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MEMORANDUM

Supplement to Directive #02-14

**TO: Assignment Judges
Trial Court Administrators**

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

DATE: July 16, 2014

RE: Probation/Family – Enforcement of Child Support – Revised “Order for Relief to Litigants – Enforcement of Litigants Rights” (CN 11213)

This memorandum promulgates for immediate statewide use the attached revised form “Order for Relief to Litigant – Enforcement of Litigants Rights” (CN 11213) as approved by the Supreme Court. This revised form order supersedes the form order promulgated by Directive #02-14. That Directive delineates the procedures for determining indigence and conducting a hearing to determine the ability to comply with child support obligations, after a child support obligor is taken into custody on a child support-related warrant. The procedures set forth in Directive #02-14 remain in effect.

One change from the earlier approved form of order is to replace “Other” in paragraph 4(b) and 4(c) with “Other reasons as set forth on the record.” In addition, paragraph 9 was revised to clarify that the court may modify a child support obligation and/or arrears if appropriate.

The Probation Services Division and the Family Practice Division will coordinate joint training for Vicinage court staff on the procedures of Directive #02-14, as well as, the revised form order.

The Division of Family Development, in the Department of Human Services, is in the process of placing this revised order into production on the New Jersey Kids Deserve Support (NJKiDS) child support enforcement system. Notwithstanding the November 15, 2011, memo indicating that all child support orders should be created

electronically in NJKiDS, it will still be necessary to use this revised order until the conforming updates are completed in NJKiDS.

Questions or comments may be directed to Assistant Director Elizabeth Domingo, Probation Services Division at 609-292-1589, or Assistant Director Joanne M. Dietrich, Family Practice Division at 609-984-4228.

G.A.G.

Attachment: Revised Order for Relief to Litigant- Enforcement of Litigant's Rights (CN 11213)

cc Chief Justice Stuart Rabner
 Family Presiding Judges
 Steven D. Bonville, Chief of Staff
 Robert W. Smith, Director
 Elizabeth Domingo, Assistant Director
 Joanne M. Dietrich, Assistant Director
 Gurpreet M. Singh, Special Assistant
 Brenda Beacham, Chief
 Amelia Wachter-Smith, Chief
 Ellen Reaves, Acting Chief
 Family Division Managers
 Vicinage Chief Probation Officers
 Asst. Family Division Managers – Multicounty Vicinages
 Vicinage Asst. Chief Probation Officers – Multicounty Vicinages

Plaintiff

☐ Obligor / ☐ Obligee

v.

Defendant

☐ Obligor / ☐ Obligee

Superior Court of New Jersey
Chancery Division, Family Part

County

Docket Number: F _____

Probation Account Number: CS- _____

Civil Action
Order for Relief to Litigant -
Enforcement of Litigants Rights

☐ Ability to Comply Hearing

☐ Subsequent Review Hearing

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 conducted an ability to comply hearing on _____;

AND the Court having considered the evidence and arguments presented, and having found that:

1. 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 _____;

2. The obligor has failed to make payments and owes arrearages totaling \$_____ as of _____ due to the Obligee and/or _____ County Welfare;

☐ 3a. The obligor is indigent and: ☐ qualifies for court appointed counsel, but none is available;

☐ qualifies for court appointed counsel and _____ is appointed;

☐ 3b. The obligor is not indigent and does not qualify for court appointed counsel for the following reasons:

_____;

☐ 4a. The obligor has the current ability to pay \$_____ toward the arrearages for the following reasons:

_____;

- ☐ 4b. The obligor has the financial ability to pay and willfully refuses to do so, however, incarceration is not necessary at this time for the following reasons:
- ☐ The obligor has custody of the child(ren).
 - ☐ The obligee is no longer the custodial parent/guardian. The child now is in the custody of _____.
 - ☐ Other reasons as set forth on the record:

- ☐ 4c. The obligor has the financial ability to pay and willfully refuses to do so, and incarceration of the obligor is necessary to coerce compliance for the following reasons:
- ☐ The obligor is employed, and has been employed for _____ [length of time].
 - ☐ The obligor has a source of income from _____ and/or assets from _____.
 - ☐ The obligor is willfully underemployed because (background to support the court's finding includes, but is not limited to: education, technical or trade skills, work history, no medical limitations)

 - ☐ Other reasons as set forth on the record:

Therefore it is hereby ORDERED that:

- ☐ 5. 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.
- ☐ 6. The obligor be released from custody in this matter;
- ☐ 7. The support-related bench warrant currently issued in this matter is discharged;
- ☐ 8. 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.

- ☐ 9. The current child support and/or arrears obligation is modified as follows: The Obligor shall make support payments of \$_____ per _____ plus \$_____ per _____ toward arrears for a total amount of \$_____ per _____.
- ☐ 10. 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.
- ☐ 11. Effective _____ future missed payment(s) numbering _____ or more may result in the issuance of a warrant, without further notice.
- ☐ 12. 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.
- ☐ 13. 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.
- ☐ 14. The Motor Vehicle Commission, State of New Jersey, shall TAKE NOTICE that the suspension of the Obligor's Driver's 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.
- ☐ 15. It is further ORDERED:
- _____
- _____
- _____
- _____
- _____
- _____
16. 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.