
GLENN A. GRANT, J.A.D.
Acting Administrative Director of the Courts

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DIRECTIVE #23-19

[Supersedes Directive #13-89]

[Questions or comments may be directed to
(609) 815-3810]

**TO: Assignment Judges
Trial Court Administrators**

FROM: Glenn A. Grant, J.A.D. 

DATE: November 21, 2019

**SUBJECT: Application by Direct Pay Obligee/Obligor for Support Payments
Through Probation**

This Directive supersedes Directive #13-89, Application by Direct Pay Obligee/Obligor for Support Payments through Probation (issued November 8, 1989). That directive required the Probation Division staff to process a request for a conversion of a direct pay order into an order payable through Probation. This directive updates and amends the instructions to reflect the current protocol that the Family Division staff is responsible for processing these conversion requests.

On November 2, 1987, the Supreme Court adopted amendments to R. 5:7-4, effective January 1, 1988, to allow conversion of a direct pay support order to enforcement by the Probation Division by way of application. Rule 5:7-4(b) provides in part that: "Alimony, maintenance, or child support payments not presently administered by the Probation Division shall be so made on application of either party to the court unless the other party, on application to the court, shows good cause to the contrary."

Directive #13-89 established a protocol to implement R. 5:7-4(b), where Probation Division staff were primarily responsible for processing these requests. Since 2005, however, Family Division, rather than Probation staff, staff have had the responsibility of processing these applications. The following revised procedures, setting forth the role of the Family Division, have been approved by the Conference of Family Presiding Judges to assist Family Division staff in meeting the requirements as prescribed by the court rule.

I. Review of Request & Application

On application by a (non-TANF) direct pay obligee/obligor for alimony, maintenance, or child support to be administered through the Probation Division (CN11181), the designated Family Division staff shall:

1. Review the obligee's request to determine that all required information and demographics have been included with the request.
2. Process the obligor's voluntary request to have the case administered through Probation and future payments by income withholding or payment through the New Jersey Family Support Center.
3. If good cause for direct pay was not previously established by the court and the amount of arrearages is greater than 14 days, the following procedures shall apply:
 - (a) A non-TANF obligee/obligor who does not receive enforcement services through the Probation Division may apply for such service by filing a certification with the Family Division in the county of venue of their child support order. The obligee/obligor will be required to provide Family Division with a copy of the current support order.
 - (b) The obligee/obligor shall be advised of their right to apply for full Title IV-D services or for monitoring only services and shall complete a IV-D application and designate their choice.
 - (c) Upon signing the certification and completing the IV-D application, a notice to the non-filing party for the child support case to be administered through the Probation Division will be prepared and signed by the designated court staff responsible for processing such applications. The certification signed by the filing party will be attached to the **"Notice to Obligee/Obligor of Support Order to be Administered Through Probation and Payments to be Made to the New Jersey Support Payment Center"** (CN11178).
 - (d) The notice to the obligee/obligor shall include the following information:
 - (i) That an order for the child support case to be administered through the Probation Division and all future payments to the New Jersey Family Support Payment Center, shall be submitted to the court 20 days after the postmark of this notice.
 - (ii) Money will be withheld through income withholding for current support, arrearages, and/or paternity testing costs;

- (iii) The procedures to contest the order, including the time frame during which the Family Division must be informed; and
- (iv) That failure to contest this notice through application to the court will result in the issuance of a court order stating that the support case will be administered through the Probation Division and that all future support payments shall be processed through the New Jersey Family Support Payment Center.

II. Notice to the Non-Filing Party

The notice to obligee/obligor of support order to be administered through Probation and payments to be made to New Jersey Support Payment Center shall be prepared by Family Division staff. This notice is mailed to the obligor at the address provided by the obligee or to the last known address of record, by certified and regular mail, return receipt requested, within five days of the date of receipt of the certification signed by obligee/obligor and a copy of the current support order.

If the obligee/obligor does not contest the case being administered through Probation or future payments to the New Jersey Family Support Center, and does not file a separate motion within 20 days of the postmark date of the notice, Family Division staff shall complete the certification so stating and shall prepare a proposed order for review and signature by a judge (CN11179). The court order shall contain the current support and arrears as stated in the obligee's certification. Family Division staff shall create a case in NJKiDS, enter the information on the order and take appropriate action to notify Probation for enforcement. The order shall be mailed by regular mail to the obligee/obligor.

III. Appeal Process

The obligor may contest the case being administered through Probation only upon application to the court for good cause shown. The obligor must notify the court within 10 days of the postmark date of the order transferring the case to the Probation Division for enforcement. The obligor must submit a written notice with intent to appeal to the Family Division in the county that issued the conversion order. Family Division staff shall schedule the matter before a Child Support Hearing Officer or a judge for determination.

If the obligor contests support being administered through Probation and future payments processed through the New Jersey Family Support Center, and files a motion to that effect, the matter shall be scheduled for court before a Child Support Hearing Officer or a judge for determination in the county of venue.

IV. Direct pay TANF cases will be handled by the county welfare office pursuant to current procedures for welfare applications to the court.

Questions concerning this directive may be directed to the AOC Family Practice Division at 609-815-2900, ext. 55350 or Probation Services at 609-815-3810.

EDITOR'S NOTE

*2019 Update – This Superseding Directive updates Directive #13-89 to reflect that Family Division staff, rather than Probation Division staff, process these requests. The updated procedures presently used by the Family Division are detailed in the directive.

cc: Chief Justice Stuart Rabner
Family Division Presiding Judges
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Clerks of Court
Special Assistants to the Administrative Director
Larry Ashbridge, Chief, Probation Services, Child Support Enforcement
Vicinage Probation Division Managers/VCPOs
Family Division Managers
Finance Division Managers
Vicinage Assistant Probation Division Managers/VACPOs, Child Support