

ARTICLE 4B

Child Support Hearing Officers

Section

40-4B-1. Short title.

Sections 1 through 10 [[40-4B-1](#) to [40-4B-10](#) NMSA 1978] of this act may be cited as the "Child Support Hearing Officer Act".

History: Laws 1988, ch. 127, § 1.

40-4B-2. Purpose.

The purpose of the Child Support Hearing Officer Act is to provide the personnel and procedures necessary to insure prompt and full payment by obligated parties of child support obligations for their dependent children and, where applicable, attendant spousal support obligations. It is further the purpose of the Child Support Hearing Officer Act to insure that support payments are made in compliance with federal regulations governing the state's federally mandated program pursuant to Title IV D of the federal Social Security Act requiring a state plan and program to enforce child support obligations. Such compliance will speed up the processing of cases and completion of enforcement actions, thereby reducing expenditures for aid to families with dependent children.

History: Laws 1988, ch. 127, § 2.

40-4B-3. Definitions.

As used in the Child Support Hearing Officer Act:

A. "department" means the child support enforcement bureau of the human services department; and

B. "secretary" means the secretary of human services.

History: Laws 1988, ch. 127, § 3.

40-4B-4. Child support hearing officers; appointment; terms; qualifications; compensation.

A. Child support hearing officers shall be appointed by and serve at the pleasure of the judges of the judicial districts determined pursuant to Subsection D of this section. Each hearing officer shall be selected by a majority of the district court judges in the judicial district to which he is assigned. The child support hearing officers shall be paid pursuant to a cooperative agreement between the human services department and the judicial districts.

B. Child support hearing officers shall be lawyers who are licensed to practice law in this state and who have a minimum of five years experience in the practice of law, with at least twenty percent of that practice having been in family law or domestic relations matters. Child support hearing officers shall devote full time to their duties under the Child Support Hearing Officer Act and shall not engage in the private practice of law or in any employment, occupation or business interfering with or inconsistent with the discharge of their duties as a full-time child support hearing officer.

C. A child support hearing officer is required to conform to Canons 21-100 through 21-500 and 21-700 [Rules [21-100](#) through 21-500 and Rule 21-700] of the Code of Judicial Conduct as adopted by the supreme court. Violation of any such canon shall be grounds for dismissal of any child support hearing officer. Child support hearing officers shall be employees of the judicial

branch of government and shall not be subject to the Personnel Act [[10-9-1](#) NMSA 1978]. Their compensation shall be set by the judges who appoint them, but such compensation shall not exceed eighty percent of the current salary for district court judges.

D. Child support hearing officers shall serve in such judicial districts as the secretary deems appropriate considering the case loads and case needs of the state's Title IV D program.

History: Laws 1988, ch. 127, § 4; 1993, ch. 124, § 1.

40-4B-5. Reference.

Actions covered under the Child Support Hearing Officer Act include but are not limited to petitions to establish support obligations, petitions to enforce court orders establishing support obligations, petitions to recover unpaid child support arrearages and post-judgment interest, actions pursuant to the Support Enforcement Act [[40-4A-1](#) NMSA 1978], actions brought to modify existing support obligations, actions to establish parentage and actions under the Revised Uniform Reciprocal Enforcement of Support Act [Uniform Interstate Family Support Act, [Chapter 40, Article 6A](#) NMSA 1978]; provided the Child Support Hearing Officer Act does not apply to proceedings for the establishment of custody. The presiding judge or his designee shall refer only matters concerning the establishment and enforcement of support obligations to a child support hearing officer in all of those proceedings in which:

A. the department as the state's Title IV D agency is acting as the enforcing party pursuant to an assignment of support rights under [Section 27-2-27](#) NMSA 1978;

B. the department, pursuant to [Section 27-2-27](#) NMSA 1978, is acting as the representative of a custodial parent who is not receiving aid to families with dependent children; and

C. the department is the enforcing Title IV D party pursuant to a written request for enforcement of a support obligation received from an agency in another state responsible for administering that state's federal Title IV D program.

History: Laws 1988, ch. 127, § 5; 1993, ch. 124, § 2.

40-4B-6. Hearings; powers of child support hearing officers.

A. Child support hearing officers have the adjudicatory powers possessed by district courts under the Support Enforcement Act [[40-4A-1](#) NMSA 1978], the Revised Uniform Reciprocal Enforcement of Support Act [Uniform Interstate Family Support Act, [40-6A-1](#) NMSA 1978] and any other law allowing the enforcement and establishment of support obligations by the state Title IV D agency.

B. Hearings shall be held in the judicial district in which the claim arose or in the judicial district where one of the parties resides.

C. The child support hearing officer shall have the power to preserve and enforce order during hearings; administer oaths; issue subpoenas to compel the attendance and testimony of witnesses, the production of books, papers, documents and other evidence or the taking of depositions before a designated individual competent to administer oaths; examine witnesses; and do all things conformable to law which may be necessary to enable him to discharge the duties of his office effectively.

D. Any person committing any of the following acts in a proceeding before a child support hearing officer may be held accountable for his conduct in accordance with the provisions of Subsection E of this section:

(1) disobedience of or resistance to any lawful order or process;

- (2) misbehavior during a hearing or so near the place of the hearing as to obstruct it;
- (3) failure to produce any pertinent book, paper or document after having been ordered to do so;
- (4) refusal to appear after having been subpoenaed;
- (5) refusal to take the oath or affirmation as a witness; or
- (6) refusal to be examined according to law.

E. The child support hearing officer may certify to the district court the fact that an act specified in Paragraphs (1) through (6) of Subsection C [D] of this section was committed in that court. The court shall hold a hearing and if the evidence so warrants may punish the offending person in the same manner and to the same extent as for contempt committed before the court, or the court may commit the person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of or in the presence of the court.

History: Laws 1988, ch. 127, § 6.

40-4B-7. Proceedings.

A. When a reference is made, the clerk of the court shall furnish the hearing officer with a copy of the order of reference. Upon receipt thereof unless the order of reference otherwise provides, the hearing officer shall proceed in lieu of the district court in accordance with the Rules of Civil Procedure.

B. The parties may procure the attendance of witnesses before the hearing officer by the issuance and service of subpoenas as provided in Section 6 [[40-4B-6](#) NMSA 1978] of the Child Support Hearing Officer Act. If without adequate excuse a witness fails to appear or give evidence, he may be punished by the district judge as for a contempt and be subjected to the consequences, penalties and remedies provided in Section 6 of the Child Support Hearing Officer Act and the Rules of Civil Procedure.

History: Laws 1988, ch. 127, § 7.

40-4B-8. Report.

A. The child support hearing officer shall prepare a report with a decision upon the matters submitted to him by the order of reference and, if required to make findings of fact and conclusions of law, shall set them forth in the report. He shall file the report with the clerk of the court and unless waived by the parties shall file with it a transcript or other authorized recording of the proceedings and of the evidence and original exhibits. The clerk shall mail immediately notice of the filing to all parties.

B. Within ten days after being served with notice of the filing of the report, any party may file written objections with the district court and serve such objections on the other parties.

C. If the district court judge wishes to review the hearing officer's decision de novo or on the record, he shall take action on the objections presented by the parties within fifteen days after the objections are filed. Failure to act by the district judge within the time allowed is deemed acceptance by the district court of the child support hearing officer's decision and will grant the decision the full force and effect of a district court decision.

D. If the district court's review is on the record, he shall set aside the decision only if the decision is found to be:

- (1) arbitrary, capricious or an abuse of discretion;
- (2) not supported by substantial evidence in the record as a whole; or
- (3) otherwise not in accordance with law.

E. The effect of a child support hearing officer's report is the same whether or not the parties have consented to the reference; however, when the parties stipulate that a child support hearing officer's findings of fact shall be final, only questions of law arising upon the report may thereafter be considered.

History: Laws 1988, ch. 127, § 8; 1993, ch. 124, § 3.

40-4B-9. Review and appeal.

Within thirty days after the hearing officer's decision becomes final pursuant to Section 8 [40-4B-8 NMSA 1978] of the Child Support Hearing Officer Act, an applicant or recipient may file a notice of appeal in the same manner as that of an appeal from a district court decision pursuant to the Rules of Appellate Procedure.

History: Laws 1988, ch. 127, § 9.

40-4B-10. Child support standards and guidelines.

In establishing any support obligations pursuant to the Child Support Hearing Officer Act, the child support hearing officer shall be governed by the child support standards and guidelines set out by the New Mexico supreme court, by New Mexico statutes or by the secretary.

History: Laws 1988, ch. 127, § 10.