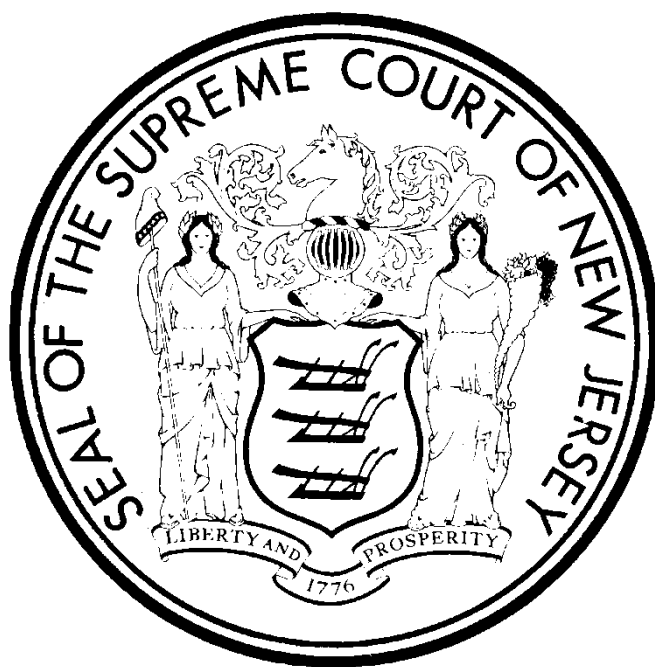


# **FAMILY PRACTICE COMMITTEE REPORT**



## **2013-2015 RULES CYCLE**

January 28, 2015

## Table of Contents

I.	Introduction.....	1
II.	Proposed Rule Amendments.....	2
A.	Proposed Amendment to R. 1:21-1(a)(1) - Who May Practice; Attorney Access and Availability; Appearance in Court - Qualifications .....	2
	<b>Rule 1:21-1. Who May Practice; Attorney Access and Availability; Appearance in Court .....</b>	<b>3</b>
B.	Proposed Amendment to R. 1:38-3 - Court Records Excluded from Public Access .....	5
	<b>Rule 1:38-3. Court Records Excluded from Public Access .....</b>	<b>6</b>
C.	Proposed Amendment to R. 2:9-1 - Control by Appellate Court of Proceedings Pending Appeal or Certification .....	8
	<b>Rule 2:9-1. Control by Appellate Court of Proceedings Pending Appeal or Certification.....</b>	<b>9</b>
D.	Proposed Amendments to R. 5:3-2 - Closed Hearings; Record.....	10
	<b>Rule 5:3-2. Closed hearings; record .....</b>	<b>12</b>
E.	Proposed Amendments to R. 5:4-2 - Complaint.....	13
	<b>Rule 5:4-2. Complaint.....</b>	<b>16</b>
F.	Proposed Amendment to R. 5:5-4 - Motions in Family Actions .....	18
	<b>Rule 5:5-4. Motions in Family Actions.....</b>	<b>19</b>
G.	Proposed Amendments to R. 5:5-7 - Case Management Conference in Civil Family Actions.....	21
	<b>Rule 5:5-7. Case Management Conferences in Civil Family Actions.....</b>	<b>23</b>
H.	Proposed Amendment to R. 5:6-1 - When and by Whom Filed.....	25
	<b>Rule 5:6-1. When and by Whom Filed.....</b>	<b>26</b>
I.	Proposed Amendments to R. 5:7-4 - Orders Establishing Alimony and Child Support Obligations .....	27
	<b>Rule 5:7-4. Orders Establishing Alimony and Child Support Obligations ...</b>	<b>32</b>
J.	Proposed Amendments to R. 5:7-5 - Failure to Pay; Enforcement by the Court or Party; Suspension and Revocation of Licenses for Failure to Support Dependents; Execution of Assets for Child Support; Child Support Judgments and Post-Judgment Interest .....	37
	<b>Rule 5:7-5. Failure to Pay; Enforcement by the Court or Party; Suspension and Revocation of Licenses for Failure to Support Dependents; Execution of Assets for Child Support; Child Support Judgments and Post-Judgment Interest .....</b>	<b>39</b>

K.	Proposed Amendments to R. 5:12-4 - Case Management Conference, Hearings, Trial, and Termination of Parental Rights Proceedings .....	53
	<b>Rule 5:12-4. Case Management Conference, Hearings, Trial, and Termination of Parental Rights Proceedings .....</b>	<b>54</b>
L.	Proposed Amendment to Appendix V - Family Part Case Information Statement .....	56
M.	Proposed Technical Amendment to Delete Reference to Actual Minimum Wage Amount in Rules Appendix IX-A .....	57
N.	Proposed Amendment to Rules Appendix IX-A - Considerations in Use of Child Support Guidelines, Section 10(b), Multiple Family Obligations .....	58
O.	Proposed Amendment to Rules Appendix IX-H: Expansion of Income Limit and Withholding Allowances .....	59
III.	Proposed New Rules .....	61
A.	Proposed New R. 5:7-4A - Income Withholding for Child Support; Notices .....	61
	<b>[New] Rule 5:7-4A. Income Withholding for Child Support; Notices .....</b>	<b>62</b>
B.	Proposed New R. 5:7-11 - Application for Title IV-D Child Support Services; Probation Division Enforcement Monitoring-Only Services .....	69
	<b>[New] Rule 5:7-11. Application for Title IV-D Child Support Services; Probation Division Enforcement Monitoring-Only Services .....</b>	<b>74</b>
C.	Proposed New R. 5:10-17. Gestational Carrier Matters; Orders of Parentage ....	76
	<b>[New] Rule 5:10-17. Gestational Carrier Matters; Orders of Parentage .....</b>	<b>80</b>
IV.	Issues Considered Without Recommendation .....	82
A.	Confidential Personal Identifiers in a Qualified Domestic Relations Order .....	82
B.	Proposed Amendment to R. 4:52-1- Temporary Restraint and Interlocutory Injunction - Application on Filing of Complaint .....	82
C.	Offer of Judgment in Dissolution Matters .....	82
D.	Page Count Limit Pursuant to R. 5:5-4 - Third Party Certification in Motion ....	83
E.	Marital Settlement Agreement and Judgment of Divorce .....	83
F.	Custody Evaluators and the Appointment of Experts .....	84
G.	Case Management Orders in Family Actions .....	84
H.	Filing of Family Case Information Statement in Pre-Divorce Support Actions...	84
I.	Post-Judgment Interest on Title IV-D Child Support Judgments .....	85
J.	Treatment of Expenses for Extracurricular Activities in the Child Support Guidelines, Rules Appendix IX .....	85
K.	The Addition of a Driving-age Child to Family's Automobile Insurance Policy - Appendix IX-A .....	86
L.	Increasing the Number of Withholding Allowances in the Child Support Guidelines Tax Table - Rules Appendix IX-H .....	87
M.	Miscellaneous Issues - Rules Appendix IX .....	88
V.	Other Recommendations .....	89
A.	Selection of Experts .....	89

	<b>Discussion.....</b>	<b>89</b>
	<b>Recommendation.....</b>	<b>89</b>
VI.	Matters Held for Consideration .....	90
A.	When a Court Rule Authorizes the Administrative Director of the Courts to Promulgate a Form, the Rule Should Indicate that the Form is Located on the Judiciary's Website .....	90
B.	Conflict Between R. 3:26-2(a) and Section 6.4.2 of the Domestic Violence Procedures Manual - Authority of a Municipal Court Judge to Set Bail .....	90
C.	Whether to Adjust the Child Support Guidelines Self-Support Reserve (SSR) - Rules Appendix IX-A, Section 7.h .....	91
D.	Clarify Time Frame for Serving a Dissolution Complaint .....	92
E.	Adjustment of Child Support for Elder Care .....	92
F.	Arbitration Following Early Settlement Panel.....	92
G.	Use of Restraints in Juvenile Delinquency Proceedings.....	93
H.	Case Information Statement - Time Frames for College Expenses .....	93
VII.	Out of Cycle Activity .....	94
A.	Supreme Court Ad Hoc Committee on the Arbitration of Family Court Matters	94
	Committee Members and Staff .....	95
	List of Attachments .....	96

## **I. Introduction**

The Supreme Court Family Practice Committee ("Committee") recommends that the Supreme Court adopt the proposed rule amendments and new rules contained in this report. The Committee also reports on other issues reviewed on which it concluded no rule change or a non-rule recommendation was appropriate.

Where rule changes are proposed, deleted text is bracketed [**as such**], and added text is underlined **as such**. No change to a paragraph of the rule is indicated by ". . . **no change**."

## II. Proposed Rule Amendments

### A. **Proposed Amendment to R. 1:21-1(a)(1) - Who May Practice; Attorney Access and Availability; Appearance in Court - Qualifications**

#### **Bona fide office rule amendments - Impact on family practice**

The Committee discussed whether the recent amendments to Rules 1:20-1(c), 1:21-1(a), 1:21-2(a), 1:21-9(c)(3) and RPC 5.5(c)(5), effective September 1, 2013, relating to bona fide office requirements impacted family practice. After reviewing the amendments, the Committee recommends amending R. 1:21-1(a)(1) to include a provision regarding an office location in New Jersey for the purpose of conducting depositions and meetings for all cases venued in New Jersey. The recommendation is intended to relieve New Jersey litigants of the burden of traveling outside of New Jersey for those events.

The Committee also will discuss in the next rules cycle whether to recommend a cross-reference in the Part IV rules relating to depositions, which would complement this rule recommendation.

## **Rule 1:21-1. Who May Practice; Attorney Access and Availability; Appearance in Court**

(a) Qualifications. Except as provided below, no person shall practice law in this State unless that person is an attorney holding a plenary license to practice in this State, is in good standing, and complies with the following requirements:

(1) An attorney need not maintain a fixed physical location for the practice of law, but must structure his or her practice in such a manner as to assure, as set forth in RPC 1.4, prompt and reliable communication with and accessibility by clients, other counsel, and judicial and administrative tribunals before which the attorney may practice, provided that an attorney must designate one or more fixed physical locations in this State where client files and the attorney's business and financial records may be inspected on short notice by duly authorized regulatory authorities, where mail or hand-deliveries may be made and promptly received, where depositions and meetings shall be scheduled and where process may be served on the attorney for all actions, including disciplinary actions, that may arise out of the practice of law and activities related thereto.

(2) . . . no change.

(3) . . . no change.

(4) . . . no change.

(b) Appearance. . . . no change.

(c) Prohibition on Entities. . . . no change.

(d) Federal Government Agencies. . . . no change.

(e) Legal Assistance Organizations. . . . no change.

(f) Appearances Before Office of Administrative Law and Administrative Agencies. . . . no change.

(g) Appearances at Personal Injury Protections Arbitrations. . . . no change.

Note: Source - R.R. 1:12-4(a) (b) (c) (d) (e) (f). Paragraph (c) amended by order of December 16, 1969 effective immediately; paragraphs (a) and (c) amended July 29, 1977 to be effective September 6, 1977; paragraph (a) amended July 24, 1978 to be effective September 11, 1978; paragraph (a) amended September 21, 1981 to be effective immediately; paragraph (c) amended and paragraph (d) adopted July 15, 1982 to be effective September 13, 1982; paragraph (a) amended August 13, 1982 to be effective immediately; paragraph (e) adopted July 22, 1983 to be effective September 12, 1983; paragraph (c) amended November 1, 1985 to be effective January 2, 1986; paragraph (a) amended November 5, 1986 to be effective January 1, 1987; paragraph (a) amended November 7, 1988 to be effective January 2, 1989; paragraph (b) amended and paragraph (d) caption and text amended June 29, 1990 to be effective September 4, 1990; paragraph (c) amended and paragraph (e)(8) adopted July 14, 1992 to be effective September 1, 1992; paragraphs (c), (e), and (e)(7) amended, and paragraph (e)(9) added July 13, 1994 to be effective September 1, 1994; paragraphs (a) and (e) amended June 28, 1996 to be effective September 1, 1996; paragraph (c) amended November 18, 1996 to be effective January 1, 1997; paragraph (c) amended January 5, 1998 to be effective February 1, 1998; paragraph (a) amended, former paragraphs (d) and (e) redesignated as paragraphs (e) and (f), and new paragraph (d) adopted July 10, 1998 to be effective September 1, 1998; closing paragraph amended July 5, 2000 to be effective September 5, 2000; paragraph (f) amended and new paragraph (f)(11) added July 12, 2002 to be effective September 3, 2002; paragraph (a) amended November 17, 2003 to be effective January 1, 2004; paragraph (a) amended July 28, 2004 to be effective September 1, 2004; paragraph (e) caption and text amended July 27, 2006 to be effective September 1, 2006; paragraph (f) amended and paragraph (g) adopted July 16, 2009 to be effective September 1, 2009; paragraph (c) caption and text amended July 23, 2010 to be effective September 1, 2010; caption and paragraphs (a) and (d) amended January 15, 2013 to be effective February 1, 2013; paragraphs (a)(1) and (a)(2) amended February 27, 2013 to be effective immediately; paragraph (a) amended July 9, 2013 to be effective September 1, 2013; subparagraph (a)(1) amended  
to be effective.



**B. Proposed Amendment to R. 1:38-3 - Court Records Excluded from Public Access**

**Certification of insurance coverage required by R. 5:4-2(f) - Confidential document**

The Committee considered an amendment to R. 5:4-2(f) to require only the last four digits of any policy number, group number or identification number on the Certification of Insurance Coverage to protect a party's privacy pursuant to R. 1:38-7. The Committee rejected a rule recommendation to amend R. 5:4-2(f) in favor of a recommendation to amend R. 1:38-3(d), which enumerates records that are excluded from public access. The Committee recommends that the entire Certification of Insurance Coverage required by R. 5:4-2(f) should be enumerated as a court record excluded from public access. The Committee believes that information such as policy numbers, group numbers and identification numbers in the Certification could be used improperly. Such access to that private information could lead to fraud, which may include unauthorized changes to beneficiaries or jeopardizing the special protections afforded to victims of domestic violence. Therefore, the Committee recommends the following amendment.

## **Rule 1:38-3. Court Records Excluded from Public Access**

### Rule 1:38-3. Court Records Excluded from Public Access

The following court records are excluded from public access:

(a) General. . . . no change.

(b) Internal Records. . . . no change.

(c) Records of Criminal and Municipal Court Proceedings. . . . no change.

(d) Records of Family Part Proceedings.

(1) . . . no change.

(2) Confidential Litigant Information Sheets pursuant to R. 5:4-2(g);]

and Affidavits or Certifications of Insurance Coverage pursuant to R. 5:4-2(f);

(3) . . . no change.

(4) . . . no change.

(5) . . . no change.

(6) . . . no change.

(7) . . . no change.

(8) . . . no change.

(9) . . . no change.

(10) . . . no change.

(11) . . . no change.

(12) . . . no change.

(13) . . . no change.

(14) . . . no change.

(15) . . . no change.

(16) . . . no change.

(17) . . . no change.

(e) Records of Guardianship Proceedings. . . . no change.

(f) Records of Other Proceedings. . . . no change.

Note: New Rule 1:38-3 adopted July 16, 2009 to be effective September 1, 2009; subparagraph (b)(1) amended December 9, 2009 to be effective immediately; paragraphs (e) and (f) amended January 5, 2010 to be effective immediately; subparagraph (c)(11) amended, subparagraph (c)(12) adopted, and subparagraph (d)(10) amended February 16, 2010 to be effective immediately; subparagraph (d)(1) amended June 23, 2010 to be effective July 1, 2010; paragraph (e) amended October 10, 2010 to be effective immediately; paragraph (e) amended February 28, 2013 to be effective immediately; subparagraph (d)(12) amended July 9, 2013 to be effective September 1, 2013; subparagraph (d)(2) amended to be effective.

**C. Proposed Amendment to R. 2:9-1 - Control by Appellate Court of Proceedings Pending Appeal or Certification**

**Clarification of the trial court's authority to monitor children in resource family care when a child welfare matter is on appeal**

The Adoption and Safe Families Act (ASFA) states, "The safety of the children served shall be of paramount concern. It is the intent of this legislation to assure that the lives of innocent children are immediately safeguarded from further injury and possible death and that the legal rights of such children are fully protected." N.J.S.A. 9:6-8.8. To that end, the New Jersey courts conduct regular reviews of these children and their families to ensure their safety, permanency and well-being.

ASFA also requires the court to "review the permanency plan for the child periodically, as deemed appropriate by the court, to ensure that the permanency plan is achieved." N.J.S.A. 9:6-8.54. In New Jersey, the courts hold permanency hearings at least annually for children placed in resource family care to determine whether the permanency plan for that child is appropriate.

Therefore, the Committee recommends amending R. 2:9-1(a) to clarify the trial court's ongoing responsibility to review the cases of children who have been placed in resource family care by the Division of Child Protection and Permanency. Such reviews, including permanency hearings, will ensure that the court monitors the children and makes appropriate orders.

## **Rule 2:9-1. Control by Appellate Court of Proceedings Pending Appeal or Certification**

### Rule 2:9-1. Control by Appellate Court of Proceedings Pending Appeal or Certification

(a) Control Prior to Appellate Disposition. Except as otherwise provided by R. 2:9-3, 2:9-4 (bail), 2:9-5 (stay pending appeal), 2:9-7 and 3:21-10(d), the supervision and control of the proceedings on appeal or certification shall be in the appellate court from the time the appeal is taken or the notice of petition for certification filed. The trial court, however, shall have continuing jurisdiction to enforce judgments and orders pursuant to R. 1:10 and as otherwise provided. In addition, when an appeal is taken from an order compelling or denying arbitration, the trial court shall retain jurisdiction to address issues relating to claims and parties that remain in that court. When an appeal is taken from an order involving a child who has been placed in resource family care by the Division of Child Protection and Permanency, the trial court shall retain jurisdiction to conduct summary hearings in due course to address issues not the subject of the appeal relating to the child or the child's family. Unless the appeal concerns the permanency plan of the child, the trial court also shall retain jurisdiction to conduct hearings to address the permanency plan of the child. The appellate court may at any time entertain a motion for directions to the court or courts or agencies below or to modify or vacate any order made by such courts or agencies or by any judge below.

(b) Proceedings on Remand to Tribunal of First Instance. . . . no change.

(c) Ineffective Assistance of Counsel Claim in Appeals from Judgment Terminating Parental Rights. . . . no change.

Note: Source -- R.R. 1:4-1 (first sentence), 1:10-6(a) (first and third sentences); paragraph (a) amended July 16, 1981 to be effective September 14, 1981; paragraph (a) amended November 1, 1985 to be effective January 2, 1986; new paragraph (c) adopted July 16, 2009 to be effective September 1, 2009; paragraph (a) amended July 19, 2012 to be effective September 4, 2012; paragraph (a) amended \_\_\_\_\_ to be effective \_\_\_\_\_.

**D. Proposed Amendments to R. 5:3-2 - Closed Hearings; Record**

**Reference to N.J.S.A. 30:4C-61.2, which gives children the right to receive notice of and to attend their permanency hearings**

Across the nation, states have been addressing the issue of youth participation in their court hearings in child welfare matters. The National Council of Juvenile and Family Court Judges recently passed a resolution underscoring the importance of youth participation in the court process, stating that:

It is the policy of the National Council of Juvenile and Family Court Judges that children of all ages should be present in court and attend each hearing, mediation, pre-trial conference and settlement conference, regardless of their age, unless the judge decides it is not safe or appropriate.

Advocates for Children of New Jersey issued a report in July, 2011 regarding youth involvement in their court hearings, which noted that "across the nation, child welfare and court professionals are increasingly recognizing the importance of involving youth in the decision-making process, including encouraging their attendance when appropriate, at court hearings."

In 2006, New Jersey enacted N.J.S.A. 30:4C-62.1(b)(2), which entitles children to written notice of the date, time and place of the permanency hearing and entitles children to attend the hearing and to submit written information to the court. Recently, the Conference of Family Presiding Judges has endorsed the "Youth Participation in Court Protocol" (Protocol) developed by the Children in Court Improvement Committee (CICIC). The Honorable Glenn A. Grant, J.A.D., Acting Administrative Director of the Courts, has approved a program designed to implement the Protocol.

Rule 5:3-2(a) pertains to children attending a court hearing. Specifically, R. 5:3-2 currently states in part:

(a) Hearings on Welfare or Status of a Child. Except as

otherwise provided by rule or statute requiring full or partial in camera proceedings, the court, in its discretion, may on its own or party's motion direct that any proceeding or severable part thereof involving the welfare or status of a child be conducted in private. In the child's best interests, the court may further order that a child not be present at a hearing or trial unless the testimony, which may be taken privately in chambers or under such protective orders as the court may provide, is necessary, for the determination of the matter. A verbatim record shall, however, be made of all in camera proceedings, including in-chamber testimony by or interrogation of a child.

This court rule does not reference the statutory right of children to receive notice of, and their right to attend, their permanency hearings in the context of child welfare cases.

Permanency hearings are critical hearings on the "welfare or status of a child," where decisions are made regarding the best, most permanent plan for a child, which will ensure that child's right to safety and well-being.

Therefore, the Committee recommends amending R. 5:3-2(a) to ensure that the court rules comport with N.J.S.A. 30:4C-61.2, which gives children the right to receive notice of and the right to attend their permanency hearings. These amendments will reference the statute and will help to protect the important right children have to participate in this critical phase of their proceedings.

## **Rule 5:3-2. Closed hearings; record**

(a) Hearings on Welfare or Status of a Child. Except as otherwise provided by rule or statute requiring full or partial in camera proceedings, the court, in its discretion, may on its own or party's motion direct that any proceeding or severable part thereof involving the welfare or status of a child be conducted in private. In the child's best interests, the court may further order that a child not be present at a hearing or trial unless the testimony, which may be taken privately in chambers or under such protective orders as the court may provide, is necessary for the determination of the matter. In matters brought by the Division of Child Protection and Permanency, the court shall accommodate the rights of the child as provided by N.J.S.A. 30:4C-61.2, prior to entering a permanency order. A verbatim record shall, however, be made of all in camera proceedings, including in-chamber testimony by or interrogation of a child.

(b) Sealing of Records. . . . no change.

Note: Source-R.R. (1969) 5:5-1(b). Adopted December 20, 1983, to be effective December 31, 1983; paragraphs (a) and (b) amended July 14, 1992 to be effective September 1, 1992; paragraph (a) amended June 28, 1996 to be effective September 1, 1996; paragraph (a) amended  
, to be effective.



**E. Proposed Amendments to R. 5:4-2 - Complaint**

**1. Proposed Amendments to R. 5:4-2(e) - Amended or Supplemental Pleadings - Revised procedure for non-dissolution matters (FD docket) in accordance with R.K. v. D.L., 434 N.J. Super. 113 (App. Div. 2014)**

The Committee considered the procedural instructions to trial courts in grandparent visitation matters set forth R.K. v. D.L., 434 N.J. Super. 113 (App. Div. 2014). The Committee's consideration of this issue included a review of the processing of all non-dissolution matters (FD docket) addressed by Administrative Directive #08-11, and the use of the forms promulgated by that directive. The majority of non-dissolution cases are appropriately addressed by the current court rules and procedures. However, the issues identified by the court in R.K. were discussed by the Committee, including (a) the processing of customized pleadings while ensuring required information is provided on standardized non-dissolution forms, and (b) case management of complex matters in the FD docket.

The FD docket addresses custody and support issues for unmarried parents, parents who have not and are not involved in a dissolution matter and non-parent relatives who have an interest in the custody and support of minors. In most situations where the litigants in the FD docket are self-represented, the trial court can and should resolve those matters expeditiously. Pursuant to R. 5:4-4(a), Administrative Directive #08-11 requires those actions to be processed as summary actions with additional discovery at the discretion of the trial judge.

(a) Processing of customized pleadings - Administrative Directive #08-11 further requires, in the interest of efficient case management, an initial complaint to be filed on a standardized form. For the majority of cases, this form effectively captures the information required by the court to make a decision. However, some cases are more complex and can benefit from more detailed information provided by litigants or their attorneys. Thus, proposed R. 5:4-2(e)(2) permits litigants or their attorneys to attach a supplement to the form application,

which sets forth the issues and facts in greater detail. In the interest of ensuring uniformity of information provided to the court in the FD docket, proposed R. 5:4-2(e)(2) also requires the filing of the standardized form in all cases.

(b) Case management of complex matters - Generally, non-dissolution matters for child support and custody can be heard and resolved expeditiously. Incorporating processes that are typically used in dissolution matters (FM docket) would cause unnecessary delay for many of the FD cases. Administrative Directive # 08-11 addresses the majority of FD cases, which should be processed as summary actions.

For that small percentage of cases filed in the FD docket that cannot be heard summarily (e.g., cases that may require extended discovery, extended expert evaluations or have some material complexity that cannot be adjudicated in a summary manner), additional case management may be required. In order to identify and manage those cases efficiently from their inception, proposed R. 5:4-2(e)(3) allows litigants and/or their attorneys to designate a case for the court's consideration as complex so that appropriate measures may be established to hear the case fully and fairly. The proposed rule permits a court to designate a case as complex on its own application or for a litigant or an attorney to seek designation of a case as complex at the first hearing. If, however, complex track assignment is sought at a later time, then the assignment should be made only under exceptional circumstances. The objective is to avoid undue delay of cases so that the designation of a case as complex should be addressed at the first hearing or upon presentation of exceptional circumstances if it is requested at a later time. The rule recommendation also includes factors such as the need for extended discovery, an expert evaluation or other material complexity that the court would consider before assigning the case to a complex track.

The Committee also recommends a requirement for the judge to set forth the reasons for assigning a case to the complex track. See proposed amendment to R. 5:5-7, *infra*. This would provide a basis for the additional case management required for the case. Therefore, the Committee recommends amending R. 5:4-2(e).

**2. Proposed Amendment to R. 5:4-2(h) - Affidavit or Certification of Notification of Complimentary Dispute Resolution Alternatives - Reference to the Collaborative Law Act**

On September 10, 2014, Governor Christie signed legislative Assembly Bill A1477 into law. This law enacts the "New Jersey Family Collaborative Law Act," which authorizes the application of a collaborative law process in family law disputes to enable parties to resolve their disputes in a voluntary, non-adversarial manner without litigation. Based on the enactment of the statute, the Committee recommends amending R. 5:4-2(h) to include collaborative law as another form of complementary dispute resolution.

Proposed text for the descriptive materials as required by R. 5:4-2(h) will follow if the Supreme Court endorses this rule recommendation.

## **Rule 5:4-2. Complaint**

### Rule 5:4-2. Complaint

(a) Complaint Generally. . . . no change.

(b) Correspondent. . . . no change.

(c) Affidavit of Verification and Non-Collusion. . . . no change.

(d) Counterclaim. . . . no change.

(e) Amended or Supplemental Pleadings.

(1) Amended or Supplemental Complaint or Counterclaim for Dissolution Matters. In any action for divorce, dissolution of civil union, termination of domestic partnership, nullity, or separate maintenance, a supplemental complaint or counterclaim may be allowed to set forth a cause of action which has arisen or become known since the filing of the original complaint, and an amended complaint or counterclaim may be allowed to change the action from the originally pleaded cause to any other cognizable family or family type action.

(2) Amended or Supplemental Applications or Counterclaim Applications for Non-Dissolution Matters. In any non-dissolution action, any party or attorney shall file the form application and may supplement the form application with an attached pleading setting forth any facts in issue in greater detail.

(3) Designation of Complex Non-Dissolution Matters. In any non-dissolution action, any party or attorney may submit an Application or Counterclaim or may write to the court prior to the first hearing seeking to designate a case as a complex matter by providing specific information why the case needs extended discovery, an expert evaluation or involves another material complexity which cannot be adjudicated in a summary manner. At the first hearing, a court, on its application or on the oral application of an attorney or a party, may

designate a non-dissolution matter as a complex matter. Applications for a complex track assignment made after the initial hearing may be considered upon presentation of exceptional circumstances.

(f) Affidavit or Certification of Insurance Coverage. . . . no change.

(g) Confidential Litigant Information Sheet. . . . no change.

(h) Affidavit or Certification of Notification of Complementary Dispute

Resolution Alternatives. The first pleading of each party shall have annexed thereto an affidavit or certification in the form prescribed in Appendix XXVII-A or XXVII-B of these rules that the litigant has been informed of the availability of complementary dispute resolution ("CDR") alternatives to conventional litigation, including but not limited to mediation, [or] arbitration, and collaborative law (New Jersey Family Collaborative Law Act, N.J.S.A. 2A:23D-1 through -18), and that the litigant has received descriptive material regarding such CDR alternatives.

Note: Source-R. (1969) 4:77-1(a)(b)(c)(d), 4:77-2, 4:77-3, 4:77-4, 4:78-3, 5:4-1(a) (first two sentences). Adopted December 20, 1983, to be effective December 31, 1983; paragraph (b)(2) amended November 5, 1986 to be effective January 1, 1987; paragraphs (a)(2) and (d) amended November 2, 1987 to be effective January 1, 1988; paragraphs (b)(2) and (c) amended July 13, 1994 to be effective September 1, 1994; paragraph (a)(2) amended July 10, 1998 to be effective September 1, 1998; new paragraph (f) adopted January 21, 1999 to be effective April 5, 1999; paragraph (f) caption and text amended July 12, 2002 to be effective September 3, 2002; new paragraph (g) adopted July 28, 2004 to be effective September 1, 2004; new paragraph (h) adopted July 27, 2006 to be effective September 1, 2006; paragraph (h) amended October 10, 2006 to be effective immediately; paragraph (g) amended June 15, 2007 to be effective September 1, 2007; paragraphs (g) and (h) amended July 16, 2009 to be effective September 1, 2009; paragraphs (c), (d), (e), (f) and (g) amended July 21, 2011 to be effective September 1, 2011; paragraph (g) amended July 9, 2013 to be effective September 1, 2013; paragraph (e) caption amended, former paragraph (e) redesignated as subparagraph (e)(1), subparagraph (e)(1) caption adopted, new subparagraphs (e)(2) and (e)(3) captions and text adopted, and paragraph (h) amended \_\_\_\_\_ to be effective \_\_\_\_\_.

***F.     Proposed Amendment to R. 5:5-4 - Motions in Family Actions***

**Requirement to file case information statement on initial filing for support**

Rule 5:7-2, which sets forth the procedure for applications pending litigation (also known as *pendente lite* applications), clearly requires the filing of a case information statement with a notice of motion for *pendente lite* relief. Rule 5:5-4, entitled "Motions in Family Actions," should be clarified, however, to require the filing of a case information statement with initial filings for support, as well as motions for modification. Therefore, the Committee proposes amendments to R. 5:5-4(a) to clarify that a case information statement must be appended to an initial filing for child support or alimony, as well as appended to a motion for the modification of an existing order for support.

## **Rule 5:5-4. Motions in Family Actions**

### Rule 5:5-4. Motions in Family Actions

(a) Motions. Motions in family actions shall be governed by R. 1:6-2(b) except that, in exercising its discretion as to the mode and scheduling of disposition of motions, the court shall ordinarily grant requests for oral argument on substantive and non-routine discovery motions and ordinarily deny requests for oral argument on calendar and routine discovery motions. When a motion is [brought] filed for enforcement or modification of a prior order or judgment, a copy of the order or judgment sought to be enforced or modified shall be appended to the pleading filed in support of the motion. When a motion or cross-motion is [brought] filed to establish alimony or child support [for the entry or modification of any order or judgment for alimony or child support based on changed circumstances], the [pleading] pleadings filed in support of, or in opposition to the motion, shall [have appended to it a copy of the prior case information statement or statements filed before entry of the order or judgment to be modified and] include a copy of a current case information statement. In the event a motion or cross-motion is filed to modify an obligation for alimony or child support based on changed circumstances, the movant shall append copies of the movant's current case information statement and the movant's case information statement previously executed or filed in connection with the order, judgment or agreement sought to be modified. [The pleading filed in opposition to entry of such an order shall have appended to it a copy of all prior case information statements.] If [the party seeking the alimony or child support] the court concludes either that the party seeking relief has demonstrated a *prima facie* showing of a substantial change of circumstances or that there is other good cause, then the court will order the [other] opposing party to file a copy of a current case information statement.

(b) Page Limits. . . . no change.

(c) Time for Service and Filing. . . . no change.

(d) Advance Notice. . . . no change.

(e) Tentative Decisions. . . . no change.

(f) Orders on Family Part Motions. . . . no change.

(g) Exhibits. . . . no change.

Note: Source-R.(1969) 4:77-1(a)(b)(c)(d), 4:77-2, 4:77-3, 4:77-4, 4:78-3, 5:4-1(a) (first two sentences). Adopted December 20 1983, to be effective December 31, 1983; paragraph (b)(2) amended November 5, 1986 to be effective January 1, 1987; paragraphs (a)(2) and (d) amended November 2, 1987 to be effective January 1, 1988; paragraphs(b)(2) and (c) amended July 13, 1994 to be effective September 1, 1994; paragraph (a)(2) amended July 10, 1998 to be effective September 1, 1998; new paragraph (f) adopted January 21, 1999 to be effective April 5, 1999; paragraph (f) caption and text amended July 12, 2002 to be effective September 3, 2002; new paragraph (g) adopted July 28, 2004 to be effective September 1, 2004; new paragraph (h) adopted July 27, 2006 to be effective September 1, 2006; paragraph (h) amended October 10, 2006 to be effective immediately; paragraph (g) amended June 15, 2007 to be effective September 1, 2007; paragraphs (g) and (h) amended July 16, 2009 to be effective September 1, 2009; paragraphs (c), (d), (e) (f) and (g) amended July 21, 2011 to be effective September 1, 2011 paragraph (g) amended July 9, 2013 to be effective September 1, 2013; paragraph (a) caption adopted and text amended \_\_\_\_\_ to be effective \_\_\_\_\_.



**G. Proposed Amendments to R. 5:5-7 - Case Management Conference in Civil Family Actions**

**Complex track for non-dissolution matters (FD docket)**

The Committee considered the procedural instructions to trial courts in grandparent visitation matters set forth R.K. v. D.L., 434 N.J. Super. 113 (App. Div. 2014). The Committee's consideration of this issue included a review of the processing of all non-dissolution (FD docket) matters addressed by Administrative Directive #08-11, and the use of the forms promulgated by that directive. The majority of non-dissolution cases are appropriately addressed by the current court rules and procedures. In addition to the Committee's recommendation to amend R. 5:4-2(e), *supra*, the Committee also recommends adopting a new paragraph, R. 5:5-7(c), entitled "Non-Dissolution Complex Actions," which sets forth the process to assign non-dissolution cases to the complex track. The court should manage these complex non-dissolution cases with a sense of urgency. R.K. at 139. Thus, at the first hearing of a case designated as complex, a case management conference should be held scheduling discovery, designating experts, ordering third party reports, narrowing issues to be adjudicated, scheduling mediation (if appropriate) and fixing a trial date if possible or otherwise scheduling further case management. Furthermore, any anticipated motions should be scheduled at that time.

There is often a need for temporary relief addressing support, parenting time or other issues at the first hearing of a non-dissolution case. Thus, the Committee also recommends including a procedure in the rule to address any *pendente lite* relief at the first hearing of a complex non-dissolution case.

Continuing oversight of a complex non-dissolution case is necessary to ensure that the issues will be resolved promptly and thoroughly. Thus, the proposed rule also provides that,

when necessary, a second case management conference should be scheduled at the first case management conference. At the second case management conference, the court shall take the necessary steps to follow up on matters addressed at the first case management conference, such as managing trial preparation and scheduling the trial. The court also may require briefs, pre-marked exhibits or other steps to manage the trial efficiently.

The Committee further recommends amending the captions of R. 5:5-7(a) and (b) to clarify that paragraphs (a) and (b) apply to complex case management of dissolution matters (FM docket) and paragraph (c) applies to complex case management of non-dissolution matters (FD docket).

The Committee considered enumerating causes of action in the recommended rule that would be appropriate for the complex track such as grandparent visitation, college education or relocation matters. The Committee opted, however, not to include those examples in the rule recommendation because those causes of action alone may not justify assignment to the complex track. In most FD cases, an expeditious decision is preferable to the additional proceedings and potential delay of the complex track assignment.

Therefore, the Committee recommends amending R. 5:5-7.

## **Rule 5:5-7. Case Management Conferences in Civil Family Actions**

### Rule 5:5-7. Case Management Conferences in Civil Family Actions

(a) Dissolution Priority and Complex Actions. In civil family actions assigned to the priority or complex track, an initial case management conference, which may be by telephone, shall be held within 30 days after the expiration of the time for the last permissible responsive pleading or as soon thereafter as is practicable considering, among other factors, the number of parties, if any, added or impleaded. Following the conference, the court shall enter an initial case management order fixing a schedule for initial discovery; requiring other parties to be joined, if necessary; narrowing the issues in dispute, if possible; and scheduling a second case management conference to be held after the close of the initial discovery period. The second case management order shall, among its other determinations, fix a firm trial date.

(b) Dissolution Standard and Expedited Cases. In civil family actions assigned to the standard or expedited track, a case management conference, which may be by telephone, shall be held within 30 days after the expiration of the time for the last permissible responsive pleading. The attorneys actually responsible for the prosecution and defense of the case shall participate in the case management conference and the parties shall be available in person or by telephone. Following the conference, the court shall enter a case management order fixing a discovery schedule and a firm trial date. Additional case management conferences may be held in the court's discretion and for good cause shown on its motion or a party's request.

(c) Non-Dissolution Complex Actions. At the first hearing following the filing of an application, the court shall determine whether the case should be placed on a complex track. The complex track shall be reserved for only exceptional cases which cannot be heard in a summary matter. The court may only list the case on the complex track based on a specific finding that

discovery, expert evaluations and/or extended trial time is required which would exceed the time limit for disposition of non-dissolution cases. If the court deems the case to be appropriate for the complex track at the first hearing, an initial case management conference shall be held at that time, and a case management order shall be issued detailing the reasons that the case is deemed complex. The court shall enter an order fixing a schedule for discovery, narrowing the issues in dispute, appointing experts, ordering necessary reports from probation or third parties scheduling mediation (where appropriate), fixing a trial date or scheduling a second case management conference to fix a trial date, or addressing any other relief the court may deem appropriate. At the first case management conference, the court shall address any pendente lite relief requested, identify and schedule any anticipated applications and/or schedule another hearing to address any requested relief. At the second case management conference, the court shall fix a trial date, address any stipulations between the parties, anticipated applications, completion of discovery or expert or third party reports, narrow the issues, schedule mediation and fix the time for the filing of briefs and pre-marked documents.

Note: Adopted as R. 5:5-6 November 5, 1986 to be effective January 1, 1987; full text deleted and new paragraphs (a) and (b) adopted January 21, 1999 to be effective April 5, 1999; redesignated as R. 5:5 -7 July 27, 2006 to be effective September 1, 2006; paragraphs (a) and (b) captions amended, and new paragraph (c) adopted \_\_\_\_\_ to be effective

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***H. Proposed Amendment to R. 5:6-1 - When and by Whom Filed***

**Clarification on a non-custodial parent's right to file for child support**

The Committee considered the issue of whether a non-custodial parent may file an application to establish a child support obligation pursuant to R. 5:6-1. Pursuant to 45 C.F.R. § 302.33, either party may submit an application for child support services.

Therefore, the Committee recommends amending R. 5:6-1 to clarify that a non-custodial parent may file an application for child support.

## **Rule 5:6-1. When and by Whom Filed**

### Rule 5:6-1. When and by Whom Filed

Except for UIFSA proceedings pursuant to N.J.S.A. 2A:4-30.65 [through 2A:4-30.123] to -30.123, a summary action for support may be brought by either the party entitled thereto, [or] an assistance agency or a party seeking to establish that party's support obligation provided no other family action is pending in which the issue of support has been or could be raised.

Note: Source – new. Adopted December 20, 1983, to be effective December 31, 1983; amended November 1, 1985 to be effective January 2, 1986; amended May 25, 1999 to be effective July 1, 1999; amended \_\_\_\_\_ to be effective \_\_\_\_\_.

**I. Proposed Amendments to R. 5:7-4 - Orders Establishing Alimony and Child Support Obligations**

**1. Proposed amendment to R. 5:7-4 - Reorganize court rules relating to child support - Procedure to establish alimony and child support<sup>1</sup>**

During the federal Quadrennial Review of the child support guidelines that concluded in the 2011-2013 rules cycle, the Committee identified a need to review and restructure R. 5:7-4 and R. 5:7-5, the court rules addressing child support. Restructuring would eliminate redundancies and inconsistencies, and clarify the Probation Division's responsibilities in child support matters.

The Committee focused its redrafting on ease of use, elimination of redundancy, and creating a logical order of the rules. The Committee recommends a number of changes to the format and content of those rules, and proposes new R. 5:7-4A, *infra*. Rule 5:7-4 focuses on the establishment of alimony and child support obligations. The Committee recommends moving those provisions relating to notices, which are now set forth in R. 5:7-4(f) to proposed new R. 5:7-4A. Rule 5:7-5 focuses on the enforcement of alimony and child support obligations. The Committee proposes amending the captions of R. 5:7-4 (establishment of support) and R. 5:7-5 (enforcement of support) to reflect this organizational strategy.

The Committee also recommends amending the caption of R. 5:7-4(b) regarding matters administered by the Probation Division to reflect the terminology currently used. In 1975, Title IV, Part D of the federal Social Security Act ("Title IV-D") was enacted. See 42 U.S.C.A. § 651, et seq. That law requires each State to create a program to locate non-custodial parents, establish paternity, establish and enforce child support obligations and collect and distribute support

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<sup>1</sup> To clarify child support program procedures, the Committee recommends amending R. 5:7-4 and R. 5:7-5, and adopting new Rules 5:7-4A and 5:7-11.

payments. Title IV-D created the federal Child Support Enforcement Program, also known as the Title IV-D Program, and set forth the responsibilities of the federal, State, tribal and local governments for the administration of the Child Support Enforcement Program. Since 1975, additional amendments to Title IV-D and other laws have been enacted to address issues such as funding for States, additional child support collection remedies, and mandates for State recordkeeping and enforcement activities.

## **2. Proposed amendment to R. 5:7-4(d) - Require the entry of child support orders on the statewide automated child support enforcement system**

The Committee considered the benefits of requiring the entry of all court orders that include child support on the statewide automated child support enforcement system. Memorializing this requirement informs the public, attorneys and staff that child support payments by default will be entered on the statewide automated child support system, processed through the State Disbursement Unit (SDU)(the New Jersey Family Support Payment Center), and monitored by the Probation Division, unless the court orders otherwise.

Pursuant to 42 U.S.C.A. § 666, all child support orders that are subject to income withholding must be paid through the State Disbursement Unit (SDU) unless good cause is shown. In accordance with the federal Personal Responsibility Work Opportunity and Reconciliation Act of 1996 (PRWORA), P.L. 104-193 and N.J.S.A. 2A:17-56.63, the SDU is responsible for collections and disbursements of support payments for all Title IV-D and non-IV-D cases. One Title IV-D state plan requirement provides for the establishment of a State Case Registry for child support matters. All cases (Title IV-D and non-IV-D) with a child support order established or modified after October 1, 1998, must be included in the State Case Registry. In New Jersey, the State Case Registry is NJKiDS, the statewide automated child support enforcement system. Information on all cases must be reported to the federal Office of Child



Support Enforcement (OCSE) for inclusion in the federal Case Registry. As such, all orders that include payment of child support or payment of spousal support combined with child support, must be entered onto NJKiDS, and maintained with current demographic information.

This amendment assures parties of a more uniform level of service throughout the State, strengthens internal controls, and helps to assure positive federal audit outcomes on child support.

**3. Proposed amendment to R. 5:7-4(d) - Presumption that child support is payable through the Probation Division or New Jersey Family Support Payment Center unless otherwise stated in the court order**

The Committee considered clarifying the presumption that child support must be paid through the Probation Division or the New Jersey Family Support Payment Center (New Jersey's SDU).

Some child support orders, especially those entered under the dissolution docket (FM docket), are silent regarding whether payment is to be made through the SDU or directly between the parties. When the Probation Division receives such orders, it is unclear whether the Probation Division must provide monitoring/enforcement services or no services at all, as in the case of direct-pay arrangements between the parties.

Not all child support cases are Title IV-D cases. A case becomes a Title IV-D case in one of three ways: (1) referral from the Title IV-A Temporary Assistance for Needy Families (TANF), IV-B/IV-E (foster care), or XIX (Medicaid) agency; (2) application for services from a nonpublic assistance recipient; or (3) intergovernmental referral from another State, tribe or country with a reciprocal agreement. Title IV-D cases must be serviced according to the rules and regulations promulgated by the federal OCSE.

The absence of a Title IV-D application or a Title IV-A, IV-B/IV-E or XIX referral also makes it difficult for the Probation Division to determine whether it must enforce the order. This

can result in orders being handled differently across the State. While the presumption is that the orders should be entered on NJKiDS and paid through the SDU, this has not been formalized as policy and, therefore, does not uniformly occur. County Probation Divisions that do not process such cases through NJKiDS and the SDU may be out of compliance with federal law. County Probation Divisions that record such cases as non-IV-D matters on NJKiDS may be subject to a reduction (disallowance) in their overall federal funding.

The omission in a court order of whether support is paid directly between the parties or through the SDU may create inconsistent expectations or misunderstandings among litigants and the Bar. For example, an individual whose order is monitored on NJKiDS, with limited enforcement, may mistakenly believe that the full available Title IV-D enforcement services are being provided. Another similarly situated litigant may assume that funds are to be remitted directly to the other party or that party's attorney, but actually the Probation Division is enforcing that case. In that situation, one party may be making direct payments to the other party, but the Probation Division has no record of those payments, and would be treating the matter as if it were in arrears.

Notwithstanding the above scenarios, the court may, based on a finding of good cause, order that payments be made directly between the parties. The current practice, which is permissible, calls for those explicit direct-pay orders to be entered onto NJKiDS as direct-pay cases to comply with the State Case Registry reporting requirements. However, if the Supreme Court adopts the clarifying rule recommendation, the number of direct-pay cases would be reduced because those orders silent as to payment arrangements would be processed uniformly as paid through the SDU, rather than direct-pay between the parties.

This rule recommendation is not intended to affect alimony-only cases because those cases are not eligible for services under Title IV-D. The rule recommendation applies to those matters involving child support or spousal support in conjunction with child support on the same order.

Because the rule recommendations relating to child support enforcement impact New Jersey's child support program operations, the Department of Human Services, Division of Family Development, Office of Child Support Services (OCSS) has reviewed and endorsed this rule recommendation. In New Jersey, the OCSS is the Executive Branch unit that administers the State's child support program pursuant to 42 U.S.C.A. § 654(3).

## **Rule 5:7-4. Orders Establishing Alimony and Child Support Obligations**

### Rule 5:7-4. Orders Establishing Alimony and Child Support Obligations [Payments]

(a) Allocation of Support. . . . no change.

(b) Cases Supervised [Payments Administered] by the Probation Division. Enforcement of child support orders shall presumptively be in the county in which the child support order is first established (county of venue), unless the court orders the case transferred for cause. In cases where venue of a support case is transferred, Probation supervision of the case shall concurrently be transferred to the county of venue, unless the court otherwise orders for cause. The responsibility for the administration and enforcement of the judgment or order, including the transfer of responsibility, shall be governed by the policies established by the Administrative Director of the Courts. 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. In non-dissolution support proceedings, the court shall record its decision using the Uniform Order for Summary Support promulgated by the Administrative Director of the Courts. On the signing of any order that includes alimony, maintenance, child support, or medical support provisions to be administered by the Probation Division, the court shall, immediately after the hearing, send to the appropriate judicial staff one copy of the order which shall include a Confidential Litigant Information Sheet in the form prescribed by the Administrative Director of the Courts prepared by the parties or their attorneys providing the names, dates of birth, Social Security Numbers, and mailing addresses of the parents and the children; the occupation and driver's license number of the parent who is ordered to pay support; the policy number and name of the health insurance provider of the parent who is ordered to insure the children; and, if income withholding is ordered, the name and address of the obligor's employer. When a party or attorney must prepare

a formal written judgment or order pursuant to a judicial decision that includes alimony, maintenance or child support or medical support provisions to be administered by the Probation Division, the court shall, on the date of the hearing, record the support and health insurance provisions on a Temporary Support Order using the form prescribed by the Administrative Director of the Courts and shall immediately have such order and a Confidential Litigant Information Sheet in the form prescribed by the Administrative Director of the Courts (if it has not yet been provided by the parties or counsel) delivered to the appropriate judicial staff so that a support account can be established on the New Jersey automated child support system. A probation account shall be established on the automated child support system within eight business days of the date the court order was signed. Demographic information provided on the Confidential Litigant Information Sheet shall be required to establish a probation account and send case initiation documents to the parties and the obligor's employer. The Temporary Support Order shall remain in effect until a copy of the final judgment or order is received by the Probation Division. Judgments or orders amending the amounts to be paid through the Probation Division shall be treated in the same manner.

(c) Establishment of Support Arrears at the Hearing. . . . no change.

(d) Payments to the New Jersey Family Support Payment Center. All orders which include payment of child support, or spousal support in conjunction with child support on the same order, shall be entered onto the statewide automated child support enforcement system, and presumptively deemed [A judgment or order for payment of any support administered by the Probation Division shall be deemed to provide that payments are] payable to the New Jersey Family Support Payment Center, and supervised by the Probation Division, unless the court orders otherwise, for good cause shown.

(e) Income Withholding. All complaints, notices, pleadings, orders and judgments which include child support filed or entered on or after October 1, 1990 shall comply with the income withholding provisions of [Rule 5:7-5] R. 5:7-4A.

[(f) All Notices Applicable to All Orders and Judgments That Include Child Support Provisions. The judgment or order shall include notices stating: (1) that, if support is not paid through immediate income withholding, the child support provisions of an order or judgment are subject to income withholding when a child support arrearage has accrued in an amount equal to or in excess of the amount of support payable for 14 days; the withholding is effective against the obligor's current and future income from all sources authorized by law; (2) that any payment or installment of an order for child support or those portions of an order that are allocated for child support shall be fully enforceable and entitled to full faith and credit and shall be a judgment by operation of law against the obligor on or after the date it is due; before entry of a warrant of 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; (3) that 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; (4) that 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: (i) a child support arrearage accumulates that is equal to or exceeds the amount of child support payable for six months, or (ii) the obligor fails to provide health care coverage for the child as ordered by the court within six months, or (iii) 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; (5) that the driver's license held or applied for by the obligor may be denied, suspended, or revoked if (i) a child support arrearage accumulates that is equal to or exceeds the amount of child support payable for six months, or (ii) the obligor fails to provide health care coverage for the child as ordered by the court within six months; (6) that 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; (7) that 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 and adjusted by the court, as appropriate, or upon application to the court; (8) that the parties are required to notify the appropriate Probation Division of any change of employer, address, or health care coverage provider within 10 days of the change and that failure to provide such information shall be considered a violation of the order; (9) that, 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; (10) that Social Security numbers are collected and used in accordance with section 205 of the Social Security Act (42 U.S.C. 405), that disclosure of an individual's Social Security number for Title IV-D purposes is mandatory, that Social Security numbers are used to obtain income, employment, and benefit information on individuals through computer matching

programs with federal and state agencies, and that 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.); and (11) that after a judgment or order is entered and a probation support account has been established, the obligee and the obligor shall notify the appropriate Probation Division of any change of employer, health insurance provider, or address and the obligee and obligor shall notify the Probation Division of a change of address or a change in the status of the children as may be required in the order or judgment within ten days of the change, and any judgment or order that includes alimony, maintenance, or child support shall so provide. Failure to provide information as to change of employer, health insurance provider, address, or status of the children shall be considered a violation of the order.]

[(g)] (f) Electronic Signatures on Child Support Orders. . . . no change.

Note: Source - R. (1969) 4:79-9(a). Adopted December 20, 1983, to be effective December 31, 1983; amended November 2, 1987 to be effective January 1, 1988; amended January 5, 1988 to be effective February 1, 1988; amended June 29, 1990 to be effective September 4, 1990; caption and text amended October 5, 1993 to be effective October 13, 1993; caption amended, text amended and redesignated as paragraphs (a), (b), and (d), captions of paragraph (a) through (e) and text of paragraphs (c) and (e) adopted July 13, 1994 to be effective September 1, 1994; paragraph (d) amended March 15, 1996 to be effective immediately; paragraph (b) amended June 28, 1996 to be effective immediately; caption of paragraph (d) and text of paragraphs (d) and (e) amended May 25, 1999 to be effective July 1, 1999; paragraph (b) amended July 5, 2000 to be effective September 5, 2000; paragraph (b) amended July 12, 2002 to be effective September 3, 2002; paragraph (b) caption and text amended, new paragraph (c) adopted, former paragraph (c) redesignated as paragraph (d), former paragraph (d) amended (including incorporation of some text of former paragraph (e)) and redesignated as paragraph (e), and former paragraph (e) deleted July 28, 2004 to be effective September 1, 2004; new paragraph (c) adopted, and former paragraphs (c), (d), and (e) redesignated as paragraphs (d), (e), and (f) July 27, 2006 to be effective September 1, 2006; paragraph (f) amended June 15, 2007 to be effective September 1, 2007; paragraph (b) amended and new paragraph (g) adopted July 21, 2011 to be effective September 1, 2011; caption amended, paragraph (b) caption amended, paragraphs (d) and (e) amended, paragraph (f) deleted, and former paragraph (g) redesignated as paragraph (f)  
to be effective.



**J. Proposed Amendments to R. 5:7-5 - Failure to Pay; Enforcement by the Court or Party; Suspension and Revocation of Licenses for Failure to Support Dependents; Execution of Assets for Child Support; Child Support Judgments and Post-Judgment Interest**

**Proposed amendment to R. 5:7-5 - Reorganize court rules relating to child support - Procedure to enforce alimony and child support obligations**

During the federal Quadrennial Review of the child support guidelines that concluded in the 2011-2013 rules cycle, the Committee identified a need to review and restructure R. 5:7-4 and R. 5:7-5, the court rules addressing child support. Restructuring would eliminate redundancies and inconsistencies, and clarify the Probation Division's responsibilities in child support matters.

The Committee focused its redrafting on ease of use, elimination of redundancy, and creating a logical order of the rules. The Committee recommends a number of changes to the format and content of those rules, and a proposed new R. 5:7-4A. Rule 5:7-4 focuses on the establishment of alimony and child support obligations. Rule 5:7-5 focuses on the enforcement of alimony and child support obligations. The Committee proposes amending the captions of R. 5:7-4 and R. 5:7-5 to reflect this organizational strategy.

Rule 5:7-5(a), entitled "Application for Relief in Aid of Litigant's Rights," sets forth the procedure the Probation Division follows to enforce child support. The Committee recommends adding to that rule a reference to R. 5:3-7, which provides for available remedies for failing to pay child support, including (1) fixing the amount of arrearages and entering a judgment upon which interest accrues; (2) requiring payment of arrearages on a periodic basis; (3) suspension of an occupational license or driver's license consistent with law; (4) economic sanctions; (5) participation by the party in violation of the order in an approved community service program;

(6) incarceration, with or without work release; (7) issuance of a warrant to be executed upon the further violation of the judgment or order; and (8) any other appropriate equitable remedy.

The Committee found that the lengthy provisions of R. 5:7-5(e) regarding suspension and revocation of occupational, recreational, and drivers' licenses are nearly identical to the authorizing statutory language set forth in N.J.S.A. 2A:17-56.41 to 2A:17-56.52. The Committee recommends eliminating much of the current text, replacing it with a brief outline of the statutory standard for suspension or revocation of licenses, and incorporating a reference to the statute for further detail in a redesignated paragraph (b). As most license suspensions for failure to pay child support are not based on notice and hearing (as described at length in the current rule), but by operation of law when a child support bench warrant is issued, the Committee recommends adopting new paragraph (b) in R. 5:7-5 with notice of the statutory consequences when a bench warrant is issued. Although the statute provides for the suspension of all occupational licenses issued by the State, the Committee recognizes the distinction between those licenses issued by a State agency and the occupational license of attorneys governed by the New Jersey Supreme Court. Therefore, to address this difference, the Committee recommends a separate subparagraph in proposed new R. 5:7-5(b) regarding the suspension of attorney licenses.

The Committee recommends moving R. 5:7-5(b) and (c), the paragraphs relating to income withholding, to proposed new R. 5:7-4A(a), (b) and (c). The Committee recommends moving R. 5:7-5(d), the paragraph relating to notices, to proposed new R. 5:7-4A(d).

**Rule 5:7-5. Failure to Pay; Enforcement by the Court or Party; Suspension and Revocation of Licenses for Failure to Support Dependents; Execution of Assets for Child Support; Child Support Judgments and Post-Judgment Interest**

Rule 5:7-5. Failure to Pay; Enforcement by the Court or Party; [Income Withholding for Child Support;] Suspension and Revocation of Licenses for Failure to Support Dependents; Execution of Assets for Child Support; Child Support Judgments and Post-Judgment Interest

(a) Application for Relief in Aid of Litigant's Rights. If a person fails to make payments or provide health insurance coverage as directed by an order or judgment, the Probation Division responsible for monitoring and enforcing compliance shall notify such person by mail that such failure may result in the institution of Relief to Litigant proceedings in accordance with R. 1:10-3. Upon the accumulation of a 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 Division shall file a verified statement setting forth the facts establishing disobedience of the order or judgment. The Probation Division may then, on the litigant's behalf, apply to the court for relief in accordance with R. 1:10-3 and R. 5:3-7. Actions for relief under this rule shall be brought in the county in which the support case is being enforced, unless another county is designated by court order. If the application for relief is made on behalf of a party by the Probation Division, filing fees shall be waived. If the application for relief is made by or on behalf of the obligee, other than by the Probation Division, and the applicant states under oath in the application that he or she is indigent and unable to pay the required filing fees, the court, if satisfied of the fact of indigency, may waive the payment of such fees. In the discretion of the court, filing fees subsequently may be assessed against the adverse party if it is determined that he or she has not complied with the order or judgment being enforced. For past-due alimony or child support payments that have not been docketed as a civil money judgment with the Clerk of the Superior Court, the court may, on its own motion or on motion by the party bringing the

enforcement action, assess costs against the adverse party at the rate prescribed by R. 4:42-11(a). For past-due child support payments that have been docketed as a civil money judgment, see paragraph [g] d of this Rule.

(b) Suspension and Revocation of Licenses for Failure to Support Dependents.

(1) Driver's License, Recreational Activity License, Professional License.

Pursuant to N.J.S.A. 2A:17-56.41, a child support obligor's driver's license shall be suspended by operation of law upon the issuance of a child support-related warrant. Pursuant to N.J.S.A. 2A:17-56.41 to 56.52, an obligor's licenses to drive, participate in recreational activities, or to practice licensed occupations may be denied, suspended, or revoked after notice and a hearing if:

(A) child support arrears equal or exceed the amount payable for six months; or

(B) court-ordered health care coverage for a child is not provided for six months;

or

(C) the obligor fails to respond to a subpoena relating to a paternity or child support action; or

(D) a warrant for the obligor's arrest has been issued by the court due to the:

(i) failure to pay child support as ordered,

(ii) failure to appear at a hearing to establish paternity or child support, or

(iii) failure to appear at a child support hearing to enforce a child support order.

(2) License to Practice Law. A license to practice law may be suspended under the same statutory standards as other occupational licenses. If the obligor is an attorney licensed to practice law in New Jersey, the order shall notify the Supreme Court to suspend the obligor's license to practice law.

[(b) Immediate Income Withholding. All orders that include child support shall be paid through immediate income withholding from the obligor's current and future income unless the parties agree, in writing, to an alternative arrangement or either party shows, and the court finds, good cause for an alternative arrangement. If included in the same order as child support, the court may, in its discretion, garnish a separate amount for alimony, maintenance or spousal support in accordance with N.J.S.A. 2A:17-50 et seq. and include such amount in the immediate income withholding order.

(1) Application. Immediate income withholding applies to all orders which include child support that are established or modified on or after October 1, 1990.

(2) Procedure. If an order or judgment contains a child support provision, the child support shall be paid through immediate income withholding, and the withholding may include amounts for alimony, maintenance or spousal support, unless the parties agree, in writing, to an alternative arrangement or either party shows and the court finds good cause for an alternative arrangement. The court shall forward the order to the Probation Division which shall prepare and send a Notice to Payor of Income Withholding to the obligor's employer or other source of income.

(3) Advance Notice. Every complaint, notice or pleading for the entry or modification of a child support order shall include the following written notice: In accordance with N.J.S.A. 2A:17-56.7 et seq., the child support provisions of a court order are subject to income withholding on the effective date of the order unless the parties agree, in writing, to an alternative arrangement or either party shows and the court finds good cause to establish an alternative arrangement. The income withholding is effective upon all types of income including wages from current and future employment.

(c) Rules Applicable to All Withholdings. The income withholding shall be binding on the obligor's employer or other source of income and successive payors of the obligor's income immediately after service of the Notice to Payor of Income Withholding upon the payor of such income. An employer or other source of income is not required to alter normal pay cycles to comply with the withholding but shall withhold and forward the required amount beginning with the first pay period that ends immediately after the notice is postmarked and each time the obligor is paid thereafter. The Notice to Payor of Income Withholding shall state that the payor of the obligor's income, except for the Division of Unemployment and Temporary Disability, may deduct a fee of \$1.00 for each payment. Such fee shall be deducted from the obligor's income in addition to the amount withheld for child support. The total amount of the withholding shall not exceed the maximum amount permitted under section 303(b) of the federal Consumer Credit Protection Act (15 U.S.C. 1673(b)). If the court modifies any support order based upon changed circumstances, the Probation Division shall notify the payor to change the income withholding accordingly. When the Probation Division is unable to locate the obligor's current employer or other source of income to effectuate an income withholding, it may use any other procedures authorized by law to obtain this information. An income withholding for child support shall have priority over all other legal processes under State law without regard to the date of entry. If the obligor has more than one support order subject to withholding, the employer or other source of income shall withhold the payments on a pro-rata basis. The income withholding shall remain in effect until such time as the court enters an order to the contrary and the Probation Division delivers a Notice of Termination of Income Withholding to the employer or other source of income. An employer may not use an income withholding as a basis for discharge, discipline or discrimination in hiring. An aggrieved obligor may institute court action

against the employer or other source of income as set forth in N.J.S.A. 2A:17-56.12. If the obligor's source of income fails to comply with a Notice to Payor of Income Withholding, it is liable for amounts that should have been withheld. The employer or other source of income shall notify the Probation Division promptly upon termination of the obligor's employment. If an employer or other source of income fails to comply with the terms of the income withholding or any withholding provision in this paragraph, the court may, upon application of the Probation Division, issue an Order to Show Cause for Contempt against the payor and proceed with contempt proceedings under Rule 1:10-3. The forms and notices required herein shall be prescribed by the Administrative Director of the Courts.

(d) All Notices Applicable to All Orders and Judgments That Include Child Support Provisions. The judgment or order shall include notices stating: (1) that, if support is not paid through immediate income withholding, the child support provisions of an order or judgment are subject to income withholding when a child support arrearage has accrued in an amount equal to or in excess of the amount of support payable for 14 days; the withholding is effective against the obligor's current and future income from all sources authorized by law; (2) that any payment or installment of an order for child support or those portions of an order that are allocated for child support shall be fully enforceable and entitled to full faith and credit and shall be a judgment by operation of law against the obligor on or after the date it is due; before entry of a warrant of 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; (3) that 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; (4) that 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: (i) a child support arrearage accumulates that is equal to or exceeds the amount of child support payable for six months, or (ii) the obligor fails to provide health care coverage for the child as ordered by the court within six months, or (iii) 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; (5) that the driver's license held or applied for by the obligor may be denied, suspended, or revoked if (i) a child support arrearage accumulates that is equal to or exceeds the amount of child support payable for six months, or (ii) the obligor fails to provide health care coverage for the child as ordered by the court within six months; (6) that 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; (7) that 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 and adjusted by the court, as appropriate, or upon application to the court; (8) that the parties are required to notify the appropriate Probation Division of any change of employer, address, or health care coverage provider within 10 days of the change and that failure to provide such information shall be considered a violation of the order; (9) that, 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; (10) that Social Security numbers are collected and used in accordance with section 205 of the Social Security Act (42 U.S.C. 405), that disclosure of an individual's Social Security number for Title IV-D purposes is mandatory, that Social Security numbers are used to obtain income, employment, and benefit information on individuals through computer matching programs with federal and state agencies, and that 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.); and (11) that after a judgment or order is entered and a probation support account has been established, the obligee and the obligor shall notify the appropriate Probation Division of any change of employer, health insurance provider, or address and the obligee and obligor shall notify the Probation Division of a change of address or a change in the status of the children as may be required in the order or judgment within ten days of the change, and any judgment or order that includes alimony, maintenance, or child support shall so provide. Failure to provide information as to change of employer, health insurance provider, address, or status of the children shall be considered a violation of the order.

(e) Suspension and Revocation of Licenses for Failure to Support Dependents.

(1) General Provisions. If a child support arrearage equals or exceeds the amount of child support payable for six months, or court-ordered health care coverage for a child is not provided within six months of the date that it is ordered, or the obligor fails to respond to a subpoena relating to a paternity or child support action, or a warrant for the obligor's arrest has been issued by the court due to the failure to pay child support as ordered, failure to appear at a hearing to establish paternity or child support, or failure to appear at a child support hearing to enforce a

child support order, and said warrant remains outstanding, and the obligor is found to possess a license in the State of New Jersey, including a license to practice law, and attempts to enforce the support provisions through income withholding, withholding of civil lawsuit awards, and the execution of assets, when available, have been exhausted, the Probation Division shall send a written notice to the obligor, by certified and regular mail, return receipt requested, at the obligor's last-known address or place of business or employment, stating that the obligor's licenses may be revoked or suspended unless, within 30 days of the postmark date of the notice, the obligor pays the full amount of past-due child support, or provides proof that health care coverage for the child has been obtained, or responds to a subpoena, or makes a written request for a court hearing to the Probation Division. If a child support-related warrant exists, the license revocation or suspension will be terminated if the obligor pays the full amount of the child support arrearage, provides proof that health care coverage for the child has been obtained, or surrenders to the county sheriff or the Probation Division. No license revocation action shall be initiated if the Probation Division has received notice that the obligor has pending a motion to modify the child support order if that motion was filed prior to the date that the notice of the license suspension or revocation was sent by the Probation Division. 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, the Probation Division shall immediately notify the Motor Vehicle Commission of the warrant and the requirement to suspend the obligor's driving privileges pursuant to N.J.S.A. 2A:17-56.41.

(2) Suspension by Default of the Obligor. If, after receiving notice of a proposed license suspension or revocation, the obligor fails to take one of the actions specified in paragraph (e)(1)

of this Rule, the Probation Division shall provide the court with a certification setting forth the obligor's non-compliance and failure to respond to the written notice of the pending license revocation or suspension as well as proof of service of the written notice of license suspension or denial. If, based on the papers filed by the Probation Division, the court is satisfied that service on the obligor was effective as set forth below, it shall, without need for further due process or hearing, enter an order suspending or revoking all licenses held by the obligor except that if the obligor is an attorney licensed to practice law in New Jersey, the order shall notify the Supreme Court to suspend the obligor's license to practice law.

(3) Service of the Notice of Proposed License Suspension or Revocation. For the purpose of license suspensions or revocations initiated in accordance with this paragraph, simultaneous certified and regular mailing of the written notice shall constitute effective service. The court may deem procedural due process requirements for notice and service of process to be met with respect to a party thereto upon delivery of written notice to the most recent residential or employer address filed with the Probation Division for that party. If a party fails to respond to a notice and no proof is available that the party received the notice, the Probation Division shall document to the court that it has made a diligent effort to locate the party by making inquiries that may include, but are not limited to: the United States Postal Service, the Motor Vehicle Commission, the Division of Taxation in the Department of the Treasury, the Department of Corrections, and the Department of Labor. The Probation Division shall provide an affidavit to the court presenting such documentation of its diligent effort, which certifies its inability to locate the party. If the United States Postal Service returns the mail to the Probation Division within the 30-day response period marked "moved, unable to forward," "addressee not known," "no such number/street," "insufficient address," or "forwarding order expired," the court may

deem procedural due process requirements for notice and service of process to be met upon a finding that the Probation Division has provided the affidavit documenting the diligent effort to locate the party. If the certified mail is returned for any other reason without the return of the regular mail, the regular mail service shall constitute effective service. If the mail is addressed to the obligor at the obligor's place of business or employment, with postal instructions to deliver to the addressee only, service will be deemed effective only if the signature on the return receipt appears to be that of the obligor. Acceptance of certified mail notice signed by the obligor, the obligor's attorney, or a competent member of the obligor's household above the age of 14 shall be deemed effective service.

(4) License Suspension or Revocation Hearings. If the obligor requests a hearing, the Probation Division shall file a petition for a court hearing, which shall occur within 45 days of the obligor's request. If, at or prior to the hearing, the obligor pays the full amount of the child support arrearage or provides proof that health care coverage for the child has been obtained or responds to the subpoena or surrenders to the county sheriff or the Probation Division, the license revocation process shall be terminated. The court shall suspend or revoke the obligor's licenses (if the obligor is an attorney licensed to practice law in New Jersey, the order shall notify the Supreme Court to suspend the obligor's license to practice law) if it finds that: (a) all appropriate enforcement methods have been exhausted, (b) the obligor is the holder of a license, (c) the requisite child support arrearage amount exists or health care coverage for the child has not been provided as ordered, (d) no motion to modify the child support order, filed prior to the date that the notice of the license suspension or revocation was sent by the Probation Division, is pending before the court, and (e) there is no equitable reason, such as involuntary unemployment, disability, or compliance with a court-ordered plan for the periodic payment of

the child support arrearage amount, for the obligor's non-compliance with the child support order. If the court is satisfied that these conditions exist, it shall first consider suspending or revoking the obligor's driver's license prior to a professional or occupational license. If the obligor fails to appear at the hearing after being properly served with notice, the court shall order the suspension or revocation of all licenses held by the obligor except that if the obligor is an attorney licensed to practice law in New Jersey, the order shall notify the Supreme Court to suspend the obligor's license to practice law. In the case of a driver's license, if the court finds that the license revocation or suspension will result in a significant hardship to the obligor, to the obligor's legal dependents under 18 years of age living in the obligor's household, to the obligor's employees, or to persons, businesses, or entities to whom the obligor provides goods or services, the court may allow the obligor to pay 25% of the past-due child support amount within three working days of the hearing, establish a payment schedule to satisfy the remainder of the arrearages within one year, and require that the obligor comply with any current child support obligation. If the obligor agrees to this arrangement, no suspension or revocation of any licenses shall be ordered. Compliance with the payment agreement shall be monitored by the Probation Division. If the obligor has good cause for not complying with the payment agreement within the time permitted, the obligor shall immediately file a motion with the court and the Probation Division requesting an extension of the payment plan. The court may extend the payment plan if it is satisfied that the obligor has made a good faith effort to comply with the plan and is unable to satisfy the full amount of past-due support within the time permitted due to circumstances beyond the obligor's control. In no case shall a payment plan extend beyond the date that the dependent child reaches the age of 18. If the obligor fails to comply with the court-ordered payment schedule, the court shall, upon receipt of a certification of non-compliance from the

Probation Division, and without further hearing, order the immediate revocation or suspension of all licenses held by the obligor. If the obligor is an attorney licensed to practice law in New Jersey, the order shall notify the Supreme Court to suspend the obligor's license to practice law. If required by existing law or regulation, the court shall order that the obligor surrender the license to the issuing authority within 30 days of the date of the order.

(5) Transmittal of Order Suspending or Revoking License. If the court issues an order suspending or revoking a license pursuant to paragraph (e) of this Rule, the Probation Division shall forward a copy of the order to the obligor and all appropriate licensing authorities. If the order notifies the Supreme Court to suspend a license to practice law in New Jersey, the Probation Division shall forward the order to the Clerk of the Supreme Court and a copy to the Director of the Office of Attorney Ethics. The suspension of a license to practice law in the State of New Jersey pursuant to paragraph (e) of this Rule, shall be governed by R. 1:20-11A.

(6) Relief From Suspension or Revocation Due to Mistaken Identity. If the licensee, upon receipt of the notice of suspension or revocation from the licensing authority, disputes that he or she is the obligor, the licensee shall notify the licensing authority and the Probation Division by registered mail within 20 days of the postmark date of the notice and request a hearing. Upon receipt of the licensee's request for a hearing, the Probation Division shall determine if the licensee is the obligor. If the Probation Division determines that the licensee is not the obligor, the Probation Division shall so notify the licensee and the licensing authority. If the Probation Division determines that the licensee is the obligor and the licensee still disputes this finding, the Probation Division shall file a petition for a court hearing to resolve the issue. The hearing shall be held within 30 days of the date that the Probation Division determines that a hearing is

required. If a hearing is held to determine if the licensee is the obligor, the Probation Division shall notify the licensing authority of the court's finding.

(7) Term of Suspension/Restoration of License. A license suspension or revocation ordered by the court remains in effect until the obligor files with the licensing authority either a court order restoring the license or a Probation Division certification attesting to the full satisfaction of the child support arrearage. Within three working days of the full payment of the child support arrearage, the Probation Division shall provide the court with a certification stating that the obligor has satisfied the past-due child support amount. Upon receipt of the certification, the court shall issue an order restoring the obligor's licenses. The Probation Division shall immediately forward the restoration order or certification to the obligor. The obligor is responsible for filing the court order or Probation certification with the licensing authority. If a license to practice law in New Jersey was suspended by the Supreme Court pursuant to R. 1:20-11A, the attorney shall forward the Chancery Division, Family Part order that recommends the restoration of the license to the Clerk of the Supreme Court and a copy of the order to the Director of the Office of Attorney Ethics. The reinstatement of a license to practice law in New Jersey shall be governed by R. 1:20-11A. When the court issues an order to vacate a child support-related warrant or local law enforcement authorities execute the warrant, the Probation Division shall send a certification or the court's order to the obligor and to the Motor Vehicle Commission indicating that the child support-related warrant is no longer effective. The Motor Vehicle Commission, upon receipt of the order or certification, may reinstate the obligor's driving privileges, provided that the obligor pays the Division's restoration fee.]

[(f)] (c) Execution on Assets to Collect Alimony and Child Support. . . . no change.

[(g)] (d) Child Support Judgments and Post-judgment Interest. . . . no change.

Note: Source - R. (1969) 4:79-9(b)(1), (2) (3). Adopted December 20, 1983 to be effective December 31, 1983; paragraph (b) amended November 7, 1988 to be effective January 2, 1989; paragraph (a) amended July 14, 1992 to be effective September 1, 1992; paragraph (a) amended July 13, 1994, to be effective August 1, 1994; paragraphs (b), (c) and (d) amended July 13, 1994 to be effective September 1, 1994; caption amended, paragraph (e) adopted March 15, 1996, to be effective immediately; caption amended, paragraphs (a) and (d) amended, and paragraphs (f) and (g) adopted June 28, 1996, to be effective immediately; paragraphs (b), (c), and (e) amended May 25, 1999 to be effective July 1, 1999; paragraph (a) caption and text, and paragraphs (e)(1), (e)(3), and (e)(7) amended June 15, 2007 to be effective September 1, 2007; paragraph (f) amended July 19, 2012 to be effective September 4, 2012; caption amended, paragraph (a) amended, former paragraphs (b), (c), (d) and (e) deleted, new paragraph (b) adopted, former paragraph (f) redesignated as paragraph (c), and former paragraph (g) redesignated as paragraph (d) \_\_\_\_\_ to be effective \_\_\_\_\_.



**K. Proposed Amendments to R. 5:12-4 - Case Management Conference, Hearings, Trial, and Termination of Parental Rights Proceedings**

**Reference to N.J.S.A. 30:4C-61.2, which sets forth the right of children to receive notice of and to attend their permanency hearings**

For the same reasons set forth in the recommendation to amend R. 5:3-2, *supra*, the Committee recommends amending R. 5:12-4(b), which relates to the privacy of hearings involving children. Rule 5:12-4 currently states in part:

(b) Hearings in Private; Testimony of Child. Hearings and trials shall be conducted in private. In the child's best interests, the court may order that a child not be present at a hearing or trial unless the child's testimony is necessary for the determination of the matter. The testimony of a child may, in the court's discretion, be taken privately in chambers or under such protective orders as the court may provide.

This court rule does not reference the statutory right of children to receive notice of, and their right to attend, their permanency hearings in the context of child welfare cases.

Permanency hearings are critical hearings on the "welfare or status of a child," where decisions are made regarding the best, most permanent plan for a child that will ensure that child's right to safety and well-being.

Therefore, the Committee recommends amending R. 5:12-4(b) to ensure that the court rules comport with N.J.S.A. 30:4C-61.2, which gives children the right to receive notice of and the right to attend their permanency hearings. These amendments will reference the statute and will help to protect the important right children have to participate in this critical phase of their proceedings.

## **Rule 5:12-4. Case Management Conference, Hearings, Trial, and Termination of Parental Rights Proceedings**

### Rule 5:12-4. Case Management Conference, Hearings, Trial, and Termination of Parental Rights Proceedings

(a) Prompt Disposition; Case Management Conference; Adjournments. . . . no change.

(b) Hearings in Private; Testimony of Child. Hearings and trials shall be conducted in private. In the child's best interests, the court may order that a child not be present at a hearing or trial unless the child's testimony is necessary for the determination of the matter. As to permanency hearings, however, the court shall accommodate the rights of the child as provided by N.J.S.A. 30:4C-61.2. The testimony of a child may, in the court's discretion, be taken privately in chambers or under such protective orders as the court may provide. A verbatim record shall be made of any in-chambers testimony or interview of a child.

(c) Examinations and Investigations. . . . no change.

(d) Reports. . . . no change.

(e) Written Plan. . . . no change.

(f) Progress Reports. . . . no change.

(g) Foreign State Placement. . . . no change.

(h) Permanency Hearing. . . . no change.

(i) Notice of Proceedings to Care Giver. . . . no change.

(j) Termination of Parental Rights Proceedings; Exhibits. . . . no change.

Note: Source-R. (1969) 5:7A-4. Adopted December 20, 1983, to be effective December 31, 1983; paragraphs (e) and (f) adopted November 5, 1986 to be effective January 1, 1987; paragraphs (a) and (b) amended July 13, 1994 to be effective September 1, 1994; paragraphs (a) and (b) amended June 28, 1996 to be effective September 1, 1996; paragraph (g) adopted July 10, 1998 to be effective September 1, 1998; new paragraphs (h) and (i) adopted July 5, 2000 to be effective September 5, 2000; paragraph (a) amended July 28, 2004 to be effective September 1, 2004; note that Appendix X-A previously referenced in paragraph (a) also deleted July 28, 2004 to be effective September 1, 2004; paragraph (d) amended, and captions added to paragraphs (e), (f), and (g) June 15, 2007 to be effective September 1, 2007; paragraph (g)

amended July 16, 2009 to be effective September 1, 2009; caption amended, new paragraph (j) adopted June 26, 2012 to be effective September 4, 2012; effective date of June 26, 2012 amendments changed to November 5, 2012 by order of August 20, 2012; paragraphs (d), (e), (f) and (j) amended July 9, 2013 to be effective September 1, 2013; paragraph (b) amended  
to be effective.

***L. Proposed Amendment to Appendix V - Family Part Case Information Statement***

**Clarifying text for W-2 wage income**

The Committee recommends amending the Family Part Case Information Statement (Rules Appendix V), the section entitled "Part C-Income Information," to direct litigants and attorneys to use the "Medicare wages" set forth on the Internal Revenue Service W-2 form as the proper income to report for a W-2 wage earner. This ensures that parties will enter the appropriate income on the case information statement. The text will read: "Part C - Income Information: Complete this section for self and (if known) for other party. If W-2 wage earner, gross earned income refers to Medicare wages." See Attachment A.

**M. Proposed Technical Amendment to Delete Reference to Actual Minimum Wage Amount in Rules Appendix IX-A**

**Reference to minimum wage**

Rules Appendix IX-A, section 12, entitled "Imputing Income to Parents," allows the court to impute income based on a finding that either parent is, without just cause, voluntarily underemployed or unemployed. Imputation may be premised on a number of factors including potential employment, earning capacity, a parent's most recent wage or benefit record, and the New Jersey minimum wage rate. Currently, Appendix IX-A defines the minimum wage rate by a dollar amount of \$7.25 per hour.

In November, 2013, New Jersey voters approved New Jersey Public Question 2 (2013), which increased the minimum wage rate to \$8.25 per hour. The Constitutional amendment also provides for an annual cost of living adjustment (COLA) to the minimum wage rate every September (to become effective the following January 1) based on the consumer price index<sup>2</sup>. This change in law would require the Court to amend the Child Support Guidelines (Appendix IX-A, section 12) every January to reflect the COLA. To avoid the necessity of an annual technical rule amendment, the Committee recommends a proposal to modify the text in Rules Appendix IX-A, section 12(c), to eliminate the reference to a dollar amount and to read:

Imputing Income to Parents - The fairness of a child support award resulting from the application of these guidelines is dependent on the accurate determination of a parent's net income. If the court finds that either parent is, without just cause, voluntarily underemployed or unemployed, it shall impute income to that parent according to the following priorities: if a NJDOL wage or benefit record is not available, impute income based on the full-time employment (40 hours) at the prevailing New Jersey minimum wage [\$ 7.25 per hour].

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<sup>2</sup> Effective January 1, 2015, the New Jersey minimum wage rate is \$8.38.

**N. Proposed Amendment to Rules Appendix IX-A - Considerations in Use of Child Support Guidelines, Section 10(b), Multiple Family Obligations**

**Calculating child support for an obligor with multiple families - *Harte v. Hand*, 433 N.J. Super. 457 (App. Div. 2013)<sup>3</sup>**

The Committee continues to review the issues involving multiple family obligors. The recent Appellate Division decision in *Harte v. Hand*, 433 N.J. Super. 457 (App. Div. 2013), recognized the current inequitable practice of calculating support for multiple family obligors. This involves reducing countable income for parents who have support orders for other dependents while providing a less than 100% deduction for other dependents who do not have court ordered support. "To achieve parity among the children of [a multiple family obligor,] the use of the 'prior order' adjustment under the child support guidelines must be modified." *Id.* at 463. The *Harte* decision details a method of calculating support when an obligor has multiple child support orders. The *Harte* method makes an adjustment that is analogous to the current other dependent deduction, which requires three child support worksheets to be prepared, one deducting income for the court ordered support, one without the income deduction for the support ordered to the other dependent, and a third worksheet that averages the awards from the prior two worksheets.

The Committee recommends changes to the Child Support Guidelines to implement the calculation method articulated in *Harte*. The Committee recommends amending Rules Appendix IX-A, section 10, which sets forth considerations for other dependent deductions and multiple

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<sup>3</sup> The Committee recognizes that a subsequent the trial court opinion was approved for publication on December 22, 2014, to address the appellate court's remand. See *Harte v. Hand*, 2014 N.J. Super. LEXIS 170 (Ch. Div. 2014). The Committee will consider this decision in the next rules cycle.

family obligors. The recommendation incorporates a three worksheet system of calculating the appropriate adjustment. The recommendation also includes revisions to Rules Appendix IX-B (line instructions for Lines 2b, c and d, Line 3, Line 21, 22, 23 and 24 of the Sole-Parenting Worksheet, and line instructions for Lines 2b, c and d, Line 3, Line 30, 31 and 32 of the Shared-Parenting Worksheet). The proposed amendments also include changes to the same lines in the two worksheets, which are found in Rules Appendix IX-C (Sole-Parenting Worksheet) and Rules Appendix IX-D (Shared-Parenting Worksheet). The method articulated in Harte eliminates the problem of treating children differently based on birth order and whether they have a court order for support.

Therefore, the Committee recommends amendments to Rules Appendix IX-A, IX-B, IX-C and IX-D as set forth in Attachments B, C, D and E respectively.<sup>4</sup>

**O. Proposed Amendment to Rules Appendix IX-H: Expansion of Income Limit and Withholding Allowances**

**Recommendation to expand Rules Appendix IX-H tax table to include gross income up to \$5,800 per week to accommodate the child support schedule in Appendix IX-F, which has a ceiling of \$3,600 net income**

The Committee believes that the tax withholding table set forth in Rules Appendix IX-H must be expanded to provide tax information for the gross income levels associated with all of the net income levels set forth in the Rules Appendix IX-F table.

The Rules Appendix IX-H tax table is usually updated by technical amendment to reflect the annual federal tax updates rather than by rule recommendation of the Committee. The

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<sup>4</sup> This rule recommendation does not address other issues involving multiple family obligor situations, such as determining an equitable maximum for all support obligations, applying income shares (consideration of the relative income of the parents) and the marginal cost of rearing multiple children in one home. As such, the Committee expects to continue considering whether further amendments are needed to address the establishment and modification of child support orders that involve multiple family obligors.

Committee recommends that the table be expanded to include gross income up to \$5,800 per week by technical amendment.



### III. Proposed New Rules

#### A. **Proposed New R. 5:7-4A - Income Withholding for Child Support; Notices**

##### **Procedure regarding income withholding and notices to parties**

During the federal Quadrennial Review of the child support guidelines that concluded in the 2011-2013 rules cycle, the Committee identified a need to review and restructure R. 5:7-4 and R. 5:7-5, the court rules addressing child support. Restructuring would eliminate redundancies and inconsistencies, and clarify the Probation Division's responsibilities in child support matters.

The Committee focused its redrafting on ease of use, elimination of redundancy, and creating a logical order of the rules. The Committee recommends a number of changes to the format and content of those rules, and a proposed new R. 5:7-4A. Rule 5:7-4 focuses on the establishment of alimony and child support obligations. Rule 5:7-5 focuses on the enforcement of alimony and child support obligations. The Committee also proposes amending the captions of R. 5:7-4 and R. 5:7-5 to reflect this organizational strategy.

Proposed new R. 5:7-4A addresses income withholding after child support is established and the notices required to be set forth in child support orders, which describe both payment of support and enforcement when support is not paid. The Committee recommends moving R. 5:7-5(b) and (c), the paragraphs relating to income withholding, to proposed new R. 5:7-4A(a), (b) and (c). The Committee also recommends moving R. 5:7-5(d), the paragraph relating to notices, to proposed new R. 5:7-4A(d).

## **[New] Rule 5:7-4A. Income Withholding for Child Support; Notices**

### [New] Rule 5:7-4A. Income Withholding for Child Support; Notices

(a) Immediate Income Withholding. All orders that include child support shall be paid through immediate income withholding from the obligor's current and future income, unless the parties agree in writing to an alternative arrangement, or either party shows and the court finds good cause for an alternative arrangement. If included in the same order as child support, the court may, in its discretion, garnish a separate amount for alimony, maintenance or spousal support, in accordance with N.J.S.A. 2A:17-50, et seq., and include such amount in the immediate income withholding order.

(1) Application. Immediate income withholding applies to all orders that include child support established or modified on or after October 1, 1990.

(2) Procedure. If an order or judgment contains a child support provision, the child support shall be paid through immediate income withholding and the withholding may include amounts for alimony, maintenance or spousal support, unless the parties agree, in writing, to an alternative arrangement or either party shows and the court finds good cause for an alternative arrangement. The court shall forward the order to the Probation Division which shall prepare and send a Notice to Payor of Income Withholding to the obligor's employer or other source of income.

(3) Advance Notice. Every complaint, notice or pleading for the entry or modification of a child support order shall include the following written notice: In accordance with N.J.S.A. 2A:17-56.7 et seq., the child support provisions of a court order are subject to income withholding on the effective date of the order unless the parties agree, in writing, to an alternative arrangement or either party shows and the court finds good cause to establish an

alternative arrangement. The income withholding is effective upon all types of income including wages from current and future employment.

(b) Initiated Income Withholding. When any child support order, which is not subject to immediate income withholding in accordance with paragraph (a), has an accumulated arrearage equal to or exceeding the amount of support payable for 14 days, the Probation Division supervising the support order shall initiate an income withholding against the obligor's current and future income that is subject to income withholding.

(1) Application. Initiated income withholding applies to all orders which include child support (a) entered prior to October 1, 1990, (b) entered or modified after October 1, 1990 that do not include a provision for immediate income withholding or (c) in which the parties have agreed, in writing, to an alternative arrangement and an arrearage equal to or in excess of the amount of support payable for 14 days exists. Initiated income withholding does not apply to alimony, maintenance or spousal support provisions.

(2) Procedure. When any child support order is in default in an amount equal to or in excess of the amount of support payable for 14 days, the Probation Division of the County responsible for monitoring and enforcing compliance with the order or judgment shall initiate an income withholding against any of the obligor's income, which is subject to income withholding. The Probation Division shall send, by regular mail, a Notice to Obligor of Income Withholding to the obligor's last known address. This notice shall be postmarked no later than 10 days after the date on which the case was identified as having the requisite 14-day arrearage and shall be mailed at the same time as the notice to the payor. The notice shall inform the obligor of the amounts withheld for current support and for the liquidation of arrearages and state that the withholding has commenced. An obligor may contest the withholding only on the basis of

mistake of fact. If an obligor objects to the withholding, the Probation Division shall schedule a hearing or administrative review within 20 days after receiving notice of the contest of the withholding. Payment of arrearages after the due date shall not constitute good cause to terminate the withholding. No later than five days after the hearing or administrative review, the Probation Division shall notify the obligor, in writing, whether the withholding shall continue.

(3) Advance Notice. All orders that include child support and that are not subject to immediate income withholding as described in paragraph (b) shall include a notice to the obligor stating that: The child support provisions of a support order are subject to income withholding when a child support arrearage has accrued in an amount equal to or in excess of the amount of support payable for 14 days. The withholding is effective against the obligor's current and future income from all sources authorized by law.

(c) Rules Applicable to All Withholdings. The income withholding shall be binding on the obligor's employer (or other source of income) and successive payors of the obligor's income, immediately after service of the Notice to Payor of Income Withholding upon the payor of such income. An employer (or other source of income) is not required to alter normal pay cycles to comply with the withholding, but shall withhold and forward the required amount beginning with the first pay period that ends immediately after the notice is postmarked and each time the obligor is paid thereafter. The Notice to Payor of Income Withholding shall state the payor of the obligor's income, except for the Division of Unemployment and Temporary Disability, may deduct a fee of \$1.00 for each payment. Such fee shall be deducted from the obligor's income in addition to the amount withheld for child support. The total amount of the withholding shall not exceed the maximum amount permitted under section 303(b) of the federal Consumer Credit Protection Act (15 U.S.C.A. § 1673(b)). If the court modifies any support order based upon

changed circumstances, the Probation Division shall notify the payor to change the income withholding accordingly. When the Probation Division is unable to locate the obligor's current employer or other source of income to effectuate an income withholding, it may use any other procedures authorized by law to obtain this information. An income withholding for child support shall have priority over all other legal processes under State law without regard to the date of entry. If the obligor has more than one support order subject to withholding, the employer or other source of income shall withhold the payments on a pro-rata basis. The income withholding shall remain in effect until such time as the court enters an order to the contrary and the Probation Division delivers a Notice of Termination of Income Withholding to the employer or other source of income. An employer may not use an income withholding as a basis for discharge, discipline or discrimination in hiring. An aggrieved obligor may institute court action against the employer or other source of income as set forth in N.J.S.A. 2A:17-56.12. If the obligor's source of income fails to comply with a Notice to Payor of Income Withholding, it is liable for amounts that should have been withheld. The employer or other source of income shall notify the Probation Division promptly upon termination of the obligor's employment. If an employer or other source of income fails to comply with the terms of the income withholding or any withholding provision in this paragraph, the court may, upon application of the Probation Division, issue an Order to Show Cause for Contempt against the payor and proceed with contempt proceedings under Rule 1:10-3. The forms and notices required herein shall be prescribed by the Administrative Director of the Courts.

(d) All Notices Applicable to All Orders and Judgments That Include Child Support Provisions. The judgment or order shall include notices stating: (1) if support is not paid through immediate income withholding, the child support provisions of an order or judgment are subject

to income withholding when a child support arrearage has accrued in an amount equal to or in excess of the amount of support payable for 14 days; the withholding is effective against the obligor's current and future income from all sources authorized by law; (2) any payment or installment of an order for child support or those portions of an order that are allocated for child support shall be fully enforceable and entitled to full faith and credit and shall be a judgment by operation of law against the obligor on or after the date it is due; before entry of a warrant of 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; (3) 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; (4) 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: (i) a child support arrearage accumulates that is equal to or exceeds the amount of child support payable for six months, or (ii) the obligor fails to provide health care coverage for the child as ordered by the court within six months, or (iii) 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; (5) the driver's license held or applied for by the obligor may be denied, suspended, or revoked if (i) a child support arrearage accumulates that is equal to or exceeds the amount of child support payable for six months, or (ii) the obligor fails to provide health care coverage for the child as ordered by the court within six months; (6) 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; (7) 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 and adjusted by the court, as appropriate, or upon application to the court; (8) the parties are required to notify the appropriate Probation Division of any change of employer, address, or health care coverage provider within 10 days of the change and that failure to provide such information shall be considered a violation of the order; (9) 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; (10) Social Security numbers are collected and used in accordance with section 205 of the Social Security Act (42 U.S.C.A. § 405), that disclosure of an individual's Social Security number for Title IV-D purposes is mandatory, that Social Security numbers are used to obtain income, employment, and benefit information on individuals through computer matching programs with federal and state agencies, and that such information is used to establish and enforce child support under Title IV-D of the Social Security Act (42 U.S.C.A. § 651, et seq.); and (11) after a judgment or order is entered and a probation support account has been established, the obligee and the obligor shall notify the appropriate Probation Division of any change of employer, health insurance provider, or address and the obligee and obligor shall notify the Probation Division of a change of address or a change in the status of the children as may be required in the order or judgment within ten

days of the change, and any judgment or order that includes alimony, maintenance, or child support shall so provide. Failure to provide information as to change of employer, health insurance provider, address, or status of the children shall be considered a violation of the order.

Note: Adopted \_\_\_\_\_ to be effective \_\_\_\_\_.



**B. Proposed New R. 5:7-11 - Application for Title IV-D Child Support Services; Probation Division Enforcement Monitoring-Only Services**

**1. Proposed New R. 5:7-11(a) - Title IV-D application for child support services**

The Committee discussed clarifying the Probation Division's duty to enforce child support orders involving parties who are not receiving public assistance. Those parties must complete a federally approved application for child support services pursuant to Title IV-D in order for the Probation Division to provide a full array of services to enforce the court order.

The State must make full child support services available to any individual who files a Title IV-D application. Services are available to anyone who is responsible for a child, regardless of income. These services include:

- Identifying a putative father;
- Locating parents, putative fathers, and other adults responsible for the support of a child;
- Establishing paternity;
- Establishing financial and medical child support obligations;
- Reviewing and modifying established court orders;
- Monitoring and enforcing child support, spousal support and medical support obligations;
- Establishing and enforcing obligations to provide for health care coverage;
- Collecting and distributing child support, spousal support and medical support payments.

Families who receive TANF benefits, or certain foster care or Medicaid services, automatically receive Title IV-D services and need not file a Title IV-D application or pay an application fee. Families not receiving public assistance benefits that are eligible for Title IV-D services may apply for those services by completing an application and paying an application fee at a local child support agency. The applicant for Title IV-D services in New Jersey pays a \$6.00 one-time fee for full services for the life of the case.

Individuals may, but are not required to, file an application to receive Title IV-D services. State child support enforcement agencies may, under State law, assist individuals with non-IV-D cases, but those cases are not eligible for complete Title IV-D enforcement services and the State

does not receive federal funds for the provision of those services. In New Jersey, the Probation Divisions may monitor court-ordered child support without a completed Title IV-D application, and receive no federal reimbursement. Clients may be assessed an annual \$25.00 fee, authorized by N.J.S.A. 2A:17-56.14, and the Probation Division, without federal reimbursement, may provide limited monitoring services. Those limited services can include the scheduling of enforcement hearings, license suspension or issuance of bench warrants. The cost to the individual who receives the limited monitoring services (\$25.00 annual fee) is far greater than the cost for the full range of Title IV-D services (\$6.00 one-time fee).

Proposed R. 5:7-11(a) requires any party seeking enforcement of a child support order through the Probation Division to complete a Title IV-D application, and pay the one-time application fee. The rule would exclude public assistance cases referred under Title IV-A, and certain Title XIX (Medicaid) and Title IV-B/IV-E (foster care) referrals, because those cases receive Title IV-D services automatically pursuant to the federal laws governing those matters.

Benefits of filing of a Title IV-D application in every child support case and payment of support through the SDU include a vast array of expedited enforcement services that improve the likelihood of families receiving court-ordered support payments. Those services include, but are not limited to:

- Locating parents who have a duty to provide child support, utilizing Federal Parent Locate Service (FPLS) and State Parent Locate Service (SPLS)
- Establishing parentage
- Establishing and enforcing child support orders
- Adjusting support orders based on the cost-of-living index
- Working with other states and countries to enforce child support orders
- Federal and State Income Tax Refund Offset
- Administrative Passport Denial
- Professional/Occupational License Suspension
- New Hire Reporting (employment match)
- Financial Institution Data Match (to place a lien on acct. balances)
- Child Support Lien Network (to place a lien on insurance claims)

- Income Withholding
- Credit Bureau Reporting
- Administrative Liens on Real or Personal Property
- Seizure of Assets
- State Lottery Intercept
- Unemployment Insurance Withholding
- Workers Compensation Commission (WCC) Intercept
- Social Security Disability (SSD) Attachment
- Federal and State Criminal Willful Non-Support

When support was paid through the SDU, but was not eligible for Title IV-D services (i.e., no Title IV-D application was filed), the Probation Divisions may have provided enforcement services limited to the convening of enforcement hearings, commencement of license suspension proceedings and the processing of bench warrants. The provision of limited enforcement services on such cases creates a situation where litigants would not be inclined to apply for more comprehensive Title IV-D services, resulting in a reduction of New Jersey's eligibility for federal funding. Litigants also may mistakenly assume they are receiving full Title IV-D enforcement services. If arrears accumulate on those cases, the Probation Division will have far fewer enforcement tools available to collect child support. Parties who receive limited enforcement services may not fully understand that additional services are available for a nominal one-time fee. Eliminating all enforcement remedies from non-Title IV-D cases may encourage custodial parents to file Title IV-D applications for comprehensive enforcement services.

The Probation Division may only provide full enforcement services when one of the parties has filed a Title IV-D application or a Title IV-A, IV-B/IV-E or XIX referral has been made. The Child Support Program Improvement Act (CSPIA), N.J.S.A. 2A:17-56.7a, et seq., authorizes the Probation Division to provide child support enforcement services for child support payable through the Probation Division. CSPIA, however, does not clearly define the Probation

Division's responsibilities as related to Title IV-D. Since many of the provisions of CSPIA mirror provisions of Title IV-D, it can be inferred that the legislative intent was to authorize the Probation Division to take such actions as are necessary to comply with Title IV-D regulations.

Part V of the court rules includes references to the Probation Division's authority to enforce spousal and child support, which is not specifically limited to Title IV-D cases. The Committee recognizes that Title IV-D services have been applied to court orders whether or not Title IV-D applications were filed or Title IV-D referrals were made.

Most of these enforcement services are only available to Title IV-D cases. While some additional enforcement relief may be available to non-IV-D cases, such relief would require an application to the court, which may be time-consuming and most litigants do not have sufficient expertise or resources to do this effectively on their own.

A clear understanding of the presumption to pay through the SDU and the need for a Title IV-D application will result in more efficient delivery of support to families. This also provides greater clarity to the Bench, Bar, litigants and court staff, thereby minimizing uncertainty and misinterpretations.

Pursuant to 42 U.S.C.A. § 669, et seq., States are required to collect and accurately report certain child support enforcement data to the federal government. The federal OCSE conducts a Data Reliability Audit (DRA) of each State to ensure that the performance ratios reported to the federal government are supported by accurate and reliable data. The DRA includes a check for a completed Title IV-D application in each child support case file. Signed applications must be maintained in paper or electronic format. Failure to maintain copies of the application in Title IV-D child support case records could result in the State's loss of federal child support incentive funding or incurring federal penalties.

This rule recommendation is not intended to affect alimony-only cases because those cases are not eligible for services under Title IV-D. The recommendation applies to those matters involving child support or spousal support in conjunction with child support on the same order. Because the rule recommendations relating to child support enforcement impact New Jersey's child support program operations, OCSS has reviewed and endorsed this recommendation.

Therefore, the Committee recommends proposed rule 5:7-11(a) to provide for a better informed Bar and public, improved collections, increased federal funding for the State and improved program compliance.

## **2. Proposed New R. 5:7-11(b) - Monitoring a child support case in the absence of a Title IV-D application**

The Committee discussed clarifying the services that the Probation Division provides when no application for Title IV-D services has been filed, and the court has ordered child support or spousal support combined with child support. Proposed R. 5:7-11(b) states that the Probation Division will provide minimal monitoring services and no enforcement on non-public assistance cases if a party has not filed a completed Title IV-D application. The proposed rule clarifies that the completion of a Title IV-D application equates to enforcement. In the absence of a Title IV-D application, a case would receive only the management of case demographics (e.g., client information, addresses and other identifiers), which are necessary to permit the collection, disbursement and recording of payments through the SDU. That includes those payments made through income withholding as required by 42 U.S.C.A. § 666. Absent a Title IV-D application, the Probation Division also would not monitor the case for delinquencies or provide any enforcement services.

**[New] Rule 5:7-11. Application for Title IV-D Child Support Services; Probation Division Enforcement Monitoring-Only Services**

[New] Rule 5:7-11. Application for Title IV-D Child Support Services; Probation Division Enforcement Monitoring-Only Services

(a) IV-D Application. Any party seeking full Title IV-D enforcement services by the Probation Division of an order that includes the payment of child support, or spousal support in conjunction with child support on the same order, shall submit a completed Title IV-D application, except as otherwise provided by law. An application fee must be paid by the party applying for services or paid by the State out of its own funds and may be recovered from the non-custodial parent, except as otherwise provided by law. The forms and procedures to implement the processing of the IV-D application and collection of the fee shall be prescribed by the Administrative Director of the Courts.

(b) Monitoring-Only Application. In the absence of the submission of a Title IV-D application for services, as required by paragraph (a) of this Rule, the Probation Division may provide monitoring-only services of support orders that are paid to the New Jersey Family Support Payment Center. Monitoring-only services shall be limited to entering and updating of case demographics on the statewide automated system, and the collection, disbursement and recording of payments made to the New Jersey Family Support Payment Center. If the order, when initially entered, contains a provision for the payment of child support or spousal support in conjunction with child support on the same order, the support shall be paid through immediate income withholding, unless either party shows and the court finds good cause for an alternative arrangement. In the absence of a Title IV-D application, the Probation Division shall not provide any enforcement services. A party may apply for limited, monitoring-only services, by completing a monitoring-only application and pay the applicable fee. The forms and procedures

to implement the processing of the monitoring-only application and collection of the fee shall be prescribed by the Administrative Director of the Courts.

Note: Adopted \_\_\_\_\_ to be effective \_\_\_\_\_.

**C. Proposed New R. 5:10-17. Gestational Carrier Matters; Orders of Parentage**

**Proposed rule for the processing of gestational carrier matters**

The Committee recommends a procedure for processing biological parents' requests for a pre-birth order listing their names as the child's legal parents on the birth certificate when the child is born to a gestational carrier. This recommendation is based, in large part, on A.H.W. v. G.H.B., 339 N.J. Super. 495 (Ch. Div. 2000), which established a procedure that has been adopted in practice by trial courts throughout the State.<sup>5</sup> The proposed rule amendment documents the procedure for the issuance of a conditional pre-birth order of parentage, which is signed before the child is born, but is not executed until after the gestational carrier's relinquishment of parental rights is filed with the County Surrogate.

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<sup>5</sup> In In the Matter of the Parentage of a Child by T.J.S. and A.L.S., 212 N.J. 334 (2012), the Court recognized the procedure set forth in A.H.W., but held that the procedure was not permissible because the petitioner-wife was not the child's biological mother. The Committee recognizes the inconsistencies among the statutes regarding parentage. See the Parentage Act (N.J.S.A. 9:17-41(a) and (c)) as discussed in T.J.S., the Artificial Insemination Statute (N.J.S.A. 9:17-44) and the parentage provisions of the Civil Union Act (N.J.S.A. 37:1-31(e)).

- In T.J.S., the Court stated, regarding the Parentage Act, "The status of maternity is grounded on either a biological or genetic connection to the child, . . . failing which the Legislature has decreed that the status can only be achieved through adoption."
- The Artificial Insemination statute establishes a legal presumption of paternity when there is an anonymous sperm donor. N.J.S.A. 9:17-44(a) states, "If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of a child thereby conceived."
- The Civil Union Act establishes a legal presumption of maternity in the absence of genetic connection or adoption for a female civil union couple. N.J.S.A. 37:1-31(e) states, "The rights of civil union couples with respect to a child of whom either becomes the parent during the term of the civil union, shall be the same as those of a married couple with respect to a child of whom either spouse or partner in a civil union couple becomes the parent during the marriage."

In recognition of the ongoing development of this area of law, as well as the need to improve and standardize by court rule the procedure that is already in use in these matters, rather than describing exactly who is eligible to participate in the process, the phrase "except when prohibited by law" has been included in proposed R. 5:10-7(a).



Paragraph (b) of the proposed rule permits the action to be brought in the county where the child is to be born. This parallels the adoption statute, and ensures that jurisdiction and venue will be available in New Jersey. For example, if the petitioners and the gestational carrier are not New Jersey residents, and if the child is born in New Jersey, the proposed venue provision permits the New Jersey court to hear the matter.

The processing of a conditional order of parentage with sufficient time before the child's birth is preferable because the gestational carrier is permitted time to respond to the complaint without being distracted with caring for a new born baby. This pre-birth court process also benefits the court because it will not be necessary to rush to file, docket, schedule and hear the matter in the narrow timeframe after the child's birth but before the birth certificate is issued. The proposed rule includes the safeguard of the gestational carrier's relinquishment of parental rights, which is to be signed 72 hours after the child's birth. In the proposed rule, the first steps to finalizing the order of parentage are the court's review at the return on the order to show cause and signature on the order of parentage. The second step, which protects the gestational carrier, is the signed and acknowledged relinquishment. Both the signed order of parentage and the filed relinquishment of parental rights together executes the order of parentage and permits the Surrogate to release the order of parentage.

The proposed rule sets forth the following procedure:

1. Timeframe - filling complaint: The complaint, proposed order to show cause and proposed order of parentage may be filed with the County Surrogate at any time prior to the child's birth and before the issuance of the birth certificate;
2. Definitions;

3. Venue: This includes the county of domicile of the petitioners or gestational carrier, or the county in which the child was born;

4. Timeframe - order to show cause and return date: The executed order to show cause must be entered no later than 3 days after the filing date of the complaint, and must set forth a return no later than 7 days after the filing date of the complaint;

5. Service:

a. A copy of the complaint, the executed order to show cause and proposed order of parentage must be served on the gestational carrier (and her spouse or civil union partner, if applicable);

b. A copy of the complaint, the executed order to show cause and proposed order of parentage must be served on the Bureau of Vital Statistics;

6. Timeframe - proof of service: This must be filed on or before the return date;

7. Order of Parentage:

a. Timeframe and content: If there is no objection or appearance, the order of parentage will be signed on the return date, and will state: (a) the order shall be issued and become effective upon the filing of the executed relinquishment of parental rights after 72 hours following the child's birth, and (b) the petitioners are the sole parents of the child;

b. Effective date: The order of parentage shall be effective on the filing date of the relinquishment;

c. Execution and service: upon filing of the relinquishment, the Surrogate will provide the fully executed order of parentage immediately to the petitioners or their attorney who will serve a copy of the order on the gestational carrier and her spouse or civil union partner, if applicable;

8. Birth record: Upon presentation of the fully executed order of parentage and relinquishment to the hospital, the names of the petitioners shall be listed as parents of the child on the birth record.

Therefore, the Committee recommends the following:

## **[New] Rule 5:10-17. Gestational Carrier Matters; Orders of Parentage**

### [New] Rule 5:10-17. Gestational Carrier Matters; Orders of Parentage

(a) Complaint and Order to Show Cause. Prior to the birth of a child or thereafter, and prior to the issuance of a birth certificate pursuant to N.J.S.A. 26:8-28, a complaint and a proposed order to show cause may be filed requesting an order of parentage naming the petitioners, except when prohibited by law, as the child's legal parents. A gestational carrier is defined as a woman who is not the genetic mother of the child.

(b) Process. The complaint, proposed order to show cause, and proposed order of parentage shall be filed with the Surrogate in the county where either the petitioners or gestational carrier resides, or where the child is to be born. The executed order to show cause shall be entered by the court no later than three days after filing of the complaint and set forth a return date no later than seven days after the filing date of the complaint. The gestational carrier and her spouse or civil union partner, if applicable, shall be served with a copy of the complaint, executed order to show cause, and proposed order of parentage. A copy of the complaint, executed order to show cause and proposed order of parentage shall be served on the State registrar of vital statistics pursuant to R. 4:4-4(a)(7), and any other party in interest. Proof of service shall be filed with the court on or before the return date.

### (c) Return on Order to Show Cause.

(1) If the gestational carrier, and her spouse or civil union partner, if applicable, the State registrar of vital statistics and any other party in interest, have not filed an objection with the Surrogate, or appeared in court, an order of parentage shall be signed on the return date. The order of parentage shall state: (A) the order of parentage shall be issued and become effective upon the filing of a relinquishment of parental rights executed and acknowledged by the gestational carrier, and spouse or civil union partner, if applicable, after seventy-two (72) hours

from the birth of the child, and (B) the petitioners shall be the sole parents of the child born to the gestational carrier. Personal appearances of the parties on the return date shall not be required unless there is an objection to the relief requested.

(2) The order of parentage shall be effective on the date the relinquishment of parental rights is filed with the Surrogate. Upon the filing of the relinquishment of parental rights, the Surrogate shall provide the fully executed order of parentage immediately to the petitioners or their attorney who shall serve a copy of the order of parentage on the gestational carrier and her spouse or civil union partner, if applicable.

(d) Listing of Names of Petitioners on the Birth Record. Upon presentation of the fully executed order of parentage and relinquishment of parental rights to the hospital or health care facility in which the child was born, the names of the petitioners shall be listed as the parents of the child on the birth record pursuant to N.J.A.C. 8:2-1.5(d).

Note: Adopted \_\_\_\_\_ to be effective \_\_\_\_\_.

#### **IV. Issues Considered Without Recommendation**

##### **A. Confidential Personal Identifiers in a Qualified Domestic Relations Order**

The Committee considered whether R. 1:38-7(e) should be amended to permit unredacted social security numbers on qualified domestic relations orders (QDRO), as required by some plan administrators. The Committee recommends no rule amendment because an addendum containing the confidential personal identifiers (CPI) may be appended to the QDRO and sent to the plan administrator to satisfy the plan's requirement for that information.

In the event documents in a court file are requested by third parties, court staff is directed to redact personal identifiers from copies of those documents that are open to public access. QDROs are included in that group of documents that must be redacted, which would be a challenge to implement to ensure that the private information is protected.

##### **B. Proposed Amendment to R. 4:52-1- Temporary Restraint and Interlocutory Injunction - Application on Filing of Complaint**

The Committee considered whether to recommend an amendment to R. 4:52-1(b) so as to no longer require a summons for an order to show cause if the order to show cause contained all of the requirements set forth in R. 4:4-2, which provides for the requirement of a summons. After reviewing the rules, the Committee concluded that the rules are clear and unambiguous, and that there would be no benefit from such a rule amendment.

##### **C. Offer of Judgment in Dissolution Matters**

The Committee considered whether to recommend an amendment to R. 5:3-5(c)(3), which would apply R. 4:58 to the Family Part and authorize an offer of judgment at the conclusion of a matrimonial trial. The Committee concluded that no amendment is necessary because the existing factor in R. 5:3-5(c)(3), which directs the court to consider the

"reasonableness and good faith of the positions advanced by the parties both during and prior to trial," provides the court with sufficient discretion to address counsel fee applications.

**D. Page Count Limit Pursuant to R. 5:5-4 - Third Party Certification in Motion**

The Committee considered whether a rule amendment is necessary to state whether a third-party certification attached to a party's motion is included in the page limits set forth in R. 5:5-4(b). The Committee recommends no rule change because R. 5:5-4(g), which sets forth the policy on exhibits, clearly states, "Certified statements not previously filed with the court shall be included in page limit calculation." The Committee believes this paragraph applies to all certifications except the attorney's affidavit of services.

**E. Marital Settlement Agreement and Judgment of Divorce**

The Committee considered whether an amendment to R. 1:38 is necessary to clarify that a marital settlement agreement (MSA) is not required to be attached to a Judgment of Divorce or made a part of the court's file available for public view. The Committee recommends no rule amendment as the court retains the discretion to grant an application at the time the judgment is entered and enter an order stating that the MSA does not become a part of the court's file.

The Committee recognizes that a copy of the MSA must be provided to the court for post-judgment or enforcement motions pursuant to R. 5:5-4, entitled "Motions in Family Actions." The Committee further acknowledges that, in a number of cases, the MSA may not be provided with the post-judgment motion and the court relies on the filed copy. The better practice would involve a party filing an application at the time of the judgment on the record when the court may exercise its discretion. At that time, the court may instruct the litigant to retain a copy of the MSA. The party may then provide a copy of the MSA with any post-judgment application.

**F. Custody Evaluators and the Appointment of Experts**

The Committee considered whether an amendment to R. 5:3-3 is necessary to add custody evaluators to the enumerated list as experts who may examine a party at the court's direction. The Committee recommends no rule change because custody evaluators must be licensed as one of the designated professionals enumerated in the rule (e.g., "physician, psychiatrist, psychologist or other health or mental health professional").

**G. Case Management Orders in Family Actions**

The Committee considered whether to recommend an amendment to R. 5:5-7, which would require case management orders to include the following information for custody evaluations: due date of the evaluation, joint or court-appointed nature of the expert, plaintiff's expert, defendant's expert and the costs to be paid by each party. Discovery, which includes appointment of all types of experts, is only generally addressed by R. 5:5-7. Though case management orders vary among the vicinages, an order generally will contain a provision for the appointment of experts, which may include custody experts, or related issues. The Committee concluded that the form of a case management order is subject to the discretion of individual Family Part judges, and therefore, does not require a rule amendment.

**H. Filing of Family Case Information Statement in Pre-Divorce Support Actions**

The Committee discussed whether a case information statement (CIS) must be filed in the context of a non-dissolution support matter. This issue was addressed by the 2013 amendments to Rules 5:5-2 and 5:5-3, which now require the filing of a CIS for all non-dissolution applications involving spousal support or college expenses. In the context of a child support complaint filed in the non-dissolution docket, requiring a CIS was found to be unnecessary and burdensome on the litigant. Therefore, the Committee recommends no rule change.



**I. Post-Judgment Interest on Title IV-D Child Support Judgments**

The Committee considered whether to recommend a rule amendment to assess post-judgment interest on delinquent Title IV-D child support orders according to a rate established by the New Jersey Department of Human Services, Division of Family Development (DFD). Interest on child support is addressed in N.J.S.A. 2A:17-56.23a, N.J.S.A. 2A:17-56.20, N.J.S.A. 2A:17-56.52, R. 5:7-5(g), R. 4:42-11, and the Appellate Division decision in Pryce v. Scharff, 384 N.J. Super. 197 (App. Div. 2006). Additionally, DFD has issued an information transmittal that sets the interest rate at zero percent in Title IV-D cases.

It has been suggested that setting post-judgment interest on all child support orders would provide consistency between court rule and statute and streamline internal processing by permitting automation to manage the pool of existing and future child support judgments.

A proposed change, however, raises equal protection concerns, and operates as a windfall to obligors. The Committee recognizes that Pryce v. Scharff holds that a party is entitled to an order adding post-judgment interest to a Probation-enforced child support account. As such, the Committee concluded that the potential harm to obligees and families far outweighs the potential administrative benefits.

Therefore, the Committee recommends that no action be taken on this issue.

**J. Treatment of Expenses for Extracurricular Activities in the Child Support Guidelines, Rules Appendix IX**

The Committee considered whether to recommend an amendment to the child support guidelines to treat the cost of a child's extracurricular school activities, in a manner similar to unreimbursed medical expenses, thus allocating excess expenses between the parties. The Committee considered this recommendation following the recent quadrennial review. Child extracurricular activities are included in the estimated family spending on children and do not

ordinarily justify supplementing the child support award. Where a child incurs extraordinary expenses (e.g., an elite athlete whose family incurs the costs of travel and training for the Olympics), a parent may seek to have the expenses declared to be "Court-Approved Extraordinary Expenses," and supplement the child support. See Rules Appendix IX-C (Sole Parenting Worksheet) and IX-D (Shared Parenting Worksheet), Line 19, and Rules Appendix IX-B, Line Instructions for Line 19.

Therefore, the Committee recommends no action on this issue.

**K. The Addition of a Driving-age Child to Family's Automobile Insurance Policy - Appendix IX-A**

The Committee's 2011-2013 Supplemental Report left open the question of the treatment of insurance costs incurred by a parent related to a vehicle for the exclusive use of the child. The 2011-2013 Supplemental Report states:

The issue presented is whether the basic child support amount includes those automobile expenses and insurance costs incurred by a parent that are related to the exclusive use by the child. The Committee believes that such expenses should be an add-on to the basic child support amount. The Committee also discussed, but did not reach a conclusion as to whether the expenses for the child's car include the cost of insurance for that vehicle as distinguished from the insurance cost for adding a licensed minor driver residing in the home. Therefore, the Committee recommends the amendment of Rules Appendix IX-A, paragraph 8 ("Transportation"), and the adoption of new paragraph 21(p), to clarify that the Appendix IX-F schedule does not include automobile expenses incurred for the intended primary use of the child.

Family Practice Committee 2011-2013 Supplemental Report at 5-6.

The Committee discussed the issue in the current rules term and considered feedback from its members. The issue was further discussed with Dr. William Rodgers, the Rutgers economist who led the recent quadrennial review of the child support guidelines.

The Committee concluded that ambiguities that may have resulted from the 2013 recommendations of the Committee on this issue will not be easily resolved and that additional language may result in further ambiguity.

Therefore, the Committee recommends no action on this issue.

**L.     *Increasing the Number of Withholding Allowances in the Child Support Guidelines Tax Table - Rules Appendix IX-H***

The Committee considered whether Rules Appendix IX-H should be significantly expanded from its present format of 8 withholding allowances to 18 withholding allowances. Expansion of the table would accommodate withholding allowance estimates in accordance with IRS Form W-4 and Rules Appendix IX-B, Line instruction 2A-Withholding Taxes. Pursuant IRS Form W-4, a single parent of six children with income of less than \$65,000 may be entitled to claim 18 withholding allowances. Although there may be situations where additional dependents not subject to the child support guidelines calculation could require extrapolation beyond the table limits, expansion of the table cannot accommodate every family situation. The Committee also recognizes that the available automated child support applications, including NJKiDS, accurately estimate the number of withholding allowances based on filing status, income, and number of dependents. The Committee believes that expanding the table may render the printed version of the Appendix IX-H table extremely difficult to read.

Therefore, the Committee recommends no action on increasing the current number of withholding allowances in Appendix IX-H.

***M. Miscellaneous Issues - Rules Appendix IX***

The Committee considered the following issues:

1. A recommendation to replace "custodial parent" and "parent of primary residence" with a single term, and to replace "non-custodial parent" and "parent of alternate residence" with a single term;
2. A recommendation to combine the sole parenting and shared parenting worksheets into a single worksheet;
3. A recommendation to clarify the rounding of percentages.

The Committee believes that the rules are clear and unambiguous as written, and sees no discernible benefit from the recommendations.

Therefore, the Committee recommends no action on these issues.

## **V. Other Recommendations**

### **A. Selection of Experts**

#### **Discussion**

The Committee considered whether the Family Part should exercise oversight in the selection and screening of experts who may be used by litigants or appointed by the court. It was suggested that Family Part judges rely on experts, particularly in the areas of custody, who may not be properly licensed or qualified.

#### **Recommendation**

The Committee recommends that the issue be considered by the Conference of Family Presiding Judges.

## VI. Matters Held for Consideration

**A. When a Court Rule Authorizes the Administrative Director of the Courts to Promulgate a Form, the Rule Should Indicate that the Form is Located on the Judiciary's Website**

The Committee discussed whether the forms set forth in Administrative Directive #08-11 must be included in the Rules Appendix. The Committee believes that including those forms in the Rules Appendix is not necessary, but that they should be readily accessible on the Judiciary's website. Therefore, the Committee recommends referencing the Judiciary's website ([www.njcourtsonline.com](http://www.njcourtsonline.com)) in any court rule that provides for the promulgation of forms by the Administrative Director of the Courts. That reference would provide guidance to litigants and address the concern regarding access to the documents.

**B. Conflict Between R. 3:26-2(a) and Section 6.4.2 of the Domestic Violence Procedures Manual - Authority of a Municipal Court Judge to Set Bail**

In January 2013, the Supreme Court Municipal Practice Committee discussed a conflict between R. 3:26-2(a) and Section 6.4.2. of the Domestic Violence Procedures Manual. The rule specifically precludes a municipal court judge from setting bail in certain matters if the contempt charge is less than fourth degree, one of which is contempt for a violation of a domestic violence restraining order issued pursuant to N.J.S.A. 2C:29-9b. In contrast, the Domestic Violence Procedures Manual, section 6.4.2(C), specifically sets forth the procedure for an Assignment Judge to enter an order permitting the municipal court judges in that vicinage to set bail for a violation of a restraining order pursuant to N.J.S.A. 2C:29-9b if the contempt charge is a disorderly persons offense as opposed to a fourth degree offense.

The inconsistency in these two authorities has created concern about the municipal court judges' authority. The Municipal Practice Committee took no position as to which of the two authorities should prevail.

This issue is pending Criminal Practice Committee and State Domestic Violence Working Group review and will be carried to the next cycle.

**C. Whether to Adjust the Child Support Guidelines Self-Support Reserve (SSR) - Rules Appendix IX-A, Section 7.h**

In the 2011-2013 rules cycle, Committee completed a comprehensive quadrennial review of the New Jersey Guidelines, R. 5:6A, but carried the issue of adjusting the Self-Support Reserve (SSR) for further consideration. Currently, if an obligor's net income, after subtracting the child support award, is less than 105% of the federal poverty guideline for one person, the court may order a lower child support award. This may be done after taking into consideration the obligor's income and living expenses so as not to deny the obligor the means of self-support at a minimum subsistence level. While the SSR may help to ensure that the obligor's income after payment of child support is sufficient to provide a subsistence level of living and provide an incentive to continue employment, increases in the SSR could have unintended adverse consequences. The Committee requires further expert analysis of economic data to determine whether an adjustment to the SSR is warranted.

The Committee will continue working with the experts who will be assessing the impact of adjustments, if any, to the SSR. The experts will evaluate current economic conditions, the federal poverty guidelines, basic living expenses and other economic data for the purpose of preparing a written briefing for the Committee to assess impact of adjustments to the SSR. The experts also will review case scenarios using unique SSR levels for both parents, unique income levels for both parents and various family unit sizes. These financial scenarios will allow the

Committee to identify cases in which the obligor's net income would fall under the SSR limit being tested and determine the practical effects of implementing a higher SSR limit under a variety of circumstances.

As this issue cannot be resolved during the current rules cycle, the Committee recommends carrying this issue to the 2015-2017 rules cycle.

***D. Clarify Time Frame for Serving a Dissolution Complaint***

The Committee discussed whether a rule amendment is necessary to establish a separate time frame for serving a dissolution complaint.

As this issue cannot be resolved during the current rules cycle, the Committee recommends carrying this issue to the 2015-2017 rules cycle.

***E. Adjustment of Child Support for Elder Care***

The Committee discussed whether an amendment to Rules Appendix IX-A, section 21(m), is necessary to adjust child support if substantiated financial obligations for elder care exist before or after the filing of the child support action.

As this issue cannot be resolved during the current rules cycle, the Committee recommends carrying this issue to the 2015-2017 rules cycle.

***F. Arbitration Following Early Settlement Panel***

The Committee discussed whether a rule amendment is necessary to clarify that non-binding arbitration, as opposed to binding arbitration, is a judicially imposed complementary dispute resolution event following early settlement panel.

As this issue cannot be resolved during the current rules cycle, the Committee recommends carrying this issue to the 2015-2017 rules cycle.



**G. Use of Restraints in Juvenile Delinquency Proceedings**

The Committee discussed whether a rule amendment is necessary to establish a procedure on the use of restraints in juvenile delinquency proceedings.

As this issue cannot be resolved during the current rules cycle, the Committee recommends carrying this issue to the 2015-2017 rules cycle.

**H. Case Information Statement - Time Frames for College Expenses**

The Committee discussed whether an amendment to the family case information statement (Rules Appendix V) is necessary to accommodate anticipated college expenses.

As this issue cannot be resolved during the current rules cycle, the Committee recommends carrying this issue to the 2015-2017 rules cycle.

## **VII. Out of Cycle Activity**

### **A. Supreme Court Ad Hoc Committee on the Arbitration of Family Court Matters**

In response to public comments concerning rule recommendations from this Committee in the 2011-13 rules cycle on the Arbitration of family court actions, the Supreme Court established an ad hoc committee. That ad hoc committee will address proposed amendments to the Part V Rules of Court for an arbitration case track and proposed forms. The ad hoc committee is expected to develop a proposal to be consistent with the arbitration statutes, existing case law and the public's concerns.

## Committee Members and Staff

Hon. Marie E. Lihotz, J.A.D. (Chair)  
Hon. Patricia B. Roe (Vice-Chair)  
Lesley Renee Adams, Esq.  
Jane R. Altman, Esq.  
Ivette Ramos Alvarez, Esq.  
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Sandra Terry  
Luis A. Valentin, Esq.  
Hon. James P. Wilson

AOC Staff:  
Joanne M. Dietrich  
David Tang

Respectfully submitted,

Hon. Marie E. Lihotz, J.A.D., Chair

Dated: January 28, 2015

## **List of Attachments**

- A.** Rules Appendix V - Family Case Information Statement (CN 10482)
- B.** Rules Appendix IX-A - Considerations in the Use of Child Support Guidelines
- C.** Rules Appendix IX-B - Use of the Child Support Guidelines (Line Instructions for Sole Parenting and Shared Parenting Worksheets)
- D.** Rules Appendix IX-C - Child Support Guidelines Sole Parenting Worksheet (CN 10788)
- E.** Rules Appendix IX-D - Child Support Guidelines Shared Parenting Worksheet (CN 10727)

**Appendix V**  
**Family Part Case Information Statement**

**This form and attachments are confidential pursuant to Rules 1:38-3(d)(1) and 5:5-2(f)**

Attorney(s):  
Office Address:  
Tel. No./Fax No.  
Attorney(s) for:

Plaintiff,
Defendant.

vs.

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.

**INSTRUCTIONS:**

The Case Information Statement is a document which is filed with the court setting forth the financial details of your case. The required information includes your income, your spouse's/partner's income, a budget of your joint life style expenses, a budget of your current life style expenses including the expenses of your children, if applicable, an itemization of the amounts which you may be paying in support for your spouse/partner or children if you are contributing to their support, a summary of the value of all assets referenced on page 8 – **It is extremely important that the Case Information Statement be as accurate as possible because you are required to certify that the contents of the form are true.** It helps establish your lifestyle which is an important component of alimony/spousal support and child support.

The monthly expenses must be reviewed and should be based on actual expenditures such as those shown from checkbook registers, bank statements or credit card statements from the past 24 months. The asset values should be taken, if possible, from actual appraisals or account statements. If the values are estimates, it should be clearly noted that they are estimates.

According to the Court Rules, you **must** update the Case Information Statement as your circumstances change. For example, if you move out of your residence and acquire your own apartment, you should file an Amended Case Information Statement showing your new rental and other living expenses.

It is also very important that you **attach** copies of relevant documents as required by the Case Information Statement, including your most recent **tax returns with W-2 forms, 1099s and your three (3) most recent paystubs.**

If a request has been made for college or post-secondary school contribution, you must also attach all relevant information pertaining to that request, including but not limited to documentation of all costs and reimbursements or assistance for which contribution is sought, such as invoices or receipts for tuition, board and books; proof of enrollment; and proof of all financial aid, scholarships, grants and student loans obtained.

## Part A - Case Information:

Date of Statement \_\_\_\_\_  
Date of Divorce, Dissolution of Civil  
Union or Termination of Domestic  
Partnership (post-Judgment matters) \_\_\_\_\_  
Date(s) of Prior Statement(s) \_\_\_\_\_

Your Birthdate \_\_\_\_\_  
Birthdate of Other Party \_\_\_\_\_  
Date of Marriage, or entry into Civil Union  
or Domestic Partnership \_\_\_\_\_  
Date of Separation \_\_\_\_\_  
Date of Complaint \_\_\_\_\_

Does an agreement exist between parties relative to any issue?  
If Yes, **ATTACH** a copy (if written) or a summary (if oral).

## Issues in Dispute:

Cause of Action \_\_\_\_\_  
Custody \_\_\_\_\_  
Parenting Time \_\_\_\_\_  
Alimony \_\_\_\_\_  
Child Support \_\_\_\_\_  
Equitable Distribution \_\_\_\_\_  
Counsel Fees \_\_\_\_\_  
Other issues (be specific) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ Yes ☐ No.

### 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

Child's Full Name	Address	Birthdate	Person's Name
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

#### b. Child(ren) From Other Relationships

Child's Full Name	Address	Birthdate	Person's Name
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

## 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 other party. If W-2 wage earner, gross earned income refers to medicare wages.

**1. Last Year's Income**

	Yours	Joint	Other Party
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 – <b>ATTACH</b> pay stubs) Commissions and bonuses, etc., are: <input type="checkbox"/> included <input type="checkbox"/> not included* <input type="checkbox"/> not paid to you. * <b>ATTACH</b> details of basis thereof, including, but not limited to, percentage overrides, timing of payments, etc. <b>ATTACH</b> copies of last three statements of such bonuses, commissions, etc.	\$ _____	\$ _____
2. Deductions per week (check all types of withholdings): <input type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> F.I.C.A. <input type="checkbox"/> S.U.I. <input type="checkbox"/> Other	\$ _____	\$ _____
3. Net average weekly income (1 - 2)	\$ _____	\$ _____

**3. Your Current Year-to-Date Earned Income**

Provide Dates: From \_\_\_\_\_ To \_\_\_\_\_

	Number of Weeks
1. GROSS EARNED INCOME: \$ _____	_____
2. TAX DEDUCTIONS: (Number of Dependents: _____)	
a. Federal Income Taxes	a. \$ _____
b. N.J. Income Taxes	b. \$ _____
c. Other State Income Taxes	c. \$ _____
d. F.I.C.A.	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. \$ _____ | <input type="checkbox"/> |
| b. Life Insurance                    | b. \$ _____ | <input type="checkbox"/> |
| c. Union Dues                        | c. \$ _____ | <input type="checkbox"/> |
| d. 401(k) Plans                      | d. \$ _____ | <input type="checkbox"/> |
| e. Pension/Retirement Plans          | e. \$ _____ | <input type="checkbox"/> |
| f. Other Plans - specify _____       | f. \$ _____ | <input type="checkbox"/> |
| g. Charity                           | g. \$ _____ | <input type="checkbox"/> |
| h. Wage Execution                    | h. \$ _____ | <input type="checkbox"/> |
| i. Medical Reimbursement (flex fund) | i. \$ _____ | <input type="checkbox"/> |
| j. Other _____                       | j. \$ _____ | <input type="checkbox"/> |

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:**

- How often are you paid? \_\_\_\_\_
- What is your annual salary? \$ \_\_\_\_\_
- Have you received any raises in the current year? ☐ Yes ☐ No  
If yes, provide the date and the gross/net amount. \_\_\_\_\_
- 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: \_\_\_\_\_
- Does your employer pay for or provide you with an automobile (lease or purchase), automobile expenses, gas, repairs, lodging and other. ☐ Yes ☐ No  
If yes, explain.: \_\_\_\_\_



6. Did you receive bonuses, commissions, or other compensation, including distributions, taxable or non-taxable, in addition to your regular salary during the current or immediate past 2 calendar years?  
If yes, explain and state the date(s) of receipt and set forth the gross and net amounts received: \_\_\_\_\_
7. Do you receive cash or distributions not otherwise listed?  
If yes, explain. \_\_\_\_\_
8. Have you received income from overtime work during either the current or immediate past calendar year?  
If yes, explain. \_\_\_\_\_
9. 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?  
If yes, explain. \_\_\_\_\_
10. Have you received any other supplemental compensation during either the current or immediate past calendar year?  
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.  
\_\_\_\_\_  
\_\_\_\_\_
11. Have you received income from unemployment, disability and/or social security during either the current or immediate past calendar year?  
If yes, state the date(s) of receipt and set forth the gross and net amounts received.  
\_\_\_\_\_  
\_\_\_\_\_
12. List the names of the dependents you claim: \_\_\_\_\_  
\_\_\_\_\_
13. Are you paying or receiving any alimony?  
If yes, how much and from or to whom? \_\_\_\_\_  
\_\_\_\_\_
14. Are you paying or receiving any child support?  
If yes, list names of the children, the amount paid or received for each child and to whom paid or from whom received.  
\_\_\_\_\_  
\_\_\_\_\_
15. Is there a wage execution in connection with support?  
If yes explain. \_\_\_\_\_
16. Does a Safe Deposit Box exist and if so, at which bank? \_\_\_\_\_
17. 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?  
If yes, explain the basis and state the date(s) of receipt and set forth the gross and net amounts received  
\_\_\_\_\_  
\_\_\_\_\_
18. Explanation of Income or Other Information: \_\_\_\_\_  
\_\_\_\_\_

**Part D - Monthly Expenses (computed at 4.3 wks/mo.)**

Joint Marital or Civil Union Life Style should reflect standard of living established during marriage or civil union. Current expenses should reflect the current life style. Do not repeat those income deductions listed in Part C – 3.

	Joint Life Style Family, including _____ children	Current Life Style Yours and _____ children
<b>SCHEDULE A: SHELTER</b>		
<b>If Tenant:</b>		
Rent .....	\$ _____	\$ _____
Heat (if not furnished) .....	\$ _____	\$ _____
Electric & Gas (if not furnished) .....	\$ _____	\$ _____
Renter's Insurance .....	\$ _____	\$ _____
Parking (at Apartment) .....	\$ _____	\$ _____
Other charges (Itemize) .....	\$ _____	\$ _____
<b>If Homeowner:</b>		
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 .....	\$ _____	\$ _____
Condo, Co-op or Association Fees .....	\$ _____	\$ _____
Other Charges (Itemize) .....	\$ _____	\$ _____
<b>Tenant or Homeowner:</b>		
Telephone .....	\$ _____	\$ _____
Mobile/Cellular Telephone .....	\$ _____	\$ _____
Service Contracts on Equipment .....	\$ _____	\$ _____
Cable TV .....	\$ _____	\$ _____
Plumber/Electrician .....	\$ _____	\$ _____
Equipment & Furnishings .....	\$ _____	\$ _____
Internet Charges .....	\$ _____	\$ _____
Home Security System .....	\$ _____	\$ _____
Other (itemize) .....	\$ _____	\$ _____
<b>TOTAL</b>	\$ _____	\$ _____
<b>SCHEDULE B: TRANSPORTATION</b>		
Auto Payment .....	\$ _____	\$ _____
Auto Insurance (number of vehicles: _____) .....	\$ _____	\$ _____
Registration, License .....	\$ _____	\$ _____
Maintenance .....	\$ _____	\$ _____
Fuel and Oil .....	\$ _____	\$ _____
Commuting Expenses .....	\$ _____	\$ _____
Other Charges (Itemize) .....	\$ _____	\$ _____
<b>TOTAL</b>	\$ _____	\$ _____

SCHEDULE C: PERSONAL

	Joint 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.) .....	\$ _____	\$ _____
Babysitting .....	\$ _____	\$ _____
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) .....	\$ _____	\$ _____
Pet Care and Expenses .....	\$ _____	\$ _____
Other (specify) .....	\$ _____	\$ _____

**\*unreimbursed only**

	TOTAL	\$ _____	\$ _____
Please Note: If you are paying expenses for a spouse or civil union partner 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

Description	Title to Property (P, D, J) <sup>1</sup>	Statement of Assets		Value \$ Put * after exempt	Date of Evaluation Mo./Day/ Yr.
		Date of purchase/acquisition. If claim that asset is exempt, state reason and value of what is claimed to be exempt			
1. Real Property					
2. Bank Accounts, CD's (identify institution and type of account(s))					
3. Vehicles					
4. Tangible Personal Property					
5. Stocks, Bonds and Securities (identify institution and type of account(s))					
6. Pension, Profit Sharing, Retirement Plan(s), 401(k)s, etc. (identify each institution or 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:				\$	

<sup>1</sup> P = Plaintiff; D = Defendant; J = Joint

### Statement of Liabilities

Description	Name of Responsible Party (P, D, J)	If you contend liability should not be shared, state reason	Monthly Payment	Total Owed	Date
1. Real Estate Mortgages					
2. Other Long Term Debts					
3. Revolving Charges					
4. Other Short Term Debts					
5. Contingent Liabilities					

TOTAL GROSS LIABILITIES: \$ \_\_\_\_\_  
(excluding contingent liabilities)

NET WORTH: \$ \_\_\_\_\_  
(subject to equitable distribution)

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.

## 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 or civil union partner 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. ☐
12. If a request has been made for college or post-secondary school contribution, all relevant information pertaining to that request, including but not limited to documentation of all costs and reimbursements or assistance for which contribution is sought, such as invoices or receipts for tuition, board and books; proof of enrollment; and proof of all financial aid, scholarships, grants and student loans obtained. ☐

I certify that, other than in this form and its attachments, confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

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: \_\_\_\_\_

## New Jersey Rules of Court

### Appendix IX-A

#### CONSIDERATIONS IN THE USE OF CHILD SUPPORT GUIDELINES

(Includes amendments through those effective\_\_\_\_\_, 2015)

1. Philosophy of the Child Support Guidelines . . . no change.
2. Use of the Child Support Guidelines As a Rebuttable Presumption . . . no change.
3. Deviating from the Child Support Guidelines . . . no change.
4. The Income Shares Approach to Sharing Child-Rearing Expenses . . . no change.
5. Economic Basis for the Child Support Guidelines . . . no change.
6. Economic Principles Included in the Child Support Guidelines . . . no change.
7. Assumptions Included in the Child Support Guidelines . . . no change.
8. Expenses Included in the Child Support Schedules) . . . no change.
9. Expenses That May Be Added to the Basic Child Support Obligation . . . no change.
10. Adjustments to the Support Obligation - The factors listed below may require an adjustment to the basic child support obligation.
  - a. *Other Legal Dependents of Either Parent* - These guidelines include a mechanism to apportion a parent's income to all of his or her legal dependents regardless of the timing of their birth or family association (i.e., if a divorced parent remarries and has children, that parent's income should be shared by all children born to that parent). *Legal dependents* include adopted or [natural] biological children of either parent who are less than 18 years of age or more than 18 years of age and still attending high school or other secondary school. Stepchildren are not considered *legal* dependents unless a court has found that the stepparent has a legal responsibility for the stepchildren. When considering the use of this adjustment, the following principles shall apply:
    - (1) where there is not an order requiring either parent to pay support for the other dependent this adjustment shall be used only if [requested by a serial-family parent and] the income, if any, of the *other parent* of the secondary family is provided to or ascertainable by the court;
    - (2) where there is not an order requiring either parent to pay support for the other dependent, if the other parent in the secondary family is voluntarily unemployed or underemployed, the court shall impute income to that person (see paragraph 12) to determine the serial family parent's obligation to the children in the secondary family;
    - (3) this adjustment may be applied to other dependents born before or after the child for whom support is being determined;

(4) this adjustment may be requested by either or both parents (custodial and/or non-custodial);

(5) the adjustment may be applied when the initial award is entered or during subsequent modifications of the support order.

b. *Multiple Family Obligations* - . . . no change.

c. *Government Benefits Paid to or for Children* - . . . no change.

11. Defining Income . . . no change.

12. Imputing Income to Parents - The fairness of a child support award resulting from the application of these guidelines is dependent on the accurate determination of a parent's net income. If the court finds that either parent is, without just cause, voluntarily underemployed or unemployed, it shall impute income to that parent according to the following priorities:

a. impute income based on potential employment and earning capacity using the parent's work history, occupational qualifications, educational background, and prevailing job opportunities in the region. The court may impute income based on the parent's former income at that person's usual or former occupation or the average earnings for that occupation as reported by the New Jersey Department of Labor (NJDOL);

b. if potential earnings cannot be determined, impute income based on the parent's most recent wage or benefit record (a minimum of two calendar quarters) on file with the NJDOL (note: NJDOL records include wage and benefit income only and, thus, may differ from the parent's actual income); or

c. if a NJDOL wage or benefit record is not available, impute income based on the full-time employment (40 hours) at the prevailing New Jersey minimum wage [\$ 7.25 per hour].

13. Adjustments for PAR Time (formerly Visitation Time) . . . no change.

14. Shared-Parenting Arrangements . . . no change.

15. Split-Parenting Arrangements . . . no change.

16. Child in the Custody of a Third Party . . . no change.

17. Adjustments for the Age of the Children . . . no change.

18. College or Other Post-Secondary Education Expenses . . . no change.

19. Determining Child Support and Alimony or Spousal Support Simultaneously . . . no change.

20. Extreme Parental Income Situations . . . no change.

21. Other Factors that May Require an Adjustment to a Guidelines-Based Award . . . no change.

22. Stipulated Agreements . . . no change.



- 23. Modification of Support Awards . . . no change.
- 24. Effect of Emancipation of a Child . . . no change.
- 25. Support for a Child Who has Reached Majority . . . no change.
- 26. Health Insurance for Children . . . no change.
- 27. Unpredictable, Non-Recurring Unreimbursed Health-Care In Excess of \$250 Per Child Per Year . . . no change.
- 28. Distribution of Worksheets and Financial Affidavits . . . no change.
- 29. Background Reports and Publications . . . no change

## **Appendix IX-B**

### **USE OF THE CHILD SUPPORT GUIDELINES**

(Includes Amendments through those effective\_\_\_\_\_, 2015)

#### **GENERAL INFORMATION**

**Completion and Filing of the Worksheet . . .** no change.

**Use of Weekly Amounts . . .** no change.

**Rounding to Whole Dollars and Percentages . . .** no change.

**Defining Parental Roles . . .** no change.

**Selection of a Worksheet . . .** no change.

## LINE INSTRUCTIONS FOR THE SOLE-PARENTING WORKSHEET

**Caption** . . . no change.

**Lines 1 through 5 - Determining Income** . . . no change.

**Line 1 - Gross Taxable Income** . . . no change.

**Line 1a - Mandatory Retirement Contributions** . . . no change.

**Line 1b - Alimony Paid** . . . no change.

**Line 1c - Alimony Received** . . . no change.

**Line 2 - Adjusted Gross Taxable Income** . . . no change.

**Line 2a - Withholding Taxes** . . . no change.

**Line 2b - Mandatory Union Dues - Enter** each parent's weekly mandatory union dues in the appropriate Line 2c column.

Union dues must be mandatory (i.e., required as a condition of employment) to be eligible as a deduction from a parent's adjusted gross income. Calculate the weekly amount of mandatory union dues by dividing the year-to-date dues paid by the number of employed weeks or by using an average of the prior year's dues payments.

**[Prior Child Support Orders - Enter** the weekly amount of previously ordered child support in the appropriate Line 2b column.

Since previously ordered child support of other relationships represents income that is not available for determining the current child support obligation, the amount of such orders must be deducted from the obligor's weekly Adjusted Gross Taxable Income (in anticipation of the payment of the order).

In cases where the obligor must pay support to multiple families, considering these amounts in the guidelines worksheet may result in the obligor's net income falling below the self-support reserve, seriously affecting the support order for the most recent support case. In these instances, it may be necessary for the court to deviate from the guidelines.]

**Line 2c - Child Support Orders for Other Dependents**

**Enter** the weekly amount of court ordered child support of either parent for other legal dependents in the appropriate Line 2b column.

The child support orders for other dependents are part of an adjustment mechanism to apportion a parent's income to all legal dependents including those born before or after the children for whom support is being determined.

The adjustment requires that three support obligations be considered – (1) the court ordered support for the other dependents in the alternate family, (2) a support obligation that includes the

court ordered support for the other dependents, and (3) a support obligation that does not include the court ordered support for the other dependents.

**[Mandatory Union Dues - Enter** each parent's weekly mandatory union dues in the appropriate Line 2c column.

Union dues must be mandatory (i.e., required as a condition of employment) to be eligible as a deduction from a parent's adjusted gross income. Calculate the weekly amount of mandatory union dues by dividing the year-to-date dues paid by the number of employed weeks or by using an average of the prior year's dues payments.]

**Line 2d - Other-Dependent Deduction - Enter** the theoretical weekly child support obligation for other legal dependents (from Line 14 of the Sole-Parenting worksheet prepared for the alternate family) on Line 2d of the worksheet of the parent requesting the adjustment. The Line 14 amount represents the parent's income share of the total marginal costs for the children in the alternate family. The obligation amount for other legal dependents (the other-dependent deduction) should be calculated on a separate Sole-Parenting Worksheet.

The other-dependent deduction is part of an adjustment mechanism to apportion a parent's income to all legal dependents including those born before or after the children for whom support is being determined. Legal dependents include adopted or [natural] biological children of either parent who are under 18 years of age or over 18 years of age and still attending high school or other secondary school. No adjustment is provided for stepchildren. Generally, stepchildren are considered the legal responsibility of their [natural] biological parents unless the court determines that a stepparent has a legal obligation to support the child.

The adjustment requires that three support obligations be calculated - a theoretical support obligation for the other dependents in the alternate family, a support obligation that includes the other-dependent deduction, and a support obligation that does not include the other-dependent deduction. The deduction and the adjusted support obligation are calculated only if requested by a serial family parent and the income of the other parent in the alternate family is provided to the court.

1. The amount of the deduction is the serial parent's theoretical support obligation for the other legal dependents. It requires that a separate Sole-Parenting child support guidelines worksheet be completed (through Line 14) for the children in the alternate family with the serial parent being the theoretical obligor of those children. The deduction is calculated based on the income of the parent claiming the deduction and the income of that person's current spouse.
2. A parent must disclose the gross income of the other parent in the alternate family as a condition to the right to claim this deduction. If the other parent in the secondary family is voluntarily unemployed or underemployed, the court may impute income to that person to determine the parent's obligation to the children in the secondary family.
3. The amount of the deduction shall not be calculated for alternate families having more than six children. In such cases, the court may find that the guidelines are

inapplicable and may establish the child support award based on the factors set forth in N.J.S.A. 2A:34-23 and existing case law.

**Line 3 - Net Taxable Income - Subtract** the combined withholding tax, [prior] child support orders for other dependents, mandatory union dues, and the other-dependent deduction\*, if any, from the Adjusted Gross Taxable Income to obtain the Net Taxable Income. (Math: Line 2 - Line 2a - Line 2b - Line 2c - Line 2d). **Enter** each parent's Net Taxable Income in the appropriate Line 3 column.

**\*If the other-dependent adjustment is [requested] applied,** three worksheets must be prepared: (1) one calculating the parent's [theoretical] obligation for other dependents [to dependents] in the secondary family, (2) one calculating a support award after deducting the [theoretical] obligation from the parent's net income, and (3) one calculating the support award as if there were no other dependents (i.e., the [theoretical] obligation without [the other dependent deduction] consideration other dependents ). Thus, financial obligations for other dependents [the other-dependent deduction] is not always deducted when figuring net income. The support award is adjusted for other dependents at the end of the worksheet (Lines 21 through 23).

**Line 4 - Non-Taxable Income . . .** no change.

**Line 5 - Government (Non-Means Tested) Benefit for the Child . . .** no change.

**Line 6 - Net Income . . .** no change.

**Line 7 - Each Parent's Share of Income . . .** no change.

**Line 8 - Basic Child Support Amount . . .** no change.

**Line 9 - Adding Net Work-Related Child Care Costs to the Basic Obligation . . .** no change.

**Line 10 - Adding Health Insurance Costs for the Child to the Basic Obligation . . .** no change.

**Line 11 - Adding Predictable and Recurring Unreimbursed Health Care to the Basic Obligation . . .** no change.

**Line 12 - Adding Court-Approved Predictable and Recurring Extraordinary Expenses to the Basic Support Amount . . .** no change.

**Line 13 - Calculating the Total Child Support Amount . . .** no change.

**Line 14 - Parental Share of the Total Child Support Obligation . . .** no change.

**Line 15 - Credit for Derivative Government Benefits for the Child Based on Contribution of the Non-Custodial Parent . . .** no change.

**Line 16 - Credit for Child-Care Payments . . .** no change.

**Line 20 - Adjustment for Parenting Time Variable Expenses . . .** no change.

**Line 20b - Each Parent's Share of Overnights with the Child . . .** no change.

### **Line 21 - Net Child Support Obligation**

**Subtract** the non-custodial parent's direct payments for child care, the child's share of the health insurance premium, predictable and recurring unreimbursed health care for the child above \$250 per year per child, and predictable and recurring extraordinary court-approved expenses from the paying parent's share of the total support amount. Then, **subtract** the Line 20 credit, if any, from the non-custodial parent's support amount and the Line 15 credit, if any, for government benefits for the child based on contribution of the NCP. The result is the net child support obligation. (Math: (Line 14 - (Line 15 + Line 16 + Line 17 + Line 18 + Line 19 + Line 20))). **Enter** the net obligation on Line 21.

Direct payments and credits are subtracted from the total child support amount to find the net child support obligation. Direct payments may be deducted only if the cost was included in the total child support amount. The net child support obligation for the non-custodial parent is the support order that will be paid for the benefit of the children.

**IF [NEITHER PARENT REQUESTED AN ADJUSTMENT FOR OTHER DEPENDENTS] THERE IS NO ADJUSTMENT FOR OTHER DEPENDENTS, GO TO LINE 25**

### **Lines 22, 23, and 24 - Adjusting the Child Support Obligation for Other-Dependents**

1. If either parent has court ordered child support obligations for other dependent children or [requests] an adjustment for other legal dependents is applicable, the following amounts must be considered: [three Sole Parenting worksheets must be prepared (if calculating the adjustment manually). The worksheets will result in the following obligation amounts:]

- a. The amount of court ordered child support for other dependents (L2c) and the other dependent deduction L2d (where no support order exists for the dependent – using the separate other dependent deduction worksheet; [a theoretical support obligation for the child in the alternate family (i.e., the parent requesting the adjustment is the theoretical obligor of the child in the alternate family);]
- b. A [a] support obligation for the child for whom support is being determined calculated after deducting the total of the other dependent orders and deductions (L2c + L2d); and [theoretical obligation for any other dependents from the responsible parent's gross income; and]
- c. A [a] support obligation for the child for whom support is being determined calculated without deducting the other dependent orders (L2c) and deductions (L2d) from the responsible parent's gross income. [theoretical obligation for other dependents from the responsible parent's gross income.]

2. To ensure that a fair share of the parent's income is available to all his or her legal dependents, child support obligation for the child for whom support is being determined will be calculated WITH an income deducted for the court ordered or theoretical support obligations for other dependents. Then, the support for the subject child will be calculated WITHOUT consideration of the court ordered or theoretical support obligation for other dependents. These two calculations will be averaged. [add the non-custodial parent's support obligation from the worksheet that includes the other-dependent deduction and the non-custodial parent's support obligation from the worksheet that does not include the other-dependent deduction. Divide the sum of the two obligations by two to obtain the adjusted child support obligation for the non-custodial parent.]

**Line 22 - Line 21 CS Obligation With Deduction for Other Dependents [Other Dependent Deduction]**

**Enter** the amount of the net child support obligation (Line 21) from the worksheet that deducted the [theoretical] support obligation for the parent's other dependents from the parent's net income (i.e., with the Line 2c child support order for other dependents and Line 2d other-dependent deduction) [amount deducted from the parent's gross income]. Note: the Line 2d other dependent deduction [theoretical support obligation for children in the alternate family] is calculated on a separate sole parenting worksheet.

**Line 23 - Line 21 CS Obligation Without Deduction for Other Dependents [Other Dependent Deduction]**

**Enter** the amount of the net child support obligation (Line 21) from the worksheet that did not deduct the [theoretical] support obligation for other dependents (Line 2c Line 2d) from the parent's net income. [was calculated.] Note: The Line 2d other dependent deduction [theoretical support obligation for children in the secondary family] is calculated on a separate worksheet.

**Line 24 - Obligation Adjusted for Other Dependents**

**Add** the Line 22 support obligation that includes deductions for other dependents L2c and L2d the other-dependent deduction and the Line 23 support obligation that does not include deductions for other dependents [the other dependent deduction], then **divide** the sum by two to obtain the Adjusted Child Support Obligation for the non-custodial parent. (Math:  $(\text{Line 22}) + (\text{Line 23}) \div 2$ ). **Enter** the result on Line 24.

**Lines 25, 26, and 27 - Maintaining a Self-Support Reserve . . . no change.**

**Line 25 - Self-Support Reserve Test . . . no change.**

**Line 26 - Maximum Child Support Order . . . no change.**

**Line 27 - Child Support Order . . . no change.**

## LINE INSTRUCTIONS FOR THE SHARED-PARENTING WORKSHEET

**Caption** . . . no change.

**Sources of Income** . . . no change.

**Alimony, Spousal Support, and/or Separate Maintenance Received** . . . no change.

**Types of Income Excluded from Gross Income** . . . no change.

**Collecting and Verifying Income Information** . . . no change.

**Taxable and Non-Taxable Income** . . . no change.

**Analyzing Income Tax Returns** . . . no change.

**Government Benefits for the Child** . . . no change.

**Line 1 - Gross Taxable Income** . . . no change.

**Line 1a - Mandatory Retirement Contributions** . . . no change.

**Line 1b - Alimony Paid** . . . no change.

**Line 1c - Alimony Received** . . . no change.

**Line 2 - Adjusted Gross Taxable Income** . . . no change.

**Line 2a - Withholding Taxes** . . . no change.

**Line 2b - Mandatory Union Dues - Enter each parent's weekly mandatory union dues in the appropriate Line 2c column.**

Union dues must be mandatory (i.e., required as a condition of employment) to be eligible as a deduction from a parent's adjusted gross income. Calculate the weekly amount of mandatory union dues by dividing the year-to-date dues paid by the number of employed weeks or by using an average of the prior year's dues payments.

**[Prior Child Support Orders - Enter the weekly amount of previously ordered child support in the appropriate Line 2b column.**

Since previously ordered child support of other relationships represents income that is not available for determining the current child support obligation, the amount of such orders must be deducted from the obligor's weekly Adjusted Gross Taxable Income (in anticipation of the payment of the order).

In cases where the obligor must pay support to multiple families, considering these amounts in the guidelines worksheet may result in the obligor's net income falling below the self-support reserve, seriously affecting the support order for the most recent support case. In these instances, it may be necessary for the court to deviate from the guidelines.]



## **Line 2c – Child Support Orders for Other Dependents**

**Enter** the weekly amount of court ordered child support of either parent for other legal dependents in the appropriate Line 2b column.

The child support orders for other dependents are part of an adjustment mechanism to apportion a parent's income to all legal dependents including those born before or after the children for whom support is being determined

The adjustment requires that three support obligations be considered – (1) the court ordered support for the other dependents in the alternate family, (2) a support obligation that includes the court ordered support for the other dependents, and (3) a support obligation that does not include the court ordered support for the other dependents

**[Mandatory Union Dues - Enter** each parent's weekly mandatory union dues in the appropriate Line 2c column.

Union dues must be mandatory (i.e., required as a condition of employment) to be eligible as a deduction from a parent's adjusted gross income. Calculate the weekly amount of mandatory union dues by dividing the year-to-date dues paid by the number of employed weeks or by using an average of the prior year's dues payments.]

**Line 2d - Other-Dependent Deduction - Enter** the theoretical weekly child support obligation for other legal dependents (from Line 14 of the Sole-Parenting worksheet prepared for the alternate family) on Line 2d of the worksheet of the parent requesting the adjustment. The Line 14 amount represents the parent's income share of the total marginal costs for the children in the alternate family. The obligation amount for other legal dependents (the other-dependent deduction) should be calculated on a separate Sole-Parenting Worksheet.

The other-dependent deduction is part of an adjustment mechanism to apportion a parent's income to all legal dependents including those born before or after the children for whom support is being determined. Legal dependents include adopted or [natural] biological children of either parent who are under 18 years of age or over 18 years of age **and** still attending high school or other secondary school. No adjustment is provided for stepchildren. Generally, stepchildren are considered the legal responsibility of their [natural] biological parents unless the court determines that a stepparent has a legal obligation to support the child.

The adjustment requires that three support obligations be calculated - a theoretical support obligation for the other dependents in the alternate family, a support obligation that includes the other-dependent deduction, and a support obligation that does not include the other-dependent deduction. The deduction and the adjusted support obligation are calculated only if requested by a serial family parent and the income of the other parent in the alternate family is provided to the court.

1. The amount of the deduction is the serial parent's theoretical support obligation for the other legal dependents. It requires that a separate Sole-Parenting child support guidelines worksheet be completed (through Line 14) for the children in the alternate

family with the serial parent being the theoretical obligor of those children. The deduction is calculated based on the income of the parent claiming the deduction and the income of that person's current spouse.

2. A parent must disclose the gross income of the other parent in the alternate family as a condition to the right to claim this deduction. If the other parent in the secondary family is voluntarily unemployed or under-employed, the court may impute income to that person to determine the parent's obligation to the children in the secondary family.

3. The amount of the deduction shall not be calculated for alternate families having more than six children. In such cases, the court may find that the guidelines are inapplicable and may establish the child support award based on the factors set forth in N.J.S.A. 2A:34-23 and existing case law.

**Line 3 - Net Taxable Income - Subtract** the combined withholding tax, [prior] child support orders for other dependents, mandatory union dues, and the other-dependent deduction\*, if any, from the Adjusted Gross Taxable Income to obtain the Net Taxable Income. (Math: Line 2 - Line 2a - Line 2b - Line 2c - Line 2d). **Enter** each parent's Net Taxable Income in the appropriate Line 3 column.

***\*If the other-dependent adjustment is [requested] applied,*** three worksheets must be prepared: (1) one calculating the parent's [theoretical] obligation for other dependents [to dependents] in the secondary family, (2) one calculating a support award after deducting the [theoretical] obligation from the parent's net income, and (3) one calculating the support award as if there were no other dependents (i.e., the [theoretical] obligation without [the other dependent deduction] consideration other dependents ). Thus, financial obligations for other dependents [the other-dependent deduction] is not always deducted when figuring net income. The support award is adjusted for other dependents using Lines 29 through 31.

**Line 4 - Non-Taxable Income . . .** no change.

**Line 5 - Government (Non-Means Tested) Benefit for the Child . . .** no change.

**Line 6 - Net Income . . .** no change.

**Line 7 - Each Parent's Share of Income . . .** no change.

**Line 8 - Basic Child Support Amount . . .** no change.

**Line 9 - Number of Overnights with Each Parent . . .** no change.

**Line 10 - Each Parent's Share of Overnights with Child . . .** no change.

**Line 11 - PAR Shared Parenting Fixed Expenses . . .** no change.

**Line 12 - Shared Parenting Basic Child Support Amount . . .** no change.

**Line 13 - Each Parent's Share of Shared Parenting Basic Child Support Amount . . .** no change.

**Line 14 - PAR Shared Parenting Variable Expenses . . . no change.**

**Line 15 - PAR Adjusted Shared Parenting Basic Child Support Amount . . . no change.**

**Lines 16 through 20 - Figuring Supplemental Expenses to be Added to the Shared Parenting Basic Child Support Amount . . . no change.**

**Line 16 - Adding Net Work-Related Child Care Costs . . . no change.**

**Line 17 - Adding Health Insurance Costs for the Child . . . no change.**

**Line 18 - Adding Predictable and Recurring Unreimbursed Health Care . . . no change.**

**Line 19 - Adding Court-Approved Predictable and Recurring Extraordinary Expenses . . . no change.**

**Line 20 - Total Supplemental Expenses . . . no change.**

**Line 21 - PAR's Share of the Total Supplemental Expenses . . . no change.**

**Line 22 - Credit for Derivative Government Benefits for the Child Based on Contribution of the Parent of Alternate Residence . . . no change.**

**Line 23 - Credit for PAR's Child Care Payments . . . no change.**

**Line 24 - Credit for PAR's Payment of Child's Health Insurance Cost . . . no change.**

**Line 25 - Credit for PAR's Payment of Unreimbursed Health Care . . . no change.**

**Line 26 - Credit for PAR's Payment of Court-Approved Extraordinary Expenses . . . no change.**

**Line 27 - PAR's Total Payments for Supplemental Expenses . . . no change.**

**Line 28 - PAR's Net Supplemental Expenses . . . no change.**

**Line 29 - PAR's Net Child Support Obligation . . . no change.**

**Lines 30, 31 and 32 - Adjusting the Child Support Obligation for Other Dependents**

1. If either parent has court ordered child support obligations for other dependent children or [requests] an adjustment for other legal dependents is applicable, the following amounts must be considered: [a sole parenting worksheet must be prepared to determine the parent's theoretical support obligation for his or her other dependents. Additionally, two separate shared parenting worksheets must be completed (if calculating the adjustment manually). The three worksheets will result in the following obligation amounts:]

a. The amount of court ordered child support for other dependents (L2c) and the other dependent deduction L2d (where no support order exists for the dependent) – using the separate other dependent deduction worksheet; [Sole Parenting - a theoretical support obligation for the child in the alternate family (i.e., the parent

requesting the adjustment is the theoretical obligor of the child in the alternate family);]

b. [Primary Shared Parenting – a] A support obligation for the child for whom support is being determined calculated after the total of the other dependent orders and deductions (L2c + L2d); [theoretical obligation for any other dependents (Line 2d) is deducted from the responsible parent's gross income;] and

c. [Alternate Shared Parenting -] A support obligation for the child for whom support is being determined calculated without deducting the other dependent orders (2c and deductions (2d) from the responsible parent's gross income. [theoretical obligation for other dependents (Line 2d) from the responsible parent's gross income.]

2. To ensure that a fair share of the parent's income is available to all his or her legal dependents, the child support obligation for the child for whom support is being determined will be calculated WITH an income deduction for the court ordered or theoretical support obligations for other dependents. Then, the support for the subject child will be calculated WITHOUT consideration of the court ordered or theoretical support obligation for other dependents. These two calculations will be averaged. [add the parent's support obligation from the worksheet that includes the Line 2d other-dependent deduction and the parent's support obligation from the worksheet that does not include the Line 2d other dependent deduction. Divide the sum of the two support obligations by two to obtain the adjusted child support obligation.]

**Line 30 - Line 29 PAR CS Obligation WITH Deductions for Other Dependents [Other Dependent Deduction]**

**Enter** the PAR's net child support obligation (Line 29) from the worksheet that deducted the support obligation for the parent's other dependents from the parent's net income (i.e., with the Line 2c child support order for other dependents and 2d other dependent deduction). Note: the line 2d other dependent deduction is calculated on a separate worksheet. [theoretical support obligation for other dependents of either parent (i.e., with the Line

2d other-dependent amount deducted from gross income).]

**Line 31 - Line 29 PAR CS Obligation WITHOUT Deductions for Other Dependents [Other Dependent Deduction]**

**Enter** the PAR's net child support obligation (Line 29) from the worksheet that does not deduct the support obligation for other dependents (Line 2c and 2d) from the parent's net income. [a theoretical support obligation for other dependents from the gross income of either parent.]

**Line 32 - Adjusted PAR CS Obligation**

**Add** the Line 30 support obligation that includes the deductions for other dependents (L 2c and L2d) and the Line 31 support obligation that does not include the deductions for other dependents, the divide the sum by two to obtain the Adjusted Child Support Obligation for the

paying parent. [obligation that includes the other dependent deduction (Line 30) and the obligation that does not include the other dependent deduction (Line 31), then **divide** the sum by two to obtain the Adjusted PAR Child Support Obligation.] Math:  $(\text{Line 30} + \text{Line 31}) \div 2$ .  
**Enter** the result on Line 32.

**Lines 33 and 34 - Maintaining a Self-Support Reserve . . . no change.**

**Line 33 - Self-Support Reserve Test . . . no change.**

**Line 34 - PAR's Maximum Child Support Order . . . no change.**

**Line 35 - Child Support Order . . . no change.**

**Line 36 - PPR Household Income Test . . . no change.**

## Appendix IX-C

CHILD SUPPORT GUIDELINES - SOLE PARENTING WORKSHEET			
Case Name: _____ v. _____ <i>Plaintiff</i> <span style="margin-left: 100px;"><i>Defendant</i></span>		County: _____	
Custodial Parent is the: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant		Docket #: _____	
		Number of Children: _____	
<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)] <u>Mandatory Union Dues</u>	-\$ _____	-\$ _____	
2c. [Mandatory Union Dues] <u>Child Support Orders for Other Dependents</u>	-\$ _____	-\$ _____	
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. Government (Non-Means Tested) Benefits for the Child	+\$ _____	+\$ _____	
6. Net Income (L3+L4+L5)	\$ _____	\$ _____	\$ _____
7. Each Parent's Share of Income (L6 Each Parent ÷ L6 Combined)	0. _____	0. _____	1.00
8. Basic Child Support Amount (from Appendix IX-F Schedules)			\$ _____
9. Net Work Related Child Care (from Appendix IX-E Worksheet)			+\$ _____
10. Child's Share of Health Insurance Premium			+\$ _____
11. Unreimbursed Health Care Expenses over \$250 per child per year			+\$ _____
12. Court-Approved Extraordinary Expenses			+\$ _____
13. Total Child Support Amount (L8+L9+L10+L11+L12)			\$ _____
14. Each Parent's Share of Support Obligation (L7 x L13)	\$ _____	\$ _____	
15. Government Benefits for the Child Based on Contribution of NCP		-\$ _____	
16. Net Work-Related Child Care Paid		-\$ _____	
17. Health Insurance Premium for the Child Paid		-\$ _____	
18. Unreimbursed Health Care Expenses Paid (>\$250/child/year)		-\$ _____	
19. Court-Approved Extraordinary Expenses Paid		-\$ _____	
20. Adjustment for Parenting Time Expenses (L8 x L20b for Non-Custodial Parent x 0.37) <i>Note: Not presumptive in some low income situations (see App IX-A., ¶13)</i>		-\$ _____	
20a. Number of Annual Overnights with Each Parent			
20b. Each Parent's Share of Overnights with the Child (L20a for Parent ÷ L20a Combined)	0. _____	0. _____	1.00
21. Net Child Support Obligation (L14-L15-L16-L17-L18-L19-L20)		\$ _____	
<i>Continued on Page 2</i>			

## Appendix IX-C

CHILD SUPPORT GUIDELINES – SOLE PARENTING WORKSHEET – PAGE 2			
<i>If [neither parent is requesting the other-dependent deduction] there is no adjustment for other dependents, go to line 25</i>			
22. Child Support Order WITH Other Dependent Deduction (L 2d) and Child Support Orders for Other Dependents (L 2c)		\$	
23. Child Support Order WITHOUT Other Dependent Deduction and Child Support Orders for Other Dependents		\$	
24. Adjusted Child Support Order (( L22 + L23) ÷ 2)		\$	
25. Self-Support Reserve Test: (L6 - L21 or L24 for NCP; L6 - L14 for CP) If L25 for NCP is greater than 105% of the federal poverty guideline for one person (pg) L25 for CP is less than pg, enter L21 or L24 amount on L27. If NCP L25 is less than the pg and CP L25 is greater than the pg, go to L26.	\$	\$	
26. Obligor Parent's Maximum Child Support Obligation. ( L6 NCP income – 105% of federal poverty guideline for one person). Enter result here and on Line 27.		\$	
27. Child Support Order		\$	
<b>COMMENTS, REBUTTALS, AND JUSTIFICATION FOR DEVIATIONS</b>			
1. This child support order for this case <span style="float: right;"><input type="checkbox"/> was <input type="checkbox"/> was not based on the child support guidelines</span>			
2. If different from the child support guidelines award (Line 27), enter amount ordered:			
3. The child support guidelines were not used or the guidelines award was adjusted because:			
4. The following court-approved extraordinary expenses were added to the basic support obligation:			
5. Custodial Taxes:	<input type="checkbox"/> App IX-H	<input type="checkbox"/> Circ E	<input type="checkbox"/> Other
Non-Custodial Taxes:	<input type="checkbox"/> App IX-H	<input type="checkbox"/> Circ E	<input type="checkbox"/> Other
		#Allowances:	Marital:
		#Allowances:	Marital:
Prepared By:	Title:		Date:

**Appendix IX-D**

<b>CHILD SUPPORT GUIDELINES - SHARED PARENTING WORKSHEET</b>			
Case Name: _____ v. _____		County: _____	
<i>Plaintiff</i> _____ <i>Defendant</i> _____		Docket #: _____	
PPR is the: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant		Number of Children: _____	
<i>All amounts must be weekly</i>	<b>PARENT OF PRIMARY RESIDENCE (PPR)</b>	<b>PARENT OF ALTERNATE RESIDENCE (PAR)</b>	<b>COMBINED</b>
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)] <u>Mandatory Union Dues</u>	-\$ _____	-\$ _____	
2c. [Mandatory Union Dues] <u>Child Support Orders for Other Dependents</u>	-\$ _____	-\$ _____	
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. Government (Non-Means Tested) Benefits for the Child	+\$ _____	+\$ _____	
6. Net Income (L3+L4+L5)	\$ _____	\$ _____	\$ _____
7. Each Parent's Share of Income (L6 Each Parent ÷ L6 Combined)	0. _____	0. _____	1.00
8. Basic Child Support Amount (from Appendix IX-F Schedules)			\$ _____
9. Number of Overnights with Each Parent			
10. Each Parent's Share of Overnights with the Child (L9 for Parent ÷ L9 Combined)	0. _____	0. _____	1.00
<i>If PAR time sharing is less than the equivalent of two overnights per week (28%), use Sole Parenting Worksheet.</i>			
11. PAR Shared Parenting Fixed Expenses (L8 x PAR L10 x 0.38 x 2)			+\$ _____
12. Shared Parenting Basic Child Support Amount (L8 + L11)			\$ _____
13. Each Parent's Share of SP Basic Child Support Amount (L7xL12)	\$ _____	\$ _____	
14. PAR Shared Parenting Variable Expenses (PAR L10 x L8 x 0.37)		-\$ _____	
15. PAR Adjusted SP Basic Child Support Amount (PAR L13 – L11 – 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)			\$ _____
21. PAR's Share of Total Supplemental Expenses (PAR L7 x L20)		\$ _____	
22. Government Benefits for the Child Based on Contribution of PAR		\$ _____	
23. PAR Net Work-Related Child Care PAID		\$ _____	
<i>Continued on Page 2</i>			



**Appendix IX-D**

<b>CHILD SUPPORT GUIDELINES - SHARED PARENTING WORKSHEET – PAGE 2</b>			
<i>All amounts must be weekly</i>	<b>PPR</b>	<b>PAR</b>	<b>COMBINED</b>
24. PAR Health Insurance Premium for the Child PAID		\$	
25. PAR Unreimbursed Health Care Expenses >\$250/child/year) PAID		\$	
26. PAR Court-Approved Extraordinary Expenses PAID		\$	
27. PAR Total Supplemental Expenses PAID (L23 + L24 + L25 + L26)		\$	
28. PAR Net Supplemental Expenses (L21 – L27)		\$	
29. PAR Net Child Support Obligation (L15 + L28)		\$	
<b><i>If [neither parent is requesting the other dependent deduction] there is no adjustment for other dependents, go to line 33.</i></b>			
30. Line 29 PAR CS Obligation WITH Other Dependent Deduction <u>L2d and Child Support Orders for Other Dependents L2c</u>		\$	
31. Line 29 PAR CS Obligation WITHOUT Other Dependent Deduction <u>and Child Support Orders for Other Dependents</u>		\$	
32. Adjusted PAR Child Support Obligation ((L30 + L31) ÷ 2)		\$	
33. Self-Support Reserve Test: (L6 - L29 or L32 for PAR; L6 – L13 for PPR) If L33 for PAR is greater than 105% of the federal poverty guideline for one person (pg) or L33 for the PPR is less than the pg, enter the L29 or L32 amount on the PAR L35. If PAR L33 is less than the pg and PPR's L33 is greater than the pg, go to L34. If L29 or L32 is negative, see App. IX-B for instructions.	\$	\$	
34. Maximum CS Obligation (Obligor Parent's L6 net income – 105% of the poverty guideline for one person). Enter result here and on Line 35.	\$	\$	
35. Child Support Order (negative L29 or L32 denotes PPR Obligation)	\$	\$	
<b><i>If the PAR is the Obligor, Continue on Line 36</i></b>			
36. PPR Household Income Test (L6 PPR net income from all sources + net income of other household members + L35 order). If less than the PPR household income threshold (see App. IX-A, ¶14(c)), the SOLE PARENTING WORKSHEET should be used.	\$		
<b>COMMENTS, REBUTTALS, AND JUSTIFICATION FOR DEVIATIONS</b>			
1. This child support order for this case <span style="float:right"><input type="checkbox"/> was <input type="checkbox"/> was not based on the c</span>			
2. If different from the child support guidelines award (Line 35), enter amount ordered:			
3. The child support guidelines were not used or the guidelines award was adjusted because:			
4. The following extraordinary expenses were added to the basic support obligation on Line 19:			
5. PPR Taxes:	<input type="checkbox"/> App IX-H	<input type="checkbox"/> Circ E	<input type="checkbox"/> Other
PAR Taxes:	<input type="checkbox"/> App IX-H	<input type="checkbox"/> Circ E	<input type="checkbox"/> Other
#Allowances:	Marital:		
#Allowances:	Marital:		
Prepared By:	Title:	Date:	