



Kentucky



INDICATOR NAME:	Family Violence Indicator
SETTING CRITERIA:	<u>IV-D (Current)</u> -- Protection order <u>Non IV-D (Future)</u> -- Protection order
ELIGIBLE PEOPLE:	<u>People Directly Protected</u> -- Victims <u>Others Protected</u> -- Children in CP victim's household involved in the victim's KY child support cases or orders (Automatic)
IMPACT:	Sends FV Indicator to the FCR
DURATION:	Indefinitely
REMOVAL CRITERIA:	Undecided
OVERRIDE:	In development/early draft available

*Below is a draft section from the Kentucky Child Support Division Procedures Manual regarding its Family Violence Indicator. The first page outlines the statutory basis for the indicator. The second page explains how the indicator is to be set on the Agency's computer screen. A sample screen follows, with the family violence field in **bold**.*

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MANUAL OF PROCEDURES

DCS MTL-XXX

CONFIDENTIALITY OF RECORDS

Section 2.000

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2.190 FAMILY VIOLENCE INDICATOR

Section 454(26) of the Social Security Act requires a state plan for child support and spousal support to have in effect safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, and to establish, modify, or enforce support.

In addition to these safeguards, a state is required to have in place: (1) prohibitions against the release of information on the location of one party or a child to another party against whom a protective order has been entered with respect to the former party or the child, and (2) prohibitions against the release of information on the location of one party or a 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 the child.

KRS 205.175(2) states that information received or transmitted will not be published or be open for public inspection, including instances when the agency determines reasonable cause to believe evidence of domestic violence or child abuse, and the disclosure of the information could be harmful to the custodial parent or the child.

KRS 406.035(2) states that information received or transmitted concerning paternity establishment will not be published or be open for public inspection, including instances when CFC determines that reasonable evidence of domestic violence or child abuse exists, if the disclosure of the information could be harmful to the custodial parent or the child.

States are required to notify the Secretary of the U.S. Department of Health and Human Services (the Secretary) when they are aware of cases which present family violence (FV) concerns. A case presents FV concerns when a state has reasonable evidence to believe that the person(s) in the case are at risk of physical and emotional harm if information regarding his or her location is released. HHS has determined that this notice is to be given to the Office of Child Support Enforcement (OCSE). The notice is to be transmitted to OCSE by means of a[n] FV indicator.

When a state has notified the Secretary of its determination that there is reasonable evidence of domestic violence or child abuse **and** the disclosure of such information could be harmful to the parent or the child, disclosure of the parent's or child's location is prohibited.

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45 CFR s307.11(f)(1)(x) requires each state case registry (SCR) to include certain data elements. Among the data elements listed in this regulation is the FV indicator which is reported to the federal case registry. The FV indicator will reflect that the state has reasonable evidence to believe that the person(s) to whom the indicator attaches is at risk of physical and emotional harm if information regarding his or her location is released.

The FV indicator fields can be found on the Create Participant Entry screen (ASEC2A), the Update Participant Data screen (ASEC2A), and the Inquire Participant Data screen (ASEQ2A) on KASES. The FV indicator field can be marked with a "P" for "perpetrator" or a "V" for "victim." If a custodial parent is marked as a victim, all of her children are also marked as a victim. Any IV-D recipient can be marked as a "victim" regardless if they are the custodial parent and his or her children, a noncustodial parent or obligor, or a putative father.

The FV indicator fields on KASES are updated weekly by a batch program that is run against the Kentucky Domestic Violence Registry maintained by the State Police. The Kentucky Domestic Violence Registry is a listing of all the emergency protection orders (EPOs) and domestic violence orders (DVOs) that are currently in effect in Kentucky.

When the weekly batch program is run against the Kentucky Domestic Violence Registry, KASES will create an event, "FVIC -- FAMILY VIOLENCE IND CHANGED TO " ", for initiating worker HRASE398, for every "P" and "V" that is marked for a particular participant except for the children. A note is also attached to indicate who the other party in the DVO or EPO is, their date of birth, social security number, and the expiration date of the order if this information is available.

Child support caseworkers can also mark or change a[n] FV indicator on KASES at the participant level. If a parent states that family violence exists, a child support caseworker can only mark or change a[n] FV indicator if the parent provides a copy of the EPO or DVO to the caseworker. A copy of the EPO or DVO is filed in the hard copy case record.

Presently, FV indicators are used for informational purposes only. **These indicators do not in any way indicate that child support caseworkers should not proceed with action on the case. The purpose of the FV indicator is to protect victims of domestic violence and child abuse. Caseworkers are not to release information to anyone regarding the whereabouts of the victims.**

ASEC2A	XXX	KASES
xx/xx/xx	xx:xx:xx	UPDATE PARTICIPANT DATA

Below is a section developed for the Procedures Manual regarding the FV Indicator override. The State continues its work to develop specific procedures in this area.

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2.200 FAMILY VIOLENCE INDICATOR OVERRIDE PROCESS

A state IV-D agency, through its SPLS, can initiate a locate request to FPLS. If a[n] FV indicator has been placed on the individual who is the subject of the locate request, the requesting state will receive a disclosure prohibited (DP) code from FPLS. The DP code indicates that FPLS is not permitted to comply with the locate request because of the placement of the FV indicator.

Upon notification from FPLS that disclosure is prohibited, an authorized person* may petition a state court** requesting the court to order or request SPLS to obtain a one-time override of the FV indicator so that it can secure the sought after information from FPLS.

* Sections 453(c) and 463(d)(2) of the Social Security Act defines “authorized person.”

** Section 453(c)(2) of the Social Security Act states that the court to which disclosure is permitted is “the court which has authority to issue an order or to serve as the initiating court in an action to seek an order against a noncustodial parent for the support and maintenance of a child.” Under Section 463(d)(2)(B), the court to which disclosure is permitted is “any court having jurisdiction to make or enforce such a child custody or visitation determination or any agent of such court.”

NOTE: [T]he Social Security Act can be accessed on the Internet.

The court will decide to grant or to deny the requester’s petition. If the decision is to deny the request, the process ends here. If the court grants the petition, it will prepare an order or request for the override to SPLS.

Upon receiving an order or a request by a state court to initiate the FV indicator override process, SPLS must determine if the entity making the request for information is an authorized person and if the information is being sought for an authorized purpose as defined by Sections 453(a)(2) and 463(b) of the Social Security Act. The IV-D director must attest to his or her review of the facts and the apparent appropriateness of the purpose for which the information is sought. A request for a[n] FV indicator override is then forwarded to FPLS.

FPLS will receive, review, and verify each FV indicator override request. If FPLS approves an override request, they will perform a one-time manual override of the FV indicator. FPLS will forward the locate information to the SPLS that requested the information.

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Upon receipt of the information from FPLS, SPLS must disclose the information to the state court that ordered the FV indicator override. The state court must determine if the disclosure of the information to any other person could be harmful to the parent or the child. If the state court decides that release of the information could be harmful to the parent or child, the court must deny the request and not release the information. If the state court decides that the information from the FPLS would be unlikely to cause the parent or child harm, it may release the information to the authorized person who requested the information.