

**ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY**

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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
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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

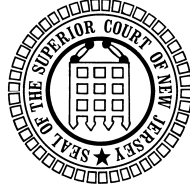
**ALL PAYMENTS RECEIVED MUST BE ACKNOWLEDGED WITH A NOTICE AND RECEIPT FOR
RELEASE PAYMENT. BAIL RECEIPTS MUST NOT BE USED.**

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.