

Handling of Security Funds

Directive #2-87
Issued by:

August 4, 1987
Robert D. Lipscher
Administrative Director

On June 23, 1987, the Supreme Court authorized procedures concerning the handling of security funds. These funds consist of monies which the Superior Court has ordered posted to secure future support payments. These mandated procedures, effective immediately, are:

- I. In order to provide advance notice of intent, all Notices of Motion to Enforce Litigant's Rights brought by the Probation Departments on behalf of obligees should be amended to include possible orders that may result from such motions. Recommended language is:

"Take notice that on _____ the _____ day of _____ 19__, at _____ o'clock in the a.m./p.m. or as soon thereafter as may be heard,

_____ County Probation Department on behalf of the obligee shall apply to the Superior Court of New Jersey, Chancery Division, Family Part, for enforcement of its support order by reason of your failure to comply therewith as set forth in the annexed certification.

At that time and place an application for withholding of your income will be made by reason of your failure to make support payments equal to support due for 14 days.

Other appropriate relief may be requested including an entry of a judgment against you in the amount of arrears due which may be used as a lien against your real and personal property, requiring you to give reasonable security and post a bond or other guarantee to ensure payment of support or other relief allowed by *R. 5:7-5*, including contempt proceedings.

You may appear in person or by attorney to contest this application. Failure to appear may result in the issuance of a warrant for your arrest."

- II. Entry of an order requiring posting of security or bonds should be considered when:
 1. The obligor is self-employed and income withholding is not available.
 2. Arrears exceed \$5000.00.
 3. A history of nonpayment has been established by the obligor.
 4. No property exists against which a lien can be placed.
- III. When security is deemed appropriate, the court order should require that it be paid to the Superior Court. Security should not be ordered held by Probation Department.

While a statute provides for the posting of a bond, we have, as of this date, been unable to identify any bonding companies in the State which will provide bond to ensure payment of child support.

- IV. Procedures for deposit of monies with the court are outlined in *R. 4:57.2*. Deposits with the Superior Court:
1. If the order requires monies to be held by the Superior Court, a copy of the order, along with a check payable to "Superior Court of New Jersey" should be forwarded to: Clerk of the Superior Court, CN 721, Trenton, NJ 08625.
 2. If the obligor does not comply with current orders and fails to make payments equal to the amount due for 14 days, the matter should be returned to court on Notice of Motion to Enforce Litigant's Rights which should indicate the intent to apply for monies to be paid from security funds. The court may, at the time of the hearing, order the release of all or part of the funds held by the Superior Court.
 3. The court order should specify how the parties were notified of any application for the monies to be paid or should include the consent of the parties. The order should indicate the amount of money to be released. If support is currently payable through a Probation Department, the order should specify the payee as the Probation Department, on behalf of the obligee, and should provide the Probation Department's address.
 4. A copy of the court order should be forwarded to the Clerk of the Superior Court, CN 721, Trenton, NJ 08625, who will then process the request for payment.

EDITOR-S NOTE

The only change has been the omission of the name of the person to contact at the Administrative Office of the Courts.

In 1997, the ACN@ in the mailing address for the AOC was changed to AP.O. Box. @