

ACF

Administration
for Children
and Families

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration on Children, Youth and Families

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INFORMATION MEMORANDUM

TO: State, Tribal, and Territorial Agencies Administering or Supervising the Administration of Title IV-E of the Social Security Act

SUBJECT: Notice of Proposed Rulemaking (NPRM) on revised AFCARS data elements

LEGAL AND RELATED: Section 479; Title IV-E of the Social Security Act; 45 CFR 1355

PURPOSE: The purpose of this Information Memorandum is to inform title IV-E agencies that the Children's Bureau published a NPRM to revise the AFCARS data elements in the *Federal Register* on April 19, 2019 ([84 FR 16572](#)).

BACKGROUND:

- Currently, title IV-E agencies collect and report to AFCARS case-level information on all children in foster care and those who have been adopted with title IV-E agency involvement (regulated under [45 CFR 1355.40](#) and the [appendices of 1355](#)). Title IV-E agencies must submit the AFCARS data twice a year based on two six-month reporting periods.
- On December 14, 2016, the Children's Bureau (CB) published a final rule promulgating revised AFCARS requirements ([81 FR 90524](#)). It significantly expanded the data elements required to be reported by state and tribal title IV-E agencies and for the first time, required state title IV-E agencies to report to AFCARS information on the Indian Child Welfare Act of 1978 (ICWA).
- [Executive Order \(E.O.\) 13777](#) (issued February 24, 2017) directed federal agencies to establish a Regulatory Reform Task Force to review existing regulations and make recommendations regarding their repeal, replacement, or modification. The Department of Health and Human Services' Regulatory Reform Task Force identified the 2016 AFCARS regulation as one in which the reporting burden may impose costs that exceed benefits.
- In response to E.O. 13777, CB published an Advance NPRM (ANPRM) on March 15, 2018 ([83 FR 11449](#)) that solicited comments on the AFCARS data elements, costs to implement, and burden hours to complete the work required to comply with the 2016 final rule.

INFORMATION:

Thirty-six states provided comments indicating the 2016 final rule was too burdensome and should be streamlined. After analyzing the ANPRM comments, CB published this 2019 NPRM proposing to streamline the AFCARS data elements in the 2016 final rule to reduce title IV-E agencies' reporting burden. In determining the data elements to propose, we reviewed each data element in the 2016 final rule and evaluated whether it is needed for the purposes of a title IV-B/IV-E statutory requirement, program monitoring, Congressional reporting, or budgeting.

A brief summary of the major changes proposed in the 2019 NPRM are below:

- **Data elements retained:** We propose to retain data elements on the child, placements, and parents including the child's health, behavioral or mental health conditions, circumstances present at removal, prior adoption and guardianship, youth who are pregnant or parenting, youth who may be victims of sex trafficking, permanency plans, and caseworker visits.
- **Data elements modified:** We propose to retain and simplify data elements on the child and placements including the child's health assessments, child financial and medical assistance, educational information, and special education to keep only essential information as identified by ANPRM commenters. We also propose to reduce the ICWA-related data elements to information that is essential for identifying nationally the population of children to whom ICWA applies.
- **Data elements removed:** We propose to remove data elements related to sexual orientation for the child, adoptive parents, foster parents, and legal guardians, educational stability, private agency placement, juvenile justice involvement, and transition planning because we do not use the information for the reasons cited above. We propose to remove data elements that required states to report detailed information on ICWA's requirements and are tied to the Department of Interior's regulations, the ICWA statute, and court actions, including: court findings related to involuntary and voluntary termination of parental rights, including good cause findings, qualified expert witness testimony, and information on active efforts.

We did not propose substantive changes to the following sections of the final AFCARS rule: Reporting Populations, Adoption and Guardianship Assistance File, Data Structure, Data File Standards, Compliance and Penalties. In some of these areas, we propose technical or conforming changes only.

More information on the AFCARS NPRM and previous rulemakings may be found on the Children's Bureau website at [What's New in Laws & Policies](#).

COMMENTS: Please submit comments on the 2019 NPRM to [Regulations.gov](https://www.regulations.gov) on or before June 18, 2019.

/s/

Jerry Milner
Acting Commissioner
Administration on Children, Youth and Families

Attachment:

[AFCARS 2019 NPRM](#)

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