

INFORMATION MEMORANDUM

IM-19-06

DATE: August 21, 2019

TO: State and Tribal IV-D Agencies

SUBJECT: Model Procedures for Domestic Violence Cases

ATTACHMENT: [Domestic Violence Expert-Informed Screening Practices and Questions.pdf](#)

Financial instability is one of the primary reasons victims of domestic violence stay with or return to abusive partners. Approximately one in three custodial parents have experienced domestic violence with the other party on their case, and many victims who don't have a formal child support order would like one.¹ The core purpose of the child support program, ensuring families receive consistent and reliable support, is aligned with victims' ability to establish stable, violence free homes for themselves and their children. To effectively provide child support services to parents impacted by domestic violence, it is essential that child support agencies have domestic violence expert-informed screening and case management procedures in place.

OCSE has developed domestic violence technical assistance and training resources and provides comprehensive training to child support staff upon request. This IM provides guidance and model procedures that address challenges consistently identified by child support agency staff when processing cases that involve victims of domestic violence.

¹ Osborne, Cynthia et al. (2013). In-Hospital Acknowledgment of Paternity (AOP): A Portrait of Father Involvement and Support in the First Three Years after a Nonmarital Birth. Child and Family Research Partnership

Processing cases with previous good cause closure:

Should the agency take enforcement actions to collect state-owed arrears after good cause ;case closure?

If the child support agency has opened a child support case because the custodial parent receives TANF or Medicaid assistance and the agency determines during case work that there is good cause to close the case, it should terminate all enforcement

actions immediately. This includes efforts to collect state owed arrears, as ongoing enforcement actions are likely to create additional risk of physical or emotional harm to the parent and/or child(ren). The only exception to this is if the child support agency successfully contacts the protected party, explains the enforcement actions planned by the agency, and receives assent from the protected party that the proposed enforcement actions are not likely to increase risk of physical or emotional harm to the parent or the child(ren). The child support agency should explain that the protected party has the option to request termination of enforcement actions at any time.

How should the agency process a new public assistance case referral for a parent that has previously had their case closed due to good cause?

In situations where a case has been closed for good cause, and the protected party subsequently applies for a form of public assistance that has a child support cooperation requirement, the IV-D agency should contact the protected party prior to opening the case to determine if it is now safe for the agency to establish or enforce a child support obligation. Additionally, the child support agency should consult with the referring agency, if possible, to assess any new information the referring agency may have received from the party. If the child support agency cannot successfully contact the parent to determine if the previous safety risks have been resolved, the agency should not reopen the case since it has reason to believe it is not safe to proceed with child support based on the previous good cause closure.

Recommended family violence indicator (FVI) practices:

Explain to case parties the family violence indicator and how it impacts child support case processing. The child support agency should identify any local court practices that might include requirements for address and other personal information disclosure. Child support agencies should, at a minimum, ask basic screening questions of both the applicant and the respondent. **Model screening questions** are included as an attachment to this IM.

Who receives a family violence indicator?

"A State should attach a family violence indicator to any person who is at risk of physical or emotional harm and should consider attaching a family violence indicator to any person residing with such a person where the disclosure of information could be used to locate the at risk person." ([OCSE-AT-98-27](#)) The family violence indicator should not be placed on all parties to the case, only the party(ies) needing protection.

What constitutes "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.**" ([OCSE-AT-98-27](#) emphasis added)

- Family violence experts recommend that child support agencies reduce burdens placed on survivors by accepting any disclosure (verbal, written, administrative records match) of safety concerns as meeting the standard of reason to believe. The child support agency should gather additional information related to the initial disclosure to help determine if protections in addition to the FVI are needed to safely provide child support services.
- The child support agency should provide all recipients of FVI protections with a template form for making a sworn statement that the health, safety, or liberty of a party or a child would be unreasonably put at risk by the disclosure of identifying information for purposes of UIFSA. The agency should assist with completion of the form as needed. The sworn statement does not require a witness or a notary and may be self-certified by the party making the statement.

How should the child support agency determine if a protected party no longer needs the FVI?

- The child support agency should maintain the FVI on a protected party until that party notifies the child support agency that the protections are no longer needed. The FVI should not have an expiration date nor require renewal by the protected party. If the FVI is placed due to a parent having a civil or criminal protection from abuse or restraining order - the FVI protections should continue on regardless of a termination date associated with the civil or criminal protection order.
- Family violence experts recommend that child support agencies not send out notices to protected parties asking if they still need the FVI, since an abusive partner may intercept the victim's mail. This inadvertent disclosure of the FVI protections poses a risk. Instead, experts recommend using routine contacts with protected parties, by phone or in office, to remind them of the FVI protections currently on their case and offering to remove the FVI when a party no longer needs or wants that protection. The child support agency should not limit the number of times an individual can ask to remove or to reinstate an FVI as risk for victims tends to change when there is a change in circumstance.
- The child support agency should review FVI status on an individual when that individual changes roles on a case. For instance, if a child was protected with the FVI because the

parent with whom they were living needed the protection, and now that child is an adult and a parent on a different case, the child support agency should contact the former dependent who is now a parent as part of case processing to determine if the FVI is still needed.

Recommended practices for protecting address and personal contact information on medical support notices, insurance cards, and explanation of benefits notices:

Child 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.

Since the FVI protects a party's address, that address should never be included in a medical support notice. The child support agency can use its own address, a vendor's address (if the agency uses a vendor for medical support notices) or an alternate address provided by the protected party for purposes of receiving insurance information and policy cards. The child support agency or its vendor is responsible for forwarding the insurance information and card to the protected parent when the agency or vendor address is used.

Protection of addresses on medical support notices is only the first step when it comes to victim safety in health insurance enforcement. Explanation of benefits notices are required under the ACA and frequently result in the disclosure of patients' sensitive information to the holders of the policies through which they are insured. This can expose the patients (victims) to danger, or deter them from seeking health care. Cash medical support payments and custodial parent provided health care coverage both provide the greatest possible safety and autonomy for victims of domestic violence.

Address confidentiality and protection of due process rights of the non-protected party:

The child support agency should review the court rules or rules of civil procedure in their jurisdiction and explain those practices to parties whose address is protected with the FVI. Many jurisdictions will redact or seal the protected party's address from all public

court documents and if the non-protected party needs to file service upon the protected party, the court clerk will accept the filing and execute service. Some jurisdictions will provide an alternate address or PO Box to a protected party for purposes of accepting service. The child support agency should confirm that local court practice provides adequate protections for cases flagged with the family violence indicator to ensure address information is not in the public court records. In jurisdictions where the court requires a filing for non-disclosure the child support agency should incorporate the non-disclosure filing into its initial filing as well as in any subsequent court filings as long as the parent has FVI protections.

INQUIRIES: Please contact Senior Programs Manager Michael Hayes at michael.hayes@acf.hhs.gov

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