

STATUTORY FRAMEWORK FOR THE FAMILY VIOLENCE INDICATOR

Overview of the Federal and State Case Registries

In 1975, Congress enacted Title IV-D of the Social Security Act and, in so doing, created the nation's child support program. Since that time, there have been numerous legislative enactments to strengthen the ability of Federal and State child support officials to perform their designated tasks. Recent legislation, with a significant impact on child support, includes the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), also known as "PRWORA." PRWORA mandated the establishment of new tools, and the augmentation of existing ones, to better enable Federal and State governmental entities to proceed with their work on behalf of America's children and families. Specifically, PRWORA contained provisions designed to help these agencies to:

- establish paternity; and
- establish, set, modify, and enforce child support.

At the Federal level, PRWORA expanded the existing Federal Parent Locator Service (FPLS) by mandating the creation of two new databases -- the National Directory of New Hires (NDNH) and the Federal Case Registry of Child Support Orders (FCR). Aside from improving the ability of Federal and State agencies to locate people with child support cases or orders, these two new data sources were created to serve other important functions. For instance, Congress also mandated the development of the NDNH to offer national new hire, employment, unemployment, and wage data for use in establishing, enforcing, and modifying support. The FCR, with its child support case and order abstracts, was designed to serve as a pointer system to help States identify other States with an interest in the same people, cases, or orders. The FCR is an invaluable tool for helping States to make controlling order decisions and to determine continuing exclusive jurisdiction (CEJ) in interstate situations.

PRWORA mandated a variety of changes at the State level as well. Through amended Section 453A of the Social Security Act [42 U.S.C. §653A], PRWORA required each State to establish its own State Directory of New Hires (SDNH). Further, according to Section 454A of the Act [42 U.S.C. §654A(e)], each State now must have a State Case Registry (SCR), as a necessary component of its statewide automated system. In addition to the State-level uses of the SCRs, they collect data that is forwarded to the FCR for use nationally. Each SCR will:

- establish and maintain records of all IV-D cases and of non IV-D orders established or modified on or after October 1, 1998;
- include standardized data elements for custodial parents, noncustodial parents, putative fathers, and children, such as names, Social Security Numbers, dates of birth, and case identification numbers;
- capture case-specific data, such as the amounts of periodic support owed, other amounts due, actual support collections and distributions, and liens;

- update and monitor case information for IV-D cases and non IV-D support orders on the basis of administrative actions and judicial proceedings related to paternity and support, the sharing and tracking of information obtained from comparisons with Federal, State, or local sources, as well as support collections and distributions; and
- compare information and share data for program purposes with the SDNH, the FPLS (which includes the FCR and the NDNH), the Temporary Assistance to Needy Families (TANF) program, Medicaid agencies, and other appropriate intrastate and interstate agencies or data sources.

The Family Violence Indicator and Its Statutory Basis

Pursuant to PRWORA, codified within the Social Security Act at 42 U.S.C. §654(26), State child support plans now must include strategies for safeguarding the confidential information handled by State IV-D agencies. Subsections (B) - (E) of this section specifically relate to instances in which family violence is potentially at issue.

Under subsection (B), States are required to have “prohibitions against the release of information on the whereabouts of 1 party or the child to another party against whom a protective order with respect to the former party or the child has been entered[.]”

The second provision, found in subsection (C), has mandated States to have “prohibitions against the release of information on the whereabouts of 1 party or the child to another person if the State has reason to believe that the release of the information to that person may result in physical or emotional harm to the party or child[.]”

In addition to these requirements for State-level data management and protection, this section of Federal law now requires State plans to have procedures regarding the transmission of information to, or the release of information from, the U.S. Department of Health and Human Services (HHS), Office of Child Support Enforcement (OCSE). Specifically, subsection (D) applies when a State determines that a situation poses a possible harm to a party or child in a paternity or child support matter. When such facts are presented, the State must have procedures “to notify the Secretary, for the purposes of [42 U.S.C.] section 653(b)(2), that the State has reasonable evidence of domestic violence or child abuse against a party or the child and that disclosure of such information could be harmful to the party or the child[.]” This notice permits HHS, at the Federal level, to also safeguard data regarding the at-risk person.

States provide notice of possible domestic violence or child abuse -- collectively called “family violence” -- by means of a data element that is transmitted from each State’s SCR to the FCR. This data element is called the “Family Violence (FV) Indicator.” [45 C.F.R. 307.11(f)(1)(x)] When an SCR sends an FV Indicator to the FCR, this notification activates Federal precautions. From that point forward, OCSE is prohibited from disclosing information that would lead to the location of the protected person, not just from the FCR but from the entire expanded FPLS. [42 U.S.C. §653(b)(2)]

Finally, section 454(26)(E) of the Act [42 U.S.C. §654(26)(E)] requires that State plans now also outline the State-specific components of one additional process. This process, known as the “FV Indicator override,” permits States to request that OCSE extract data about a protected person from the FPLS despite the presence of an FV Indicator on the person’s FCR record. Following the override, and the delivery of data to the relevant State Parent Locator Service (SPLS), the law requires an appropriate State court to make a determination whether release of the extracted data to the requesting person or entity could result in harm to the protected person. If the court finds that harm to the protected person is a possible result of the data’s release to the requestor, then the law forbids the court from disclosing the recovered FPLS information.

CONTENTS OF THIS BOOK

This book presents information and materials gathered from each State, the District of Columbia, and the U.S. territories (collectively, “the States”) regarding their development, planning, and implementation of the FV Indicator and related processes. It is intended to identify and share decisions, policies, forms, and other tools that State IV-D agencies and courts have drafted and/or developed to date.

Although this book presents information about each State, it is by no means a comprehensive guide. The first version of the book included key information shared with OCSE’s FCR Family Violence Indicator Coordinator through December 1999. Basic information was updated in the Winter of 2001. Note, however, that State materials have not been updated, and the book may not relay *every* State practice or the *most current* State practices. Nonetheless, this book provides examples, which should prove helpful as States continue their early planning and/or implementation efforts regarding the new FV Indicator requirements.

The inclusion of material in this book should not be viewed as an endorsement of any particular format, process, policy, or procedure. The material presented here is offered for informational purposes only. Also note that not all of the practices described in this book may prove to be eligible for Federal Financial Participation (FFP). If you have questions about FFP eligibility, please contact your OCSE Regional Office. You can direct comments about this book, or other State practices related to the FV indicator, to:

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