

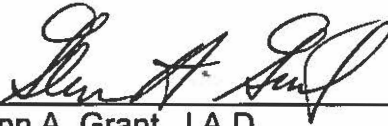
NOTICE TO THE BAR

TERMINATION OF CHILD SUPPORT OBLIGATIONS - INTERIM PROTOCOL

On January 19, 2016, Governor Christie signed S-1046/A-2721 into law. This act, codified at N.J.S.A. 2A:17-56.67 et seq., establishes the age or other conditions under which a child support and/or medical support obligation will end. The effective date of the law is February 1, 2017 and applies to all child support orders.

The statute authorizes the Supreme Court to adopt Rules of Court appropriate or necessary to effectuate the purposes of the act. The attached Interim Protocol for Termination of Child Support Obligations is being issued as a provisional measure to implement the new law until such time the Supreme Court issues court rules that clarify the rights and responsibilities of parties seeking termination or continuation of court ordered child support.

Questions regarding this notice may be directed to Elizabeth Domingo, Assistant Director, Probation Services Division, by email at Liz.Domingo@njcourts.gov or by telephone at (609) 815-3810 ext. 16311.



Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: February 7, 2017

INTERIM PROTOCOL FOR TERMINATION OF CHILD SUPPORT OBLIGATIONS (1/31/17)

The following interim protocol establishes the procedures for the termination or continuation of child support obligations, effective February 1, 2017 and until such time that the Supreme Court issues court rules.

(a) Duration of Support. In accordance with N.J.S.A. 2A:17-56.67 et seq., unless otherwise provided in a court order or judgment, the obligation to pay current child support, including health care coverage, shall terminate by operation of law when the child being supported:

- (1) Dies;
- (2) Marries;
- (3) Enters the military service; or
- (4) Reaches 19 years of age, except as otherwise provided under law.

In no case shall a child support obligation extend beyond the date the child reaches the age of 23.

(b) Termination of Obligation in Cases Administered by the Probation Division.

(1) *Notice of Proposed Termination.* Where no other emancipation date or termination has been ordered by the court, the Probation Division shall send the obligor and obligee notice of proposed termination of child support prior to the child reaching 19 years of age in accordance with N.J.S.A. 2A:17-56.67 et seq. Notices shall contain the proposed termination date and if applicable, information for the obligee to submit a written request for continuation of support beyond the date the child reaches 19 years of age.

(2) *Written Request for Continuation.* In response to the notice prescribed in section (1), the obligee may submit to the court, a written request for continuation, on a form and within timeframes promulgated by the Administrative Office of the Courts, with supporting documentation and a future termination date, seeking the continuation of support beyond the child's 19th birthday if the child being supported:

- (A) Is still enrolled in high school or other secondary educational program;
- (B) Is enrolled full-time in a post-secondary educational program; or
- (C) Has a physical or mental disability as determined by a federal or state agency that existed prior to the child reaching the age of 19 and requires continued support.

- (3) *Review of Written Request for Continuation.* The Probation Division shall review the obligee's written request and documentation and shall make recommendation to the court as to whether the support obligation will continue beyond the child's 19th birthday. If sufficient proof has been provided, the court shall issue an order to both parties establishing the future termination date. If sufficient proof has not been provided, the court shall issue an order to both parties terminating the current support obligation as of the date of the child's 19th birthday. No additional notice shall be provided to the parties.
- (4) *No Response to Notice of Proposed Termination.* If the Probation Division receives no response to the notices of proposed termination of child support, the court shall issue an order to both parties establishing the termination of obligation as of the child's 19th birthday. No additional notice shall be provided to the parties.
- (5) *Motion or Application.* If either party disagrees with the termination or continuation order entered, the party may file a motion in a dissolution matter or an application in a non-dissolution or domestic violence matter requesting either termination or continuation of the child support obligation, as applicable.
- (6) *Arrears Remain Due and Enforceable.* Any arrearages accrued prior to the date of termination shall remain due and enforceable by the Probation Division as appropriate until they are paid in full or the court terminates the Probation Division's supervision of the support order. Upon termination of an obligation to pay current support, the amount to be paid to satisfy the arrearage shall be the sum of the obligation amount in effect immediately prior to the termination plus any arrears repayment amount if there are no other children remaining on the support order.
- (7) *Final Notice of Termination.* Where an emancipation date or termination date has been ordered by the court, the Probation Division shall send the obligor and obligee notice of termination of child support prior to the child reaching the court ordered emancipation date or future termination date in accordance with N.J.S.A. 2A:17-56.67 et seq. The notice shall contain the date on which child support shall terminate and information regarding the adjustments that shall be made to the obligation, as applicable.
- (8) *Unallocated Orders.* Whenever there is an unallocated child support order for two or more children and the obligation to pay support for one or more of the children is terminated pursuant to N.J.S.A. 2A:17-56.67 et seq., the amount to be paid prior to the termination shall remain in effect for the other children. Either party may file a motion in a dissolution matter or an application in a non-dissolution or domestic violence matter to adjust the support amount.
- (9) *Allocated Orders.* Whenever there is an allocated child support order for two or more children and the obligation to pay support for one or more of the children is terminated pursuant to N.J.S.A. 2A:17-56.67 et seq., the amount to be paid shall

be adjusted to reflect the reduction of the terminated obligation(s) for the other children. Either party may file a motion in a dissolution matter or an application in a non-dissolution or domestic violence matter to adjust the support amount.

(10) *Venue for Filings.* Motions in dissolution matters, or applications in non-dissolution or domestic violence matters, seeking the termination or continuation of child support for a child under the age of 23 must be filed in the county of venue.

(c) Termination or Continuation of Child Support Obligations Not Administered by the Probation Division. Where an obligor has been ordered to pay child support directly to the obligee, the child support obligation shall terminate by operation of law in accordance with N.J.S.A. 2A:17-56.67 et seq., unless otherwise provided in a court order or judgment. Notwithstanding any other provision of law, a party may file a motion in a dissolution matter or an application in a non-dissolution or domestic violence matter requesting termination or continuation of a child support obligation at any time, for good cause. The Probation Division shall not be required to provide any noticing, monitoring or enforcement services in any case where the obligor has been ordered to pay child support directly to the obligee.

(d) Other Reasons for Termination of Child Support Obligations. A party to a child support order, at any time, may file a motion in a dissolution matter or an application in a non-dissolution or domestic violence matter requesting termination of a child support obligation based upon good cause. Any arrearages accrued prior to the date of termination shall remain due and enforceable by the obligee or the Probation Division, as appropriate.

(e) Emancipation. Except as otherwise provided by this interim protocol, and in accordance with N.J.S.A. 2A:34-23, N.J.S.A. 2A:17-56.67 et seq., and related case law, a party to a child support order, at any time, may file a motion in a dissolution matter or an application in a non-dissolution or domestic violence matter requesting emancipation of a child in the county of venue. Court-ordered emancipation shall terminate the obligation of an obligor to pay current child support, as of the effective date set forth in the order of emancipation. Any arrearages accrued prior to the date of emancipation shall remain due and enforceable by the obligee or the Probation Division, as appropriate.

(f) Support for Children in Out-of-Home Placement through the Division of Child Protection and Permanency (DCPP). A child support obligation payable to the DCPP for children in an out-of-home placement shall not be terminated by operation of law upon the child turning 19 years of age. A child support obligation payable to DCPP shall terminate upon notification that the child is no longer in placement or upon the child turning 23 years of age, whichever first occurs.

(g) Financial Maintenance for a Child Beyond 23 Years of Age. Pursuant to N.J.S.A. 2A:34-23, N.J.S.A. 2A:17-56.67 et seq., and related case law:

- (1) A child beyond 23 years of age may apply to the court for an order requiring the payment of financial maintenance or reimbursement from a parent;
- (2) A parent, or child over the age of 23, may apply to the court for an order converting a child support obligation to another form of financial maintenance in exceptional circumstances, including but not limited to the child's physical or mental disability that existed prior to the date the child reached the age of 23;
- (3) Any arrearages accrued prior to the date of termination or conversion shall remain due and enforceable by the obligee or Probation Division, as appropriate;
- (4) Court-ordered financial maintenance or reimbursement from a parent shall not be payable or enforceable as child support. The Probation Division shall not be required to provide any establishment, monitoring or enforcement of such maintenance or reimbursement order;
- (5) Complaints or applications for financial maintenance for a child, age 23 years or older, who has been or will be adjudicated incapacitated, shall be heard in the Probate Part. County Surrogate staff shall process complaints or applications for financial maintenance in accordance with applicable provisions of R. 4:86; and,
- (6) Complaints or applications for financial maintenance, reimbursement, or conversion of an existing support order, for the financial support of an adult child over the age of 23, where there has not been or will not be an adjudication of the adult child's incapacitation, must be filed and heard in the Family Part. Court staff shall process the complaint for financial maintenance, reimbursement, or conversion of an existing support order using the Family Automated Case Tracking System (FACTS). These filings are considered non-IV-D actions and the hearings shall not be scheduled before child support hearing officers. Financial maintenance obligations may not be added to NJKiDS, the automated child support enforcement system, as alimony cases, dependent litigant cases or in the form of arrears payback amounts.

(h) Foreign Orders or Judgments. The provisions of N.J.S.A. 2A:17-56.67 et seq. shall not apply to child support provisions contained in orders or judgments entered by a foreign jurisdiction and registered in New Jersey for modification or enforcement pursuant to the "Uniform Interstate Family Support Act", N.J.S.A. 2A:4-30.124 et seq.