



Massachusetts

INDICATOR NAME:	Family Violence Indicator
SETTING CRITERIA:	<u>IV-D</u> Good Cause request or status (TANF) <u>IV-D & Non IV-D</u> Self-report (Written) Protection order
ELIGIBLE PEOPLE:	<u>People Directly Protected</u> -- Victims <u>Other Protected</u> -- Children in CP victim's household involved in the victim's MA child support cases or orders (Automatic)
IMPACT:	Sends FV Indicator to the FCR Marks all files as "confidential" Results in staff efforts to safeguard victim's address throughout casework
DURATION:	2-year period, with possible renewal by victim
REMOVAL CRITERIA:	End of 2-year period; specifics under consideration
OVERRIDE:	Process in place/procedures under development

Materials

Massachusetts enacted legislation, set forth below, that is very similar to the basic Federal mandates regarding the Family Violence (FV) Indicator. This provision requires the IV-D agency to notify the Federal government when there is reasonable evidence of harm to a person involved in a child support case or order. The section also provides that the IV-D agency is only to release personal information about a protected person when directed to do so by an appropriate State court and following a determination that disclosure would not result in harm to the subject of the data request.

It is important to note, however, that both statutory sections were enacted in connection with a very similar process -- the Massachusetts At-Risk status; they were not specifically developed to outline the process for obtaining information about a person protected by the FV Indicator. Massachusetts representatives indicate that they soon expect to have agency policy, court rules, and/or legislation directly applicable to the FV Indicator and the override process.

Massachusetts General Laws s119A:5A (DATE)(in relevant part):

If the IV-D agency is provided with reasonable evidence of a risk of harm pursuant to this section, the IV-D agency shall notify the Federal Parent Locator Service . . . that a risk of harm exists. Upon written request by a court or agent of a court authorized to receive information from the [FPLS], the IV-D agency shall release personal data, which may include location information and social security numbers, to such court or agent, as required by said Title IV, Part D of the Social Security Act; provided, however, that if the IV-D agency has been provided with reasonable evidence of a risk of harm, the IV-D agency shall notify the court or agent that . . . [it] has received such information and that pursuant to section 5B, before making any disclosure of such personal data, the court is required to determine whether such disclosure to any other person could be harmful to the parent or child. A person or agency seeking disclosure of person data which the IV-D agency is prohibited from disclosing because of a risk of harm . . . may file a petition with the probate and family court pursuant to section 5B to request disclosure of such personal data.

S119A:5B

A person or agency, including the IV-D agency, seeking personal data which the IV-D agency is prohibited from disclosing because of a risk of harm . . . or which the Federal Parent Locator Service . . . is prohibited from disclosing because the secretary of . . . [HHS] has been notified that there is reasonable evidence of domestic violence or child abuse, may file a petition with the probate and family court where the person resides, or in the case of an agency, with the probate and family court of Suffolk County, to request disclosure of such personal data. The petition shall specify the purposes for which such personal data is required. When a petition is filed under this section, or when the court receives notice from the IV-D agency that . . . [it] has been notified of a risk of harm . . . , the court shall determine whether disclosure of personal data could be harmful to the parent or child before releasing such data to any other person or agency.

In making such determination, the court shall notify the parent that the court has received a request to release personal data and shall provide a specific date by which the parent must object to release of the information and provide a basis for objection. The parent may provide such information in writing and shall not be required to appear in person to contest the release of information. The court shall also notify the IV-D agency of any petition filed pursuant to this section and the IV-D agency shall provide the court with any reasonable evidence of the risk of harm which has been provided to [it] . . . ; provided, however, that the IV-D agency shall not be made a party to the action, except upon good cause shown. The court may also request information directly from the [FPLS] . . . , from the IV-D agency of another state, and from any other source.

In determining whether disclosure of personal data could be harmful to the parent or child, the court shall consider any relevant information provided by the parent or child, any information provided by the IV-D agency or by the IV-D agency of another state, any evidence provided by the person seeking the personal data, whether the address of the parent or child has been impounded . . . , and any other relevant evidence, including information contained in the records of the statewide domestic violence record keeping system maintained by the office of the commissioner of probation. Documentary evidence transmitted to the court by facsimile, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission. The court may permit a party or witness to be deposed or to testify by telephone, audiovisual means, or other electronic means.

The court shall not enter an order to disclose personal data without reviewing all of the information that has been provided to the court and shall not draw an adverse inference from the failure of the parent to appear in person to contest disclosure of information. The court may enter an order (1) impounding the personal data and prohibiting any disclosure by the court or its agents, (2) permitting disclosure by the court or its agents to a specific person or persons, (3) prohibiting disclosure by the court or its agents to a specific person or persons, or (4) removing any restrictions on disclosure by the court and its agents. An order permitting disclosure of personal data may specify the purposes for which the data may be used and may prohibit a person to whom the data is disclosed from making further disclosures to any other person. The court shall notify the IV-D agency of any order entered pursuant to this section. Any person or agency who violates an order issued pursuant to this section may be held in contempt of court and subject to the penalties provided in said section 5A.

The court may disclose location information about a parent for the limited purpose of notifying the parent of a proceeding under this section or of any other proceeding in the probate and family court, provided that such information shall not be disclosed to another party unless the court issues an order pursuant to this section permitting such disclosure.