

FAMILY CROWN SERVICES OPERATIONAL MANUAL

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| JUDICIAL SUPPORT ENFORCEMENT | New | Office of the Attorney General / Family Crown Services | Policy 32 |
| Policy Title | New or Amended | Division / Branch / Section | Policy # |

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JUDICIAL SUPPORT ENFORCEMENT

1.1 Introduction

Pursuant to subsection 7(1) of the *Support Enforcement Act*, S.N.B. 2005, c.S-15.5, it is the duty of the Director of Support Enforcement to enforce a court order that has been filed with him / her.

If a payer is in default under a support order, the Director of Support Enforcement may request an administrative enforcement hearing in front of the Case Management Master in some Judicial Districts or before the Court Administrator in other judicial districts. The Director of Support Enforcement is not represented by legal counsel at administrative hearings.

Generally, the Director of Support Enforcement will exhaust all administrative remedies before requesting a default hearing, also known as a judicial support enforcement hearing, before a judge of the Court of Queen’s Bench of New Brunswick, Family Division. Family Crown Counsel represents the Director of Support Enforcement at default hearings.

1.2 Role of Family Crown Counsel

Family Crown Counsel operates under a solicitor-client relationship with the Director of Support Enforcement. Enforcement officers carry out the responsibilities of the Director.

1.3 Responsibilities of Family Crown Counsel

The services provided by Family Crown Counsel encompass all barrister and solicitor services required to provide legal advice and representation to the client, being the Director of Support Enforcement, and his representatives, being the enforcement officers.

The duties and responsibilities of Family Crown Counsel include:

- taking instructions from the Director of Support Enforcement or his / her representatives;
- researching points of law as required;
- review all documents prepared by the Director of Support Enforcement or his / her representatives, prior to filing with the court;
- providing legal advice and legal opinions to the Director of Support Enforcement or his / her representatives at all stages of the solicitor-client relationship;
- providing and responding to correspondence and other contacts from the client, defence counsel, the Clerk's Office, the process server and the court;
- attend the court hearing. Family Crown Counsel shall clearly state on the record that he / she is appearing on behalf of the Director of Support Enforcement and that he / she does not represent any of other the parties to the proceeding;
- facilitate the hearing by ensuring that all pertinent information is adduced into evidence. Family Crown Counsel may examine witnesses if pertinent information has not been presented;
- respond to procedural questions from the presiding justice;
- draft and file any orders following the court hearing;
- draft Notice of Hearing to be served on respondent when a matter is adjourned and a new date is set by the court (if such notice is not prepared by court services); and
- make arrangements with sheriff's office to serve respondent with Notice of Hearing (if applicable).

1.4 Areas outside the mandate of Family Crown Counsel

Other than the Director of Support Enforcement or his / her representative, Family Crown Counsel shall not:

- provide legal advice to any party to the proceeding;
- take directions from any party to the proceeding;
- represent any of the parties at the hearing;
- Locate any party to the proceeding;

1.5 Related documents

Policy 3 - Organization and mandate
Support Enforcement Act, S.N.B. 2005, c.S-15.5