

# Policies to Promote Safety and Economic Stability for Survivors of Domestic Violence in the Child Support Program

Listen

## ACF-OCSS-PIQ-25-01

**Publication Date:** January 14, 2025 **Current as of:** January 14, 2025

## POLICY INTERPRETATION QUESTIONS

**ACF-OCSS-PIQ-25-01**

**DATE:** January 14, 2025

**TO:** State and Tribal IV-D Directors

**FROM:** Tangler Gray, Commissioner, Office of Child Support Services

**SUBJECT:** Policies to Promote Safety and Economic Stability for Survivors of Domestic Violence in the Child Support Program

Many parents involved in the child support system have experienced or continue to experience domestic violence. As highlighted in the 2022 joint [Information Memorandum](#) issued by the Office of Child Support Services (OCSS) and the Office of Family Violence Prevention and Services (OFVPS), almost 40% (or 3.6 million) of custodial parents with cases in the Title IV-D child support program have experienced domestic violence with the other parent on their child support case. Rates for noncustodial parents experiencing domestic violence during their lifetimes may be as high as 1 in 4.<sup>1</sup> And research shows that after separation from an abusive partner, up to 90% of women continue to experience harassment, stalking or abuse,<sup>2</sup> and the birth of a child, the establishment of a child support order, and child support enforcement activities can all be triggers for violence.<sup>3</sup> These statistics are a sobering reminder that supporting families who have experienced or at risk of experiencing domestic violence is essential to a successful child support program.

Research from the National Resource Center on Domestic Violence found that one of the primary reasons domestic violence survivors stay with or return to an abusive partner is financial dependence.<sup>4</sup> The intersection with the child support program is clear --when received, child support is a primary source of income for custodial families and plays a key role in helping survivors leave abusive relationships.

Because the child support program serves both parents, it plays a unique role in reducing the risk of violence to help survivors pursue child support safely. OCSS has highlighted model practices for enhancing family safety in multiple Information Memorandums, noted below, and through extensive training and technical assistance provided to state and tribal child support agencies. One of the core principles guiding OCSS's model practices is that child support agencies **must not be neutral** when it comes to domestic violence. As outlined below, child support agencies must establish and implement policies that protect victims of domestic violence.

This document builds on previous OCSS guidance (see [IM-14-03](#), [IM-15-02](#), [IM-19-06](#), [IM-22-04](#)) on working with survivors of domestic violence by responding to specific policy questions submitted by state and tribal child support agencies about the IV-D program's options and responsibilities to provide safe access to child support services for survivors of domestic violence. While much of this PIQ focuses on providing safety within the context of state requirements and processes, tribal child support agencies will also find the guidance valuable for implementing model practices for domestic violence cases when determining what tribal child support services and actions are appropriate and in the best interest of the child.

## Family Violence Indicator

**Question 1:** What is the Family Violence Indicator (FVI), what constitutes “reason to believe” when determining whether a case meets FVI requirements, and what additional steps must be taken to safeguard information in intergovernmental cases?

**Answer 1:** The Family Violence Indicator (FVI) is a protective mechanism required by federal law prohibiting the release of personal information contained in a child support case when a state has evidence of domestic violence or child abuse against a party or their child(ren) and reason to believe that the disclosure of their information could put them at risk of physical or emotional harm. The statutory requirement for use of the FVI is found in section 453(b) of the Social Security Act (the Act). Section 453(b)(2) establishes the “reason to believe” standard for application of the FVI, mandating that “[n]o information shall be disclosed to any person if the State has notified the Secretary that 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 the child of such parent...”

As instructed in [AT-98-27](#), section 453(b)(2) of the Act must be read in conjunction with section 454(26)(D) which contains an explicit requirement that the State notify the Secretary, for purposes of section 453(b)(2), that the State has reasonable evidence of domestic violence or child abuse in cases in which the prohibitions under subparagraphs (B) and (C) apply. Subparagraph (B) requires “prohibitions against the release of information on the whereabouts of 1 party or the child to another party against whom a protective order with respect to the former party or the child has been entered.” Subparagraph (C) requires “prohibitions against the release of information on the whereabouts of 1 party or the 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.”

45 CFR 307.11(f)(1) requires states to include a Family Violence Indicator as a data element in the State Case Registry (SCR), which sends information to the Federal Parent Locator Service (FPLS). Thus, the FVI is the mechanism for both notifying the Secretary and protecting such information from disclosure, indicating that the state has reasonable evidence to believe that the person(s) to whom the indicator attaches is at risk of physical or emotional harm if information regarding his/her location(s) is released. The FVI should be attached only to the person(s) in the child support case needing protection, and not applied at the case level.

[IM-19-06](#), Model Procedures for Domestic Violence Cases, further explains “reasonable evidence” and “reason to believe”: “At a minimum, a State has reasonable evidence of domestic violence or child abuse when a protective order has been entered or the State has reason to believe that the release of information about an adult or child may result in physical or emotional harm to such adult or child. It is up to the State to establish standards or criteria as to when the release of information about an adult or child **may result in physical or emotional harm**. (AT-98-27, emphasis added).”

Requiring legal documentation as “proof” of abuse is not required under sections 453(b)(2) and 454(26) of the Act and can block pathways to safety. Many survivors choose not to obtain a protection order. In a 2021 survey of survivors residing in emergency shelters in the United States and who had not obtained protective orders,<sup>5</sup> survivors indicated that “a protection order may increase their partner’s violence, identified substantial barriers [to obtaining a protective order], evaluated a protection order as unnecessary, preferred alternative strategies, were dealing with complex partner dynamics, and chose to protect their loved ones by not seeking a protection order.” The survey further found that “[w]omen with marginalized identities, in particular, indicated that there are multiple costs to seeking interventions within the legal system.” For these reasons, domestic violence experts and OCSS recommend that child support agencies reduce burdens placed on survivors by accepting any method of disclosure (verbal, written, administrative records match) of safety concerns as meeting the “reason to believe” standard. After a survivor’s initial disclosure, the child support agency should continue to gather information about safety concerns throughout the life of the case to determine if protections in addition to the FVI are needed to safely provide child support services.

For potential intergovernmental cases, the child support agency should also provide FVI-protected recipients with a form for making a sworn statement. [AT-20-14](#) provides guidance that the presence of the FVI indicator associated with a party in an intergovernmental case does not, on its own, constitute a nondisclosure finding/affidavit for the purposes of Section 312 of the Uniform Family Support Act (UIFSA) (See AT-20-14, Question 62). The presence of an FVI on a state’s child support system does not meet UIFSA section 312’s requirement that there must be an allegation in an affidavit or a pleading under oath that the health, safety, or liberty of the parent or child would be jeopardized by disclosure of some or all of the identifying information. If there is an FVI on a case participant in the initiating state, the agency must include the required allegation in an affidavit or a pleading under oath for the responding state to seal the identifying information and not disclose it to the other party or the public. The child support agency should provide plain language instructions to survivors for completing the sworn statement or, if necessary, the agency should file a pleading on behalf of a survivor to seal the identifying information (See Question 7 below). The sworn statement should not require a witness or a notary and may be self-certified by the survivor.

For more resources, see [Safely Pursuing Child Support: The Role of the Family Violence Indicator \(Oct. 11, 2011\)](#).

## Case Closure

**Question 2:** Can the IV-D agency close a case for good cause when the applicant is the noncustodial parent?

**Answer 2:** Yes. 45 CFR 303.11(b)(14) is often referred to as the good cause case closure criteria and states:

(b) The IV-D agency may elect to close a case if the case meets at least one of the following criteria and supporting documentation for the case closure decision is maintained in the case record:

\* \* \*

(14) There has been a finding by the IV-D agency, or at the option of the State, by the responsible State agency of good cause or other exceptions to cooperation with the IV-D agency and the State or local assistance program, such as IV-A, IV-E, Supplemental Nutrition Assistance Program (SNAP), and Medicaid, has determined that support enforcement may not proceed without risk of harm to the child or caretaker relative;

As a condition of state plan approval, section 454(4) of the Act requires a state to “...provide services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations, **as appropriate**, under the plan with respect to (i) each child for whom (I) assistance is provided under the State program funded under part A of this title, (II) benefits or services for foster care maintenance are provided under the State program funded under part E of this title, (III) medical assistance is provided under the State plan approved under title XIX, or (IV) cooperation is required pursuant to section 6(l)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(l)(1)), **unless, in accordance with paragraph (29), good cause or other exceptions exist;**” and any child for whom an individual has applied for services (emphasis added).

The Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs (FEM) final rule addressed a similar question in the comments about paternity-only services (See [81 FR 93512](#) (PDF), Comment 12). “One commenter asked whether there are good cause procedures that would be applicable in nonpublic assistance cases. For example, if a noncustodial parent requests paternity-only services but the custodial parent does not wish to comply due to domestic violence concerns, and it is a nonpublic assistance case, would the State child support agency then be responsible for determining if the paternity-only limited service should be denied?” While the commenter’s question was specific to paternity-only limited services, OCSS’s response is broadly applicable to any case scenario where a noncustodial parent has applied for services, but the custodial parent does not wish to comply due to domestic violence concerns:

Historically, the custodial parent has typically been the applicant for State child support services. However, in providing an avenue for fathers to establish paternity for their child, we recognize that the potential exists for a noncustodial father to apply for paternity-only limited services without the cooperation or consent of the custodial parent mother due to domestic violence concerns. Clearly, it is never OCS[S]’s intent to create a dangerous situation for a parent who is a victim of domestic violence. Although Federal law is silent on this specific scenario, there is nothing in Federal statute or regulation that would preclude States from developing additional policies and procedures to address the safety needs of custodial parents in non-public assistance cases who are found to have good cause for refusing to cooperate with the State child support agency in establishing paternity, or for whom the State child support agency determines it is against the best interest of the child to pursue paternity issues.

In carrying out its responsibility to provide appropriate child support services, a child support agency must consider the best interests of the child when making determinations regarding good cause or other exceptions, see section 454(29) of the Act. Which parent applied for services, and whether or not a case is receiving public assistance, should never factor into that consideration. If the child support agency determines that child support services may not proceed without risk of harm to the child or caretaker, the agency may close the case under 45 CFR 303.11(b)(14).

Similar to the guidance provided in Question 1 in this PIQ regarding Family Violence Indicator procedures, OCSS recommends that state child support agencies reduce the burdens placed on survivors and accept and document any disclosure (verbal or written) by a survivor, stating that child support services pose a risk of harm to themselves or their children, as meeting the requirement for good cause determination.

**Question 3:** In states where authority to grant good cause is given to the public assistance agency, what case closure code under 45 CFR 303.11 should a IV-D agency use when it has received a referral for child support services from an assistance agency and the IV-D agency has reason to believe it’s not appropriate to provide child support services due to family violence safety concerns?

**Answer 3:** The FEM final rule included a new case closure criterion, 45 CFR 303.11(b)(20), providing states with flexibility to close cases referred inappropriately by the IV-A, IV-E, SNAP, and Medicaid programs. Section 303.11(b)(20) provides states with the option to close cases that are referred from other means-tested assistance programs (in addition to those listed) if the IV-D agency considers it “...inappropriate to establish, enforce, or continue to enforce a child support order in the case and the custodial parent has not applied for services. [...] A State should determine whether child support enforcement services are appropriate in a referred case, as it would with any other case. This provision provides States with the flexibility to close inappropriate referrals on a case-by-case basis.” (See 81 FR 93544, Comment 29). As indicated above, family safety concerns may make child support services inappropriate and even dangerous for survivors and their children. This case closure criteria corresponds with 45 CFR 260.52(c) describing the Family Violence Option, which allows states to waive certain requirements, pursuant to a determination of good cause, for individuals receiving public assistance when compliance with child support would make it more difficult for such individuals to escape domestic violence or unfairly penalize those who are or have been victimized by this violence or who are at risk of further domestic violence. In states where the public assistance agency, rather than the IV-D agency, has authority to grant good cause, requiring a survivor to obtain good cause from the assistance agency before the child support case can be closed is retraumatizing and delays protective measures for the survivor and their child(ren). Closing the case under 45 CFR 303.11(b)(20) allows the IV-D agency to take a more victim-centered, trauma responsive approach.

**Question 4:** In an intergovernmental case, can the responding IV-D agency close a case using the good cause case closure code if it has reason to believe it's not safe to proceed?

**Answer 4:** No, the responding state may not use 45 CFR 303.11(b)(14), known as the good cause case closure code, to close an intergovernmental case. Federal law limits a responding state IV-D agency's ability to close a case to the closure criteria under 45 CFR 303.11(b)(17) through (19):

- (17) The responding agency documents failure by the initiating agency to take an action that is essential for the next step in providing services;
- (18) The initiating agency has notified the responding State that the initiating State has closed its case under § 303.7(c)(11);
- (19) The initiating agency has notified the responding State that its intergovernmental services are no longer needed.

Federal law and policy require cooperation between state child support programs regarding intergovernmental case processing. When states communicate and cooperate regularly, they reduce interstate case processing issues, such as deciding whether a case should be closed due to domestic violence concerns. As reflected in [AT-20-14](#) (PDF), Question 72, “[i]f the responding state IV-D agency obtains information that indicates the initiating state IV-D agency could close its case, [...] the responding state should promptly communicate that information to the initiating state IV-D agency and wait for instructions regarding case closure.” The initiating IV-D agency should then offer appropriate safety modifications to the survivor or close the case under 45 CFR 303.11(b)(14) if a determination is made that it is not safe to proceed with providing child support services. The initiating IV-D agency must, in accordance with 45 CFR 303.7(c)(11), notify the responding IV-D agency within 10 working days of case closure that the initiating IV-D agency has closed its case pursuant to 45 CFR 303.11, and the basis for closure. The responding IV-D agency should then close its case using 45 CFR 303.11(b)(18).

If the initiating state IV-D agency fails to respond to the responding state IV-D agency's concerns that providing child support services would put the survivor or their child at risk of physical or emotional harm, case closure criteria under 45 CFR 303.11(b)(17) may be applicable to allow the responding agency to close an intergovernmental case if it documents failure by the initiating agency to take an action essential for the next step in providing services. Section 303.11(d)(2) requires the responding agency to give the initiating agency notice of the intent to close the case 60 calendar days prior to case closure. Additional guidance on notice requirements for intergovernmental cases can be found in [AT-20-14](#) (PDF). If the initiating state IV-D agency responds to the notice and provides that a survivor has asked for case processing safety modifications instead of case closure, the responding state IV-D agency must keep the case open.

States that experience systemic interstate case closure issues should elevate the concerns within their state and may contact their OCSS regional program specialist for technical assistance.

## Location and Identity Protection

**Question 5:** A custodial parent survivor of domestic violence expressed concern about the other parent knowing their state and county of residence. Is it allowable to open the case in the county or state of the noncustodial parent's residence?

**Answer 5:** Yes. The IV-D agency is not required to establish a child support case based upon the custodial parent's residence. Section 466(c)(2)(B)(ii) of the Act requires states to have procedures under which a child support case "...may be transferred between local jurisdictions in the state without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties." If the IV-D agency has reason to believe that disclosing the custodial parent's county of residence may lead to physical or emotional harm to the custodial parent or child(ren), the IV-D agency should use an alternate county or jurisdiction for legal filings. The county of the noncustodial parent's home is one option. The state could also use the county in which the state's IV-D headquarters or other regional offices are located if that is a safer option. The IV-D agency should determine the safest and most appropriate jurisdiction for legal filings in consultation with the survivor.

If the custodial parent has moved to another state, 45 CFR 303.7(c)(3) requires states to determine whether it is "...appropriate to use its one-state remedies to establish paternity and establish, modify, and enforce a support order." If the use of one-state remedies is inappropriate, as this would expose the custodial parent's new location, section 303.7(c)(4)(ii) permits states to "...refer any intergovernmental IV-D case to the appropriate State Central Registry, Tribal IV-D program, or Central Authority of a country for action."

**Question 6:** Does the medical support notice need to have the custodial parent's address of residence included in it?

**Answer 6:** No. As highlighted in **IM-19-06**, "[c]hild support agencies should recognize that unintentional disclosure of a protected parent or child's address can occur when the noncustodial parent is ordered to provide healthcare coverage as part of their child support obligation. This may happen when the agency sends a medical support notice that includes a protected party's address to an employer for employer provided health insurance enrollment, when a noncustodial parent is providing health coverage on their own, or when a protected party and/or child receive healthcare services and the insurance company sends an explanation of benefits to the policyholder."

FVI protections should be applied to medical support notices. An alternate address should be used for transmitting insurance information or policy cards to a party receiving FVI protections. The IV-D agency may use its own headquarters' address, a vendor's address (in situations where the agency contracts for medical support notice services). The IV-D agency or medical support vendor should then forward insurance information to the protected parent. The IV-D agency may also use an alternate address provided by the protected party.

**IM-19-06** also encourages the IV-D agency to tell protected parties that Explanation of Benefit (EOB) documents, required under the Affordable Care Act, may disclose health care provider information to the policy holders through which they are insured. EOBs are letters generated by a health insurance company that describe the benefits covered for their members when obtaining medical care under their health care policy. These documents contain potentially sensitive information — such as the name of provider practice (e.g., a mental health counselor or a reproductive health clinic) and description of services provided, and there are many considerations about how this information could impact survivors since EOBs are sent to policy holders, not necessarily to the patient themselves.<sup>6</sup> This could impact patients who are not the policy holder, including survivors of domestic violence. It is important that IV-D agencies educate survivors about the limits of confidentiality, what EOBs are, and how information could be shared with the primary policy holder. Best practice would be for IV-D agencies to be familiar with and communicate any specific health insurance protections for survivors of domestic violence available under state law. For example, some states have laws providing that survivors who have a valid order of protection against the policy holder, or any other person covered by the insurance policy, can send the order to their insurer so that the insurer will not disclose addresses and telephone numbers to the policy holder or other person. Additionally, some states allow that a survivor who states that disclosure of claims information to the policy holder could endanger them or their minor child are able to receive alternate communications from health insurers that are sent to alternate locations to keep information confidential from the policy holder. Cash medical support payments and custodial parent provided health care coverage both offer the greatest possible safety and autonomy for survivors of domestic violence.

**Question 7:** What is a self-sworn affidavit and is it acceptable to meet the requirements in UIFSA Section 312 for address non-disclosure?

**Answer 7:** Black's Law Dictionary defines an affidavit, also referred to as a sworn statement, as "a written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before an officer having authority to administer such oath." A self-sworn affidavit is similar to an affidavit but is not witnessed and sealed by an official such as a notary public. Instead, the person making the declaration signs a separate endorsement paragraph at the end of the document, stating that the declaration is made under penalty of perjury.

**AT-20-14** provides the following explanation for the requirements in sections 311 and 312 of UIFSA:

UIFSA Section 311, Pleadings and Accompanying Documents, requires a petitioner to provide specific information in a petition to establish a support order, determine parentage, or register and modify a child support order. This includes “the name, residential address, and social security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, social security number, and date of birth of each child for whose benefit support is sought or whose parentage is to be determined.”

Section 312, Nondisclosure of Information in Exceptional Circumstances, sets forth the only exception to the requirements in section 311. It states that “if a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information shall be sealed and may not be disclosed to the other party or the public.”

As noted in **IM-19-06**, the child support agency should provide FVI-protected parties with a form for making a sworn statement for the purposes of meeting the requirements in UIFSA Section 312 that the health, safety, or liberty of a party or a child would be unreasonably put at risk by the disclosure of identifying information. The child support agency should provide plain language instructions to survivors for completing the sworn statement or, if necessary, the agency should file a pleading on behalf of a survivor to prohibit disclosure of the identifying information. The sworn statement does not require a witness or a notary and may be self-certified by the survivor.

All federal intergovernmental forms (except for the Locate Request form) include a checkbox to indicate if the IV-D agency is attaching a nondisclosure finding by a court or an affidavit about the risk of harm. If there is this finding or affidavit, the FVI-protected party’s personal identifying information must be sealed and cannot be disclosed to the other party or the public unless, the court determines disclosure to any other person of that information would not be harmful to the parent or the child.

**Question 8:** Can a IV-D agency protect the names of children and their dates of birth by listing only their initials and years of birth in the child support system and on court pleadings?

**Answer 8:** Yes, dependent upon state statutes and court rules. OCSS agrees that redacting such information is a best practice for family violence cases and could help safeguard the information of a child born after the survivor has left the abusive relationship and the person causing harm was not aware of the pregnancy or the child’s birth. However, legal pleading requirements are typically established by state statute or court rule. While it is commonplace to use initials of children on juvenile court pleadings, many states don’t allow the same to be done on pleadings in family court or administrative hearings and a legislative or court rule change would be needed.

States would also need to have systems that allow for alternate name (or initials only) and year of birth fields for children that could be manually populated when family violence concerns are identified. This alternate information would then be used on all printed documents, notices, and legal pleadings.

If system limitations do not allow for such alternate fields, states could instead redact the child’s name and full date of birth after printing documents, replacing them with the child’s initials and year of birth. However, this manual work-around may not offer full safety protections on auto-generated and mailed documents.

## Protection Orders

**Question 9:** If a survivor believes it’s necessary for them to have a protective order before establishing child support, is it allowable for the IV-D agency to assist a party with filing for and obtaining a protection order?

**Answer 9:** Yes. While it is not allowable for a IV-D agency to file for a protection order on behalf of a survivor, if the IV-D agency has reason to believe that obtaining a restraining or protection order is inseparable from establishing, modifying, or enforcing a child support order, the IV-D agency should have processes in place for helping a parent access the necessary legal protections to move forward.

One option for providing help is for the IV-D agency to establish partnerships through contracts or cooperative agreements with non-profit legal services providers. Another option is to develop a supported referral process to make and follow up on referrals for legal assistance in obtaining a restraining or protection order. Procedures may also be developed where the costs of legal help necessary to accomplish child support outcomes would qualify for federal financial participation (FFP) if such help is incidental to and inseparable from the efforts to establish, modify, or enforce a child support order.

**PIQ-12-02** clarifies that certain activities are allowable child support expenditures under Title IV-D of the Act if they are incidental and related to establishing paternity or establishing, modifying, enforcing, and obtaining support. It encourages states and tribes to partner with other programs to supplement traditional establishment and enforcement procedures. This guidance notes that sometimes the services provided to parents by other agencies and programs may be incidental to and inseparable from child support purposes and may qualify for FFP. Such services may be included in a contract or cooperative agreement with the other agency. The PIQ specifically identifies domestic violence shelter services as not being allowable expenditures but, in answer to Question 4, it indicates other domestic violence services may be allowable to accomplish child support outcomes.

**PIQ 12-02** provides guidance that the Title IV-D agency may also hire or assign staff to provide specialized case management or navigator services to parents when helping parents with supplemental services. For example, specialized case managers could provide help or navigation services to a parent filing a pro se action to obtain a restraining or protection order if the agency had reason to believe that obtaining the protection order was inseparable from accomplishing child support outcomes. The child support agency may also obtain this specialized case management through case managers employed by private, public, or nonprofit community organizations under a cooperative agreement or contract. If a case manager also performs unrelated child support functions, the agency must allocate costs as appropriate. Additionally, if training is needed to provide specialized domestic violence case management, FFP is available for any short-term training that would directly improve any individual's ability to perform his or her current job or another related job to carry out IV-D activities. FFP is not available if the training is merely for general education or for the sole purpose of earning credit hours toward a degree or certificate (see 45 CFR 304.23(d) and **AT-81-18**).

As stated in **PIQ-12-02**, funds may be used to create domestic violence units that include trained case workers, as well as to develop and implement alternative order establishment or court procedures to limit survivor-perpetrator contact. A state may also use FFP to develop alternative address and confidentiality systems for survivors in the child support program.

**Question 10:** Can the IV-D agency assist with establishing child support during a protective order hearing?

**Answer 10:** Yes, if the party applying for a protective order also completes an application for IV-D services while securing a protective order. Economic security is the single biggest predictor of a domestic violence survivor's ability to successfully leave an abusive relationship. Two-thirds (67%) of survivors surveyed by the National Resource Center on Domestic Violence<sup>7</sup> said that they stayed longer than they wanted or returned to an abusive relationship because of financial concerns. OCSS recommends that IV-D agencies develop a simplified IV-D services application for use by survivors who are petitioning for an order of protection. The IV-D agency may then participate in the protective order hearing to establish or modify a support obligation. The IV-D agency may help the court in determining appropriate child support guidelines calculations and if retroactive support is appropriate.

Establishing (at the same time) a child support order with a protective order is a model practice that promotes economic security for survivors. It also increases public safety by reducing the number of court hearings involving perpetrators and survivors and reduces delays in establishing an enforceable child support order as a separate legal action by the survivor or the IV-D agency. OCSS recommends that IV-D agencies collaborate with local and state domestic violence service providers and legal advocates to ensure a seamless and coordinated delivery of services to one of the most vulnerable populations of custodial parents.

## Child Support Process Modifications

**Question 11:** May a child support agency suppress certain enforcement or case actions if a survivor believes those actions may place them or their child at risk of physical or emotional harm?

**Answer 11:** Yes, with some exceptions. Under Title IV-D of the Social Security Act (the Act), certain enforcement remedies are mandatory in every child support case and cannot be suspended, absent a change in federal law. These are immediate withholding under section 466(a)(8) (B) of the Act, unless there is a good cause not to require immediate withholding or the parties have reached a written agreement for an alternative arrangement for payment of support; and income withholding against unemployment compensation, unless the state reaches an agreement with the obligor to have specified amounts withheld from compensation otherwise payable to the obligor. For cases with arrears meeting the eligibility criteria, Federal Tax Refund Offset under section 464 of the Act is also a required enforcement measure.

While custodial parents in non-assistance cases have the option of pursuing a case through the IV-D program, section 454(4) of the Act provides that the state will:

(A) provide services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations, **as appropriate**, under the plan with respect to—

(i) each child for whom (I) assistance is provided under the State program funded under part A of this title, (II) benefits or services for foster care maintenance are provided under the State program funded under part E of this title, (III) medical assistance is provided under the State plan approved under title XIX, or (IV) cooperation is required pursuant to section 6(l)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(l)(1))[224], unless, in accordance with paragraph (29), good cause or other exceptions exist; (emphasis added)

Federal law authorizes states to determine the appropriate use of optional IV-D enforcement remedies on a case-by-case basis. The Act requires states to have in effect laws requiring the use of the other enforcement procedures in section 466, such as driver's license suspension, credit monitoring, and state tax refund offset, but provides that certain of these enforcement actions "need not be used or applied in cases where the State determines (using guidelines which are generally available within the State and which take into account the payment record of the noncustodial parent, the availability of other remedies, and other relevant considerations) that such use or application would not carry out the purposes of [Title IV-D of the Act] or would be otherwise inappropriate in the circumstances." States may review their guidelines for use of procedures under paragraphs (3), (4), (6), (7), (15), (16), (17) and (18) of section 466(a) of the Act to determine whether such enforcement action is appropriate..."

States also have discretion in using other federal enforcement remedies such as federal administrative offset, U.S. passport denial, Multistate Financial Institution Data Match (MSFIDM), and federal insurance match.

Where such enforcement procedures and remedies would compromise the safety of a parent or a child, state law and policy govern the process for implementing suspension of these enforcement actions in family violence cases.

Additionally, some child support agencies have developed ways to pursue child support with heightened safety for survivors. Known as "yellow light" procedures, they include address confidentiality, advance warning of the start of certain enforcement remedies, and the avoidance of some remedies. Many child support agencies have collaborated with domestic violence advocacy groups to develop these "yellow light" procedures. For further information see:

[Essentials for Attorneys, Chapter 16 Domestic Violence and Child Support](#) (PDF)

[Child Support When You're Afraid of the Other Parent](#)

[Safely Pursuing Child Support — A Caseworker Desk Card, April 2020](#) (PDF)

**Question 12:** A survivor recently requested that their order amount not be modified upward, even though it qualified based on guidelines. Can a domestic violence survivor's safety provide the basis for deviating from a state's child support guidelines?

**Answer 12:** Yes. Under section 466 of the Act, the state may determine not to initiate review and modification of a support order, taking into account the best interest of the child involved. Section 466(a) of the Act provides that each state has in effect laws requiring procedures "... consistent with this section...". Specifically, section 466(a)(10)(A)(i)(I) of the Act states, with emphasis added:

10) REVIEW AND ADJUSTMENT OF SUPPORT ORDERS UPON REQUEST.—

(A) 3-YEAR CYCLE.—

(i) IN GENERAL.—Procedures under which every 3 years (or such shorter cycle as the State may determine), upon the request of either parent or if there is an assignment under part A, upon the request of the State agency under the State plan or of either parent, the State shall with respect to a support order being enforced under this part, **taking into account the best interests of the child involved**—

(I) review and, **if appropriate**, adjust the order in accordance with the guidelines established pursuant to section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded in accordance with the guidelines.

Should the state initiate modification procedures, the tribunal may, taking into consideration the best interests of the child, determine that an upward modification is not justified and deviate from the guidelines based on concern for the safety of the survivor and/or the child. See 45 CFR 302.56 (g), which states:

A written finding or specific finding on the record of a judicial or administrative proceeding for the establishment or modification of a child support order that the application of the child support guidelines established under paragraph (a) of this section would be **unjust or inappropriate** in a particular case will be sufficient to rebut the presumption in that case, as determined under criteria established by the

state. **Such criteria must take into consideration the best interests of the child.** Findings that rebut the child support guidelines shall state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines (emphasis added).

As noted in **DCL-21-08**, Chapter 10:

The issue of when deviation from guidelines is appropriate poses a challenge for states. Too many bases for deviation undermine the effectiveness of standard calculations; yet some flexibility is necessary to ensure that orders are realistic and can be paid in certain cases. While the standard guideline calculation addresses the basic needs of a child, deviation criteria tailor the order to meet the needs of a specific child or children. Federal regulations, in addition, require any deviation criteria established by a state to take into account the best interest of the child.

Given the underlying criteria for guideline deviations is best interest of the child, OCSS encourages states to prioritize survivor safety as a key factor to promote child wellbeing in families that have experienced domestic violence. Recent research from the Children's Bureau within the Administration for Children and Families highlights the powerful positive impact taking a survivor-centered approach has on children's outcomes. (Children's Bureau Express, December 22/January 23 Vol. 23, No. 10, Study on Survivor-Centered Approach to Help Families Experiencing Domestic Violence).

**Question 13:** In our efforts to ensure survivor safety, we take additional time to contact parents who disclose domestic violence concerns to make sure we've fully addressed safety needs. Is there any flexibility on case opening timeframes when addressing family safety needs?

**Answer 13:** OCSS is committed to ensuring that child support agencies do not move forward with child support services in cases where it's determined that doing so may pose a risk of harm to a family member, caretaker, or child.

When a signed application for services, along with any applicable application fee, has been received, 45 CFR 303.2(b) requires IV-D agencies to "...open a case by establishing a case record and, based on an assessment of the case to determine necessary action: (1) Solicit necessary and relevant information from the custodial parent and other relevant sources and initiate verification of information, if appropriate."

While a case must be opened, there is no prescribed amount of time for completing an assessment to determine the necessary next action. In obtaining information from relevant sources, such as family members, and assessing the case, the state IV-D agency has discretion in deciding whether to proceed. The agency should prioritize safety needs when making this decision. If the IV-D agency determines that moving forward with the establishment or enforcement of a support order would pose risk of harm to a family member, caretaker, or child, the IV-D agency should consider whether it is appropriate to close the case pursuant to 45 CFR 303.11 and include the Family Violence Indicator required under 45 CFR 303.21. In some circumstances, an individual may be at risk, but he or she informs the IV-D agency that they prefer to move forward with safety protocols, including the FVI, in place. In establishing the case, 45 CFR 303.2(c) requires that "[t]he case record must be supplemented with all information and documents pertaining to the case, as well as relevant facts, dates, actions taken, contacts made and results in a case."

**Question 14:** Must a birthing center or hospital staff offer a paternity acknowledgement opportunity to an unmarried parent if there is reason to believe the parent is being coerced into signing it?

**Answer 14:** Regulations at 45 CFR 303.5(g) outline procedures for voluntary paternity establishment programs. Requirements under section 303.5(g)(2)(i) mandate that a hospital-based program provide both the mother and alleged father, if he is present in the hospital: (A) Written materials about paternity establishment, (B) the forms necessary to voluntarily acknowledge paternity, (C) a written description of the rights and responsibilities of acknowledging paternity, and (D) the opportunity to speak with staff, either by telephone or in person, who are trained to clarify information and answer questions about paternity establishment. Section 303.5(g)(2)(ii) and (iii) further mandate that both the mother and alleged father are provided with the opportunity to voluntarily acknowledge paternity and afforded due process safeguards.

The Child Support Enforcement Program: Paternity Establishment and Revision of Child Support Enforcement Program and Audit Regulations final rule (See **59 FR 66204** , 66217 (Dec. 23, 1994)) explains that the regulations at section 303.5(g) are designed to make certain that the voluntary acknowledgement process is truly voluntary by ensuring that parents are able to make informed decisions and explains in response to comments how states might provide due process safeguards by describing the parties' rights and responsibilities and the consequences of their decision.

On page 66218 of the final rule, OCSS's response to commenters' concerns about the requirement that a voluntary acknowledgement of paternity be signed by both parents contemplated the possibility that a mother may not want paternity to be established due to domestic violence. Guidance was provided that, "[i]f a party in such a case wishes to establish paternity without the cooperation of the other party, he or she could contact the IV-D agency or a private attorney."

On page 66221, the final rule encourages states to provide additional safeguards in cases of domestic violence: "Under § 303.5(g)(2)(iii), a hospital-based program must also afford any additional due process safeguards necessary under State law, court rulings, and special circumstances. We encourage States to work with hospitals to ensure that the voluntary aspect of the program is promoted and maintained. Neither the mother nor the father should be pressured into signing acknowledgments. [...]"

We encourage States to consider other safeguards suggested by commenters as a means of protecting women in cases potentially involving domestic violence. These include training workers to recognize possible domestic violence, and talking with the mother and alleged father separately so that the mother can raise any concerns privately and discreetly."

Additionally, section 303.5(g)(6,7) requires the state IV-D agency to provide training, guidance, and instructions regarding voluntary acknowledgment of paternity and require the state IV-D agency to assess each entity participating in the state's voluntary paternity establishment program on at least an annual basis. The training and assessment conducted by the state IV-D agency should address how entities providing voluntary paternity services are expected to provide parents with due process safeguards when there is evidence of coercion or manipulation by one party over another when completing a voluntary paternity acknowledgment form.

OCSS recommends the state IV-D agency collaborate with domestic violence experts, including the state domestic violence coalition, to develop safety protocols for entities providing voluntary paternity acknowledgement services, conduct training with entities on recognizing domestic violence and mitigating tactics a party might use to coerce the other parent into signing a voluntary paternity acknowledgment form, and assess implementation of safety protocols by entities as part of the required annual review.

**Question 15:** Can a state decline to modify child support for a noncustodial parent who is incarcerated if the reason they are incarcerated is due to a crime committed against a custodial parent and or child?

**Answer 15:** No. The FEM rule provides that state guidelines under 45 CFR 302.56(c)(3) may not treat incarceration as "voluntary unemployment" in establishing or modifying child support orders. The rule prohibits states from legally barring modification of support obligations due to incarceration. Section 303.8(c) also was revised to state that the reasonable quantitative standards that a state develops for review and adjustment must not treat incarceration as a legal bar for petitioning for and receiving an adjustment of an order.

**INQUIRIES:** Contact [OCSS.DPT@acf.hhs.gov](mailto:OCSS.DPT@acf.hhs.gov)

1. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, "About Intimate Partner Violence" (May 16, 2024) available at <https://www.cdc.gov/intimate-partner-violence/about/>

**CDC\_AAref\_Val**=<https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html> 

2. Kathryn J. Spearman, Jennifer L. Hardesty, and Jacquelyn Campbell, "Post-separation abuse: A concept analysis," Journal of Advanced Nursing, 79:2 (May 27, 2022) available at <https://onlinelibrary.wiley.com/doi/10.1111/jan.15310> 

3. Jessica Pearson and Rasa Kaunelis, "Child Support Program and Parenting Time Orders: Research, Practice, and Partnership Project — Site Visit Report," Center for Policy Research (2015) available at <https://centerforpolicyresearch.org/publications/child-support-program-and-parenting-time-orders-research-practice-and-partnership-project-site-visit-report/#:~:text=Research%20shows%20that%20the%20birth%20of%20a,activities%20can%20all%20be%20triggers%20for%20violence> 

4. "We Would Have Had to Stay": Survivors' Economic Security and Access to Public Benefits Programs, Joint report of The National Domestic Violence Hotline, National Resource Center on Domestic Violence, and National Latin@ Network for Healthy Families and Communities at Casa de Esperanza at 9 (Nov. 2018), [https://vawnet.org/sites/default/files/assets/files/2018-11/NRCDV\\_PublicBenefits-WeWouldHaveHadToStay-Nov2018.pdf](https://vawnet.org/sites/default/files/assets/files/2018-11/NRCDV_PublicBenefits-WeWouldHaveHadToStay-Nov2018.pdf)  (PDF)

5. Messing, Jill Theresa, Meredith E. Bagwell-Gray, Allison Ward-Lasher, and Alesha Durfee. "'Not bullet proof': The complex choice not to seek a civil protection order for intimate partner violence." International review of victimology 27, no. 2 (2021): 173-195 available at ['Not bullet proof': The complex choice not to seek a civil protection order for intimate partner violence - Jill Theresa Messing, Meredith E Bagwell-Gray, Allison Ward-Lasher, Alesha Durfee, 2021](#) 

6. Health Partners on IPV + Exploitation, "Privacy Principles for Protecting Survivors of Intimate Partner Violence, Exploitation, and Human Trafficking in Healthcare Settings" available at [https://ipvhealthpartners.org/wp-content/uploads/2021/09/Privacy-Principles-for-Protecting-Survivors\\_Final.pdf](https://ipvhealthpartners.org/wp-content/uploads/2021/09/Privacy-Principles-for-Protecting-Survivors_Final.pdf)  (PDF)

7. The National Domestic Violence Hotline, National Resource Center on Domestic Violence, and National Latin@ Network for Healthy Families and Communities at Casa de Esperanza (2018)

**Types:**

[Policy & Guidance](#) , [Policy Interpretation Questions \(PIQ\)](#)

**Topics:**

[Family Violence](#)

**Audiences:**

[States](#) , [Tribes](#)