

## **CHAPTER FIVE - LOCATION OF CASE PARTICIPANTS AND THEIR ASSETS**

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## **CHAPTER FIVE**

### **LOCATION OF CASE PARTICIPANTS AND THEIR ASSETS**

#### **INTRODUCTION**

To establish the parentage of a child, obtain a support order, or modify or enforce an existing support order, a state or tribal child support agency must have adequate and accurate information. For instance, it is important to know the whereabouts of the child, the home and/or work addresses of the parents, and information about the parents' assets. Sometimes the agency may obtain the necessary information from the person receiving services. However, this person often lacks adequate information to start the necessary legal proceeding and more research by the child support agency is necessary.

Having a valid location for a noncustodial parent is essential. It allows the attorney to determine which state has personal jurisdiction over the noncustodial parent. In addition, in intergovernmental cases, information about the current locations of the individuals is critical for determining continuing, exclusive jurisdiction (CEJ).<sup>1</sup> As in any legal matter, due process in a parentage or child support proceeding requires the responding party to receive notice of the legal action and to have the opportunity to respond. A correct address for the responding party is necessary to either personally serve the party or effectuate service in accordance with state law. If the child support service recipient cannot supply the address, the agency must try to find it.

In addition to the physical location of the parties, the state or tribal child support agency needs information about income, employment, and assets. Such information is critical for setting appropriate support amounts, as well as for modification and enforcement purposes. Because many sources of income and asset information are hearsay, child support attorneys must be aware of the rules regarding the admissibility of evidence in their jurisdiction and the burden of proof required to establish the facts in each particular case.<sup>2</sup>

The process of obtaining information concerning the physical whereabouts of a parent, parent's employer(s), or other sources of income or assets to take the next appropriate action on the case is known as location.<sup>3</sup>

For parentage or child support purposes, the term "locate" encompasses a broad spectrum of activities that occur throughout the life of a case. These tasks can be complicated by increasing mobility in American society. However, modern

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<sup>1</sup> For an explanation of continuing, exclusive jurisdiction, see Chapter Thirteen: Intergovernmental Child Support Cases.

<sup>2</sup> For more information on evidentiary rules, personal jurisdiction, and burden of proof, see Chapter Eight: Advocacy Skills for Child Support Attorneys, and Chapter Thirteen: Intergovernmental Child Support Cases.

<sup>3</sup> 45 C.F.R. § 303.3(a) (2019).

technology has made locate activities much less labor-intensive and more efficient and effective. Widespread electronic record-keeping, databases, and service delivery in the public and private sectors have led child support agencies to rely on highly automated locate activities that access these resources. Electronic locate activities provide very cost-effective and timely data on location of parents and identification of their assets.

Despite the necessary and pervasive nature of the locate function, the role of child support attorneys in locate activities is limited due to the highly automated nature of the locate function. From the perspective of child support attorneys, locate activities may seem invisible, occurring electronically “behind the scenes” of legal case activities. However, child support attorneys need to be familiar with the powerful automated locate resources available to the IV-D agency. And, like other child support staff, attorneys play an important role in protecting privacy, confidentiality, and security of sensitive and protected case information, including locate data that may impact the safety of parents and families served by the child support agency.

## **LOCATE CAPABILITIES OF AUTOMATED SYSTEMS**

Federal law, regulations, and policy require state child support systems to interface electronically with a large number and wide variety of sources to obtain and verify locate, asset, and other information on parents served by the child support program.<sup>4</sup> Data from individual state systems is linked through federal systems so that data may move electronically between and among systems. For example, the Federal Parent Locator Service (FPLS)<sup>5</sup> accesses an expansive array of helpful locate resources and records and interfaces with each state’s State Parent Locator Service (SPLS).<sup>6</sup> Also, each state’s State Case Registry (SCR)<sup>7</sup> (a central registry of child support cases and orders in the state) provides and receives data from the Federal Case Registry (FCR) (a national data base that contains information on individuals in child support cases and child support orders,<sup>8</sup> including data from other states’ SCRs). Data from this resource assists child support attorneys in determining the controlling order and in identifying any other orders affecting parties in a case. Another similar example is the federal National Directory of New Hires (NDNH).<sup>9</sup> It provides federal agency employment data and connects with State Directories of New Hires (SDNH).<sup>10</sup>

Information from these sources includes far more than address and employment information. Automated systems may also identify financial

<sup>4</sup> 42 U.S.C. § 654a (2018); 45 C.F.R. § 307.11 (2019).

<sup>5</sup> 42 U.S.C. § 653 (2018).

<sup>6</sup> 42 U.S.C. § 654(8)(a) (2018); 45 C.F.R. § 302.35(a)(1) (2019).

<sup>7</sup> 42 U.S.C. § 654a(e)(1) (2018).

<sup>8</sup> 42 U.S.C. § 653(h) (2018).

<sup>9</sup> 42 U.S.C. § 653(i) (2018).

<sup>10</sup> See 42 U.S.C. § 653a (2018).

institution accounts for those who owe support and data related to services or income from other government agencies (such as child welfare services, Social Security Disability Insurance benefits, unemployment benefits, and military service benefits). See Exhibit 5-6 for the automated interfaces required for state child support systems. In addition to required interfaces, state child support systems may elect to interface with the OCSE Child Support Portal (Portal), which provides additional functionality.<sup>11</sup> See Exhibit 5-7 for locate resources available through the Portal.

The data obtained from automated systems assists child support attorneys in identifying and locating parents and other parties to litigation and in identifying assets that may be used to enforce unpaid child support orders. For intergovernmental cases, the federally operated CSENet system electronically connects state child support enforcement (CSE) automated systems to conduct interstate case business activities.<sup>12</sup>

Federal requirements also mandate that automated systems record, maintain, and track locate activities to assure compliance with federal program standards, including mandated timeframes. The tracking capability includes automated prompting for the next appropriate case action. And, when new information is added or changed in the automated system – such as the loss of employment – it automatically resubmits the case to electronic locate sources. The requirement for electronic monitoring and recording of locate data is ongoing through the life of a case.

Tribal child support programs may operate automated systems themselves or may have intergovernmental agreements with state child support agencies.<sup>13</sup> In 2014, Congress authorized tribal access to the FPLS. In 2016, OCSE issued a Dear Colleague Letter describing the process for tribal IV-D programs to access the FPLS.<sup>14</sup>

## **LOCATE RESOURCES BEYOND STATE AND TRIBAL AUTOMATED SYSTEMS**

The number of electronic and other locate tools available from state and federal sources has grown tremendously in recent years. However, there are

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<sup>11</sup> Programs that can be accessed through OCSE's Child Support Portal include the Federal Income Tax Refund Offset Program, the Federal Administrative Offset Program, the Passport Denial Program, the Multi-State Financial Institution Data Match (MSFIDM), and the Insurance Match program. For more information about these programs, see Chapter Eleven: Enforcement of Child Support Obligations.

<sup>12</sup> See Office of Child Support Enforcement, [Understanding and Using the CSENet Application](#) (Feb. 13, 2012) and Office of Child Support Enforcement, [CSENet Interface Guidance Document](#) (Apr. 18, 2011).

<sup>13</sup> 45 C.F.R. §§ 310.5–310.40 (2019).

<sup>14</sup> 42 U.S.C. § 653(c)(1) (2018). See also [OCSE-TDCL-16-01: Tribal Access to the FPLS](#) (Feb. 22, 2016).

certain child support case participants who may not appear in government databases. These include individuals who:

- Work in the underground economy for cash.
- Do not file tax returns.
- Work in the gig economy.
- Do not own titled personal or real property.

Locating these parents requires more effort beyond reliance on state and federal automated resources.

### **Personal Contacts**

Those who know the noncustodial parent personally may have useful information for the locate effort and should be considered an important resource. These include the other parent in the case, relatives, friends, unions, fraternal organizations, and current and past employers. In addition to helping locate the noncustodial parent, personal contacts like these may provide information about the parent's employment and earnings history and other information related to the parent's ability to pay support.

Local tribal child support agencies may be good sources of information if the state child support case participant is, or may be, a tribal member. Even when the state case participant is not a member of a local tribe, local tribal child support workers may assist in contacting child support workers of tribes in the area where the state case participant resides or works. Those workers often can provide useful information.

### **Local Electronic Resources**

Although many local governmental services must interface with child support automated systems (see Exhibits 5-6 and 5-7), some are not. Access to their data may require contact and co-operative agreements with the particular agency within the county, state, or tribal government. For example, court records and real estate and personal property data may be available through the County Clerk's office or Registry of Deeds office.

### **Private Sector Resources**

States and tribes may also contract with private sector entities to provide locate data electronically.

## Social Media

Under the proper circumstances, and with the proper safeguards, social media sites may be useful sources for locating child support case participants. Courts have upheld the use of social media sites for location of parties in cases,<sup>15</sup> and some child support agencies have begun using social media sites for locate purposes. In addition, some child support attorneys have used social media for service of process where traditional means of service are ineffective and where authorized by state law and court rules.<sup>16</sup> Child support attorneys wishing to use social media to locate case participants should be aware of and follow existing ethics and evidentiary rules.<sup>17</sup>

## OBTAINING LOCATE DATA

One way to obtain electronic communications that assist the locate function is to contact the service provider directly. However, attorneys need to be aware that the Electronic Communications Privacy Act of 1986 states that an “entity providing an electronic communication service to the public shall not knowingly divulge to any person or entity the contents of a communication while in electronic storage by that service.”<sup>18</sup> There are exceptions to this rule, but courts have found that this section “lacks any language that explicitly authorizes a service provider to divulge the contents of a communication pursuant to a subpoena.”<sup>19</sup>

Federal law requires states to have procedures that allow child support agencies to subpoena financial or other information from entities, such as public utility companies, cable television companies, financial institutions, and state tax offices, and to impose penalties for failure to respond to the subpoena.<sup>20</sup> Federal Rule of Civil Procedure 26 makes it clear that electronically stored information is subject to discovery just as other types of information can be discovered.<sup>21</sup> Since

<sup>15</sup> See, e.g., *In re D.R.*, 39 Cal. App. 5th 583 (Cal. App. 2 Dist., 2019). Many of these cases relate to the location of parties in child welfare and adoption cases. See also *Contra Costa County Promotes E-Communications to Engage Parents*, 34 OCSE Child Support Report 2 (Feb. 2012).

<sup>16</sup> See Nicholas J. Palos, *Legal Implications and Uses of Social Media Networks*, [https://www.ncsea.org/documents/Legal-implications-and-social-media\\_CSQ-Feb.-2018-2.pdf](https://www.ncsea.org/documents/Legal-implications-and-social-media_CSQ-Feb.-2018-2.pdf).

<sup>17</sup> See *United States v. Browne*, 834 F.3d 403 (3d Cir. 2016). See generally Sandra Hornberger, *Social Networking Websites: Impact on Litigation and the Legal Profession in Ethics, Discovery, and Evidence*, 27 *Touro Law Review* 2, Article 5 (2011), <https://digitalcommons.tourolaw.edu/lawreview/vol27/iss2/5/> (last visited Feb. 5, 2021). See also Rory D Bahadur, *Electronic Discovery, Informational Privacy, Facebook and Utopian Civil Justice*, 79 *Miss. L.J.* 317-369 (2009), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1871158#](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1871158#) (last visited Feb. 5, 2021).

<sup>18</sup> Electronic Communications Privacy Act of 1986, Pub. L. No. 99-508, Title II, 100 Stat. 1848, 1861 (codified at 18 U.S.C. § 2702 (2018)).

<sup>19</sup> *Flagg v. City of Detroit*, 252 F.R.D. 346, 350 (E.D. Mich. 2008). See also *In Re Subpoena Duces Tecum of AOL, LLC*, 550 F. Supp. 2d 606 (E.D. Va. 2008).

<sup>20</sup> 42 U.S.C. § 666(c)(1)(B) (2018).

<sup>21</sup> Fed. R. Civ. P. 26.

there are no rules that specifically apply to electronic sources, existing ethics and evidentiary rules apply to the discovery of electronic and social media information.<sup>22</sup>

## **PRIVACY, ACCESS, AND SECURITY**

Information obtained by the child support agency about the location and assets of case participants is sensitive and personal. Confidentiality of information handled by the agency is very important. Federal law and regulations contain specific rules for protecting the confidentiality of data obtained and used by child support agencies.

### **Authorized Disclosure of Confidential Information**

Confidential information may be disclosed to authorized individuals or agencies depending on the purpose for which the information is requested and the agency or person requesting it.

The child support agency must provide locate services, if necessary, in a child support case. According to federal regulations, in any case with an application or referral to the child support agency, the child support agency must “attempt to locate all noncustodial parents and/or their sources of income and/or assets when location is needed to take a necessary action.”<sup>23</sup> This is known as “full locate,” and it requires that the state use all local, state, and federal sources necessary to locate the individual.

Sometimes, the child support agency may provide locate services to individuals involved in custody and visitation cases. Federal law authorizes the child support agency to transmit locate requests to the FPLS to make or enforce a custody or visitation order in certain situations. These requests must come from a court with jurisdiction to make or enforce a custody or visitation determination or from an agent of a state or the United States with authority either to enforce a custody or visitation order or to prosecute an action for unlawful taking or restraint of a child.

As a result of the passage of the Adoption and Safe Families Act of 1997,<sup>24</sup> federal law also provides for the use of the FPLS for location of any individual “who has or may have parental rights to a child.” The Act also allows

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<sup>22</sup> Philadelphia Bar Association Professional Guidance Committee Op. 2009-02 (March 2009) (It is appropriate for an attorney to use social media to make a “friend” request of a person. If the request is accepted, then information can be obtained. It is not appropriate to use a third party to request that same information without disclosing the true intent of the request.)

<sup>23</sup> 45 C.F.R. § 303.3(b) (2019).

<sup>24</sup> Adoption and Safe Families Act of 1997, Pub. L. 105-89; 111 Stat. 2115.

the release of FPLS information to state IV-B (child welfare) agencies<sup>25</sup> or state IV-E (foster care) agencies.<sup>26</sup>

Pursuant to federal regulations, requests for information from the FPLS must come through the SPLS. However, authorized federal agencies may either contact the FPLS directly or go through the SPLS for locate information under the terms of an agreement.<sup>27</sup> Confidential data obtained through the SPLS may only be disclosed to authorized individuals for authorized purposes.<sup>28</sup> Even then, only limited information may be released. See Exhibits 5-2 through 5-5 at the end of this chapter.<sup>29</sup> Authorized non-federal entities must request information through the SPLS, which obtains the information from the FPLS and returns it to the requestor. The fees for this service are paid in accordance with 42 U.S.C. § 653(e)(2). The SPLS must distinguish requests for custody, visitation, and unlawful taking from those for child support purposes so that only authorized information is released.

**Child support purposes.** Child support purposes include location of an individual for the purpose of establishing parentage; establishing, modifying, or enforcing child support obligations; and location of any individual to assist a state in carrying out its responsibilities under the Title IV-D program.<sup>30</sup> Child support purposes also include the location of a parent or child involved in a non-IV-D child support case.<sup>31</sup>

“Authorized persons” for child support purposes include any state, local, or tribal agency providing Title IV-D services,<sup>32</sup> a court that has authority to issue support orders or act as an initiating court or the agency of such a court; or the resident parent, legal guardian, attorney, or agent of a child not receiving TANF assistance, as long as the person receiving the information makes certain required attestations and pays the required FPLS fee, if the state does not pay the fee itself.<sup>33</sup> It also includes an entity designated as a Central Authority for

<sup>25</sup> 42 U.S.C. §§ 621–629 (2018).

<sup>26</sup> 42 U.S.C. §§ 670–679 (2018).

<sup>27</sup> 42 U.S.C. § 653(j) (2018).

<sup>28</sup> 45 C.F.R. § 302.35(a)(2)(i) (2019). See also 45 C.F.R. § 303.21 (2019) and 45 C.F.R. § 307.13 (2019).

<sup>29</sup> Exhibits 5-2 through 5-5 provide details on the authorized person or program, authorized purpose of the request, persons about whom information may be asked, sources searched, authorized information returned, and limitations on the information. They are based on the charts at *Appendix A - Locating Individuals Through the State PLS* § 302.35, 75 Fed. Reg. 81,894 at 81,903 (Dec. 29, 2010); *Appendix B - Locating an Individual Sought in a Child Custody/Visitation or Parental Kidnapping Case*, 75 Fed. Reg. 81,894 at 81,904 (Dec. 29, 2010); and *Appendix C - Authority for State IV-D Agencies to Release Information to non-IV-D Federal, State, and Tribal Programs*, 75 Fed. Reg. 81,894 at 81,905 (Dec. 29, 2010).

<sup>30</sup> 45 C.F.R. § 302.35(a)(1) and (d)(1) (2019).

<sup>31</sup> 45 C.F.R. § 302.35(a)(2) and (d)(1) (2019).

<sup>32</sup> The Preventing Sex Trafficking and Strengthening Families Act amended 42 U.S.C. § 653(c)(1) to define an agent or attorney in a tribal IV-D agency as an “authorized person” with access to the FPLS. See Preventing Sex Trafficking and Strengthening Families Act, Pub. L. No. 113-183, § 302, 128 Stat. 1919, 1945-1946 (2014).

<sup>33</sup> 45 C.F.R. § 302.35(c) (2019).

child support enforcement in a foreign reciprocating country or a treaty country under 42 U.S.C. § 659a(c)(2).<sup>34</sup>

***Child welfare or foster care and adoption purposes.*** Authorized purposes for child welfare or foster care and adoption purposes include the location of an individual for the purpose of determining who has or may have parental rights to a child and the location of an individual to assist states in carrying out their responsibilities under the IV-B and IV-E programs.<sup>35</sup> Authorized purposes may also include the location of a child or the relative of a child. The information that is provided is limited in scope.<sup>36</sup>

“Authorized persons” for this purpose are the state agency administering the child welfare program under Title IV-B<sup>37</sup> or the foster care and adoption program under Title IV-E.<sup>38</sup>

***Child custody and visitation or parental kidnapping purposes.*** Federal law also authorizes the use of information from an SPLS or the FPLS to locate a parent or child to enforce a custody or visitation order or to respond to the unlawful taking or restraint of a child. The information that may be shared is also limited in scope.<sup>39</sup>

Authorized individuals for this purpose include an agent, an attorney, a court, or an agent of a court of any state who has the authority to enforce a child custody or visitation determination or to prosecute a case of unlawful restraint or taking of a child.<sup>40</sup>

***Authorized computerized data sharing.*** Statewide automated systems are also authorized and programmed to share confidential information with medical assistance agencies, state child health insurance programs, and the Supplemental Nutrition Assistance Program (SNAP).<sup>41</sup>

***Independent verification.*** In general, location data can be shared and used within the child support program and may be shared with certain related federal programs. Although the regulations allow most information to be shared directly with permitted agencies and entities, in some circumstances, information may not be shared unless it has been independently verified. Independent

<sup>34</sup> See Preventing Sex Trafficking and Strengthening Families Act, Pub. L. No. 113-183, § 301, 128 Stat. 1919, 1943 (2014) (to be codified at 42 U.S.C. § 653(c)(5)).

<sup>35</sup> 45 C.F.R. § 302.35(d) (2019).

<sup>36</sup> 45 C.F.R. § 302.35(d)(2) (2019).

<sup>37</sup> See 42 U.S.C. §§ 621-629 (2018).

<sup>38</sup> See 42 U.S.C. §§ 670-679 (2018).

<sup>39</sup> 45 C.F.R. § 302.35(d)(3) (2019).

<sup>40</sup> 45 C.F.R. § 303.15(a)(1) (2019).

<sup>41</sup> 45 C.F.R. § 307.13(a)(3) (2019).

verification is “the process of acquiring and confirming confidential information through the use of a second source.”<sup>42</sup>

**IRS information.** In addition to the safeguards described above, child support attorneys need to know that any information obtained from the IRS cannot be disclosed, unless it is independently verified or otherwise authorized in federal statute.<sup>43</sup> Information obtained from the IRS, known as Federal Tax Information (FTI), includes any information about the taxpayer’s identity; and information regarding income, deductions, exemptions and other related information from a tax return, claim for refund, or other related information.<sup>44</sup> States must have safeguards in place to prevent the unauthorized use or release of IRS information.<sup>45</sup>

### Prohibited Disclosure of Confidential Information

Information in the FPLS, and information resulting from comparisons using such information, shall not be used or disclosed except as expressly provided in section 453 of the Social Security Act. In addition, information from the FPLS may not be disclosed where the disclosure “would contravene the national policy or security interests of the United States or the confidentiality of census data.”<sup>46</sup> Disclosure is also prohibited when a state has notified the Secretary of Health and Human Services that there is reasonable evidence of domestic violence or child abuse and that the party or child may be at risk from the disclosure. In such cases the information may be released to the appropriate court to determine if the information may be safely released to the requestor.<sup>47</sup>

Federal regulations also specifically prohibit sharing confidential information with private collection agencies (PCAS). Under the regulations, the definition of “agent of a child” now means “a caretaker relative having custody of or responsibility for the child,” eliminating the possibility that a PCA is permitted to access this information.<sup>48</sup>

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<sup>42</sup> 45 C.F.R. § 303.21(a)(2) (2019).

<sup>43</sup> 45 C.F.R. § 303.21(d)(3) (2019).

<sup>44</sup> See 26 U.S.C. § 6103(b) (2018) and IRS Publication 1075: *Tax Information Security Guidelines for Federal, State and Local Agencies: Safeguards for Protecting Federal Tax Returns and Return Information*, § 1.4.3 (Sept. 2016), <https://www.irs.gov/pub/irs-pdf/p1075.pdf>.

<sup>45</sup> 42 U.S.C. § 654a(d) and (f) (2018). For a complete discussion of FTI, see IRS Publication 1075: *Tax Information Security Guidelines for Federal, State and Local Agencies: Safeguards for Protecting Federal Tax Returns and Return Information* (Sept. 2016), <https://www.irs.gov/pub/irs-pdf/p1075.pdf>.

<sup>46</sup> 42 U.S.C. § 653(b)(2) (2018).

<sup>47</sup> 42 U.S.C. § 653(b)(2) (2018); 42 U.S.C. § 654(26)(D) and (E) (2018).

<sup>48</sup> 45 C.F.R. § 301.1 (2019). In 2010, the definition of “agent of a child” was changed to include “caretaker relative,” which prohibits a PCA from acting as the agent of a child. See response to Comment 1, § 301.1 of 75 Fed. Reg. 81,894 at 81,897 (Dec. 29, 2010).

## FAMILY VIOLENCE

Research from state child support caseloads indicates that more than one in three parents in the child support program have experienced violence from the other party on their case. In expanding the locate tools, Congress recognized this problem. One concern was how to balance the legitimate need for information about a person involved in a case with that person's possible risk of harm. This concern for victims of domestic violence or child abuse (collectively known as "family violence") prompted Congress to restrict disclosure of FPLS information if there is reason to believe disclosure of locate information in the FPLS could lead to physical or emotional harm to the party or their child.<sup>49</sup>

### Family Violence Indicator

As noted above, federal law prohibits FPLS information from being disclosed to anyone if a state has notified the FPLS that the state has reasonable evidence of domestic violence or child abuse and the disclosure of information could harm the custodial parent or the child.<sup>50</sup> This notification of possible family violence occurs when a state sets a family violence indicator (FVI) in the SCR on the person or persons requiring protection.

Each state determines whether a person should have an FVI designation depending upon its law and procedures, so the impact of the FVI differs by state. At the federal level, the existence of an active FVI precludes disclosure of FPLS information. This means that the FPLS does not disclose any matches to state child support agencies for data about the person. Alternately, if a locate request is made for a person protected by an FVI, the requesting SPLS receives a response that disclosing the data is prohibited. This same message will appear when a state attempts to query a case with an FVI in the Query Interstate Cases for Kids (QUICK) system.<sup>51</sup>

It is important to remember that a child support agency should place an FVI designation only on the person and/or child needing protection from the perpetrator of the violence or abuse. An FVI prevents all matching and locate requests for people who have an FVI. Therefore, an agency should not place the FVI on the entire case, or on the perpetrator, since this will prohibit a state from receiving locate or match information on the perpetrator.

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<sup>49</sup> For more information, see Chapter Sixteen: Domestic Violence and Child Support:

<sup>50</sup> 42 U.S.C. § 653(b)(2) (2018) and 45 CFR 303.21(e).

<sup>51</sup> In addition, OCSE's [Automated Systems for Child Support Enforcement: A Guide for States](#) (Updated 2017) requires that each state's "system document generation function must automatically prevent disclosure of personally identifiable information on persons designated as subject to family violence." For more information on QUICK, see Chapter Thirteen: Intergovernmental Child Support Cases.

## Override Process

Notwithstanding a person's safety concern, there may be a legitimate reason for data disclosure in certain circumstances. Federal law permits the FPLS to release information about a protected person to a state court under certain conditions.<sup>52</sup> This process is known as the "FV Indicator Override." The override process gives OCSE legal authority, on a situation-by-situation basis, to retrieve and release FPLS data that, because of the FVI protection, would not otherwise be subject to disclosure. The court can then assess whether disclosure is appropriate. It is important to note that an override does not remove the FVI from the FPLS. And only an authorized person, as defined by sections 453(c) and 463(d)(2) of the Social Security Act, may make the override request.

As shown in Exhibit 5-1, the override process involves activity at both federal and state levels. Thus, state child support agencies and courts must develop procedures for the state portions of the process. An authorized person may petition a state court for a one-time override of the FVI so that the requestor can secure the sought-after information from the FPLS.

The court will decide to grant or deny the requestor's petition. If the court decides to deny the request, the process ends there. If the court decides to grant the petition, it will prepare an order or request to that effect and provide the override request to the SPLS. According to 45 C.F.R. § 303.70, the SPLS must determine whether the request was made by an authorized person under sections 453(c) or 463(d)(2) of the Social Security Act. If it was, the SPLS must also confirm that the request was for an authorized purpose as set forth in sections 453(a)(2) and 463(b) of the Act. If the SPLS confirms both prerequisites, the SPLS should send to OCSE: 1) the court request for locate information, and 2) a cover letter via a special delivery mechanism such as Federal Express).

OCSE will receive, review, and verify each FVI override request. Based on that review, OCSE will make one of three possible determinations: 1) the request is incomplete, 2) the request is approved, or 3) the request is disapproved. If the request is approved, OCSE will communicate the approved status to the requesting SPLS and then will process the override.

Once OCSE approves an override request, OCSE will perform a one-time manual override of the FVI, using the requested locate sources. OCSE will return the locate information to the SPLS with a cover letter. In addition to the information secured through the override, OCSE also will include the identity of the state that imposed the FVI for the individual. OCSE then will forward the letter to the requesting SPLS in a secure package. OCSE will also notify the state that originally placed the FVI of the state making the override request.

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<sup>52</sup> 42 U.S.C. § 653(b)(2) and (c)(2) (2018).

Upon receipt of the package from OCSE, the SPLS must disclose the information to the state court that ordered the FVI override. Section 453(b)(2)(B)(i) of the Act requires the state court to determine “whether disclosure to any other person of that information could be harmful to the parent or the child.”<sup>53</sup> To help the court determine the level of harm associated with possible disclosure to the requestor, the child support attorney may be called upon to provide information, if known, about why the FVI was set. If the authorized requestor is the child support agency (for example, the FVI has been set on the noncustodial parent, and the agency is seeking to enforce a child support order), the child support attorney must also present a case outlining how the data will be used and why that use is not likely to result in harm to the parent or 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. The court and/or the state IV-D agency should consider procedures for the destruction of the information retrieved from the FPLS.

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. The State court and/or IV-D agency should develop procedures for the release of the information. A child support attorney may be called upon to assist in developing such procedures. In developing such procedures, the agency and child support attorney may want to address notification to the person whose location information has been requested; notification to the requestor of the confidential nature of the information and its limited use; and the destruction or seal of records containing the information, following its release pursuant to the court-authorized request.

### **Removing the FVI Designation**

If appropriate, a child support agency may remove the FVI designation from a case member by removing the indicator from the case member in the SCR. If more than one state has set the FVI on an individual, the FPLS will not remove it until all states involved have removed the FVI indicator from the case member in each state’s SCR and sent the change to the FCR. After the FVI is removed, the FPLS begins processing locate requests and conducting matches for that person as usual.

The FPLS also removes an FVI indicator when it deletes from its system a person on which an FVI was in effect or when it deletes that person’s last remaining or only case.

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<sup>53</sup> Codified at 42 U.S.C. § 653(b)(2)(B) (2018).

## **CONCLUSION**

As this chapter discusses, child support professionals and attorneys have a vast array of resources available to them locating case participants and their assets. After the child support agency has located the person and/or assets, a case can proceed to the next required establishment or enforcement action and, ultimately, result in financial support to the family.

## CHAPTER FIVE

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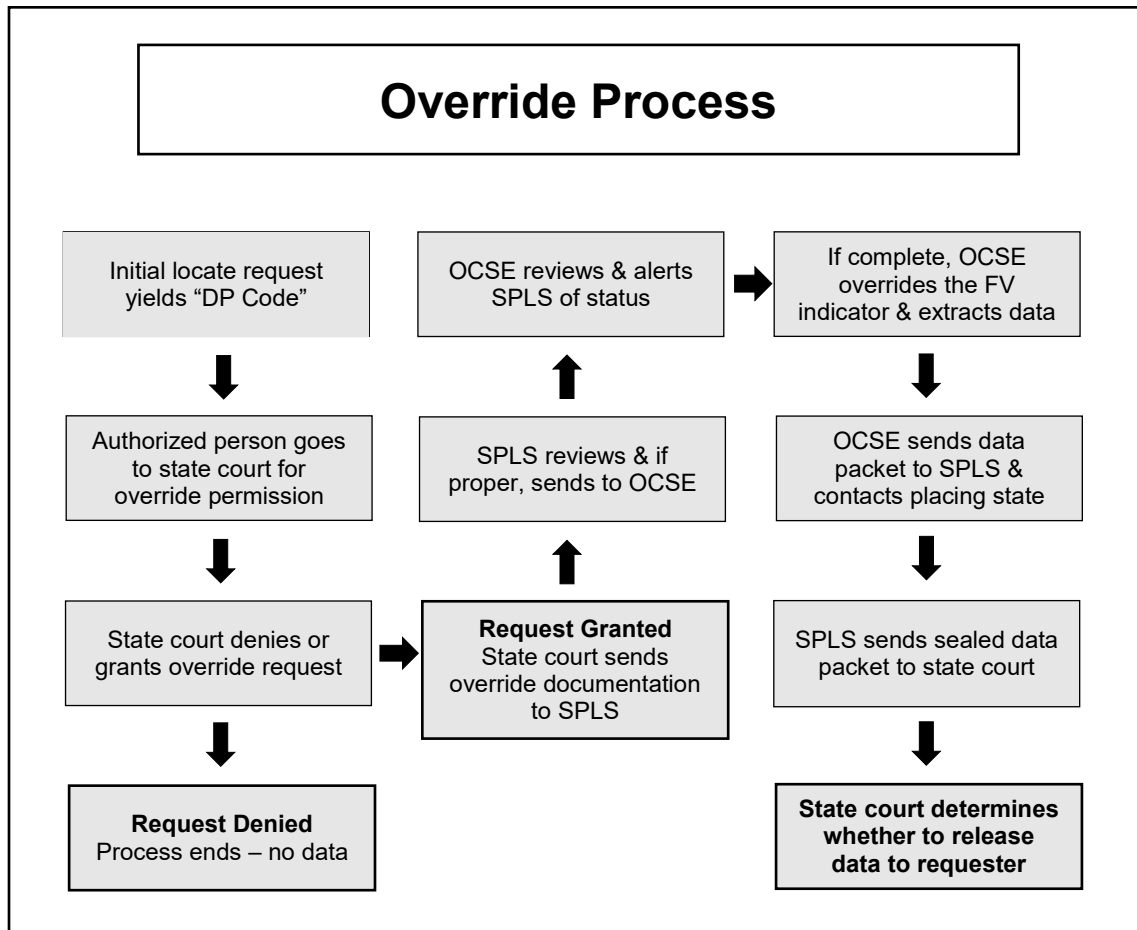
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### Exhibit 5-1: Override Process



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**Exhibit 5-2: Locating Individuals through the State PLS<sup>1</sup>**

Authorized Person/Program	Authorized Purpose of the Request	Person About Whom Information May Be Requested	Sources Searched	Authorized Information Returned	Limitations <sup>2</sup>
Any agent or attorney of any State or Indian Tribe or Tribal organization, having in effect an approved plan (including, when authorized under the State plan, any official of a political subdivision)	<p>To establish paternity, establish; set the amount, modify, or enforce support obligations; and or to facilitate location of any individual who is under an obligation to pay child support, against whom such an obligation is sought, or to whom such an obligation is owed</p> <p>To locate a parent or child involved in a non-IV-D child support case to</p>	<ul style="list-style-type: none"> <li>• Noncustodial Parent</li> <li>• Putative Father</li> <li>• Custodial Parent</li> <li>• Child</li> </ul> <p>Section 453(a)(2)(A)</p>	<ul style="list-style-type: none"> <li>• Federal Parent Locator Service</li> <li>• In-state sources in accordance with State law</li> </ul>	<p>Six Elements:</p> <ul style="list-style-type: none"> <li>• Person's Name</li> <li>• Person's SSN</li> <li>• Person's Address</li> <li>• Employer's name</li> <li>• Employer's address</li> <li>• Employer ID number</li> </ul> <p>Section 453(a)(2)(A) (iii)</p> <p>Wages, income, and benefits of employment, including healthcare coverage</p> <p>Section 453(a)(2)(B)</p> <p>Type, status, location, and amount of assets of, or debts owed by or to the individual</p>	See footnote.

<sup>1</sup> Source: *Appendix A - Locating Individuals Through the State PLS* § 302.35; 75 Fed. Reg. 81,894 at 81,903 (Dec. 29, 2010). References are to sections of the Social Security Act. Such sections are codified at 42 U.S.C. §§ 653, 654, and 663 (2018). In 2014 Congress amended the definition of "authorized person" in Section 453(c)(1) to include any agent or attorney of a tribal IV-D agency. See Preventing Sex Trafficking and Strengthening Families Act, Pub. L. No. 113-183, § 302, 128 Stat. 1919, 1945-1946 (2014).

<sup>2</sup> No information shall be disclosed if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. No information shall be disclosed if the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or child. See Sections 453(b)(2) and 454(26) of the Act for the process of releasing information to a court or an agent of a court.

Authorized Person/ Program	Authorized Purpose of the Request	Person About Whom Information May Be Requested	Sources Searched	Authorized Information Returned	Limitations <sup>2</sup>
	disburse an income withholding collection  Section 453(a)(2)			Section 453(a)(2)(C)	
Court that has the authority to issue an order against a noncustodial parent for the support and maintenance of child, or to serve as the initiating court in an action to seek a child support order  Section 453(c)(2)	To facilitate the location of any individual who is under an obligation to pay child support, against whom such an obligation is sought, or to whom such an obligation is owed  To locate a parent or child involved in a non-IV-D child support case	<ul style="list-style-type: none"> <li>• Noncustodial Parent</li> <li>• Custodial Parent</li> <li>• Putative Father</li> <li>• Child</li> </ul>	<ul style="list-style-type: none"> <li>• Federal Parent Locator Service</li> <li>• In-state sources in accordance with State law</li> </ul>	<p>Six Elements as above, plus:</p> <p>Wages, income, and benefits of employment, including health care coverage</p> <p>Section 453(a)(2)(B)</p> <p>Type, status, location, and amount of assets or debts owed by or to the individual</p> <p>Section 453(a)(2)(C)</p>	<p>No Internal Revenue Service (IRS) information provided for non-IV-D cases unless independently verified</p> <p>No Multistate Financial Institution Data Match (MSFIDM) and no State Financial Institution Data Match (FIDM) information provided for non-IV-D cases</p> <p>No required subsequent attempts to locate unless there is a new request</p>

Authorized Person/ Program	Authorized Purpose of the Request	Person About Whom Information May Be Requested	Sources Searched	Authorized Information Returned	Limitations <sup>2</sup>
Resident parent, legal guardian, attorney, or agent of a child not receiving IV-A benefits (a non-IV-D request)  Section 453(c)(3) <sup>3</sup>	To facilitate the location of any individual who is under an obligation to pay child support, against whom such an obligation is sought, or to whom such an obligation is owed, or who has or may have parental rights with respect to the child  To locate a parent or child involved in a non-IV-D child support case	<ul style="list-style-type: none"> <li>• Noncustodial Parent</li> <li>• Putative Father</li> </ul>	<ul style="list-style-type: none"> <li>• Federal Parent Locator Service</li> <li>• In-state sources in accordance with State law</li> </ul>	Six Elements as above, plus:  Wages, income, and benefits of employment, including health-care coverage  Section 453(a)(2)(B)  Type, status, location, and amount of assets of, or debts owed by or to the individual  Section 453(a)(2)(C)	<p>Child not receiving IV-A benefits</p> <p>No IRS information</p> <p>No MSFIDM and no State FIDM information provided for non-IV-D cases</p> <p>In a non-IV-D request, attestation and evidence is required as specified in Section 302.35(c)(3)(i) - (iii)</p> <p>No required subsequent attempts to locate unless there is a new request</p>
State agency that is administering a Child and Family Services	To facilitate the location of any Individual who has or may have parental rights with	<ul style="list-style-type: none"> <li>• Noncustodial Parent</li> <li>• Putative Father</li> <li>• Custodial Parent</li> </ul>	<ul style="list-style-type: none"> <li>• Federal Parent Locator Service</li> <li>• In-state sources in</li> </ul>	Six Elements as above, plus:  Wages, income, and benefits of employment,	No IRS information unless independently verified

<sup>3</sup> No information shall be disclosed if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. No information shall be disclosed if the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or child. See Sections 453(b)(2) and 454(26) of the Act for the process of releasing information to a court or an agent of a court.

Authorized Person/ Program	Authorized Purpose of the Request	Person About Whom Information May Be Requested	Sources Searched	Authorized Information Returned	Limitations <sup>2</sup>
program (IV-B) or a Foster Care and Adoption (IV-E) program  Sections 453(c)(4), 453(j)(3) and 454(8)	respect to the child.  Section 453(a)(2)(iv) and to assist states in carrying out their responsibilities under title IV-B and IV-E programs.  Sections 453(j)(3) and 454(8)	<ul style="list-style-type: none"> <li>• Child</li> </ul> Sections 453(a)(2)(A), 453(j)(3) and 454(8)	accordance with State law	including health-care coverage  Type, status, location, and amount of assets of, or debts owed by or to the individual  Section 453(a)(2)(C)	No MSFIDM and no State FIDM information provided  Any information outside the purpose stated in Section 453(a)(2) and 453(j)(3) requires independent verification.
State agency that is administering a Child and Family Services program (IV-B) or a Foster Care and Adoption (IV-E) program  Sections 453(c)(4), 453(j)(3), and 454(8)	To assist states in carrying out their responsibilities under title IV-B and IV-E programs  Sections 453(j)(3) and 454(8)	Relatives of a child involved in a IV-B or IV-E case	<ul style="list-style-type: none"> <li>• Federal Parent Locator Service</li> <li>• In-state sources in accordance with State law</li> </ul>	Six Elements as above.	No IRS information unless independently verified  No MSFIDM and no State FIDM information provided  Any information outside the purpose stated in Section 453(j)(3) requires independent verification.
An entity designated as a Central Authority for child support	To locate the state of residence of individuals for support	<ul style="list-style-type: none"> <li>• Noncustodial parent</li> <li>• Putative father</li> </ul>	<ul style="list-style-type: none"> <li>• Federal Parent Locator Service</li> </ul>	State of residence	

Authorized Person/ Program	Authorized Purpose of the Request	Person About Whom Information May Be Requested	Sources Searched	Authorized Information Returned	Limitations <sup>2</sup>
<p>enforcement in a foreign reciprocating country or a foreign treaty country for purposes specified in Section 459A(c)(2)</p> <p>Section 453(c)(5)</p> <p>For more information, see <a href="#">IM-18-11: International Locate Requests from Central Authorities Only</a> (Dec. 6, 2018) and <a href="#">IM-19-02: Provide Only U.S. State of Residence for International Locate Requests</a> (Apr. 15, 2019)</p>	<p>enforcement purposes.</p> <p>Section 459A(c)(2)</p>	<ul style="list-style-type: none"> <li>• Custodial parent</li> <li>• Child</li> </ul>	<ul style="list-style-type: none"> <li>• In-state services in accordance with State law</li> </ul>		

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**Exhibit 5-3: Locating an Individual Sought in a Child Custody/Visitation Case<sup>4</sup>**

Type of request	Authorized Person/ Program	Authorized Purpose of the Request	Person About Whom Information May Be Requested	Sources Searched	Authorized Information Returned	Limitations <sup>5</sup>
Locating an individual sought in a child custody or visitation case	Any agent or attorney of any State who has the authority/duty to enforce a child custody or visitation determination  Section 463(d)(2)(A)  A court or agent of the court, having jurisdiction to make or enforce a child custody or visitation determination  Section 463(d)(2)(B)	Determining the whereabouts of a parent or child to make or enforce a custody or visitation determination  Section 463(a)(2)	A parent or child  Section 463(a)	<ul style="list-style-type: none"> <li>• Federal Parent Locator Service</li> <li>• In-state sources in accordance with State law</li> </ul>	Only the three following elements: <ul style="list-style-type: none"> <li>• Person's address</li> <li>• Employer's name</li> <li>• Employer's address</li> </ul> Section 463(c)	<p>See footnote.</p> <p>No IRS information provided</p> <p>No MSFIDM or State FIDM information provided</p> <p>No subsequent attempts to locate unless there is a new request</p>

<sup>4</sup> Source: *Appendix B - Locating an Individual Sought in a Child Custody/Visitation or Parental Kidnapping Case*, 75 Fed. Reg. 81,894 at 81,904 (Dec. 29, 2010). References are to sections of the Social Security Act. Such sections are codified at 42 U.S.C. § 663 (2018).

<sup>5</sup> No information shall be disclosed if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. No information shall be disclosed if the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or child. See sections 453(b)(2) and 454(26) of the Act for the process of releasing information to a court or an agent of a court.

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**Exhibit 5-4: Locating an Individual Sought in a Parental Kidnapping Case<sup>6</sup>**

Type of request	Authorized Person/ Program	Authorized Purpose of the Request	Person About Whom Information May Be Requested	Sources Searched	Authorized Information Returned	Limitations <sup>7</sup>
Locating an individual sought in a parental kidnapping case	Agent or attorney of the U.S. or a State who has authority/duty to investigate, enforce, or prosecute the unlawful taking or restraint of a child  Section 463(d)(2)(C)	Determining the whereabouts of a parent or child to enforce any State or Federal law with respect to the unlawful taking or restraint of a child  Section 463(a)(1)	A parent or child  Section 463(a)	<ul style="list-style-type: none"> <li>• Federal Parent Locator Service</li> <li>• In-state sources in accordance with State law</li> </ul>	Only the three following elements: <ul style="list-style-type: none"> <li>• Person's address</li> <li>• Employer's name</li> <li>• Employer's address</li> </ul> Section 463(c)	No IRS information provided  No MSFIDM or State FIDM information provided  No subsequent attempts to locate unless there is a new request

<sup>6</sup> Source: *Appendix B - Locating an Individual Sought in a Child Custody/Visitation or Parental Kidnapping Case*, 75 Fed. Reg. 81,894 at 81,904 (Dec. 29, 2010). References are to sections of the Social Security Act. Such sections are codified at 42 U.S.C. § 663 (2018).

<sup>7</sup> No information shall be disclosed if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. No information shall be disclosed if the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or child. See sections 453(b)(2) and 454(26) of the Act for the process of releasing information to a court or an agent of a court.

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**Exhibit 5-5: Authority for State IV-D Agencies to Release Information to Non-IV-D Federal, State, and IV-D Tribal Programs<sup>8</sup>**

Authority	Authorized Purpose of the Request	Authorized Person/Program	Authorized Information Returned	Limitations <sup>9</sup>
Sections 453 and 454A(f)(3) of the Act, Section 1102 of the Act, and 45 CFR 307.13	To perform State or Tribal agency responsibilities of designated programs	State or Tribal agencies administering Title IV, XIX, and XXI and SNAP programs	Confidential information found in automated system	<p>No Internal Revenue Service information unless independently verified</p> <p>No MSFIDM or State FIDM information provided</p> <p>No NDNH and FCR information for title XIX and XXI unless independently verified</p> <p>For IV-B/IV-E, for purposes of Section 453(a)(2) of the Act can have NDNH and FCR information without independent verification</p> <p>Any other purposes require independent verification.</p> <p>For IV-A, NDNH/FCR</p>

<sup>8</sup> Source: *Appendix C - Authority for State IV-D Agencies to Release Information to non-IV-D Federal, State, and Tribal Programs*, 75 Fed. Reg. 81,894 at 81,905 (Dec. 29, 2010). References are to sections of the Social Security Act. Such sections are codified at 42 U.S.C. §§ 653 and 654 (2018).

<sup>9</sup> No information shall be disclosed if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. No information shall be disclosed if the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or child. See sections 453(b)(2) and 454(26) of the Act for the process of releasing information to a court or an agent of a court.

Authority	Authorized Purpose of the Request	Authorized Person/Program	Authorized Information Returned	Limitations <sup>9</sup>
				<p>information for purposes of Section 453(j)(3) of the Act without independent verification</p> <ul style="list-style-type: none"> <li>• Need verification for other purposes</li> </ul>
Sections 453(A)(h)(2) and 1137 of the Act - State Directory of New Hires	Income and eligibility verification purposes of designated programs	State agencies administering title IV-A, Medicaid, unemployment compensation, SNAP or other State programs under a plan approved under Title I, X, XIV, or XVI of the Act	SDNH Information	

**Exhibit 5-6: Required Automated Interfaces  
for State Child Support Systems**

1. Federal Parent Locator Service (FPLS).
2. National Directory of New Hires (NDNH).
3. Federal Case Registry (FCR).
4. Department of Motor Vehicles (driver's licenses and vehicle registration).
5. State Workforce Agency.
6. Department of Natural Resources (fishing and hunting licenses).
7. Department of Vital Statistics.
8. Department of Corrections.
9. Credit Bureaus.
10. Postal Service.
11. Local/State Tax Administration.
12. State IV-A Agency.
13. State IV-E Agency.
14. State Title XIX Agency.
15. Supplemental Nutrition Assistance Program.
16. State Directory of New Hires.
17. State Disbursement Unit.
18. Public utilities.
19. Financial institutions.
20. State licensing agencies.
21. State agencies with jurisdiction over real and personal property.
22. Electronic communications and internet service providers.

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### **Exhibit 5-7: Interfaces Available through OCSE Child Support Portal<sup>10</sup>**

1. Federal Case Registry (FCR) Query – Case and participant information directly from the FCR.
2. FCR Misidentified Participant – A list of participant IDs with incorrect Social Security numbers (SSNs) to prevent the FCR from assigning a misidentified SSN as a verified SSN.
3. QUICK – Web-based access for authorized state users to the Query Interstate Cases of Kids (QUICK) application. Allows user to view case participants, status, financial information, case activities, and contact information for the worker in the other state in real time.
4. Intergovernmental Reference Guide (IRG) – State, tribal, international, and federal child support profile (law, policy, and procedures) and contact information.
5. Locate – Information on IV-D and other participants from the National Directory of New Hires and the FPLS external locate sources, including the Social Security Administration, Department of Veterans Affairs, Internal Revenue Service, Federal Bureau of Investigation, and Department of Defense.
6. Department of Defense Entitlements – Military information to include base salary, allotments, and bonuses.
7. Debt Inquiry – Notification from employers and insurers for individuals with past-due child support who are eligible to receive a lump sum payout.
8. Federal Collections and Enforcement – Information used by federal offset and passport denial programs.
9. Insurance Match – Information about insurance claim match responses for individuals with past-due child support due to receive an insurance settlement.
10. Multistate Financial Institution Data Match (MSFIDM) – State contacts, profile information, reports, response file status, participating financial institutions, and other resources for the MSFIDM program.
11. E-Employer – Employer names, Federal Employer Identification Numbers (FEINs), employer addresses, and other information reported to the NDNH. Additional employer address information reported directly through the Employer Portal, such as verification of employment and the National Medical Support Notice.
12. E-Termination – Notification from employers or other income payers when a participant has been terminated or has never worked for that company.

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<sup>10</sup> An excellent overview of the features and benefits of the Child Support Portal is at [https://www.acf.hhs.gov/sites/default/files/documents/ocse/csp\\_at\\_a\\_glance.pdf](https://www.acf.hhs.gov/sites/default/files/documents/ocse/csp_at_a_glance.pdf) (2019).

13. Electronic Document Exchange (EDE) – Documents, including court orders, exchanged between states using a secure, electronic application.
14. Access and Visitation – State activities for Access and Visitation Grant.
15. State Statistical Reporting System – Semi-annual State Profile and monthly NDNH and Multistate Employer Registry reports.
16. State Plan – Official IV-D state plan, IV-D state plan amendments, and IV-D state plan data.
17. Self-Assessment – State Self-Assessment Report.
18. Office of Audit Data Exchange – Annual Data Reliability Audit file.