

Announcement
Amendments to Rules 5, 72, and 302 of the
Family Court Rules of Civil Procedure

By an order dated November 10, 2016 and effective January 9, 2017, Rules 5, 72 and 302 of the Family Court Rules of Civil Procedure are amended to reflect recent changes in the law, including the name change of the Division of Child Support Enforcement to the Division of Child Support Services.

Rule 5 governing the service of process and filing of pleadings in Family Court has been amended to reflect a change in the law regarding the certified mail requirement for retroactive modification of child support obligations. The prior law allowed for a modification of a child support obligation to be retroactive only to the date the modification petition had been delivered to the responding party by certified mail. Otherwise, any modification could only be effective the date of the hearing or mediation conference. The new statute eliminates the certified mail requirement and allows modification back to the regular mailing date (plus 3 days) to the responding party. Rule 5 is being changed to remove reference to certified mail as a prerequisite to retroactivity.

Rule 72 governing administrative appeals from the child support agency has been amended to recognize the change in name of the Division of Child Support Enforcement (DCSE) to the Division of Child Support Services (DCSS).

Rule 302 governing income attachments for child support obligations has been amended to reflect a change in the law in those cases where there is a past due child support balance and no payment has been received for at least one month. The previous law allowed DCSS to impose a payment on past due support of 10% of the current support, or at least \$5, if a person had not made a payment for 90 days. The new law increased the allowable payment to 20% of the current support, or at least \$20, if a person has not made a payment within one calendar month. The change from 90 days to one calendar month reflects the change in child support accounting practices over the years from weekly to monthly, and a desire for a more aggressive remedy that can be imposed without requiring the parties to appear in court.