaintiff Defendant County Welfare Agency Probation Other

Appeal of CSHO Recommendation

_____ seeks *de novo* hearing before a Superior Court Judge.
(name of party requesting appeal)

Reason for Referral to Judge

- Active Warrant Active DV Restraints Recommendation of Incarceration
 Parties Not Amenable to Appearing Before the CSHO (Standard 7)
 Matter Outside the Authority of the CSHO (explanation required)
 Complex Issue (explanation required) Other (explanation required)

Explanation

Date _____ Time _____ A.M./ P.M. Hearing Officer

CHILD SUPPORT GUIDELINES - SOLE PARENTING WORKSHEET [Appendix IX-C]

Case Name:	vs.	County:
<i>Plaintiff</i>		Docket #:
	<i>Defendant</i>	Number of Children:
Custodial Parent is the: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant		

<i>All amounts must be weekly</i>	CUSTODIAL	NON-CUSTODIAL	COMBINED
1. Gross Taxable Income	\$	\$	
1a. Mandatory Retirement Contributions (non-taxable)	-\$	-\$	
1b. Alimony Paid (Current and/or Past Relationships)	-\$	-\$	
1c. Alimony Received (Current and/or Past Relationships)	+\$	+\$	
2. Adjusted Gross Taxable Income ((L1-L1a-L1b)+L1c)	\$	\$	
2a. Federal, State and Local Income Tax Withholding	-\$	-\$	
2b. Prior Child Support Orders (Past Relationships)	-\$	-\$	
2c. Mandatory Union Dues	-\$	-\$	
2d. Other Dependent Deduction (from L14 of a separate worksheet)	-\$	-\$	
3. Net Taxable Income (L2-L2a-L2b-L2c-L2d)	\$	\$	
4. Non-Taxable Income (source:)	+\$	+\$	
5. Net Income (L3+L4)	\$	\$	\$
6. Percentage Share of Income (L5 Each Parent ÷ L5 Combined)			100%
7. Basic Child Support Amount (from Appendix IX-F Schedules)			\$
8. Net Work-Related Child Care (from Appendix IX-E Worksheet)			+\$
9. Child's Share of Health Insurance Premium			+\$
10. Unreimbursed Health Care Expenses over \$250 per child per year			+\$
11. Court-Approved Extraordinary Expenses			+\$
12. Government Benefits for the Child			-\$
13. Total Child Support Amount ((L7+L8+L9+L10+L11) - L12)			\$

If line 13 total support amount is zero, STOP – benefit apportionment is substituted for support order.

14. Each Parent's Share of the Support Obligation (L6 x L13)	\$	\$	
15. Net Work-Related Child Care Paid		-\$	
16. Health Insurance Premium for the Child Paid		-\$	
17. Unreimbursed Health Care Expenses Paid (>\$250/child/year)		-\$	
18. Court-Approved Extraordinary Expenses Paid		-\$	
19. Adjustment for Parenting Time Expenses (L7 x %time x 0.37). <i>Note: Not presumptive in some low income situations (see App. IX-A., ¶13).</i>		-\$	
20. Net Child Support Obligation (L14-L15-L16-L17-L18-L19)		\$	

If neither parent is requesting the other-dependent deduction, go to line 24

21. Child Support Order WITH Other-Dependent Deduction		\$	
22. Child Support Order WITHOUT Other-Dependent Deduction		\$	
23. Adjusted Child Support Order ((L21 + L22) ÷ 2)		\$	

Continued on Page 2

CHILD SUPPORT GUIDELINES – SOLE PARENTING WORKSHEET – Page 2

<i>All amounts must be weekly</i>	CUSTODIAL	NON-CUSTODIAL	COMBINED
24. Self-Support Reserve Test (L5 – L20 or L23 for NCP; L5 – L14 for CP). If NCP result is greater than 105% of the poverty guideline for one person (<i>pg</i>) or CP net income (L5) minus CP share of the child support obligation (L14) is less than the <i>pg</i> , enter L20 or L23 amount on L26. If NCP L24 income is less than the <i>pg</i> and CP income is greater than the <i>pg</i> , go to L25.			
	\$	\$	
25. Obligor Parent's Maximum Child Support Obligation (L5 NCP income – 105% of poverty guideline for one person). Enter result here and on Line 26.		\$	
26. Child Support Order		\$	
COMMENTS, REBUTTALS, AND JUSTIFICATION FOR DEVIATIONS			
1. The child support order for this case <input type="checkbox"/> was <input type="checkbox"/> was not based on the child support guidelines award.			
2. If different from the child support guidelines award (line 26), enter amount ordered: \$			
3. The child support guidelines were not used or the guidelines award was adjusted because:			
(<input type="checkbox"/> additional pages attached)			
4. The following court-approved extraordinary expenses were added to the basic support obligation:			
5. Parenting Time: Custodial Parent _____% Non-Custodial Parent _____%.			
6. Custodial Taxes: <input type="checkbox"/> App. IX-H <input type="checkbox"/> Circ E <input type="checkbox"/> Other:____ #Allowances:____ Marital: S M H			
Non-Custodial Taxes: <input type="checkbox"/> App. IX-H <input type="checkbox"/> Circ E <input type="checkbox"/> Other:____ #Allowances:____ Marital: S M H			
Prepared By:	Title:	Date:	

CHILD SUPPORT GUIDELINES - SHARED PARENTING WORKSHEET

Case Name:

County:

vs.

Plaintiff

Defendant

Docket No.:

Number of Children:

PPR is the Plaintiff Defendant

<i>All amounts must be weekly.</i>	PARENT OF PRIMARY RESIDENCE (PPR)	PARENT OF ALTERNATE RESIDENCE (PAR)	COMBINED
1. Gross Taxable Income	\$	\$	
1a. Mandatory Retirement Contributions (<i>non-taxable</i>)	-\$	-\$	
1b. Alimony Paid (<i>Current and/or Past Relationships</i>)	-\$	-\$	
1c. Alimony Received (<i>Current and/or Past Relationships</i>)	+\$	+\$	
2. Adjusted Gross Taxable Income ((L1 - L1a-L1b)+L1c)	\$	\$	
2a. Federal, State and Local Income Tax Withholding	-\$	-\$	
2b. Prior Child Support Orders (<i>Past Relationships</i>)	-\$	-\$	
2c. Mandatory Union Dues	-\$	-\$	
2d. Other Dependent Deduction (from separate worksheet)	-\$	-\$	
3. Net Taxable Income (L2-L2a-L2b-L2c-L2d)	\$	\$	
4. Non-Taxable Income (<i>source:</i>)	+\$	+\$	
5. Net Income (L3+L4)	\$	\$	\$
6. Percent Share of Income (L5 Each Parent ÷ L5 Combined)			1.00
7. Number of Overnights With Each Parent			
8. Percent of Overnights With Parent (L7 Parent ÷ L7 Combined)			1.00
→ If PAR time sharing is less than the equivalent of two overnights per week (28%), use Sole Custody Worksheet ←			
9. Basic Child Support Amount (from Appendix IX-F Schedules)			\$
10. PAR Shared Parenting Fixed Expenses (PAR L8×L9×0.38 ×2)		\$	
11. Government Benefits for the Child			\$
12. Shared Parenting Basic Child Support Amount ((L9 + L10) - L11)			\$
13. PAR Share of SP Basic Child Support Amount (PAR L6 × L12)		\$	
14. PAR Shared Parenting Variable Expenses (PAR L8 × L9 × 0.37)		\$	
15. PAR Adjusted SP Basic Child Support Amount (L13 - L10 - L14)		\$	
16. Net Work-Related Child Care (from Appendix IX-E Worksheet)			\$
17. Child's Share of Health Insurance Premium			+\$
18. Unreimbursed Health Care Expenses over \$250 per child per year			+\$
19. Court-Approved Extraordinary Expenses			+\$
20. Total Supplemental Expenses (L16+L17+L18+L19)			\$

↩ Continued on Page 2 ↪

CHILD SUPPORT GUIDELINES - SHARED PARENTING WORKSHEET - PAGE 2

<i>All amounts must be weekly.</i>	PPR	PAR	COMBINED
20. Total Supplemental Expenses (from reverse side)			\$
21. PAR's Share of Total Supplemental Expenses (PAR L6 × L20)		\$	
22. PAR Net Work-Related Child Care PAID		\$	
23. PAR Health Insurance Premium for the Child PAID		+\$	
24. PAR Unreimbursed Health Care Expenses (>\$250/child /year) PAID		+\$	
25. PAR Court-Approved Extraordinary Expenses PAID		+\$	
26. PAR Total Payments/Supplemental Expenses (L22+L23+L24+L25)		\$	
27. PAR Net Supplemental Expenses (L21 - L26)		\$	
28. PAR Net Child Support Obligation (L15 + L27)		\$	
29. Line 28 PAR CS Oblig WITH Other-Dependent Deduction		\$	
30. Line 28 PAR CS Oblig WITHOUT Other-Dependent Deduction		\$	
31. Adjusted PAR CS Obligation ((L29+L30)÷2)		\$	
32. Self-Support Reserve Test (PAR L5 - PAR L28 or L31 if any). If PAR amount is greater than 105% of the poverty guideline for one person (<i>pg</i>) <i>or</i> the PPR L32 income is less than the <i>pg</i> , enter the L28 or L31 amount on the PAR L34. If PAR L32 amount is less than the <i>pg</i> and the PPR's L32 income is greater than the <i>pg</i> , go to Line 33. If L28 or L31 is negative, see App. IX-B (shared-parenting worksheet) for instructions.			
	\$	\$	
33. Maximum CS Obligation (Obligor Parent's L5 net income - 105% of the poverty guideline for one person). Enter result here and on L34.			
	\$	\$	
34. Child Support Order (negative L28 or L31 denotes PPR obligation) to			
	\$	\$	
⇒ If the PAR is the Obligor, Continue to Line 35			
35. PPR Household Income Test - (L5 PPR net income from all sources + net income of other household members +L34 order) If less than the PPR household income threshold (see App. IX-A, ¶14(c)), the SOLE-CUSTODY WORKSHEET must be used.			
	\$		
Comments, Rebuttals, and Justification for Deviations			
1. The child support order for this case G was G was not based on the child support guidelines award.			
2. If different from the child support guidelines award (Line 34), enter amount ordered: \$			
3. The child support guidelines were not used or the guidelines award was adjusted because:			
(G additional pages attached)			
4. The following extraordinary expenses were added to the basic support obligation on Line 19:			
5. Custodial Taxes: App. IX-H Circ. E Other: _____ #Allowances: _____ Marital: S M H			
Non-Cust Taxes: App. IX-H Circ. E Other: _____ #Allowances: _____ Marital: S M H			
Prepared by:	Title	Date	

APPENDIX XIV
FINANCIAL STATEMENT FOR SUMMARY SUPPORT
ACTIONS

Attorney(s):
Office Address and Tel. Nos.:
Attorney for

<i>Plaintiff</i>	<i>SUPERIOR COURT OF NEW JERSEY</i>
vs.	<i>CHANCERY DIVISION – FAMILY PART</i>
<i>Defendant</i>	<i>COUNTY OF _____</i>
	<i>DOCKET NO. _____</i>
	<i>FINANCIAL STATEMENT FOR</i>
	<i>SUMMARY SUPPORT ACTIONS</i>

PART A – PERSONAL INFORMATION: *Provide the following information about yourself*

Name (last, first, middle): _____ Social Security No.: _____

Address: _____ Home Phone No.: _____

Employer: _____ Occupation: _____

PART B – GROSS WEEKLY INCOME: *Report your weekly income. Divide monthly by 4.3; bi-weekly by 2.*

- | | | |
|---|----|--|
| 1. Salary, wages, commission, bonuses and other payment for services performed: | \$ | |
| <hr/> | | |
| 2. Income from operating a business minus ordinary and Necessary expenses: | \$ | |
| <hr/> | | |
| 3. Social Security Retirement (<i>over 62, green check</i>): | \$ | |
| <hr/> | | |
| 4. Social Security Disability (<i>green check</i>): | \$ | |
| <hr/> | | |
| 5. Veterans' Administration pension: | \$ | |
| <hr/> | | |
| 6. Worker's compensation: | \$ | |
| <hr/> | | |

7. Other pensions, disability or retirement income:	\$
8. Unemployment compensation:	\$
9. Interest, dividends, annuities or other investment income:	\$
10. Income from the sale, trade or conversion of capital assets:	\$
11. Income from an estate of a decedent (a will):	\$
12. Alimony or separate maintenance from a previous marriage:	\$
13. Income from Trusts:	\$
14. Other income (<i>specify</i>):	\$
15. Other income (<i>specify</i>):	\$
Total Gross Income (<i>add lines 1 through 15</i>):	\$

PART C – WEEKLY EXEMPTIONS: *Report the following deductions from your weekly income.*

1. Number of tax exemptions claimed:	
2. Mandatory union dues:	\$
3. Mandatory retirement contributions:	\$
4. Health insurance premium (<i>must include child(ren) named in the complaint</i>):	\$
5. Alimony or child support orders paid (<i>State: _____ Case No. _____</i>):	\$

PART D – OTHER DEPENDENT DEDUCTION: *Complete this section only if (1) you are legally responsible for supporting a child or children other than those named in the support complaint or application, (2) the child or children are living with you and (3) you are requesting credit for the amount spent on raising the other child or children when the support award is calculated. You are legally responsible for all children that are yours by birth or adoption. Answer the questions about the other parent of the child or children for whom you are requesting the credit (for example, your current spouse who is the biological mother/father of at least one of your children).*

1. Number of other legal dependents (you must provide proof of the legal relationship):	
2. Number of tax exemption the parent of the other child(ren) claims:	
3. Weekly gross income of the parent of the other child(ren):	\$

-
4. Mandatory union dues of the parent of the other child(ren): \$
-
5. Mandatory retirement contributions of the parent of the other child(ren): \$
-
6. Health insurance premiums paid by the parent of the other child(ren) \$
-
7. Alimony or child support orders paid by the parent of the other child(ren) \$
-

PART E – CREDIT FOR CHILD CARE EXPENSES: *(Complete this section only if (1) you pay for work-related child care for a child or children for whom you and the other parent share a legal responsibility to support and (2) you are requesting a credit for these expenses when your support amount is calculated).*

-
1. Annual child care cost (if paid weekly divide by 52; If monthly divide by 4.3): \$
-
2. Child care provider:
-

PART F – INCOME PAID TO YOUR CHILD(REN) IN YOUR NAME: *(Complete if your child(ren) receive(s) regular payment from a government source in your name (e.g., social security, black lung or veteran’s benefits).*

-
1. Source of benefit(s):
-
2. Weekly amount of benefits (attach verification): \$
-

PART G – HEALTH INSURANCE BENEFITS: *Answer the following about your health insurance benefits.*

-
1. Health insurance provider: 2. Includes child(ren) Yes No
-
3. Policy carrier: 4. Date coverage began:
-

PART H – CERTIFICATION

I certify that the foregoing statements made by me are true to the best of my knowledge. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Date: _____ Signature: _____

IMPORTANT: You must attach a copy of your last federal tax form or your three most recent pay stubs to verify your income. Self-employed persons and business owners must attach a copy of the most recent federal tax forms for their business. If you are requesting a credit or deduction, you must attach proof of your expenses or obligations.

[Appendix V]

FAMILY PART CASE INFORMATION STATEMENT

Attorney(s):
Office Address
Tel. No./Fax No.
Attorney(s) for:

Box containing 'vs.', 'Plaintiff', and 'Defendant' labels for case identification.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, FAMILY PART
COUNTY

DOCKET NO.
CASE INFORMATION STATEMENT
OF _____

NOTICE: This statement must be fully completed, filed and served, with all required attachments, in accordance with Court Rule 5:5-2 based upon the information available. In those cases where the Case Information Statement is required, it shall be filed within 20 days after the filing of the Answer or Appearance. Failure to file a Case Information Statement may result in the dismissal of a party's pleadings.

PART A - CASE INFORMATION:

Date of Statement
Date of Divorce (post-Judgment matters)
Date(s) of Prior Statement(s)
Your Birthdate
Birthdate of Other Party
Date of Marriage
Date of Separation
Date of Complaint

ISSUES IN DISPUTE:

Cause of Action
Custody
Parenting Time
Alimony
Child Support
Equitable Distribution
Counsel Fees
Other issues [be specific]

Does an agreement exist between parties relative to any issue? [] Yes [] No. If Yes, ATTACH a copy (if written) or a summary (if oral).

1. Name and Addresses of Parties:

Your Name
Street Address
City
State/Zip
Other Party's Name
Street Address
City
State/Zip

2. Name, Address, Birthdate and Person with whom children reside:

a. Child(ren) From This Relationship

Table with columns: Child's Full Name, Address, Birthdate, Person's Name. Includes three rows of blank lines for data entry.

b. Child(ren) From Other Relationships

Table with columns: Child's Full Name, Address, Birthdate, Person's Name. Includes three rows of blank lines for data entry.

PART B - MISCELLANEOUS INFORMATION:

1. Information about Employment (Provide Name & Address of Business, if Self-employed)

Name of Employer/Business _____ Address _____

Name of Employer/Business _____ Address _____

2. Do you have Insurance obtained through Employment/Business? [] Yes [] No. Type of Insurance: Medical [] Yes [] No; Dental [] Yes [] No; Prescription Drug [] Yes [] No; Life [] Yes [] No; Disability [] Yes [] No Other (explain) _____

Is Insurance available through Employment/Business? [] Yes [] No Explain: _____

3. ATTACH Affidavit of Insurance Coverage as required by Court Rule 5:4-2 (f) (See Part G)

4. Additional Identification:

Confidential Litigant Information Sheet: Filed [] Yes [] No

5. ATTACH a list of all prior/pending family actions involving support, custody or Domestic Violence, with the Docket Number, County, State and the disposition reached. Attach copies of all existing Orders in effect.

PART C. - INCOME INFORMATION: Complete this section for self and (if known) for spouse.

1. LAST YEAR'S INCOME

	Yours	Joint	Spouse or Former Spouse
1. Gross earned income last calendar (year)	\$ _____	\$ _____	\$ _____
2. Unearned income (same year)	\$ _____	\$ _____	\$ _____
3. Total Income Taxes paid on income (Fed., State, F.I.C.A., and S.U.I.). If Joint Return, use middle column.	\$ _____	\$ _____	\$ _____
4. Net income (1 + 2-3)	\$ _____	\$ _____	\$ _____

ATTACH to this form a corporate benefits statement as well as a statement of all fringe benefits of employment. (See Part G)

ATTACH a full and complete copy of last year's Federal and State Income Tax Returns. ATTACH W-2 statements, 1099's, Schedule C's, etc., to show total income plus a copy of the most recently filed Tax Returns. (See Part G)

Check if attached: Federal Tax Return [] State Tax Return [] W-2 [] Other []

2. PRESENT EARNED INCOME AND EXPENSES

	Yours	Other Party (if known)
1. Average gross weekly income (based on last 3 pay periods – <u>ATTACH</u> pay stubs) Commissions and bonuses, etc., are: [] included [] not included* [] not paid to you.	\$ _____	\$ _____

*ATTACH details of basis thereof, including, but not limited to, percentage overrides, timing of payments, etc.

ATTACH copies of last three statements of such bonuses, commissions, etc.

2. Deductions per week (check all types of withholdings): [] Federal [] State [] F.I.C.A. [] S.U.I. [] Other	\$ _____	\$ _____
3. Net average weekly income (1 - 2)	\$ _____	\$ _____

3. YOUR CURRENT YEAR-TO-DATE EARNED INCOME

1. GROSS EARNED INCOME: \$	Provide Dates: From _____	To _____
2. TAX DEDUCTIONS: (Number of Dependents:)	Number of Weeks _____	

- a. Federal Income Taxes a. \$ _____
 - b. N.J. Income Taxes b. \$ _____
 - c. Other State Income Taxes c. \$ _____
 - d. FICA d. \$ _____
 - e. Medicare e. \$ _____
 - f. S.U.I. / S.D.I. f. \$ _____
 - g. Estimated tax payments in excess of withholding g. \$ _____
 - h. h. \$ _____
 - i. i. \$ _____
- TOTAL \$ _____

3. GROSS INCOME NET OF TAXES \$ _____

4. OTHER DEDUCTIONS If mandatory, check box
- a. Hospitalization/Medical Insurance a. \$ _____
 - b. Life Insurance b. \$ _____
 - c. Union Dues c. \$ _____
 - d. 401(k) Plans d. \$ _____
 - e. Pension/Retirement Plans e. \$ _____
 - f. Other Plans—specify f. \$ _____
 - g. Charity g. \$ _____
 - h. Wage Execution h. \$ _____
 - i. Medical Reimbursement (flex fund) i. \$ _____
 - j. Other: j. \$ _____
- TOTAL \$ _____

5. NET YEAR-TO-DATE EARNED INCOME: \$ _____

NET AVERAGE EARNED INCOME PER MONTH: \$ _____

NET AVERAGE EARNED INCOME PER WEEK \$ _____

4. YOUR YEAR-TO-DATE GROSS UNEARNED INCOME FROM ALL SOURCES
(including, but not limited to, income from unemployment, disability and/or social
security payments, interest, dividends, rental income and any other miscellaneous
unearned income)

Source	How often paid	Year to date amount
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

TOTAL GROSS UNEARNED INCOME YEAR TO DATE \$ _____

5. ADDITIONAL INFORMATION:

1. How often are you paid? _____
2. What is your annual salary? \$ _____
3. Have you received any raises in the current year? []Yes []No. If yes, provide the date and the gross/net amount.

4. Do you receive bonuses, commissions, or other compensation, including distributions, taxable or non-taxable, in addition to your regular salary? []Yes []No. If yes, explain: _____

5. Did you receive a bonuses, commissions, or other compensation, including distributions, taxable or non-taxable, in addition to your regular salary during the current or immediate past calendar year? [] Yes [] No If yes, explain and state the date(s) of receipt and set forth the gross and net amounts received: _____

6. Do you receive cash or distributions not otherwise listed? [] Yes [] No If yes, explain. _____

7. Have you received income from overtime work during either the current or immediate past calendar year? []Yes []No If yes, explain. _____
8. Have you been awarded or granted stock options, restricted stock or any other non-cash compensation or entitlement during the current or immediate past calendar year? []Yes []No If yes, explain. _____

9. Have you received any other supplemental compensation during either the current or immediate past calendar year? []Yes []No. If yes, state the date(s) of receipt and set forth the gross and net amounts received. Also describe the nature of any supplemental compensation received. _____

10. Have you received income from unemployment, disability and/or social security during either the current or immediate past calendar year? []Yes []No. If yes, state the date(s) of receipt and set forth the gross and net amounts received. _____
11. List the names of the dependents you claim: _____
12. Are you paying or receiving any alimony? []Yes []No. If yes, how much and to whom paid or from whom received? _____
13. Are you paying or receiving any child support? []Yes []No. If yes, list names of the children, the amount paid or received for each child and to whom paid or from whom received. _____

14. Is there a wage execution in connection with support? []Yes []No If yes explain. _____

15. Has a dependent child of yours received income from social security, SSI or other government program during either the current or immediate past calendar year? []Yes []No. If yes, explain the basis and state the date(s) of receipt and set forth the gross and net amounts received _____

16. Explanation of Income or Other Information:

PART D - MONTHLY EXPENSES (computed at 4.3 wks/mo.)

Joint Marital Life Style should reflect standard of living established during marriage. Current expenses should reflect the current life style. Do not repeat those income deductions listed in Part C – 3.

	Joint Marital Life Style Family, including _____ children	Current Life Style Yours and _____ children
SCHEDULE A: SHELTER		
<u>If Tenant:</u>		
Rent.....	\$ _____	\$ _____
Heat (if not furnished).....	\$ _____	\$ _____
Electric & Gas (if not furnished).....	\$ _____	\$ _____
Renter’s Insurance.....	\$ _____	\$ _____
Parking (at Apartment).....	\$ _____	\$ _____
Other charges (Itemize).....	\$ _____	\$ _____
 <u>If Homeowner:</u>		
Mortgage	\$ _____	\$ _____
Real Estate Taxes (if not included w/mortgage payment)...	\$ _____	\$ _____
Homeowners Ins (if not included w/mortgage payment)...	\$ _____	\$ _____
Other Mortgages or Home Equity Loans	\$ _____	\$ _____
Heat (unless Electric or Gas).....	\$ _____	\$ _____
Electric & Gas.....	\$ _____	\$ _____
Water & Sewer.....	\$ _____	\$ _____
Garbage Removal.....	\$ _____	\$ _____
Snow Removal.....	\$ _____	\$ _____
Lawn Care.....	\$ _____	\$ _____
Maintenance.....	\$ _____	\$ _____
Repairs.....	\$ _____	\$ _____
Other Charges (Itemize).....	\$ _____	\$ _____
 <u>Tenant or Homeowner:</u>		
Telephone.....	\$ _____	\$ _____
Mobile/Cellular Telephone.....	\$ _____	\$ _____
Service Contracts on Equipment.....	\$ _____	\$ _____
Cable TV.....	\$ _____	\$ _____
Plumber/Electrician.....	\$ _____	\$ _____
Equipment & Furnishings.....	\$ _____	\$ _____
Internet Charges.....	\$ _____	\$ _____
Other (itemize).....	\$ _____	\$ _____
 TOTAL		
	\$ _____	\$ _____

SCHEDULE B: TRANSPORTATION

Auto Payment.....	\$ _____	\$ _____
Auto Insurance (number of vehicles:).....	\$ _____	\$ _____
Registration, License.....	\$ _____	\$ _____
Maintenance.....	\$ _____	\$ _____
Fuel and Oil.....	\$ _____	\$ _____
Commuting Expenses.....	\$ _____	\$ _____
Other Charges (Itemize).....	\$ _____	\$ _____
TOTAL		
	\$ _____	\$ _____

SCHEDULE C: PERSONAL.....	Joint Marital Life Style Family, including _____ children	Current Life Style Yours and _____ children
Food at Home & household supplies.....	\$ _____	\$ _____
Prescription Drugs.....	\$ _____	\$ _____
Non-prescription drugs, cosmetics, toiletries & sundries.....	\$ _____	\$ _____
School Lunch.....	\$ _____	\$ _____
Restaurants.....	\$ _____	\$ _____
Clothing.....	\$ _____	\$ _____
Dry Cleaning, Commercial Laundry.....	\$ _____	\$ _____
Hair Care.....	\$ _____	\$ _____
Domestic Help.....	\$ _____	\$ _____
Medical (exclusive of psychiatric)*.....	\$ _____	\$ _____
Eye Care*.....	\$ _____	\$ _____
Psychiatric/psychological/counseling*.....	\$ _____	\$ _____
Dental (exclusive of Orthodontic)*.....	\$ _____	\$ _____
Orthodontic*.....	\$ _____	\$ _____
Medical Insurance (hospital, etc.)*.....	\$ _____	\$ _____
Club Dues and Memberships.....	\$ _____	\$ _____
Sports and Hobbies.....	\$ _____	\$ _____
Camps.....	\$ _____	\$ _____
Vacations.....	\$ _____	\$ _____
Children's Private School Costs.....	\$ _____	\$ _____
Parent's Educational Costs.....	\$ _____	\$ _____
Children's Lessons (dancing, music, sports, etc.).....	\$ _____	\$ _____
Baby-sitting.....	\$ _____	\$ _____
Day-Care Expenses.....	\$ _____	\$ _____
Entertainment.....	\$ _____	\$ _____
Alcohol and Tobacco.....	\$ _____	\$ _____
Newspapers and Periodicals.....	\$ _____	\$ _____
Gifts.....	\$ _____	\$ _____
Contributions.....	\$ _____	\$ _____
Payments to Non-Child Dependents.....	\$ _____	\$ _____
Prior Existing Support Obligations this family/other families (specify).....	\$ _____	\$ _____
Tax Reserve (not listed elsewhere).....	\$ _____	\$ _____
Life Insurance.....	\$ _____	\$ _____
Savings/Investment.....	\$ _____	\$ _____
Debt Service (from page 7) (not listed elsewhere).....	\$ _____	\$ _____
Parenting Time Expenses.....	\$ _____	\$ _____
Professional Expenses (other than this proceeding).....	\$ _____	\$ _____
Other (specify).....	\$ _____	\$ _____
<u>*unreimbursed only</u>		
TOTAL	\$ _____	\$ _____

Please Note: If you are paying expenses for a spouse and/or children not reflected in this budget, attach a schedule of such payments.

Schedule A: Shelter.....	\$ _____	\$ _____
Schedule B: Transportation.....	\$ _____	\$ _____
Schedule C: Personal.....	\$ _____	\$ _____
Grand Totals.....	\$ _____	\$ _____

PART E - BALANCE SHEET OF ALL FAMILY ASSETS AND LIABILITIES

STATEMENT OF ASSETS

<u>Description</u>	<u>Title to Property (H, W, J)</u>	<u>Date of purchase/acquisition. If claim that asset is exempt, state reason and value of what is claimed to be exempt</u>	<u>Value \$ Put * after exempt</u>	<u>Date of Evaluation Mo./Day/ Yr.</u>
1. Real Property				
2. Bank Accounts, CD's				
3. Vehicles				
4. Tangible Personal Property				
5. Stocks and Bonds				
6. Pension, Profit Sharing, Retirement Plan(s) 401(k)s, etc. [list each employer]				
7. IRAs				
8. Businesses, Partnerships, Professional Practices				
9. Life Insurance (cash surrender value)				
10. Loans Receivable				
11. Other (specify)				

TOTAL GROSS ASSETS: \$ _____
 TOTAL SUBJECT TO EQUITABLE DISTRIBUTION: \$ _____
 TOTAL NOT SUBJECT TO EQUITABLE DISTRIBUTION: \$ _____

PART F - STATEMENT OF SPECIAL PROBLEMS

Provide a Brief Narrative Statement of Any Special Problems Involving This Case: As example, state if the matter involves complex valuation problems (such as for a closely held business) or special medical problems of any family member etc.

I certify that the foregoing information contained herein is true. I am aware that if any of the foregoing information contained therein is willfully false, I am subject to punishment.

DATED:

SIGNED: _____

PART G - REQUIRED ATTACHMENTS

CHECK IF YOU HAVE ATTACHED THE FOLLOWING REQUIRED DOCUMENTS

- 1. A full and complete copy of your last federal and state income tax returns with all schedules and attachments. (Part C-1) _____
- 2. Your last calendar year's W-2 statements, 1099's, K-1 statements. _____
- 3. Your three most recent pay stubs. _____
- 4. Bonus information including, but not limited to, percentage overrides, timing of payments, etc.; the last three statements of such bonuses, commissions, etc. (Part C) _____
- 5. Your most recent corporate benefit statement or a summary thereof showing the nature, amount and status of retirement plans, savings plans, income deferral plans, insurance benefits, etc. (Part C) _____
- 6. Affidavit of Insurance Coverage as required by Court Rule 5:4-2(f) (Part B-3) _____
- 7. List of all prior/pending family actions involving support, custody or Domestic Violence, with the Docket Number, County, State and the disposition reached. Attach copies of all existing Orders in effect. (Part B-5) _____
- 8. Attach details of each wage execution (Part C-5) _____
- 9. Schedule of payments made for a spouse and/or children not reflected in Part D. _____
- 10. Any agreements between the parties. _____
- 11. An Appendix IX Child Support Guideline Worksheet, as applicable, based upon available information. _____

POST-HEARING CASE PROCESSING

<i>Plaintiff (appearance)</i> <i>Counsel (appearance)</i>	<i>Docket #</i>
<i>Defendant (appearance)</i> <i>Counsel (appearance)</i> <input type="checkbox"/>	<i>ACSES #</i> <i>CS</i>

MOTION/COMPLAINT TO BE RESCHEDULED BY

Probation *Family Division*

NEW HEARING DATE AND TIME (if known): _____

Adjourned at request of:

Plaintiff *Defendant* *Hearing Officer* *Other*

REASON FOR ADJOURNMENT: _____

Continued for service

Probation to initiate locate activity

<i>Notice to plaintiff (obligee/obligor)</i>	<i>Notice to defendant (obligor/obligee)</i>
<input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail <input type="checkbox"/> Personal service <input type="checkbox"/> Other	<input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail <input type="checkbox"/> Personal service <input type="checkbox"/> Other
<input type="checkbox"/> Address of record <input type="checkbox"/> Other address	<input type="checkbox"/> Address of record <input type="checkbox"/> Other address
<input type="checkbox"/> Notice to counsel (<i>name and address</i>)	<input type="checkbox"/> Notice to counsel (<i>name and address</i>)
<input type="checkbox"/> Special instructions	

Hearing Officer _____ *HO Code#* _____ *Date* _____



New Jersey Judiciary
Superior Court of New Jersey
Chancery Division – Family Part
_____ County

Telephone Hearing Request Form

Dear _____ Docket No. _____

You are scheduled to appear at a hearing on _____, 20__ at _____ am/pm. Your attendance at this hearing is required. Alternatively, you may request permission to participate in the hearing by telephone. If you wish to participate in the hearing by telephone, you may complete the request form below and return it to the address provided. **Please keep in mind that the telephone hearings are granted at the discretion of the court management or the court official hearing the case.** By requesting a telephone hearing, you are **not guaranteed** that your request will be granted. You will be notified by court staff if your request is granted. Your request will be denied if you do not provide the requested information to the court and to the other person in the case at least 15 days before the hearing.

This Request Form must be mailed to:

Superior Court of New Jersey
Family Division, Attn: _____
NJ

Fax: _____ Phone: _____

I, _____, [your name] would like to participate in this hearing by telephone. I can be reached at the following telephone number: (_____) _____ on the date and time at the top of this letter. I understand that by requesting a telephone hearing, I am agreeing to wait by the telephone until the court can hear my case and that it may not be heard at the exact time noted on my summons/notice and that it may take one to three hours for my case to be heard. I agree to be available by the phone or risk having the court rule on my case without my input.

I understand that if my case involves child support, I must include with this letter my last three pay stubs and my federal income tax returns for the last three years.

I understand that I will be contacted at telephone number: (_____) _____ by court staff and advised as to whether or not I have been approved for the telephone hearing.

Signature Date

To Be Completed by Court Staff

Name of Court Staff: _____

Approved Not Approved

Date applicant notified and phone number confirmed: _____

THE CONFERENCE OF FAMILY PRESIDING JUDGES
THE CONFERENCE OF FAMILY DIVISION MANAGERS

**CHILD SUPPORT HEARING OFFICER
PROGRAM STANDARDS**

Approved by the Supreme Court, April 30, 2002

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Summary of Standards

Child Support Hearing Officer Program

- CSHO.1. In all non-dissolution matters, the initial service of the complaint should be by certified and regular mail, in accordance with Rule 5:4-4(b). A default order rather than a bench warrant shall be recommended when service is effective. In making recommendations for default orders, in the absence of any proofs or information as to the obligor or the obligee's earnings or employment, minimum wage shall be used in imputing income.
- CSHO.2 The CSHO shall attempt to resolve custody and parenting time issues by consent when the complaint includes companion issues of paternity, support or medical support. Stand-alone custody and parenting matters, even when uncontested, should not be calendared for a hearing before a CSHO.
- CSHO.3. Parties present at the hearing shall receive a copy of the order they and the CSHO sign before they leave the courthouse. An order signed by the judge will later be mailed to the parties. In support establishment cases, the parties shall receive a "CS" number on the order along with payment instructions for the obligor. The CSHO shall place on the record the necessary demographics and assist in the verification of demographics.
- CSHO.4. In each case involving the establishment or modification of support, the CSHO shall provide copies of the Guidelines worksheet for the court file, to the parties and to counsel. Each county shall provide a laser printer (or a copier) in the hearing facility in order to facilitate compliance with this standard as well as assist in the processing of appeals and to provide good customer service.
- CSHO.5. The CSHO does not have authority to reopen a Judgment of Paternity. Motions to reopen a Judgment of Paternity, regardless of how it was originally established, shall not be placed before a CSHO. These matters essentially are contesting the previously resolved issue of paternity and require that a judge weigh factors before genetic testing or other reliefs may be ordered.
- CSHO.6. Rule 5:25-3 provides for an immediate *de novo* appeal to the Judge from the CSHO proceeding. The same day appeal is the standard and counties shall make every effort to hear the appeals on the day the appeal is sought. Appeal forms shall not be used to screen appeals sought by litigants from CSHO proceedings.

CSHO.7.

A. In order for the Family Division to better serve victims of domestic violence and to provide expedited process, vicinages may schedule, child support modifications in domestic violence cases before the CSHOs. The CSHOs may hear child support modification motions in domestic violence cases under the conditions set forth herein. The CSHO, at all times, will address only the child support aspects (civil enforcement and modification) of the case before them. The following conditions will be observed:

1. Both parties must be amenable to appearing before the CSHO.
2. The CSHO may hear child support modifications in matters established under an “FV” docket; matters under an “FD” docket with companion restraints; or interstate matters filed pursuant to the *Uniform Interstate Family Support Act*. (UIFSA).
3. The restraining order must be in effect for six (6) months without further activity before the case may be placed before a CSHO for modification of child support; otherwise, the modification shall be scheduled before a judge.
4. The matter cannot be scheduled before the CSHO if the case raises any issues other than child support.
5. The matter should go before a judge, where other factors or concerns exist that make the matter complex, e.g. indication of ongoing inappropriate behavior by the batterer toward the victim or behavior that occurs while waiting to be heard or during the hearing.
6. The action must be a Title IV-D case, i.e. the child support is payable through Probation.

B. Prior to the vicinage scheduling these cases before the CSHOs, a written security plan for these hearings must be developed and approved by the Assignment Judge, taking into account the recommended standards set forth in Section A *Security and Facilities*, of the Commentary.

CSHO.8.

In establishment cases where blood or genetic testing is recommended for the purpose of establishing paternity, it shall by the CSHO who determines whether the initial payment of the costs shall be paid by the Board of Social Services, subject to the reimbursement provision set forth in the order or as determined at a later date.

CSHO.9.

In accordance with expedited process, CSHOs should hear post-judgment motions to modify child support in all cases, including dissolution. The post-judgment motion must be properly filed and address only child support issues or seek relief that the CSHO is authorized to recommend.

CSHO.10. A Judiciary Clerk 3 or equivalent shall be provided for the CSHO proceedings to provide clerical support in the hearing room.

CSHO.11. In matters brought by the welfare board or their representatives, the complaint or motion should be dismissed, absent usual extenuating circumstances, by the CSHO if venue is not properly laid or if counsel is not present to proceed on the matter. The dismissal shall be without prejudice.

CSHO.12. The treatment of after-acquired children (post divorce or following the entry of the first support obligation) should be in accordance with Appendix IX-A of the Child Support Guidelines, specifically Item 10 (Appendix IX-A of the Child Support Guidelines, specifically Item 10 (Appendix IX-A, *Considerations in the Use of the Child Support Guidelines*) regarding other legal dependents.

INTRODUCTION

I. BACKGROUND

The New Jersey Judiciary has a long history of involvement with child support and paternity. When the State's judicial branch of government was created by the Constitution of 1844, jurisdiction over matters of equity, including desertion and divorce, was delegated to the Court of Chancery. In 1911, the Juvenile and Domestic Relations Court was created and was given concurrent jurisdiction with the Court of Chancery to resolve child support and other domestic relations matters in a summary manner. In 1983, a Constitutional amendment abolished the Juvenile and Domestic Relations Court and transferred its jurisdiction over family matters to a newly created Family Part of the Chancery Division of the Superior Court. Today, all domestic relations matters, including paternity and child support, are heard in the Family Part.

As New Jersey's population grew, so did the work of the courts. In 1900, the Legislature authorized judges to appoint a probation officer in each county to monitor compliance and make collections on behalf of the court. In 1929, the duties of the probation officers were expanded to supervise, at the direction of the court, any person ordered to pay support in a decree of divorce or legal separation, to collect payments from such persons, and to disburse funds as directed by the Court. Over the past decade, numerous federal and state legislative enactments further expanded the duties of the Family and Probation Divisions to establish paternity and support orders, increase support collections, divert cases from the court and ensure compliance with the provisions of support.

The Judiciary has established and enforced child support in New Jersey since the early part of this century. New Jersey is consistently among the best performing states in child support collections and its processing times are well within the federal Title IV-D processing time standards. Though court-based, the New Jersey child support program integrates many administrative techniques into its system to conserve judicial time, expedite the collection of child support, and reduce costs. The close connection between the court and the Probation and Family Division staff who manage child support cases is an integral part of the success of the New Jersey child support program. The availability of the court to resolve complex or contested issues combined with the use of administrative procedures under the court's control promotes the expeditious entry and enforcement of support orders, ensures fair and objective results, and preserves the due process rights of the parties.

Throughout its long history of involvement with family-related issues, the New Jersey Judiciary has been a leader in the area of child support; consistently going beyond the requirements of the cooperative agreement and Title IV-D. The Judiciary has continually developed and implemented innovative program, rules,

and procedures to improve the establishment and enforcement of child support. In 1985, the Judiciary developed the state's child support guidelines to assist the court, attorneys, and parents in setting fair and adequate levels of child support. Subsequent revisions to the guidelines incorporated new economic findings and in 1997 major revisions were adopted to accommodate parenting time and shared parenting awards.

Additionally, since the inception of the Title IV-D program, the Judiciary has developed court rules, directives, procedures and forms to implement state and federal laws and regulations regarding child support. In 1985, the Judiciary developed and implemented the Child Support Hearing Officer Program (CSHOP), (R. 5:25-3), a court-diversion program using hearing officers specialized in child support issues to hear support and paternity cases and make recommendations to judges regarding the establishment, modification and enforcement of support orders. The detailed operational guidelines for the CSHOP are set forth in the New Jersey Expedited Process for Child Support approved by the Supreme Court on October 22, 1990 (hereafter the Expedited Process Appendix B). The program ensures the expeditious resolution of child support matters, conserves judicial time for complex cases and other family-related actions, and results in less expensive adjudications. Today, the program is comprised of 23 hearing officers and 3 supervisors. In the past 5 years counties have scheduled over 1000 an average disposition rate of 80%. The Child Support Hearing Officer Program is a major component in New Jersey's Title IV-D Program and represents one of the Judiciary's most successful endeavors.

II. A BRIEF DESCRIPTION OF NEW JERSEY'S EXPEDITED CHLD SUPPORT PROCESS

The New Jersey Expedited Process is a judicial process that uses two different three-stage approaches to (A) establish and (B) enforce child support orders. The entire process is designed to resolve child support matters through the simplest, fastest and least costly means possible.

A. Establishment of Paternity and Establishment and Modification of the Child Support Obligation

The expedited judicial process for establishment cases is comprised of three adjudicatory steps, namely Family Division consent conferences, Child Support Hearing Officers, and judges (See Figure 1). In the first stage of the expedited process, the parties are summoned to appear at the Family Division where information is exchanged, the support guidelines are applied, and the parties are asked to consent to paternity and/or a support award. If the parties acknowledge paternity or agree to a support award, an order is prepared, signed by the parties, and sent to a judge for approval. If the parties do not agree or one of the parents does not appear at the conference, the case is scheduled before a Child Support Hearing Officer – the

second stage of the establishment process. The process for addressing requests to modify existing orders, when handled by the Child Support Hearing Officer, is the same except that cases are not conferenced first.

B. Enforcement of the Child Support Obligation

The child support enforcement process is similar to establishment but with more emphasis on administrative action and cases are generally not conferenced. The Probation Division – the first stage of enforcement – initiates many administrative remedies to collect support and enforce health insurance provisions or orders. Administrative remedies used by Probation include income withholding, credit reporting, judgments, property executions, withholding of civil lawsuit awards, lottery and tax refund offsets, unemployment compensation intercepts, and driver’s, recreational, and professional license revocations or suspensions. If these administrative mechanisms are unsuccessful, Probation schedules the case before a child support hearing officer for a hearing on a Motion to Enforce Litigant’s Rights. After considering testimony, the hearing officer recommends an appropriate enforcement order to a judge. Again, if either party objects to the recommended order, they are entitled to a same-day *de novo* hearing before a judge. Requests for judicial review occur in approximately 3% of all cases heard by hearing officers. If the obligor fails to appear after being properly served, a warrant is issued for the person’s arrest. If incarceration is a possibility, the hearing officer must refer the case to a judge for consideration.

Because New Jersey’s expedited judicial process is always subject to judicial oversight and ratification, same-day hearings are available without the need for filing separate actions with the courts and associated case processing costs. Additionally, judges are readily available to Probation and Family Division staff to make rulings, and enter orders on administrative matters, amend orders, and provide guidance. The expedited judicial process is a seamless process, permitting a case to move from one stage to the next until it is resolved.

C. Matters That May Not Be Heard by a Child Support Hearing Officer

Child support actions that must be referred to a judicial hearing rather than to a child support hearing officer are limited to those cases that include issues of:

1. Divorce (except for Standard 9)
2. Domestic violence (except for Standard 7)
3. Contested paternity
4. Contested custody or parenting time
5. Complex issues
6. Appeals – Matters in which a party requests to appear before a judge
7. Incarceration

III. THE CHILD SUPPORT HEARING OFFICER PROGRAM

In the past, New Jersey has sometimes complied only partially with the Federally mandated expedited process requirements. The expedited process lends itself rather well to uniformity and to standardization: there are myriad federal and state laws, rules, regulations, and directives that provide the framework for complying with expedited process and maintaining the reimbursement from the federal government (Appendix G). The challenge for us is to ensure that all counties are in compliance with expedited process and are utilizing the Child Support Hearing Officer Program to its maximum potential. The first step toward improving our processing of cases through the Child Support Hearing Officer Program and providing effective enforcement is careful adherence to all expedited process requirements. The standards recommended herein build on the Federal standards, focus on the Child Support Hearing Officer and the manner in which the Program interfaces with the Family Division, the Probation Division, and the Executive Branch agencies who are so integral to the success of expedited process in New Jersey.

CSHO Standard 1:

In all non-dissolution matters, the initial service of the complaint should be by certified and regular mail, in accordance with Rule 5:4-4(b). A default order rather than a bench warrant shall be recommended when service is effective. In making recommendations for default orders, in the absence of any proofs or information as to the obligor or obligee's earnings or employment, minimum wage shall be used in imputing income.

Commentary:

R. 5:4-4(b), adopted in September 1998, relaxes the personal service requirements in non-dissolution paternity and child support cases to provide for initial service process by mail rather than requiring personal service. Pressler's comments indicate the change was "*to achieve uniformity among the vicinages in respect of entry of defaults in such actions.*" The inability to resolve paternity issues due to lack of personal service of the complaint was an issue in the expedited process, which requires the ability to enter default orders. Personal service through the sheriffs' office or welfare board personnel can be impractical and consume time since the case continues to be scheduled pending successful service.

The Family Division practice permits the entry of an appropriate default order rather than issuance of a bench warrant at the establishment hearing. Traditionally, child support bench warrants have issued and been processed through the Probation Division in the course of monitoring and enforcing the order. The entry of a default order permits the case to be established on Probation Division's Automated Child Support Enforcement System (hereafter ACSES) so that payment collection and distribution proceed without delay.

There was concern expressed that using the minimum wage to impute income in establishing default support orders would produce excessively low orders. However, the intent here is to look to other proofs or indicators of income (such as the *Wage Compendium*,

automated systems, testimony of a party, wage verification from the Board of Social Services, etc.) before resorting to using minimum wage. The current practice used in public assistance cases of routinely basing the default support on the amount of public assistance grant **R.5:6-2** Matters Bought by Assistance Agencies, results in inflated support orders. The CSHO should establish a fair order that is supported by the findings of fact on the record.

CSHO Standard 2:

The CSHO shall attempt to resolve custody and parenting time issues by consent when the complaint includes companion issues of paternity, support or medical support. Stand-alone custody and parenting time matters, even when uncontested, should not be calendared for a hearing before a CSHO.

Commentary:

The 1997 amendments to the Child Support Guidelines require that the calculation of child support awards include, if applicable, parenting time credit. They also allow for calculating a shared parenting award. Resolution of a custody and/or parenting time issue in a case, also aids the resolution of the support since the calculation may be done based on the agreements reached by the parties. Correct application of the Guidelines requires that some inquiry be made into the existence of parenting plans or arrangements that qualify for parenting time credit or rise to a shared parenting calculation of support

In general, the CSHO does not have jurisdiction to make recommendations in contested custody and parenting time disputes. (Appendix B- Expedited Process). In some counties, a different interpretation evolved. Some Presiding Judges interpret the CSHO=s jurisdiction in **uncontested** custody and parenting time pursuant to **R. 5:25-3 (b) (1)** to permit the CSHO to facilitate a consent order with the parties on issues of custody and parenting time. The traditional versus the newer approach led to variable practices in the counties. Some counties routinely place before the CSHO any non-dissolution complaint for paternity, support or medical support that includes in the pleadings the issue of custody and/or parenting time. If the matter does not resolve at the CSHO level, the matter goes to a Judge. One county makes available mediators for initial establishment cases calendared before the CSHO. The mediators and the CSHO work in tandem to resolve all the issues before resorting to a referral to the Judge. Counties that utilize the CSHO in resolving custody and parenting time issues express satisfaction with the process albeit acknowledging that it is not practical to consider the CSHO attempt to resolve as the equivalent of mediation. In non-dissolution matters, the CSHO helps the parties crystallize whether the issue of parenting time, for example, is truly contested or may be resolved by assisting the parties agree as to the details to implement the arrangements parties reach, i.e. how to set up a parenting time schedule and work through the details of where, when and how parenting time will be exercised. Often, parties have the arrangements in place but lack the actual parenting time plan to incorporate into an order.

The CSHO shall inquire into the custody and parenting time status of non-dissolution parties before them, attempt consent resolution, and indicate clearly on the order whether the issues are in dispute or resolved. If the CSHO is unable to resolve by consent the custody or parenting time issues, the CSHO refer the issue for mediation pursuant to **R 1:40-4**.

Remaining issues such as paternity, child support or medical support must be addressed by the CSHO making an appropriate recommendation.

Initial establishment cases with domestic violence restraints be should be screened and not calendared for a hearing before the CSHO. If such cases are placed before a CSHO, the CSHO shall **not** attempt to resolve custody or parenting time issues by consent and shall refer the matter to the Judge. Careful screening of matters with domestic violence issues will avoid undue delay due to improper calendaring.

CSHO Standard 3:

Parties present at the hearing shall receive a copy of the order they and the CSHO sign before they leave the courthouse. An order signed by the judge will later be mailed to the parties. In support establishment cases, the parties shall receive an ACSES number on the order along with payment instructions for the obligor. The CSHO shall place on the record the necessary demographics and assist in the verification of demographics.

Commentary:

Information fosters compliance. There is general agreement that the quality of information gathered from parties and given to parties correlates directly with the ability of the court to uphold and enforce the court orders and the ability of the parties to comply by knowing what is expected of them. Lack of an obligor's Social Security Number significantly hinders Probation's ability to use automated systems to locate an obligor's assets or employer. Failure to advise an obligor as to where to submit payments pending the income withholding, may result in non-payment of support based on ignorance rather than noncompliance.

The following practices help counties to ensure good customer service and to collect and record essential demographics information on each case. Possessing accurate demographics on a case is probably the single most important factor in effective enforcement of orders.

A. The CSHO shall:

1. Gather on the record and verify all necessary demographics from the parties such as residential and mailing addresses, Social Security Numbers, date of birth, driver's license number for the obligor, health care insurance provider and policy number, physical description of the obligor.
2. Discuss with parties their respective rights, responsibilities and obligations.

3. Insure that the obligor is clear on the details of compliance with payments: when to start, where to make them, how to make them, to whom to make them.

4. Advise the parties of the need to provide and maintain a current address and employers (for the obligor) with the Probation Division and advise parties to read the Notice to Litigants portion of the Order

B. Probation and Family should provide their respective court teams with specific dates to use in rescheduling hearings. In cases being relisted, parties would be personally served at the hearing. No further notice would be necessary.

C. A staff person (e.g. clerk or equivalent) must make sure that the demographics elicited on the record are physically recorded on a statement form that will be shared with the Probation Division. (See forms 1, 2, and 3 at Appendix C).

If distributed in advance of the hearing, the CSHO could elicit from the parties during the hearing any information that is not complete on the form.

D. Before leaving the courthouse, every litigant present at an initial establishment hearing shall receive copy of the recommended Uniform Order signed by the parties and the CSHO. This applies only if the case is not being appealed and is pending the Judge's signature. The Order must include the ACSES number. Subsequently, a copy of the Order signed by the Judge shall be mailed to the parties.

CSHO Standard 4:

In each case involving the establishment or modification of support, the CSHO shall provide copies of the Guidelines worksheet for the court file, to the parties and to counsel. Each county shall maintain a laser printer (or a copier) in the hearing facility in order to facilitate compliance with this standard as well as assist in the processing of appeals and to provide good customer service.

Commentary:

The Guidelines worksheet is integral to understanding or explaining how a specific support award is reached. Some Judges feel strongly that appeals from CSHO proceedings can be averted if parties have a copy of their worksheet and the calculation it represents is explained to them. The Guidelines require that the original order, guidelines worksheet and all financial affidavits be maintained in the Family Division case file. Later at modification hearings, the earlier worksheets are important to the court in determining changed circumstances. Additionally, in planning for future improvements to case processing (such as producing a computer generated order) the laser printer will take on added significance since it produces documents at high speed. In many vicinages, these printers are already in use. In other

counties (as these Standards were being developed), laser printers are being made available using Title IV-D funds.

CSHO Standard 5:

The CSHO does not have authority to reopen a Judgment of Paternity. Motions to reopen a Judgment of Paternity, regardless of how it was originally established, shall not be placed before a CSHO. These matters essentially are contesting the previously resolved issue of paternity and require that a judge weigh factors before genetic testing or other reliefs may be ordered.

Commentary:

Although the issue of whether a CSHO should be deciding a motion or a request to reopen and vacate a paternity judgment is not a new one, the federal policy favoring the use of in-hospital acknowledgments of paternity (permitted to be signed even by minors), has brought the issue to the forefront. A signed acknowledgment of paternity (Certificate of Paternity) is subject to rescission or challenge in court *but only within sixty (60) days* of signing or the date that a support order is entered, whichever is earlier (Appendix D Directive *Hospital-Based Voluntary Acknowledgment of Paternity - Paternity Opportunity Program (POP)*). Otherwise, the acknowledgment has the same force and effect as a judgment of paternity without the need for judicial ratification, by operation of law.

The CSHO should not be asked to recommend genetic testing or accept a consent agreement between the parties or between the welfare board counsel and the obligor for genetic testing beyond the sixty (60) day period and despite the existence of the judgment of paternity. Because there is already a judgment, there are significant considerations on all sides and the child, whose interests are paramount, is often the one whose interests are least represented.

It is important to balance the need for finality in paternity judgments and the Need to ensure adequate due process in establishing paternity. The issues above indicate a complexity requiring resolution by a judge rather than a CSHO. In *M.F. v. N.H.*, 252 N.J. Super. 420 (App. Div. 1991), details eight (8) factors to consider in determining whether it is in the child's best interest to reopen the paternity issue.

CSHO Standard 6:

R. 5:25-3 provides for an immediate *de novo* appeal to the Judge from the CSHO proceeding as a matter of right. The same day appeal is the standard and counties shall make every effort to hear the appeals on the day the appeal is sought. Vicinages are not authorized to develop or require the use of "Appeal" forms intended to screen appeals sought by litigants from CSHO proceedings.

Commentary:

R. 5:25-3(d)(2) provides that parties not accepting the recommendation of the CSHO “*shall be entitled to an immediate appeal of the recommendation to the Presiding Judge of the Family Part or a Judge designated by the Presiding Judge who shall conduct a hearing forthwith.*” In order to comply with expedited process, same day appeals need to be uniform. Time standards are a must for the expedited process and noncompliance endangers federal reimbursement. (See Appendix D Memorandum of Judge Ciancia to Assignment Judges).

A CSHO is trained to neither discourage nor encourage appeals. Once the recommendation is made and its basis explained, whether to appeal is up to the individual parties. In some vicinages, judges have asked the CSHO to characterize on a form why a party is appealing. The CSHO is supposed to inquire as to the reason for the appeal and whether all or a portion of the recommendation is rejected. However, screening the appeals at this stage of the process is inappropriate under the current Rule, that permits an appeal from the recommendation without any specific standard or condition except that the litigant disagrees with it.

R. 5:25-3 (b) (7) allows that *if any establishment case involves a complex issue requiring judicial resolution* the CSHO shall recommend a temporary order pending referral to the court. In any such referral, the CSHO shall provide a brief written statement to the court setting forth what issue(s) render the matter complex in nature.

CSHOP Standard 7:

A. In order for the Family Division to better serve victims of domestic violence and to provide expedited process, vicinages may schedule, child support modifications in domestic violence cases before the Child Support Hearing Officers (CSHOs). The CSHOs may hear child support modification motions in domestic violence cases under the conditions set forth herein. The CSHO, at all times, will address only the child support aspects (civil enforcement and modification) of the case before them. The following conditions will be observed:

1. Both parties must be amenable to appearing before the CSHO.
2. The CSHO may hear child support modifications in matters established under an “FV” docket; matters under an “FD” docket with companion restraints; or interstate matters filed pursuant to the *Uniform Interstate Family Support Act*. (UIFSA).
3. The restraining order must be in effect for six (6) months without further activity before the case may be placed before a CSHO for modification of child support; otherwise, the modification shall be scheduled before a judge.
4. The matter cannot be scheduled before the CSHO if the case raises any issues other than child support.
5. The matter should go before a judge, where other factors or concerns exist that make the matter complex, e.g. indication of ongoing inappropriate behavior by the batterer toward the victim or behavior that occurs while waiting to be heard or during the hearing.

6. The action must be a Title IV-D case, i.e. the child support is payable through Probation.
- A. Prior to the vicinage scheduling these cases before the CSHOs, a written security plan for these hearings must be developed and approved by the Assignment Judge, taking into account the recommended standards set forth in Section A *Security and Facilities*, of the Commentary.
- B. All CSHOs, Supervisors and Chief of the Program shall be required to participate in the mandatory training for domestic violence staff in addition to receiving training as to the dynamics of families with domestic violence issues before the vicinage may schedule matters to the CSHO. To the extent that FD or FM staff will be screening these cases, the Team Leaders in these docket types should also receive training regarding domestic violence issues.
- C. Because of the volatile nature of these cases, appeal and referrals from the CSHO should be heard by a judge as promptly as possible, and in any event on the same day as the CSHO hearing (see Commentary, Section C).

Commentary:

A. Security and Facilities

Child support modification hearings arising out of domestic violence cases raise particularly serious security concerns. While initial TRO hearings in domestic violence matters are usually heard *ex parte*, with only the plaintiff present, child support modification hearings are likely to be held in the presence of both the plaintiff and the defendant. Because emotions often run high between these parties, security needs must be anticipated and planned for. In developing a security plan for child support modification hearings in domestic violence cases, the following recommended standards (which are generally addressed in courtrooms) should be taken into account:

1. Provide an armed Sheriff's Officer for each CSHO proceeding.
2. Provide duress alarms for the CSHO.
3. Restrict access to light controls.
4. Provide the hearing officer with an egress route to a safe location.
5. Utilize a command and control center to monitor alarms and CCTV.
6. Utilize two-way radios to maintain communications and coordinate emergency responses.
7. Provide emergency back-up power for the lighting and security system.

In addition to these general recommended standards, the following specific provisions should be addressed in the security plan for child support hearings in DV cases:

8. Schedule modification cases in a courtroom or in a room of comparable size and formality. The room should be large enough so that the victim is not required to sit in close proximity to the defendant either while waiting for the case to be heard or during the conduct of the hearing. The parties should not be seated at the same table under any circumstances.
9. If a facility does not offer two separate waiting areas to keep the victim and defendant apart from each other prior to the hearing, a second Sheriff's Officer should be assigned to the waiting area to insure the safety of litigants.
10. In vicinages where the CSHO hearing facility is located in a separate building from the courthouse where the appeal will be heard, the vicinage should have appropriate security arrangements in place for the parties to be escorted to the courtroom of the judge who will hear the appeal. The parties are not to be left unattended while the appeal is pending.

When an appeal is taken, it poses a particularly critical time because the plaintiff is vulnerable to coercion and intimidation regarding the recommendation being appealed. The defendant's emotions may be running high since the stakes are usually whether to increase or decrease an order of child support. A higher rate of appeal is anticipated on these child support modifications than is generally the case on CSHO calendars (about 3-4%).

In developing security plans for child support hearings in domestic violence cases, as in all other security matters, technical assistance will be available from the Court Access Services Unit at the Administrative Office of the Courts.

B. Case Types

1. Both parties must be amenable to appearing before the CSHO. The CSHO should explain to parties what the CSHO's role is in the proceeding and what will occur during the hearing as well as explaining the use of the Guidelines and their individual right to appeal the recommendation of the CSHO and obtain an immediate hearing before a judge. Either party may request to have the matter heard by a judge. This is similar to DVHO Standard 5, which indicates that appearance before the DVHO is voluntary and permits the plaintiff the option of appearing instead before a judge.
2. The CSHO may hear child support modifications in matters established under an "FV" docket; matters under an "FD" docket with companion restraints or interstate matters filed under the *Uniform Interstate Family Support Act* (UIFSA).
3. The restraining order must be in effect for six (6) months without further activity before the case may be placed before the CSHO for modification of child support; otherwise, the modification shall be scheduled before a judge.

4. When there are other pending actions or outstanding issues such as contempt or enforcement of other provisions of the restraining order including custody or parenting time or pending FM with other outstanding issues, the matter shall not be scheduled before the CSHO for either enforcement or modification of child support. This is currently a standard established in the *Manual* applicable to civil enforcement in domestic violence matters before the CSHO.
5. The matter should go before the judge, where other factors or concerns exist that make the matter complex, e.g. indication of ongoing inappropriate behavior by the batterer toward the victim or behavior that occurs while waiting to be heard or during the hearing.
6. The action must be a Title IV-D case, i.e. the child support is payable through Probation (Centralized Collections) and a county Probation Division is responsible for the collection and enforcement of the child support provisions. Direct pay matters or matters ordered paid to a third party, shall not be scheduled before the CSHO.
7. If the issue involves provisions other than child support, e.g. rent or mortgage payments, parenting time, monetary compensation, counseling and temporary possession of specified personal property, the matter shall not be placed before the CSHO and shall be scheduled before a judge. The CSHO shall only address the support modification or civil enforcement of the child support provisions since the CSHO's jurisdiction per R. 5:25-3 is in the Title IV-D matters.

C. Appeals and Referrals to a Judge

1. The CSHO shall exercise judgment in determining the appropriateness of the forum and shall be permitted to refer the matter to a judge as a complex case. There are many factors in play in domestic violence cases. The CSHO must be alert to the total picture in determining whether it is appropriate for a hearing officer to proceed with the hearing. The CSHO must observe the interaction of the parties with the CSHO, with each other, as well as verbal and non-verbal cues to assess if the dynamics between the parties point to a requirement for judicial attention. We cannot detail all the possible scenarios that call into question if the case may be heard by the CSHO, keeping in mind that the imbalance of power may manifest in observable behavior. Training will help the CSHO develop further the skills needed to recognize the dynamics in play. The CSHO shall not permit, when the parties are before the CSHO, any opportunity for coercion or intimidation of the victim. The parties are there to speak with the CSHO regarding the motion, not to speak with each other. All referrals of complex cases must have a brief written statement from the CSHO to the judge stating the details that render the matter complex in nature.
2. Appeals of either party from the CSHO's recommendation shall be treated as emergent matters. Appeals from the CSHO calendar are not to be continued. In the domestic violence

cases, the appeal not only should be heard the same day, but also should not be held for so long that the long wait may indeed contribute to inappropriate behavior from the batterer.

3. In accordance with R. 5:7-4 (b), the CSHO shall record the case disposition (civil enforcement and modification) using the Uniform Order for Summary Support. Parties must be given an unsigned copy of the order resulting from the CSHO proceeding and a signed copy of the order if they are before a judge. The CSHO shall insure that the order does not contain any confidential information such as the address of the victim or other information of a confidential nature. A signed copy of the order will be mailed to the parties by Family Intake staff in the vicinage, once the judge signs the order. If a Guidelines calculation was done, the parties shall be provided with a copy of the Guidelines. This is also in accord with CSHOP standards 3 and 4.

D. Training of Staff

All CSHOP staff and relevant FD and FM Team Leaders shall receive training regarding the dynamics of families with domestic violence issues prior to a vicinage being approved to schedule child support modifications before the CSHO. Thereafter, they shall participate in training that is mandatory for all domestic violence personnel.

The proposed standard represents a departure from the *Domestic Violence Procedures Manual*. The *Manual* is issued under the authority of the Supreme Court of New Jersey and the Office of the Attorney General. It sets forth the uniform standards and procedures to be followed by those responsible for handling domestic violence matters and to provide a unified approach intended to assure prompt assistance to the victims of domestic violence.

This proposed standard is the result of a debate that predates 1992, when the *Manual* was amended to allow CSHOs to hear civil enforcement motions in domestic violence cases. In 1992 the State Domestic Violence Work Group considered whether to amend the *Manual* additionally and permit the CSHOs to hear the modification of the child support provisions of domestic violence matters. Ultimately the amendment permitted solely the civil enforcement of litigant's rights motions to be calendared before the CSHO under specific conditions detailed in the in Section III of the *Manual*. Civil enforcement refers to those matters that are Title IV-D, i.e. the order is payable through a Probation Division and the case is thus supervised by county Probation Division staff responsible for the filing of the enforcement motion.

The experience of the CSHOP with the civil enforcement in domestic violence matters indicates that in general it works well. There is concern expressed by CSHOs themselves that the specific conditions set forth in the *Manual* have not been consistently enforced. One example given was the lack of the presence of an on-site Sheriff's Officer during the hearing because the Sheriff's Officer was responsible for covering the waiting area and/or other hearings in progress. Concern was also expressed for the delays in hearing the appeals resulting from the enforcement hearing before the CSHO. The strict implementation of the conditions and requirements is crucial to the ability to delivery of expedited process to the

victims of domestic violence. Such service however should not be at the cost of the safety of the victim, the defendant, the hearing officer, or any other staff or litigants.

Currently, judges are responsible for hearing the child support modifications in the domestic violence matters despite the fact that most other non-dissolution (FD) applications to modify are routinely scheduled before the CSHO. The CSHOs have the expertise as to the child support modification issues and as to the application of the Guidelines that comes from having primary responsibility for the disposition of Title IV-D child support cases.

The *Manual* states that modifications are inherently complex and provides that they be heard by a judge. Historically, this has raised issues for the Judiciary. Since Family handles ten (10) docket types, there is tremendous demand for judge time to address the cases requiring the attention of a judge. Expedited process is premised on the concept of diverting appropriate matters from the judge in order to resolve them in an expedited manner. Requiring that all modification of support cases go to a judge unduly delays their resolution because they are segregated from the expedited process B the process of child support matters going first to a CSHO. The laudable intent of providing the attention of a judge to hear these cases inadvertently subjects the victim to less timely service due to the demands placed on the available judge time. The expedited process places summary child support matters before the CSHO normally, but the domestic violence cases have been historically been diverted from the expedited process. DV cases are by no means routine, but the adoption of **R. 5:6A Child Support Guidelines** by NJ has contributed to standardization of the issue of child support. Expedited process means that child support issues in some domestic violence cases will be better served before the CSHO. This would permit the judge to devote time to the domestic violence cases requiring judicial attention.

The *Manual* clearly provides specific and necessary security and facilities conditions that should be met in order to place the civil enforcement before a CSHO. In expanding to allow CSHOs to hear modifications, these conditions and even increased safety measures would have to be in place for any vicinage seeking to calendar child support modifications in domestic violence cases before the CSHO. Indeed, the proposed standard requires that the security issues be addressed in advance, prior to a county scheduling these cases before the CSHO, to insure that the requirements as to security and facilities are met and to insure that the other conditions are understood in terms of proper implementation.

CSHO Standard 8:

In establishment cases where blood or genetic testing is recommended for the purpose of establishing paternity, it shall be the CSHO who determines whether the initial payment of the costs shall be paid by the Board of Social Services, subject to the reimbursement provision set forth in the order.

Commentary:

Expedited process mandates that paternity be established expeditiously so that support may be ordered. Establishing paternity is essential to the establishment of a support order. The cost of paternity testing should not delay the establishment of paternity as this will thwart the expedited process. Since 1990 it has been settled that the initial costs for paternity testing, in both private and public assistance cases where the parties may be indigent or may not initially have the funds, shall be paid by the Board of Social Services, subject to reimbursement as determined by the court. (See Appendix E - A.O.C. Directive 90-10 Payment for Genetic Testing to Establish Paternity).

It is up to the court to determine whether requiring a party to provide payment prior to or contemporaneous with the test date will unduly delay the establishment of paternity in accordance with the time standards. Delaying paternity establishment results in noncompliance with the expedited process. It is important to preserve the process and ensure that the benefit of this policy is to the parties and the child who deserves to have the paternity determined as soon as possible.

CSHO Standard 9:

In accordance with expedited process, CSHOs should hear post-judgment motions to modify child support in all cases, including dissolution. The post-judgment motion must be properly filed and address only child support issues or seek relief that the CSHO is authorized to recommend.

Commentary:

It is settled law that child support orders are not final and are subject to modification when there is a sufficient basis established. The needs of children change as they grow and in the process of raising children, the circumstances of the parents change: employment may be lost or financial windfalls may be gained; medical insurance coverage may need to be adjusted or provided; day care expenses may be eliminated; changes in the family household may also call for modification. Almost since the inception of the child support hearing officer program, the CSHOs have conducted hearings and made recommendations regarding motions or applications to modify child support orders. Modification of child support is a function of New Jersey's expedited process. CSHOs are trained and experienced in taking testimony and applying appropriate precedent such as the two-tier analysis set forth in the seminal case of Lepis v. Lepis. First, testimony is taken (assuming that there is a factual issue) to determine whether there is a significant change in the circumstances of a party and if not, the motion is denied. If a finding of changed circumstances is made, then the CSHO proceeds to the financial aspect of the case and completes a Guidelines calculation to determine whether a modification of support is warranted.

New Jersey's expedited process contemplates dissolution motions as part of expedited process and the option was present. Traditionally, the general vicinage practice was to have dissolution go to a judge. Facing a mandate to standardize Family Division Operations, it is natural to ask how this process impacts on the CSHOP. The goal of expedited process is effective and expeditious treatment of the case types that the state's expedited process addresses. Existing orders of child support may be modified under the state's expedited process. Since the adoption of **R.** 5:25-3, (a span of 16 years) New Jersey now has a cadre of experienced and seasoned CSHOs who have an excellent track record. The CSHOs are effective because they have over a period of time developed an expertise in the field of child support: establishment, modification and enforcement. The amendment of the Child Support Guidelines also fostered the growth of the CSHOs. Computers, software and printers are part and parcel of the CSHOs' supplies to enable them to continue to be efficient in their calculation of support orders that now are more complex due to the shared parenting adjustments and visitation credits being part of the mix that already included other dependent deduction calculations for serial families. The program has developed with the growth of the law in this area.

In a vicinage where dissolution motions have been scheduled for the CSHO, the vicinage indicated that litigants were afforded relief more quickly than if the matters had been scheduled before a judge: meeting the goal of expedited process, to provide more efficient and expeditious service to the Title IV-D litigants. Middlesex has had long-term experience with placing dissolution motions before the CSHO, having maintained this practice for many years. Indeed, about 15% of the dissolution calendar is diverted to expedited process and are resolved maintaining an appeal rate of less than 5%. The purpose and intent of expedited process is being met and litigants are provided with better service since they wait less time for the resolution of their motions.

In general, many post judgment motions are potentially complex matters and burdensome to resolve. Dissolution matters present issues such as property settlements, alimony, child support, tax dependents, life insurance, mortgage payments or custody and parenting time issues. In order to meet the efficient and expeditious goal of expedited process, it is important for the vicinage staff to screen very carefully the dissolution motions for the CSHOs. The following guidelines are important to adhere to in order for expedited process to be successful.

1. The dissolution matter must be a Title IV-D case. The child support must be payable to Probation through Centralized Collections. (It is highly recommended that the Title IV-D application be completed, in the file and the fee paid.)
2. Motion papers must be carefully screened to insure that only appropriate dissolution modification motions and cross-motions are calendared before the CSHO. Such cases should be limited to Guidelines cases with issues such as modification of child support, health care insurance, child care costs or emancipation. A case should be scheduled before a judge rather than a CSHO if it involves complex issues, child support based on a combined parental income in excess of \$150, 800 annually, alimony, equitable distribution, attorney's fees, etc.

3. Court jackets must be provided to the CSHOs so that they have complete and sufficient information to base a recommendation upon. Motions cannot properly be decided in a vacuum.
4. Post judgment motions with issues of alimony, life insurance, tax dependent allocation, rent or mortgage payments, equitable distribution, property settlement shall be scheduled to a judge, even if these issues are raised in a cross-motion.
5. All rules and best practices applicable to dissolution cases must be adhered to for dissolution motions whether scheduled before a judge or CSHO. For example, all dissolution motions that are scheduled before the CSHO must have the past and current Case Information Statement (CIS). The scheduling of the dissolution motions before the CSHO does not relax the rules in any way.

CSHO Standard 10:

A Judiciary Clerk 3 or equivalent shall be provided for the CSHO proceedings to provide clerical support in the hearing room.

Commentary:

Clerical support during the hearings is important to produce the required audio taped record of the hearing and maintain the appropriate log record associated with it. The clerk would also assist in: setting up appeals or referrals to the Judge; preparing headings for the Uniform Order and assisting in drafting same; obtaining the signature of the parties on the order; distributing the order to the parties as well as payment instructions or notices; gathering demographics information; copying the proofs of the health care insurance coverage and related items.

The staffing ratios for Family Division include a Judiciary Clerk 3 or equivalent staff for each hearing officer calendar (CSHO or DVHO).

CSHO Standard 11:

In matters brought by the welfare board or their representatives, the complaint or motion should be dismissed, absent unusual extenuating circumstances, by the CSHO if venue is not properly laid or if counsel is not present to proceed on the matter. The dismissal shall be without prejudice.

Commentary:

In the initiation of any complaint, whether brought by a private party or by the welfare board (or its representatives), it is a basic procedural necessity to investigate whether a support order already exists or has ever been entered. The prior order would generally determine venue. Also, plaintiff (in private matters) or counsel (in public assistance cases) need to be present to proceed with the complaint or motion filed. In private matters, failure of the plaintiff to appear will result in the dismissal without prejudice of the complaint. In matters involving the Board, in some counties, the CSHO is expected to proceed without the appearance of counsel or the welfare oblige. The CSHO should not prosecute the complaint on behalf of the Board; the CSHO must remain impartial in this proceeding.

An issue was raised as to whether a plaintiff on public assistance would need to file a complaint of their own in seeking modification of an order once the assistance terminated. The *N.J. Administrative Code*, provides that:

The applicant/recipient is not required, as a condition of eligibility for assistance, to sign a complaint to establish paternity or obtain support or medical insurance. Such complaints are **filed in the name of the county agency by the director . . . Whenever possible, the complaints should be filed in the name of both the county agency and the client to ensure continuation of the court action should the client's assistance be terminated.**

N.J.A.C. 10:90-16.12 (Emphasis added).

The above provision reflects that the intent is to permit the oblige to continue the action using the same complaint initiated by the agency or the client's behalf as well as to preserve its own interest in the matter.

Additionally, in interstate matters brought pursuant to the *UIFSA*, it is necessary for the obligor to be served with both a summons and the *UIFSA* petition in its entirety. The practice of serving only the transmittal form fails to afford the obligor due process. The petition in its entirety provides notice of the issues and information necessary to prepare a defense. If certified and regular mail is used, the full petition must be included with both pieces of mail. Board counsel or counsel contracted by the county welfare agency is required, pursuant to *N.J.S.A. 2A:4-30.85*, to appear on behalf of the out of state petitioner on these Title IV-D cases. The *N.J.A.C.* echoes that responsibility.

CSHO Standard 12:

The treatment of after-acquired children (post divorce or following the entry of the first support obligation) should be in accordance with Appendix IX-A of the Child Support

Guidelines, specifically Item 10 (Appendix IX-A, *Considerations in the Use of the Child Support Guidelines*) regarding other legal dependents.

Commentary:

Once the threshold of changed circumstances has been met, any calculation of the child support order should give the parent (parent of primary or alternate residence) the other dependent deduction. This applies in initial establishments and modifications. The issue was addressed in a recent Appellate Division matter published February 18, 2000, Doreen Schwartz v. John Schwartz.

**“Family Standardization – Proposed Child Support
Hearing Officer Program Standards”**

APPENDIX A

R. 5:25-3 Child Support Hearing Officers

APPENDIX B

New Jersey Expedited Process for Child Support

(Expedited Process)

APPENDIX C

Child Support Information Statements for Probation

- 1. Obligor Only Information**
- 2. Obligor, Obligee, and Children's' Information**

APPENDIX D

Memorandum from Chief Justice Robert N. Wilentz

***Child Support Enforcement – (1) Expedited Processing of
Support Orders; (2) Appeals from Hearing Officer Recommendation***

APPENDIX E

AOC Directive #96-01

***Hospital-Based Voluntary Acknowledgement of Paternity
Paternity Opportunity Program (POP)***

APPENDIX F

AOC Directive #90-10

Payment for Genetic Testing To Establish Paternity

APPENDIX G

Federal Laws and State Laws and Court Rules:

Expedited Process and Child Support

**ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY**

**PHILIP S. CARCHMAN, J.A.D.
ACTING ADMINISTRATIVE DIRECTOR
OF THE COURTS**



**RICHARD J. HUGHES JUSTICE COMPLEX
PO Box 037
TRENTON, NEW JERSEY 08625-0037**

Questions or comments
may be addressed to
(609) 292-5099

MEMORANDUM

**To: Assignment Judges
Trial Court Administrators**

From: Philip S. Carchman, J.A.D.

**Re: Child Support Hearing Officer (CSHO) Program Standards –
Amendment to Standard 7; and a New Standard (Standard 13)**

Date: July 24, 2007

Enclosed are amendments to the Child Support Hearing Officer (CSHO) Program Standards, an amended Standard 7 and new Standard 13. The amendments were approved by the Supreme Court in March 2007 and will improve the expedited process for child support cases and enhance customer service.

CSHO Program Standard 7 - Amended

CSHO Program Standard 7 has been amended to authorize the CSHO to handle FD (non-dissolution) complaints filed by the local Board of Social Services that seek to *establish* paternity and/or child support in cases where the obligee has a final restraining order against the defendant/obligor. Standard 7 already permits the CSHO, under specified security and facilities conditions, to hear applications initiated by individuals to *modify* or *enforce* child support orders in matters with active domestic violence restraints in either FV (domestic violence) or FD (non-dissolution) cases.

These *establishment* matters, formerly heard by a judge, may now be handled by a CSHO. They are to be processed as FD cases, rather than FV, since only the victim may be a plaintiff in an FV matter. In FDs filed by the local

Boards, the child support paid by the obligor is assigned to the Board for the period that assistance is provided. Standard 7 is permissive and the provision that permits the CSHO to hear FV *modification* and *enforcement* applications has been implemented in eleven vicinages. The security and facilities requirements that exist for actions to *modify* and *enforce* child support in matters with active restraints also apply to these *establishment* matters.

CSHO Standard 13 - New

New CSHO Program Standard 13 authorizes the CSHO to conduct hearings by telephone in appropriate cases. The new Standard sets forth direction as to how to proceed with telephonic hearings including proper screening, coordination with the calendaring of other matters scheduled before the CSHO, and the appropriate equipment.

Amended Standard 7 and the new Standard 13, along with a new telephone hearing request form, are attached and should be inserted into existing hardcopies of the Standards and will also be available on the Infonet. As noted, these Standards are permissive not mandatory. **Please advise me by September 1, 2007 whether you plan to implement either or both of the Standards in your vicinage and, if so, how you will proceed with implementation.**

Any questions or comments may be directed to Assistant Director Harry T. Cassidy at 609-984-4228 or to Elidema Mireles, Chief, CSHO Program at 609-292-5099.

P.S.C.

cc: Chief Justice Stuart Rabner
Family Presiding Judges
Theodore J. Fetter, Deputy Administrative Director
AOC Directors and Assistant Directors
Elidema Mireles, Chief
Richard Narcini, Chief
Family Division Managers
Vicinage Chief Probation Officers
Assistant Family Division Managers in Multi-County Vicinages
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

Amended
CSHO Program Standard 7
and Commentary

as approved by the Supreme Court March 5, 2007

CSHO Standard 7 (amendments underlined)

- A. In order for the Family Division to better serve victims of domestic violence and to provide expedited process, vicinages may schedule, child support modifications in domestic violence cases before the Child Support Hearing Officers (CSHOs). The CSHOs may hear child support modification motions in domestic violence cases under the conditions set forth herein. In addition the CSHO may hear FD cases where there is a restraining order in effect when filed by the Board of Social Services to establish child support. The CSHO, at all times, will address only the child support aspects (civil enforcement and modification and TANF establishments) of the case before them. The following conditions will be observed:**
1. Both parties must be amenable to appearing before the CSHO.
 2. The CSHO may hear child support modifications in matters established under an “FV” docket; matters with active restraints filed by the Board of Social Services under an “FD” docket; or interstate matters filed pursuant to the *Uniform Interstate Family Support Act*. (UIFSA).
 3. The restraining order must be in effect for six (6) months without further activity before the case may be placed before a CSHO for modification of child support; otherwise, the modification shall be scheduled before a judge. This six month requirement does not apply to FD establishments filed by the Board of Social Services.
 4. The matter cannot be scheduled before the CSHO if the case raises any issues other than child support.
 5. The matter should go before a judge, where other factors or concerns exist that make the matter complex, e.g. indication of ongoing inappropriate behavior by the batterer toward the victim or behavior that occurs while waiting to be heard or during the hearing.
 6. The action must be a Title IV-D case, i.e. the child support is payable through Probation.
- B. Prior to the vicinage scheduling these cases before the CSHOs, a written security plan for these hearings must be developed and approved by the Assignment Judge; taking into account the recommended standards set forth in Section A *Security and Facilities*, of the Commentary.**
- C. All CSHOs, Supervisors and Chief of the Program shall be required to participate in the mandatory training for domestic violence staff in addition to receiving training as to the dynamics of families with domestic violence issues before the vicinage may schedule matters to the CSHO. To the extent that FD or FM staff will be screening these cases, the Team Leaders in these docket types should also receive training regarding domestic violence issues.**

- D.** Because of the volatile nature of these cases, appeals and referrals from the CSHO should be heard by a judge as promptly as possible, and in any event on the same day as the CSHO hearing (see Commentary, Section C).

Commentary:

A. Security and Facilities

Child support modification hearings arising out of domestic violence cases raise particularly serious security concerns. While initial TRO hearings in domestic violence matters are heard ex parte, with only the plaintiff present, child support modification hearings are likely to be held in the presence of both the plaintiff and the defendant. Because emotions often run high between these parties, security needs must be anticipated and planned for. In developing a security plan for child support hearings in domestic violence cases, the following recommended standards (which are generally addressed in courtroom) should be taken into account:

1. Provide an armed Sheriff's Officer for each CSHO proceeding.
2. Provide duress alarms for the CSHO.
3. Restrict access to light controls.
4. Provide the hearing officer with an egress route to a safe location.
5. Utilize a command and control center to monitor alarms and CCTV.
6. Utilize two-way radios to maintain communications and coordinate emergency responses.
7. Provide emergency back-up power for the lighting and security system.

In addition to these general recommended standards, the following specific provisions should be addressed in the security plan for child support hearings in DV cases:

8. Schedule modification cases in a courtroom or in a room of comparable size and formality. The room should be large enough so that the victim is not required to sit in close proximity to the defendant either while waiting for the case to be heard or during the conduct of the hearing. The parties should not be seated at the same table under any circumstances.
9. If a facility does not offer two separate waiting areas to keep the victim and defendant apart from each other prior to the hearing, a second Sheriff's Officer should be assigned to the waiting area to insure the safety of litigants.
10. In vicinages where the CSHO hearing facility is located in a separate building from the courthouse where the appeal will be heard, the vicinage should have appropriate security arrangements in place for the parties to be

escorted to the courtroom of the judge who will hear the appeal. The parties are not to be left unattended while the appeal is pending.

When an appeal is taken, it poses a particularly critical time because the plaintiff is vulnerable to coercion and intimidation regarding the recommendation being appealed. The defendant's emotions may be running high since the stakes are usually whether to increase or decrease an order of child support. A higher rate of appeal is anticipated on these child support modifications than is generally the case on CSHO calendars (about 3-4%).

In developing security plans for child support hearings in domestic violence cases, as in all other security matters, technical assistance will be available from the Court Access Services Unit at the Administrative Office of the Courts.

B. Case Types

1. Both parties must be amenable to appearing before the CSHO. The CSHO should explain to parties what the CSHO's role is in the proceeding and what will occur during the hearing as well as explaining the use of the Guidelines and their individual right to appeal the recommendation of the CSHO and obtain an immediate hearing before a judge. Either party may request to have the matter heard by a judge. This is similar to DVHO Standard 5, which indicates that appearance before the DVHO is voluntary and permits the plaintiff the option of appearing instead before a judge.
2. The CSHO may hear child support modifications in matters established under an "FV" docket; establishment of support matters under an "FD" docket filed by the Board of Social Services even with companion restraints; or interstate matters filed under the *Uniform Interstate Family Support Act* (UIFSA).
3. The restraining order must be in effect for six (6) months without further activity before the case may be placed before the CSHO for modification of child support; otherwise, the modification shall be scheduled before a judge. This six month requirement does not apply to FD establishment of support cases in the presence of active restraints if it is filed by the Board of Social Services.
4. When there are other pending actions or outstanding issues such as contempt or enforcement of other provisions of the restraining order including custody or parenting time or pending FM with other outstanding issues, the matter shall not be scheduled before the CSHO for establishment, enforcement or modification of child support. This is currently a standard established in the *Manual* applicable to civil enforcement in domestic violence matters before the CSHO.

5. The matter should go before the judge, where other factors or concerns exist, that make the matter complex, e.g. indication of ongoing inappropriate behavior by the batterer toward the victim or behavior that occurs while waiting to be heard or during the hearing.

6. The action must be a Title IV-D case, i.e. the child support is payable through Probation (Centralized Collections) and a county Probation Division is responsible for the collection and enforcement of the child support provisions. Direct pay matters or matters ordered paid to a third party, shall not be scheduled before the CSHO.

7. If the issue involves provisions other than child support, e.g. rent or mortgage payments, parenting time, monetary compensation, counseling and temporary possession of specified personal property, the matter shall not be placed before the CSHO and shall be scheduled before a judge. The CSHO shall only address the support establishment, modification or civil enforcement of the child support provisions since the CSHO's jurisdiction per R. 5:25-3 is in the Title IV-D matters.

C. Appeals and Referrals to a Judge

1. The CSHO shall exercise judgment in determining the appropriateness of the forum and shall be permitted to refer the matter to a judge as a complex case. There are many factors in play in domestic violence cases. The CSHO must be alert to the total picture in determining whether it is appropriate for a hearing officer to proceed with the hearing. The CSHO must observe the interaction of the parties with the CSHO, with each other, as well as verbal and non-verbal cues to assess if the dynamics between the parties point to a requirement for judicial attention. We cannot detail all the possible scenarios that call into question if the case may be heard by the CSHO, keeping in mind that the imbalance of power may manifest in observable behavior. Training will help the CSHO develop further the skills needed to recognize the dynamics in play. The CSHO shall not permit, when the parties are before the CSHO, any opportunity for coercion or intimidation of the victim. All referrals of complex cases must have a brief written statement from the CSHO to the judge stating the details that render the matter complex in nature.

2. Appeals of either party from the CSHO's recommendation shall be treated as emergent matters. Appeals from the CSHO calendar are not to be continued. In the domestic violence cases, the appeal not only should be heard the same day, but also should not be held for so long that the long wait may indeed contribute to inappropriate behavior from the batterer.

3. In accordance with R. 5:7-4 (b), the CSHO shall record the case disposition (establishment, modification or civil enforcement) using the Uniform Order for Summary Support. Parties must be given an unsigned copy of the order resulting from the CSHO proceeding and a signed copy of the order if they are before a judge. The CSHO shall insure that the order does not contain any confidential information such as the address of the victim or other information

of a confidential nature. A signed copy of the order will be mailed to the parties by Family Intake staff in the vicinage, once the judge signs the order. If a Guidelines calculation was done, the parties shall be provided with a copy of the Guidelines. This is also in accord with CSHOP standards 3 and 4.

D. Training of Staff

All CSHOP staff and relevant FD and FM Team Leaders shall receive training regarding the dynamics of families with domestic violence issues prior to a vicinage being approved to schedule child support modifications before the CSHO. Thereafter, they shall participate in training that is mandatory for all domestic violence personnel.

The proposed standard represents a departure from the prior *Domestic Violence Procedures Manual*. The *Manual* is issued under the authority of the Supreme Court of New Jersey and the Office of the Attorney General. It sets forth the uniform standards and procedures to be followed by those responsible for handling domestic violence matters and to provide a unified approach intended to assure prompt assistance to the victims of domestic violence.

This proposed standard is the result of a debate that predates 1992, when the *Manual* was amended to allow CSHOs to hear civil enforcement motions in domestic violence cases. In 1992 the State Domestic Violence Work Group considered whether to amend the *Manual* additionally and permit the CSHOs to hear the modification of the child support provisions of domestic violence matters. Ultimately the amendment permitted solely the civil enforcement of litigant's rights motions to be calendared before the CSHO under specific conditions detailed in the in Section III of the *Manual*. Civil enforcement refers to those matters that are Title IV-D, i.e. the order is payable through a Probation Division and the case is thus supervised by county Probation Division staff responsible for the filing of the enforcement motion.

The experience of the CSHOP with the civil enforcement in domestic violence matters indicates that in general it works well. There is concern expressed by CSHOs themselves that the specific conditions set forth in the *Manual* have not been consistently enforced. One example given was the lack of the presence of an on-site Sheriff's Officer during the hearing because the Sheriff's Officer was responsible for covering the waiting area and/or other hearings in progress. Concern was also expressed for the delays in hearing the appeals resulting from the enforcement hearing before the CSHO. The strict implementation of the conditions and requirements is crucial to the ability to delivery of expedited process to the victims of domestic violence. Such service however should not be at the cost of the safety of the victim, the defendant, the hearing officer, or any other staff or litigants.

Currently, judges are responsible for hearing the child support establishments and modifications in the domestic violence matters despite the fact that most other non-

dissolution (FD) applications to modify are routinely scheduled before the CSHO. The CSHOs have the expertise as to the child support modification issues and as to the application of the Guidelines that comes from having primary responsibility for the disposition of Title IV-D child support cases.

The *Manual* states that modifications are inherently complex and provides that they be heard by a judge. Historically, this has raised issues for the Judiciary. Since Family handles ten (10) docket types, there is tremendous demand for judge time to address the cases requiring the attention of a judge. Expedited process is premised on the concept of diverting appropriate matters from the judge in order to resolve them in an expedited manner. Requiring that all modification of support cases go to a judge unduly delays their resolution because they are segregated from the expedited process B the process of child support matters going first to a CSHO. The laudable intent of providing the attention of a judge to hear these cases inadvertently subjects the victim to less timely service due to the demands placed on the available judge time. The expedited process places summary child support matters before the CSHO normally, but the domestic violence cases have been historically been diverted from the expedited process. DV cases are by no means routine, but the adoption of R.5:6A Child Support Guidelines by NJ has contributed to standardization of the issue of child support. Expedited process means that child support issues in some domestic violence cases will be better served before the CSHO. This would permit the judge to devote time to the domestic violence cases requiring judicial attention.

The July 2004 *Manual* incorporates the CSHO Program Standard 7 as Appendix 20. Standard 7 clearly provides specific and necessary security and facilities conditions that should be met in order to place the civil enforcement before a CSHO. In expanding to allow CSHOs to hear establishments, modifications and enforcements with domestic violence restraints, these conditions and even increased safety measures would have to be in place for any vicinage seeking to calendar child support modifications in domestic violence cases before the CSHO. Indeed, the proposed standard requires that the security issues be addressed in advance, prior to a county scheduling these cases before the CSHO, to insure that the requirements as to security and facilities are met and to insure that the other conditions are understood in terms of proper implementation.

New

**CSHO Program Standard 13
and Commentary**

as approved by the Supreme Court March 5, 2007

CSHO STANDARD 13 TELEPHONIC HEARINGS

In matters involving establishment and modification of child support in non-dissolution matters and post-judgment dissolution motions, the Child Support Hearing Officer may conduct hearings by telephone. In New Jersey, it is not unusual to have parties or counsel participate by telephone. Rule 5: 5-7 allows for case management conferences to be by phone. Rule 5:7A (b) allows TROs to issue based on sworn testimony to the judge using telephone, radio or other means of electronic communication. The *Uniform Interstate Family Support Act, 2A: 4-30.92, et. seq.* encourages courts to allow testimony by telephone or electronic communications. The Family Division staff will ensure that cases appropriate for telephonic hearings are scheduled before a hearing officer and that the proper equipment is provided. The CSHO has the discretion to end a telephonic hearing if he or she determines that the integrity of the record is being compromised because it is telephonic. The following conditions shall be observed:

1. Family Division staff will process requests for telephonic hearings and determine whether there is good cause for the telephonic hearing accommodation. If a party resides in New Jersey, a reasonable distance from the hearing site, there is a presumption that they would appear for the hearing unless there is another valid reason, e.g. the party is hospitalized. The Family Division will advise the party that he or she must submit the request for a telephonic hearing in writing to the Family Division and their adversary no less than 15 days prior to the hearing date (letter or motion papers). Family Division should use a form to process the requests for telephonic hearings. See attached form.
2. Family Division staff will obtain and place in the file the necessary telephone numbers and names of contact persons and will clearly identify on the hearing officer's calendar and on the case notice all matters scheduled for a telephonic hearing and the time of the hearing. If the party is in the military, the Family Division staff will also obtain the person's commanding officer and military base.
3. Generally, the court shall initiate the call to the requesting party. The CSHO shall have the ability to coordinate the telephonic matter with the other scheduled cases where parties have appeared and may instead call the requesting party. In all instances, the requesting party will be advised by Family Division staff to remain available and wait for the call (as per the written request for a telephonic appearance indicates) from the court. In order to coordinate the telephonic hearings with the hearing officer's scheduled calendar, it must be clear from the hearing officer's calendar what cases are scheduled for a telephonic hearing, provide the telephone contact number and whether an interpreter is needed for the case.

4. Ten days prior to scheduling the telephonic hearing, the Family Division shall notify the parties, counsel of record, and the Board of Social Services attorneys (UIFSA, TANF and DYFS cases), of any requests for telephonic hearings.
5. In *UIFSA* matters the Family Division staff shall cooperate with tribunals of other states in designating an appropriate location for the testimony and advise the party if he or she must contact the child support enforcement agency and arrange to appear at the state agency for their assistance in setting up the call. In addition the party must be advised that he or she must provide information to confirm their identity.
6. For all matters to establish or modify support, the parties must be notified that no less than five days prior to the hearing, they must provide their last three federal income tax returns and four current pay stubs to the hearing officer and their adversary. The adversary must provide to the other party their last three income tax returns and four current pay stubs no later than five days prior to the hearing. The party appearing by telephone must provide information to confirm their identity during the hearing. Other documents that the parties want to submit to the hearing officer for review must be submitted to Family Division no less than five days prior to the hearing and copies must be provided by the party to their adversary in advance. The Family Division staff will place these documents in the file prior to the telephonic hearing.
7. In scheduling telephonic hearings for the hearing officer, Family Division staff will take into consideration that telephonic hearings require more time to conduct than in-person hearings and will schedule fewer total cases in order to accommodate telephonic hearings. When an interpreter is used in a telephonic hearing, the time needed to hear the case may be increased.
8. When the CSHO does not proceed with a scheduled telephonic hearing or concludes the hearing before it is finished, the CSHO shall set forth the reason(s) for doing so in the Uniform Summary Support Order (USSO).
9. The USSO shall indicate that there was a telephonic hearing. A copy of the Child Support Hearing Officer recommendation along with the Child Support Guidelines worksheet shall be provided to the party at the hearing and the copy of the order signed by a Judge along with the Child Support Guidelines worksheet will be mailed to both parties.
10. In the event of an appeal by one or both parties, the Family Division will schedule the telephonic appeal hearing before a Judge for the same day, if possible, or make suitable arrangements when the appeal cannot be heard the same day.
11. When scheduling telephonic hearings in modification of child support in domestic violence cases (Standard 7) and FM post-judgment motions to modify support (Standard 9), the screening requirements still apply.

12. Polycom equipment, when available, shall be used for the telephonic hearing. If it is not available and the equipment used (e.g. speaker phone) is not adequate, malfunctions, or an outside telephone line is not available after several attempts, the hearing officer may discontinue the telephonic hearing and reschedule the matter to allow parties to appear. If the party appearing telephonically is not available to take the call or fails to call the court, the hearing officer shall proceed with the hearing and treat the case as he or she would any other non-appearance and, on the record, dismiss the case without prejudice if the party appearing telephonically is the moving party or proceed with a default order if appropriate.

Commentary:

The advancement of technology and the current use of telephone and electronic communication for court hearings provide authority and a basis for allowing the Child Support Hearing Officer to conduct expedited hearings where a party may testify by telephone. Under the *Uniform Interstate Family Support Act (UIFSA)*, N.J.S.A. 2A; 4:30.65 et. seq. telephonic hearings are a recognized means of conducting hearings; all proceedings brought under *UIFSA*, including long-arm cases, may proceed by telephonic hearings. Rule 5:5-7 allows for Family case management conferences to be by telephone. Rule 5:7A(b) allows TROs to issue based on sworn testimony to the judge using telephone, radio or other means of electronic communication. It is logical to extend this method to the summary proceedings conducted by the CSHO and further enhance expedited process.

CHILD SUPPORT ACRONYMS

ACSES	Automated Child Support Enforcement Systems
AFDC	Aid to Families with Dependant Children
ALR	Aid to Litigant's Rights
AOC	Administrative Office of the Courts
AP	Absent Parent
BW	Bench Warrant
CEJ	Continuing Exclusive Jurisdiction
CFR	Code of Federal Regulations
CHO	Chief Hearing Officer
CLIS	Confident Litigant Information Sheet
CP	Custodial Parent
COLA	Cost-of-living adjustment
COP	Certificate of Parentage
CPI	Consumer Price Index
CPO	Chief Probation Officer
CSES	Child Support Enforcement Services
CSHOP	Child Support Hearing Officer Program
CSHO	Child Support Hearing Officer
CSLN	Child Support Lien Network
CWA	County Welfare Agency
DCS	Disregard Child Support
DEA	Division of Economic Assistance (formerly Division of Public Welfare)
DEFRA	Deficit Reduction Act
DFAS	Defense Finance and Accounting Service
DFD	Division of Family Development
DHHS	Department of Health and Human Services (Federal Level)
DHS	Department of Human Services
DNA	Deoxyribonucleic acid (Genetic Testing)
DOB	Date of Birth
DOC	Department of Corrections
DOD	Department of Defense
DPW	Division of Public Welfare (later Division of Economic Assistance-now Division of Family Development)
DR	Domestic Relations
DV	Domestic Violence
DWOP	Dismissal without Prejudice
DYFS	Division of Youth and Family Services

ELR	Motion to Enforce Litigant's Rights
FACTS	Family Automated Case Tracking System
FCIS	Family Case Information Statement
FAMIS	Family Management Information Systems
FCR	Federal Case Registry of Child Support Orders
FD	Family Non-Dissolution (Docket Casetype)
FIDM	Financial Institution Data Match
FIPS	Federal Identification Processing Standards
FLS	Future Lump Sum (order on payment of support)
FM	Family Matrimonial (Docket Case Type)
FPLS	Federal Parent Locator System
FVI	Family Violence Indicator
FV	Domestic Violence (Docket Case type)
FFCCSOA	Full Faith and Credit for Child Support Orders Act
FTA	Failure to Appear
GA	General Assistance
HCI	Health Care Insurance
HO	Hearing Officer
ICR	Interstate Central Registry
IRS	Internal Revenue Services
IV-A	Title IV-A Program (AFDC) of the Social Security Act
IV-D	Title IV-D of the Social Security Act
IV-E	DYFS-Foster Care
IW	Income Withholding
KLG	Kinship Legal Guardianship
LOP	Lack of Prosecution
LS	Lump Sum (ordered payment of support)
LWD	Department of Labor and Workforce Development
MVC	Motor Vehicle Commission
NCP	Non-custodial Parent
NDNH	National Directory of New Hires
NMSN	National Medical Support Notice
NJAC	New Jersey Administrative Code
NJKiDS	New Jersey Kids Deserve Support
NON-AFDC	A case not involving ADFC (Welfare)
NPA	Non-public Assistance
NJSA	New Jersey Statutes Annotated

OCSE	Office of Child Support Enforcement
OCSES	Office of Child Support Enforcement Services
OCSP	Office of Child Support and Paternity Programs (DHS)
OCSS	Office of Child Support Services
PA	Public Assistance
PCSE	Probation Child Support Enforcement Unit
PLS	Parent Locator Service
PAR	Parent of Alternate Residence
PPR	Parent of Primary Residence
PPCSO	Probation-Prepared Child Support Order
QDRO	Qualified Domestic Relations Order
QCSMO	Qualified Medical Child Support Order
RURESA	Revised Uniform Reciprocal Enforcement of Support Act
SCR	State Case Registry
SDU	State Disbursement Unit
SHO	Supervising Hearing Officer
SO	Sheriff's Officer
SOIL	Set-off of Income Liability
SPLS	State Parent Locator Service
SSA	Social Security Administration
SSI	Supplemental Security Income
SSD	Social Security Disability Benefits
SSN	Social Security Number
TANF	Temporary Assistance for Needy Families (Replaces AFDC in 1997)
TPL	Third Party Liability
UIB	Unemployment Insurance Benefits
UIDI	Unemployment Insurance/Disability Insurance
UIFSA	Uniform Interstate Family Support Act
USSO	Uniform Summary Support Order
URES	Uniform Reciprocal Enforcement of Support Act
VA	Veterans Administration
WE	Wage Execution
WRS	Wage Reporting System
YTD	Year to Date

GLOSSARY OF COMMON CHILD SUPPORT TERMS

2007



**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration for Children and Families
Office of Child Support Enforcement**

PREFACE

The purpose of the **Glossary of Common Child Support Terms** is to provide a listing of acronyms and definitions of terms used by child support workers. The Glossary is intended to be a reference tool to those who are new to child support. It will serve to break down the barriers of communication with other professional child support workers. Communication among the caseworkers, state-to-state and nationwide, is a major key to successfully processing cases and collecting payments for child support. In addition, it will be a useful tool to both the custodial and noncustodial parent in communicating with the caseworker and the public at large who desire to understand child support better.

Glossary

Adjudication

The entry of a judgment, decree, or order by a judge or other decision-maker such as a master, referee, or hearing officer, based on the evidence submitted by the parties.

Administration for Children and Families (ACF)

The agency in the Department of Health and Human Services (HHS) that houses the Office of Child Support Enforcement (OCSE).

Administrative Offset— The process of withholding all, or part, of administrative payments (any non-tax related payment) that is paid by the Federal government to a person or entity that owes an outstanding delinquent non-tax debt to the government, and applying the funds to reduce or satisfy the debt.

Administrative Procedure

A method by which support orders are made and enforced by an executive agency rather than by courts and judges.

Affidavit

A written statement, usually notarized, that is signed under oath or by affirmation.

Aid to Families with Dependent Children (AFDC)

Former entitlement program that made public assistance payments on behalf of children who did not have the financial support of one of their parents by reason of death, disability, or continued absence from the home; known in many States as AFDC (Aid to Families with Dependent Children). Replaced with Temporary Aid to Needy Families (TANF) under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA).

(See also: Personal Responsibility and Work Opportunity Reconciliation Act)

Alleged Father

A person who has been named as the father of a child born out of wedlock, but who has not been legally determined to be the father. Also referred to as putative father.

Allowable Disposable Income

This is the maximum amount available for child support withholding, calculated by applying a State's limitations or the Consumer Credit Protection Act (CCPA) limits to the noncustodial parent's disposable income. *(See also: disposable income)*

Arrearage

Past due, unpaid child support owed by the noncustodial parent. If the parent has arrearages, s/he is said to be "in arrears."

Assignment of Support Rights

The legal procedure by which a person receiving public assistance agrees to turn over to the State or Tribe any right to child support, including arrearages, paid by the noncustodial parent in

exchange for receipt of a cash assistance grant and other benefits. States and Tribes can then use a portion of said child support to defray or recoup the public assistance expenditure.

Biological Father

The man who provided the paternal genes of a child. The biological father is sometimes referred to as the natural father.

Burden of Proof

The duty of a party to produce the greater weight of evidence on a point at issue.

Case

A legal action. Also the group of people associated with a particular child support order, court hearing and/or request for IV-D services. This typically includes a Custodial Party (CP), dependent(s), and Noncustodial parent (NCP) and/or Putative Father (PF). Every child support case has a unique Case Identification (ID) number and, in addition to names and identifying information about its members, includes information such as CP and NCP wage data, court order details, and NCP payment history.

(See also: Child Support; IV-D Case; IV-A Case; IV-E Case)

Central Registry

A centralized unit, maintained by every State IV-D agency, that is responsible for receiving, distributing, and responding to inquiries on interstate IV-D cases. Tribal programs currently do not have a centralized unit.

Child Support

Financial support paid by parents to help support a child or children of whom they do not have custody. Child support can be entered into voluntarily or ordered by a court or a properly empowered administrative agency, depending on state or tribal laws. Child support can involve:

- **IV-A case:** A case in which a State provides public assistance under the State's IV-A Program, which is funded under Title IV-A of the Social Security Act where the child(ren) have been determined to be eligible for Temporary Assistance for Needy Families (TANF). The children's support rights have been assigned to the State or Tribe, and a referral to the child support agency has been made.
- **IV-D case:** A case in which a State currently provides child support services as directed by the State or Tribal IV-D Program that is authorized by Title IV-D of the Social Security Act. A IV-D case is comprised of:
 - a dependent child or children;
 - a custodial party who may be a caretaker relative or other custodian, including an entity such as a foster care agency; and
 - a non-custodial parent (NCP) or parents, a mother, a father, or a putative father, whose paternity has not been legally established.
- **IV-E case:** (Foster Care and Adoption Assistance) A case in which a State currently provides benefits or services for foster care maintenance to children entitled to foster care maintenance under the State's IV-E Program authorized under Title IV-E of the Social Security Act. These cases are also eligible for IV-D services.

- **Non-IV-D case:** A case where the order is privately entered into and the CSE agency is not providing locate, enforcement, or collection services; often entered into during divorce proceedings. Non-IV-D cases are for payment processing only.

Current Assistance IV-D (Child Support) Case

A case where the children are: (1) recipients of Temporary Assistance for Needy Families (TANF) under Title IV-A of the Social Security Act or (2) entitled to Foster Care maintenance payments under Title IV-E of the Social Security Act. In addition, the children's support rights have been assigned by a caretaker relative to a State or Tribe, and a referral to the state or tribal IV-D agency has been made. Also a **TANF IV-D Case** or **Foster Care IV-D Case**.

Never Assistance IV-D Case

A case where the children are receiving services under the Title IV-D program, but are not currently determined to be eligible for and have not previously received assistance under Titles IV-A or IV-E of the Social Security Act. A child support case is set up when a person requests a child support office to help them get child support money. The case file will have important papers such as birth certificates, court orders, information on the absent parent, etc.

A never assistance case includes cases where the family is receiving IV-D services as a result of a written application for IV-D services, including cases where the children are receiving state (not Title IV-E) foster care services, or a case in which they are Medicaid recipients not receiving additional assistance. Tribal and international cases are considered never assistance cases if the case status is unknown.

Former Assistance IV-D Case

A case where the children formerly received Title IV-A (AFDC or TANF) or Title IV-E Foster Care services.

Child Support Enforcement (CSE) Agency

Agency that exists in every State or Tribe to locate noncustodial parents (NCPs) or putative fathers (PF), establish, enforce, and modify child support orders, and collect and distribute child support money. It is operated by the State, Tribal or local government according to the Child Support Enforcement program guidelines as set forth in Title IV-D of the Social Security Act. Also known as a "IV-D Agency".

Child Support Order

The document that sets: (1) an amount of money that is to be provided by a parent for the support of the parent's children and/or (2) the responsibility to provide health insurance and/or medical support for those children. This amount or responsibility must be established by court order or administrative process, voluntary agreement (in States or Tribes where such agreements are filed in the court or agency of the administrative process as an order and are legally enforceable) or other legal process. It may include a judgment for child support arrears.

Child Support Pass-Through

Provision by which States can disburse part of a child support payment collected on behalf of a public assistance recipient instead of keeping the funds to reimburse the State and disregard the payment in determining eligibility for assistance. Tribal programs also have a choice in adopting pass-through. Also known as child support “disregard.”

(See also: Public Assistance)

Complaint

The formal written document filed in a court which sets forth the names of the parties, the allegations, and the request for relief sought. Sometimes called the initial pleading or petition.

Consent Agreement

Voluntary written admission of paternity or responsibility for child support.

Consumer Credit Protection Act (CCPA)

Federal law that limits the amount that may be withheld from earnings to satisfy child support obligations and other garnishments. State or tribal law may further limit the amount that can be withheld from a person’s paycheck.

Continuing Exclusive Jurisdiction (CEJ)

The authority that only one tribunal has to modify an order for support.

Controlling Order

The one order that must be used by all States and Tribes for enforcement and modification actions from the present time forward. In cases involving multiple orders issued prior to the enactment of UIFSA, UIFSA provides rules for determining the controlling order, the one order to be prospectively enforced. UIFSA does not apply to Tribes.

Cost of Living Adjustment (COLA)

Modification of the amount of a support obligation, based on the economy’s increasing or decreasing cost of the necessities of life, such as food, shelter, and clothing.

Criminal non-support

Criminal charges that can be brought when an NCP willfully fails to pay child support. There are criminal offenses for failure to support at both the State and Federal levels.

Federal actions require some interstate activity.

- **Child Support Recovery Act (CSRA) (1992)**

This Act makes it a Federal crime to willfully fail to pay a past due child support obligation for a child living in another State. The past due child support obligation must be either greater than \$5,000 or must have remained unpaid for more than one year.

- **Deadbeat Parents Punishment Act (DPPA) of 1998**

A Federal law that imposes criminal penalties on parents who repeatedly fail to support children living in another State or who flee across state lines to avoid supporting them; the Deadbeat Parents Punishment Act established felony violations for the willful failure to pay legal child support obligations in interstate cases.

Custodial Parent (CP)

The person who has primary care, custody, and control of the child(ren). Can also be custodial party-- a relative, or other person with legal custody of the child(ren).

Custody Order

Legally binding determination that establishes with whom a child shall live. The meaning of different types of custody terms (e.g., Joint Custody, Shared Custody, Split Custody) varies from State to State and Tribe to Tribe.

Debt Check

A program, developed by the Treasury Department's Financial Management Service, which allows agencies and outside lenders to determine whether applicants for Federal loans, loan insurance or loan guarantees owe delinquent child support or delinquent non-tax debt to the Federal government. Federal agencies are required to deny loans, loan insurance, or loan guarantees to individuals who owe delinquent child support if those debts have been referred to the Treasury Offset Program (TOP) for administrative offset.

Default

The failure of a defendant to file an answer or appear in a civil case within the prescribed time after having been properly served with a summons and complaint. The tribunal hearing the case can enter an order based on information presented without any challenge if the responding party does not answer the claim or appear in court as requested. This is called a default order. .

Defendant

The person against whom a civil or criminal proceeding is begun.

Dependent

A person who is under the care of a parent, relative or other caretaker and cannot live on his/her own. Most children who are eligible to receive child support must be dependents. The child ceases to be a dependent when he or she reaches the "age of emancipation" as determined by state or tribal law but, depending on the State 's or Tribe's provisions, may remain eligible for child support for a period after he or she is emancipated, or reaches the age of "majority."

Disbursement

The process of money being sent out to the custodial parent once child support has been received; the paying out of collected child support funds.

Disposable Income

The portion of an employee's earnings that remains after deductions required by law (e.g., taxes, Social Security, FICA) and that is used to determine the amount of an employee's pay subject to a garnishment, attachment, or child support withholding order. Also, the money due an employee after taxes and other required deductions.

(See also: Garnishment)

Distribution

The allocation of child support collected to the various types of debt within a child support case, as specified in 45 CFR 302.51, (e.g., monthly support obligations, arrears, ordered arrears, etc.) 45 CFR 309.115 specifies procedures governing Tribal IV-D programs; the process of how the total amount of child support payment is divided between all those owed under the support orders, including reimbursement for public assistance.

DNA testing

The analysis of human cells to facilitate the establishment of paternity.

Due Process

The principle of fairness in legal proceedings so that a person has a right to know what action is being taken and has an opportunity to be heard.

Electronic Disbursement

Process by which a child support payment is electronically transmitted to an account. The most common forms of electronic disbursement are direct deposit to a bank or other financial institution or through an electronic payment card (stored value card). The process when child support payment or any other payments are sent to banks accounts by computer systems.

Electronic Funds Transfer (EFT)

Process by which money is transmitted electronically from one bank account to another.

Enforcement

The application of remedies to obtain payment of a child or medical support obligation contained in a child and/or spousal support order. Examples of remedies include garnishment of wages, seizure of assets, liens placed on assets, revocation of licenses (e.g., drivers, business, medical, etc.), denial of U.S. passports, contempt of court proceedings, etc. The processes that can be used to get payments from the non custodial parent or to require compliance with some other provision of the order.

Emancipation

A child ceases to be a dependent upon reaching the “age of majority” as determined by State or tribal law, however, depending on the State’s provisions, may remain eligible for child support for a period after emancipation. The age a person is no longer considered a minor (child) under government laws. This law is different from State to State, and Tribe to Tribe.

Establishment

The process of determining legal paternity and/or obtaining a court or administrative order to put a child support obligation in place.

Family Violence (FV) Indicator

A designation that resides in the Federal Case Registry (FCR) placed on a participant in a case or order by a State or Tribe that indicates a person is associated with child abuse or domestic violence. It is used to prevent disclosure of the location of a party and/or a child believed by the State or Tribe to be at risk of family violence.

Federal Case Registry (FCR)

A national database of information on individuals in all IV-D cases, and all non-IV-D orders entered or modified on or after October 1, 1998. The FCR receives this case information on a daily basis from the State Case Registry (SCR) located in every State, and proactively matches it with previous submissions to the FCR and with employment information contained in the National Directory of New Hires (NDNH). Any successful matches are returned to the appropriate State(s) for processing. The FCR and the NDNH are both part of the expanded FPLS, which is maintained by OCSE.

Federal Financial Participation (FFP)

The portion of a State's child support expenditures that are paid by a Federal Government match. Most child support costs are matched two to one. In other words, the Federal share of most child support costs is 66 percent.

Federal Offset Program (FOP)

The program that provides several enforcement tools for the collection of past due child support from non-custodial parents (NCPs), including Federal income tax refund and administrative offset, Passport Denial Program, MSFIDM and Debt Check.

Federal Parent Locator Service (FPLS)

A computerized national location network operated by the Federal Office of Child Support (OCSE) of the Administration for Children and Families (ACF), within the Department of Health and Human Services (DHHS). FPLS obtains address and employer information, as well as data on child support cases in every State, compares them and returns matches to the appropriate States. This helps State and local child support enforcement agencies locate noncustodial parents and putative fathers for the purposes of establishing custody and visitation rights, establishing and enforcing child support obligations, investigating parental kidnapping, and processing adoption or foster care cases. The expanded FPLS includes the Federal Case Registry (FCR) and the National Directory of New Hires (NDNH).

Federal Tax Refund Offset Program

The process that collects past due child support amounts from NCPs through the interception of their Federal income tax refund.

Financial Institution Data Match (FIDM)

A process whereby information on accounts held by banks, savings & loan companies, brokerage houses, and other financial institutions is matched against those child support obligors who owe arrears (past-due support).

Financial Management Service (FMS)

Acting as the U.S. government's money manager, FMS provides centralized payment, collection, and reporting services for the government, and using a centralized process, collects delinquent debts (e.g., Federal student, mortgage, or small business loans, Federal salary or benefit overpayments, fines or penalties assessed by federal agencies) owed to the United States government, as well as income tax debts owed to States and overdue child support payments owed to custodial parents.

Foreign Reciprocating Country

A foreign country with which the United States has signed a bilateral agreement ensuring reciprocity in child support enforcement.

Foster Care

A Federal-State-Tribal program that provides financial support to people, families or institutions that are raising children that are not their own.

(See also: IV-E Case)

Full Faith and Credit

Doctrine under which a State or Tribe must honor an order or judgment entered in another State or Tribe and enforce it as if it were an order within its own territory, but may not modify the order unless properly petitioned to do so. This principle was specifically applied to child support orders in Federal law that took effect in 1994, under the Full Faith and Credit for Child Support Orders Act (FFCCSOA).

Full Faith and Credit for Child Support Orders Act (FFCCSOA) requires States and federally funded Tribal child support enforcement agencies to enforce child support orders made by other States or Tribes if: the issuing State or Tribe's tribunal had subject matter jurisdiction to hear and resolve the matter and enter an order; the issuing State or Tribe's tribunal had personal jurisdiction over the parties; and reasonable notice and the opportunity to be heard was given to the parties. FFCCSOA also sets limits on State and Tribal authority to modify another State's or Tribe's child support orders in instances when: the State or Tribe seeking to modify the order has jurisdiction to do so and the tribunal that originally issued the order no longer has continuing, exclusive jurisdiction over the order either because the child and the parties to the case are no longer residents of the issuing State, or the parties to the case have filed written consent to transfer continuing exclusive jurisdiction to the tribunal seeking to make the modification.

Garnishment

A legal proceeding under which part of a person's wages and/or assets is withheld for payment of a debt. This term is usually used to specify that an income or wage withholding is involuntary. *(See also: Income Withholding; Wage Withholding; Direct Income Withholding; Immediate Wage Withholding)*

Genetic Testing

Analysis of inherited factors to determine legal fatherhood or paternity.

(See also: Legal Father; Paternity; Putative Fathers; DNA testing)

Good Cause

A legal reason for which a Temporary Assistance to Needy Families (TANF) recipient is excused from cooperating with the child support enforcement process, such as past physical harm by the child's noncustodial parent. It also includes situations where rape or incest resulted in the conception of the child and situations where the mother is considering placing the child for adoption.

(See also: Temporary Assistance to Needy Families; IV-A Case)

Guidelines--Child Support

A standard method for setting child support obligations, using a mathematical formula and based on the income of one or both parent(s) and other factors determined by State or Tribal law. The Family Support Act of 1988 requires States to use guidelines to determine the amount of support for each family, unless they are rebutted by a written finding that applying the guidelines would be inappropriate to the case.

(See also: Income; Disposable Income; Imputed Income)

Imputed income

Income that may be attributed to an individual who refuses to obtain employment, chooses not to work for personal reasons, or chooses to earn less than is typical for someone with the individual's training, education and skill. An individual cannot be forced to work but the court or decision-maker can attribute certain income levels to a person based on the person's education or training, skill, and work history. Some States consider assets, for example, if the obligor is self-employed or owns real estate. This also may be the amount of income the court/administrator determines that an obligor is capable of earning if he/she does not appear at a hearing after proper service. Some will also attribute income to a custodial parent who chooses to remain unemployed.

(See also: Disposable Income; Guidelines)

In-Kind Support

Non-cash support payments, for example, food or clothing, provided to a custodial parent or child in lieu of cash support payments.

Income

For child support purposes, any periodic form of payment to an individual, regardless of source, including wages, salaries, commissions, bonuses, worker's compensation, disability, pension, or retirement program payments and interest; remuneration for work performed or any payment made in lieu of remuneration for work performed, such as social security benefits or retirement pay.

Income Withholding

An order that requires an employer to withhold support from a noncustodial parent's wages and transfer that withholding to the appropriate agency (the Centralized Collection Unit, the State Disbursement Unit or Tribal IV-D agency.) Sometimes referred to as a wage withholding or garnishment.

Direct Income Withholding --

A procedure, whereby an income withholding order from one State can be sent directly to the noncustodial parent's (NCP's) employer in another State, without the need to use the IV-D Agency or court system in the NCP's State.

Immediate Wage Withholding

An automatic deduction from income that starts as soon as the order for support is established and an income-withholding order/notice is received and implemented by the noncustodial parent's employer.

Indian Tribe

Any Indian or Alaskan Native Tribe, band, nation, pueblo, village, or community the Secretary of the Interior acknowledges to exist as an Indian Tribe and includes in the list of Federally-recognized Indian Tribal governments.

Initiating Jurisdiction

The state, tribal or county court; or administrative agency, which sends a request for action to another court or agency which can exercise legal authority against a party to an action. In cases where a State is trying to establish an initial child support order on behalf of a resident custodial parent, and does not have Long-Arm Jurisdiction (i.e., cannot legally claim personal jurisdiction over a person who is not a resident), it must file a Two-State Action under the Uniform Interstate Family Support Act (UIFSA) guidelines. (Tribes are not subject to UIFSA.)

(See also: Long Arm Jurisdiction; Two-State Action; Uniform Interstate Family Support Act)

Intercept

A method of securing child support by taking a portion of non-wage payments made to a noncustodial parent. Non-wage payments subject to interception include Federal tax refunds, State tax refunds, unemployment benefits, and disability benefits.

(See also: Federal Tax Refund Offset Program)

Intergovernmental Referral Guide (IRG)

An online compilation of questions and answers where State and Tribal Child Support Enforcement (CSE) agencies and the Federal Office of Child Support Enforcement (OCSE) provide updated State and Tribal CSE information.

Intergovernmental Cases

Cases in which the dependent child and noncustodial parent (NCP) live in different States, Tribes, Territories or Countries, or where two or more agencies or tribunals are involved in some case activity, such as enforcement. (Also called Interstate or Interjurisdictional Cases.)

International IV-D Case

A case under the State's IV-D program received from, or referred to, a foreign country that has entered into an agreement under section 459A of the Social Security Act with the United States (a Foreign Reciprocating Country or FRC) or a foreign country with which the State has entered a reciprocal agreement. International cases also include IV-D cases in which there is an application for services from an individual who resides in a foreign country.

Interstate

An action that takes place involving two or more States, typically where the order for support is in one State and one of the parties resides elsewhere. Can also be between two Tribes or a State and a Tribe; also called interjurisdictional or intergovernmental.

Interstate Case Reconciliation

An OCSE program that matches cases that two States may have in common, identifies missing or incorrect data, and provides corrected data back to the States. The data include case ID, case status, and participant information.

Interstate Central Registry

The unit in each State's IV-D agency that is responsible for receiving, distributing and responding to inquiries on all incoming interstate IV-D cases.

Interstate IV-D Case

A IV-D case in which the noncustodial parent lives and/or works in a different State from the custodial parent and child(ren). Unless otherwise specified, the term applies both to one State and two-State interstate cases.

Judgment

The official decision or finding of a judge or administrative agency hearing officer upon the respective rights and claims of the parties to an action; also known as a decree or order. It may include the "findings of fact and conclusions of law."

Judicial Process

The use of tribunals in determining child support legal obligations, including paternity establishment, order establishment, enforcement, and modifications of orders.

Jurisdiction

The legal authority which a court or administrative agency has over particular persons and over certain types of cases, usually in a defined geographical area. Also, a term used to signify a geographic location such as a State or Tribe with a tribunal that exercises such authority. *(See also: Initiating Jurisdiction; Long Arm Jurisdiction; Two-State Action)*

Legal Father

A man who is recognized by law as the male parent of a child. *(See also: Putative Father; Paternity; Genetic Testing, DNA testing)*

Levy

The seizure, and possible subsequent sale, of assets, including personal property, to satisfy a child support debt.

Lien

A claim upon property to prevent sale or transfer of that property until a debt is satisfied.

Litigation

An action in which a controversy is brought before the court.

Locate

Process by which a party or putative father (PF) is found for the purpose of establishing paternity, establishing and/or enforcing a child support obligation, establishing custody and visitation rights, processing adoption or foster care cases, and investigating parental kidnapping.

Locate Information

Data used to locate putative fathers (PFs), noncustodial parents (NCPs) or custodial parents (CPs). May include their Social Security Number (SSN), date of birth (DOB), residential address, and employer.

Long-Arm Jurisdiction

Legal provision that permits one State or Tribe to claim personal jurisdiction over someone who lives in another State or Tribe. There must be some meaningful connection between the person and the State, Tribe or district that is asserting jurisdiction in order for a court or agency to reach beyond its normal jurisdictional border. Also called Extended Personal Jurisdiction.

(See also: Initiating Jurisdiction; Two-State Action; Uniform Interstate Family Support Act)

Medical Assistance Only (MAO)

Form of public assistance administered by a State's IV-A program, which provides benefits to recipients only in the form of medical, rather than financial, assistance.

Medical Coverage

Medical coverage is any health coverage provided for a child or children, including: (1) private health insurance, (2) publicly-funded health coverage, (3) cash medical support, or (4) payment of medical bills (including dental or eye care). Medical coverage may be provided by the custodial parent, noncustodial parent or other person, such as a stepparent.

(See also: Medical Support)

Medical Support

Medical coverage provided for a child or children pursuant to an order. This includes: (1) private health insurance, (2) publicly-funded health coverage if a parent is ordered by a court or administrative process to provide cash medical support payments to help pay the cost of Medicaid or State Child Health Insurance Program (SCHIP), (3) cash medical support, including payment of health insurance premiums, and (4) payment of medical bills (including dental or eye care). Indian Health Service and Tricare are acceptable forms of medical support. Medical support may be provided by the custodial parent, noncustodial parent or another person, such as a stepparent.

(See also: Medical Coverage; National Medical Support Notice (NMSN))

Motion

An application to the court requesting an order or ruling in favor of the party that is filing the motion. Motions are generally made in reference to a pending action and may address a matter in the court's discretion or concern a point of law.

Monthly Support Obligation (MSO)

The amount of money a non-custodial parent or party is required to pay each month for child and/or spousal support.

Multistate Employer

A multistate employer conducts business in two or more States. As with single-state employers, multistate employers are required by law to report all new hires to the State Directory of New Hires (SDNH) operated by their State government. However, unlike single-state employers, they

may report all of their new hires to the SDNH of only one State in which they do business rather than to each of them.

Multistate Financial Institution (MSFI)

A financial institution conducting business in two or more States.

Multistate Financial Institution Data Match (MSFIDM)

Process by which delinquent child support obligors are matched with accounts held in Financial Institutions (FI) doing business in more than one State.

National Automated Clearing House Association (NACHA)

The association that establishes the standards, rules, and procedures that enable financial institutions to exchange payments on a national basis. The Electronic Funds Transfer and the child support Electronic Data Interchange formats are established by NACHA. NACHA also establishes rules and procedures that govern use of the stored value cards.

National Directory of New Hires (NDNH)

A national database containing New Hire (NH) and Quarterly Wage (QW) data from every State Directory of New Hires (SDNH) and Federal agency and Unemployment Insurance (UI) data from “State Workforce Agencies.” OCSE maintains the NDNH as part of the expanded FPLS. (Tribes can choose to obtain access by agreements with a State.)

(See also: New Hire Data; Quarterly Wage Data; Unemployment Insurance Claim Data)

National Medical Support Notice (NMSN)

The form sent to employers from the State child support enforcement agency ordering the employer and its health care plan administrator to enroll a noncustodial parent’s child in health care coverage when such coverage is available through the employer and required as part of a child support order. When properly completed, the NMSN constitutes a Qualified Medical Child Support Order, a document necessary for health care plans to enroll dependents who are not residing with the covered parent. The NMSN is designed to simplify the work of employers and plan administrators by providing uniform documents requesting health care coverage.

New Hire (NH) Reporting

Program under which employers submit data on a new employee within 20 days of hire to the State Directory of New Hires (SDNH) in the State in which they do business. Minimum information must include the employee’s name, address, and Social Security Number (SSN), as well as the employer’s name, address, and Federal Employer Identification Number (FEIN). Some States request additional data. Multistate employers have the option of reporting all of their newly hired employees to only one State in which they do business. The data are then submitted to the National Directory of New Hires (NDNH), and compared against child support order information contained in the Federal Case Registry (FCR) for possible enforcement of child support obligations by wage garnishment. New hire data may also be used at the state level by other agencies to detect fraud, for example, to find new hires that have been receiving unemployment insurance or other public benefits for which they may no longer be eligible. Federal agencies report the data directly to the NDNH. . (Tribal programs can have access to NDNH data per agreement with a State.)

(See also: State Directory of New Hires; National Directory of New Hires)

Noncustodial Parent (NCP)

The parent who does not have primary care, custody, or control of the child, and who may have an obligation to pay child support. Also referred to as the obligor.

(See also: Custodial Party; obligor)

Non-IV-D Orders

A child support order handled by a private attorney or parties representing themselves as opposed to an order where the action was brought by the State /local child support enforcement (IV-D) agency. A non IV-D order is one where the State:

- 1) Is not currently providing service under the State's Title IV-A, Title IV-D, Title IV-E, or Title XIX programs.
- 2) Has not previously provided State services under any of these programs.
- 3) Has no current application or applicable fee for services paid by either parent.

Non-IV-D orders established or modified in the State on or after October 1, 1998 must be included in the State Case Registry (SCR) for transmission to the Federal Case Registry (FCR) and wage-withholding payments on non IV-D cases must be made through the State Disbursement Unit (SDU). A non-IV-D case is usually entered into a State child support system for the purpose of payment processing only.

A non-IV-D case becomes a IV-D case when a parent applies for IV-D services and pays the application fee, or when the custodial parent begins receiving Title IV-A services for the benefit of the child(ren).

Nondisclosure Finding

A finding that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information. Interstate petitions must include certain identifying information regarding the parties and child(ren) unless a tribunal makes a nondisclosure finding by ordering that the address or identifying information not be disclosed. In such cases the finding would be identified by a Family Violence Indicator (FVI). The procedures for obtaining a nondisclosure finding vary from State to State.

Obligation

The amount of money to be paid as support by a parent or spouse in the form of financial support for the child support, medical support, or spousal support.

Obligee

The person, State or tribal agency, or other entity to which child support is owed (also referred to as custodial party when the money is owed to the person with primary custody of the child).

Obligor

The person who is obligated to pay child support (also referred to as the noncustodial parent or NCP).

Office of Child Support Enforcement (OCSE)

The Federal agency responsible for the administration of the Child Support Enforcement program. Created by Title IV-D of the Social Security Act in 1975, OCSE is responsible for the development of child support policy; oversight, evaluation, and audits of State and Tribal Child Support Enforcement programs; and providing technical assistance and training to those programs. OCSE operates the Federal Parent Locator Service, which includes the National Directory of New Hires (NDNH) and the Federal Case Registry (FCR). OCSE is part of the Administration for Children and Families (ACF), which is within the Department of Health and Human Services (HHS).

The following documents provide guidance, information, and direction to State and Tribal child support enforcement programs:

Action Transmittal (AT)

Document sent out by the Federal Office of Child Support Enforcement, which instructs state or federally funded tribal Child Support Enforcement programs on the actions they must take to comply with new and amended Federal laws. Has basis in Federal law and regulation.

Dear Colleague Letter (DCL)

Letter sent out to those in the child support community, and interested partners, that conveys information on child support enforcement program activities.

Information Memorandum (IM)

Document that provides State and Tribal child support enforcement agencies with information on program practices that can be useful to program improvement.

Policy Interpretation Question (PIQ)

An official reply by the Federal Office of Child Support Enforcement (OCSE) to an inquiry submitted by a State or tribal Child Support Enforcement agency concerning application of policy. Although questions often arise from a specific practice or situation, the responses are official statements of OCSE policy on the issue.

The Federal government, through the child support program, shares the cost of the State program with **FFP, Federal financial participation.**

Offset

The process of reducing funds that are paid by the Federal government to an obligor and applying the funds toward the balance of the delinquent debt. Also, the amount of money that is intercepted from an obligor's State or Federal income tax refund, or from an administrative payment, such as Federal retirement benefits, in order to satisfy a child support debt..

Order

A legally binding decision that sets forth the responsibilities of the parties to an action. It can include a determination of parentage and a support obligation, and set forth other rights of the parties. It can be issued by a judge, master or other administrative entity authorized to enter orders. It can also be a consent agreement between the parties that has been ratified by an appropriate official.

Order/Notice to Withhold Child Support

The form to be used by all States that standardizes the information used to request income withholding for child support by an employer from a noncustodial parent's earnings.

(See also: Direct Income Withholding; Income Withholding; Garnishment)

Passport Denial Program

Program created by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 that is operated under the auspices of the Federal Offset Program (FOP). Under the Passport Denial Program, cases in which an obligor owes child support arrearages that are greater than the Federally mandated threshold and are submitted to the FOP are forwarded to the U.S. Department of State, which flags the obligor's name and refuses to issue a passport in the event he or she applies for one. After the obligor makes arrangements to satisfy the arrears, States can notify OCSE to request the State Department remove him/her from the program. This program is automatic, meaning that any obligor who is eligible will be submitted to the State Department unless the State submitting the case for Tax Refund Offset specifically excludes him/her from the Passport Denial Program. (Tribes can choose to have access based on an agreement with the State.)

(See also: Federal Offset Program)

Paternity

The legal establishment of fatherhood for a child, either by court determination, administrative process, tribal custom or voluntary acknowledgment. A *paternity acknowledgment* involves the legal establishment of fatherhood for a child through a voluntary acknowledgment signed by both parents as part of an in-hospital or other acknowledgement service.

Payee

Person or organization in whose name child support money is paid.

Payor

Person who makes a payment, usually noncustodial parents or someone acting on their behalf.

Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)—

Legislation that provides a number of requirements for employers, public licensing agencies, financial institutions, as well as State, Tribal and Federal child support agencies, to assist in the location of noncustodial parents and the establishment, enforcement, and collection of child support. This legislation created the New Hire Reporting program and the State and Federal Case Registries. Otherwise known as Welfare Reform.

(See also: Aid to Families with Dependent Children)

Petitioner

The person, State or Tribal agency initiating a petition or motion.

Plaintiff

A person who brings an action; the party who complains or sues in a civil case.

Pleadings

Statements or allegations, presented in logical and legal form, which constitute a plaintiff's cause of action or a defendant's grounds of defense.

Presumption of Paternity

A rule of law which permits a court to assume a man is the father of a child if certain facts exist. This rule may be rebutted by presenting factual information which shows the man could not be the father.

Private Case

Known as a non-IV-D case, it is a support case where the custodial party to whom child support is owed is not receiving IV-A benefits or IV-D services.

Proactive Matching

Process in which child support case data newly submitted to the Federal Case Registry (FCR) is automatically compared with previous submissions, as well as with the employment data in the National Directory of New Hires (NDNH). The resulting locate information is then returned to the appropriate State(s) for processing.

Proceeding

The conduct of business before a judge or administrative hearing officer.

Public Assistance

Benefits granted from State, tribal or Federal programs to aid eligible recipients (eligibility requirements vary between particular programs). Applicants for certain types of public assistance (e.g., Temporary Assistance to Needy Families or TANF) are automatically referred to their State or tribal IV-D agency, which will identify and locate the noncustodial parent, establish paternity, and, where appropriate, obtain child support payments. This allows the State or Tribe to recoup or defray some of its public assistance expenditures with funds from the noncustodial parent **and may enable the custodial party to become self-sufficient.**

Putative Father (PF)

The person alleged to be the father of the child but who has not yet been medically or legally declared to be the legal father.

(See also: Legal Father; Paternity; Genetic Testing)

Qualified Medical Child Support Order (QMCSO)

An order, decree, or judgment, including approval of a settlement agreement, issued by a court or administrative agency of competent jurisdiction that provides for medical support for a child of a participant under a group health plan. A QMCSO must contain specific information to meet the requirements of the Employee Retirement Income Security Act (ERISA) which allows a plan administrator to enroll a child in the parent's health plan. The National Medical Support Notice (NMSN), when properly completed, is a QMCSO.

Quarterly Wage (QW) Data

Data on all employees that must be submitted by employers on a quarterly basis to the State Workforce Agency in the State in which they operate. The data is then submitted to the National Directory of New Hires (NDNH). Minimum information must include the employee's name,

address, Social Security Number (SSN), wage amount, and the reporting period as well as the employer's name, address, and Federal Employer Identification Number (FEIN). The data are then compared against child support order information contained in the Federal Case Registry (FCR) for possible enforcement of child support obligations by wage garnishment. Federal Agencies report the data directly to the NDNH.
(See also: National Directory of New Hires)

Quasi-Judicial

A framework or procedure under the auspices of a State's judicial branch or tribal court in which court officers other than judges process, establish, enforce and modify support orders, usually subject to judicial review. The court officer may be a magistrate, a clerk, master, or court examiner. He or she may or may not have to be an attorney, depending on the State or tribal law.

Reciprocity

The process by which one jurisdiction grants certain privileges to another jurisdiction on the condition that it receives the same privileges.

Recognized Order

The controlling order as identified by applying the rules of the Full Faith and Credit for Child Supports Orders Act (FFCCSOA) used for enforcement from the present time forward. *(See Full Faith and Credit)*

Referral

Request sent to a IV-D agency from another jurisdiction or a non-IV-D agent or agency asking that a child support case be established.

Registration

The formal filing process by which an order of one jurisdiction is recognized in another jurisdiction. After registration, an action can be taken in a tribunal of the responding jurisdiction as if the order was issued in that jurisdiction. An order may be registered for enforcement, for modification, or both.

Respondent

The party answering a petition or motion.

Responding Jurisdiction

The court or administrative agency with authority over a noncustodial parent or child support order on which an initiating jurisdiction has requested action.

Review and Adjustment

Periodic process in which current information is obtained from both parties in a child support case and evaluated to decide if a support order needs to be adjusted.

Service of Process

The actual delivery of legal paperwork that requires a person to respond or appear to that person or his/her agent.

Service by Publication

Service of process accomplished by publishing a notice in a newspaper or by posting it on a bulletin board of a courthouse or other public facility, after a court determines that other means of service are impractical or have been unsuccessful. This method of service is not available in every jurisdiction.

Show Cause

An order directing a person to appear and bring forth any evidence as to why the remedies requested should not be granted. A show cause order is usually based on a motion and affidavit asking for relief.

Spousal Support

Court ordered support of a spouse or ex-spouse; also referred to as maintenance or alimony.

State Case Registry (SCR)

A database maintained by each State that contains information on individuals in child support cases. Information submitted to the SCR is transmitted to the Federal Case Registry, where it is compared to cases submitted to the FCR by other States, as well as the employment data in the National Directory of New Hires (NDNH). Any matches found are returned to the appropriate States for processing.

(See also: Federal Case Registry; IV-D Case; Non-IV-D Order)

State Directory of New Hires (SDNH)

A database maintained by each State, which contains information about individuals submitted by their employer within 20 days of the hire date. The data are transmitted to the NDNH, where they are compared to the employment data from other States as well as child support data in the Federal Case Registry (FCR). Any matches found are returned to the appropriate States for processing.

(See also: National Directory of New Hires; New Hire Reporting Program)

State Disbursement Unit (SDU)

The single site in most States where all child support payments should be sent and are processed.

(See also: Centralized Collection Unit)

State Parent Locator Service (SPLS)

A service provided by the State IV-D Child Support Enforcement Agencies to locate parents in order to establish and enforce child support obligations, visitation, and custody orders or to establish paternity. This information is accessible to Tribes per an agreement made with a State.

State/Tribal IV-D Case

A case under the State's IV-D program received from, or sent to, a tribal IV-D program for case processing.

State Workforce Agencies (SWA)

Agencies in each State that process unemployment insurance claims and maintain databases of employment information and quarterly wage data submitted by employers. Formerly called State Employment Security Agencies (SESAs).

Statute of Limitations

The cutoff point on the length of time a person has to take a legal action.

Stored Value Card

A form of electronic disbursement in which the child support payment is electronically transmitted to the Custodial Party via a debit card. Also referred to as Electronic Payment Card.

Subpoena

A process issued by a court compelling a witness to appear at a judicial proceeding. Sometimes the process will also direct the witness to bring documentary evidence to the court.

Summons

A notice to a defendant that an action against him or her has been commenced in the court and that a judgment will be issued against him or her if the complaint is not answered within a certain time.

Temporary Assistance to Needy Families (TANF)

Time-limited public assistance payments made to poor families, based on Title IV-A of the Social Security Act. TANF replaced Aid to Families with Dependent Children (AFDC-- otherwise known as welfare) when the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) was signed into law in 1996. The program provides parents with job preparation, work, and support services to help them become self-sufficient. Applicants for TANF benefits are automatically referred to their State or tribal IV-D agency in order to establish paternity and child support for their children from the noncustodial parent. This allows the State or Tribe to recoup or defray some of its public assistance expenditures with funds from the noncustodial parent.

(See also: Personal Responsibility and Work Opportunity Reconciliation Act; Good Cause)

Third Party Liability

The responsibility that an entity, other than the parties to an action (CP and NCP, usually the parents), has to the State provider of health care coverage for reimbursement.

Tribal IV-A Program

A TANF program administered by a Federally recognized Indian Tribe or Tribal organization. (Tribal TANF).

Tribal IV-D Program

A Child Support Enforcement program administered by a Federally recognized Indian Tribe or Tribal organization **and funded under title IV-D of the Social Security Act.**

Tribe

Any Indian or Alaskan Native Tribe, band, nation, pueblo, village, or community the Secretary of the Interior acknowledges to exist as an Indian Tribe and includes in the list of Federally-recognized Indian Tribal governments.

(See also: Indian Tribe)

Tribunal

The court, administrative agency, or quasi-judicial agency authorized to establish or modify support orders or to determine parentage.

Two-State Action

Action a State must file under the Uniform Interstate Family Support Act (UIFSA) when it does not have Long Arm Jurisdiction (i.e., cannot legally claim personal jurisdiction over a noncustodial parent who lives in another State). This usually occurs in cases where a State is trying to establish paternity or an initial child support order on behalf of a custodial party.

(See also: Initiating Jurisdiction; Uniform Interstate Family Support Act)

Unclaimed Funds

Support payment that cannot be disbursed because the identity of the payor or the case information is unknown, or the address of the payee is unknown.

Undistributed Collections (UDC)

Child support payments that have been collected by child support agencies but have not yet been sent to custodial parents or other government agencies or returned to noncustodial parents.

Uniform Interstate Family Support Act (UIFSA)

Law enacted by all States that provides mechanisms for establishing and enforcing child support obligations in interstate cases (when a noncustodial parent lives in a different State from his/her child and the custodial party). Among the law's provisions is the ability of State IV-D agencies to send withholding orders to employers across State lines. (UIFSA does not apply to Tribes.)

(See also: Continuing Exclusive Jurisdiction; Two-State Action; Long Arm Jurisdiction: Direct Income Withholding)

Unreimbursed Public Assistance (UPA)

The cumulative amount of money paid to the family for all months which has not been repaid by assigned child support payments collected.

Wage Assignment

A voluntary agreement by an employee to transfer (or assign) portions of future wage payments to pay certain debts, such as child support.

Wage Attachment

An involuntary transfer of a portion of an employee's wage payment to satisfy a debt. In some States this term is used interchangeably with Wage or Income Withholding; in other states there are distinctions between an attachment and withholding. The most common terms used are Wage or Income Withholding.

(See also: Wage Withholding; Income Withholding)

Wage Withholding

A procedure by which scheduled deductions are automatically made from wages or income to pay an obligation, such as child support. . The provision dictates that an employer must withhold support from a noncustodial parent's wages and transfer that withholding to the appropriate agency (the Centralized Collection Unit or State Disbursement Unit). Also known as income withholding.

(See also: Income Withholding; Direct Income Withholding; Garnishment)