



WEST VIRGINIA

INDICATOR NAME:	Family Violence Record
SETTING CRITERIA:	<u>IV-D & Non IV-D</u> -- Self-report (Written)
ELIGIBLE PEOPLE:	<u>People Directly Protected</u> -- Victims <u>Others Protected</u> -- All household members involved in the victim's WV child support cases or orders with the abuser (Automatic)
IMPACT:	Sends FV Indicator to the FCR Reinforces IV-D need for confidential treatment of case data Blocks production of certain automated IV-D documents Generates IV-D exception report
DURATION:	Indefinite
REMOVAL CRITERIA:	Undecided
OVERRIDE:	State-specific components not yet developed

Below is an early memorandum setting out temporary policy related to the State's family violence requirements and data element. Although this policy has been augmented, the positions expressed in the memorandum may be helpful to other States.



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

**Cecil H. Underwood
Governor**

**Bureau for Child Support Enforcement
Legal Unit
Building 6, Room 817
Capitol Complex
Charleston, WV 25305
304-558-3780**

**Joan E. Ohl
Secretary**

MEMORANDUM

TO: All BCSE Staff
FROM: Heidi L. Talmage
RE: Domestic Violence
DATE: August 21, 1998

Several changes are under way in policy and programming regarding domestic violence. Although BCSE information is generally confidential, extra safeguards are needed for cases with domestic violence. To this end, a new screen is being added to identify persons who are victims of domestic violence, and therefore need extra protection.

The screen will be named Family Violence Record (FVRE). It is currently being tested and should be moved to the production environment shortly. Each participant in a case will have a field which can be coded to indicate whether or not he/she is a victim of domestic violence. The field is the Family Violence Indicator field. A code of Y means that the BCSE has knowledge of domestic violence. A blank means that the BCSE has no knowledge of domestic violence, or that a court has determined that no extra confidentiality protections are needed. Each time a Y is added for a person, you will receive a pop-up for a short notation line. Since the present procedure is to base the indicator on a signed affidavit, place "Affidavit Signed" on the line. Also, the date that the Y was added will appear on the far right side of the row. All changes to the screen will be tracked in Track Family Violence (TRFV) and Track All (TRAL).

To determine whether or not a person's field should be coded as Y for domestic violence, the temporary procedure is as follows. The person will be required to complete the attached affidavit under oath. No additional documentation will be required at this time. However, if the person provides documentation, retain a copy for the file. Advise the customer that a court may require documentation if the confidentiality is later contested. Also

advise the customer that before deleting an address from a UIFSA pleading, we have to have a court order. If the person completes the affidavit, place the code Y in the fields of that person and all other case participants who live in the same household. For example, if Jane Doe indicates under oath that she has been choked by John Doe, place the Y code next to Jane's name and next to all of the children in the case between Jane and John. The fields should be coded the same day that you receive the completed affidavit. A separate affidavit will need to be completed for each of the customer's open cases.

Beginning in early October, the BCSE will begin transmitting case information to the federal case registry. The federal case registry may be sharing certain information on all participants with courts, prosecutors and child support agencies throughout the country. The law allows parties to ask courts to obtain this information for them. A properly coded indicator will be the only protection that a person has to avoid the release of information to a potential abuser. OSCAR records will be sent to the federal case registry every week. Therefore, it is essential that the codes be marked promptly when domestic violence is indicated.

To alert the public of the potential release of information, the attached notice is being mailed to all persons with good addresses in the system. Some will receive it in their monthly statement. Those that do not receive monthly statements will receive a separate letter. You may also post the notices in waiting rooms in your offices. If customers contact you before programming is completed, have them complete the affidavit. Enter the information as soon as the OSCAR screen is operational. Cases which already have a good cause code will not be notified by separate letter. A batch program will be run in the next few weeks to code these cases as having domestic violence.

It is anticipated that eventually the domestic violence field will be used to trigger other actions in OSCAR. You will be notified of such changes as they are programmed. Final policy on the domestic violence indicator and the state case registry will be distributed after the commission meeting in late September. If you experience difficulty with the FVRE screen, contact the OSCAR HELP desk. If you have any questions about the procedures you are to follow, contact the policy unit.

Materials

West Virginia decided to alert IV-D case participants about the new systems capacity and the extent of information gathering. Accordingly, the State sent an explanatory statement to all people with an address listed in the State's child support computer system. A sample of that mailing appears below.

ATTENTION VICTIMS OF DOMESTIC VIOLENCE

Due to recent changes in federal and state laws, the WV BCSE will soon be required to begin sending child support computer records to the federal government. The federal government will make the information available to courts, child support agencies, prosecutors, and sometimes the other parent of your child. If you or your child are victims of domestic violence, we will notify the federal government, and they will not release your information without a court order.

If you have an immediate fear for your safety or the safety of your child, you need to contact your local BCSE office to ensure that your information is protected. You will need to provide BCSE with (1) a protective or restraining order against the other person involved in your child support case, or (2) reason to believe that a release of information may result in physical or emotional harm to you or your child. For the location of the BCSE office nearest you, call x-xxx-xxx-xxxx. * * *



People who present a safety risk are asked to complete a statement to this effect. The two forms that follow are used for this purpose. The first form is the "Affidavit," which is used solely to document a safety concern. The question of possible risk also appears on the second page of the "Application and Income Withholding Form."

STATE OF _____
COUNTY OF _____

Case # _____

AFFIDAVIT

I swear or affirm, under penalty of false swearing, to the following:

My name is _____.

I wish to have the information in this Bureau for Child Support Enforcement case file protected because of domestic violence.

I or my child(ren) have been subject to the following (check all that apply):

- _____ A Court has made a finding that I or my child(ren) ha[ve] been victims of domestic or family violence or abuse.
- _____ Pushing, shoving or slapping
- _____ Punching or kicking
- _____ Choke holds or strangling
- _____ Other bodily harm resulting in physical injury
- _____ Threats of bodily harm or death
- _____ Threats with a gun, knife, or other weapon
- _____ Destruction of property
- _____ Sexual assault
- _____ Denied access to telephones, financial resources, or employment

I understand that BCSE will protect the information in this case in accordance with state and federal law. However, the law does allow a court to order the BCSE to release information if the court determines there is no danger to me or my child(ren).

Signature

Taken, subscribed, and sworn to before me this _____ day of _____, 19____.

My Commission expires _____

STATE OF WEST VIRGINIA
BUREAU OF CHILD SUPPORT ENFORCEMENT

APPLICATION AND INCOME WITHHOLDING FORM

THIS FORM MUST BE COMPLETED IN ALL DOMESTIC RELATIONS FILINGS

COUNTY: CIVIL ACTION #:

PLAINTIFF

Full Name: SSN:
Residence Address:
City: County: State: Zip:
Mailing Address (if different from residence address):
City: County: State: Zip:
Birthdate: Telephone #: Driver's License #:
Sex: (M/F) Relationship to Children:

DEFENDANT

Full Name: SSN:
Residence Address:
City: County: State: Zip:
Mailing Address (if different from residence address):
City: County: State: Zip:
Birthdate: Telephone #: Driver's License #:
Sex: (M/F) Relationship to Children:

DEPENDENTS

Table with 5 columns: Full Name, Birthdate, Sex(M/F), SS#, Custodian. Includes multiple rows for listing dependents.

Employer/Source of Income where Income Withholding Notice will be sent:

Employer's Name: Address:
City: County: State: Zip:
Telephone:

Check here if there is no support order now in effect. Attach a copy. When the Bureau for Child Support Enforcement receives this application and the order, withholding services will begin immediately.

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**NO HEARING CAN BE HELD IN YOUR CASE UNTIL
YOU CHOOSE ONE OF THE OPTIONS BELOW AND SIGN THIS FORM.**

I understand that under West Virginia State law, unless otherwise directed by the court, any support order entered by the court must be collected by the BCSE through income withholding.

OPTION #1

I am applying for Full Services from the Bureau for Child Support Enforcement (BCSE). I understand that Full Services from the BCSE include, but are not limited to the following:

- Collection and distribution of support payments
- Collection and enforcement of support by income withholding
- Establishment and enforcement of support orders
- Establishment of paternity
- Enforcement of support orders through the IRS and State tax offsets
- Enforcement of support orders through unemployment compensation intercept
- Enforcement of support orders through worker's compensation intercept
- Location of the Noncustodial Parent
- Interstate services[.]

As an applicant for Full Services, I agree to comply with the following requirements:

1. I understand that I must assist the BCSE in its effort to establish and enforce paternity, child support, and medical support, and to collect child and spousal support. This requires providing information about the noncustodial parent and responding to requests made by the BCSE. It may require appearing as a witness in court or other proceedings.
2. I understand I am free to pursue legal actions through private counsel, but I must inform the BCSE if I do.
3. I understand that I must repay all monies received in error to which I am not entitled.

OPTION #2

I am applying for Income Withholding Services Only. I do not wish to receive Full Services (Option #1) from the BCSE.

Would you fear emotional or physical harm for yourself or your children if your address is disclosed?

Yes No

Would you be afraid for the other parent to know where you or your children live? Yes No

I certify that all statements on this form have been read by me or to me and I understand these statements.

I certify that all the information I have provided is true and accurate to the best of my knowledge.

Signature _____

Date _____



West Virginia has separate screens for recording its family violence information. Samples of the two screens appear below.

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XXXXXXXXX          FAMILY VIOLENCE RECORD          xx/xx/xxxx:xx
xx#xxxxx
CO: XXX          CT: XXX XX XXXX XX          DOE          JANE          Q          xxxx
                  AP: XXX XX XXXX          DOE          JOHN          Q          FVRE

R1      Last          First          SSN          Family Violence
                  Indicator          Review Date

AP      DOE          JOHN          XXXXXXXXXXXX
CT      DOE          JANE          XXXXXXXXXXXX          Y          XX/XX/XXXX
CH      DOE          MICHAEL          XXXXXXXXXXXX          Y          XX/XX/XXXX

Command
Enter -- PF1 -- PF2 -- PF3 -- PF4 -- PF5 -- PF6 -- PF7 -- PF8 -- PF9 -- PF10 -- PF11 -- PF12
        HELP          EXIT POPUP  CMD          CANCL
    
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XXXXXXXXX          FAMILY VIOLENCE INDICATOR          xx/xx/xxxx:xx
xx#xxxxx
CO: XXX          CT: XXX XX XXXX XX          DOE          JANE          Q          xxxx
                  AP: XXX XX XXXX          DOE          JOHN          Q          TRFV

Starting Date:  XX  XX  XXXX

XX/XX/XX  [WORKER NAME] (ID#) CHANGED FAMILY VIOLENCE INDICATOR
           FROM: BLANK
           TO: Y          REVIEW DATE: XX/XX/XXXX
           NOTE: AFFIDAVIT SIGNED BY CP FOR MICHAEL
           FOR: MICHAEL DOE

XX/XX/XX  [WORKER NAME] (ID#) CHANGED FAMILY VIOLENCE INDICATOR
           FROM: BLANK
           TO: Y          REVIEW DATE: XX/XX/XXXX
           NOTE: AFFIDAVIT SIGNED
           FOR: JANE DOE

Command:
Enter -- PF1 -- PF2 -- PF3 -- PF4 -- PF5 -- PF6 -- PF7 -- PF8 -- PF9 -- PF10 -- PF11 -- PF12
        HELP          EXIT          CMD          UP          DOWN
    
```

