

Directive # 3-05

[Supersedes Directive #8-90]

Questions or comments may be directed to
(609) 633-2390 or (609) 984-5022

To: Assignment Judges

From: Philip S. Carchman, J.A.D.

Subject: Intercounty Child Support Case Management Policy

Date: January 31, 2005

Summary

This Directive supersedes Directive #8-90 and establishes uniform standards regarding transfer of child support cases among the vicinages. The standards provide that upon establishment of a child support order in the Family Division, that case will presumptively be assigned to the Probation Child Support Enforcement (PCSE) unit in that county, regardless of the residence of the obligor. If at some point the obligor moves to another county, the case will not ordinarily be transferred to the new county of residence. Except in limited circumstances described herein, monitoring and enforcement of the support obligation will remain with the PCSE unit to which the case was originally assigned.

Background

Directive #8-90, "Intercounty Support Case Transfer Policy and Procedures," required that child support cases be made payable through and enforceable in the county where the obligor lived. That Directive was issued to implement *Court Rule 5:7-4(b)*, which at the time required such case transfers when the obligor moved.

The establishment of the New Jersey Family Support Payment Center in 1998 created a centralized processing unit for child support payments so that the great majority of payments are no longer being processed in the Vicinages. In addition, the program enhancements of the statewide Automated Child Support Enforcement System (ACSES) have eliminated the need for collection and enforcement to occur in the county of the obligor's residence.

In recognition of the changed circumstances, the Supreme Court amended R. 5:7-4 to eliminate the requirement that cases be transferred when the obligor moves.

In May 2002, the Administrative Director of the Courts appointed two working groups, the Inter-Divisional Working Group on Child Support Enforcement (IDWG) and the Probation Child Support Enforcement Working Group (PCSEWG) to consider a range of issues related to child support, including the intercounty transfer policy.

Among the items addressed in their joint report, the IDWG and PCSEWG recommended the elimination of most routine intercounty transfers. The new intercounty transfer policy proposed by the two Working Groups was endorsed by the Conferences of Family Presiding Judges, Family Division Managers, Finance Division Managers and Chief Probation Officers, as well as by the Administrative Council. The Division of Family Development of the Department of Human Services also endorsed the reduction of intercounty transfers. The recommendations of the Working Groups were subsequently incorporated into this Directive and approved by the Judicial Council at its January 13, 2005 meeting. The Directive is captioned "Intercounty Child Support Case Management Policy" rather than "Case Transfer Policy" in light of its focus on reducing intercounty transfers.

Minimizing the transfer of enforcement cases saves significant time and effort by eliminating the preparation, approval, transmittal, and acceptance of case transfers. Moreover, in many cases, enforcement actions result in the obligor's request to modify the underlying child support order (e.g., support amount, parenting time, attorney's fees). Since motions to modify orders must be heard in the county of venue (usually where the court issued the original order), initiating the enforcement in the county of venue makes it possible to consolidate the enforcement and modification proceedings, pursuant to R. 5:7-6.

Initial Procedures – Family Division

Effective immediately, enforcement of new child support orders will presumptively remain in the county in which the child support order is first established (county of venue) unless the court orders the case transferred for

cause. Enforcement will remain the responsibility of the Probation Child Support Enforcement (PCSE) Unit in the county of venue. This will be true even if there are one or more other existing child support orders against the same obligor currently being enforced by a PCSE Unit in another county.

When a court order for child support is issued, staff¹ will enter the new obligation into the Automated Child Support Enforcement System (ACSES) with the load number (county identifier) for the county of venue. The judgment or order and supporting documents should then be forwarded to the PCSE Unit in their county.

If for some special reason the court orders that the enforcement take place outside of the county of venue, the new obligation will be entered into ACSES by staff in the county of venue with the load number of the county in which the order will be enforced. The judgment or order and supporting documents should then be forwarded to the PCSE Unit in the identified county of enforcement. This is consistent with longstanding procedures for entering data in ACSES for cases to be transferred to another county, as set forth in former Administrative Director Richard J. Williams' memorandum, "Entry of Child Support Obligations," March 3, 2002. A case shall be transferred to a PCSE Unit in another county only for cause.

Enforcement Procedures and Consolidations for Transfer - Probation Division

As to any cases in the process of transfer as of the date of issuance of this Directive, the PCSE Unit that is currently monitoring payment of any child support obligation will retain that case unless otherwise ordered by the court. Thus, cases previously transferred for enforcement should not ordinarily be returned to the county of venue. Effective immediately, however, all newly established orders and judgments will be enforced by the PCSE Unit in the county of venue.

In the future, cases should rarely be transferred outside the county of venue. Transfers may be made only in the following two sets of circumstances:

1. Conflict of Interest

In the event an employee in the county of venue has a real or apparent conflict of interest arising from a personal interest or a relationship

¹ At the present time, the data entry of obligations may be performed by the Family Division, the Finance Division, or the Probation Division, based upon local practice. The Child Support Inter-Divisional Working Group (IDWG) has recommended that this function be uniformly assigned to Family Division staff, which recommendation has been endorsed by the Administrative Council. Pending presentation of this recommendation to the Judicial Council, each Vicinage is free to continue to assign this function as it has in the past.

to a party with an interest in a child support case, Vicinage management shall consider the necessity of transferring the case to another county. Such determinations to transfer shall be guided by the Code of Conduct for Judiciary Employees, particularly Canon 3 ("Avoiding actual or apparent impropriety") and Canon 4 ("Avoiding actual or apparent conflicts of interest").

When considering whether it is necessary to transfer a particular case, the canons should be interpreted as though they applied to all persons working in the New Jersey child support enforcement program, including, for example, employees of the Board of Social Services or the Sheriff's Office. If a potential conflict of interest situation arises, the Assignment Judge, in consultation with the Family Presiding Judge, the Trial Court Administrator and/or the Chief Probation Officer or their designees should determine the appropriate action. Reassignment of a case to a different staff member or team in the original county or vicinage may be an adequate response to a conflict of interest situation in some circumstances.

2. Effective Enforcement

The court may order a case transferred to another county if it finds the transfer necessary to properly enforce or monitor the matter. The PCSE Unit shall not, however, request the court to transfer a case without first scheduling the matter for hearing before a judge or child support hearing officer. In the event the PCSE Unit believes such a transfer is necessary, it should schedule the matter for an Enforcement of Litigant's Rights hearing, providing notice to the parties and an opportunity for them to be heard on the transfer as well as on the enforcement issues.

The criteria for the PCSE Unit to initiate a request to transfer a case would be limited to a showing of good cause to the court. Generally, this would involve a demonstration that existing enforcement efforts have been thorough, but still not effective, and that transfer to the obligor's county of residence shows promise of yielding better results. Transfers for this reason will most commonly be sought in conjunction with issuance of a bench warrant to compel immediate appearance before the court. In such instances, the PCSE Unit should consider recommending a transfer of enforcement where past experience suggests that execution of an out-of-county warrant in the county of the obligor's residence is unlikely or in those cases where such a warrant exists, but has not yet been executed.

If the transfer is approved by the court, the PCSE Unit would take steps to discharge any outstanding support warrants and transfer enforcement of the case to the county of the obligor's residence. Upon

receipt of the transferred case, the new enforcing county would then be able to recommend issuance of a bench warrant promptly and coordinate execution with its local sheriff.

Factors that may be considered in determining whether it is appropriate to transfer a case may include, but are not limited to, the following:

- Residence of the obligor;
- Length of residence of the obligor;
- Appropriateness of bench warrant issuance;
- Ability to have a warrant executed in the enforcing county;
- Payment history; and
- Possession by obligor of a professional license.

On those occasions when a county asks a judge or hearing officer to transfer a case to another vicinage for enforcement, the sending county must provide complete information about enforcement efforts to the receiving county. Only in this way can the receiving county understand why the sending county was unable to achieve compliance with the court order and avoid duplication of efforts. In order to ensure that uniform information is communicated in these instances, I have asked the Conference of Chief Probation Officers to develop a standard form or checklist to record the actions taken by Probation for use when recommending a transfer to a judge or hearing officer.

Pending Cases

As noted above, pending cases will remain with the county to which they are presently assigned. Previously transferred cases should not be returned to the county of venue. With respect to child support cases currently monitored and enforced by PCSE Units, the following points are to be observed:

- Cases in Compliance

No case in which the obligor is in compliance with the order shall be transferred except if there is a conflict of interest as discussed above.

- Multiple Cases

The PCSE Unit will enforce the order in the county of venue even if there is already another existing case against the same obligor in another county. When a case needs to be scheduled for an enforcement hearing and the obligor has other cases pending in one or more additional counties,

the PCSE Unit scheduling the case for enforcement should notify the other PCSE Units in writing of the intended enforcement action. This written notification, transmitted by e-mail or facsimile, will allow coordination and consolidation of enforcement efforts, if necessary. As all PCSE Units have access to all case information through ACSES, only the name of the obligor, the case number, and the date of the hearing need be provided in this communication.

- Bench Warrant

Whenever practical, the court should utilize available technology such as telephone and video conferencing to enable obligors and other parties to participate in remote hearings to Enforce Litigant's Rights (ELR) without unnecessary travel. These are useful resources available to all courts and the vicinages should use them to the maximum extent possible.

- Domestic Violence

For purposes of case transfer, enforcement of the child support provisions of orders in domestic violence cases may be handled in the same manner as any other child support case.

- Uniform Interstate Family Support Act (UIFSA)

A case should not be transferred out of the county of venue merely because the obligee resides in another county and a Registration for Enforcement is necessary because the obligor lives in another state. (This is a change from the February 4, 2003 interim procedure agreed to by the Conference of Chief Probation Officers.)

- Change of Beneficiary of Child Support Orders

Any change of beneficiary order shall be processed and continue to be enforced by the PCSE Unit that currently has the case, even if venue lies in another county. This administrative process, defined by Directive # 4-93, essentially continues an existing child support order. It shall not be viewed as a newly established child support order subject to the requirements of R. 5:7-4(b).

Please share and review these procedures with the appropriate staff in your Vicinage. Questions concerning this procedure may be directed to Assistant

Director Mary DeLeo (609-984-5022), Assistant Director Harry Cassidy (609-984-4853), or Richard Narcini, Chief of Child Support Enforcement Services (609-633-2390).

P.S.C.

cc: Chief Justice Deborah T. Poritz
Family Presiding Judges
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