STATE OF RHODE ISLAND
DEPARTMENT OF HUMAN SERVICES

PUBLIC NOTICE OF PROPOSED RULE-MAKING

In accordance Rhode Island General Laws (RIGL) 42-35, notice is hereby given that the Department of Human Services proposes to amend the following DHS rule:

CHILD SUPPORT - SECTION 0700

This amended rule reflects technical amendments regarding the Rhode Island Works (RIW) Program vs. Family Independence Program, as well as provides guidance regarding pre-existing past due support paid by a noncustodial parent for a child receiving RIW benefits, for the period of time that the family was not in receipt of RIW benefits, to be paid to the family in which the child resides. These households may retain the past due amount as an amount owed to them personally. This amendment was implemented via emergency rule-making in October 2009.

In the development of this rule, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This proposed rule is accessible on the R.I. Secretary of State website (http://www.sec.state.ri.us/ProposedRules/) and the DHS website (www.dhs.ri.gov) or available in hard copy upon request (401 462-2018 or RI Relay, dial 711). Interested persons should submit data, views or written comments by Friday March, 12, 2010 to Kimberly Merolla-Brito, Office of Policy Development, Department of Human Services, Louis Pasteur Building, Bldg. 57, Howard Avenue, Cranston, RI 02920.

In Accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

The Department of Human Services does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief or handicap in acceptance for or provision of services or employment in its programs or activities.

Gary D. Alexander, Director

0700 CHILD SUPPORT PROGRAM OVERVIEW

0700.10 FEDERAL LEGISLATION

REV: 04/2010~~10/2006~~
~~0700.10 FEDERAL LEGISLATION REV:10/2006~~

In 1975, having concluded that preliminary Federal child support efforts did not go far enough in reducing welfare caseloads and attending costs, Congress added Part D to Title IV of the Social Security Act, thereby creating the Child Support Enforcement Program. The passage of this landmark legislation (P.L. 93-647) significantly increased Federal intervention in state child support activities by:

- Requiring that all states establish a separate organizational unit to operate a IV-D program;
- Directing states to operate their programs in accordance with a state plan covering both welfare recipients and those others who apply directly for child support services;
- Creating a Federal Parent Locator Service, with access to Federal agency files;
- Establishing procedures for distribution of child support collections received on behalf of ~~FIP~~RIW recipients;
- Providing for incentive payments to states for collections made on ~~FIP~~RIW cases;
- Sharing heavily in the administrative costs of states' programs through a Federal matching rate of 75 percent;
- Permitting garnishment of Federal employee's wages for purposes of collecting child support; and
- Adding specific requirements to ~~FIP~~RIW eligibility mandating: (1) every applicant to assign rights to support to the state; (2) the custodial parent's cooperation in establishing paternity and securing support; and (3) the non custodial parent's social security number is furnished to the state.

0700.10.05 Omnibus Reconciliation Act of 1981

REV: 04/2010~~10/2006~~
~~0700.10.05 Omnibus Reconciliation Act of 1981 REV:10/2006~~

Since its inception, the scope and authority of the Child Support Enforcement, or IV-D, Program has been expanded and strengthened by Congress numerous times. Most noteworthy are amendments enacted in

1981, 1984, 1988 and again in 1997. Key provisions are summarized below.

The Omnibus Reconciliation Act of 1981 (P.L. 97-35), among other things, created the Federal income tax offset program for collection of delinquent ~~FIP~~RIW child support obligations, permitted states to collect ordered spousal support for ~~FIP~~RIW families, barred child support obligation due the state from being discharged in bankruptcy proceedings, and mandated that states withhold a portion of any unemployment benefits from non custodial parent's delinquent in their support payments.

0700.10.10 Child Support Enforcement Amendments 1984

REV: 04/2010~~10/2006~~

~~0700.10.10 Child Support Enforcement Amendments 1984~~
~~REV:10/2006~~

The landmark Child Support Enforcement Amendments of 1984 (P.L. 98- 378) contained the most sweeping reform of the program since 1975. Of note:

- The law established mandatory enforcement remedies including: income withholding, state income tax interceptions, and use of liens against both real and personal property;

- The provisions of the law encouraged the reporting of information relating to support delinquencies to consumer credit agencies;

- The use of administrative or quasi-judicial officers was required for establishing and enforcing support orders through expedited process;

- State law must permit the bringing of a paternity action any time prior to a child's eighteenth birthday;

- The program's funding structure was dramatically altered to reduce Federal matching dollars and, for the first time, to pay incentives for non-assistance collections. Incentive payments were also modified in accordance with a sliding scale to encourage high performance, cost-effective program administration;

- The law mandated improved interstate enforcement activities, where both states involved in an interstate situation were allowed to take credit for the collection;

- The development of state guidelines was mandated for the consideration of courts and administrative agencies in deriving and setting support awards;

- Decisive steps were taken to insure equal service provision to welfare and non-assistance families, alike;

- Collection services were also expanded to include ordered spousal support in families where child support was already being enforced, and to children receiving foster care maintenance payments under Title IV-E of the Social Security Act. Moreover, states were required to seek medical support as part of the support order; and

- States were also required to actively publicize their IV-D program services.

0700.10.15 Family Support Act of 1988

REV:07/1994

With a major emphasis on self-sufficiency, the Family Support Act of 1988 (P.L. 100-485) once again considerably strengthened many provisions of existing law. Highlights include:

- Wage withholding became mandatory for all new and modified IV-D orders, with few exceptions, irrespective of arrearages. Moreover, immediate wage withholding provisions also apply to all support cases in a state, beginning January 1994;

- The advisory nature of guidelines was replaced by a requirement that they be uniformly applied as a rebuttable presumption in setting awards. Also, guidelines must now be reviewed at least once every four years to insure their appropriateness;

- Effective October 1990, existing IV-D orders must be reviewed in accordance with the state's guidelines every three years;

- Major requirements were placed on the states to improve paternity case processing. For the first time, performance standards were defined for paternity establishments. Genetic testing also became a requirement for all parties in a contested paternity action. Finally, states were encouraged to implement a simple civil process for establishing paternity when acknowledged by a father, and a civil procedure for contested matters; and

- In order to make the IV-D program more responsive to individuals and other states and jurisdictions, Congress required the Secretary of HHS to implement standards for prompt state response in establishing or enforcing support; including location, paternity activities, and distribution of collections.

0700.10.20 PRWORA of 1996

REV: 04/2010~~10/2006~~
~~0700.10.20 Personal Responsibility and Work Opportunity Reconciliation Act of 1996 EFF: 10/2006~~

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 contained the following child support provisions:

* A simple process for voluntarily acknowledging paternity including a hospital based program;
* Administrative enforcement including liens on bank accounts, and other personal and real property;
* New Hire reporting laws ;
* Income withholding requirement for all cases where a child support order was established or modified after October 1, 1996;
* Expanded authority to locate individuals and assets through the use of administrative subpoenas;
* Federal case registry of all child support orders;
* Expedited procedures for genetic testing,
* Review and Adjustment of child support orders after the expiration of three years and upon request form either party;
* Abolishment of a jury trial in paternity cases;
* Increase use of automated process;
* Provision in every court or administrative order addressing health coverage;
* Changes in distribution of child support;
* The passage of the Uniform Interstate Family Support Act.

0700.15 PROGRAM ADMINISTRATION

REV:07/1994

The Child Support Enforcement program is administered by the Federal government and the State of Rhode Island.

0700.15.05 Federal Oversight

REV: 04/2010~~10/2006~~
~~0700.15.05 Federal Oversight REV:10/2006~~

Federal stewardship of the IV-D program is vested in the Office of Child Support Enforcement (OCSE), an agency of the Family Support Administration (FSA), which serves as one of six major operating components within the U.S. Department of Health and Human Services (HHS). In supervising the administration of the program by the states, the OCSE has the following responsibilities:

- Development and issuance of program regulations and policy;

- Operation and maintenance of the Federal Parent Locator Service (FPLS), an automated system with linkages to most Federal databases including: the Internal Revenue Service, Social Security

Administration, Selective Service System, Department of Defense, Veterans Administration, National Personnel Records Center, and the Labor Department's INTERNET system. The FPLS is used to assist states in locating non-custodial parents;

- Issuance of publications, information and other materials (including an annual report to Congress) concerning matters of importance to the child support community, as well as to the public at-large;

- Authorization of research and demonstration projects to test new approaches and otherwise improve the efficiency and/or effectiveness of child support enforcement program operations;

- Provision of training to state and local IV-D personnel;

- Oversight, technical assistance and program evaluation of state and local programs;

- Certification authority for state requests to use the IRS collection of overdue support mechanism, and the Federal courts in interstate matters; and

- Approval of state claims for Federal Financial Participation and automated systems development.

0700.15.10 State Administration

REV: 04/2010~~10/2006~~

~~0700.15.10 State Administration REV: 10/2006~~

In Rhode Island, the child support program is managed by the Department of Human Services- Office of Child Support Services.

The revenue collection functions of the Department of Administration, Division of Taxation were transferred to the Department of Human Services on July 1, 2005. Any reference to the Department of Administration, Division of Taxation, the Rhode Island Child Support Services agency, and Bureau of Family Support in reference to child support services in this and other DHS manuals shall be construed to refer to the Department of Human Services, Office of Child Support Services except as may be required by context.

The following child support enforcement services are provided:

- Intake for both public assistance and non-public assistance cases;

- Location of the non custodial parent;

- Establishment of paternity;

- Establishment of an order for child and medical

support;

- Enforcement of the order;
- Review and modification of the order; and
- Collection and disbursement.

0700.20 CONFIDENTIALITY

REV: 04/2010~~10/2006~~
~~0700.20 CONFIDENTIALITY REV:10/2006~~

The OCSS Agent will have access to information regarding both the custodial parent and non-custodial parent. This information must be held and used according to the policy outlined in this Section.

Through the many databases accessed by both the State Parent Locator Service (SPLS) and the Federal Parent Locator Service (FPLS), OCSS employees have available a considerable amount of personal information concerning non custodial parents. This information must only be accessed for those non custodial parents whose child(ren)/families are participating in the IV-D program by virtue of either an assignment or application. In no instance, may information gained by OCSS agency be disclosed for purposes other than the administration of the IV-D program, e.g., for location, establishing paternity and support, or enforcement of an existing order.

The Social Security Act is explicit in restricting the disclosure of information to only authorized individuals defined as:

- Any agent or attorney of any state having an approved IV-D plan, who has the duty or authority under the plan to seek to recover any amounts owed as child and spousal support;
- The court, or an agent of the court, which has authority to issue an order against a non-custodial parent for the support and maintenance of a child; and
- The resident parent, legal guardian, attorney, or agent of a non-assistance child without regard to the existence of a court order against a non-custodial parent who has a duty to support and maintain any such child.

0700.20.15 Confidentiality of Paternity Establishment

REV: 04/2010~~10/2006~~
~~0700.20.15 Confidentiality of Paternity Issues REV:10/2006~~

In proceedings to establish paternity, OCSS must exercise discretion. All matters relating to paternity establishment should proceed in the strictest of confidence after a prudent assessment of all case information available.

The OCSS Agent may discuss a paternity case only with the custodial parent or the putative father. If a call is received from a third party (someone other than the mother or putative father) the Agent is limited to discussing only the general policy and procedures regarding paternity establishment.

0702 TYPES OF CHILD SUPPORT CASES

0702.05 RIW CHILD SUPPORT CASES

REV: 04/2010~~07/1999~~

Title IV, Part A of the Social Security Act provides funding to states to pay cash assistance benefits to needy families with children. This program, known as Temporary Assistance to Needy Families, is commonly referred to as TANF. Rhode Island's TANF program is called the ~~Family Independence Program~~Rhode Island Works, or ~~FIP~~RIW. For every child for whom ~~FIP~~RIW (Title IV-A) benefits are paid because of a parent's absence from the home, the State must establish a child support case and pursue collection of support, unless a claim of good cause for non-cooperation is substantiated (see Section 0704.25). These cases include those in which the parents were never married, or were married but are now separated or divorced, and cases where the child(ren) is/are living with a non-parent caretaker relative who is receiving ~~FIP~~RIW in the child's behalf.

Both Federal and Rhode Island laws require the custodial ~~FIP~~RIW parent to assign to the State any rights to support from any other person in behalf of the custodial parent or in behalf of any other member of the ~~FIP~~RIW family unit. In Rhode Island, this assignment of support operates by virtue of State law, and also by virtue of a signed ~~FIP~~RIW application which includes assignment of rights provisions, whenever ~~FIP~~RIW public assistance benefits are furnished. See Section 0704.15 of this Manual for additional references to the assignment of rights.

As a condition of eligibility for assistance under Federal Title IV-A of the Act, a member of the family must assign to the State any rights a family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to support from any other person, not exceeding the total amount of assistance paid to the family which accrue (or have accrued) before the family leaves the program.

This Federal law further provides that:

1. For an assignment effective prior to October 1, 1998, the applicant assigns to the State all rights to support which ~~have previously accrued and which~~ will accrue prior to the family leaving ~~FIP~~RIW assistance.

2. For an assignment effective on or after October 1, 1998, the applicant assigns to the State all rights to support which will accrue while the family is receiving assistance, ~~and the applicant temporarily assigns to the State all rights to support which accrued prior to the family receiving assistance,~~ until the family leaves assistance, up to the amount

of unreimbursed assistance.

3. The cumulative amount of assigned arrearages in former assistance cases may not exceed the cumulative amount of unreimbursed assistance paid to the family under all assignments.

4. A State may not require, as a condition of providing assistance to any family, that a member of the family assign to the State any rights to support which will accrue after the date the family leaves the ~~FIP~~RIW Program.

The distribution of child support collected by the State is further clarified In Section 0728.35.

0702.10 NA CHILD SUPPORT CASES

REV: 04/2010~~10/2006~~
~~0702.10 Non-Assistance (NA) CHILD SUPPORT CASES REV: 10/2006~~

The Office of Child Support Services provides child support enforcement services to individuals who are not receiving ~~FIP~~RIW, Medical Assistance (MA), or IV-E Foster Care. These services may be continued upon the termination of a ~~FIP~~RIW case or provided upon the request of a custodial parent.

0702.10.05 NA Cases Without Prior AFDC/~~FIP~~RIW

REV: 04/2010~~10/2006~~
~~0702.10.05 Non Public Assistance Cases Without Prior FIP REV:10/2006~~

Title IV, Part D of the Social Security Act provides funding to states to operate a child support enforcement program. Section 454 of the Act provides that the State must provide that the support collection or paternity determination services established under the plan shall be made available to any individual not receiving ~~FIP~~RIW who files an application for the services with the IV-D agency. These cases are frequently referred to as Non-public assistance or NA and represent families from the general public who choose to access the IV-D agency for services in lieu of retaining private counsel. In Rhode Island, these NA families are charged a twenty-dollar ($20.00) application fee. Other states may charge an application fee, as well, but in no case may the fee exceed twenty-five dollars ($25).

Federal and State law does not require the custodial non-assistance parent to assign to the State any rights to support from any other person on behalf of the custodial parent.

0702.10.10 NA Cases With Prior AFDC/~~FIP~~RIW

REV: 04/2010~~10/2006~~
~~0702.10.10 NA Cases With Prior FIP REV:10/2006~~

When a ~~FIP~~RIW or Medical Assistance Only (MAO) case is closed, child support services are continued unless the custodial parent requests, in writing, that they be terminated. These cases differ from NA cases

without prior ~~FIP~~RIW because services are provided automatically without an application fee.

When a family ceases receiving assistance under the state's IV-A plan, the assignment of support rights terminates except with respect to the amount of any unpaid support obligation that has accrued under such assignment.

Priority first shall be given to collection of current support and shall be paid to the family. Second, any arrearage due the family shall be paid first if the case is a NA case and any arrearage due the state shall be paid if the family is on ~~FIP~~RIW.

Third, any medical arrearages due shall be paid.

0702.15 FOSTER CARE CHILD SUPPORT CASES

REV: 04/2010~~10/2006~~
~~0702.15 FOSTER CARE CHILD SUPPORT CASES REV: 10/2006~~

Title IV, Part E of the Social Security Act provides funding to states to operate foster care and transitional independent living programs for children who would otherwise qualify for ~~FIP~~RIW benefits. In addition, when children are removed from their home and placed in foster care the Act requires that all steps be taken to secure an assignment to the state of any rights to support on behalf of each child receiving foster care maintenance payments under IV-E. As with ~~FIP~~RIW, the assignment of rights to support in a IV-E foster care case is automatic by operation of state law in Rhode Island. The IV-E foster care program in Rhode Island is administered by the Department of Children, Youth and Families (DCYF). The Office of Child Support Services is responsible, therefore, for the establishment and enforcement of support orders from either or both parents of IV-E foster care children.

0702.20 MEDICAL ASSISTANCE CHILD SUPPORT CASES

REV: 04/2010~~10/2006~~
~~0702.20 MEDICAL ASSISTANCE CHILD SUPPORT CASES REV: 10/2006~~

Title XIX of the Social Security Act provides funding to states to operate medical assistance programs for indigent families with children and other specified individuals. This program is commonly referred to as Medical Assistance. In addition, the Act requires that all steps be taken to secure an assignment to the state of any rights to medical support on behalf of each child receiving Medical Assistance services and payments under Title XIX. As with ~~FIP~~RIW and IV-E foster care, the assignment of rights to support in a Medical Assistance case is automatic by operation of state law in Rhode Island. The Office of Child Support Services is responsible, therefore, for the establishment and enforcement of orders for medical coverage from non custodial parents of Medical Assistance children.

In ~~FIP~~RIW cases, children are automatically eligible for Medical Assistance. In non-public assistance (NA) cases, children may be

eligible for RIte Care based on the income level of the family. However, if medical coverage is available to the dependent child(ren) through the non custodial parent, then the health insurance carrier is expected to pay for necessary services first. Thus, the Office of Child Support Services must:

- File a Motion to Establish a Medical Order;
- Determine whether the non custodial parent has a health insurance policy or plan that covers the child(ren) and is available through his employer at a reasonable cost;
- Obtain sufficient information about the employer and health insurance policy or plan ;
- If ordered by the court, issue the National Medical Notice to the employer requiring the health care provider to enroll the child;
- Advise the ~~FIP~~RIW recipient of the private coverage available and to utilize the non custodial parent's medical coverage;

However, if the Court determines that the cost of the insurance coverage is not reasonable, that is the cost of coverage is more than 5% of the parent's gross income, the court may order the parent to pay a weekly cash medical order equal to 5% of the gross income.

0702.25 INTERSTATE CHILD SUPPORT CASES

REV: 04/2010~~10/2006~~

~~0702.25 INTERSTATE CHILD SUPPORT CASES REV:10/2006~~

The cases described in this section may also occur in interstate case situations. In general, an interstate case is one in which one of the parties resides in Rhode Island and the other resides out of State; or another State has a legal interest in the establishment and enforcement of support. Additionally, there are two categories of interstate cases:

- Responding - where the non-custodial parent resides, is employed or has resources in Rhode Island and the child(ren) live out of state; or
- Initiating - where the child(ren) reside in Rhode Island and the non custodial parent resides, is employed or has resources in another state.

0704 CSE/~~FIP~~RIW CASE PROCESSING

0704.05 ~~FIP~~RIW AGENCY RESPONSIBILITIES

REV: 04/2010~~10/2006~~

~~0704.05 FIP AGENCY RESPONSIBILITIES REV: 10/2006~~
Child support enforcement is a cooperative effort between the ~~Family Independence Program~~Rhode Island Works (~~FIP~~RIW) and the Office of Child Support Services.

The ~~FIP~~RIW agency provides the Office of Child Support Services with the initial referral and updates information regarding the custodial parent, loco parentis, child(ren), and non-custodial parent. The ~~FIP~~RIW agency also will act upon information from the Office of Child Support Services that affects the custodial parent's ~~FIP~~RIW/MA eligibility. Upon receiving the initial referral, the Office of Child Support Services will conduct investigations in order to establish paternity and establish, modify, and enforce child support order(s). The Office of Child Support Services will send updates to the ~~FIP~~RIW agency regarding the custodial parent, child(ren) and non-custodial parent as applicable.

The ~~FIP~~RIW Eligibility Technician is responsible for:

- Interviewing applicants for public assistance and/or medical assistance;
- Determining initial and continued eligibility for assistance;
- Explaining the assignment of support rights;
- Assisting the applicant in completing the appropriate application form. This will provide the Office of Child Support Services with information regarding the non-custodial parent;
- Explaining to applicants that they will be required to cooperate with the Office of Child Support Services in the child support effort if the application for assistance is approved;
- Explaining good cause for non-cooperation to applicants and, when a claim for good cause is made, making the final determination as to whether good cause for non-cooperation exists;
- Notifying the Office of Child Support Services of any changes or new information that may affect the child support case; and
- Enforcing eligibility requirements, upon receiving notices from Office of Child Support Services of a recipient's failure to cooperate.

0704.10 OCSS Agency Responsibilities

REV: 04/2010~~10/2006~~

~~0704.10 OCSS AGENCY RESPONSIBILITIES REV: 10/2006~~

Within five (5) working days of receiving a referral from the ~~FIP~~RIW agency, the ~~FIP~~RIW/MA recipient is provided with an explanation regarding:

- Child support services;
- His/her rights and responsibilities; and
- The State's fees, cost recovery, and distribution policies.

Upon approval of eligibility for ~~FIP~~RIW/MA benefits for each child with an ABSP panel(s), a case referral is made automatically from the Title IV-A agency to the Office of Child Support Services through an InRhodes system interface. Within twenty (20) calendar days of receiving a referral from the ~~FIP~~RIW agency, the Office of Child Support Services will, based on an assessment of the case to determine necessary action, meet with the custodial parent if necessary, solicit necessary and relevant information from the custodial parent and other relevant sources and initiate verification of information, when appropriate.

Also, when there is inadequate location information with which to proceed, the Office of Child Support Services will request additional information or pursue further location attempts where appropriate.

The Office of Child Support Services will:

- Locate non custodial parents;
- Establish paternity;
- Establish orders for support and medical support;
- Enforce orders; and
- Continue IV-D services when a family ceases to receive assistance.

0704.15 ASSIGNMENT OF SUPPORT RIGHTS

REV: 04/2010~~10/2006~~
~~0704.15 ASSIGNMENT OF SUPPORT RIGHTS REV: 10/2006~~

An applicant for or recipient of public assistance under Title 40, Chapter 6, Public Assistance, of the General Laws of Rhode Island (RIGL 40-6-9), or under Title XIX of the Federal Social Security Act (42 U.S.C. 1396 et seq.), for and on behalf of herself or himself and for and on behalf of a child or children, shall be deemed, without the necessity of signing any document, to have made an assignment to the Department of Human Services of any and all rights and interests in any cause of action, past, present, or future, that said applicant or recipient may have against any person failing to or obligated to provide for the support, maintenance, and medical care of said applicant, recipient, and/or said minor child or children, for the period of time that assistance is being paid by said Department; said Department shall be subrogated to any and all rights, title and

interest that applicant or recipient may have against any and all property belonging to the obligated or non-supporting person in the enforcement of any claim for child, spousal and medical support, whether liquidated through court order or not. The applicant or recipient shall also be deemed, without the necessity of signing any document, to have appointed the Department of Human Services as his or her true and lawful attorney in fact to act in his or her name, place and stead to perform the specific act of instituting suit to establish paternity or secure support and medical care, collecting any and all amounts due and owing for child, spousal and medical support, endorsing any and all drafts, checks, money orders, or other negotiable instruments representing such support payments which are received by the Department, and retaining any portion thereof permitted under Federal and State statutes as reimbursement for financial and medical assistance previously paid to or for the recipient, child, or children.

An applicant for, or a recipient of, Medical Assistance provided by the Department, pursuant to Chapter 6 or Chapter 8 of Title 40 of the Rhode Island General Laws or Title XIX of the Federal Social Security Act (42 U.S.C. 1396 et seq.), for and on behalf of himself or herself, and for and on behalf of any other person for whom he or she may legally assign rights to any medical support or any other medical care shall be deemed, without the necessity of signing any document, to have made an assignment to the Department of Human Services of any and all rights and interests that he, she or such other person may have to payment for any medical support and to payment for any medical care from any third party.

In addition to the assignment provided in this section, an applicant for or a recipient of financial/medical assistance provided by the Department pursuant to RIGL 40-6-9, whenever said assistance is necessary by reason of accident, injury or illness for which a third party may be liable, for and on behalf of himself or herself, and for and on behalf of any other person for whom he or she may legally act, shall be deemed, without the necessity of signing any document, to have assigned to the Department of Human Services, from amounts recovered or recoverable from any third party, an amount of money equal to the amount of financial/medical assistance provide as a result of said accident, illness, or injury.

With respect to an assignment established pursuant to this section, an applicant or recipient shall provide to the Department of Human Services all relevant information regarding the rights assigned and shall execute any documents relating thereto, in accordance with rules and regulations to be adopted by the Department.

0704.20 MONEY COVERED BY THE ASSIGNMENT

REV: 04/2010~~10/2006~~

Any money or payment received by a ~~FIP~~RIW/MA custodial parent during the period of time that the family is in receipt of public assistance for the financial/medical support of a child receiving assistance is covered by the assignment. This includes collections of past-due support ordered by a court to be paid by a non-custodial parent on behalf of children covered by the assignment, any maintenance (alimony,

spousal support) ordered to be paid to a ~~FIP~~RIW recipient when ordered in conjunction with child support for children covered by the assignment, unreimbursed assistance (the total amount of public assistance paid to a family less any support paid and retained by the State), any voluntary cash contributions made to a ~~FIP~~RIW recipient for his/her support or the support of the children covered by the assignment and paid by the non-custodial parent of the children, or by anyone on behalf of the non custodial parent and/or any money or payment owed or owing for the medical support of the Medical Assistance beneficiaries.

Assigned monies also include any benefits, such as Social Security, Veterans' Benefits, and allotments or pensions, payable to the non-custodial parent but specifically ordered by the court to be directed to the children on the assignment or to the ~~FIP~~RIW recipient on behalf of such children. Veteran's Benefits, military allotments, or pensions payable to a non-custodial parent which (s)he agrees to redirect to the State to satisfy a support obligation for children covered by the assignment are also considered assigned monies. These benefits are generally forwarded directly to the custodial parent who must forward them to the Office of Child Support Services.

0704.20.05 Unassigned Money

REV: 04/2010~~10/2006~~
~~0704.20.05 Unassigned Money REV: 10/2006~~
Not all income available to a ~~FIP~~RIW/MA household will be covered by the assignment (i.e. unassigned). Such money may or may not be budgeted when determining the ~~FIP~~ RIW grant and/or MA eligibility. This includes court-ordered or voluntary contributions for children not included on the assignment (e.g. children receiving Supplemental Security Income, or SSI).

Unassigned money includes pre-existing past due support received by a RIW recipient for the period of time that the family was not in receipt of RIW benefits. These households may retain this past due amount as an amount owed to them personally. It will be kept in a separate "bucket" on the InRhodes system. Unassigned money also includes maintenance for a ~~FIP~~RIW/MA recipient when the court order is silent on child support or specifically states that there will be no child support for a cash or Medical Assistance eligible child.

Social Security Survivor's Benefits, Veterans' Benefits, and military allotments for children on the assignment when there is no existing court order are not to be assigned. These benefits will be budgeted when determining ~~FIP~~RIW/MA eligibility and the Office of Child Support Services will attempt to establish a guideline order for the amount of the benefit as current support.

If a marriage is viable (i.e., expected to be ongoing) and the non-custodial parent is out of the home in a medical institution obtaining treatment or in training through the Office of Rehabilitation Services or Job Corps, any benefits paid to his/her child(ren) in the ~~FIP~~RIW/MA beneficiary's home are not considered child support. These benefits cannot be assigned unless an existing court order specifies they are to be paid as child support.

Sporadic gifts and/or cash contributions made directly to a child are not considered child support and cannot be considered as current support or payment towards an arrearage.

0704.25 CUSTODIAL PARENT RESPONSIBILITIES

REV: 04/2010~~10/2006~~
~~0704.25 CUSTODIAL PARENT RESPONSIBILITIES REV: 10/2006~~

As a condition of eligibility for ~~FIP~~RIW, CCAP, and Medical Assistance, a recipient is required to cooperate (unless good cause for refusing to cooperate is determined) with the Office of Child Support Services to establish, modify, and enforce a child support order(s) for each eligible child.

To cooperate with the child support agency, an applicant or recipient shall make a good faith effort regarding the non-custodial parent(s) of each child for whom assistance is requested, as outlined below and/or as outlined in Sections 0704.25.02 and 0704.25.03. An applicant or recipient who has not provided the information specified shall be provided an opportunity to make a good faith effort by providing all the information s/he can reasonably obtain.

Such information shall include:

1. Each non-custodial parent's full name and social security number; or

2. Each non-custodial parent's full name and at least two (2) of the following items:

O The non-custodial parent's date of birth; O The non-custodial parent's address; O The non-custodial parent's telephone number; O The name and address of non-custodial parent's employer(s); O The name and address of at least one of the parents of the non-custodial parent; and

o The manufacturer, model and license plate number (including state of issue) of the non-custodial parent

The information in number 1 and 2 above must be verifiable.

Information is considered verifiable, if, using reasonable efforts, the Office of Child Support Services can confirm that it is current and accurate. Reasonable efforts shall be determined by OCSS and shall include but not be limited to the following: a review of databases available to OCSS to follow-up on information; follow-up contacts with the applicant or recipient as appropriate, telephone calls to phone numbers, or letters sent to addresses provided by the applicant or recipient, or requests to other agencies for records identified by the applicant or recipient.

0704.25.02 Good Faith Effort Required

REV: 04/2010~~12/2006~~
~~0704.25.02 Good Faith Effort Required REV: 12/2006~~

An applicant or recipient who has not provided the information specified in Section 0704.25 shall be deemed to be cooperating if s/he can reasonably obtain the following:

Any other information or documentation that may assist in identifying or locating the non-custodial parent, establishing parentage or establishing parentage or establishing, modifying or enforcing a child support order, such as:

- In cases in which paternity has not been established, a sworn statement that sexual intercourse between the non-custodial parent and that applicant or recipient p occurred during the probable period of conception.

- A statement or statements as to the identity of location of the non-custodial parent from individuals other than the applicant or recipient who have personal knowledge of such information.

- Records or information as to the whereabouts of records from law enforcement, social service, or other agencies, courts, or offices regarding the identity of location of the non-custodial parent.

- Utility bills, parking tickets, credit card receipts, or other personal records or effects that contain information regarding the identity or location of the non-custodial parent.

- Telephone numbers or addresses of individuals who, if contacted, may be able to provide information as to the identity and location of the non-custodial parent.

- Signed releases for OCSS to obtain evidence to corroborate that the information provided is accurate and that all information about the non-custodial parent available to or reasonably obtainable to the applicant or recipient has been provided.

- A sworn statement documenting with specificity efforts undertaken and obstacles encountered by the applicant or recipient in pursuit of information regarding the non-custodial parent, with any documentation supporting the sworn statement attached; and

- If an applicant or recipient is uncertain as to which of two (2) or more individuals might be the non-custodial parent of a single child, the applicant or recipient shall provide the information required about at least one person at the time of application or redetermination of eligibility for public assistance or upon request of OCSS.

- If the applicant or recipient has provided information about an individual who is found not to be a non-custodial parent by court order or genetic testing, the applicant or recipient shall provide information about any additional possible non-custodial parents for that child.

It is important to emphasize that a sworn statement or affidavit from the applicant/recipient attesting to the lack of verifiable information about the absent parent will NOT alone meet the requirement of cooperation.

0704.25.03 Requirement of Continued Cooperation

REV: 04/2010~~12/2006~~

~~0704.25.03 Requirement of Continued Cooperation REV: 12/2006~~

Regardless of whether an applicant or recipient has provided all of the information listed in Section 0704.25 and/or 0704.25.02, s/he is required to continue to make a good faith effort to cooperate with the Office of Child Support Services (OCSS) to establish paternity and establish, modify, and enforce child support and medical orders. Additional cooperation may include, but is not limited to:

* Appearing for appointment to provide additional information possessed by or reasonably obtainable by the applicant or recipient;

* Authorizing OCSS to obtain pertinent information from third parties;

* Accepting personal services of process from licensed constables and authorized agents relative to their child support cases;

* Appearing as witness in a judicial or other proceeding;

* Appearing for parentage tests; and

If an applicant or recipient fails to appear in court or fails to cooperate in any of the above, and such failure precludes OCSS from proceeding in an action to establish paternity, or to establish, modify, or enforce a child support or medical order, OCSS shall notify DHS, by e-mail, and in writing that the applicant or recipient has not cooperated and the grounds therefore. The applicant or recipient shall be sent a copy of this notice. If however, the applicant or recipient contacts OCSS on or before the court date and specifies emergency circumstances that prevent the applicant or recipient from appearing in court or attending a scheduled appointment, OCSS shall not issue a determination of non-cooperation, but shall proceed in court in the absence of the applicant or recipient, if possible, or reschedule the court date . OCSS may require the applicant or recipient to provide documentation about such emergency circumstances.

If subsequent to the issuance of a determination of non- cooperation, the applicant or recipient begins cooperating, OCSS shall promptly notify DHS by e-mail and in writing and provide a copy to the applicant or recipient.

0704.25.05 Non-Cooperation

REV: 04/2010~~10/2006~~
~~0704.25.05 Non-Cooperation REV: 10/2006~~

If the Office of Child Support Services determines that the applicant or recipient failed to provide the information s/he has or can reasonably obtain (or to otherwise cooperate), then OCSS shall determine that the applicant or recipient has failed to make a good faith effort to cooperate. OCSS shall notify ~~FIP~~RIW/MA/CCAP by e-mail and in writing of the failure to cooperate and the grounds therefore, and provide a copy of to the applicant or recipient. If subsequent to the issuance of the notice of noncooperation, the applicant or recipient begins cooperating, OCSS shall promptly issue a notice of cooperation in writing, and by e-mail to ~~FIP~~RIW/MA/CCAP and provide a copy to the applicant or recipient.

~~FIP~~RIW/MA/CCAP shall upon receipt of a determination of noncooperation from OCSS, impose a sanction for noncooperation in accordance with DHS policy, unless the applicant or recipient establishes good cause. If DHS imposes a sanction for noncooperation, DHS shall provide the applicant or recipient with an opportunity to challenge the imposition of the sanction in accordance with DHS policy.

0704.25.10 Good Cause

REV: 04/2010~~12/2006~~
~~0704.25.10 Good Cause REV: 12/2006~~

An applicant or recipient of ~~FIP~~RIW/MA/CCAP may claim good cause for refusing to cooperate with the Office of Child Support Services. In claiming good cause, the applicant or recipient states that by cooperating with the Office of Child Support Services in the child support enforcement effort s/he would not be acting in the best interest of the child. That is, cooperation with OCSS would result in physical or emotional harm to the child or the applicant or recipient.

Physical harm and emotional harm, as defined, must be of a serious nature. It must be demonstrated to the DHS agency representative that there exists an emotional impairment that substantially affects the individual's functioning for a finding of good cause for emotional harm to be made.

If a determination is based in whole or in part upon the anticipation of emotional harm to the child, parent, or other caretaker relative, consideration is given to the following:

- the present emotional state of the individual subject to emotional harm;

- the emotional health history of the individual;

- intensity and probable duration of the emotional upset;

- degree of cooperation to be required; and the extent of involvement of the child in paternity establishment or support enforcement activity to be undertaken.

The DHS agency representative can find good cause on the basis of anticipated physical harm without corroborative evidence if the agency considers the claim credible without corroborative evidence and if such corroborative evidence is not available.

For example, battered women are often too afraid or ashamed to tell anyone of the beatings they have received and would therefore be unable to corroborate a valid good cause claim.

In this case, the claimant has the burden of establishing her credibility as well as explaining why no evidence is available.

The agency is required to investigate this type of claim and while it may not establish the good cause circumstance, it should establish the credibility of the claimant.

Every applicant or recipient is given an opportunity to claim good cause for refusing to cooperate. An AP-35 is read by the applicant or recipient, explained by the Eligibility Technician/Social Worker and signed and dated, in duplicate, by each. The applicant or recipient retains a copy. The second copy is filed in the ~~FIP~~RIW/MA/CCAP case record. Good cause applies only to cooperation. The eligibility requirement regarding the assignment of support rights is not affected by a good cause determination.

In addition, OCSS shall provide written notice to each applicant or recipient informing her/him of the right to claim good cause with DHS, the basis for a good cause claim, and how to claim good cause with DHS pursuant to DHS policy.

An applicant or recipient may claim good cause for non- cooperation at any time with DHS.

If good cause is claimed, the applicant or recipient is advised that (s)he must state the basis of the claim and present corroborative evidence within twenty (20) days of the claim; or, (s)he must provide sufficient information to enable the investigation of the circumstance; or, provide sworn statements from individuals to support the claim as specified on the AP-35.

The determination as to whether good cause does or does not exist should be made within thirty (30) days of the good cause claim unless the record documents that the agency needs additional time because the information required to verify the claim cannot be obtained within the time standard. The final determination will come to the Child Support Services agent via the APPD CASE panel.

If an applicant or recipient informs OCSS of facts that may give rise to a claim of good cause, OCSS shall refer the applicant or recipient to DHS to claim good cause.

0704.25.15 Domestic Violence and Child Support

REV: 04/2010~~12/2006~~
~~0704.25.15 DOMESTIC VIOLENCE AND CHILD SUPPORT REV: 12/2006~~

There are two scenarios where a custodial parent may allege there is an issue of domestic violence that prevents him/her, or limits his/her ability to pursue establishment and enforcement of a child support order. In the first scenario, the custodial parent applies for benefits from the ~~Family Independence Program~~Rhode Island Works and alleges an issue of domestic violence. The caseworker determines there is good cause not to proceed. The case is referred to the Office of Child Support Services and generally the office relies on the good cause finding and will not pursue the non- custodial parent to establish an order. However, in a limited number of cases the custodial parent receiving benefits wishes to proceed with establishment of an order but needs to have his/her confidential address protected.

In the second scenario, a non-welfare custodial parent applies for child support services and indicates that there is a domestic violence issue, and that the non-custodial parent does not know where s/he resides but that s/he wishes to establish or enforce a child support order in safety. The OCSS would follow procedures to obtain an ex-parte order to seal the Court file before any pleadings are filed and in substituting the address of the agency for the address of the custodial parent to protect the confidential address.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) mandated the establishment of the Federal Case Registry (FCR). The Federal Office of Child Support Enforcement (OCSE) operates the Federal Parent Location Services (FPLS) designed to address problems created for the establishment and enforcement of paternity and support orders due to interstate movement of custodial and non-custodial parents. The FPLS helps States track information about parties and assists States in locating parties, establishing paternity and support and enforcing orders. The FPLS includes the National Directory of New Hires (NDNH) and Federal Case Registry (FCR).

The FPLS data is shared and there is a risk that safety could be jeopardized in cases with "family violence". Therefore, States must notify OCSE when there is reasonable evidence of "family violence" and the information in the New Hire and State Registries could be harmful to the party or to the child.

Notice of Family Violence is transferred to OCSE through the Family Violence Indicator (FVI).

According to RI law (RIGL Sec. 40-5.1-46) a history of domestic violence means:

- Physical acts that resulted in or threatened to result in physical injury to the individual

- Sexual abuse
- Sexual activity involving a dependent child
- Being forced as the caretaker relative of a dependent child to engage in non-consensual sexual acts or activities
- Threats of, or attempts at, physical or sexual abuse
- Mental abuse
- Neglect or deprivation of medical care

Note: A court hearing is not necessary to indicate a history of domestic violence.

OCSS has strict rules about when it is permitted to share information with others and places certain limits on information access by someone not associated with the national and state child support agencies. Because of possible family violence, OCSS will take an extra step to protect personal information on the Child Support computer system by placing a "Family Violence Indicator" (called the "FVI") on the child support computer file. A FVI does not keep the Child Support office from taking the necessary actions to establish paternity, support, medical insurance orders or enforcing court orders through Court or administrative procedures. The FVI is not a Court restraining order against the non-custodial parent. The FVI only prohibits disclosure of certain information that is on the OCSS computer system to the non-custodial parent. It does not prevent the non-custodial parent from getting information about you from other sources, including records at the Family Court.

The Family Court records are public documents and do not belong to OCSS; the Family Court records can be seen by anyone unless there is a court order to seal the file. If the custodial parent believes that there is personal information in their court file that should also be protected, our office upon request from the custodial parent will continue to keep the FVI on our computer file and file a motion to seal the Court file.

That Motion is served on the non-custodial parent and s/he will have the right to come to court to object to the file being sealed. If the non-custodial parent objects, then you will have the right to a hearing by the Court on whether the file should be sealed permanently to protect your information.

If good cause is claimed on a case or a custodial parent requests that their address be protected, the child support agent will put a Family Violence Indicator on the case and refer the case to the legal department. The legal staff will review the case and send a letter to the protected party with an affidavit of non-disclosure by the Family Court and FVI status update. If the protected party does not reply, then the indicator will remain on the case. If the reply indicates that the FVI is no longer needed, then the FVI will be removed and the request will be scanned. If the reply indicates FVI requested, then FVI will remain on case. If the reply requests that the Court File be sealed, the FVI will remain and the case will be referred to the legal unit to file a motion to seal the court record.

On interstate cases there is no uniformity of procedures state to state at this time.

0704.30 COMMUNICATIONS WITH ~~FIP~~RIW STAFF

REV: 04/2010~~10/2006~~
~~0704.30 COMMUNICATIONS WITH FIP/MA/CCAP STAFF REV: 10/2006~~

The ~~FIP~~RIW/MA Eligibility Technician or the CCAP Social Worker and the Child Support Services agent will notify each other of information pertaining to the ~~FIP~~RIW/MA/CCAP custodial parent, the non custodial parent, and their child support case. Information will be exchanged via the INRHODES MAIL function. Upon receiving a message from the ~~FIP~~RIW/MA Eligibility Technician or the CCAP Social Worker, the Child Support Services agent will record the information as a message on (CONT)ACT.

The Child Support agent will notify the ~~FIP~~RIW/MA Eligibility Technician or the CCAP Social Worker when:

- The custodial parent fails to cooperate with the Office of Child Support Services;
- The custodial parent claims good cause;
- The custodial parent is found to be living at an address that is different from the address at which s/he receives assistance;
- Paternity is established; and/or
- The non-custodial parent is found to be living with the applicant/recipient.

0706 CSE/NA CASE PROCESSING

0706.05 SERVICES PROVIDED

REV: 04/2010~~10/2006~~
~~0706.05 SERVICES PROVIDED REV: 10/2006~~

The Office of Child Support Services provides the same child support enforcement services to families not receiving public assistance as it does to families receiving public assistance.

Non-assistance (NA) cases are established automatically when a public assistance case is closed or upon receiving an application from a custodial parent who has requested services.

Services will also be provided to putative fathers who request assistance in establishing paternity and to modify a court order.

The Office of Child Support Services must provide applications for IV-D services to individuals on the same day a request is made in person or within five (5) working days of a written or phone request. Services are free for custodial parents whose ~~FIP~~RIW cases were closed after October, 1985.

For all others, including custodial parents whose ~~FIP~~RIW cases were closed before October, 1985, the application fee is twenty dollars ($20).

Applications are considered filed on the day the necessary forms (along with the application fee) are received by the Office of Child Support Services. A case file must be opened within twenty (20) calendar days of the date the application was filed.

This is done by establishing a case record (according to office procedures) and, based on an assessment of the case, deciding what action should be taken. Actions may include:

- Obtaining necessary and relevant information from the custodial parent and other relevant sources;
- Initiating verification of information, if appropriate;
- Requesting additional location information, or referring the case for further location attempts if location information is inadequate;
- Scheduling an applicant interview if needed.

0706.10 NA APPLICATION PROCEDURES

REV: 04/2010~~10/2006~~

~~0706.10 NA APPLICATION PROCEDURES REV: 10/2006~~

Custodial parents may request a NA application by calling or writing the Office of Child Support Services office or by downloading an application from the website at www.cse.ri.gov.

The agency will determine whether the case is establishment, enforcement or interstate and forward to the appropriate agent.

The Office of Child Support Services agent will (within twenty calendar days of the date the Office of Child Support Services received the application):

- Establish a case record following office procedures;
- Determine what actions must be taken;
- Schedule an appointment with the applicant if needed.

0706.10.05 NA Application Interview

REV: 04/2010~~10/2006~~

~~0706.10.05 NA Application Interview REV:10/2006~~

Whenever an agent interviews a new applicant for non-assistance (NA) services the agent will:

- Provide the custodial parent with information regarding child support services, his/her rights and responsibilities, and the State's fees, cost recovery and distribution policies;

- Discuss the types of services available and help the applicant in deciding the service needed: bookkeeping only, location only, or full service;

- Provide assistance in completing the application if needed;

- Obtain and clarify any information needed;

- Advise the custodial parent that it is his/her responsibility to provide any legal documentation required such as a birth certificate or divorce decree;

- Obtain a completed income and expense sheet

- Obtain the custodial parent's signature on any forms necessary to initiate action.

0706.15 CUSTODIAL PARENT RESPONSIBILITIES

REV: 04/2010~~10/2006~~
~~0706.15 CUSTODIAL PARENT RESPONSIBILITIES REV: 10/2006~~

The non-assistance (NA) custodial parent must cooperate with the Office of Child Support Services in the child support enforcement effort. Cooperation means helping in:

- Locating the non custodial parent;

- Establishing paternity and orders for support and;

- Collecting the support.

Actions include:

- Keeping the Office of Child Support Services informed of his/her current address;

- Appearing at the Office of Child Support Services when required;

- Appearing as a witness at judicial or other hearings;

- Providing information; and

- Attesting to the lack of information, under penalty of perjury.

0706.20 NA TO PUBLIC ASSISTANCE CASES

REV: 04/2010~~01/2002~~

If an existing IV-D non-assistance (NA) custodial parent begins receiving ~~FIP~~RIW, the IV-A/IV-D interface will automatically switch the CASE TYPE from N (non-assistance) to A (~~FIP~~RIW) upon initial approval of IV-A benefits. The case will appear on the agent's DAIL with a message regarding the case status change.

0706.25 PUBLIC ASSISTANCE TO NA

REV: 04/2010~~10/2006~~
~~0706.25 PUBLIC ASSISTANCE TO NA REV: 10/2006~~

When a custodial parent's ~~FIP~~RIW case is closed, the Office of Child Support Services continues IV-D services by opening a non- assistance (NA) case. A letter is sent to the custodial parent informing her/him that child support services will continue unless a request is made in writing that these services are no longer wanted.

0706.30 Mandatory $25 Fee

REV: 01/2008

Effective 10/1/06, pursuant to the Deficit Reduction Act, in all never assistance cases, where the state has collected $500.00 in child support annually, the state will remit a fee of $25.00 annually to the federal office of child support enforcement as program income.

0708 RICSS/FOSTER CARE CASE PROCESSING

0708.05 FOSTER CARE AGENCY RESPONSIBILITIES

REV: 07/1994

Where appropriate the Foster Care agency will take all steps including cooperative efforts to secure an assignment to the State of any rights to child support and medical support on behalf of each child receiving foster care maintenance payments.

0708.10 CSE AGENCY RESPONSIBILITIES

REV: 04/2010~~10/2006~~
~~0708.10 OCSS AGENCY RESPONSIBILITIES REV:10/2006~~

The OCSS agency will provide the same child support services for children receiving IV-D Foster Care benefits as in any other child support enforcement case.

Within 20 calendar days of receiving a referral from the DCYF, the OCSS agency establishes a child support case. Within that time, the OCSS agency will, based on an assessment of the case, determine necessary action, solicit necessary and relevant information from the custodial parent and other relevant sources and initiate verification of information when appropriate.

Also, when there is inadequate location information with which to proceed, request additional information or pursue further location attempts where appropriate.

The OCSS agency will:

- Locate the parent;
- Establish paternity if necessary;
- Establish orders for support and medical support; and
- Enforce orders

0708.15 ASSIGNMENT AND REFERRAL

REV: 04/2010~~10/2006~~
~~0708.15 ASSIGNMENT AND REFERRAL REV:10/2006~~

The assignment of support rights secured on behalf of a child receiving foster care maintenance payments shall constitute an obligation owed to the State by the individuals responsible for providing support. This obligation is collectible under all applicable State and local processes. The amount of the obligation will be an amount determined by the State in accordance with a formula established by the State.

0708.20 MONEY COVERED BY THE ASSIGNMENT

REV: 04/2010~~10/2006~~
~~0708.20 MONEY COVERED BY THE ASSIGNMENT REV: 10/2006~~

Any money or payment received by a custodial parent for the support of a child receiving assistance is covered by the assignment. This includes: current and past-due support ordered by a court to be paid by a non-custodial parent on behalf of children covered by the assignment, any maintenance (alimony, spousal support) ordered to be paid to a recipient when ordered in conjunction with child support for children covered by the assignment, unreimbursed assistance (the total amount of public assistance paid to a family less any support paid and retained by the State), any voluntary cash contributions made to a recipient for his/her support or the support of the children covered by the assignment and paid by the non-custodial parent of the children, or by anyone on behalf of the non-custodial parent.

Assigned monies also include any benefits, such as Social Security, Veterans' Benefits, and allotments or pensions, payable to the non-custodial parent but specifically ordered by the court to be directed to the children on the assignment or to the recipient on behalf of such children. Veteran's Benefits, military allotments, or pensions payable to anon-custodial parent which (s)he agrees to redirect to the State to satisfy a support obligation for children covered by the assignment are also considered assigned monies. Often these benefits are forwarded directly to the custodial parent who must forward them to the Office of Child Support Services.

0708.25 COMMUNICATIONS WITH FOSTER CARE STAFF

REV: 04/2010~~10/2006~~
~~0708.25 COMMUNICATIONS WITH FOSTER CARE STAFF REV: 10/2006~~

The Office of Child Support Services and Foster Care agency will exchange information via the INRHODES System.

0710 RICSS/MAO CASE PROCESSING

0710.05 MEDICAL ASSISTANCE AGENCY RESPONSIBILITIES

REV: 04/2010~~10/2006~~

~~0710.05 MEDICAL ASSISTANCE AGENCY RESPONSIBILITIES REV:10/2006~~
The Medical Assistance agency is responsible for forwarding all cases where the custodial parent is receiving Rite Care, Medicaid or Rite Share to the OCSS agency.

Also, it must notify the OCSS agency when a non-custodial parent changes or drops insurance and when a custodial parent stops receiving Medical Assistance.

0710.10 CSE AGENCY RESPONSIBILITIES

REV: 04/2010~~10/2006~~

~~0710.10 OFFICE OF CHILD SUPPORT SERVICES RESPONSIBILITIES REV: 10/2006~~
The Office of Child Support Services must file proceedings to establish a medical insurance coverage or cash medical order according to the medical assignment. In addition, OCSS is responsible for providing the same services as it does for any other type of child support case, including: locating non- custodial parents, establishing paternity and orders for support and medical support, and enforcing such orders, if the custodial parent requests full services.

Within five (5) working days of receiving a referral from the Medical Assistance agency, the custodial parent is provided with an explanation regarding:

- Child support services that are optional;
- His/her rights and responsibilities; and
- The State's fees, cost recovery, and distribution policies.

Within twenty (20) calendar days of receiving a referral from the Medical Assistance agency, the Office of Child Support Services establishes a medical support case. Within that time the Office of Child Support Services will, based on an assessment of the case,

determine necessary action, solicit necessary and relevant information from the custodial parent and other relevant sources, and initiate verification of information when appropriate. Also, when there is inadequate location information with which to proceed, the Office of Child Support Services will request additional information or pursue further location attempts where appropriate.

The Office of Child Support Services will:

- Locate non custodial parents;
- Establish paternity;
- Establish orders for support if requested and medical support;
- Enforce orders; and
- Continue IV-D services when a family ceases to receive assistance.

0710.15 ASSIGNMENT AND REFERRAL

REV: 04/2010~~10/2006~~
~~0710.15 ASSIGNMENT AND REFERRAL REV:10/2006~~

Each applicant for or recipient of Medical Assistance or any individual receiving Medical Assistance for and on behalf of any other person for whom (s)he may be legally responsible will assign his/her rights to any medical support or any other medical care without the necessity of signing any document.

This assignment includes any and all rights and interests that (s)he may have to payment for any medical support and to payment for any medical care from any third party. However, the custodial parent is not assigning any rights to child support.

That is a separate assignment, which arises when the custodial parent receives ~~FIP~~RIW benefits.

0710.20 CUSTODIAL PARENT RESPONSIBILITIES

~~0710.20 CUSTODIAL PARENT RESPONSIBILITIES REV:10/2006~~

As a condition of eligibility for Medical Assistance, a recipient is required to cooperate (unless good cause for refusing to cooperate is determined) with the State in: identifying and locating the non-custodial parent, establishing paternity for children born out of wedlock, establishing medical support obligations, and enforcing such orders.

0710.25 COMMUNICATIONS WITH MA STAFF

REV: 04/2010~~10/2006~~
~~0710.25 COMMUNICATIONS WITH MA STAFF REV: 10/2006~~

The Office of Child Support Services and Medical Assistance agency will exchange information via the INRHODES MAIL function.

0712 COOPERATIVE AGREEMENTS

0712.05 COOPERATIVE AGREEMENT DEFINED

REV: 04/2010~~10/2006~~
~~0712.05 COOPERATIVE AGREEMENT DEFINED REV: 10/2006~~

The Office of Child Support Services enters into cooperative agreements with the Rhode Island Family Court, the Department of Children, Youth and Families (DCYF), and the Department of Labor and Training (DLT). These are written agreements, which specifically outline each party's responsibilities and the financial arrangements agreed upon.

0712.10 OCSS AGENCY/FAMILY COURT RELATIONSHIP

REV: 04/2010~~10/2006~~
~~0712.10 OFFICE OF CHILD SUPPORT SERVICES/FAMILY COURT RELATIONSHIP REV: 10/2006~~

The Office of Child Support Services and the Rhode Island Family Court, in order to effect a procedure for establishing paternity and establishing child support and collecting and distributing child support pursuant to Federal regulations, have entered into a cooperative agreement. This agreement outlines the responsibilities of each office. It may be revised or terminated according to the terms set forth in the agreement.

0712.10.05 DHS Responsibilities

REV: 04/2010~~01/2002~~

If an existing IV-D non-assistance (NA) custodial parent begins receiving ~~FIP~~RIW, the IV-A/IV-D interface will automatically switch the CASE TYPE from N (non-assistance) to A (~~FIP~~RIW) upon initial approval of IV-A benefits. The case will appear on the agent's DAIL with a message regarding the case status change.

0712.10.10 Family Court Responsibilities

REV: 04/2010~~10/2006~~
~~0712.10.10 Family Court Responsibilities REV: 10/2006~~

In summary the Family Court agrees to:

- Receive and hear civil complaints to establish paternity, child and medical support, for enforcement and related motions. Non-jury paternity trials shall be made available to the litigants in accordance with State statute. The Family Court will work cooperatively with the Office of Child Support Services to resolve paternity cases within one (1)

year of service of the complaint upon the putative father;

- Receive voluntary acknowledgements of paternity after informal hearing in accordance with State statute;

- Receive and hear in-state and interstate (UIFSA) complaints and motions to secure or enforce support (including medical support);

- Establish or modify support orders using the child support formula and guidelines adopted by administrative order of the Family Court, pursuant to the authority granted by R.I.G.L. 15-5-16.2. Maintain, review, and/or amend said formula and guidelines in accordance with the provisions of 42 U.S.C. 667 and 45CFR 302.56;

- Docket complaints and motions on a date certain, within six (6) weeks from the week that they are filed with the Family Court

- Establish and maintain an "Appeals Calendar" for the timely judicial review of administrative decisions concerning administrative offset, administrative liens, and any decision or order of a Family Court Magistrate;

- Safeguard information relating to applicants or recipients of support enforcement services, in accordance with Federal requirements;

- Upon reasonable notice, allow OCSS access to all records and periodic on-site observation of the performance of functions being carried out relative to the agreement;

- Order all obligors to make support payments directly to the Family Court by wage withholding unless good cause for not withholding is demonstrated; and

- Collect, identify, and post, via input to an automated child support enforcement system, all IV-D support payments within one business day of their receipt. Such receipts should reflect both the appropriate period(s) of collection, and the appropriate posting date(s).

0712.15 COOPERATIVE AGREEMENT WITH DCYF

REV: 04/2010~~10/2006~~

~~0712.15 COOPERATIVE AGREEMENT WITH DCYF REV: 10/2006~~

In Foster Care cases, under cooperative agreement the DCYF, and the Office of Child Support Services agree to carry out the responsibilities set forth below.

0712.15.05 DCYF Responsibilities

REV: 04/2010~~10/2006~~

~~0712.15.05 DCYF Responsibilities REV:10/2006~~

The DCYF will:

- Refer cases per the policy established and provide the Office of Child Support Services with the following information regarding one or both parents: date of birth, social security number, current or last known residential address, and name and address of employer if available;
- Supply, at a minimum, the residential address of one parent for the delivery of a subpoena when the above listed information is not available;
- Attempt to resolve paternity issues prior to referral;
- Supply the birth certificate for all cases;
- Supply a paternity affidavit when the father's name is not listed on the birth certificate;
- Attempt to resolve the paternity issues prior to referral;
- Supply an affidavit of placement for all cases;
- Be responsible for all information on complaint forms, and take responsibility for legal action other than which may result from the filing of a support petition;
- Make appropriate staff available for court appearances, as necessary, and provide the assistance of DCYF legal counsel, upon Office of Child Support Service's request, on issues relating to the legal basis of DCYF programs, activities and claims;

0712.15.10 OCSS Responsibilities

REV: 04/2010~~10/2006~~

~~0712.15.10 OFFICE OF CHILD SUPPORT SERVICES RESPONSIBILITIES REV: 10/2006~~

The Office of Child Support Services will:

- Accept and review cases forwarded by the DCYF;
- Prepare all other needed legal forms to process the case through the court;
- Insure that the case is properly served and parties

are notified to appear in court;

- Use its attorneys to present the case in court and secure support orders;

- Prepare a decree subsequent to each court hearing, and forward a copy to DCYF within ten (10) working days after the hearing;

- Monitor support orders for timeliness of payments;

- Provide individual payment profiles to DCYF on request; and

- Remit to the General Treasury those funds collected on behalf of DCYF, after having first deducted the reasonable costs and expenses incurred in the processing of each case.

0712.20 COOPERATIVE AGREEMENT WITH DLT

REV: 04/2010~~10/2006~~

~~0712.20 COOPERATIVE AGREEMENT WITH DLT REV: 10/2006~~

The Rhode Island Department of Labor and Training (DLT) and the Office of Child Support Services have entered a cooperative agreement.

The DLT agrees to:

- Compare the electronic file of child support obligors, provided by the Office of Child Support Services in behalf of DHS, with the appropriate DLT files to identify those non-custodial parents who are DLT claimants, and notify OCSS of any non-custodial parents so identified; and

- Withhold a specified amount from an non custodial parent's weekly unemployment compensation, workers compensation or temporary disability benefit amount, as requested by OCSS

Office of Child Support Services agrees to:

- Provide an electronic file of non-custodial parent's names for matching with appropriate DLT files, to identify claimants;

- Certify to DLT, by means of an order/notice to withhold income for child support any identified non-custodial parent who has either an outstanding court order with arrears, or an agreement with the Office of Child Support Services to withhold a specific amount;

- Accept all amounts withheld and remitted to the Family Court, for the appropriate distributions; and

- Notify the DLT of any changes in the amounts to be withheld, or of information regarding claimants.

0714 CASE MANAGEMENT

0714.05 CASE INITIATION

REV: 04/2010~~10/2006~~

~~0714.05 CASE INITIATION REV: 10/2006~~

The Office of Child Support Services, within twenty (20) calendar days of receiving a referral or of the filing of a non- assistance (NA) application, opens cases by establishing a case record. ~~FIP~~RIW IV-D cases are automatically established upon approval of the ~~FIP~~RIW case and are processed through the IV-A/IV-D interface. The initial IV-A case data on the non-custodial parent, child(ren), and client is used to create the IV-D case record without any data entry requirement by the Child Support Services agent.

0714.05.05 Initiating ~~FIP~~RIW Cases

REV: 04/2010~~01/2002~~

~~FIP~~RIW IV-D cases are automatically created in the APPD function.

The agent is notified of new cases from IV-A through the agent's Daily Report Initial Review (DAIL INIT). Cases are referred to either Establishment or the Interstate Unit depending on the absent parent's address as entered by the ~~FIP~~RIW Eligibility Technician (ET). The agent will review the case by accessing APPD in C (Correction) mode.

There are situations when the interface cannot create an APPD record. If the interface encounters a conflict with an absent parent's name or SSN, the case will not appear in DAIL INIT.

These cases appear on a hard copy report produced nightly.

Designated agents who receive the exception reports will resolve the conflict using the Case Resolution (CSRS) function. The agents will:

- Look at the Person Search (PRSN) function on both name and SSN, to find out whether the absent parent is on other IV-D cases or known under a system-generated temporary (pseudo) SSN; and

- Upon resolution, an APPD case record is created and the case appears on the appropriate agent's DAIL INIT. All ~~FIP~~RIW cases appearing on the DAIL INIT will have a CASE ACTION CODE of IR (Initial Review).

Case reopenings will appear either on the establishment agent's DAIL, or the Enforcement agent's DAIL, depending on the status of the case when it was last open.

To review a case the agent will:

- Review CCAS function to determine if it is a Loco Parentis case (more than one absent parent), or if the client has made more than one paternity allegation for the same child;

- Review APPD data in C mode:

  The ABSP Page 1 shows whether the absent parent's address information is complete but needs verification, or if location is needed.

  The ABSP Page 2 shows:

  If the custodial parent and the absent parent were ever married. If there is an indication that there is a domestic case filed with the Family Court (divorce date), contact the court to obtain the docket number.

  If the custodial parent cooperated with the IV-A Eligibility Technician in providing information, and whether good cause is a consideration in the case.

  The CHLD panel shows the paternity status of the child, as assessed by Eligibility Technician.

  When the PATERNITY STATUS field is PI (paternity is an issue), the agent will:

  Compare the code in the RELATIONSHIP OF: AP CLIENT field and the child's date of birth (DOB) to find out whether there is a presumption of paternity (Refer to Section 0718);

  Query PRSN using the child's name to see if more than one allegation was made for the child.

  When paternity is not an issue, the agent will update the PATERNITY STATUS field with PNI (Paternity is not an issue);

- Review the INSU panel to find out whether any medical insurance information was collected by the IV-A Eligibility Technician during the application interview;

- Contact the custodial parent when information is inconsistent, or unclear;

- Enter a case narrative using the (CONT)ACT function to record any information or action not automatically recorded by CASE (TRAC)KING; and

- Remove the CASE ACTION code IR from the APPD CASE panel, to remove the case from the DAIL INIT to DAIL.

0714.05.10 Initiating NA, MAO, Foster Care Cases

REV: 04/2010~~10/2006~~

~~0714.05.10 Initiating NA Cases REV: 10/2006~~

In non-assistance (NA) cases, information does not come over through the IV-A/IV-D interface. New cases (case never before entered) are established by the Child Support Services agent when information obtained from an application or referral is input via InRhodes.

Before entering the application data into INRHODES the agent will:

- Review the application information provided by the custodial parent; and

- Look at the PRSN function on all members of the case, to find out whether they are on other IV-D cases and if any additional information is known. Non-custodial parents should be searched by name, then SSN, if necessary.

The agent will then:

- Input data into INRHODES using the APPD function in E (Entry) mode;

- Make a narrative on (CONT)ACT recording any information or action not automatically recorded on CASE (TRAC)KING; and

- Enter a NEXT CSE REVIEW date on the APPD CASE panel, showing when the case should be worked again.

When the custodial parent provides a copy of an existing support order, the agent will request that the docket number be entered in the computerized card file system (CORT) by their supervisor.

The Department will enter the court order data.

0714.05.15 Follow Up to Initial Review

REV: 04/2010~~10/2006~~

~~0714.05.15 Follow Up to Initial Review REV: 10/2006~~

Based on an assessment of the case to determine necessary action, the Office of Child Support Services will:

- Solicit necessary and relevant information from the custodial parent, and other relevant sources, and initiate verification of additional information, if appropriate;

- In ~~FIP~~RIW, if a birth certificate is necessary, the agent will access the Vital Records interface to obtain a facsimile. Eligibility technicians will send the needed birth certificates if available to OCSS by fax, via scanning or interoffice mail.

  In non-assistance (NA) cases, it is the custodial parent's responsibility to provide the certificate;

- If there is inadequate location information to proceed with the case, the Office of Child Support Services will initiate requests for additional information or attempt further location. See Section 0716; and

- Ensure that the case record contains all information and documents about the case, as well as all relevant facts, dates, actions taken, contacts made, and results achieved.

0714.05.20 Determining the Next Action

REV: 04/2010~~10/2006~~

~~0714.05.20 Determining the Next Action REV: 10/2006~~

After completing the Initial Review, the Child Support agent will decide what action to take next. This will depend primarily on whether the non-custodial parent has been located; that is, whether there is an address at which the non-custodial parent can be served. The agent will proceed by either:

- Verifying the non-custodial parent's address and/or employer, if information was obtained during the application; or

- Initiating location activities when information was not provided. See Section 0716.

When the non-custodial parent's Rhode Island address or employer is verified, the agent will:

- Proceed to paternity establishment (Section 0718) when paternity is an issue;

- Proceed to Support Order Establishment (Section 0720) when paternity is not an issue

When the non custodial parent has never been ordered to pay support

- Proceed to Child Support Enforcement Remedies (Section 0724) when there is an order for support and:

  The case is non-assistance (NA), or

  The case is ~~FIP~~RIW and it is being reopened;

- Proceed to Modification of Child Support Orders when

appropriate (See Section 0726).

When the non-custodial parent is located in another state, the case may be transferred to the Interstate agent. See Section 0716.

0714.10 INITIAL VERIFICATION OF ARREARS

REV: 04/2010~~10/2006~~

~~0714.10 INITIAL VERIFICATION OF ARREARS REV: 10/2006~~

The Child Support Services agent will have the custodial parent complete an affidavit of arrears(when appropriate) in cases where an order has been entered and the order is not payable through the RI Family Court. The affidavit of arrears provides the custodial parent with a place to attest to the amount of support that was received directly from the non-custodial parent.

Arrearage amounts are set by the Family Court when the case is taken to court for an establishment or enforcement action.

0714.15 ~~FIP~~RIW TO NA OPENINGS

REV: 04/2010~~01/2002~~

When IV-A closes a ~~FIP~~RIW case, the information comes over on the IV-A/IV-D interface and the system automatically converts the IV-D case message to the agent's DAIL that the ~~FIP~~RIW case has been closed.

INRHODES will also automatically send the custodial parent a letter informing her/him that child support services will continue unless a request is made in writing that these services are no longer wanted. The agent will review the case to determine whether any action needs to be taken.

0714.20 ADDING A CHILD TO A CASE

REV: 04/2010~~10/2006~~

~~0714.20 ADDING A CHILD TO A CASE REV:10/2006~~

When a child is added to an ~~FIP~~RIW case, the agent will receive a message on her/his DAIL. The agent will:

- Look at the INRHODES APPD CHLD panel to find out if paternity has been established;
- Determine whether the child is included in any court order established for the case;
- Record information/data on the appropriate panels including any contact with the custodial parent or non-custodial parent on (CONT)ACT; and
- Go on with the next action.

In all other cases the agent will add the child to the case by inputting the appropriate data.

0714.25 EMANCIPATION

REV: 04/2010~~10/2006~~

~~0714.25 EMANCIPATION REV: 10/2006~~

Pursuant to Rhode Island law, a child is emancipated upon his or her eighteenth (18th) birthday. The court may, if in its discretion it deems it necessary or advisable, order child support and education costs for children attending high school at the time of their eighteenth birthday and for ninety (90) days after graduation, but in no case beyond their nineteenth birthday. If the child has a mental or physical disability, which occurred before emancipation, the order may continue until the child's 21st birthday. However, a non-custodial parent is obligated to continue paying current child support until s/he has obtained an order terminating that obligation. Therefore, the -OCSS will continue to enforce an order until such time as the order has been terminated and arrears have been suspended.

Internally the InRhodes system will stop the order at the youngest child's 18th birthday. This does not affect the legality of the order.

0714.30 CASE ASSESSMENT AND PRIORITIZATION

REV: 04/2010~~10/2006~~

~~0714.30 CASE ASSESSMENT AND PRIORITIZATION REV:10/2006~~

The Office of Child Support Services has implemented a case assessment and prioritization system to manage its caseload.

This system includes all cases and ensures that no service required to be provided under the State plan has been systematically excluded.

The dail (daily reports) function is an automated tool to insure that all cases are prioritized and processed in accordance with the federal timeframes per FSA-88. The dail lists the cases with the oldest FSA-88 due date at the top of the list. Each agent has a dail for their caseload. The mail dail lists all of the cases in each agent's caseload in order by the date that the specific action is due. The case-specific dail is a list of all conditions which exist on the case.

0714.35 CASE CLOSURES

REV: 04/2010~~10/2006~~

~~0714.35 CASE CLOSURES REV: 10/2006~~

In order to be eligible for closure, a case must meet at least one of the closing criteria described. Once the case becomes eligible for closure, InRhodes automatically schedules the case to close sixty (60) days in the future and generates the closure letter to send to the custodial parent. An agent can also schedule a case for closure by entering a closure date sixty (60) days in the future. InRhodes will automatically send the closure letter and close the case in sixty (60)

days via the monthly case closure process. A case will not be closed if:

- The custodial parent supplies information in response to the notice which could lead to the establishment of paternity, an order for support, or enforcement of an order; or

- Contact is reestablished with a custodial parent whose whereabouts were unknown.

A custodial parent may request, at a later date, that her/his case be reopened if there is a change in circumstances that could lead to the establishment or enforcement of an order.

The Office of Child Support Services will retain closed case records for a minimum of three (3) years before purging the file.

0714.35.05 Closing Criteria Requiring 60 Day Notice

REV: 04/2010~~10/2006~~

~~0714.35.05 Closing Criteria Requiring 60 Day Notice REV: 10/2006~~

A sixty (60) day closing notice will be sent to the custodial parent when a case is closed for one of the following reasons:

- There is no longer a current support order and arrearages are under five hundred dollars ($500) or unenforceable under state law;

- The non-custodial parent or putative father is deceased and no further action, including a levy against the estate, can be taken. The agent shall obtain a certified copy of the death certificate and file a Motion to Dismiss;

- Paternity cannot be established because:

    * The child is at least twenty-two (22) years old; or

    * A genetic test or a court or administrative process has excluded the putative father.

  OCSS shall file a Motion to Dismiss based upon the exclusion; or

- The Office of Child Support Services has determined that it would not be in the best interest of the child to establish paternity in a case involving incest or forcible rape, or in any case where legal proceedings for adoptions are pending;

- The identity of the biological father is unknown and cannot be identified after diligent efforts, including

at least one interview by the IV-D agency with the recipient of services;

- The non-custodial parent's location is unknown, and regular attempts have been made using multiple sources to locate the non-custodial parent over a three (3) year period, when there is sufficient information to initiate an automated locate effort, or over a one (1) year period when there is not sufficient information to initiate an automated locate effort;

- The non-custodial parent cannot pay support for the duration of the child's minority because (s)he has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically verified permanent and total disability with no evidence of support potential. The Office of Child Support Services must also determine that no income or assets are available to the non-custodial parent that could be levied or attached for support;

- The non-custodial parent is a citizen of, and lives in a foreign country, does not work for the Federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets, and the state has been unable to establish reciprocity with the country.

- In an NA case:

  The Office of Child Support Services is unable to contact the custodial parent within a sixty (60) calendar day period despite an attempt of at least one letter sent by first class mail to the last known address, or

  The custodial parent fails to cooperate and an action by the custodial parent is essential for the next step in providing services.

- OCSS documents failure by the initiating state to take an action which is essential for the next step in providing services.

0714.35.10 Closings Without Prior Notice

REV: 04/2010~~10/2006~~

~~0714.35.10 Closings Without Prior Notice REV:10/2006~~

A 60-day closing notice does not have to be sent, if a case is closed for one of the following reasons:

- The case was opened as a non-assistance location only; or

- The non-assistance custodial parent requests closure

of a case and there is no assignment to the State of medical support or arrearages which accrued under a support order; or

- There has been a finding of good cause, and it has been determined that support enforcement may not proceed without risk or harm to the child or caretaker relative

0716 ABSENT PARENT LOCATION

0716.05 LOCATION STANDARDS

REV: 04/2010~~10/2006~~
~~0716.05 LOCATION STANDARDS REV:10/2006~~

A non-custodial parent will be considered "located" when information regarding his/her physical whereabouts, or place(s) of employment, or other sources of income or assets have been verified, and the information is sufficient to allow the Office of Child Support Services to take the next appropriate action.

Within no more than seventy-five (75) calendar days of determining that location is necessary, the Office of Child Support Services will access all appropriate location sources, including transmitting appropriate cases to the Federal Parent Locator Service (FPLS) and ensuring that location information is sufficient to take the next appropriate action in a case.

Appropriate location sources include but are not limited to:

- Credit Bureau;
- The Federal Parent Locator Service (FPLS);
- Interstate location networks;
- Relatives and friends of the absent parent;
- Current or past employers;
- The local telephone company;
- The U.S. Postal Service;
- Unions and fraternal organizations;
- Police, parole, and probation records, if appropriate;
- State agencies and departments as authorized by State law, including those departments which maintain records of:

    Public assistance;

    Wages, employment, and unemployment insurance;

Income taxation;

Driver's licenses, vehicle registration; and

Criminal records.

0716.05.05 Continued Location Efforts

REV: 04/2010~~10/2006~~

~~0716.05.05 Continued Location Efforts REV:10/2006~~

In cases where previous attempts to locate the non-custodial parent have failed, but for which adequate identifying and other information exists, the Office of Child Support Services will:

- Exhaust all appropriate location resources within seventy-five (75) days of receiving new information;
- Submit to the FPLS, at least annually, cases in which location is needed and for which a non-custodial parent's social security number is known or every effort has been made to obtain it;
- Document all location efforts including telephone contacts with the custodial parent and the non-custodial parent on the InRhodes (CONT)ACT panel;
- Record current, verified information on the APPD function; and
- Repeat location attempts in cases in which previous attempts to locate non-custodial parents or sources of income and/or assets have failed, but adequate identifying and other information exists to meet requirements for submittal for location, either quarterly or immediately upon receipt of new information which may aid in location, whichever occurs sooner.

0716.10 Non-Custodial Parent Social Security Numbers

REV: 04/2010~~10/2006~~

~~0716.10 NON-CUSTODIAL PARENT SOCIAL SECURITY NUMBERS REV:10/2006~~

The non-custodial parent's social security number is the single most important piece of information needed for location. With it, the Child Support Services agent can query various location resources, and also be assured that the non-custodial parent will be included in electronic matches used for location, establishment, and enforcement.

0716.20 ACCESS TO INFORMATION

REV: 04/2010~~10/2006~~

~~0716.20 ACCESS TO INFORMATION REV:10/2006~~

The Office of Child Support Services is authorized by Rhode Island General Law 15-22-1 to have access to and to request information from various individuals and entities only for the purpose of and to the extent necessary for the administration of the child support enforcement program.

The Child Support Services agent decides which individuals or entities to query to assist in the location of the obligor based on information available in the case.

These requests for information can be made by any method, including but not limited to:

- Paper;
- Facsimile (Fax);
- Telephone; or
- Magnetic tape or other electronic means.

Unless otherwise limited by federal statute, individuals or entities from whom the Child Support Services agent may secure such information include, but are not limited to:

- State or municipal agencies;
- Utility companies (including telephone);
- Tax assessor's offices;
- Housing authorities;
- Employers;
- Professional or trade associations;
- Labor unions;
- Professional or trade licensing boards;
- Bank and other financial institutions;
- Credit bureaus or agencies; or
- Any other individual or entity which the Office of Child Support Services has reason to believe may have information that relates to or may assist in the location of the obligor.

Requested information that must be provided includes, but is not limited to, the obligor's:

- State income tax returns (including address, filing status, and number of dependents reported on any return filed by the obligor and any other information

which shall be determined and approved by the Tax Administrator and such federal tax data as permitted by federal law);

Unless otherwise limited by statute, the Office of Child Support Services shall be entitled to:

- All criminal offender record information of the obligor which is necessary to locate the obligor or establish the obligor's ability to pay including, but not limited to, National Criminal Information Center (NCIC) records and Bureau of Criminal Identification (BCI) records maintained by the Department of the Attorney General; and

- Quarterly contribution reports of the Department of Labor and Training;

Unless otherwise limited by federal statute, requested information that must be provided includes, but is not limited to, the obligor's:

- Title to property;

- Credit status; or

- Professional affiliation.

Holders maintaining personal data are authorized to disclose to the Office of Child Support Services all personal data requested and such disclosure shall not violate provisions of RIGL 38-2-2.

No entity or individual who complies with such requests for information shall be liable in any civil or criminal proceeding brought by an obligor or an obligee on account of such compliance.

Failure by any individual or entity to provide information, without reasonable cause, within twenty (20) days of the receipt of the request from the Office of Child Support Services, is punishable by a one hundred dollar ($100) fine for each failure.

This fine may be assessed either by the Rhode Island Family Court or the Office of Child Support Services.

Any employee of the Office of Child Support Services that uses or discloses such information in any manner other than specified in RIGL 15-22-1 shall be guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000), or by imprisonment for not more than six (6) months or both.

0716.20.05 Credit Bureau Inquiries

REV: 04/2010~~10/2006~~
~~0716.20.05 Credit Bureau Inquiries REV:10/2006~~

The Office of Child Support Services submits a monthly tape to the credit bureau for locating non-custodial parents. The credit bureau

may provide information regarding the non- custodial parent residence and/or employment.

0716.20.15 Division of Motor Vehicles

REV: 04/2010~~10/2006~~
~~0716.20.15 Division of Motor Vehicles REV:10/2006~~

The Division of Motor Vehicles can provide a non-custodial parent's social security number, last reported address, and vehicle registration information. This information can be obtained either by using the absent parent's social security number, or name and approximate date of birth.

Address information obtained from the DMV driver's license records is that which is provided by the non-custodial parent, and may not be current. Therefore, the agent will verify the information with a second source, such as a letter for location (Post Office), before taking the next action.

0716.20.20 Department of Labor and Training

REV: 04/2010~~10/2006~~
~~0716.20.20 Department of Labor and Training REV: 10/2006~~

The Office of Child Support Services and the Department of Labor and Training (DLT) conduct a tape exchange once a month to match non-custodial parents' social security numbers with DLT employment and wage information. An employer, under RIGL 15-24- 5, who hires or rehires an employee on or after October 1, 1997, must report the hiring or rehiring to the National Directory of New Hires (NDNH) no later than fourteen (14) days after hire or rehire, or twice a month, if reporting electronically or magnetically. Once the Office of Child Support Services submits a non-custodial parent's social security number on the tape, the Office of Child Support Services agent may look at the DLT files via the INRHODES WAGE function.

Information obtained from the DLT is that which is reported to the Division of Taxation by employers throughout the State.

Employers must report wage information by two (2) monthly transmissions not less than twelve (12) days, or more than fifteen (15) days apart.

0716.20.22 Requests for Information from Employers

REV: 04/2010~~10/2006~~

~~0716.20.22 Requests for Information from Employers REV: 10/2006~~
The Child Support Services agent may request from any employer or any other source of income that s/he has reason to believe employs an obligor, or otherwise provides the obligor with regular periodic income, to provide information concerning the dates and amounts of income paid, the last known address, social security number, and

available health care benefits. The Office of Child Support Services shall not inquire of an employer or other source of income concerning the same obligor more than once every three (3) months.

Employers or other sources of income to the obligor must respond to these requests truthfully and in writing. No employer or other source of income that complies with such requests shall be liable in any civil action or proceeding brought by the obligor on account of such compliance. Failure to comply with such a request, without good cause, within twenty (20) days of receipt of the request shall be punishable by a fine of twenty dollars ($20) for each violation. If it is demonstrated that the employer conspired with the employee to avoid reporting, a five hundred dollar ($500) civil penalty may be assessed by the Department.

Unauthorized disclosure of information caused by the Department by any employee or agent of the state, is punishable by a fine of one hundred dollars ($100) per offense and is subject to administrative discipline of the employee.

0716.20.25 U.S. Postal Service

REV: 04/2010~~10/2006~~
~~0716.20.25 U.S. Postal Service REV:10/2006~~

The agent will send a Letter for Location (Post Office) via the INRHODES FORMS function to verify a non-custodial parent's current or forwarding address.

0716.20.30 Police or Criminal Records

REV: 04/2010~~10/2006~~
~~0716.20.30 Police or Criminal Records REV:10/2006~~

The Child Support InRhodes System electronically exchanges information with the Adult Correctional Institution (ACI), and the Bureau of Criminal Investigation (BCI).

0716.20.35 Office of Vital Records

REV: 04/2010~~10/2006~~

~~0716.20.35 Office of Vital Records REV:10/2006~~
The Child Support InRhodes System electronically exchanges information regarding birth certificates with the R.I. Office of Vital Records.

0716.20.40 U.S. Armed Forces

REV: 04/2010~~10/2006~~
~~0716.20.40 U.S. Armed Forces REV:10/2006~~

The Child Support InRhodes electronically exchanges with the Department of Defense to locate members of the armed forces.

There is a legal procedure that must be followed to serve members of the armed forces and to secure a child support order.

0716.20.45 Federal Parent Locator Service

REV: 04/2010~~10/2006~~

~~0716.20.45 Federal Parent Locator Service REV:10/2006~~

The Federal Parent Locator Service is provided by the Office of Child Support Services (OCSS) for the purpose of locating non- custodial parents. The Federal Parent Locator Service provides information from the:

- Social Security Administration (SSA);
- Internal Revenue Service (IRS);
- Veteran's Administration (VA);
- Department of Defense (DOD);
- National Personnel Records Center (NPRC);
- Selective Service System (SSS).
- National New Hire Data base
- Federal Registry

0716.20.45.05 Restrictions

REV: 04/2010~~10/2006~~

~~0716.20.45.05 Restrictions REV: 10/2006~~

Only the central State Parent Locator Service (SPLS) office, or other designated Office of Child Support Services, can accept requests to query the Federal Parent Locator Service. Requests may be received only from:

- State or local agencies seeking to collect child and spousal support obligations under the State plan, or medical support obligations if an agreement is in effect;
- A court that has authority to issue an order against a non-custodial parent for the support and maintenance of a child, or any agency of such court;
- The resident parent, legal guardian, attorney, or agency of a child who is not receiving aid;
- Authorized persons as defined in Parental Kidnapping, if an agreement is in effect to use the FPLS in connection with parental kidnapping or child custody cases.

0716.20.45.10 Requirements

REV: 04/2010~~10/2006~~
~~0716.20.45.10 Requirements REV:10/2006~~

All requests from the FPLS will include:

- The non-custodial parent's name;
- The non-custodial parent's social security number, if known (before submitting a request without a social security number, make every reasonable effort to obtain it);
- Information regarding whether the non-custodial parent is, or has been, a member of the armed services (if known);
- Information regarding whether the non-custodial parent is, or has ever, received any Federal compensation or benefits; and
- Any other information prescribed by OCSE.

All requests to the Federal Parent Locator Service must be accompanied by a statement signed by the Director, which states that:

- The request is being made solely to locate an individual for the purpose of establishing paternity, child support and medical support orders, and enforcing those orders, or parental kidnapping;
- Any information obtained through Federal Parent Locator Service shall be treated as confidential as outlined in Section 0700.

0716.20.45.15 Submitting Requests

REV: 04/2010~~10/2006~~

~~0716.20.45.15 Submitting Requests REV:10/2006~~
INRHODES will automatically submit Federal Parent Locate Services(FPLS) requests every six months on cases for which the non-custodial parent's social security number is known and location has not been verified.. To determine whether a case has been submitted to the FPLS the agent will review the case on the system.

This will show the date the last query was submitted.

An agent may submit an FPLS request on an individual case before the end of six months.

0716.20.50 State Parent Locator Service

REV: 04/2010~~10/2006~~
~~0716.20.50 State Parent Locator Service REV: 10/2006~~

The Office of Child Support Services central registry acts as Rhode Island's State Parent Locator Service. The central registry will:

- Submit location requests to other states' Parent Location Services; and
- Provide location services for other states.

0716.20.55 Directories

REV: 04/2010~~10/2006~~

~~0716.20.55 Directories REV: 10/2006~~
The Child Support agent will make use of various directories such as the Verizon telephone directory.

0716.20.60 Friends and Relatives

REV: 04/2010~~10/2006~~

~~0716.20.60 Friends and Relatives REV:10/2006~~
Friends and relatives of the non-custodial parent may be contacted, however, the agent must be sure and not disclose information regarding the specifics of the child support case.

0716.20.65 Division of Taxation

REV: 04/2010~~10/2006~~
~~0716.20.65 Division of Taxation REV:10/2006~~

The OCSS agency conducts an electronic match with the Division of Taxation to intercept State tax refunds which will provide a non-custodial parent's most recent filing address.

0716.20.70 Project 419

REV: 04/2010~~10/2006~~
~~0716.20.70 Project 419 REV: 10/2006~~

IRS Project 419, more commonly referred to as Group II, provides information from the non-custodial parent's most recent Federal tax return:

- Gross income and interest earned;
- Name and address of last reported employer;
- Names of dependents;

- Last reported residential address.

The Office of Child Support Services will request Group II information when:

- All appropriate resources have been queried;
- All leads have been exhausted;
- The non-custodial parent's social security number is known.

The agent will:

- Complete a Department of the Treasury, Internal Revenue Service, Request for Federal Tax Return Information for Use of Child Support Enforcement (Form 6878);
- Make a copy;
- Forward the original and copy to the Supervisor of the Office of Child Support Services;
- Enter a message on the INRHODES.

0716.20.75 Parental Kidnaping

REV: 04/2010~~10/2006~~
~~0716.20.75 Parental Kidnapping REV: 10/2006~~

The Office of Child Support Services will accept requests from agents or attorneys of the United States for FPLS location services in connection with a parental kidnapping or child custody case.

0718 PATERNITY ESTABLISHMENT

0718.05 LEGAL BASIS

REV: 04/2010~~10/2006~~
~~0718.05 LEGAL BASIS REV: 10/2006~~

The father of a child which is, or may be, born out of lawful wedlock is liable to the same extent as a father of a child born of a marriage for the reasonable expense of the mother's pregnancy and confinement, the education, necessary support and maintenance, medical and funeral expenses of the child, and reasonable counsel fees for the prosecution of paternity proceedings. A child born out of lawful wedlock also includes a child born to a married woman by a man other than her lawful husband.

Pursuant to 42 U.S.C., Section 654, a state plan for child and spousal support must provide that such state will undertake to establish the paternity of a child with respect to whom an assignment is effective, unless the state determines it is against the best interests of the

child to do so. The Office of Child Support Services may bring such an action based on the automatic assignment or application for IV-D services. Any agreement of settlement with the putative father is binding only when approved by the court.

0718.10 PATERNITY TIME FRAMES

REV: 04/2010~~10/2006~~
~~0718.10 PATERNITY TIME FRAMES REV: 10/2006~~

For all cases referred, or when a non-assistance (NA) application is filed and for which paternity has not yet been established, the Office of Child Support Services must proceed expeditiously to locate the alleged father when necessary, to file for paternity establishment, and obtain a support order or to dismiss all actions against the alleged father.

The processing of these cases must be done within the applicable time frames established by federal regulations. Generally, these time frames begin with either the referral of the case to Office of Child Support Services or upon the location of the alleged father.

Because paternity action must commence or the putative father excluded within these time frames, it is imperative that Office of Child Support Services vigorously pursue obtaining voluntary acknowledgments of paternity whenever possible. Voluntary acknowledgments often lead to quickly established support orders thereby increasing the chances of successfully meeting federal completion time frames.

0718.15 PATERNITY PROCESSING

REV: 04/2010~~10/2006~~
~~0718.15 PATERNITY PROCESSING REV: 10/2006~~

Before proceeding with paternity case processing, the Child Support Services agent will review the case to determine:

- The kind of allegation made by the custodial parent: single, multi-allegation, change, or unknown putative father;

- Whether the necessary documentation is present, such as a birth certificate, marriage license, and/or divorce decree;

- Whether the case is a special situation that needs to be referred directly to the Office of Child Support Services Legal Unit after location such as:

  Loco Parentis;

  Multi-allegation;

  Presumed legal father with paternity allegation

of a third party;

- Whether location is needed.

0718.15.05 Paternity Allegations

REV: 04/2010~~10/2006~~
~~0718.15.05 Paternity Allegations REV: 10/2006~~

When a mother applies for ~~FIP~~RIW or Medical Assistance for a child born out of wedlock, she completes a Statement of Need (DHS-2).

A mother applying for non-assistance (NA) services for a child born out of wedlock completes a NA Child Support Application.

These documents require her to name (allege) the father of the child for whom she is requesting benefits or services. The Child Support Services agent will investigate the custodial parent's allegation, and obtain the most accurate information with which to proceed. In investigating the allegation, the agent may find:

- A single allegation of paternity, whereby the applicant or recipient alleges the possibility of only one man as being the child's father;

- A multi-allegation of paternity, whereby the applicant or recipient alleges that she had sexual intercourse with more than one man around the time of conception. A multi-allegation may involve a combination of putative fathers and/or a presumed father;

- A change in allegation, whereby the applicant or recipient alleges that a child's natural father is someone other than the man who was named previously;

- An unknown putative father, whereby the applicant or recipient cannot make an allegation because (s)he does not know the identity of the father.

In cases where the custodial parent alleges that she had sexual intercourse with more than one man around the time of conception, the agent will establish cases for all the putative fathers, or a presumed father. In cases where a legal presumption of paternity exists, that case will be resolved prior to beginning a case against a putative father.

0718.15.10 Presumptions of Legal Paternity

REV: 04/2010~~10/2006~~
~~0718.15.10 Presumptions of Legal Paternity REV:10/2006~~

During the Initial Review, the agent will evaluate the information provided through the interface with IV-A, or information obtained from the mother, or a previously established case record. S/he will determine whether paternity needs to be established, and/or whether

there is a presumed father. In cases where a multi-allegation or change in allegation includes a presumed father and a putative father, the agent work the case against the presumed father first before pursuing paternity against a putative father. A man is presumed to be a child's legal father if:

- He and the child's natural mother are, or have been, married to each other and the child is born during the marriage, or within three hundred (300) days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court;

- Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is, or could be, declared invalid, and

    If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within three hundred (300) days after its termination by death, annulment, declaration of invalidity, or divorce, or

    If the attempted marriage is invalid without a court order, and the child is born within three hundred (300) days after the termination of cohabitation;

- After the child's birth, he and the child's natural mother have married, or attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage could be declared invalid, and

    He has acknowledged his paternity of the child in writing and filed with the clerk of the Family Court, or

    With his consent, he is named as the child's father on the child's birth certificate, or,

    He is obligated to support the child under a written voluntary promise, or by court order;

- He acknowledges his paternity of the child in a writing filed with the clerk of the Family Court, who shall promptly inform the mother of the filing of the acknowledgment, and she does not dispute the acknowledgment within a reasonable time after being informed thereof, in a writing filed with the clerk of the Family Court. If another man is presumed under this section to be the child's father, acknowledgment may be effected only with the written consent of the presumed father, or after the presumption has been

rebutted;

- o A genetic test result of 97% or higher creates a conclusive presumption of paternity when submitted as evidence in a paternity action;

- o A presumption under this section may be rebutted in an appropriate action only by clear and convincing evidence. If two (2) or more presumptions arise which conflict with each other, the presumption for which there is more convincing evidence will prevail.

0718.15.10.05 Presumption Determined

REV: 04/2010~~10/2006~~
~~0718.15.10.05 Presumption Determined REV: 10/2006~~

When the agent determines that there is a presumed legal father, (s)he will:

- O Obtain birth record abstract from InRhodes

- o Request a copy of the child's birth certificate, if not already provided from IV-A Human Services, Health Department, Office of Vital Records or applicant:

  To request a birth certificate in anon-assistance case, the Child Support Services agent will request that the custodial parent provide the certificate;

- o Enter the correct paternity status code on the APPD CHLD panel;

- o Make an entry on the INRHODES (CONT)ACT function;

- o Proceed to the Support Order Establishment Section (Section 0720).

- O If evidence exists which overcomes the presumption, the agent assigned to the named putative father will use this information to begin that case.

0718.15.15 Verifying Location

REV: 04/2010~~10/2006~~
~~0718.15.15 Verifying Location REV: 10/2006~~

To initiate paternity establishment, the agent will obtain a verified Rhode Island address at which the putative father can be served.

When the non-custodial parent's verified address is out of state, the agent will forward the case to the Office of Child Support Services Interstate Unit (see Section 0716), or file a long arm paternity action if appropriate (if the child was conceived in Rhode Island).

0718.15.20 Putative Father Receiving Benefits

REV: 04/2010~~10/2006~~
~~0718.15.20 Putative Father Receiving Benefits REV:10/2006~~

The agent may discover that the putative father is receiving SSI, GPA, ~~FIP~~RIW or is incarcerated. The receipt of any of the foregoing will not prevent the agent from pursuing paternity establishment.

0718.20 COMPLAINT FOR PATERNITY

REV: 04/2010~~10/2006~~
~~0718.20 COMPLAINT FOR PATERNITY REV: 10/2006~~

The agent will proceed by obtaining the custodial parent's formal allegation of paternity. The applicant/recipient will sign a Complaint for Paternity, included in the Paternity Initial Referral packet, which is the custodial parent's sworn allegation of paternity.

In NA cases, the agent will obtain the custodial parent's signature during the initial interview. In ~~FIP~~RIW and Medical Assistance Only (MAO) cases, the agent will have it served on the custodial parent by the Constable.

Once the custodial parent is served, the agent will print the Paternity Initial Referral. The system will:

- Assign the case to a Constable for service;
- Record the action on the CASE (TRAC)KING function.

0718.20.05 Serving the Complaint for Paternity

REV: 04/2010~~10/2006~~
~~0718.20.05 Serving the Complaint for Paternity REV:10/2006~~

The clerical unit will receive the Complaint for Paternity, and:

- Review it for accuracy;
- Give it to the Constable for service.

The Constable will obtain and notarize the custodial parent's signature on the Complaint for Paternity, and return it to the clerical unit. Upon receiving the signed, notarized form, a clerical person will:

- Record the action on the DAIL CONS panel; and
- Return the form to the Child Support Services agent.

The Child Support Services agent will refer the case to the Office of Child Support Services Legal Unit to obtain the Attorney's signature on the Complaint for Paternity.

0718.25 INITIAL NOTIFICATION TO PUTATIVE FATHER

REV: 04/2010~~10/2006~~
~~0718.25 INITIAL NOTIFICATION TO PUTATIVE FATHER REV:10/2006~~

The putative father first learns of an allegation of paternity when the Constable serves him with a copy of the Complaint for Paternity and the Summons, which are included in the Paternity Initial Referral. In this way, he is informed of the allegation and the manner in which to respond. The putative father is given twenty (20) calendar days from the date of successful service to respond, in writing, to the Family Court and the Office of Child Support Services. The putative father is provided an affidavit and answer to complete and return.

0718.25.05 Serving the Putative Father

REV: 04/2010~~10/2006~~
~~0718.25.05 Serving the Putative Father REV:10/2006~~

The Constable has 3 weeks to serve the putative father. At the end of the 3 weeks, the packet must be returned regardless of whether the putative father was successfully served.

0718.30 PUTATIVE FATHER'S RESPONSE

REV:07/1994

At the end of the 20 day period, the agent will review the case to determine how the putative father responded to the Paternity Initial Referral. The putative father may respond by:

- Admitting paternity;
- Denying paternity; or
- Failing to respond.

0718.30.05 Putative Father Admits Paternity

REV: 04/2010~~10/2006~~
~~0718.30.05 Putative Father Admits Paternity REV:10/2006~~

The non-custodial parent's social security number is the single most important piece of information needed for location. With it the Child Support Services agent can query various location resources, and also be assured that the non-custodial parent will be included in tape matches used for location, establishment, and enforcement.

When a non-custodial parent's social security number is unknown, a pseudo number will be recorded on the APPD ABSP panel. Pseudo numbers all begin with "666". When the agent obtains the non- custodial parent's correct number, (s)he will enter it on the ABSP panel.

The system automatically attempts to verify social security numbers for non-custodial parents with social security numbers and dates of birth

recorded. This verification is done via an interface with the Social Security Administration.

The agent will attempt to resolve discrepancies and resubmit cases for verification.

0718.30.05.05 Post Hearing Activities

REV: 04/2010~~10/2006~~
~~0718.30.05.05 Post Hearing Activities REV:10/2006~~

After the hearing, the Child Support Services agent will:

- Enter medical information on the APPD INSU panel;
- Refer the file to enter the order.
  Hard copies of the order will be given to:

  The custodial parent;

  The putative father or his attorney;

  The original will go to the Family Court;
- File a copy in the Office of Child Support Services case record and return it to Master Files;
- Send a Mail Message to the IV-A Eligibility Technician, advising that paternity was established;
- Process the Court Ordered Income Withholding. (See Section 0722).

The entry of court order data will move the case from the establishment agent's DAIL to the appropriate enforcement agent's DAIL.

0718.30.10 Putative Father Denies Paternity

REV: 04/2010~~10/2006~~
~~0718.30.10 Putative Father Denies Paternity REV:10/2006~~

When a putative father denies paternity, the case will be referred to the OCSS Child Support Administrative Officer by alpha, putative father name. The Child Support Administrative Officer will:

- Determine whether the putative father has an attorney. If so, all documents will be mailed to the attorney and not to the putative father;
- Produce an Administrative Order for genetic testing, which will be mailed to the putative father or mailed to the attorney.

0718.30.10.05 Genetic Tests

REV: 04/2010~~10/2006~~

~~0718.30.10.05 Genetic Tests REV:10/2006~~

In a proceeding under RIGL 15-8-11, before trial, the court, upon application made by or on behalf of any party to said action, or on its own motion, shall order that the mother, child, alleged father, and any other party to the action submit to blood or tissue typing tests. The Office of Child Support Services may also administratively order the parties to attend DNA testing upon receipt of a denial. A court order is not required. The Child Support Administrative Officer signs an administrative order for DNA tests. These tests may include, but are not limited to, DNA tests of red cell antigens, red cell isoenzyme, human leukocyte antigens, serum proteins, and other genetic testing, to determine whether the alleged father is likely to be, or is not, the father of the child.

If at the trial, in a proceeding under RIGL 15-8-11, it is shown that a party refused to submit to court ordered DNA tests, such refusal shall be considered by the court, along with all other evidence presented on the issue of paternity. A DNA test shall be made by a person the court determines is qualified as an examiner of DNA types.

The court shall fix or approve the compensation of any expert at a reasonable amount, and may direct the compensation to be paid by the state, or by any other party to the case, or by both, in the proportions and at the times the court prescribes, and that, after payment by a party, all or part or none of such payment shall be taxed as costs in the action. Before conducting DNA the court may order any part of or all of the compensation paid in advance.

The result of the DNA test, and if a determination of exclusion of paternity cannot be made, a calculation of the probability of paternity made by a person the court determines is qualified as an examiner of blood or tissue types based on the result of a blood or tissue typing test, shall be admissible in evidence in the trial of the case.

A written report of the test results, including a calculation of the probability of paternity or a determination of exclusion of paternity, prepared by the duly qualified expert conducting the test, or by a duly qualified expert under whose supervision or direction the test and analysis have been performed, certified by an affidavit duly subscribed and sworn to by him or her before a notary public, may be introduced into evidence without the need for foundation testimony or other proof of authenticity or accuracy and without the necessity of calling the expert as a witness, unless an objection challenging the test procedures or results has been filed within ten (10) days before any hearing at which such results may be introduced into evidence and a cash bond posted with registry of the family court in amount sufficient to cover the costs of the duly qualified expert to appear and testify.

If the results of the DNA tests duly admitted into evidence establish a ninety-seven percent (97%) or greater probability of inclusion that a party is the biological father of the child, then such threshold probability shall constitute a prima facie case of establishment of

paternity and the burden of proof shall shift to the party to rebut such proof by clear and convincing evidence.

The Office of Child Support Services may also utilize its own contracted qualified expert DNA facility. When the Office of Child Support Services is involved in the case and paternity tests are required, the Office of Child Support Services will schedule the tests and pay the initial costs. If the defendant is adjudicated the father, the State will seek reimbursement.

Pursuant to RIGL Section 15-8-11, if the results establish a 97% or greater probability of paternity, it shall constitute a conclusive presumption.

0718.30.10.15 Scheduling DNA Test

REV: 04/2010~~10/2006~~
~~0718.30.10.15 Scheduling DNA Test REV:10/2006~~

The Child Support Administrative Officer will:

- Produce an administrative order for testing;
- Schedule the genetic tests;
- Print a Letter to AP Re: DNA Test Appointment, via FORMS;
- Send the order and Letter to AP Re: DNA Test Appointment to the putative father or his attorney;
- Print a Letter to Client Re: DNA Test Appointment (Mother & Child), via FORMS, and send it along with a copy of the Order for Blood Test to the custodial parent.

If the putative father reschedules the DNA test appointment, the Child Support Administrative Officer will send another Letter to AP Re: DNA test Appointment, writing a note on the letter advising him that if he does not keep the appointment, a Motion for Default will be filed.

The custodial parent also may request to reschedule the DNA test.

If, after the appointment has been rescheduled several times, and the custodial parent fails to keep the appointment, the Child Support Administrative Officer will input the appropriate non-cooperation code on the case and will notify the IV-A Eligibility Technician via the MAIL function, if appropriate.

0718.30.10.20 Request for Admissions

REV: 04/2010~~10/2006~~
~~0718.30.10.20 Request for Admissions REV:10/2006~~

DNA test results are returned to the Office of Child Support Services Legal Unit. When the test shows a high probability of paternity, the Office of Child Support Services Child Support Administrative Officer will:

- Send to the putative father (by certified mail), or his attorney (by regular mail):

  A Request for Admissions; and

  A copy of the DNA results.

The non-custodial parent has ten (10) days to respond in writing to the Request for Admissions. If the non-custodial parent objects to the Request for Admissions, a Motion to Compel Answers may be filed, setting the matter for hearing. The court then orders the putative father to respond to the request by either admitting or denying paternity.

If the putative father admits or fails to respond within ten (10) days, the Request for Admissions is deemed true and accurate and a Motion for Summary Judgment (contested) is filed.

If the putative father denies a specific Request for Admissions and admit the remainder, the Child Support Administrative Officer will file an amended version of the Motion for Summary Judgment.

A Motion for Bond is filed in conjunction with the Motion for Summary Judgment. The purpose of the Motion for Bond is to ensure that if the court does not grant the State's Motion for Summary Judgment, support payments will be held in escrow until an order is entered. If the non-custodial parent is later excluded, the support payments will be returned to the non custodial parent.

The non-custodial parent's presence is required at the hearing on the Motion for Summary Judgment, even if an attorney is representing him:

- If the non-custodial parent appears and does not object to the Motion for Summary Judgment, he is adjudicated to be the father of the minor child, his name is added to the child's birth certificate, and a support order is entered. The escrow payments, if previously ordered, are released and an order for medical coverage is obtained;

- If the non-custodial parent fails to appear, and is not being represented by an attorney:

  The court will grant the Motion for Summary Judgment, finding the putative father to be the father of the minor child;

  PSJ (Paternity Summary Judgment) will be entered on the ORDR PATT panel;

  The case is then referred back to the Child Support Services agent to file a Motion for

Support or the state attorney may request a body attachment.

- If the putative father appears and objects to the Motion for Summary Judgment, the court may:

  Grant the Motion for Summary Judgment and order the aforementioned relief;

  Deny the Motion for Summary Judgment and order a second genetic or DNA testing, and/or grant the State's Motion for Bond;

  Deny the State's Motion for Summary Judgment and order the discovery process to continue in preparation for trial.

0718.30.10.20.05 Discovery

REV: 07/1994

Discovery is the tool used for information gathering in preparation for a paternity trial. The rules of discovery are found in Rules of Domestic Procedure. Among the discovery documents utilized in a contested paternity case are the following:

- Depositions. Any party may, upon order of the court, take the testimony of any person including a party, upon oral examination or written interrogatories, for the purpose of discovery or for use as evidence in the action or for both purposes. Limitations and the scope of the examination are governed by Rules 26 - 32.

- Interrogatories. Interrogatories, or written questions, may be served upon an adverse party without permission of the court, if sent after 20 days of service of the defendant. The answers must be made fully in writing under oath, and be signed by the person making said answers, within 40 days after service. The scope and limitation of the interrogatories are governed by Rule 33.

- Request for Production of Documents. Any party may serve on the other party a request in writing to produce, and permit the party making the request to inspect and copy documents or tangible things which are in the possession, custody, or control of the party upon whom the request is served, or permit entry upon land or other property in the possession or control of the party upon whom the request is made. The procedures, scope and limitation of the Request for Production are contained in Rule 34.

- Request for Admissions. A party may serve upon any other party a written request for the admission of the genuineness of any relevant documents or of the truth of any relevant matters of fact set forth in the request.

Each of the matters of which an admission is requested shall be deemed admitted unless, within 10 days after service, the party either:

Denies, specifically, the matters requested; or

Sets forth in detail the reasons why he cannot truthfully admit or deny those matters; or

Objects and requests a hearing on said objection.

Rule 36 sets forth the effect of admissions as well as the procedure;

- Motion to Compel Answers on Request for Sanctions. If the adverse party refuses to answer discovery, the party must file a Motion to Compel said answers and request a hearing. Rule 37 sets forth the procedures and consequences for failure to respond.

These techniques are used by both the custodial parent's and putative father's attorneys. Sanctions are ordered for the prevailing party when the opposing party fails to respond.

0718.30.10.25 DNA Test Reveals Putative Father Excluded

REV: 04/2010~~10/2006~~

~~0718.30.10.25 DNA Test Reveals Putative Father Excluded REV: 10/2006~~

When the DNA test excludes the putative father, the Child Support Administrative Officer will review the case to make sure that the custodial parent was given the opportunity to identify the putative father during DNA testing.

When the custodial parent did not identify the putative father, the Child Support Administrative Officer will contact her to come in and identify him from the lab photo.

When the custodial parent cannot identify the putative father during DNA testing or during a subsequent appointment with the Child Support Administrative Officer, the Child Support Administrative Officer will:

- File a Motion to Dismiss; and, at the same time
- Contact the custodial parent by sending her:

  A Letter to Client Re: DNA Test Exclusion;

  A copy of the Motion to Dismiss;

  A copy of the DNA results;
- Send the putative father, or his attorney, a copy of the Motion to Dismiss.

After the hearing, the case is forwarded for entry of order.

The Office of Child Support Services will:

- Update the case by entering PDS for (Paternity dismissed) on the ORDR PATT (COURT ORDERS) panel;
- Provide a copy of the order to the putative father and mother;
- File the original with the court;
- Retain a copy for the Office of Child Support Services case file;
- Refer the case record to the Child Support Services agent, to obtain a new allegation of paternity for filing a Complaint for Paternity.

0718.30.15 Putative Father Fails to Respond

REV: 04/2010~~10/2006~~

~~0718.30.15 Putative Father Fails to Respond REV:10/2006~~

When a putative father fails to respond to the Initial Referral (20-day summons), the agent or system will generate a Paternity: Default packet and the Motion for Support packet.

The Constable has 3 weeks to serve the putative father. At the end of the 3 weeks, the packet must be returned regardless of whether the putative father was successfully served.

0718.30.20 Putative Father Cannot be Served

REV: 04/2010~~10/2006~~
~~0718.30.20 Putative Father Cannot be Served REV:10/2006~~

When the putative father cannot be served, the packet is returned to the clerical unit. The clerk will:

- Record the results of service on the DAIL CONS panel;
- Return the packet to the agent.

The agent will review the Constable Return Form, which provides a description of the efforts made to serve the putative father.

The agent will initiate location efforts (See Section 0716).

0718.35 ESTABLISH PATERNITY WITHOUT COOPERATION

REV: 04/2010~~10/2006~~

~~0718.35 ESTABLISH PATERNITY WITHOUT COOPERATION REV:10/2006~~

The agency may proceed with attempts to establish paternity when the applicant or recipient fails to cooperate without good cause.

Whether paternity can be established depends on the Office of Child Support Services being able to obtain sufficient information regarding the putative father without the cooperation of the mother, and whether the putative father admits paternity.

The agency may also proceed with attempts to establish paternity in situations where it is determined that good cause exists for the applicant or recipient refusing to cooperate with Office of Child Support Services. In these cases, the agency must make a determination that this activity can proceed without risk of harm to the child or caretaker relative if the enforcement activity does not involve their participation. This determination must be in writing, will contain the agency's findings and basis for determination, and will be entered into the ~~FIP~~RIW case record. If the IV-A agency excuses non- cooperation, but determines that the IV-D agency may proceed to establish paternity, it will notify the applicant or recipient to enable such individual to withdraw his or her application for assistance or have the ~~FIP~~RIW case closed. Prior to making this determination, Office of Child Support Services will be afforded an opportunity to review and comment on the findings and basis for the proposed determination.

0718.40 SPECIAL PATERNITY ISSUES

REV:07/1994

Not all paternity cases will involve the child's mother as the custodial parent. There will be cases where the child is living with a relative (Loco Parentis cases) or with the putative father.

In these cases paternity can still be established, however, procedures will differ from the cases previously discussed.

0718.40.05 Loco Parentis Cases

REV:07/1994

In Loco Parentis cases, the applicant or recipient will make an assignment regarding both the putative father and the child's mother. However, (s)he cannot make the formal allegation of paternity. The Complaint of Paternity can only be signed by a child's mother. Therefore, the agent will attempt to locate and contact the child's mother before pursuing paternity against the putative father. The procedures followed will depend on the information obtained, and how cooperative the child's mother and the putative father are.

0718.40.10 Putative Father Seeks Establishment

REV: 04/2010~~10/2006~~

~~0718.40.10 Putative Father Seeks Establishment Via Voluntary Acknowledgment Procedure REV:10/2006~~

The Office of Child Support Services will establish paternity upon the request of a putative father. A putative father does not have to have custody of the child nor receive assistance for such services to be

provided. However, the case must be a case where the custodial parent is receiving services.

0718.40.10.05 Custodial Father Seeks Establishment

REV: 04/2010~~10/2006~~

~~0718.40.10.05 Custodial Father Seeks Establishment REV:10/2006~~
The Office of Child Support Services will seek to establish paternity when a putative father is the custodial parent and applies for ~~FIP~~RIW, MA, or NA services. The case shall be referred to the Office of Child Support Services legal unit by the IV-A Eligibility Technician. An appointment shall be scheduled..

The Child Support Administrative Officer will immediately:

- Determine if there is an existing case, i.e., if the mother was previously on ~~FIP~~RIW and named the custodial parent as the putative father;

- Determine if there is a docket number and/or if there is an existing case;

- Interview the putative father and natural mother, if she is present, and obtain pertinent data to complete the Petition for Voluntary Acknowledgment. Obtain data relative to the mother's location, if appropriate;

- Request the appropriate Petition for Voluntary Acknowledgment through INRHODES FORMS. If no previous docket number exists, obtain a Family Court docket number and a hearing date;

- Obtain the putative father's signature on the petition. If the natural mother is present, obtain her signature as well;

- Notify the ~~FIP~~RIW eligibility technician of the completed action via electronic mail. The ~~FIP~~RIW eligibility technician assigned to the case may be determined by entering the man's social security number in the IV-A CASE-D function of INRHODES. Give a copy of the completed and executed Petition for Voluntary Acknowledgment to the putative father and also forward a copy to the eligibility technician in the appropriate public assistance office. This will enable the putative custodial father to obtain ~~FIP~~RIW immediately;

- File the Petition for Voluntary Acknowledgment with the court. An expedited process will be utilized to obtain a hearing date and service of summons;

The mother and presumed father, shall be served, if appropriate, with a Summons to Appear in court.

At the hearing:

- The putative father will acknowledge paternity on the record. If the natural mother is present and does not object, the court will adjudicate him to be the father of the child and order that his name be added to the birth certificate. An order will be prepared and mailed or hand delivered at court to both parties. The Office of Vital Records will be ordered to add the father's name to the child's birth certificate. The court may order the Office of Vital Records to change the child's surname to that of the father as well;

- If at the hearing, the natural mother and presumed father fail to appear after being duly served, the court will enter an order adjudicating the petitioner the father of the child. This order shall be sent by regular mail to the natural mother and presumed father, if appropriate;

- If on the hearing date, the Office of Child Support Services Attorney indicates that after due and diligent efforts, service could not be perfected either on the natural mother or presumed father, the court shall order alternative service of notice, i.e., notice by publication, if applicable. A continuance date will be requested affording sufficient time for notice of the acknowledgment to be given to the natural mother. On the continuance date, the Office of Child Support Services Attorney will present to the court what efforts have been made to serve the respondent, and present copies of the notice by publication. The petitioner will acknowledge paternity on the record. The court will then adjudicate the petitioner the father of the child and order that the birth certificate be amended accordingly. A copy of the order will be mailed to the natural mother;

- At the hearing on the Petition for Voluntary Acknowledgment, if the natural mother objects, DNA testing may be ordered. The case may then proceed as previously outlined in a contested posture.

  Note: If the natural mother and presumed father object, the voluntary proceedings shall be terminated;

- Subsequent to the hearing, the Office of Child Support Services Child Support Administrative Officer shall send a copy of the order to the IV-A eligibility technician, and update INRHODES accordingly;

- If the petitioner fails to appear, the proceedings will be terminated and notice will be given to the IV-A eligibility technician of petitioner's failure to

cooperate.

0718.40.10.10 Non-Custodial Father Seeks Establishment

REV: 04/2010~~10/2006~~
~~0718.40.10.10 Non-Custodial Father Seeks Establishment~~
~~REV:10/2006~~

When a non-custodial putative father requests voluntary paternity establishment, the Child Support Administrative Officer will follow the same procedure as outlined under Custodial Putative Father Seeks Establishment. However, if the natural mother is receiving ~~FIP~~RIW or seeks support as a NA client, the non-custodial client will be asked to enter his appearance pro se, and an order for support and medical coverage will be entered.

The Child Support Administrative Officer shall update the INRHODES system with pertinent data and mail a copy of the order to the IV-A Eligibility Technician.

If the non-custodial parent is seeking to establish paternity by DNA testing, he may ask the agent to serve him as a Defendant or he may file an action as a Plaintiff with the Family Court Clerk. If the custodial parent has named him as the biological father, the agent may serve him as a Defendant. If not, he may file as a Plaintiff with the court.

0718.40.10.15 Voluntary Acknowledgment Court Practice

REV:07/1995

In any action commenced before the R.I. Family Court, the father may acknowledge his paternity of the child with the clerk of the Family Court. Each acknowledgment must be signed by the person filing it, and it must contain:

- The name, social security number, date of birth and address of the person filing the acknowledgment;
- The name and last-known address of the mother of the child;
- The date of birth of the child, or, if the child is unborn, the month and year in which the child is expected to be born; and
- The name and address of the presumed father, if any.

The judge shall hold an informal hearing on the acknowledgment and shall enter an order establishing the paternity of the child and an order of support for the child, provided there are no objections from the natural mother or presumed father filed with the family court prior to the date of the informal hearing, and provided further that a copy of the acknowledgment and a notice of the informal hearing are duly

served upon the mother and any presumed father according to the R.I. Rules of Procedure for Domestic Relations.

The voluntary acknowledgment of paternity shall be recognized by the R.I. Family Court as a basis for establishing a child support order for the child without requiring any further proceedings to establish paternity.

0718.40.10.20 Voluntary Acknowledgment - Hospital Program

REV: 04/2010~~10/2006~~

~~0718.40.10.20 Voluntary Acknowledgment - Hospital Program REV:10/2006~~
Under R.I.G.L. 40-6-21.1, all public and private birthing hospitals in this State are required to participate in a hospital based paternity acknowledgment program. The title "birthing hospital" means a hospital that has a licensed obstetric care unit or is licensed to provide obstetric services, or a licensed birthing center associated with a hospital. A birthing center is a facility outside a hospital that provides maternity services. This hospital based program must provide to both the mother and the alleged father, if he is present in the hospital:

- Written and oral materials about paternity establishment, including written descriptions of the rights and responsibilities of acknowledging paternity;
- An affidavit of paternity signed by both parties;
- The opportunity to speak with staff, either by telephone or in person, who are trained to clarify information and answer questions about paternity establishment; and
- The opportunity to view the Power of Two videotape, which explains in detail the rights and responsibilities of acknowledging paternity

This hospital based program must also ensure that due process safeguards are met. The birthing hospital will be responsible for electronically forwarding completed acknowledgements or copies to the R.I. Department of Health, Office of Vital Records. Both parents must sign these voluntary acknowledgements and the signatures notarized or witnessed.

Voluntary acknowledgments made through a voluntary acknowledgement program are a basis for seeking a support order without requiring any further proceedings to establish paternity. This process may also be done at the Office of Child Support Services and at the Office of Vital Records.

The OCSS will provide supplies and manuals to the birthing hospital and the Office of Vital Records on an ongoing basis.

The requirement for participation in the programs by hospitals is in addition to the birth registration requirements under title 23, chapter 3 of the General Laws.

0718.45 LIMITATION ON RECOVERY FROM THE FATHER

REV:07/1994

The father's liabilities for past education, and necessary support and maintenance, are limited to a period of six (6) years next preceding the commencement of an action hereunder.

0718.50 LIMITATIONS OF RECOVERY FROM FATHER'S ESTATE

REV:07/1994

The obligation of the estate of the father for liabilities under the Rhode Island General Laws (RIGL) Sections 15-8-1 to 15-8-26, are limited to those amounts accrued prior to his death. However, in order to hold the estate of the father liable under RIGL 15-8-1 and 15-8-26, an action hereunder must have been commenced during the lifetime of the father.

0718.55 STATUTE OF LIMITATIONS

REV: 04/2010~~10/2006~~
~~0718.55 STATUTE OF LIMITATIONS REV:10/2006~~

An action to determine the existence of the father and child relationship as to a child who has no presumed father under the Rhode Island General Laws, Section 15-8-6, is not barred until four (4) years after the child reaches the age of majority.

0718.60 JURISDICTION AND REMEDIES

REV: 04/2010~~10/2006~~
~~0718.60 JURISDICTION AND REMEDIES REV:10/2006~~

The Family Court has jurisdiction of an action commenced under Rhode Island General Law (RIGL) Sections 15-8-11, and all remedies for the enforcement of orders for the expense of pregnancy and confinement of the mother, and for education, necessary support and maintenance, or funeral expenses for legitimate children shall apply. The court has continuing jurisdiction to modify or revoke an order and to increase or decrease amounts fixed by order for future education and necessary support and maintenance. All remedies under the Uniform Interstate Family Support Act, and amendments thereto, are available for enforcement of duties of support and maintenance under RIGL15-23.1-1.

A person who has had sexual intercourse in this State thereby submits to the jurisdiction of the courts of this State as to any action brought under RIGL Title 15, Chapter 8 with respect to a child who may have been conceived by that act of intercourse.

Jurisdiction shall be acquired by service made in accordance with RIGL 9-5-33, as amended.

0718.62 JURISDICTION OF R.I. COURTS

REV:07/1994

Every foreign corporation, every individual not a resident of this state or his executor or administrator, and every partnership or association, composed of any person or persons, not such residents, that shall have the necessary minimum contacts with the state of Rhode Island, shall be subject to the jurisdiction of the state of Rhode Island, and the courts of this state shall hold such foreign corporations and such nonresident individuals or their executors or administrators, and such partnerships or associations amenable to suit in Rhode Island in every case not contrary to the provisions of the constitution or laws of the United States.

Service of process may be made on any such foreign corporation, nonresident individual or his executor or administrator, and such partnership or association within or without the state in the manner provided by any applicable procedural rule or in the manner prescribed by order of the court in which such action is brought.

Nothing herein shall limit or affect the right to serve process upon such nonresident individual or his executor or administrator, or such partnership or association, or a foreign corporation within this state or without this state in any manner now or hereafter permitted by law.

0718.64 CLEAR AND CONVINCING EVIDENCE

REV: 04/2010~~10/2006~~

~~0718.64 CLEAR AND CONVINCING EVIDENCE REV:10/2006~~

In any action to establish paternity under Chapter 8 of Title 15 of the Rhode Island General Laws (RIGL), other than an action brought pursuant to RIGL Sections 15-8-2 or 15-8-3, the standard that must be met by the plaintiff shall be that of clear and convincing evidence.

If the results of the DNA tests duly admitted into evidence establish a ninety-seven percent (97%) or greater probability of inclusion that a party is the biological father of the child, then such threshold probability shall constitute a prima facie case of establishment of paternity and the burden of proof shall shift to the party to rebut such proof by clear and convincing evidence.

0718.66 TRIAL BY COURT

REV: 04/2010~~10/2006~~

~~0718.66 TRIAL BY COURT REV:10/2006~~

A trial shall be heard by the court.

0718.68 VENUE

REV: 07/1994

The action may be brought in the county in which the child or the alleged father resides or is found, or if the father is deceased, in which proceedings for probate of his estate have been or could be commenced.

0718.70 TIME OF TRIAL

REV: 07/1994

If a paternity action is initiated before a child's birth, the trial must not, without the consent of the putative father, be held until after the birth or miscarriage.

0718.72 EVIDENCE RELATING TO PATERNITY

REV: 07/1994

Evidence used in a paternity hearing may include:

- Evidence of sexual intercourse between the mother and putative father at any possible time of conception. The standard that must be met by the plaintiff must be that of clear and convincing evidence;
- An expert's opinion concerning the statistical probability of the putative father's paternity based upon the duration of the mother's pregnancy;
- Medical or anthropological evidence relating to the putative father's paternity of the child based on tests performed by experts;
- All other evidence relevant to the issue of paternity of the child.

0718.74 CIVIL ACTION

REV: 04/2010~~10/2006~~

~~0718.74 CIVIL ACTION REV:10/2006~~

A paternity action is a civil action governed by the rules of civil procedure. The mother of the child and the alleged father are competent to testify and may be compelled to testify.

Upon refusal of any witness, including a party, to testify under oath or produce evidence, the court may order him to testify under oath and produce evidence concerning all relevant facts.

If the refusal is upon the ground that this, his testimony or evidence, might tend to incriminate him, the court may grant him immunity from all criminal liability on account of the testimony or evidence he is required to produce. An order granting immunity bars prosecution of the witness for any offenses shown in whole or in part by testimony or evidence that he is required to produce, except for perjury committed

in his testimony. The refusal of a witness, who has been granted immunity, to obey an order to testify or produce evidence is a civil contempt of court.

The Office of Child Support Services is authorized to issue subpoenas as appropriate to individuals or entities to secure financial and other information relating to the obligor for the purpose of and to the extent necessary for the administration of the child support enforcement program. An individual or entity that fails to reply to an administrative subpoena shall be liable for a civil penalty of one hundred dollars ($100) for the violation and shall be required to provide the information and/or comply with the request.

Testimony of a physician concerning the medical circumstances of the pregnancy and birth is not privileged. Testimony relating to sexual access to the mother by an unidentified man at any time or by an identified man at a time other than the probable time of conception of the child is inadmissible, unless offered by the mother.

Testimony offered by a putative father with respect to a man who is not subject to the jurisdiction of the court concerning his sexual intercourse with the mother, at or about the probable time of conception of the child, is admissible as evidence only if he has undergone and made available to the court DNA tests, the results of which do not exclude the possibility of his paternity of the child. A man who is identified and is subject to the jurisdiction of the court shall be made a defendant in the action.

0718.76 HEARINGS AND RECORDS-CONFIDENTIALITY

REV: 07/1994

Not withstanding any other law concerning public hearings and records, any hearing or trial shall be held in closed court without admittance of any person other than those necessary to the action of the proceeding. All papers and records, other than the final judgement pertaining to the action or proceeding, whether part of the permanent record of the court or elsewhere, are subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

0718.78 JUDGEMENTS

REV: 04/2010~~10/2006~~

~~0718.78 JUDGMENTS REV:10/2006~~

The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.

If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a new birth certificate be issued in accordance with Rhode Island General Laws, Section 15-8-23.

The judgment or order may contain any other provision directed against the appropriate party to the proceeding, concerning the duty of support, the custody and guardianship of the child, visitation privileges with the child, or any other matter in the best interest of the child. The judgment or order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

0718.78.05 Default Judgements

REV: 04/2010~~10/2006~~

~~0718.78.05 Default Judgments REV:10/2006~~

A non-custodial parent's delay or failure to respond to court action initiated by the Office of Child Support Services may not, in certain circumstances, delay the paternity establishment process. Under R.I.G.L. 15-8-18.1 and the R. I. Rules of Procedure for Domestic Relations, R.I. Family Court shall enter the defendant's default and a judgment by default in a paternity action under R.I.G.L., chapter 15-8 upon the following conditions:

- Failure to respond to the paternity complaint within twenty (20) days upon proof presented that the defendant has been duly served with the complaint;
- Failure to appear at a scheduled hearing or trial after being duly notified of said hearing or trial, upon proof presented that the defendant has been duly served with notice of the scheduled hearing or trial;
- Failure to appear or refusal to attend DNA testing upon proof presented that the defendant has been duly notified of the date, time and place of the testing;

The court may set aside an entry of default and, if judgment by default has been entered, may likewise set it aside in accordance with the Rules of Procedure for Domestic Relations.

0718.80 JUDGEMENTS-ENFORCEMENT

REV: 07/1994

If existence of the father and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under the Rhode Island General Laws Title 15 Chapter 8, or under prior law, the obligation of the father may be enforcement in the same or other proceedings by the mother, the child, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by other persons, including a private agency, to the extent he has furnished or is furnishing these expenses.

Willful failure to obey the judgement or order of the court is a civil contempt of the court. All remedies for the enforcement of judgements apply.

0718.82 BOND TO SECURE PAYMENT OF JUDGEMENT

REV: 07/1994

The court at any time may require the alleged or adjudicated father to give bond or other security for the payment of any judgement which exists, or may exist in the future.

0718.84 FALSE DECLARATION OF IDENTITY

REV: 07/1994

The making of a false complaint as to the identity of the father, or the aiding or abetting therein, shall be punishable as for perjury.

0718.86 APPEALS

REV: 07/1994

An appeal in all cases may be taken by the defendant, the mother or her personal representative, or the public welfare official from any final order or judgement of the Family Court, upon an action commenced, directly to the Supreme Court within 30 days after the entry of said order of judgement. No appeal, however, shall operate as a stay of execution unless the defendant shall give security for the payment of any judgement and security to pay the costs of such appeal.

0718.88 COSTS

REV: 07/1994

If the court makes an order declaring paternity and for the support, maintenance, and education of the child, court costs including the costs of legal services of the attorney representing the petitioner, expert witness fees, and all other costs shall be taxed against the defendant.

0718.90 ACTION TO DECLARE MOTHER AND CHILD RELATION

REV: 04/2010~~10/2006~~

~~0718.90 ACTION TO DECLARE MOTHER AND CHILD RELATION~~
~~REV:10/2006~~
Any interested party may bring an action to determine the existence or nonexistence of a mother and child relationship.

Insofar as practicable, the provision of the Rhode Island General Laws Title 15 Chapter 8 applicable to the father and child relationship shall apply.

0719 FATHERHOOD INITIATIVES

0719.05 Job Training and Placement

REV: 04/2010~~10/2006~~
~~0719.05 JOB TRAINING AND PLACEMENT EFF: 10/2006~~

The Office of Child Support Services refers non-custodial parents who are unemployed or underemployed to the Department of Labor and Training Rapid Job Entry Program for job training and placement. Non-custodial parents, the large majority of whom are fathers, may request these services of a child support agent.

Alternatively, the Rhode Island Family Court may, as part of a Court order, refer the non-custodial parent. Many times fathers are referred when they are before the Court on a Motion to Adjudge in Contempt for failure to pay or a Motion to Modify their child support order because of a loss of employment or reduction in wages. If the Court refers the father for employment, there is typically a continuance date to return to court so that the Court may receive a report of progress from the Department of Labor and Training.

0719.05 CHILD SUPPORT PROGRAM PURPOSE

REV: 04/2010~~10/2006~~

~~0700.05 CHILD SUPPORT PROGRAM PURPOSE REV:10/2006~~

Authority for states to administer a Child Support Enforcement Program is vested in part D of title IV of the Social Security Act.

Because of its enactment under this part, the program is commonly referred to as the IV-D program. Section 451 of the Social Security Act identifies the purpose of the IV-D program as follows:

> For the purpose of enforcing the support obligations owed by non-custodial parents to their children and the spouse (or former spouse) with whom such children are living, locating non custodial parents, establishing paternity, obtaining child and spousal support, and assuring that assistance in obtaining support will be available under this part to all children (whether or not eligible for aid under part A) for whom such assistance is requested.

Thus, the goal of the IV-D program is to insure that parents assume their obligation to financially and emotionally support their children.

0719.10 Motion to Modify

REV: 04/2010~~10/2006~~

~~0719.10 MOTION TO MODIFY EFF: 10/2006~~

If a non-custodial parent has been placed under a child support or medical order, and becomes unemployed or otherwise is receiving no other income or benefits, or he becomes underemployed, the Office of Child Support Services can assist in filing a Motion to Modify. Legal counsel for the Office of Child Support Services does not legally represent either party.

The State of Rhode Island is the client. The father is entitled to relief only as of the date of notice of the motion. The Court is prohibited, by law, from giving the father retroactive relief back to

the date of unemployment. The Motion must be filed immediately upon termination from employment or when the benefits stop. A hearing date will be assigned. Once before the Court, the father must present the reasons he is seeking a modification or suspension of his order. The Court will calculate a new order based upon the Child Support Guidelines.

0719.15 Voluntary Acknowledgement Program

REV: 04/2010~~10/2006~~

~~0719.15 VOLUNTARY ACKNOWLEGEMENT PROGRAM EFF: 10/2006~~

The Office of Child Support Services, in conjunction with the Department of Health, Office of Vital Records has a voluntary acknowledgment program in the seven (7) birthing hospitals in RI. Medical Records staff has been trained to answer questions and complete the "Affidavit of Paternity Form". A videotape entitled "The Power of Two" is shown to the parents as well as pamphlets distributed with answers to commonly asked questions by the mother and father. A statement of rights and responsibilities is also provided to the parents. The affidavit will be completed only if the parents are certain of the paternity of the child and do not wish to have DNA testing. By signing the affidavit the father is acknowledging he is the father of that child and responsible to financially support that child until the child is emancipated. The father has sixty days to rescind the acknowledgement by filing a Motion to Rescind in RI Family Court. Upon the expiration of the sixty-day period, it is presumed that he is the father of the child. The father's name will be added to the child's birth certificate along with other identifying information. At that time the child's last name can be chosen.

If the parents do not complete the "Affidavit of Paternity" at the hospital, they can make an appointment at the Office of Vital Records or at the Office of Child Support Services to view the videotape, read the pamphlets, review the Rights and Responsibilities Statement and sign the "Affidavit of Paternity". The child's last name cannot be changed unless the Court orders Vital Records to amend the birth certificate. In the alternative, the parties may file a Petition to Voluntarily Acknowledge with the RI Family Court.

0719.20 Incarcerated Parent's Program

REV: 04/2010~~10/2006~~

~~0719.20 INCARCERATED PARENT'S PROGRAM EFF: 10/2006~~

The Office of Child Support Service's staff provides outreach to incarcerated parents through pamphlets, videos, and group presentations on the above services (Sections 0719.05, 0719.10, 0719.15) that are offered to all fathers. Representatives assist fathers in acknowledging paternity, filing a motion to modify the child support order, responding to enforcement notices and referring inmates to the Department of Labor and Training Rapid Job Entry Program prior to discharge. Training and presentations are also provided to discharge planners so that they are equipped to respond to child support issues.

Upon intake an inmate is asked to complete a child support questionnaire to determine if there is a case pending and what if any services the inmate may need. Legal counsel for the Child Support Agency cannot legally represent the inmate. The law in RI does not mandate that a child support order be suspended automatically upon incarceration. The court may find that incarceration was the result of a voluntary act on the part of the non-custodial parent. The court may also decide that it is best to suspend the order, based on the circumstances of the case. A motion must be filed so that the Judge can hear all of the issues and issue an order that may prevent some enforcement measures.

0719.25 The "Papa" Curriculum

REV: 04/2010~~10/2006~~
~~0719.25 THE "PAPA" CURRICULUM EFF: 10/2006~~

The Office of Child Support Services has prepared a curriculum for teachers and educators to present to young persons as well as young fathers and mothers, providing education relating to the legal responsibility of being a parent. The curriculum was designed primarily for high school students, but may be used with other age groups and in other settings. It is designed for a one to two hour class session, and provides education to students and young parents regarding the legal, financial, and emotional responsibilities of having a child whether the children live with them or not.

The Office of Child Support Services is also part of the Rhode Island Fatherhood Coalition, a state-wide effort to support fathers. The Rhode Island Fatherhood Coalition works to develop and promote policies, programs and best practices so that fathers, including those who do not live with their children, will have positive, healthy, supportive relationships with their children.

0720 SUPPORT ORDER ESTABLISHMENT

0720.05 ASSIGNMENT OF SUPPORT RIGHTS

REV: 04/2010~~10/2006~~
~~0720.05 ASSIGNMENT OF SUPPORT RIGHTS REV:10/2006~~

An applicant for or recipient of public assistance under Rhode Island General Laws, Title 40, Chapter 6, Public Assistance (RIGL 40-6-9) or under Title XIX of the Federal Social Security Act (42 U.S.C. 1396 et seq.), for and on behalf of himself or herself and for and on behalf of a child or children, shall be deemed, without the necessity of signing any document, to have made an assignment of rights as described in Section 0704.15.

0720.10 PAYMENT OF SUPPORT TO CUSTODIAL AGENCY

REV: 04/2010~~10/2006~~

~~0720.10 PAYMENT OF SUPPORT TO CUSTODIAL AGENCY REV:10/2006~~

Whenever the Department of Children, Youth and Families shall pay for the support and maintenance of any child pursuant to the Rhode Island General Laws, Sections 42-72-13 and 42-72-14, or whenever such other department, agency, society, institution or person having the charge, care or custody of such child shall pay for the support and maintenance of such child, the court shall order either or both parents owing a duty of support to a child to pay an amount based upon a formula and guidelines adopted by an administrative order of the Rhode Island Family Court.

In fixing the amount of support that the parents shall be ordered to pay, the court shall take into account all relevant factors, including, but not limited to:

- All earnings, income and resources of the custodial parent including real and personal property;
- The financial resources of the child;
- The standard of living the child would have enjoyed had the marriage not been dissolved;
- The physical and emotional condition of the child and his or her educational needs; and
- The financial resources and needs of the non-custodial parent.
- Any other factors which bear upon the needs of the child, and the ability of the parent to provide financial support for those needs.

If it deems necessary or advisable, the court may order child support and education costs for children attending high school at the time of their eighteenth (18th) birthday and for ninety (90) days after graduation, but in no case beyond their nineteenth (19th) birthday. In addition, the court may order the support of a child with a severe physical or mental impairment to continue until the twenty-first (21st) birthday of the child (see section 0714.25).

The court may review and alter its decree relative to the amount and payment of support. If the court finds that a substantial change in circumstances has occurred, the decree may be made retroactive to the date that the notice of a petition to modify was given to the adverse party.

The Department for Children Youth and Families will determine which cases are appropriate for referral to the OCSS. The Policy for such determination has been published and is available in the Department for Children Youth and Families Policy Manual.

0720.15 NAME CHILDREN RECEIVING PUBLIC ASSISTANCE

REV: 07/1994

The party commencing an action seeking a divorce from the bond of marriage or divorce from bed and board or an order pursuant to the Rhode Island General Laws, Section 15-5-19, shall at the time the proceeding is begun append to the petition a statement containing the names of all children of the marriage and their ages and stating whether any such children are at that time recipients of or applicants for public assistance.

0720.20 OCSS As Legal Representative

REV: 04/2010~~10/2006~~

~~0720.20 OCSS AS LEGAL REPRESENTATIVE REV:10/2006~~

In any proceeding under Title 15 Chapter 9 of the General Laws of Rhode Island, the Office of Child Support Services shall represent the Department of Children, Youth and Families and the Department of Human Services, and shall remit to the General Treasurer the net collections, after deducting all reasonable costs and expenses of any action or proceeding under Chapter 9.

0720.25 SEVERABILITY

REV: 04/2010~~10/2006~~

~~0720.25 SEVERABILITY REV:10/2006~~

If any provision of Rhode Island General Laws, Title 15, Chapter 9 or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter, which can be given effect without the invalid provision or application, and to this end the provisions of Chapter 15-9 are severable.

If any provision of Rhode island General Laws Title 15, Chapter 13 or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared to be severable.

0720.30 CHILD SUPPORT

REV: 04/2010~~10/2006~~

~~0720.30 CHILD SUPPORT REV:10/2006~~

In a proceeding for divorce, divorce from bed and board, a miscellaneous petition without the filing of divorce proceedings, or child support, the court shall order either or both parents owing a duty of support to a child to pay an amount based upon a formula and guidelines adopted by an administrative order of the Family Court.

In a proceeding to establish paternity or support, the court may, after opportunity for hearing, in its discretion, issue a temporary order for child support payable to the registry of the court and to be held pending entry of judgment. In the event of a final adjudication requiring no payment or payments in an amount less than those payments which have been made, the defendant shall be entitled to a full refund of all or a portion of the amounts so paid.

If, after calculating support based upon court established formula, the court, in its discretion, finds such order would be inequitable to the child or either parent, the court shall make such findings of fact and may order either or both parents owing a duty of support to pay an amount reasonable or necessary for the child's support after considering all relevant factors including, but not limited to:

- The financial resources of the child;
- The financial resources of the custodial parent;
- The standard of living the child would have enjoyed, had the marriage not been dissolved;
- The physical and emotional condition of the child and his educational needs; and
- The financial resources and needs of the non-custodial parent.

The court may, if in its discretion it deems necessary or advisable, order child support and education costs for children attending high school at the time of their eighteenth birthday and for ninety (90) days after graduation, but in no case beyond their nineteenth birthday, in accordance with Rhode Island General Law 15-9-1.

The court may, if in its discretion it deems it necessary or advisable, appoint an attorney or a guardian ad litem to represent the interest of a minor or dependent child with respect to his support, custody, and visitation. The court shall enter an order for costs, fees, and disbursements in favor of the child's attorney. The order shall be made against either or both parents. After a decree for support has been entered, the court may, from time to time upon the petition of either party, review and alter its decree relative to the amount of such support and the payment thereof, and may make any decree relative thereto which it might have made in the original suit.

Said decree may be made retroactive in the court's discretion to the date that the court finds that a substantial change in circumstances has occurred, provided, however, that the court shall set forth in its decision the specific findings of fact which show a substantial change in circumstances, upon which findings of fact the court has decided to make the decree retroactive.

In a proceeding to enforce a child support order, or a spousal support order for a custodial parent having custody of a minor child, the court or its master may assign to the obligee such tangible personal property of the obligor as will be sufficient to satisfy the child or spousal support arrearage owed. The court or its magistrate, after hearing, shall establish the amount of the child or spousal support arrearage and the nature and value of the tangible personal property. To effect such assignment, the court or its magistrate may order the obligor to execute and deliver such documents of title as may be necessary to complete the transfer of title to such property, and may order the obligor to deliver possession of such property to the obligee. Whenever the obligor fails to comply with the order assigning such

property, the order of assignment shall be regarded as a judgment vesting title to such property in the obligor as fully and completely as if the obligor had executed and delivered such documents of title.

0720.35 RECONSIDERATION OF SUPPORT ORDERS

REV: 04/2010~~10/2006~~

~~0720.35 RECONSIDERATION OF SUPPORT ORDERS REV:10/2006~~

Every order heretofore or hereafter entered by the Rhode Island Family Court providing for support of a child who at the time of entry of the order was not a recipient of or applicant for public assistance shall, in the event the child becomes the recipient of public assistance, be reconsidered "de novo" upon the petition of a parent or guardian of the child or the Department of Human Services.

Upon the filing of such petition, the court shall hold a hearing for the purpose of determining the amount of support to which the child is entitled from the appropriate parent. In fixing the amount of support the court shall take into account the factors set forth in Rhode Island General Law 15-5-16.

0720.40 SET SUPPORT FOR PUBLIC ASSISTANCE CHILDREN

REV: 04/2010~~10/2006~~

~~0720.40 SET SUPPORT FOR PUBLIC ASSISTANCE CHILDREN REV:10/2006~~

If the statement appended to the petition indicates that any child of the marriage is a recipient of or applicant for public assistance, a hearing shall be held as promptly as possible to determine the amount of support to which each such child is entitled from the appropriate parent. The Office of Child Support Services shall be given notice of the hearing and shall appear there for the purpose of assisting the court in fixing the amount of support. In the absence of the consent of the parties and agreement of the Office of Child Support Services, the court shall not enter an order providing support without conducting a hearing. In fixing the amount of support that the parent shall be ordered to pay, the court shall apply the child support guidelines and take into account the following factors:

- All earnings, income and resources of the parent including real and personal property;
- The earnings potential of the parent;
- The reasonable necessities of the parent;
- The needs of the child for whom support is sought;
- The existence and needs of other dependents of the parent;
- Any other factors which bear upon the needs of the child and the ability of the parent to provide financial support of those needs.

For purposes of the guideline calculation, the income attributable to the ~~FIP~~RIW recipient is -0-.

0720.45 ESTABLISHMENT STANDARDS

REV: 04/2010~~10/2006~~

~~0720.45 ESTABLISHMENT STANDARDS REV:10/2006~~

For all child support cases where an order for support has not been established the Office of Child Support Services will, within ninety (90) calendar days of locating a non-custodial parent or of establishing paternity:

- Establish an order for support; or
- Complete service of process necessary to commence proceedings to establish an order; or
- Document unsuccessful attempts to serve process; and
- Review the support obligation periodically, or whenever information is received which may affect the amount of the support obligation.

If a court or administrative authority dismisses a petition for a support order without prejudice, the Office of Child Support Services will, at the time of dismissal, examine the reasons for the dismissal and determine when it would be appropriate to seek an order in the future.

0720.50 CHILD SUPPORT GUIDELINES

REV: 04/2010~~10/2006~~

~~0720.50 CHILD SUPPORT GUIDELINES REV:10/2006~~

The amount of the child support obligation is determined by using the child support guidelines formula and guidelines adopted by an administrative order of the Rhode Island Family Court. The guidelines are used to determine the required monthly support obligation.

The child support guidelines formula takes into account all earnings, income and resources of both parties, including real and personal property, the earnings potential of the parties, the mandatory deductions such as preexisting child support orders, additional dependent children, the cost of medical premiums paid or cash medical ordered, optional deductions such as those specified on the guideline worksheet, and other reasonable criteria which the State may choose to incorporate.

At a minimum, the formula must ensure that the child for whom support is sought benefits from the income and resources of both parties and that the child enjoys the standard of living he/she would have enjoyed if the family was intact.

0720.55 MEDICAL SUPPORT

REV: 04/2010~~10/2006~~
~~0720.55 MEDICAL SUPPORT REV:10/2006~~

Any new or modified order for child support issued by the Rhode Island Family Court shall contain a provision requiring either or both parents owing a duty of support to the child to obtain or maintain health insurance coverage for the child when such coverage is available through their employment at no cost or at a reasonable cost. If the child is receiving medical assistance in the form of RIte Care, RIte Share or fee for service benefits from the State of Rhode Island or other type of medical assistance, the Office of Child Support Services must pursue the non-custodial parent for private medical coverage for the child if it is provided as part of his or her employment at no cost or at reasonable cost. Reasonable cost means that the coverage for the minor child is less than, or equal to five (5) percent of his or her gross income per month. If health insurance is not currently available at a reasonable cost, either or both of the parents will be ordered to enroll the child(ren) covered by the order when it does become available at a reasonable cost. The court may also order that the non-custodial parent pay five (5) percent of his or her income, in addition to the child support monthly order. This would be taken directly from the employee's income to the Rhode Island Family Court. A custodial parent providing private medical coverage through his or her employer would receive the weekly cash contribution toward medical if the court so ordered.

Health insurance includes fee for service, health maintenance organization, preferred provider organization and other types of coverage under which medical services could be provided to the dependent child(ren) by either or both parents.

Applicants for IV-D services will be provided with the same establishment and enforcement techniques that are available to cases with assigned support rights. The Office of Child Support Services will inform any IV-D applicant of the availability of medical support enforcement services. The Office of Child Support Services must also provide to any Medical Assistance Only (MAO) recipient the same range of services provided to ~~FIP~~RIW cases unless the MAO recipient informs the Office of Child Support Services in writing that she/he does not wish any services beyond those the Office of Child Support Services is required to provide for medical support. The Office of Child Support Services must provide these services to MAO recipients who have assigned their rights to medical support without an application or a fee.

Any information the Office of Child Support Services obtains about health insurance coverage will be provided to the custodial parent. In cases where the child(ren) are receiving Medical Assistance, any information about health insurance coverage will also be provided to the Medical Assistance agency.

This would include the policy name and number, and the child(ren)'s name(s) and social security number(s).

0720.55.05 Employer Medical Notices

REV: 04/2010~~10/2006~~

~~0720.55.05 EMPLOYER MEDICAL NOTICES EFF: 10/2006~~

The National Medical Notice, is issued to an employer by regular mail or electronic notice. The medical notice shall instruct the employer which health care plans the children shall be enrolled and include all identifying information of the child support case. The employer must respond within twenty (20) business days after the date of the medical notice indicating:

- O That the employer does not maintain or contribute to plans providing dependent or family care coverage;
- O That health care is not available because the employee is no longer employed; or
- O That the state or federal withholding limitations and/ or prioritization prevent the withholding from employee's income of the amount required to obtain coverage.

If family health care is available, the employer is required to transfer the appropriate part of the medical notice to the plan administrator of each appropriate group health care plan for which the children may be eligible. The plan administrator must provide health care coverage of the child(ren) under the group health plan described in the medical notice within forty (40) business days of the date of notice. Upon notification from the plan administrator that the children are enrolled, the employer must either:

- O Withhold from the employee's income any contributions required and transfer the contribution to the plan's administrator; or
- O Complete the appropriate employee response portion of the notice and advise the Office of Child Support Services that enrollment cannot be completed because of prioritization or limitations on additional withholding income.

Coverage of a dependent child shall continue until the child is no longer a dependent. The employer must continue to withhold employee contributions and may not discontinue or eliminate health care coverage for the children unless the employer is provided satisfactory evidence that:

- O The court or administrative child support order is no longer in effect; or
- o The children are or will be enrolled in comparable health care coverage, which will take effect no longer than the effective date of dis-enrollment from the plan; or
- o The employer eliminates family health care coverage for all of its employees.

In any case in which employment terminates, the employer must promptly notify the Office of Child Support Services of the termination within ten (10) days.

0720.60 ESTABLISHING THE ORDER

REV: 04/2010~~10/2006~~

~~0720.60 ESTABLISHING THE ORDER REV:10/2006~~

The Office of Child Support Services will pursue a support order either by first serving the Complaint for Support, or filing a Motion for Support. The Office of Child Support Services agent will:

- Generate a Complaint for Support when there is no domestic relations case found in the Family Court Domestic Index, or there is no reciprocal case pending and involving the same parties (Rhode Island Divorce Filings);

- Generate a Motion for Support if not automated, when:

  There is an existing domestic support order and the custodial parent receives ~~FIP~~RIW;

  When there is an existing domestic case pending and no support order has been entered; and

  When there is an existing reciprocal case pending and the custodial parent reopens his/her ~~FIP~~RIW case.

0720.60.05 Complaint for Support

REV: 04/2010~~10/2006~~

~~0720.60.05 Complaint for Support REV:10/2006~~

When it has been determined that a support complaint is needed, the child support agent will generate the appropriate packet through the FORMS function of the INRHODES system if the packet has not already been system generated. In selecting this packet, a hearing date and personal service by constable will be selected and will also be automated.

The packet is printed with the attorney signature, and the action is automatically recorded on case tracking.

The constable has three weeks in which to obtain successful service. At the end of that time, s/he will return the packet regardless of whether successful service was obtained. The service results are recorded on the DAIL CONS panel.

0720.60.10 The Absent Parent is Successfully Served

REV: 04/2010~~10/2006~~

~~0720.60.10 The Non-custodial parent is Successfully Served REV:10/2006~~

When successful service is obtained:

- The original packet is sent to the Rhode Island Family Court;
- A copy of the packet is filed in the Child Support case record;
- The case is prepared for the hearing by completing and placing in the Office of Child Support Services case record:

  Draft order (1)
  Attorney Worksheet (1)
  Legal Unit Form (1)
  Medical Form (1)
  Guideline Worksheet (2)

- The case is then sent to the Rhode Island Family Court for the Child Support Attorney.

0720.60.15 Non-Custodial Parent Cannot Be Served

REV: 04/2010~~10/2006~~

~~0720.60.15 Non-custodial parent Cannot be Served REV:10/2006~~

When the non-custodial parent cannot be served, the agent will:

- Review the Constable Return Form to see what attempts were made at service;
- Attempt to verify another address;
- When a new address is verified:

  Update the appropriate APPD panel(s);

  Repeat the process beginning with printing the Complaint for Support packet;

- When a new address cannot be verified enter bad address on the system.

0720.60.20 Motion for Support

REV: 04/2010~~10/2006~~

~~0720.60.20 Motion for Support REV:10/2006~~

When it has been determined that a support motion is needed, the child support agent will generate the appropriate packet through the FORMS function of the INRHODES system. The system will provide a hearing date and assign a constable for personal service.

When the packet is printed, the action is automatically recorded on case tracking.

The Constable has three weeks in which to obtain successful service. At the end of that time, (s)he will return the packet regardless of whether successful service was obtained. The service results are recorded on the system.

0720.65 ESTABLISHMENT HEARING

REV: 04/2010~~10/2006~~
~~0720.65 ESTABLISHMENT HEARING REV:10/2006~~

The Office of Child Support Services attorney does not represent either the custodial parent or non-custodial parent. Either party can obtain private counsel to represent their interests.

In that capacity the Child Support Attorney will:

- Complete the:

  Guideline Worksheet
  Draft Order
  Medical Form
  Attorney Worksheet (if there are any special instructions to any Unit);

- Forward the case record for the entry of the order.

The order will be entered on InRhodes and a hard copy generated for the attorney's signature.

Copies of the order will be mailed to the non-custodial parent and the custodial parent and when applicable, to the initiating state.

A copy will be filed in the Office of Child Support Services case record and returned to Master Files.

Once the order has been entered the case will automatically move from the Establishment agent's DAIL to an Enforcement agent's DAIL.

0720.70 Wage Withholding

REV: 04/2010~~10/2006~~

~~0720.70 Wage Withholding REV:10/2006~~
Immediate withholding is required for all cases whether or not the cases are IV-D cases, with new or modified orders on the effective date of the order unless one of the parties demonstrates, and the court or other administrative process finds good cause not to require the withholding, or a written agreement is reached between both parties which provides for an alternative arrangement.

0720.75 Direct Deposit Payments

REV:03/2008

A custodial parent who is in receipt of child support payments must choose to receive these payments via direct deposit into his or her checking or savings account, or child support will be automatically deposited to an electronic payment card (electronic transfer of funds to an ATM card) called a "Kids Card". These electronic methods eliminate the need for a paper check to be issued through the mail. With Direct Deposit, the payment will be electronically deposited directly into a custodial parent's designated checking or savings account. With an electronic debit card custodial parents can access their child support payments by using a plastic ATM card and their personal identification number (PIN) at a point of sale (POS) terminal.

In most instances, Direct Deposit and electronic debit card will result in the custodial parent having access to his or her child support payment more quickly than the old method of mailing paper checks.

0722 CHILD SUPPORT ENFORCEMENT REMEDIES

0722.05 CHILD SUPPORT ENFORCEMENT STANDARDS

REV: 04/2010~~10/2006~~

~~0722.05 CHILD SUPPORT ENFORCEMENT STANDARDS REV:10/2006~~

The Office of Child Support Services will monitor all IV-D cases for compliance with any support obligation. For child support orders and medical support orders, the Office of Child Support Services will take all appropriate enforcement actions to enforce the order. These include, but are not limited to:

- Administrative Income Withholding;
- Administrative lien and levy on bank accounts;
- Administrative offset;
- Contempt proceedings;
- Federal and State income tax refund intercepts;
- IRS Full Collection;
- Credit Bureau Reporting;
- Referral to the R.I. Attorney General's Office (see felony penalties below);
- New Hire Reporting

For those obligors who are more than ninety (90) days in arrears,

- Revocation, suspension or the prevention of the

re-issuance or renewal of the obligor's license to operate a motor vehicle or register a motor vehicle, certification, registration, permit, approval, or other similar document to engage in a profession, occupation, business, or industry.

For obligors whose arrears are in excess of five hundred dollars ($500),

- Setoff of certain lottery winnings and proceeds of insurance settlements to pay support arrears; and

- Prevention of the issuance, re-issuance, or renewal of the obligor's license to operate a motor vehicle and/or the registration or renewal of registration of the obligor's motor vehicle.

In addition to the enforcement actions described above, the Office of Child Support Services may refer delinquent child support payers to the R.I. Attorney General's office for prosecution when it is determined that circumstances are appropriate.

In any case involving non-support of a child pending before Rhode Island Family Court or any other tribunal or agency of competent jurisdiction, any person committing perjury or false swearing shall be guilty of a felony and shall be imprisoned for a term not to exceed twenty (20) years. (See Section 0722.15.)

The case may also be referred to the US Attorney's Office, if the non-custodial parent resides in another state and the arrears is over $10,000.00. Other elements of the felony include proof of ability to earn and willful failure to pay.

0722.05.05 Initiating Enforcement

REV: 04/2010~~10/2006~~

~~0722.05.05 Initiating Enforcement REV:10/2006~~

The InRhodes system is programmed to initiate enforcement action at certain thresholds in an automated fashion. The custodial parent need not call and request enforcement action be taken.

Enforcement actions are taken simultaneously.

0722.10 Administrative Income Withholding

REV: 04/2010~~10/2006~~

~~0722.10 ADMINISTRATIVE INCOME WITHHOLDING REV:10/2006~~

Pursuant to federal regulations and state law, the State must ensure that in the case of each non-custodial parent to whom a support order is or has been issued or modified in the state, and is being enforced under the State Plan, so much of his or her wages must be withheld to comply with the order. In addition to the amount to be withheld to pay the current month's obligations, the amount to be withheld must include

a 10% tack on amount to be applied toward liquidation of overdue support.

The state must take steps to implement the withholding and to send the advance notice required on the earliest of:

(1) The date on which the parent fails to make payments in full, within fourteen (14) days of the due date;

(2) The date the non-custodial parent requests that withholding begin;

(3) The date on which the custodial parent requests that withholding begin in accordance with the standards and procedures the State may establish. (A custodial parent could request withholding if an non-custodial parent is not meeting the terms of the written agreement for an alternative arrangement.)

(4) The date on which the Office of Child Support Services becomes aware that third party payments to an non-custodial parent for the costs of health services were not used for reimbursement to either the other parent, or guardian of the child or the provider of the services or the Department of Human Services.

0722.10.05 Remedies Additional

REV: 07/1994

The income withholding remedy herein provided is in addition to, and not in substitution for, any other remedy otherwise available to enforcement support orders issued in this state or in another jurisdiction. Relief under Rhode Island General Law, Title 15, Chapter 16 shall not be denied, delayed or otherwise affected because of the availability of other remedies, nor shall relief under any other statute be delayed or denied because of the availability of this remedy.

0722.10.10 Income Withholding Agency

REV: 07/1994

The Rhode Island Department of Human Services is hereby designated as the state income withholding agency and shall have all powers, duties and responsibilities to establish and administer income withholding in accordance with Rhode Island General Law, Title 15, Chapter 16, and is further authorized and directed to promulgate rules and regulations it deems necessary to implement the provisions and purposes of Chapter 16, provided, however, that any rule or regulation affecting the duties and responsibilities of the Family Court shall be made with the concurrence of the chief judge of the Family Court.

0722.10.15 Withholding as an Enforcement Remedy

REV: 09/1995

The income withholding remedy herein provided is in addition to, and not in substitution for, any other remedy otherwise available to enforcing a support order or a medical child support order issued in this state or in another jurisdiction. Relief under Rhode Island General Laws, Title 15, Chapter 16 shall not be denied, delayed or otherwise affected because of the availability of other remedies, nor shall relief under any other statute be delayed or denied because of the availability of this remedy.

0722.10.20 Direct Wage Withholding

REV: 04/2010~~10/2006~~

~~0722.10.20 Direct Wage Withholding REV:10/2006~~

On behalf of any client for whom the department is already providing services, or on application of a resident of this state who is an obligee or obligor of a support order issued by this state, or of an agency to whom the obligee has assigned support rights, the department may issue a wage withholding order to an employer in another state. Pursuant to UIFSA the employer must honor the wage withholding order issued by Rhode Island.

0722.10.25 Severability of Provisions

REV: 07/1994

If any provision of the Rhode Island General Laws, Title 15, Chapter 16 or the application thereof, shall for any reason be judged invalid, such a judgement shall not affect, impair, or invalidate the remainder of the law, but shall be confined in its effect to the provision or application directly involved in the controversy giving rise to the judgement.

0722.10.30 Withholding Amounts

REV: 04/2010~~10/2006~~

~~0722.10.30 Withholding Amounts REV:10/2006~~

The Office of Child Support Services will ensure that in each court ordered case an amount must be withheld from the non- custodial parent's wages as is necessary to comply with the order. Payments must include the current support payment and a payment that is equal to ten percent (10%) of the current support amount as payment on any past-due support.

Upon petition by an non-custodial parent, the court in its discretion, may reduce the amount required to be withheld in liquidation of support arrearage to a nominal or token amount, if the court finds that such additional withholding would work an undue hardship on the non-custodial parent.

In the event there are two (2) or more income withholding orders against the same income of an obligor, the department will allocate and

distribute the amount remitted by the withholding agent between or among the separate income withholding orders giving priority to current support obligations as follows:

1) Each obligee shall be allocated an amount in the proportion that each obligee's current support order under income withholding bears relative to the total of all amounts for current support under income withholding orders for that obligor;

2) Any remaining withheld income shall be allocated to each obligee in an amount proportional to which each obligee's arrearage order under income withholding bears relative to the total of all amounts ordered to be paid on arrearages under income withholding orders.

Regardless of the amount of the order or orders, and amounts payable on arrears, the total amount withheld under income withholding provisions cannot exceed the maximum amount permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)). The Act limits the withholding to fifty percent (50%) of disposable income if the earner is supporting another dependent and sixty percent (60%) for an earner with no dependents. The percentages increase to fifty- five percent (55%) and sixty-five percent (65%) if the amount in arrears has been delinquent for twelve (12) or more weeks.

0722.10.50 Employment Changes

REV: 04/2010~~10/2006~~
~~0722.10.50 Employment Changes REV: 10/2006~~

Through interface with the Department of Labor and Training and as a result of information from New Hire reporting, the InRhodes system is updated electronically and a new wage withholding is generated to the new or to the DLT for unemployment benefits, worker's compensation or TDI benefits.

0722.10.55 Contesting the Income Withholding

REV: 04/2010~~10/2006~~

~~0722.10.55 Contesting the Income Withholding REV:10/2006~~
A non-custodial parent may contest the proposed withholding but only on the basis of a mistake of fact. Mistakes of fact are limited to:

- An error in the amount of current support;
- Mistaken identity;
- An error in the amount of income to be withheld in payment of current support;
- The amount to be withheld exceeds the maximum amount permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)) (See Section

0722.10.30).

A non-custodial parent may contest an income withholding by filing or mailing a written statement to the Office of Child Support Services within ten (10) days of receipt. The non- custodial parent's request must specify the mistake(s) of fact claimed.

0722.10.55.05 Non-Custodial Parent Protest is Received

REV: 04/2010~~10/2006~~
~~0722.10.55.05 Non-custodial parent Protest Is Received REV:10/2006~~

Upon receipt of the obligor's statement contesting income withholding, the Office of Child Support Services shall promptly file an application for income withholding with the Clerk of the Family Court. Such application shall be by motion and shall contain such information as shall be required by Family Court.

Upon filing of the application, the clerk shall assign the motion for hearing before a Magistrate of the Family Court within fourteen (14) days of such filing.

Usually, the obligor will receive the motion through personal service. This motion can be generated off the INRHODES system via the FORM function under CONTESTED INCOME WITHHOLDING.

The Office of Child Support Services shall file, and the clerk shall enter, an income withholding order: (a) in accordance with the decision of the Magistrate after hearing on the motion, or (b) upon proof of service and the failure of the obligor to appear and defend on the date assigned for hearing.

0722.10.60 Termination of an Income Withholding

REV: 04/2010~~10/2006~~

~~0722.10.60 Termination of an Income Withholding REV:10/2006~~
An income withholding order will remain in full force and effect until modified or revoked by the Family Court. Such order may be modified or revoked by the court. When appropriate, the Office of Child Support Services will promptly request Family Court to terminate a withholding order and refund to the obligor any amount which may have been improperly withheld.

0722.15 CONTEMPT PROCESSING

REV: 04/2010~~10/2006~~
~~0722.15 CONTEMPT PROCESSING REV:10/2006~~

In a contempt action, the non-custodial parent is brought to court to show why the court order has not been obeyed. A contempt action is filed only after all other administrative enforcement measures are undertaken and are unsuccessful, and will only be filed when 4 months worth of arrears are due and owed. The court may:

- o Find the non-custodial parent in willful contempt and sentence him/her to prison until all or a part of the arrearage is paid;
- o Set an arrearage amount and enter an arrears order;
- o Order an income withholding;
- o Place a lien against the non-custodial parent's personal or real property;
- o Require the non-custodial parent to post a security or bond;
- o Order any other action necessary to enforce the order.

Contempt actions are system-generated when the arrears due an owing are equivalent to 4 months worth of arrears.

FELONY PENALTIES

* Every person who is obligated to pay child support pursuant to an order or decree established by or registered with RI Family Court pursuant to Chapter 11 of Title 15 of RIGL, who has incurred arrearage of past due child support in the amount of ten thousand dollars ($10,000), and who shall willfully thereafter, having the means to do so, fail to pay one or more installments of child support in an amount previously set by the court, according to the terms previously set by the court, shall be guilty of a felony for each instance of failure to make such subsequent payments and upon conviction be punished by imprisonment for a period not to exceed five (5) years; or

* Who have willfully for a period of three (3) years, failed to pay any installments of child support in an amount previously set by the court, according to the terms previously set by the court, and who shall thereafter, having the means to do so, fail to pay one or more installments of child support in an amount previously set by the court, according to the terms previously set by the court, shall be guilty of a felony for each instance of failure to make such subsequent payments and upon conviction be punished by imprisonment for a period not to exceed five (5) years.

In any pursuit of a felony conviction, the Office of Child Support Services will develop case prosecution in conjunction with the Department of the Attorney General.

0722.15.10.05 Employer Fails to Submit Payment

REV: 04/2010~~10/2006~~

~~0722.15.10.05 Employer Fails to Submit Payment REV:10/2006~~

If the employer fails to submit a payment, the agent will call the employer to find out why the payment was not sent. If the employer failed to withhold and/or send in the payment without a valid reason, the agent will contact the legal unit to decide what the next course of action should be. In no event will an agent initiate contempt action against an employer without first obtaining legal approval and without serving the employer return receipt requested.

0722.15.10.10 Employment Changes

REV: 04/2010~~10/2006~~

~~0722.15.10.10 Employment Changes REV:10/2006~~

The obligor parent is responsible for promptly notifying a new employer of his/her child support and/or medical support order(s). The obligor must also promptly notify the Office of Child Support Services of his/her change in employment so that the Office of Child Support Services can transfer the assignment, garnishment, or order for child support and/or health insurance to the subsequent employer.

Pursuant to RIGL 15-20-3, failure of an obligor parent to make either of these notifications shall be a misdemeanor and shall be punishable by imprisonment for a term not exceeding one (1) year, or by a fine of not more than one thousand dollars ($1000), or both to OCSS.

0722.15.10.15 Termination of an Income Withholding

REV: 04/2010~~10/2006~~

~~0722.15.10.15 Termination of an Income Withholding REV:10/2006~~

An income withholding order will remain in full force and effect until modified or revoked by the Family Court. Such order may be modified or revoked by the court upon application and for good cause shown, or when the child support order has been suspended and all arrearages paid in full. The Office of Child Support Services will promptly terminate a withholding via a notice/order wage withholding form and promptly refund any money erroneously collected from the non-custodial parent subject to the recoupment policy.

0722.15.15 Administrative Liens

REV: 04/2010~~10/2006~~

~~0722.15.15 Administrative Liens REV:10/2006~~

Pursuant to RIGL 15-21-2, any child support order which is enforceable by the Office of Child Support Services in accordance with Title IV-D of the Social Security Act and which is unpaid in whole or in part shall, as of the date on which it was due, be a lien in favor of the obligee or assignee in an amount sufficient to satisfy unpaid child support whether the order is for ongoing support or is an arrears order.

A lien produced by another jurisdiction, in accordance with the provisions of RIGL 15-21-11, shall be accorded full faith and credit without the requirement of a hearing.

0722.15.15.05 Notice of Intent to Lien

REV: 02/1997

If the property subject to the lien is real property or personal property, the title to which is maintained as a public record, the agency may record a copy of the notice of intent to lien with the office of the recorder of deeds, the registry of motor vehicles, or other place where the title to the property is recorded. Any person taking title to such property subsequent to such recording does so subject to the interest of the agency as it may be determined. Said notice of intent shall be recorded no more than ten (10) days prior to the mailing of the notice of intent to the obligor.

0722.15.15.10 Notice of Intent to Lien to Obligor

REV: 04/2010~~10/2006~~

~~0722.15.15.10 Notice of Intent to Lien to Obligor REV:10/2006~~
The Office of Child Support Services shall send a written notice of intent to lien to the obligor if his address is known to the Office of Child Support Services.

This notice, sent by first class mail, will specify:

- The amount unpaid as of the date of the notice or other specific date;
- The obligor's right to request a hearing by filing a written request with the Office of Child Support Services within thirty (30) days of the date of the notice. If a hearing is requested in a timely manner, all lien enforcement action will cease until a hearing decision is rendered.
- Identification of the property, real or personal, which is subject to the lien.

If the property subject to the lien is a matter of public record, the Office of Child Support Services may record a copy of the notice of intent to lien in the appropriate public record. This notice of intent to lien must be recorded no more than ten (10) days prior to the mailing of the notice to the obligor.

0722.15.15.15 Notice of Intent to Lien to Non-Obligor

REV: 04/2010~~10/2006~~
~~0722.15.15.15 Notice of Intent to Lien to Non-Obligor REV:10/2006~~

If a lien is to be placed on property jointly held with a non- obligor, the non-obligor must be sent notice of the Office of Child Support Service's intent to lien. This notice will also inform the non-obligor of the right to an administrative hearing with the Office of Child

Support Services to contest the scope of the property interests of the lien and/or the right to a judicial review in the RI Family Court.

Service of this notice may be made by first class mail or as specified in the Rhode Island Rules of Procedure for Domestic Relations for Family Court.

0722.15.15.20 Perfecting of Administrative Liens

REV: 04/2010~~10/2006~~

~~0722.15.15.20 Perfecting of Administrative Liens REV:10/2006~~

Real Property

To perfect (record) the lien, a notice of intent to lien is sent to the recorder of deeds for the city or town where the property is located. This notice of intent to lien must be sent no more than ten (10) days prior to the notice of intent to lien that is sent to the obligor.

If the obligor against whom the notice of intent to lien was filed:

* Fails to request a hearing within the allotted time allowed; or

* Fails to appear for a requested hearing; or

* Neglects or refuses to pay the sum due after the expiration of thirty (30) days after a hearing is conducted in which it has been determined that arrears exist;

T~~t~~he notice of intent as filed shall be deemed and operate as a lien which is perfected by the Office of Child Support Services by the filing of a notice of lien. The notice of lien shall specify the property to be attached and the amount of arrearage due and shall be filed with the office of the recorder of deeds of the city or town where the notice of intent was originally filed.

The lien shall have priority over all subsequent liens or other encumbrances, subject to the provisions of RIGL 6A-9-312 and with the exception of any lien for taxes. A child support lien shall encumber after-acquired personal property or proceeds.

The lien shall expire upon either the termination of a current child support obligation and the payment in full of unpaid child support or release of lien by the Office of Child Support Services.

A full or partial release of the lien shall be filed within ten (10) days of the obligor's compliance with the demands of the lien. This shall be done without fee to the Office of Child Support Services.

Personal Property

To perfect a lien on personal property, a notice of intent to lien is sent to the Secretary of State's office, the Registrar of Motor Vehicles, or any other office or agency within the State responsible

for the filing or recording of liens. There will be no fee charged to the Office of Child Support Services for either the filing or the release of such liens.

This notice of intent to lien must be sent no more than ten (10) days prior to the notice of intent to lien that is sent to the obligor.

If the obligor against whom the intent to lien was filed:

* Fails to request a hearing within the allotted time allowed; or

* Fails to appear for a requested hearing; or

* Neglects or refuses to pay the sum due after the expiration of thirty (30) days after a hearing is conducted in which it has been determined that arrears exist;

The notice of intent as filed shall be deemed and operate as a lien which is perfected by the Office of Child Support Services by the filing of a notice of lien. The notice of lien shall specify the property to be attached and the amount of arrearage due and shall be filed in the office or agency where the notice of intent was originally filed.

The lien shall have priority over all subsequent liens or other encumbrances, subject to the provisions of RIGL section 6A-9-312 and with the exception of any lien for taxes. A child support lien shall encumber after-acquired personal property or proceeds.

The lien shall expire upon either the termination of a current child support obligation and the payment in full of unpaid child support or release of lien by the Office of Child Support Services.

A full or partial release of the lien shall be filed within ten (10) days of the obligor's compliance with the demands of the lien. This shall be done without fee to the Office of Child Support Services.

0722.15.17 Levy of Personal Property

REV: 04/2010~~10/2006~~

~~0722.15.17 Levy of Personal Property REV:10/2006~~

When an administrative lien has been perfected (recorded), the Office of Child Support Services may collect unpaid child support by placing a levy on the property against which a lien has been placed. This means that the Office of Child Support Services may seize and sell any property that is subject to levy in order to satisfy unpaid child support.

A levy placed on a life insurance or endowment contract is a demand for payment toward the total amount of the lien. Such organization shall pay any available proceeds from the insurance or endowment contract to the Office of Child Support Services within ninety (90) days after service of notice of the levy.

Whenever any property upon which levy has been made is not sufficient to satisfy the claim for which levy is made, the Office of Child Support Services may thereafter, as often as necessary, proceed to levy, with notice, upon any other personal property of the obligor liable to levy, until the amount due from him, together with expenses, is fully paid.

However, any support obligation shall be fully satisfied prior to payments for expenses.

Upon demand, a person who fails or refuses to surrender personal property subject to levy shall be liable in his own person and estate to the state in a sum equal to the value of the property not surrendered but not exceeding the amount of the lien, along with costs and interest, at the rate authorized for civil judgments, from the date of the levy. In addition, any person required to surrender property which has been levied who fails or refuses to do so without reasonable cause shall be liable for a penalty equal to twenty-five percent (25%) of the amount recoverable. This interest or penalty shall not be credited against the child support liability but will instead be paid into the general fund. Any non-obligor party aggrieved by a decision of the Office of Child Support Services, may, within ten (10) days of the receipt of the notice of demand, request an administrative hearing with the Office of Child Support Services.

0722.15.18 Lien Foreclosure - Real Property

REV: 04/2010~~10/2006~~

~~0722.15.18 Lien Foreclosure - Real Property REV:10/2006~~

If the obligor shall default in the payment of any child support obligation, or if the Office of Child Support Services has perfected a lien on real property as outlined in Section 0722.15.15.20, then the Office of Child Support Services may sell the real property of any defaulting obligor at public auction after proper notification has been made. Proper notification consists of the following:

- Written notice by certified mail, return receipt requested, to the obligor's last known address. This must be sent at least twenty (20) days prior to the publication of any public notice.

- Public notice published at least once a week for three (3) consecutive weeks in a newspaper published daily in the city or town where the property is located. If there is no public, daily newspaper published in the city or town where the property is located, the public notice will be published according to the mandates of Rhode Island General Law 15-21-7.

- Written notice by certified mail, return receipt requested, to any person or entity having an interest of record in the real property. This must be sent no later than thirty (30) days prior to the date originally scheduled for the sale of the property.

- Written notice to other such parties as are designated in Rhode Island General Law 15-21-7 and in accordance with the notification requirements specified therein.

Any foreclosure sale held as outlined above, and the title conveyed to any purchaser or purchasers pursuant to such sale, shall be subject to any lien or encumbrance entitled to a priority over the lien of the Office of Child Support Services as outlined in Section 0722.15.15.20.

0722.15.19 Court-Ordered Liens

REV: 02/1997

When R.I. Family Court orders a lien placed on real or personal property, a certified copy of any judgement or order containing specific language relative to a restraining order or lien on real estate may be recorded with the recorder of deeds in the city or town where the property is located.

The certificate of the obligee, or his or her attorney duly signed and notarized, or a certified copy of a judgement or order of the Family Court which contains a provision that all arrearages have been paid in full shall, when recorded, be a discharge in full of said lien.

If any child support provided in a judgement or order has been directed to be paid to the clerk of the court, or to any other office designated by the court, pursuant to any other provision of law, and such directive is set forth in the copy of the docketed judgement or order, or in the docket or certified copy of an amended or supplemental order, such certificate shall not affect the lien unless also approved in writing by such clerk or other designated officer.

A lien under this section shall not be dischargeable in bankruptcy.

0722.15.19.05 Filing of Court-Ordered Lien

REV: 04/2010~~10/2006~~

~~0722.15.19.05 Filing of Court-Ordered Lien REV:10/2006~~
The Child Support Administrative Office will be notified when the court has ordered a lien placed against a non-custodial parent's property. Agents should:

- Contact the city or town hall where the property is located to obtain the lot and plat number.

- Record this information in the appropriate fields in the Lien on Real Estate panel of the ORDR function.

- Obtain a certified copy of the order placing the lien.

- Send the certified copy of the order along with a cover letter to the city or town hall by certified mail, return receipt requested.

- When proof of receipt of the registered letter is received from the post office, the date the letter was signed for should be recorded in the appropriate field of the LIEN ON REAL ESTATE panel of the ORDR function.

0722.15.20 Medical Enforcement

REV: 04/2010~~10/2006~~

~~0722.15.20 Medical Enforcement REV:10/2006~~

Often there is an existing order to obtain or maintain medical coverage and no accompanying insurance information available on the InRhodes system. If after available techniques to match insurance information are unsuccessful, the Office of Child Support Services may take steps to enforce an order for medical coverage via a motion to modify medical coverage. The InRhodes system generally does this in an automated fashion when the order to obtain/maintain exists and there is an absence of available medical insurance information. However, if it comes to the attention of the agent, a Motion to modify medical coverage may be filed. The motion requests that the court either order the party to obtain medical coverage if it is available at no cost or at reasonable cost through his/her employer or if not reasonable, to order a cash medical order equivalent to 5% of the parties gross monthly income. This requires a recalculation of the child support order.

In addition, the Office of Child Support Services on its own information or on account of a claim by an obligee, determines that an obligor parent has failed to comply with a judgment or order for health insurance coverage issued pursuant to RIGL 15- 5-16.2, and such insurance is available to the obligor through his employer, the Office of Child Support Services shall send to the obligor's employer the National Medical Notice ordering the employer to enroll the minor child(ren) in a health insurance plan. Upon receipt of the National Medical Notice from the Office of Child Support Services, the employer or provider of health care insurance shall, subject to the provisions of its contract and consistent with the provisions of the support order, enroll the child(ren) whether or not the employee has signed an enrollment application. If the employer's benefit plan provides options as to health care coverage, the hospital plan administrator shall notify the OCSS of the options available. The OCSS shall contact the custodial parent with the options and choose an option. In the event an option is not chosen, the least expensive option available is chosen.

0722.15.25 Posting Security, Bond, or Guarantee

REV: 04/2010~~10/2006~~

~~0722.15.25 Posting Security, Bond, or Guarantee REV:10/2006~~

The Office of Child Support Services uses procedures which require non-custodial parents to post security, bond, or give some other guarantee to secure payment of overdue support. The Office of Child Support Services will provide advance notice to the non-custodial parent regarding:

- The delinquency of the support payment;
- The requirement of posting security, bond or guarantee;
- His/her rights and methods available for contesting the impending action.

The Office of Child Support Services will develop guidelines that are generally available to the public to determine whether the case is inappropriate for application of this procedure.

0722.15.25.05 Secure Payment of Overdue Support

REV: 04/2010~~10/2006~~

~~0722.15.25.05 Secure Payment of Overdue Support REV:10/2006~~
In a proceeding to enforce past due support, as defined herein, the court after hearing and a finding of overdue support, may require an obligor parent to give security, post a bond, or give some other guarantee to secure payment of overdue support; the security, bond, or guarantee to be in such amount, for such term and upon such conditions as the court or magistrate shall deem necessary or advisable. The court may order that the security, bond, or other guarantee be deposited into the registry of the Family Court. The obligor parent shall be served with the notice of any proceeding under this section and the notice shall state the procedures to contest the action.

For purposes of this section, "past due support" means the amount of court or administratively ordered child support or maintenance, medical child support or a spousal support for a custodial parent having custody of a minor child, which is overdue or otherwise in arrears, regardless of whether there is an outstanding judgment for that amount, and whether the order for the support, medical child support or maintenance has been established by a court or by an administrative process authorized under the laws of any State for:

- Support and maintenance of a minor child, which is owed to or on behalf of the child; or
- Support and maintenance of the obligor parent's spouse or former spouse with whom the child is living;
- Medical Child Support

0722.20 FEDERAL AND STATE TAX REFUND OFFSETS

REV: 04/2010~~10/2006~~

~~0722.20 FEDERAL AND STATE TAX REFUND OFFSETS REV:10/2006~~
Federal and State income tax refunds which are due non-custodial parents may be intercepted, and the refunded amount applied to court ordered past-due child support or maintenance (spousal support) obligations, owed for a child or a parent with whom the child is

living. Any Federal tax refund that is intercepted must be used to satisfy past-due amounts, and may not be used to satisfy current obligations.

Initially, the federal offset system interfaced directly with the Internal Revenue Service (IRS). In 1998, the federal Office of Child Support Enforcement (OCSE) added administrative offset and passport denial to the certification process. The federal offset program was modified to interface with the Department of Treasury's Financial Management Service (FMS) in January, 1999.

The Multi-state Financial Institution Data Match (MSFIDM) remedy was added to the process in 1999.

Administrative Offset

Certain Federal income resources can be offset. These include Federal salaries, Federal retirement benefits, Federal vendor payments and Federal stipends such as travel reimbursement.

Although Federal regulations allow administrative offsets for arrears as small as $25, Rhode Island opted to keep the thresholds for Administrative Offset the same as for Federal Tax Offset.

Passport Denial

If an obligor's cumulative certified arrears are equal to or greater than $5,000 he/she is automatically eligible for passport denial. Effective October 1, 2006, passport denial will be triggered when an obligor's cumulative arrears are equal to or greater than $2,500. This means he/she will not be allowed to obtain or renew a passport until these arrears are paid in full or the Office of Child Support Services informs OCSE to notify the Department of State to reinstate due to incorrect arrears reported or some alternative payment plan.

Multi-State Bank Match

Using the same offset file, the Financial Management Services reports matches of our delinquent obligors to account holders of all banks or other financial institutions who do business in more than one state and have opted to report these accounts to the Office of Child Support Enforcement rather than to the individual states.

The Office of Child Support Services policies and procedures are the same for both Federal tax refund intercepts, administrative and State tax refund intercepts with the exception that administrative and State tax refund intercepts must first be applied to current support before being applied to past-due amounts. Also, for State tax refund intercepts, the Office of Child Support Services submits the certification file(s) to the RI Division of Taxation.

0722.20.05 Child Support-Income Tax Refund Offset

REV: 04/2010~~10/2006~~

~~0722.20.05 Child Support-Income Tax Refund Offset REV:10/2006~~

The Department of Human Services is authorized and directed to promulgate rules and regulations to implement the Federal and State programs for offset and collection of past-due child support and medical child support from income tax refunds, as authorized by 6305 (b) and 6402(c) of the Internal Revenue Code and implementing regulations, and as authorized by the Rhode Island General Laws, Title 44, Chapter 30.1. Such rules and regulations shall provide the child support obligor with an opportunity for an administrative hearing to contest the offset.

0722.20.10 Purpose of Chapter 30.1

REV: 04/2010~~10/2006~~

~~0722.20.10 Purpose of Chapter 30.1 REV:10/2006~~

The purpose of Rhode Island General Law, Title 44, Chapter 30.1 is to establish a policy that the claimant agencies (Department of Human Services, Office of Child Support Services , or the Rhode Island Higher Education Assistance Authority (RIHEAA) or RIHEAA acting as agent for student loan guarantee agencies in other states) and the Division of Taxation shall cooperate in identifying debtors who owe money to the State, through its various claimant agencies, and who qualify for a refund from the Division of Taxation. It is also the intent of this chapter that procedures be established for setting off against such refund the sum of any debt owed to the state. Furthermore, it is the legislative intent that this chapter be liberally construed as to effectuate these purposes, as far as legally and practically possible.

0722.20.15 Collections of Debts by Setoff

REV: 04/2010~~10/2006~~

~~0722.20.15 Collections of Debts by Setoff REV:10/2006~~

Within such a time frame established by the Division of Taxation, the claimant agency shall supply the information necessary relative to each debtor owing the State money, and further, shall certify the amount of debt or debts owed to the State by each debtor. Upon receiving notice from the claimant agency that a named debtor owes past-due support, or has obligations owed, the Division of Taxation shall determine whether any amount, as a refund of taxes paid, is payable to such debtor (regardless of whether such debtor filed an income tax return as a married or unmarried individual). If the Division of Taxation determines that any such refund is payable, the Division of Taxation shall set off the past-due support or the obligation owed against the debtor's refund and shall reduce the debtor's refund by the amount so determined. The Division of Taxation shall transfer the amount of past-due support or obligation owed setoff against the debtor's refund to the claimant agency or in the case of out-of-state agencies, to RIHEAA as its agent. The pendency of judicial proceedings to contest the setoff shall not stay nor delay the setoff and transfer of refunds to the claimant agency. If the amount of the debtor's refund exceeds the amount of the past-due support or obligation owed, the Division of Taxation shall refund the excess amount to the debtor. If in any instance the same debtor has both past due support and obligations owed and when the Division of Taxation has received notice from both

claimant agencies involved, the claim by the Office of Child Support Services shall receive priority.

0722.20.20 Setoff and Notification of Debtor

REV: 04/2010~~10/2006~~

~~0722.20.20 Setoff and Notification of Debtor REV:10/2006~~

The Division of Taxation shall prescribe the time or times at which the claimant agency must submit notices of past-due support, the manner in which such notices must be submitted, and the necessary information that must be contained in or accompany the notices.

The Division of Taxation shall, from time to time, determine the minimum amount of claim to which the setoff procedure may be applied.

Prior to submitting information relating to a debtor for purposes of setoff of the debtor's income tax refund, the claimant agency shall provide written notice to each such debtor. The notice shall set forth the name of the debtor, the amount of past-due support or other obligation owed, the intention to setoff the amount owed or other obligation owed, the intention to setoff the amount owed against the refund, the debtor's right to an administrative hearing to contest the setoff upon written request made within thirty (30) days of the mailing of the notice to the debtor, the debtor's right to judicial review of the administrative hearing decision, the general nature of the potential defenses available to the debtor, and, in general terms, the rights of non-obligated spouses with respect to income tax refunds in the event a joint return is filed.

At the time of the transfer of funds to the claimant agency as provided in Rhode Island General Law, Title 44, Chapter 30.1, Section 4(RIGL 44-30.1-4), the Division of Taxation shall notify the debtor whose refund is sought to be setoff that the transfer has been made. Such notice shall set forth the name of the debtor, the amount of past-due support being claimed, the transfer of funds to the claimant agency, and the amount of the refund in excess of the amount claimed, if any. In the case of a joint refund, the notice shall also state the name of a taxpayer-spouse named in the return, if any, against whom no past-due support or obligation owed is claimed, the opportunity to request that the refund be divided between the spouses by filing an amended income tax return in conformance with RIGL 44- 30-11, showing each spouse's share of the tax and the contribution to the overpayment of tax resulting in the refund.

Upon final determination of the amount of the claim to be setoff by default for failure to apply for a hearing, or by decision of the hearing officer pursuant to RIGL 44-30.1-5, after being held in an escrow account for 120 days, the Division of Taxation shall transfer such funds to the claimant agency and the claimant agency shall deposit such funds and credit such amount to the debtor's obligation. The pendancy of judicial proceedings pursuant to RIGL 42-35-15 to review the administrative decision shall not stay nor delay the setoff, transfer, and disbursement of the tax refund in question.

0722.20.25 Confidentiality Exemption-Nondisclosure

REV: 04/2010~~10/2006~~
~~0722.20.25 Confidentiality Exemption-Nondisclosure REV:10/2006~~

The Division of Taxation may provide to the claimant agency the information necessary to accomplish and effectuate the intent of Rhode Island General Law, Title 44, Chapter 30.1. The information obtained by the claimant agency from the Division of Taxation in accordance with the provision of this article shall retain its confidentiality and shall only be used by the claimant agency in pursuit of its past-due support or obligation owed collection duties and practices, and any employee or prior employee of any claimant agency who unlawfully discloses any such information for any other purpose, except as specifically authorized by law, shall be subject to the same penalties specified by RIGL 44-30-95(c)

0722.20.30 Severability of Provisions

REV: 04/2010~~10/2006~~

~~0722.20.30 Severability of Provisions REV:10/2006~~
If any provision of Rhode Island General Law, Title 44, Chapter 30.1, or the application thereof, shall for any reason be judged invalid, such a judgment shall not affect, impair or invalidate the remainder of the law, but shall be confined in its effect to the provision or application directly involved in the controversy giving rise to the judgment.

0722.20.35 Criteria for Submittal

REV: 04/2010~~10/2006~~

~~0722.20.35 Criteria for Submittal REV:10/2006~~
Federal and State income tax refunds that are due to non- custodial parents may be intercepted, and the refunded amount applied (in ~~FIP~~RIW cases) to court ordered past-due child support or maintenance (spousal support) obligations, owed for a child or a parent with whom the child is living. In non-assistance (NA) cases, the intercepted amount is applied to court ordered past-due child support only. Any Federal tax refund that is intercepted must be used to satisfy past-due amounts, and may not be used to satisfy current obligations.

The Office of Child Support Services policies and procedures are the same for both Federal tax refund intercepts and State tax refund intercepts with the exception that administrative and State tax refund intercepts must first be applied to current support before being applied to past-due amounts. Also, for State tax refund intercepts, the Office of Child Support Services submits the certification file(s) to the RI Division of Taxation.

0722.20.35.05 ~~FIP~~RIW and Foster Care Cases

REV: 04/2010~~10/2006~~
~~0722.20.35.05 FIP and Foster Care Cases REV:10/2006~~

~~FIP~~RIW and Foster Care cases must meet the following requirements to be eligible for offset:

- The support obligation will have been established under a court or administrative order and will have been assigned;
- The amount of past-due support will not be less than one hundred fifty dollars ($150.00);
- The amount owed will have been delinquent for three (3) months or longer;
- The delinquency is for support and maintenance of a child, or of a child and the parent with whom the child is living;
- Office of Child Support Services has verified the accuracy of the arrears, has a copy of the order and any modifications and has a copy of the payment record or an affidavit signed by the custodial parent attesting to the amount of support owed;
- Office of Child Support Services has verified the accuracy of the non-custodial parent's name and social security number;
- In interstate cases, the request may only be made by the Office of Child Support Services when it is the initiating state.

0722.20.35.10 Non-Assistance (NA) and MAO Cases

REV: 04/2010~~10/2006~~

~~0722.20.35.10 Non-Assistance (NA) and MAO Cases REV:10/2006~~

Non-assistance (NA) and Medical Assistance only cases will meet the following requirements to be eligible for offset:

- The support obligation will have been established under a court or administrative order, and will not have been assigned;
- The amount of past-due support will not be less than five hundred dollars ($500.00);
- At the State's option, amounts certified in NA cases may be limited to past-due support which accrued since the Office of Child Support Services began to enforce the support order;
- The support must be owed to or on behalf of a minor child. Past-due support due adult handicapped children may be collected through tax offset if there is a support order in effect for the child and the

child, while a minor, was determined to be disabled under Title II or Title XVI;

- Spousal support may be submitted if it is included with an order for child support;

- Office of Child Support Services has verified the accuracy of the arrears, has a copy of the order and any modifications, and has a copy of the payment record or an affidavit signed by the custodial parent attesting to the amount of support owed;

- Office of Child Support Services has checked its records to see if there are assigned arrears;

- Office of Child Support Services has verified the accuracy of the non-custodial parent's name and social security number;

- Office of Child Support Services will have the custodial parent's last known address.

The Office of Child Support Services may certify an interstate case only if Rhode Island is the initiating state.

0722.20.40 Notification of OCSE

REV: 04/2010~~10/2006~~

~~0722.20.40 Notification of OCSE REV:10/2006~~

The Office of Child Support Services is required to submit an annual certification letter to the Federal Office of Child Support Enforcement to request collection of delinquent child and/or spousal support by Financial Management Services (FMS) through the federal tax refund offset process and/or by the federal administrative offset process and request for denial of passport applications. The letter certifies that the Office of Child Support Services has complied with State and Federal laws and regulations regarding pre-offset procedures, notification to obligors, and that every request for collection meets all the federal criteria for offset.

0722.20.45 Pre-Offset Notices

REV: 04/2010~~10/2006~~

~~0722.20.45 Pre-Offset Notices REV:10/2006~~

On or about the second weekend of every month, the Office of Child Support Services will send a one-time offset notice to any obligor at the time it is determined that s/he meets the certification requirements for Federal and State tax refund offsets. The system will generate the Pre-Offset Notice automatically unless the system indicates otherwise.

The Pre-Offset Notice is sent to the non-custodial parent at the address recorded. It advises him/her of the State's intent to intercept, and includes the following information:

- The amount certified, which represents the arrearage amount taken from the case;;
- The date by which the obligor may submit payment to avoid being included for offset;
- The obligor's right to contest the proposed action;
- Procedures and time frames for contacting the Office of Child Support Services to contest the action;
- The obligor's right to an administrative hearing by the submitting state or the state where the order was entered (if different);
- The local address and phone number to contact if (s)he desires to contest the action or ask questions;
- The fact that the non-custodial parent's arrearage amount may be submitted to the credit bureau.

When a Pre-Offset Notice is returned as undeliverable, it will be logged in and retained. However, this will not prevent the non-custodial parent's name from being included for offset.

Also, the Office of Child Support Services will:

- Send notices to non-assistance custodial parents with ~~FIP~~RIW, Medical Assistance only, or Foster Care arrears advising him/her that amounts collected through Federal tax refund offset will be applied first to satisfy any past-due support that has been assigned to the State;
- Send notices to any other State involved in enforcing the order; and
- Notify OCSS, weekly of any case deletions or significant decreases in the amount of past-due support submitted.

0722.20.50 Non-Custodial Parent Responds to Pre-Offset

REV: 04/2010~~10/2006~~

~~0722.20.50 Non-custodial Parent Responds to Pre-Offset Notice REV:10/2006~~

The non-custodial parent may respond to the Pre-Offset Notice by:

- Asserting that the money is not owed;
- Asserting that the wrong amount was certified;

- o Paying off the arrearage;

- o Requesting a hearing on the proposed interception.

0722.20.50.05 Non-Custodial Parent Satisfies Arrearage

REV: 04/2010~~10/2006~~

~~0722.20.50.05 Non-custodial parent Satisfies or Reduces~~

The Pre-Offset Notice advises the non-custodial parent that (s)he can avoid being intercepted by submitting a payment that satisfies or reduces the arrearage balance to below the amount needed for certification. The Agent must advise the non- custodial parent that the payment will be applied first to any unpaid current support and then to the amount certified for intercept. Once distribution takes place the adjusted balance will appear in the CERT BAL (Certification Balance) field on the OFST panel. The balance will be updated on the weekly submission and update file sent to OCSE.

0722.20.50.10 Non-Custodial Parent Contests Offset

REV: 04/2010~~10/2006~~

~~0722.20.50.10 Non-custodial parent Contests the Proposed Offset REV:10/2006~~

All written hearing requests for the one-time notice from non-custodial parents will be distributed to the appropriate agent.

The agent will review the case to determine whether the case was correctly certified. A case can be deleted for just cause, such as non-assistance and all children are over the age of eighteen (18), or the order was ended with no arrears owed.

- o When it is decided that a case should be deleted, the agent will:

  Set the IRS OFFSET and/or STX OFFSET flag(s) on the OFST panel to Y (Yes, suspend certification);

  Send the non-custodial parent a Notice to Non-custodial parent Advising of Intercept Removal;

- o If a non-custodial parent requests a hearing after the expiration of the period for contesting the proposed action, he/she must complete the Late Request for Administrative Hearing form that may be generated off the INRHODES system;

- o When it is decided that a hearing should proceed, an Administrative Hearing will be scheduled. The system will be flagged to stay offset until the hearing decision is rendered and recorded.

0722.20.55 Administrative Hearing Scheduled

REV: 04/2010~~10/2006~~
~~0722.20.55 Administrative Hearing Scheduled REV:10/2006~~

The Department of Human services Hearing Officer will schedule and conduct the hearings.

Once the hearing date and time are scheduled, the agent will:

- Prepare for the hearing by completing an arrearage calculation going back to the original date of the order, or the last date that the arrearage was set;
- Attend the hearing as the representative of the Office of Child Support Services.

Any rescheduling will be handled by the designated Hearing Officer.

0722.20.55.05 The Administrative Hearing

REV: 04/2010~~10/2006~~
~~0722.20.55.05 The Administrative Hearing REV:10/2006~~

The administrative hearing shall be conducted in accordance with the Department of Human Services General Provisions, policy section 0110.

0722.20.55.10 Hearing Decision Results in Adjustment

REV: 04/2010~~10/2006~~
~~0722.20.55.10 Hearing Decision Results in Adjustment REV:10/2006~~

When the decision is to amend or delete the certification amount a copy of the decision will be sent to the Office of Child Support Services Accounting Office.

0722.20.60 Monthly Certification File

REV: 04/2010~~10/2006~~
~~0722.20.60 Monthly Certification File REV:10/2006~~

On or about the second weekend of every month, the Office of Child Support Services will submit a certification file to the OCSE through the CONNECT: DIRECT file transfer system which will forward the information to the U.S. Department of the Treasury, Financial Management Services. This file will include the names, social security numbers and CERT BAL's (Certification balances) of all obligors who met the criteria for certification that month and will update the CERT BAL of those obligors who were previously certified. The system will update the balance for obligors who have already been certified on a weekly basis and submit the updated balances to OCSE on the weekly case submission and update file.

0722.20.65 Notification to the Division of Taxation

REV: 04/2010~~10/2006~~
~~0722.20.65 Notification to the Division of Taxation REV:10/2006~~

The Office of Child Support Services will send a letter, as appropriate, to the Division of Taxation certifying that the Office of Child Support Services has complied with State and Federal laws and regulations regarding pre-offset procedures and notification to obligors.

0722.20.70 Complaints Regarding Joint Returns

REV: 04/2010~~10/2006~~
~~0722.20.70 Complaints Regarding Joint Returns REV: 10/2006~~

When the Office of Child Support Services agent receives a complaint regarding joint returns prior to offset, (s)he will inform the non-custodial parent that the IRS and Division of Taxation will notify his/her spouse at the time of offset regarding the steps to take to secure the spouse's proper share of the refund. Complaints regarding joint returns received at or after offset will be handled by referring the spouse to the IRS or the Division of Taxation.

0722.20.75 Post Intercept Notices

REV: 04/2010~~10/2006~~
~~0722.20.75 Post Intercept Notices REV:10/2006~~

When the non-custodial parent's refund is intercepted, the IRS and/or the Division of Taxation will notify him/her that the offset has been made. In joint returns, the IRS and/or Division of Taxation will notify any individual who filed jointly with the non-custodial parent of the steps to take in order to secure his/her proper share of the refund.

0722.20.80 Distribution

REV: 04/2010~~10/2006~~

~~0722.20.80 Distribution REV:10/2006~~
Collections received by the Office of Child Support Services as a result of refund offsets are applied only to the amount of past-due support. The collections are distributed as outlined in Section 0728.35.

If the amount collected through offset exceeds the amount(s) in the OFST CERT BAL field(s), the excess amount will be treated as outlined in Section 0728.35.

When an offset is being made to satisfy NA past-due support and the amount collected is the result of a joint return, the state may delay distribution until notified that the non-obligated spouse's proper share of the refund has been paid, or for a period not to exceed six (6) months from notification of offset, whichever is earlier.

0722.20.85 Fees

REV: 04/2010~~10/2006~~

~~0722.20.85 Fees REV:10/2006~~
A refund offset fee to reimburse the IRS for the full cost of the offset procedure is deducted from the offset amount and credited to the IRS appropriations which bore all or part of the costs involved in making the collection. However, the full amount of offset will be credited against the non-custodial parent's payment record. The fee which the Secretary of the Treasury may impose with respect to non-assistance (NA) cases submitted cannot exceed twenty-five dollars ($25) per submittal.

Each state involved in a referral of past-due support for offset will comply with instruction issued by OCSE.

0722.25 UNEMPLOYMENT COMPENSATION INTERCEPTS

REV: 04/2010~~10/2006~~

~~0722.25 UNEMPLOYMENT COMPENSATION INTERCEPTS REV:10/2006~~
Unemployment compensation benefits received by a non-custodial parent are considered income and are subject to the same income withholding laws, policies and procedures as any other income (s)he may receive (See Sections 0722.10 and 0722.15).

0722.25.05 Legal Basis

REV: 04/2010~~10/2006~~

~~0722.25.05 Legal Basis REV:10/2006~~
The Office of Child Support Services, in cooperative agreement with the Department Of Labor and Training will through an interface, determine if the non-custodial parent is receiving benefits, and automatically generates a notice/order to withhold income to the DLT.

0722.25.10 Verifying Unemployment Benefits

REV: 04/2010~~10/2006~~

~~0722.25.10 Verifying Unemployment Benefits REV:10/2006~~
Unemployment benefits are verified electronically through an interface with the Department of Labor and Training.

0722.30 CREDIT BUREAU REPORTING

REV: 04/2010~~10/2006~~

~~0722.30 CREDIT BUREAU REPORTING REV:10/2006~~
The Office of Child Support Services makes information regarding the amount of overdue support owed by a non-custodial parent available to

consumer reporting agencies. A non-custodial parent will be given advance notice before his/her name is submitted. The advance notice advises the non-custodial parent of:

- The proposed release of the information to the consumer report agency;
- The procedures for contesting the accuracy of the information.

The Office of Child Support Services will comply with all of the procedural due process requirements of State law before releasing the information.

The Office of Child Support Services shall provide written notice to the non-custodial parent ten (10) days prior to the proposed release of information to consumer reporting agencies.

The notice shall state the procedures to contest the accuracy of the information. The Department shall periodically inform the consumer reporting agencies if the overdue support has been paid in full or of the amended amount of due support.

0722.30.05 Credit Bureau Defined

REV: 04/2010~~10/2006~~

~~0722.30.05 Credit Bureau Defined REV:10/2006~~

A credit bureau is an entity which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information for the purpose of furnishing consumer reports to third parties. A primary source of information in a consumer report is the consumer's financial application, which contains allegedly verifiable residential, employment, financial and asset data.

Other sources of information include business establishments, financial institutions, and public records.

0722.30.10 Credit Rating

REV: 04/2010~~10/2006~~
~~0722.30.10 Credit Rating REV:10/2006~~

Credit bureaus are hereby required to take into consideration a non-custodial parent's child support obligations and his delinquencies in this regard, and these delinquencies shall be verified by either the court or by the Office of Child Support Services.

0722.30.15 Report a Non-Custodial Parent Name

REV: 04/2010~~10/2006~~
~~0722.30.15 Report a Non-custodial Parent Name REV:10/2006~~

Each month an advance notice is system-generated to non- custodial parents:

- With a SSN and verified address recorded ;
- Who are under a court order for support;
- Who have not been notified previously.

Non-custodial parents who have more than one court ordered case will receive an advance notice for each case.

A monthly tape is submitted to the credit bureau with the names of non-custodial parents who received an advance notice and did not contest the action. The tape provides the credit bureau with:

- The non-custodial parent's name, SSN, and address;
- The amount of periodic support due each month;
- The balance due; and
- The date and amount of the last payment.

0722.35 IRS FULL COLLECTION

REV: 04/2010~~10/2006~~

~~0722.35 IRS FULL COLLECTION REV:10/2006~~

The Office of Child Support Services may choose that a case be certified to the Secretary of the Treasury for collection under Section 6305 of the Internal Revenue Code of 1954. Under this procedure, after a non-custodial parent is billed by the IRS (and a sixty (60) day waiting period has elapsed), notification of the delinquency is sent to a district IRS office and the account is referred to a revenue officer. The officer will attempt to contact the non-custodial parent personally to verify his/her financial condition and to arrange a payment agreement.

If the officer is unable to obtain an installment agreement, a notification of intent to levy may be issued. The IRS has the power to enforce collection against any income or assets of the non-custodial parent, except certain exempt property. Only the State may request IRS Full Collection services on behalf of ~~FIP~~RIW and non-assistance (NA) applicants and recipients.

The Office of Child Support Services may decide to initiate this type of action on a case by case basis and not as a general policy. Before any case is referred, it must be discussed with the unit supervisor and any decision reviewed by a senior supervisor.

0722.35.05 Criteria

REV: 04/2010~~10/2006~~

~~0722.35.05 Criteria REV:10/2006~~

To refer a case for IRS Full Collection, it will meet the following criteria:

- A court or administrative order for support is in effect;
- The non-custodial parent owes at least a seven hundred fifty dollar ($750) arrearage;
- At least six (6) months will have elapsed since the last request for IRS Full Collection was made;
- The IV-D agency, the custodial parent, or the custodial parent's representative will have made reasonable efforts to collect the support through the State's own collection mechanisms.

The Office of Child Support Services does not have to repeat/duplicate efforts made by the custodial parent or custodial parent's representative if it is determined that they are comparable to the State's collection mechanisms.

0722.35.10 Information Required for IRS Full Collection

REV: 04/2010~~10/2006~~
~~0722.35.10 Information Required for IRS Full Collection~~
~~REV:10/2006~~

Child Support Services agents will submit requests to their unit supervisors containing the following information:

- The non-custodial parent's name, social security number, and address;
- The non-custodial parent's place of employment, including the source of this information and the date it was last verified;
- A copy of the court order(s);
- A statement of whether the amount is in lieu of, or in addition to, amounts previously referred to the IRS for collection;
- A statement that the agency, custodial parent or custodial parent's representative has made reasonable efforts to collect the amount owed using the State's own collection mechanisms, or mechanisms that are comparable;
- A description of the actions taken, why they failed, and why further State action would be unproductive;
- The dates of any previous requests for referral of the case for IRS Full Collection;

- A statement that the agency has reason to believe that the debtor has assets that the Secretary of the Treasury might levy to collect the support;

- A statement of the nature and location of the assets, if known.

0722.35.15 Processing the Request

REV: 04/2010~~10/2006~~

~~0722.35.15 Processing the Request REV:10/2006~~

Unit supervisors will:

- Log in each request;

- Have each request reviewed by a senior supervisor;

- Obtain the signature of the Office of Child Support Services Administrator;

- Forward the request to the OCSS office.

OCSE will review each request to determine whether it meets the requirements outlined above. If a request meets all requirements, OCSE will forward the request to the Secretary.

If a request does not meet all requirements, OCSE will attempt to correct the request in consultation with the Office of Child Support Services. If the request cannot be corrected through consultation, OCSE will return it to the Office of Child Support Services.

0722.35.20 Updating Information

REV: 04/2010~~10/2006~~

~~0722.35.20 Updating Information REV:10/2006~~

Once a case has been referred, the Office of Child Support Services will immediately notify the regional OCSE representative of changes:

- In the amount due;

- In the type or location of the assets;

- In the address of the debtor.

OCSE will send the updated information to the Secretary or the IRS.

0722.40 PETITION FOR REGISTRATION

REV: 04/2010~~10/2006~~

~~0722.40 PETITION FOR REGISTRATION REV:10/2006~~

When the custodial parent and non-custodial parent both reside in the State of Rhode Island, and there is a foreign court order (an order entered in a jurisdiction outside R.I.) for which arrears are owed, the Child Support Services agent will register the foreign court order with the Family Court. Once the order is registered, it can be enforced the same as any other Rhode Island order. To register the order the agent will:

- Produce Registration of Foreign Support packet and order of confirmation for modification and enforcement;
- Refer for service; and
- Upon service, refer all paperwork to Family Court

If, after twenty (20) days the non-custodial parent fails to petition to vacate the registration, the order is "confirmed".

The Judge/Magistrate signs the Order of Confirmation, and copies are sent to the non-custodial parent and the Office of Child Support Services.

0722.45 SPOUSAL SUPPORT ISSUES

REV: 04/2010~~10/2006~~

~~0722.45 SPOUSAL SUPPORT ISSUES REV:10/2006~~

For IV-D purposes:

- "Spousal support" means a legally enforceable obligation assessed against an individual for the support of a spouse, or former spouse, who is living with a child or children for whom the individual also owes support;
- "Overdue support" means a delinquency pursuant to an obligation determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a minor child, which is owed to or on behalf of the child, or the non-custodial parent's spouse (or former spouse) with whom the child is living, but only if a support obligation has been established with respect to the spouse and the support obligation established with respect to the child is being enforced under the State's IV-D plan;
- "Past-due support" means the amount of support determined under a court order or an order of an administrative process established under State law for support and maintenance of a child, or of a child and the parent with whom the child is living, which has not been paid. For purposes of referral for Federal income tax refund offset of support due an individual who has applied for non-assistance services "past-due

support" includes support owed to or on behalf of a minor child and may include spousal support if such support is included in the child support order.

The Office of Child Support Services may not establish orders for spousal support, only enforce such orders.

Orders for spousal support may be enforced when the obligor is under a child support order enforced under the State IV-D plan, and the minor child for whom support is sought is living with the individual who is owed spousal support.

0722.50 LICENSE SUSPENSION

REV: 04/2010~~10/2006~~
~~0722.50 LICENSE SUSPENSION REV:10/2006~~

The Office of Child Support Services is authorized to take steps leading to the certification of an obligor for noncompliance with an order of support to an appropriate board, state agency, or department. Such board, state agency, or department shall take the following actions against an obligor:

- Revoke/Suspend a license to operate a motor vehicle;
- Refuse to renew or reissue a motor vehicle registration or license to operate a motor vehicle;
- Revoke/Suspend the license, certification, registration, permit, approval, or other similar document authorizing the obligor to engage in a profession, occupation, business, or industry;
- Refuse to renew or reissue the license, certification, registration, permit, approval, or other similar document authorizing the obligor to engage in a profession, occupation, business, or industry.

These actions may be requested only when the following conditions are met:

O An obligor owes more than ninety (90) days worth of his/her total child support obligation(s)(ex. current support order, arrears order, cash medical order, etc.) in one or more of his/her child support cases; or

- An obligor has failed to obtain or maintain health insurance for his/her child(ren) pursuant to a court order; and
- The Office of Child Support Services has fully complied with the procedural and notification provisions of Sections 0722.50.05 and 0722.50.05.05.

Upon receipt of the certification of noncompliance with a support order from the Office of Child Support Services, the licensing agency or

board will revoke/suspend the obligor's license and/or refuse to issue or reissue a license until the obligor provides a release from the Office of Child Support Services that states the obligor is in compliance with the order for support.

If the obligor has been certified as noncompliant to any licensing agency or board, the Office of Child Support Services will provide obligor with written confirmation of compliance with a support order and a release from the noncompliance penalty of license suspension/revocation within five (5) business days after the obligor has been found to be in compliance with the support order. This release will be mailed to the obligor by first class mail to his/her address of record as indicated on the child support automated system.

0722.50.05 Notice of Intent to Certify

REV: 04/2010~~10/2006~~

~~0722.50.05 Notice of Intent to Certify REV:10/2006~~

The Office of Child Support Services may serve notice of intent to certify upon a support obligor who is not in compliance as defined in Section 0722.50. The notice informs the obligor of the agency's intent to submit the obligor's name to any appropriate board, state agency, or department as a licensee who is not in compliance with a court order of support. This notice will be mailed to the obligor by first class mail to his/her address of record as indicated on the child support automated system. The notice must contain:

- The address and telephone number of the Office of Child Support Services;
- A statement of the need for the obligor to obtain a release from that office that states that the obligor is in compliance with his or her support order; and
- A copy or facsimile of the obligor's court order for support.

The notice must inform the obligor that he/she can avoid this action by:

O Paying all past-due and current child support and/or any past-due arrearage payments;

O If he/she is unable to pay all past-due support, the obligor may request an appointment at the Office of Child Support Services to enter into a Written Payment Agreement (if no previous Written Payment Agreement has been entered);

O The obligor may request a Family Court compliance hearing to contest the issue of compliance (see Section 0722.50.05.05);

- A request for an appointment or compliance hearing must be made in writing and must be received by the Office of Child Support Services within thirty (30)

calendar days of the date of the notice;

- If the obligor requests an appointment or compliance hearing within thirty (30) calendar days of the date of the notice, the Office of Child Support Services shall stay action to certify the obligor to any board for noncompliance with a court order of support pending the outcome of the appointment or compliance hearing decision;

- If the obligor does not request an appointment or compliance hearing within thirty (30) calendar days of the date of the notice and is not in compliance with a court order of support, the Office of Child Support Services shall certify the obligor to the appropriate board, state agency, or department for noncompliance with an order for support;

- If the Office of Child Support Services certifies the obligor to a board for noncompliance with a court order of support, the board, state agency, or department shall revoke/suspend the obligor's license and refuse to issue or reissue a license until the obligor provides the board with a release from the Office of Child Support Services that states that the obligor is in compliance with her/his support order. A revocation/suspension by an agency or a refusal by an agency to reissue, renew, or otherwise extend the license or certificate of authority shall be deemed a final determination;

- If the obligor files a motion to modify support with the Family Court, and duly serves the Office of Child Support Services with notice of the motion to modify within thirty (30) calendar days of the date of the notice, the Office of Child Support Services shall stay action to certify the obligor to any board for noncompliance with a court order of support; and/or

- The obligor must meet his/her health insurance obligation.

0722.50.05.05 Family Court Compliance Hearing

REV: 04/2010~~10/2006~~
~~0722.50.05.05 Family Court Compliance Hearing REV:10/2006~~

An obligor may request a hearing before a Magistrate of the RI Family Court upon receipt of the notice of intent to certify the obligor for noncompliance (See Section 0722.50.05). The request for hearing must be made in writing and received by the Office of Child Support Services within thirty (30) calendar days of the date of the notice.

The Office of Child Support Services in conjunction with Family Court shall notify the obligor in writing of the date, time, and place of the

hearing. Service of the hearing notice must be made by first class mail or by service as specified in the Rules of Procedure for Domestic Relations.

The issues that may be determined at hearing are limited to:

* Whether the obligor is required to pay child support under a court or administrative order; and

* Whether the obligor is in compliance with a court order of support.

Nothing herein shall prohibit the obligor from filing other appropriate motions for relief, including but not limited to a motion to modify a support order, with the Family Court.

If an obligor requests a timely hearing to contest the issue of compliance, the Office of Child Support Services may not certify the name of the obligor to a board for noncompliance until the Office of Child Support Services receives a decision or order of the Family Court that finds the obligor is not in compliance with a court order of support.

0722.50.05.10 Certification of Noncompliance

REV: 04/2010~~10/2006~~

~~0722.50.05.10 Certification of Noncompliance REV:10/2006~~

The Office of Child Support Services may certify in writing to any appropriate board that a child support obligor is not in compliance with a court order of support if:

o If the obligor does not make a timely request for an appointment or compliance hearing upon receipt of the notice of intent to certify and is not in compliance with a court order of support thirty-one (31) days after service of the notice; or

o RI Family Court issues a decision or order after hearing that the obligor is not in compliance with a court order of support, and the obligor has not appealed the decision within any applicable appeal period provided by law for appeals of a decision or order of a Magistrate of the Family Court; or

o After a decision or order of the RI Family Court has been appealed, a decision or order from the RI Supreme Court which determines or affirms that the obligor is not in compliance with a court order for support,

The Office of Child Support Service's certification shall include a copy of the decision or order of the court, where applicable. The Office of Child Support Services shall send by first class mail a copy of any certification of noncompliance filed with a board to the obligor at the obligor's address of record as indicated in the child support automated system.

Upon receipt of the certification of noncompliance from the Office of Child Support Services, a board shall revoke/ suspend the obligor's license and refuse to issue or reissue a license until the obligor provides the board with a release from the Office of Child Support Services which states that the obligor is in compliance with his or her support order.

When such an obligor subsequently complies with the order of support, the Office of Child Support Services shall, within five (5) business days after compliance, provide the obligor with written confirmation and a release that the obligor is in compliance with the order. A revocation/suspension by a board or a refusal by a board to reissue, renew, or otherwise extend the license or certificate of authority shall be deemed a final determination.

A board shall notify an obligor certified by the Office of Child Support Services without undue delay that the obligor's application for the issuance or renewal of a license may not be granted or that the obligor's license has been revoked/suspended because the obligor's name has been certified by the Office of Child Support Services as a support obligor who is not in compliance with a court order of support.

Within five (5) business days of receiving written confirmation that an obligor is in compliance with the court order of support, the board shall reinstate, reissue, renew, or otherwise extend the obligor's license or certificate of authority.

0722.50.10 Reporting Requirements of Licensing Boards

REV: 04/2010~~10/2006~~

~~0722.50.10 Reporting Requirements of Licensing Boards REV:10/2006~~

On or before November 1, 1995 and during each renewal period thereafter, all boards subject to RIGL 15-11.1-2 must provide the Office of Child Support Services with specified information about applicants for licensure and all current licensees who are residents of this state. The information to be provided must include all the following information to the extent that the board maintains such information:

- Name;
- Address of record;
- Federal employer identification number or social security number;
- Type of license;
- Effective date of license or renewal;
- Expiration date of license; and
- Active or inactive status.

The Office of Child Support Services requires this information in order to implement the requirements of RIGL 15-11.1 known as the R.I. Full Enforcement of Support Obligations Act.

0722.60 INTERCEPTION OF INSURANCE PAYMENTS

REV: 04/2010~~10/2006~~

~~0722.60 INTERCEPTION OF INSURANCE PAYMENTS REV:10/2006~~

Every domestic insurer or insurance company authorized to issue policies of liability insurance and any worker's compensation insurer, shall, within thirty (30) days prior of making any payment equal to or in excess of three thousand dollars ($3,000) to any claimant who is a resident of this state, for personal injury or workers' compensation benefits under a contract of insurance, review information provided by the Office of Child Support Services pursuant to RIGL 27-57-1 indicating whether or not the claimant owes past-due child support.

The Office of Child Support Services shall electronically furnish these insurers and insurance companies with a report of names of individuals with last known addresses who as of the date of the report, have an unpaid child support arrearage in excess of five hundred dollars ($500).

If the insurer determines from the information provided by the Office of Child Support Services pursuant to RIGL 27-56-4 that the claimant or payee owes past-due child support, the insurer shall, except to the extent that payments are subject to liens or interests (i.e., health care providers, attorney fees, holders of security interests, or the assignment of rights under RIGL 40-6-9), withhold from payment the amount of past-due child support and pay such amount to RI Family Court which shall credit the obligor's child support obligation account for the amount so paid. The insurer shall pay the balance to the claimant or other person entitled thereto, provided, however, that the insurer/insurance company shall provide written notice by first class mail to the claimant and his attorney if any and to the Office of Child Support Services of the payment to RI Family Court. RI Family Court shall deposit the payment in escrow in the Registry of the Family Court for a period of forty-five (45) days or, if an application for judicial review has been filed, until the further order of the court, and the date and amount thereof. The notice shall reflect the date, name, social security number, case number, and amount of the payment.

Any claimant aggrieved by any action taken under these procedures may within thirty (30) days of the date of the notice to the claimant seek judicial review in the RI Family Court which may, at its discretion, issue a temporary order prohibiting the disbursement of funds pending final adjudication.

The Office of Child Support Services shall send notice to the obligor that the agency has intercepted an insurance settlement at the time it credits the obligor's account.

In addition, the Office of Child Support Services shall follow the procedures outlined for placing an administrative lien at the point at which an insurance claim has been filed.

0722.70 OFFSET OF STATE LOTTERY PRIZES

REV: 04/2010~~10/2006~~

~~0722.70 OFFSET OF STATE LOTTERY PRIZES REV:10/2006~~

Any person entitled to receive a cash prize or winning ticket in excess of six hundred dollars ($600) from the Rhode Island Lottery Commission and who has been identified by the Office of Child Support Services as having an unpaid child support arrearage shall have an amount set off against the amount due to such person after federal and state tax withholding an amount up to the balance of such child support arrearage(s). The lottery commission shall make the payment directly to the RI Family Court which will deposit the amount set off in escrow into the Registry of the Family Court for a period of forty-five (45) days, or if an application for review relating to the setoff has been filed, until final disposition of such application until further order of the court. The lottery shall pay to such person the remaining balance of the prize or winning ticket amount, if any, after the amount set off above by child support.

The Office of Child Support Services will periodically each year provide the Rhode Island State Lottery Commission an electronic report of those individuals, together with other identifying information, who have a child support arrearage in excess of $500 as of the date of the report as shown on the Office of Child Support Services computer system.

Any claimant aggrieved by any action taken under these procedures may within thirty (30) days of the date of the withholding of the payment by the lottery director seek judicial review in the RI Family Court which may, at its discretion, issue a temporary order prohibiting the disbursement of funds pending final adjudication.

0722.80 MOTOR VEHICLE LICENSE/REGISTRATION ACTION

REV: 04/2010~~10/2006~~

~~0722.80 MOTOR VEHICLE LICENSE/REGISTRATION ACTION REV:10/2006~~

The Office of Child Support Services will periodically each year provide the Rhode Island Division of Motor Vehicles an electronic report of those individuals, together with other identifying information, who have a child support arrearage in excess of $500 as of the date of the report as shown on the Office of Child Support Services computer system.

This listing to the Division of Motor Vehicles will be periodically updated to so that individuals whose arrearage falls below the prescribed level for reporting may be removed from the list by the Division of Motor Vehicles.

No individual whose name appears on this list shall be permitted to:

* Register or renew a registration of any motor vehicle,

and/or

* Obtain an original license or renewal of a license to operate a motor vehicle

until all such child support arrearage have been paid in full or a satisfactory arrangement for payment has been made with the RI Family Court and such payment or arrangement to pay has been certified to the Division of Motor Vehicles by the Office of Child Support Services.

0724 INTERSTATE CHILD SUPPORT CASES

0724.05 INTERSTATE DEFINED

REV: 04/2010~~10/2006~~
~~0724.05 INTERSTATE DEFINED REV:10/2006~~

An interstate child support case is, in general, one in which the non-custodial parent and custodial parent do not live in the same state.

There are two broad categories of interstate cases for OCSS:

- When RI acts as the initiating state because the custodial parent resides in Rhode Island and the non-custodial parent resides outside Rhode Island, and;

- When RI acts as the responding state because the custodial parent resides in another state and the non-custodial parent resides in Rhode Island;

In the first category, Rhode Island is the initiating state so the petition is prepared in RI and is forwarded to another state for processing.

In the second category, Rhode Island is the responding state so another state prepares the petition and forwards it to RI to process. The non-custodial parent may reside in RI or have assets in Rhode Island.

Both types of cases are commonly referred to as UIFSA (Uniform Interstate Family Support Act) cases. Federal law requires all states to provide Child Support Agency services to all families that have applied for such services, including location, paternity establishment, establishment of support obligations, regardless of where the non-custodial parent resides. Federal law also requires states to meet specific timeframes in the provision of these services, even when one parent is in a different state from where children are living. This federal legislation sets out procedures for enforcing child support orders across state lines and establishes the concept of "Continuing Exclusive Jurisdiction." UIFSA also simplifies income withholding across state lines by requiring employers to honor wage assignments issued by another state's court.

0724.10 AUTHORITY

REV: 04/2010~~10/2006~~

~~0724.10 Basis For Jurisdiction Over Non Resident REV:10/2006~~
In proceeding to establish, enforce, or modify a support order or to determine parentage, under Rhode Island General Law, Title 15, Chapter 15, Section 15-23.1 -201, known as "basis for jurisdiction over a non resident a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian if:

- The individual is properly served within this state;
    - The individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document, waiving any contest to personal jurisdiction;
- The individual resided with the child in this state;
    - The individual resided in this state and provided prenatal expenses or support for the child;
    - The child resides in this state as a result of the acts or directives of an individual;
    - The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;
    - The individual acknowledged paternity by completing an affidavit of paternity signed by both parents; or
    - There is any other basis consistent with the state, and the United States for the exercise of personal jurisdiction.

In public assistance cases, Rhode Island has the same right to initiate a proceeding as an individual ~~FIP~~RIW caretaker relative for the purpose of establishing paternity, establishing a child support and medical order, and enforcing those orders administratively or judicially. The defense that the parties are immune to a suit because of their relationship as husband and wife or parent and child is not available to the non- custodial parent.

0724.15 THE RICSS INTERSTATE UNIT

REV: 04/2010~~10/2006~~

~~0724.15 THE OCSS CENTRAL REGISTRY REV: 10/2006~~
The Central Registry is located at the Office of Child Support Services. The Central Registry manages Rhode Island's interstate case load; both initiating activities and responding to requests from other states.

Within 10 working days of the receipt of a case from an initiating state, the OCSS Central Registry will:

- Review the request to ensure that all necessary documentation is included and complete. When documentation is inadequate and cannot be remedied by the Interstate Unit without the assistance of the

initiating state, the Interstate Unit will forward the case for any action which can be taken, pending action by the initiating state;

- Forward the case to the State PLS for location services, or to the appropriate agency for processing;
- Send acknowledgment of the request to the initiating state, and request any missing documentation;
- Inform the IV-D agency in the initiating state where the case was sent for action.

If the documentation received with a case is inadequate and cannot be remedied without the assistance of the initiating State, the central registry shall forward the case to an agent for any action that can be taken pending necessary action by the initiating State. The central registry shall keep a log of these pending cases so that when the needed documentation is received it may be distributed to the appropriate agent.

The central registry must respond to inquiries from other States within five (5) working days of receipt of the request for a case status.

0724.20 RHODE ISLAND AS THE INITIATING STATE

REV: 04/2010~~10/2006~~

~~0724.20 RHODE ISLAND AS THE INITIATING STATE REV:10/2006~~

When Rhode Island acts as the initiating state, the Office of Child Support Services prepares the UIFSA petition for proceeding in another state. Generally the custodial parent resides in RI and the non-custodial parent resides in another state. However OCSS may initiate a petition on behalf of a non- custodial parent when a modification is requested and the custodial parent resides in another state.

0724.20.05 ~~FIP~~RIW Interstate Cases

REV: 04/2010~~10/2006~~

~~0724.20.05 FIP Interstate Cases REV:10/2006~~

Newly opened ~~FIP~~RIW cases will be assigned to the appropriate Interstate child support agent through the IV-A/IV-D interface when the eligibility technician enters an out of state address for the non-custodial parent.

If the Interstate agent should receive a ~~FIP~~RIW case transferred from an instate unit, (before an instate agent transfers a ~~FIP~~RIW case to the Interstate Unit, there should be verification that the non-custodial parent no longer resides in Rhode Island and that there is no basis for exercising jurisdiction over the nonresident parent, or that the exercise of personal jurisdiction over a non resident is impractical) the agent should examine the case to determine whether a new case should be created for interstate support activity. If the existing case does not have a docket number assigned to it or anything

"financial", (payments, obligation balance etc.), it will not be necessary to create a new case for the interstate activity. The existing suffix should be used for the interstate case.

0724.20.10 Non-Assistance, MAO and FC Interstate Cases

REV: 04/2010~~10/2006~~
~~0724.20.10 Non-assistance, MAO, and FC Interstate Cases REV:10/2006~~

Non-assistance, Medical Assistance Only, and Foster Care cases will be referred to the Interstate Unit via the referral or application process, or transfers from another OCSS unit. The Interstate agent will enter new cases and transfer cases through APPD E (Entry) mode. The agent will do the data entry to establish the case. Non-assistance. The system will enter the appropriate case suffix.

0724.20.15 Petition or Complaint for Support

REV: 04/2010~~10/2006~~
~~0724.20.15 UIFSA Petition REV:10/2006~~

The petition or complaint shall be verified and shall state the name and, so far as known to the custodial parent, the address of the non-custodial parent and the persons from who support is sought, and all other pertinent information. The custodial parent may include in, or attach to, the UIFSA petition information that may help in locating or identifying the non- custodial parent including:

- A photograph of the non-custodial parent;
- A description of any distinguishing marks on his/her person;
- Other names and aliases by which he/she has been or is known;
- The name of his/her employer;
- His/her fingerprints;
- His/her social security number.

0724.20.25 Petition or Complaint for a Minor

REV: 04/2010~~10/2006~~

~~0724.20.25 Petition for a Minor REV:10/2006~~
A minor parent, or a guardian or other legal representative of a minor parent may maintain a proceeding on behalf of or for the benefit of the minor child.

0724.20.30 Duty of Initiating Court

REV: 04/2010~~10/2006~~

~~0724.20.30 Duty of Initiating State REV:10/2006~~
Upon the filing of a petition authorized by UIFSA, the Office of Child Support Services shall forward three (3) copies of the petition and its accompanying documents:

1. To the responding tribunal or appropriate support enforcement state, or

2. If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

0724.20.35 Costs and Fees

REV: 04/2010~~10/2006~~

~~0724.20.35 Costs and Fees REV:10/2006~~
The petitioner shall not be required to pay a filing fee or other costs, but OCSS may request the responding court to collect fees and costs from the non-custodial parent. Those costs may include reasonable attorney's fees, and necessary travel. A responding court shall not require payment of a filing fee or other costs from the custodial parent, but it may direct that all fees and costs requested by the initiating court and incurred in this state when acting as a responding state, including fees for filing of pleadings, service of process, seizure of property, stenographic or duplication service, or other service supplied to the non-custodial parent, be paid in whole or in part by the non-custodial parent, or by the OCSS.

These costs or fees do not have priority over amounts due to the custodial parent.

0724.20.45 OCSS Responsibilities

REV: 04/2010~~10/2006~~
~~0724.20.45 OCSS Responsibilities REV:10/2006~~

As the initiating state agency, the OCSS will:

- Attempt to establish paternity using the State's long arm statute, whenever appropriate;

- Refer a case, within 20 calendar days of finding a non-custodial parent in another state, to the responding State's Interstate central registry for action, including:

  UIFSA petitions to establish paternity, establish child support and medical orders, modification of orders if appropriate, enforcement of orders, registrations and administrative lien requests;

Requests for location if location efforts have been exhausted;

Document verification;

Administrative reviews in administrative offsets;

Income withholding;

State income tax refund offset in IV-D cases;

- Provide the responding state with sufficient, accurate information to act on the case by submitting with each case any necessary documentation with the Child Support Enforcement Transmittal package.

- Provide the responding state with any additional information requested. When information cannot be provided immediately, the interstate agent will notify the responding state that it will be provided within thirty calendar days of the request. The agent will submit an updated form or a computer-generated replica in the same format and containing the same information, and any necessary additional documentation;

- Notify the responding state within 10 working days of receiving new information, by submitting an updated form and any related documentation including court orders;

- Contact the responding state IV-D agency for a status update when there has been no contact for 90 calendar days.

0724.20.55 Initiating Paternity Establishment

REV: 04/2010~~10/2006~~

~~0724.20.55 Initiating Paternity Establishment REV:10/2006~~
In cases where a putative father lives out of state, the OCSS agency will first determine if there is jurisdictional basis to establish paternity the same as if the non-custodial parent lives in Rhode Island. This is called the "long arm process". If there is no basis to exercise long arm jurisdiction the OCSS will initiate a petition to establish paternity.

0724.20.55.05 Long Arm Cases

REV: 04/2010~~10/2006~~

~~0724.20.55.05 Long Arm Cases REV: 10/2006~~ Federal regulations require that potential Interstate paternity cases be screened for the use of the long-arm statutes before considering any other action. Under Rhode Island law, a person who has had sexual intercourse in this state

submits to the jurisdiction of the court of this state as to any action with respect to a child who may have been conceived by that act of intercourse. In addition, the Uniform Interstate Family Support Act provides broad provisions for asserting jurisdiction over a non-custodial parent for the establishment of paternity and support. The long arm statute is one that allows a state to gain jurisdiction over an individual residing in another state for purposes of determining parentage. In paternity establishment, it allows Rhode Island to exercise jurisdiction over a non- resident alleged father when the custodial parent claims that conception occurred in Rhode Island. The OCSS agent will refer the case to the OCSS Legal Unit if any problems arise.

The Child Support attorney is available to provide assistance to the caseworker when attempting to determine whether long arm jurisdiction can be asserted over an individual.

When it has been determined that sufficient grounds exist to exercise long-arm jurisdiction, the procedures for filing a long-arm action are:
o The child support agent obtains the necessary information to file a long arm paternity complaint from the mother.
o The putative father is served with the complaint generally by certified mail;
o The Office of Child Support Services must advise the putative father of the hearing date;
o If the putative father was properly served but fails to appear for the hearing, the court proceeds to rule on the issues properly before the court;
o If the non custodial parent defaults on the order at a later date, the judgment (usually by default) can be enforced by the RI Family Court or it can be registered for enforcement in the non-custodial parent's state of residence.

When OCSS has filed a long-arm suit but has been unable to obtain service on the putative father, the Office of Child Support Services can request assistance with service of process from the child support agency where the putative father resides.

If service cannot be accomplished, a petition to establish paternity and support can be forwarded to the putative father's state of residence. The petition should note the attempted long- arm action and the inability to proceed due to problems with service of process.

In ~~FIP~~RIW cases, when paternity is an issue, the child support services agent must complete a paternity affidavit. If conception took place outside Rhode Island, a UIFSA petition asking for paternity to be established and a support order entered should be sent to the responding State.

0724.20.55.10 Initiating Paternity

REV: 04/2010~~10/2006~~
~~0724.20.55.10 Initiating Paternity REV:10/2006~~

When long arm process cannot be used, the OCSS agent will pursue paternity establishment via the regular UIFSA process. The UIFSA

Petition will include the Paternity Affidavit to be signed by the custodial parent.

Federal regulations provide that the initiating state is responsible for paying the costs for DNA testing. All other costs (such as expert witness fees, depositions, or costs of a paternity trial) must be borne by the responding state. When the personal testimony of the custodial parent or client is required in a paternity trial, a telephonic hearing may be scheduled upon request in order to secure the testimony of the custodial parent.

The responding state should coordinate the testing schedule with the initiating state. Genetic testing laboratories send the genetic test report to the agency that is making payment. The original test report must be sent to the agency that is taking the case to court, since the report is submitted as paternity evidence.

When paternity is established by the responding state, the Office of Child Support Services must attempt to obtain a judgment for the genetic testing costs to reimburse the initiating state. The court order should address the repayment of those costs to the initiating state.

0724.20.60 Initiating Support Order Establishment

REV: 04/2010~~10/2006~~
~~0724.20.60 Initiating Support Order Establishment REV:10/2006~~

The OCSS agency will initiate a UIFSA action to obtain an order for support when:

- The non-custodial parent is located out of state;
- Paternity is not an issue in the case;
- There is no order for support.

The tribunal may issue a child support order if:

- The non-custodial parent has signed a verified statement acknowledging parentage;
- The non-custodial parent has been determined by or pursuant to law to be the parent; or
- There is other clear and convincing evidence that the non-custodial parent is the parent.

0724.20.65 Initiating Interstate Enforcement

REV: 04/2010~~10/2006~~

~~0724.20.65 Initiating Interstate Enforcement REV:10/2006~~
The OCSS agency will determine what type of action to take and/or request in an interstate case depending upon certain circumstances.

Under UIFSA and other applicable enforcement laws, the case may be enforced by the Office of Child Support Services or forwarded to another state for enforcement. If it is determined that such measures or remedies under state law are inadequate, or that additional measures are available and practicable, or that there is no basis to exercise jurisdiction over a non resident or the exercise of jurisdiction is impracticable, OCSS may request enforcement in another jurisdiction. The agent may request Interstate Wage withholding if direct wage withholding is impractical;

- A UIFSA action to establish an arrears order when:

  The non-custodial parent is located out of state; and

  There is no arrears order

- Registration for Enforcement.

0724.20.65.05 Initiating Interstate Income Withholding

REV: 04/2010~~10/2006~~

~~0724.20.65.05 Initiating Interstate Income Withholding REV:10/2006~~

When OCSS identifies cases where direct wage withholding is not practical, and interstate income withholding is appropriate, the agent will initiate action to request the responding State to issue an income withholding order. This request is made on the Child Support Enforcement Transmittal Form.

The packet sent to the responding State includes:

- A verified place of employment for the non-custodial parent;

- An original and four copies of the support order. The original must be certified with the court seal;

- An affidavit of arrears showing the accumulation of arrears on month by month basis. An original and four copies are required. The original and the two copies that will be sent to the responding State should all be notarized and stamped with the notary seal. Welfare cases are signed by the agent as the OCSS representative and on non-welfare cases the custodial parent must sign.

In a UIFSA proceeding, the OCSS will prepare the appropriate interstate forms and forward the petition and other documents to the Central registry of the responding state.

0724.20.65.15 Registration of a Foreign Order

REV: 04/2010~~10/2006~~

~~0724.20.65.15 Registration of a Foreign Order REV: 10/2006~~

There are two types of registration: Registration for Enforcement and Registration for Modification.

0724.20.65.15.10 Preparing the Packet

REV: 07/1994

Once the DOCKET NUMBER PROCESSING panel indicates that the number has been activated (A), the agent will:

- Print five URESA packets from FORM function. Each packet will include the:

  Child Support Enforcement Transmittal;

  Statement of Fact (for Registration of Foreign Support Order);

  Uniform Support Petition; and

  Family Court Certificate;

- Attach to each of the five packets:

  A certified copy of the order and any modifications;

  A certified copy of the affidavit of arrears (if arrears are being sought);

  If the order was entered in a State outside R.I., attach a copy of that State's URESA laws to each packet. (If it is a R.I. order, Family Court will attach the R.I. URESA laws to the packets being sent to the responding State);

- Retain one full packet for the RICSS file and forward the remaining four to R.I. Family Court;

- When Family Court returns the transmittal showing the date the petition was sent to the responding State, the agent should enter that information in case tracking;

- Enter the NEXT CSE REVIEW date on the APPD/CASE panel. This date should be 90 calendar days from the date Family Court sent the petition to the responding State;

0724.20.65.15.10 Registration for Enforcement

REV: 04/2010~~10/2006~~

~~0724.20.65.15.10 Registration for Enforcement EFF: 10/2006~~ A support order or income-withholding order of another state may be registered for enforcement in Rhode Island by sending the following documents and information:

- O A letter of transmittal to the tribunal requesting

registration and enforcement;

- Two (2) copies, including one certified copy, of all orders to be registered, including any modification of an order;
- A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;
- The name of the non-custodial parent and, if known;
- The non-custodial parent's address, social security number, name and address of the non-custodial parent's employer, and any other source of income of the non-custodial parent; and
- A description and the location of property of the non-custodial parent in this state not exempt from execution; and
- The name and address of the custodial parent Upon receipt the order shall be registered. The non-custodial parent has twenty days to contest the registration. There are very few defenses that can be raised such as: the order has been obtained through fraud, the order has been vacated or suspended, there has been full payment of the arrears, statute of limitations has expired or other limited defenses as the law provides. If the party does not have a valid defense or fails to contest the order is confirmed.

A registered order is enforceable in RI in the same manner and is subject to the same enforcement as a RI order.

0724.20.65.15.12 Registration for Modification

REV:04/2010~~10/2006~~

~~0724.20.65.15.12 Registration for Modification EFF: 10/2006~~ An order may be registered for Modification in Rhode Island if the following requirements are met:

- The child, the individual custodial parent, and the non custodial parent does not reside in the state that issued the order;
- The petitioner who is a nonresident of this state seeks modification; and
- The respondent is subject to the personal jurisdiction of the state; or
- All of the parties have filed a written consent in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction over the order.

Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by this state and the order may be enforced and satisfied in the same manner.

0724.20.65.15.15 Transmitting the Packet to Court

REV:07/1994

Outgoing URESA petitions will be sent to R.I. Family Court in packets of four. (Of the five originally created, RICSS will retain one for its file). They should be sent with a transmittal form.

When Family Court has completed its processing, one complete packet will be retained by the court for its file and the remaining three will be sent to the responding State central registry.

The Family Court processing consists of:

- Obtaining the Judge's/Master's signature on the Family Court Certificate and adding one to each outgoing packet;
- Adding copies of the Rhode Island URESA laws to each packet.
- Returning a copy of the transmittal form to RICSS confirming the date and State to which the packets were sent. This information should be inputted into the INRHODES IV-D system case tracking.

When the responding State acknowledges receipt of the petition, RICSS will record any relevant information in the APPD/OOSC panel.

This would include the name and phone number of the contact person, address of the local enforcement agency, and any identifying number assigned to the petition by the responding State.

0724.20.65.15.16 Choice of Law in Registration

REV: 04/2010~~10/2006~~

~~0724.20.65.15.16 Choice of Law in Registration EFF: 10/2006~~ The law of the issuing state governs the nature, extent, amount, and duration of payments. In a proceeding for arrearages, the statute of limitation under the laws of this state or of the issuing state, whichever is longer, applies.

0724.20.65.15.22 Reconciliation of Multiple Orders

REV: 04/2010~~10/2006~~

~~0724.20.65.15.22 Reconciliation of Multiple orders EFF: 10/2006~~ Under the Uniform Reciprocal Enforcement Act multiple orders were entered on a case involving the same parties. As the parties moved from state to state new orders were entered, while the orders continued to run and accrue arrears. Under UIFSA, only one child support order is the controlling order. Although the non-custodial parents would receive credit for all payments made under any order, only one order is in effect. Rules had to be developed to determine which order was controlling. The following is a simplified version of the rules used to establish which of many orders is the controlling order:

- If only one court has issued a child support order, that order controls.
- If two or more child support orders have been issued

the following applies: (1) If a party lives in one of the states that issued the order that order controls, (2) If each party lives in a state that issued orders, the current home state of the child controls.

(3) If there are multiple orders but no one resides in any of the states that issued orders, this state can issue an order as long as there is jurisdiction Within thirty (30) days after issuance of an order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support so that those orders can be suspended.

0724.25 RHODE ISLAND AS THE RESPONDING STATE

REV: 04/2010~~10/2006~~

~~0724.25 RHODE ISLAND AS THE RESPONDING STATE REV:10/2006~~
The OCSS agency will respond to requests from other states to locate non-custodial parents, establish paternity, and establish a child support and medical order and to enforce those orders judicially and administratively.

0724.25.05 Legal Basis

REV: 04/2010~~10/2006~~
~~0724.25.05 Legal Basis REV:10/2006~~

Rhode Island will serve as a responding state to accept the UIFSA Petition forwarded by the initiating state to locate the non-custodial parent, establish paternity, establish a child support and medical order and to enforce those orders. The statutes governing Rhode Island as the responding state in an interstate action are found in the Rhode Island General Laws, Title 15, Chapter 15-23.1-303.

0724.25.05.10 Duties of Court and DHS

REV: 04/2010~~10/2006~~

~~0724.25.05.10 Duties of the Responding State REV:10/2006~~
Rhode Island acting as a responding state may do one or more of the following:

- Issue or enforce an order, modify an order, or determine parentage;
  - Order an non-custodial parent to comply with a support order specifying the amount and manner of compliance;
  - Order income withholding;
  - Determine the amount of arrearages and specify a method of payment;
  - Enforce orders by civil or criminal contempt or both;
  - Set aside property;
  - Place liens
  - Order the non custodial parent to inform of his whereabouts;
  - Issue a body attachment

- Order to seek employment;
- Award reasonable attorney's fees;
- Any other relief available.

The OCSS will send a certified copy of all support orders entered by the RI Family Court to the initiating agency and shall transmit all support collected to that agency.

0724.25.05.15 Hearing and Continuance

REV: 04/2010~~10/2006~~

~~0724.25.05.15 Hearing and Continuance REV:10/2006~~
If the custodial parent is not present at the hearing and the non-custodial parent denies owing the duty of support alleged in the petition or complaint or offers evidence constituting a defense, the Family Court, upon request of either party, may continue the hearing to permit evidence relative to the duty to be adduced by either party by telephonic hearing.

0724.25.05.20 Inappropriate Tribunal

REV: 04/2010~~10/2006~~

~~0724.25.05.20 Inappropriate Tribunal REV:10/2006~~
If a petition is received by the Office of Child Support Services and it is inappropriate for the case to be processed and heard in Rhode Island, OCSS shall forward the pleadings to the appropriate agency for processing and notify the petitioner of the forwarding agency.

0724.25.05.22 Limited Immunity of Petitioner

REV: 04/2010~~10/2006~~

~~0724.25.05.22 Limited Immunity of Petitioner EFF:10/2006~~ Under UIFSA, participation of a petitioner in a proceeding before a responding tribunal, does not confer jurisdiction for other proceedings. A petitioner may not be served while present in the state. This does not apply if the petitioner commits acts while in the state that would subject him/her to civil litigation.

0724.25.05.25 Evidence of Husband and Wife

REV: 04/2010~~10/2006~~

~~0724.25.05.25 Evidence of Husband and Wife REV:10/2006~~
Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under the Rhode Island General Laws, Title 15, Chapter 15. Husband and wife are competent witnesses to testify to any relevant matter, including marriage and parentage.

0724.25.05.30 Rules of Evidence

REV: 04/2010~~10/2006~~

~~0724.25.05.30 Rules of Evidence REV:10/2006~~
The physical presence of the petitioner in this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage. The following are admissible in a hearing:

O A verified petition, affidavit, and substantiating documents are admissible in evidence if given under oath by a party or witness residing in another state.

O A copy of the record of child support payments certified is evidence and is admissible to show whether payments were made.

O Copies of bills for paternity testing, and for prenatal and postnatal health care of the mother are admissible.

O Documentary evidence transmitted by telephone, telecopy, or other means. If requested, Telephonic hearings shall be arranged by OCSS to take testimony. A party called to testify may refuse to answer but the Court may draw an adverse inference.

There is no privilege against disclosure between spouses.

0724.25.05.50 Paternity

REV: 07/1994

If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both parties are present at the hearing or the proof required indicates that the presence of either or both of the parties is not necessary, the court may adjudicate the paternity issue. Otherwise the court may adjourn the hearing until the paternity issue has been adjudicated.

0724.25.05.50 Non Parentage as a Defense

REV: 04/2010~~10/2006~~
~~0724.25.05.50 Non Parentage as a Defense EFF: 10/2006~~

A party whose parentage has been previously determined may not plead non parentage as defense. Any contest regarding parentage must be brought in the state where the parentage was adjudicated.

0724.25.05.75 Intrastate Application

REV: 07/1994

This act applies if both the obligee and obligor are domiciliaries and/or residents of this state.

0724.25.05.80 Appeals

REV: 04/2010~~10/2006~~

~~0724.25.05.80 Appeals REV:10/2006~~
If the Office of Child Support Services is of the opinion that a order is erroneous, and presents a question of law warranting an appeal in the public interest, it may:

- Perfect an appeal to the State Supreme Court if the support order was issued by a court of this State; or

- Cause the appeal to be taken in the other state if the support order was issued in the other state.

In either case, expenses of the appeal may be paid on its order from funds appropriated for its office.

0724.25.05.82 Foreign Support Orders-Additional Remedies

REV: 04/2010~~10/2006~~

~~0724.25.05.82 Foreign Support Orders-Additional Remedies REV:10/2006~~
If the duty of support is based on a foreign support order, the custodial parent has the additional remedies as provided in the Rhode Island General Laws, Title 15, Chapter 15-14.1-5.

0724.25.05.88 Representation of Obligee by DHS

REV: 04/2010~~10/2006~~

~~0724.25.05.88 Custodial parent Legal Representation REV: 10/2006~~
Whether acting on its own behalf or on behalf of the custodial parent, non-custodial parent, or initiating state, the Department of Human Services OCSS attorneys do not represent the interests of any individual person, and its attorneys represent only the department. An attorney client relationship is not created between department attorneys and any person or entity.

Nothing precludes any party from retaining the services of a private attorney to legally represent their interests.

0724.25.06 Communication Between States

REV: 04/2010~~10/2006~~

~~0724.25.06 Communication Between States EFF: 10/2006~~
The Office of Child Support Services may communicate with another state agency in writing, by telephone or other means, to obtain information concerning the laws of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state. OCSS must also reciprocate and provide information upon request.

0724.25.07 Assistance with Discovery

REV: 04/2010~~10/2006~~

~~0724.25.07 Assistance with Discovery EFF: 10/2006~~ The Office of Child Support Services may request another state agency for help in obtaining discovery; and the Rhode Island Family Court may compel a person over whom it has jurisdiction to respond to a discovery order issued by another state.

0724.25.08 Nondisclosure of Information

REV: 04/2010~~10/2006~~

~~0724.25.08 Nondisclosure of Information EFF: 10/2006~~
Upon a finding, which may be made by ex-parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order provides, the RI Family Court may order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a court file.

0724.25.09 Employer's Receipt of Income Withholding

REV: 04/210~~10/2006~~

~~0724.25.09 Employer's Receipt of Income Withholding Order of Another State EFF: 10/2006~~
An income-withholding order issued in another state may be sent directly to employer in this state without first filing a petition.

0724.25.10 OCSS Agency Responsibilities

REV: 04/2010~~10/2006~~
~~0724.25.10 OCSS Agency Responsibilities REV: 10/2006~~

The Office of Child Support Services is designated as the state information agency and it shall:

- Maintain the official record of support orders and arrearages of all support orders entered in accordance with applicable administrative orders issued by the Rhode Island Family Court.

- Compile a list of the courts and their addresses in this state and transmit it to the state information agency of every other state which has adopted this or a substantially similar act. Upon the adjournment of each session of the General Assembly the agency shall distribute copies of any amendments to RIGL 15, and a statement of their effective date, to all other state information agencies;

- Maintain a register of lists of court orders received

from other states, and transmit copies thereof promptly to every court in this state having jurisdiction

- Forward to the court in this state, which has jurisdiction over the non-custodial parent or his property, petitions or complaints, certificates and copies of the act it received from courts or information agencies of other states;

- Use all means at its disposal to obtain information regarding the location of the non-custodial parent or his property if the state information agency does not know, or no state location service is available. This includes the examination of official records in the state and other sources such as telephone directories, real property records, vital statistics records, police records, requests for the name and address from employers who are able or willing to cooperate, records of motor vehicle license offices, requests made to the tax offices, both state and federal, where such offices are able to cooperate, and requests made to the Social Security Administration as permitted by the Social Security Act, as amended;

- After the deposit of three (3) copies of the petition or complaint and certificate and one (1) copy of the act of the initiating state with the clerk of the appropriate court, if the state information agency knows or believes that the prosecuting attorney is not prosecuting the case diligently it shall inform the Department of Human Services who may undertake the representations.

0724.25.20.05 Case Processing Time Frames

REV: 04/2010~~10/2006~~

~~0724.25.20.05 Case Processing Time Frames REV:10/2006~~

Within 75 calendar days of receiving an Interstate Child Support Enforcement Transmittal form and documentation, the interstate agent will:

- Provide location services when requested or needed;

- Notify the initiating agency of the necessary additions or corrections if unable to proceed with the case because of inadequate documentation;

- Process the case to the extent possible if the documentation received with a case is inadequate and cannot be remedied by the Interstate Unit without the assistance of the initiating state, pending necessary action by the initiating state.

Within 10 working days of discovering that a non-custodial parent resides in a different state, the OCSS agency must return the form and documentation, including the new location, to the initiating state, or if directed by the initiating state, forward the form and documentation to the central registry in the state where the non-custodial parent has been located.

0726 MODIFICATION OF CHILD SUPPORT ORDERS

0726.05 INTRODUCTION

REV: 04/2010~~10/2006~~

~~0726.05 INTRODUCTION REV:10/2006~~

Under federal regulations and State statutes, the Office of Child Support Services is required to provide for the review and modification/adjustment of child support orders being enforced under Title IV-D of the Social Security Act.

These reviews will be conducted as a result of an appropriate request from any party subject to a child support order in the State.

Although requests for reviews will be evaluated by the Office of Child Support Services staff, only the R. I. Family Court is authorized make a decision to actually modify or adjust an order. The Office of Child Support Service's decision whether or not to refer a request for a review of a R. I. order to the R.I. Family Court will be made in a accordance with the criteria specified in section 0726.05.05.

The same criteria will be applied in reviewing requests for reviews in interstate cases.

0726.05.05 Criteria for Modification-Requested Reviews

REV: 04/2010~~10/2006~~

~~0726.05.05 Criteria for Modification-Requested Reviews REV:10/2006~~

Under federal regulations and State statutes, the Office of Child Support Services is required to respond to requests for reviews of support orders being enforced under Title IV-D of the Social Security Act from either parent subject to a child support order in the State. Requests by either parent for a review must be accompanied by information that demonstrates a change in circumstances that meets the criteria listed below.

Referral of requests for reviews to the R. I. Family Court for hearing may be denied by the Office of Child Support Services because the request fails to meet any of the criteria listed below. (See Section 0726.05.20 for Office of Child Support Services responsibilities on interstate cases).

HOW TO APPLY FOR A REVIEW

A request for a review must be made in writing. The request must contain information that will enable the Office of Child Support Services to determine if it meets any of the criteria listed below. It should be mailed to:

Office of Child Support Services 77 Dorrance St., Providence, RI 02903

The Office of Child Support Services must make a decision whether or not the order should be reviewed within fifteen (15) days of receipt of all information needed to make a decision.

CRITERIA FOR REFERRING REQUESTS FOR REVIEW TO R.I. FAMILY COURT

The Office of Child Support Service's response to a request for a review will consist of evaluating the request to determine if there is sufficient evidence/documentation to meet any of the following criteria that would warrant a hearing in R.I. Family Court:

- The existing support order would deviate fifteen percent (15%)(10%- state law) or more as a result of applying new income information to the State's Child Support Guidelines or it has been thirty-six months since the order was entered or it was last reviewed.

- That health insurance is available at reasonable cost to the non-custodial parent and the existing support order makes no provision for the health care needs of the children covered by the order or does not otherwise provide for health care coverage.

- To add an additional child of the parties to the order who is not covered by the existing support order.

- There has been a custody change or a change in the responsibility for care of a child covered by the order.

- Since the entry of the order, the party is now incurring the expenses of an additional minor dependent not subject to the existing child support order.

0726.05.10 Requested Reviews

REV: 04/2010~~10/2006~~
~~0726.05.10 Requested Reviews REV:10/2006~~

REQUESTS FROM CUSTODIAL PARENTS

If the Office of Child Support Service's evaluation of the custodial parent's request for a review of the order determines that a hearing before R.I. Family Court is warranted, a court date will be assigned and the Office of Child Support Services will provide for the service of process to both parties to the order. Once served, the custodial parent will be required to appear and give testimony at the court hearing. Attorneys for the Office of Child Support Services will only

represent the State of RI and will not legally represent either party at the court hearing.

If the Office of Child Support Services determines that circumstances do not warrant a hearing in R.I., the Family Court and the requesting custodial parent are notified. This notification will also inform the custodial parent that s/he may submit additional information not previously provided if s/he would like Office of Child Support Services to reevaluate the request. Also, included in this notice will be information about the "pro se" (on your own) process whereby the custodial parent may file a motion for modification with the court without the involvement of the Office of Child Support Services provided that the custodial parent has not presently assigned his or her right to support to the state in accordance with any and all provisions as it relates to eligibility to collect ~~FIP~~RIW benefits.

REQUESTS FROM NON-CUSTODIAL PARENTS

The Office of Child Support Services will evaluate a request from a non-custodial parent to see if it meets any of the modification/adjustment criteria listed in section 0726.05.05 and notify the non-custodial parent of the results of the evaluation. This notification will be informational in nature only. It will indicate to the non-custodial parent whether the circumstances presented indicate that a modification/adjustment hearing in R.I. Family Court seems warranted or not. It will also inform the non-custodial parent of the "pro se" (on your own) process for filing a motion with the court.

The requesting non-custodial parent, like the requesting custodial parent, will be afforded the opportunity to provide additional information not previously submitted if a reevaluation of the request for review is desired. This second evaluation, like the first, will simply give the non-custodial parent an indication of whether a modification may occur by a simple application of the child support guidelines. All decisions on whether or not to modify an order rest with the court.

0726.05.15 Mandatory Reviews

REV: 04/2010~~10/2006~~

~~0726.05.15 Mandatory Reviews REV:10/2006~~

Under federal regulations and State statutes, a review of an order is required without the need of a request from either parent in the following type cases; except as provided below, all ~~FIP~~RIW, Medical Assistance Only, and IV-E Foster Care cases where it has been either thirty-six (36) months since the order was entered or thirty-six (36) months since the order was last reviewed.

~~FIP~~RIW and IV-E Foster Care cases will automatically be referred to R. I. Family Court for adjustment hearings when they meet the above criteria. No other criteria need be met before referral to court is made. (See section 0726.05.20 for procedures on interstate cases.)

Medical Assistance Only cases will be referred to R. I. Family Court only if there is either no court order providing for the health care needs of a child or a cash medical support order where it has been either thirty-six (36) months since the order was entered or thirty-six (36) months since the order was last reviewed of a child who is included in the Medical Assistance Only case. (See section 0726.05.20 for procedures on interstate cases.)

Cases with characteristics for mandatory review that NEED NOT BE REVIEWED ARE those where:

- O A Case closure criterion exists. (See Sections 0714.35.05 and 0714.35.10.)
- o The youngest child covered by the order is at least seventeen (17) years six (6) months old, and there is no outstanding past due support.
- o There has been a good cause granted in the case for not pursuing child support. (See Section 0704.25.10.)

All other cases will be reviewed every three (3) years upon the request of either party or upon the request of the state, and if appropriate, the order will be adjusted in accordance with the child support guidelines if the amount of the child support award under the order differs from the amount that would be awarded in accordance with the guidelines. The adjustment of the order shall be made without the requirement for proof or showing a change in circumstances.

In the case of a request for a review before the three (3) year period, the amount of support may, in the court's discretion, shall be modified if the court finds that a substantial change in circumstances has occurred. The court, in its discretion, may modify a child support order retroactively only to the date that notice of a petition to modify was given to the adverse party if the court finds that a substantial change in circumstances has occurred.

0726.05.20 Review and Modification - Interstate Cases

REV: 04/2010~~10/2006~~

~~0726.05.20 Review and Modification - Interstate Cases REV:10/2006~~

R.I. AS THE RESPONDING STATE

If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order. After a child support order in another state has been registered and confirmed in this state, the responding tribunal of this state may modify that order if the above does not apply and, after notice and hearing it finds that the following requirements are met:

- O The child, the individual obligee, and the obligor do not reside in the issuing state;

- O A petitioner who is a nonresident of this state seeks modification; and

- O The respondent is subject to the personal jurisdiction of the tribunal of this state; or

- O The child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of this state and all of the parties who are individuals have filed a written consent in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction over the order.

Modification of a registered child support order is subject to the same requirements, procedures and defenses that apply to modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

Within thirty (30) days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order and in each tribunal in which the party knows the earlier order has been registered.

On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.

Any requested review of an order on a ~~FIP~~RIW case with a UR case status where it has been three years since the order was entered or three years since the last review, will automatically be referred to R. I. Family Court for an adjustment hearing. No other criteria for review need be met.

Notification requirements and the time frames for completion of reviews are the same as they are for instate cases. The Office of Child Support Services is responsible for sending any required notices regarding the review to the parent in R. I. and to the parent in the initiating State through that State's local enforcement agency.

R.I. AS THE INITIATING STATE

When acting as the initiating State (UI case status), Office of Child Support Services must respond to a request for review of the order by evaluating the request to determine whether it should be forwarded to the responding State (the State where the order was entered). The decision whether to forward the request to the responding State is based on the same criteria used in determining whether instate requests for reviews should be referred to R. I. Family Court.

Any active ~~FIP~~RIW, or IV-E Foster Care case where it has been three (3) years since the order was entered or three (3) years since the order was last reviewed, will automatically be referred to the responding State for review. There will be no need to evaluate whether the case should be referred or not. Of course, the decision whether to adjust the order or decide that no adjustment is warranted will rest with the responding State.

For MAO cases where it has been three (3) years since the order was entered or three (3) years since the order was last reviewed, the case will only be referred to the other jurisdiction if the existing order does not provide for the health care needs of a child who is included in the Medical Assistance Only household or has a cash medical support order that has been entered or has not been reviewed in the past three years.

In each of these three (3) types of cases, ~~FIP~~RIW, MAO, and IV-E Foster Care, the Office of Child Support Services will have met its responsibilities under the federal regulations pertaining to the periodic review and adjustment of support orders by making the referral to the other State.

0726.10 RETROACTIVE MODIFICATION OF CHILD SUPPORT

REV:07/1994

Notwithstanding the provisions of Rhode Island General Law, Title 15, Chapter 5, Section 16.2, the court in its discretion may modify a child support order retroactively only to the date that notice of a petition to modify was given to the adverse party, if it finds that a substantial change in circumstances has occurred. The court shall set forth in its decision the specific findings of fact which show a substantial change in circumstances, and upon which findings of fact the court has decided to make its order of modification retroactive. The court in its discretion may for good cause shown suspend payment of child support arrearages until there is a finding by the court of financial ability to make payment on arrearages.

0726.15 EMANCIPATION

REV: 04/2010~~10/2006~~
~~0726.15 EMANCIPATION REV:10/2006~~

Pursuant to Rhode Island law, a child is emancipated upon his or her eighteenth birthday. However, the court may, if in its discretion it deems it necessary or advisable, order child support and education costs for children attending high school at the time of their eighteenth birthday and for ninety (90) days after graduation, but in no case beyond their nineteenth birthday. The court may order child support to continue in the case of a child with a severe physical or mental impairment until the child reaches the age of twenty-one (21). Furthermore, a non-custodial parent is obligated to continue paying current child support until s/he has obtained a modification terminating that obligation. Therefore, the Child Support Services agent will continue to enforce an order until such time as notification is received, from the Family Court, that the order has been terminated.

0726.25 MODIFICATION

REV: 04/2010~~10/2006~~
~~0726.25 MODIFICATION REV:10/2006~~

An order may be modified prior to the three (3) year review period if the court finds that a substantial change in circumstances has occurred in accordance with RIGL 15-5-16.2.

An order may be modified in one of two ways:

- Filing a Motion to Modify when only a modification is being sought. The non-custodial parent is making payments as ordered;

- Filing a Motion to Adjudge in Contempt and to Modify, when both a modification and enforcement of the order are needed.

In non-assistance (NA) cases, the Child Support Services agent will get prior approval of the Office of Child Support Services attorney before filing for a modification.

0726.25.05 Motion to Modify

REV: 04/2010~~10/2006~~
~~0726.25.05 Motion to Modify REV:10/2006~~

An income and expense sheet will be served upon the custodial and non custodial parent along with the Motion to Modify. Both parties are required to complete the form and file it with the Court.

The constable has three (3) weeks in which to obtain successful service.

0726.25.05.05 Non-Custodial Parent is Successfully Served

REV: 04/2010~~10/2006~~
~~0726.25.05.05 The Non-Custodial Parent is Successfully Served REV:10/2006~~

When successful service is obtained, the OCSS will:

- Send the original packet to the Family Court;

- File a copy of the packet in the Office of Child Support Services case record;

0726.25.05.10 Non-Custodial Parent Cannot be Served

REV: 04/2010~~10/2006~~
~~0726.25.05.10 The Non-Custodial Parent Cannot be Served REV:10/2006~~

When the non-custodial parent cannot be served, the agent will:

- Review the Constable Return Form to see what attempts were made at service;

- Attempt to verify another address;

- When a new address is verified:

  Update the appropriate APPD panel(s);

  Repeat the process beginning with printing the Motion to Modify packet;

- When a new address cannot be verified, enter a bad address.

0726.25.10 Motion to Adjudge in Contempt and to Modify

REV: 07/1994

When the decision is to file a Motion to Adjudge in Contempt and to Modify, the agent will:

- Obtain from the custodial parent:

  A completed expense sheet; and

  An Arrearage Affidavit.

- Follow procedures as outlined under Section 0722.15 Contempt Processing.

0726.25.15 Mod. of Order Upon Termination of Rights

REV: 04/2010~~10/2006~~
~~0726.25.15 Modification of Child Support Orders~~
~~Upon Termination of Parental Rights EFF: 10/2006~~

A termination of parental rights does not necessarily terminate a parent's obligation to pay child support. However, if a child is adopted, a parent's obligation to pay child support is terminated as of the date of adoption.

In order to modify a pre-existing child support order upon termination of parental rights, the following must occur:

- The non-custodial parent must file a motion with the Rhode Island Family Court seeking to modify or terminate his or her child support obligation

- The child has individual interest that must be represented in a child support hearing before the order can be modified. The Office of Child Support Services may request a Guardian Ad Litem to represent the child in a case that the parent is not the recipient of either ~~FIP~~RIW benefits or Medical Assistance

- In accordance with Rhode Island general law, the Office of Child Support Services will take the position that a child support petition for a child should be terminated upon the date of the child's adoption

- The Office of Child Support Services will seek a hearing in these circumstances and will not agree to a suspension of the child support order solely because the non-custodial parent's rights have been terminated. The focus of the hearing will be the income and assets of the non-custodial parent and his or her ability to pay child support.

In the above circumstances, it is the position of the Office of Child Support Services that it would be contrary to policy to waive any child support arrears that were due prior to the adoption of the child.

0728 CHILD SUPPORT FINANCIAL MANAGEMENT

0728.05 LEGAL BASIS-COLLECTIONS BY THE STATE

REV: 04/2010~~10/2006~~
~~0728.05 LEGAL BASIS-COLLECTIONS BY THE STATE REV: 10/2006~~

Whenever an individual assigns his/her support rights to the State, that assignment constitutes an obligation owed to Rhode Island by the individual responsible for providing such support.

Such an obligation is collectible under all applicable State and local processes. Likewise, whenever the Department of Children, Youth and Families (DCYF) or such other department, agency, society, institution or person having the charge, care or custody of a child must pay for the support and maintenance of a child, the parents of the child are liable for the support and maintenance of the child and are liable for the reimbursement to the DCYF or other department, agency, society, institution or person having the charge, care, or custody of a child for the support and maintenance of the child.

The State Disbursement Unit is operated by the Office of Child Support Services and utilizes the automated procedures, electronic processes, including electronic funds transfer (EFT) provisions and computer driven technology for the collection and disbursement of support payments, including procedures for receipt from parents, employers and other states, and for disbursement to custodial parents and other obligees for:

- accurate identification of payments;
- to ensure prompt disbursement of the custodial parent's share of any payment; and
- to furnish any parent, upon request, timely information on the current status of support payments.

The Office of Child Support Services shall distribute all amounts payable within two (2) business days after receipt from the employer or other source of periodic income. In cases in which support is assigned to the state and where there is an existing child support order made payable to the obligee, after notice to the obligor and obligee, the state disbursement unit shall direct the obligor through a wage

withholding order to change the payee to the appropriate instate or interstate government entity without the necessity for a court order or hearing.

0728.10 ARREARAGE

REV: 07/1994

An arrearage is a debt that results because of an unpaid support obligation. An arrearage accrues at the rate of the unpaid periodic child support amount.

0728.15 UNREIMBURSED ASSISTANCE

REV: 04/2010~~10/2006~~
~~0728.15 UNREIMBURSED ASSISTANCE REV:10/2006~~

The Department of Human Services shall not seek reimbursement for ~~FIP~~RIW remitted either from the custodial or non-custodial parent, except in cases of fraud.

0728.20 INTEREST ON ARREARAGES

REV: 04/2010~~10/2006~~

~~0728.20 INTEREST ON ARREARAGES REV:10/2006~~
All alimony and support obligations established under Rhode Island General Law, Title 15, Chapter 5 that are in arrears shall be subject to the imposition of interest at the rate of 1% per month on the unpaid balance.

0728.25 FEES

REV: 04/2010~~10/2006~~

~~0728.25 FEES REV:10/2006~~
A fee represents an amount due as payment for services rendered.

IV-D fees include but are not limited to DNA testing fees, non-assistance (NA) fees, and services for location only.

0728.30 VERIFICATION OF CHILD SUPPORT PAYMENTS

REV: 4/2010~~10/2006~~
~~0728.30 VERIFICATION OF CHILD SUPPORT PAYMENTS REV:10/2006~~

When calculating a child support debt, the Child Support Services agent will document any information used to determine the debt amount. In addition, s/he will explain how, why, and when the information was obtained and exactly what it verifies.

The following resources can be used in calculating the amount of child support owed:

- The amount of assistance paid on behalf of the payee and each child;

- The amount of court ordered support due. This will be calculated by using the original court order and any subsequent modifications;

- The non-custodial parent's payment receipts, the custodial parent's Affidavit of Arrearage, and/or the circuit clerk payment records.

0728.35 DISTRIBUTION

REV: 04/2010~~10/2006~~

~~0728.35 DISTRIBUTION REV: 10/2006~~

Distribution refers to the act of collecting child support payments and disbursing those payments to the proper individual or agency.

Prior to October 1, 1998, for purposes of distribution in IV-D cases, amounts collected, other than collections made through Federal or State income tax offset, are treated first as payment on the required child support obligation for the month in which the support was collected, next applied to any applicable "A" (~~FIP~~RIW) arrearage, and then "N" (Non- ~~FIP~~RIW) arrearage.

Amounts collected through Federal and State income tax refund offset must be applied to arrears owed to the State ("A"), then applied to arrears owed to the client ("N"), unless otherwise specified in a support order(s).

On or after October 1, 1998, distribution is subject to new criteria based on the client's ~~FIP~~RIW or former ~~FIP~~RIW status, assignment requirements, and priority ordering of arrearages as outlined in the following subsections.

The Office of Child Support Services will re-process child support collections under the(se) new rules, and to the extent that additional monies are owed to families, such payments will be authorized. If families are adversely affected by the new rules, no amount will be owed for any collection made prior to July, 1999.

0728.35.02 Definitions

REV: 04/2010~~10/2006~~

~~0728.35.02 Definitions REV:10/2006~~

ASSISTANCE PAID TO THE FAMILY -- For child support enforcement purposes, the term "assistance paid to the family" means money payments paid in cash, checks, or warrants immediately redeemable at par to eligible families under a State Plan approved under Title IV-A.

ASSISTANCE -- The term "assistance from the State" means assistance under the State program funded under Title IV-A of the Social Security

Act or under the State plan approved under Title IV-A (as in effect on August 21, 1996).

FEDERAL SHARE -- The term "Federal share" means that portion of the amount collected resulting from the application of the Federal medical assistance percentage in effect for the federal fiscal year in which the amount is distributed.

FEDERAL MEDICAL ASSISTANCE PERCENTAGE (FMAP) -- The term "Federal medical assistance percentage" means the Federal medical assistance percentage (as defined in section 1905(b) of the Act, as such section was in effect on September 30, 1995) in the case of any other State.

STATE SHARE -- The term "State share" means one hundred percent (100%) of the amount collected which does not exceed the cumulative unreimbursed assistance, minus the Federal share.

CURRENT ASSISTANCE CASE -- The term "current assistance case" means any IV-D case that is currently receiving TANF (~~FIP~~RIW) assistance.

FORMER ASSISTANCE CASE -- The term "former assistance case" means any IV-D case that formerly received ~~FIP~~RIW or TANF (~~FIP~~RIW) assistance.

NEVER-ASSISTANCE CASE -- The term "never-assistance case" means any IV-D case that has never received ~~FIP~~RIW or TANF (~~FIP~~RIW) assistance.

PERMANENTLY-ASSIGNED ARREARAGES -- The term "permanently- assigned arrearages" means those arrearages which do not exceed the cumulative amount of unreimbursed assistance paid to the family as of the date the family leaves the assistance rolls: (1) which are or were assigned under an assignment of support rights in effect on September 30, 1998, and (2) which accrued under an assignment entered into on or after October 1, 1998, while a family is receiving assistance.

TEMPORARILY-ASSIGNED ARREARAGES -- The term "temporarily- assigned arrearages" means those arrearages which accrued prior to the family receiving assistance and which were assigned to the State after September 30, 1998. These arrearages are not permanently assigned and the temporary assignment will expire when the family leaves the assistance program.

CONDITIONALLY-ASSIGNED ARREARAGES -- The term "conditionally- assigned arrearages" means those arrearages that do not exceed the cumulative amount of unreimbursed assistance paid to the family as of the date the family leaves the assistance rolls.

They are owed to the family unless they are collected through Federal income tax refund offset. They are arrearages that were temporarily assigned to the State and became conditionally assigned to the State when the temporary assignment expired. If a conditionally-assigned arrearage is collected through a Federal income tax refund offset, the collection is retained by the State to reimburse the State and the Federal government up to the cumulative amount of unreimbursed assistance paid to the family. Collections of conditionally-assigned arrearages by any other enforcement mechanism are paid to the family.

NEVER-ASSIGNED ARREARAGES -- The term "never-assigned arrearages" means all arrearages in never-assistance cases, and, in former assistance cases, means those arrearages that accrue after the family's most recent period of assistance ends.

UNASSIGNED DURING-ASSISTANCE ARREARAGES -- The term "unassigned during-assistance arrearages" means all previously-assigned arrearages that exceed the cumulative amount of unreimbursed assistance when the family leaves the assistance program and which accrued during the receipt of assistance.

UNASSIGNED PRE-ASSISTANCE ARREARAGES -- The term "unassigned pre-assistance arrearages" means all previously-assigned arrearages that exceed the cumulative amount of unreimbursed assistance when the family leaves the assistance program and which accrued prior to the receipt of assistance.

UNREIMBURSED ASSISTANCE -- The term "unreimbursed assistance" means the cumulative amount of assistance paid to a family for all months, which has not been repaid by assigned support collections. The total amount of unreimbursed assistance a State may recover through the IV-D program is limited by the total amount of the assigned support obligation.

0728.35.02.05 Date of Collection

REV: 04/2010~~10/2006~~

~~0728.35.02.05 Date of Collection REV: 10/2006~~

This section is divided into policy and procedures to be followed based on support collected before October 1, 1998 and on or after October 1, 1998.

For support collected before October 1, 1998:

INTERSTATE CASES

For collection and distribution purposes, an interstate case is one in which one of the parties resides in Rhode Island and the other resides out of state. The following rules shall be used for determining the date a child support payment is made by a non-custodial parent in interstate cases:

- The date of collection for distribution purposes in IV-D interstate cases shall be the date on which the payment is received by the IV-D agency in Rhode Island or the legal entity of any State or political subdivision actually making the collection, whichever is earliest. For interstate cases, the responding IV-D agency must include sufficient information to identify the case and indicate when the payment was received at the initial point of receipt by the IV-D agency or legal entity of the State or political subdivision actually making the collection, whichever is earlier. In the absence of sufficient information, the Office of Child Support Services must promptly obtain this data.

- When the custodial parent turns in support payments which were received directly from the non-custodial parent, the Office of Child Support Services will use the date on the check or money order as the date of collection unless the custodial parent can provide proof that the payment was made at another time. If the support payments were forwarded to the custodial parent from another jurisdiction, the Office of Child Support Services must contact the other jurisdiction to ascertain the date the collection was made in that jurisdiction.

IN-STATE CASES

An in-state case is one in which both parties reside in Rhode Island. The following rules shall be used for determining the date a child support payment is made by a non-custodial parent in in-state cases:

- With respect to in-state payments made through wage or other income withholding that are received by the IV-D agency, the date of collection for distribution purposes shall be the date the wages or other income are withheld (pursuant to a court or administrative order for income withholding) to meet the support obligation. If the employer fails to report the date of withholding, the IV-D agency must reconstruct that date by contacting the employer, or comparing actual amounts collected with the pay schedule specified in the court or administrative order;

- With respect to in-state payments (except for tax offset, income withholding collections, and payments made in person at the R.I. Family Court or any DHS office), the date of collection for distribution purposes shall be the date the payment is mailed as evidenced by a legible U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier. For payments made in person at the R.I. Family Court or any DHS office, the date of collection is the date the payment is tendered;

- The policy on support payments made directly to the custodial parent from either the non-custodial parent or another jurisdiction is the same for in-state cases as it is for interstate cases. (See above policy for interstate cases.)

- If none of the above is applicable, the date of collection shall be the date the payment was actually received by the Department of Human Services or its agent, R.I. Family Court.

For support collected on or after October 1, 1998, the date of collection is, for amounts collected and distributed under title IV-D of the Act, the date of receipt by the State disbursement unit, except when current support is withheld by an employer in the month when due and is received by the State disbursement unit in a month other than the month due. When this occurs, the date of withholding is deemed to be the date of collection.

0728.35.04 Payment Received

REV: 04/2010~~07/1999~~

Prior to October 1, 1998, any amount collected in a month is considered payment on the required support obligation for the month in which the support was collected and will be sent to the family within fifteen (15) calendar days of the date of initial receipt by the State.

On or after October 1, 1998, any amount collected is distributed according to the order of distribution based on the family's ~~FIP~~RIW, non-~~FIP~~RIW, or former ~~FIP~~RIW status as outlined in Sections 0728.35.05 and 0728.35.10 and any payment distributed to the family shall be sent to the family within two (2) business days of the determination that the amount is due and owing.

0728.35.05 Distribution for Current ~~FIP~~RIW Recipients

REV: 04/2010~~10/2006~~

~~0728.35.05 Distribution for Current FIP Recipients REV: 10/2006~~
All child support amounts collected, except for amounts collected through Federal income tax refund offset, must be treated first as payment on the required support obligation for the month in which the support was collected and if any amounts are collected which are in excess of such amount, these excess amounts shall be treated as amounts which represent payment on the required support obligation for previous months.

The State shall retain all collections of child support up to the amount of unreimbursed assistance while a family receives cash assistance under the ~~FIP~~RIW Program.

Any collections on or after October 1, 1998 shall be distributed in the following order:

To satisfy:

* Current support and, as appropriate, current spousal support;

* ~~FIP~~RIW arrears, temporary arrears, and spousal arrears;

* MA reimbursement;

* Non-assistance arrears if there are active SSI children;

* Non MA reimbursement.

Amounts collected by the Office of Child Support Services are accessible to the IV-A agency in INRHODES as soon as such collection is posted.

Hard-copy reports of cases receiving Excess of Grant payments (Section 0728.35.10) and Excess of Unreimbursed Assistance payments are generated monthly by record location and distributed for follow-up. Upon review of the reports of these amounts, the IV-A agency will determine if such amounts are sufficient to make families ineligible for an assistance payment. If so, the IV-A agency representative closes the case; INRHODES automatically codes the case as "N" (Non-assistance) and issues a Continuation of Services letter explaining that the Child Support Services agency will continue to provide IV-D services.

In any case in which direct support payments are received by a ~~FIP~~RIW recipient with respect to whom an assignment is in effect, such payments shall be endorsed over to the Office of Child Support Services or Family Court, as appropriate, and not retained by the family.

0728.35.05.05 Payment of Pass Through to ~~FIP~~RIW Families

REV: 04/2010~~10/2006~~

~~0728.35.05.05 Payment of Pass Through to FIP Families REV: 10/2006~~

As outlined in Section 0728.35.05, all child support collections made on behalf of current ~~FIP~~RIW clients shall be retained by the state up to the cumulative amount of un-reimbursed assistance.

For any month in which a non-custodial parent makes a child support payment in the month when due and the support is collected by the - Office of Child Support Services for a child or children receiving ~~FIP~~RIW cash assistance, the first fifty dollars ($50) of the child support payment, or the actual amount of the child support payment if the payment is less than fifty dollars ($50), shall be paid to the family in which the child resides. If more than one non-custodial parent makes a child support payment to children living in the same family, there shall be only one (1) payment not to exceed fifty dollars ($50) paid to the family from the child support collected. This payment is known as the "pass through" payment and shall be sent to the family within two (2) business days of the determination of the amount that is due and owing and no later than within two (2) business days of the end of the month in which the support was collected.

Pass through payments are excluded from income in calculating the family's ~~FIP~~RIW cash assistance amount. However, the fifty dollars ($50) pass through is counted as income in the Food Stamp Program.

0728.35.05.10 Payment in Excess of Grant

REV: 04/2010~~07/2004~~

Any amount collected during the month which represents payment on the required support obligation for that month, and is in excess of the fifty dollars ($50) pass through, shall be retained by the State to reimburse, in whole or in part, the assistance payment for the month in which the support was collected.

If the monthly amount owed and collected is greater than the assistance payment for the month, DHS authorizes payment to the family an amount equal to the difference between the assistance payment for the month and the court ordered amount for that month. This payment will be made in the month following the month in which the amount of the collection was used to redetermine eligibility for a ~~FIP~~RIW payment. If the court-ordered amount is less than the ~~FIP~~RIW payment, no amount shall be paid to the family. In cases in which there is no court order, the family shall not be paid any amount under this section.

Any month in which the amount collected exceeds the current support due, the State will retain such amount as reimbursement of past assistance payments up to the cumulative amount of unreimbursed assistance.

Any payment made under this section must be sent to the family within two (2) business days of the determination that the amount is due and owing.

0728.35.05.15 Future Payments

REV: 07/1994

If an amount collected represents payment on the required support obligation for future months, the amount will be applied to future months only after amounts which have been collected fully satisfy the support obligation assigned for the current month and all past months.

0728.35.05.20 Federal or State Tax Offset-Active ~~FIP~~RIW Cases

REV: 04/2010~~10/2006~~
~~0728.35.05.20 Federal or State Tax Offset-Active FIP Cases~~
~~REV:10/2006~~

Prior to October 1, 1998, amounts collected through Federal or State tax offset are applied first to ~~FIP~~RIW arrears. Any balance remaining is applied to the past-due support owed to the family in the amount certified to the federal and state governments.

Any collection received as a result of Federal or State income tax refund offset, which is due to a ~~FIP~~RIW family, must be sent within thirty (30) calendar days of the date of initial receipt by the IV-D agency.

For amounts collected under Federal income tax offset on or after October 1, 1998, the amount collected in active ~~FIP~~RIW cases will be distributed as outlined below. Any collection received from tax offset, which is due to a ~~FIP~~RIW family, must be sent within two (2) business days of receipt.

The State shall retain all collections of child support while a family receives cash assistance under the ~~FIP~~RIW Program. Any collections from Federal income tax offset on or after October 1, 1998 shall be distributed in the following order:

To satisfy:

* ~~FIP~~RIW arrears;

* Temporary arrears;

* Spousal arrears;

* Reimbursement; and

* Non-assistance arrears if there are active SSI children.

Amounts collected through state income tax offset will be applied and distributed in accordance with Section 728.35.05.

0728.35.05.25 Payment in Excess of Required Support

REV: 04/2010~~07/1999~~

Prior to October 1, 1998, any amount collected in a month which exceeds the required monthly support amount is treated as payment on the required support obligation for previous months (past-due support). The State will retain such amounts to satisfy arrears that have accrued while the family was on assistance when:

- o There is no specific arrears order on the case; or

- o There is no arrearage priority set on the case to distribute to non-~~FIP~~RIW arrears first.

After October 1, 1998, any amount collected in excess of the required current monthly support obligation for active ~~FIP~~RIW cases will be applied as outlined in Section 0728.35.05 and for former ~~FIP~~RIW cases, as outlined in 0728.35.10.

0728.35.10 Former AFDC/~~FIP~~RIW Cases

REV: 04/2010~~10/2006~~

Prior to October 1, 1998, when a family ceases to receive ~~FIP~~RIW, amounts collected that represent payment on the current support obligation will be sent to the family within fifteen (15) calendar days of the date of initial receipt in the State.

However, support collected in a month after any month in which the support collected made the family ineligible for an assistance payment, but prior to or in the month in which the family receives its last assistance payment, shall be used to reimburse the State for any assistance paid in such months with any excess being paid to the family. This provision will not apply when a hearing is requested pursuant to 45 CFR 205.10. In these cases, when the hearing results in a determination that the family was ineligible for an assistance payment, the Office of Child Support Services will:

* Determine the total amount of support paid in the last month assistance was paid;

* Determine the total amount of assistance paid in the month; and

* Pay the excess amount to the family.

If the family is determined to be eligible for assistance, distribution will continue as outlined in Section 0728.35.05.

For collections made on or after October 1, 1998 (other than collections through Federal income tax refund offset), the State will:

1. Distribute the amount collected to satisfy the current monthly support obligation and pay that amount to the family;

2. Distribute any amount above the current monthly support obligation to satisfy never-assigned arrearages and pay that amount to the family;

3. Distribute any amount in excess of the amounts distributed in 1. and 2. to satisfy unassigned pre-assistance arrearages and conditionally-assigned arrearages and pay that amount to the family.

4. Distribute any amount above amounts distributed in 1., 2., and 3. to satisfy permanently-assigned arrearages.

5. Reduce the cumulative amount of un-reimbursed assistance by the total amount distributed under 4., distribute collections exceeding the cumulative amount of un-reimbursed assistance to satisfy unassigned during-assistance arrearages and pay those amounts to the family.

0728.35.10.15 Federal or State Tax Offset-Former ~~FIP~~RIW Cases

REV: 04/2010~~10/2006~~

~~0728.35.10.15 Federal or State Tax Offset-Former FIP Cases~~
~~REV:10/2006~~

Prior to October 1, 1998, amounts collected through Federal or State tax offset are applied first to ~~FIP~~RIW arrears. Any balance remaining is applied to the past-due support in the amount certified to the federal and state governments.

Any collection received as a result of Federal or State income tax refund offset that is due to a family must be sent within thirty (30) calendar days of the date of initial receipt by the IV-D agency.

For amounts collected under Federal income tax offset on or after October 1, 1998, the amount collected in former ~~FIP~~RIW cases are distributed as outlined below. Any collection received from tax offset that is due to a client must be sent within two (2) business days of receipt.

To satisfy:

* ~~FIP~~RIW arrears and conditional arrears;

* Reimbursement, not including past liability;

* Non-assistance arrears and unassigned during assistance arrears;

* Past liability; and

* Spousal arrears.

Amounts collected through state income tax offset will be applied and distributed in accordance with Section 728.35.10.

0728.35.15 Never-Assistance Cases

REV: 07/1999

Prior to October 1, 1998, all support collected is first applied to the required support obligation for the month in which the support is collected and is sent to the family within fifteen (15) calendar days of the date the collection is received by the Family Court.

Any amount collected in excess of the required current support amount is applied to past-due support. Payments are sent to the family within fifteen (15) calendar days of the date the collection is received by the State.

On or after October 1, 1998, all support collections must be paid to the family within two (2) business days.

0728.35.20 Foster Care Distribution

REV: 04/2010~~10/2006~~

~~0728.35.20 Foster Care Distribution REV:10/2006~~

For distribution purposes, amounts collected in Foster Care maintenance cases shall be treated first as payment on the required support obligation for the month in which the support was collected and if any amounts are collected which are in excess of such amount, these excess amounts shall be treated as amounts which represent payment on the required support obligation for previous months.

Effective June 9, 1988, the date of collection shall be the date on which the payment is received by the Office of Child Support Services or the legal entity of any State or political subdivision actually making the collection, whichever is earliest. In any case in which collections are received by an entity other than the agency responsible for final distribution under this section, the entity must transmit the collection within ten (10) days of receipt.

0728.35.20.05 Payment Received

REV: 07/1994

Any amount collected in a month which represents payment on the required support obligation for that month will be retained by the State to reimburse itself for foster care maintenance payments.

0728.35.20.10 Payment in Excess of Required Support

REV: 07/1994

If the amount collected is in excess of the monthly amount of the foster care maintenance payment but is not more than the monthly support obligation, the State will pay the excess to the state agency responsible for supervising the child's placement and care.

If the amount collected exceeds the amount required to be distributed as described above, but is not greater than the total unreimbursed foster care maintenance payments provided or unreimbursed assistance payments the State will retain the excess to reimburse itself for these payments. If past foster care payments are greater than the total support obligation owed, the maximum amount the State may retain as reimbursement for such payments is the amount of such obligation.

If amounts are collected which represent the required support obligation for periods prior to the first month in which the family received public assistance or foster care maintenance payments, such amounts may be retained by the State to reimburse the difference between such support obligation and such payments.

Any balance remaining is paid to the State agency responsible for supervising the child's placement and care and is used to serve the best interest of the child.

0728.35.20.15 Future Payments

REV: 07/1994

If an amount collected as support represents payment on the required support obligation for future months, the amount will be applied to those future months. However, no amounts can be applied to future months unless amounts have been collected which fully satisfy the support obligation for the current month and all past months.

0728.35.20.20 Foster Care Maintenance Payments Cease

REV: 04/2010~~10/2006~~
~~0728.35.20.20 Foster Care Maintenance Payments Cease REV:10/2006~~

When a State ceases making foster care maintenance payments the assignment of support rights terminates except for the amount of any unpaid support that accrued under the assignment. The Office of Child Support Services will attempt to collect such unpaid support.

0728.35.25 Interstate Cases

REV: 04/2010~~10/2006~~

~~0728.35.25 Interstate Cases REV:10/2006~~

When a non-custodial parent is making payments to one state IV-D agency for a family residing in another state, amounts collected by the responding agency must be forwarded to the initiating State within 15 calendar days of the initial point of receipt in the responding State. Amounts will be distributed as outlined in Section 0728.

0728.40 SSI CHILD HAVING SPECIAL NEEDS

REV: 04/2010~~10/2006~~
~~0728.40 SSI CHILD HAVING SPECIAL NEEDS REV:10/2006~~

Title XVI of the Social Security Act provides funding to states to pay benefits to indigent, aged, blind, and/or disabled individuals. This program, known as Supplemental Security Income, is commonly referred to as SSI. There may be instances in which an SSI child is a member of a family where all other members are eligible for and in receipt of ~~FIP~~RIW benefits.

Because SSI is a special category of assistance, the SSI child is not included in the ~~FIP~~RIW grant and his/her resources are not included in determining ~~FIP~~RIW eligibility.

Also, the SSI child is not included in any assignment of support rights and therefore, support received on behalf of an SSI child cannot be retained by the State and must be disbursed to the family. Distribution of support must occur within five (5) days of receipt by the Office of Child Support Services according to the requirements outlined below:

- If the SSI child is the only person covered by the support order, one hundred percent (100%) of the support collected shall be paid to the custodial parent.

- If the SSI child is not the only person covered by the child support order, a per capita proportion of the amount collected shall be paid to the custodial parent, unless otherwise specified in the court order.

Child support distributed to a custodial parent on behalf of an SSI child is not considered income for purposes of determining ~~FIP~~RIW eligibility or payment level for members of the ~~FIP~~RIW household. However, child support distributed to a custodial parent on behalf of an SSI child is considered unearned income in the Food Stamp Program.

The Office of Child Support Services will provide to the custodial parent of an SSI child a monthly statement that discloses the amount of child support collected and distributed during the month on behalf of the child. The statement includes notification of the custodial parent's right to a hearing with regard to disputes involving the collection and distribution of the child support.

0728.45 RECOVERING ERRONEOUSLY DISBURSED SUPPORT

REV: 04/2010~~10/2006~~

~~0728.45 RECOVERING ERRONEOUSLY DISBURSED SUPPORT REV:10/2006~~

Erroneously disbursed support payments are those payments collected by Office of Child Support Services and distributed to the wrong custodial parent. It includes, but is not limited to, fixed amount medical support, spousal support, arrears payments, and ongoing current support payments. Whenever the Office of Child Support Services discovers that an erroneous amount of support has been disbursed to a client that results in an overpayment, the Office of Child Support Services shall:

- Provide the client with notice by mail that an overpayment has been made, including the amount of the overpayment, the date(s) on which the overpayment(s) was made, and the reason for the overpayment.

This notice is to advise the client that:

- Full repayment is to be made within thirty (30) days of the date of the notice or;

- If full repayment is not made within thirty (30) days, the Office of Child Support Services may proceed to recover the overpayment by withholding fifty percent (50%) of future support collections until the total amount of the overpayment has been recovered and/or by initiating civil action to recover the erroneously disbursed support.

NOTE: Any notice to the client about recovery of erroneously disbursed support will also inform him/her of:

(1) The right to an informal review with Office of Child Support Services to discuss the overpayment. This meeting will allow the client to discuss any disagreement about the correctness of the overpayment without the need to file for a formal, administrative hearing.

(2) The right to an administrative hearing. This may be requested regardless of whether the client has had an informal meeting with Office of Child Support Services as described in the preceding paragraph.

0728.45.05 RECOVERING TAX OFFSETS

REV: 04/2010~~10/2006~~

~~0728.45.05 RECOVERING TAX OFFSETS REV:10/2006~~

Whenever either the Federal Internal Revenue Service (IRS) or the State Division of Taxation requires the Office of Child Support Services to return all or a part of a tax refund intercepted by the IRS or the State Division of Taxation which had been sent to Office of Child Support Services by either of these tax collection agencies, and subsequently disbursed by Office of Child Support Services to a client

in accordance with Federal or State tax refund offset requirements, the Office of Child Support Services shall:

- Provide notice to the client that IRS or the State Division of Taxation has demanded a return of all or a part of the tax refund that was intercepted. Indicate in the notice the amount of the refund being requested to be returned, and the date of the disbursement to the client.

- Notify the client to return, in full, the total amount of the tax refund intercept that is being requested by either IRS or the State Division of Taxation, within thirty (30) days of the date of the notice. The notice should caution the client that failure to do so could result in Office of Child Support Services initiating civil action to recover the tax refund intercept.

NOTE: Tax refund intercepts that are sent to clients erroneously because of mis-postings to accounts will be recovered under the procedures outlined in Section 0728.45.

0730 RETAINED SUPPORT

0730.05 DIRECT SUPPORT DEFINED

REV: 04/2010~~10/2006~~

~~0730.05 DIRECT SUPPORT DEFINED REV:10/2006~~

Direct support payment means an assigned support payment from an non custodial parent received directly by a ~~FIP~~RIW recipient.

These payments may go to the ~~FIP~~RIW recipient directly from the non custodial parent or, in some cases, may have been sent by either an out-of-State court or agency or a R.I. court.

~~FIP~~RIW recipients are required to turn over direct support payments to the:

Department of Human Services
Office of Child Support Services
Business Office
Recovery Unit
110 Eddy St.
Providence, R. I. 02903

0732 SUPPORT PROCESSING

0732.05.15 Post Hearing Activities

REV:04/2010~~10/2006~~

~~0732.05.15 Post Hearing Activities REV: 10/2006~~

After the hearing, the Office of Child Support Services staff will enter the order on the InRhodes system, generate a copy for mailing for each party, respective attorneys, interstate agency if appropriate, and for filing with the Court.

- If the case is continued, return the case record to the court hearing pending file;
- When there are special instructions, notify the appropriate agent or unit;
- When the case needs no further update, return the case to Master File.

0732.10 BODY ATTACHMENTS

REV: 04/2010~~10/2006~~

~~0732.10 BODY ATTACHMENTS REV:10/2006~~

The Family Court Judge/Magistrate may issue a warrant for a body attachment when an non-custodial parent/putative father or custodial parent fails to appear in court. The warrant instructs the Sheriff or Constable to apprehend the individual for the purpose of bringing him/her to court.

Body attachments are issued by the Family Court via BODY within the ORDR subsystem. Once information is input, a message appears on DAIL indicating that the body attachment order is awaiting action.

The ORDR BODA panel is used to enter the date a bad address is discovered or the body attachment return date. Once a return date is entered, the record will no longer exist in DAIL.

The Family Court will withdraw or execute orders by entering the appropriate dates on the ORDR BODY panel.

0732.10.05 Body Attachment Issued

REV: 04/2010~~10/2006~~

~~0732.10.05 Body Attachment Issued REV:10/2006~~

When the court issues a body attachment, the OCSS record will be forwarded to the OCSS Legal Unit where the Secretary will hold the case until the warrant is received from the court.

When the warrant is received, the OCSS Legal Secretary will:

- Match the OCSS case record with the warrant.
- Check the service address to determine which county Sheriff or Constable the case should be sent to;
- Update the case DAIL BODA panel with:

The date the body attachment was mailed to the sheriff;

The county code of the sheriff who was notified;

- Mark the file with the date that the warrant was sent to the Sheriff or Constable;
- Forward the warrant to the appropriate county Sheriff or Constable.

0732.10.05.05 Body Attachment Executed

REV: 04/2010~~10/2006~~

~~0732.10.05.05 Body Attachment Executed REV:10/2006~~

When a body attachment is executed (defendant is apprehended by the sheriff), the individual is either taken:

- Directly to court, if it is in session; or
- To the ACI until the next session of court;

The Family Court will execute the body attachment and address the underlying motion pending before the court.

0732.10.05.10 Body Attachment Withdrawn

REV: 04/2010~~10/2006~~

~~0732.10.05.10 Body Attachment Withdrawn REV:10/2006~~

When the individual appears on his/her own, the Judge/Magistrate will withdraw the order. However, the body attachment will remain with the Sheriff, and therefore remains in DAIL until a return date is entered to remove it.

0732.15 CONSTABLE SERVICE

REV: 04/2010~~10/2006~~

~~0732.15 CONSTABLE SERVICE REV:10/2006~~

The Office of Child Support Services enters into service contracts with Constables for the purpose of process service.

All constables must:

- Be licensed by the Chief Judge of the Rhode Island District Court and by the Chief Judge of the Family Court as required by law;
- Have a bond for District Court and Family Court with sufficient sureties in the sum of five thousand dollars ($5,000) for the faithful performance of the duties of his/her office;

- Comply with any and all administrative requirements set by either the District Court or Family Court.

0732.15.05 Rules and Regulations of OCSS Constables

REV: 04/2010~~10/2006~~
~~0732.15.05 Rules and Regulations of OCSS Constables~~
~~REV:10/2006~~

Responsibilities to be performed by Constables include, but are not limited to:

- Serving and executing writs, process and legal forms issued from the Rhode Island Family Court and the Office of Child Support Services;

- When performing services for the Office of Child Support Services, being governed by both State statutes: Rhode Island General Law, Title 9, Chapter 5, Section 1 et seq (RIGL 9-5-1 et seq) and Rhode Island General Law, Title 45, Chapter 16, Section 1 et seq (RIGL 45-16-1 et seq), and Rule 4 of the Rhode Island Rules of Domestic Procedure;

- Not carrying any firearm while performing the duties of a Constable for the Office of Child Support Services;

- Being available at all times by beeper or answering machine;

- Being on call for emergency assignments from 7:00 a.m. to 6:00 p.m., every Monday through Saturday;

- Reporting to the Office of Child Support Services sometime between 1:00 and 4:00 p.m. every Friday afternoon;

- Being paid only for successful service of legal forms on either the defendant and/or plaintiff, third party witnesses, employers etc., as required by the specifics of the case;

  Note: Successful service is defined as completed forms of legal process or other documents prepared by the Office of Child Support Services, returned in a manner that renders them completely and legally acceptable and ready for referral to Rhode Island Family Court by the Office of Child Support Services.

- Being paid a fixed fee for successful personal service;

- Preparing and submitting a monthly invoice, as specified by the Office of Child Support Services,

for all complete legal services for each calendar month within the first five (5) days of the subsequent month;

- Completing a report, as specified by the Office of Child Support Services, detailing the Rhode Island Family Court and Office of Child Support Services legal papers that could not be served and an explanation for why service was unsuccessful;

- Meeting with the Office of Child Support Services Constable Unit Supervisor on a weekly basis;

- Maintaining complete and accurate records on all referrals of legal papers made to them by the Office of Child Support Services, and make them available to the Rhode Island Family Court upon request;

- Being willing and prepared, when called upon, to testify in Rhode Island Family Court hearings;

- Being licensed as a Notary Public in the State of Rhode Island and performing the services of a Notary Public as required in the performance of any Office of Child Support Services Constable duties at no further charge to the Office of Child Support Services plaintiff or defendant.

0734 NOTICE AND HEARING PROCEDURES

0734.05 MONTHLY NOTICE AND HEARING PROCEDURES

REV:04/2010~~10/2006~~

~~0734.05 MONTHLY NOTICE AND HEARING PROCEDURES REV:10/2006~~
The Office of Child Support Services shall provide a monthly notice (computer generated) to ~~FIP~~RIW recipients and non-assistance (NA) recipients for whom a child support obligation has been established, and for whom a child support collection has been made. The monthly notice shall specify at a minimum the amount of support paid, the date such payment was made, the date such payment was received by the Office of Child Support Services or the R.I. Family Court, the date and amount of pass through and/or child support paid to the ~~FIP~~RIW client, and an explanation of the recipient's rights to a hearing, which must be requested within thirty (30) days of the date of the notice. When a pass through payment is not sent to a recipient in a particular month, the monthly notice will include an explanation as to why it was not made. A hearing request form is enclosed with the monthly notice. The following constitute the Office of Child Support Services hearing procedures:

- The recipient of the monthly notice will mail the request form to the Office of Child Support Services Business office, 110 Eddy Street, Providence, RI 02903. The form will be date stamped and logged in a central location by the

Business Office. The Business Agent shall research the records to determine all pass through payments made for the months the recipient was on ~~FIP~~RIW, if applicable. The agent shall refer the hearing request form packet to the Legal Unit for scheduling of a hearing, indicating in their log the date the matter was so referred;

- Clerical staff will date stamp the packet, log the case in a central log, and schedule the matter for hearing. A notice shall be mailed to the client advising her/him of the hearing date. Notice of scheduled hearings shall be given to the business office on a weekly schedule;

- The hearing will be conducted in the same manner as the income tax intercept hearings. The business officer or other Office of Child Support Services representative will be present and will be available to answer the client's relevant questions relating to the information provided to the client in the monthly notice. The client will then have an opportunity to present when s/he believed s/he should have received a child support payment and/or pass through in a given month. The business officer or other Office of Child Support Services representative will then be given an opportunity to respond by presenting testimony and/or evidence with respect to the child support and/or pass-through payments and periods contested by the client;

- The hearing officer may, in his or her discretion, grant a continuance to any party for good cause, including, but not limited to, a party's reasonable request to obtain, review, and present additional relevant evidence. The client will be advised s/he will receive a written decision by mail within thirty (30) days following the close of the hearing;

- A decision letter will be prepared by the hearing officer. The original will be sent to the client, with copies to her or his representative, master file, hearing file, and business office;

- Any person who has exhausted all available administrative remedies, and who is aggrieved by a final order of the agency, is entitled to judicial review pursuant to Section 42-35-15 of the R.I. General Laws. If a client appeals the decision of the hearing officer to the Superior Court, the hearing officer will be responsible to obtain a transcript of the hearing, assemble the evidence (exhibits), and forward the material to the Deputy Chief Legal Counsel, Office of Child Support Services.

0734.10 KENYON NOTICE AND HEARING PROCEDURES

REV:04/2010~~10/2006~~

~~0734.10 KENYON NOTICE AND HEARING PROCEDURES REV:10/2006~~

The Department of Human Services, as a result of Federal Court Civil Action, No. 89-0553P, Kenyon et al v. Sullivan, has been ordered to provide special notices to recipients. The Court required that all members of the Kenyon class (all individuals who received AFDC and for whom the state was collecting child support from 1984 forward) be notified by mail and publication of their right to an accounting and hearing. Accordingly, the DHS Rhode Island Child Support Services Agency has implemented the following procedures:

- Members of the Kenyon class received notice of their right to an accounting and a hearing by direct mail at their last known address and by newspaper publication. Enclosed with the notice, and available at the OCSS Business Office, is a form to request a hearing. The class members are to mail the request form to Legal Counsel, DHS, 600 New London Avenue, Cranston, RI 02920. A letter of acknowledgement is sent to the class member. The request form will be date stamped, assigned an internal docket number, and logged in. Copies of the request shall be retained by DHS Legal Counsel. The originals shall be sent to OCSS Legal Counsel on a transmittal form;

- Immediately upon receipt, clerical staff at the OCSS Legal Unit shall sign the transmittal, date stamp it, and return it to DHS Legal Counsel at 600 New London Avenue;

- All request forms will be date stamped and manually logged in, indicating the class member's name and social security number. An attorney worksheet form shall be attached to the request form, serving as a request for an accounting from the Business Office. The date the request for an accounting was made shall be indicated in the log;

- An agent from the Business Office shall obtain the ~~FIP~~RIW payroll card at the Central Office, obtain the payment history or "PM-10" for each obligor, and research the records to determine all pass-through payments made for the corresponding months the client received ~~FIP~~RIW. The internal business accounting form shall be completed, indicating the dates of ~~FIP~~RIW payments, amount of ~~FIP~~RIW, amount of child support due, amount of child support paid by the obligor, and pass-through payments paid in each month. The dates of manual issuances of pass-through payments must also be provided. The detailed accounting form will assist the Business Agent in presenting the facts at the hearing, and will serve to clearly inform the client of all activity on his/her case;

- The completed attorney worksheet packet will be forwarded to the Legal Unit at OCSS. The clerical staff will select a hearing date, and notice of the hearing shall be forwarded to the client. Hearings shall be conducted by attorneys and paralegal staff, depending upon availability. Notice of hearings shall be provided to the Business Office on a weekly schedule;

- The hearing will be conducted in the same manner as the income tax intercept hearings. The business officer, or other OCSS representative, will present the client with the "accounting" and will be available to answer the client's questions relating to the account. The client will then have an opportunity to present why s/he believes s/he should have received a pass-through in a given month. The business officer or other OCSS representative will then be given an opportunity to respond by presenting testimony and/or evidence with respect to the pass-through payments and periods contested by the client;

- The hearing officer may, in his or her discretion, grant a continuance to any party for good cause, including, but not limited to, a party's reasonable request to review the accounting and to obtain, review, and present additional relevant evidence. The s/he will receive a written decision by mail within 30 client will be advised days next following the close of the hearing;

- A decision letter will be prepared by the hearing officer. The original will be sent to the client, with copies to his/her representative, master file, hearing file, and business office;

- Any person who has exhausted all available administrative remedies, and who is aggrieved by a final order of the agency is entitled to judicial review pursuant to Section 42-35-15 of the R.I. General Laws. If a client appeals the decision of the hearing officer to the Superior Court, the hearing officer will be responsible to obtain a transcript of the hearing, assemble the evidence (Exhibits), and forward the material to the Deputy Chief Legal Counsel, OCSS.

0735 LEGAL REPRESENTATION0735.05 ~~Legal Representation~~

REV: 04/2010~~10/2006~~

In any legal proceeding, legal counsel for the child support enforcement agency shall represent the Office of Child Support Services or, when acting on behalf of the Department of Children, Youth and Families, Department of Human Services, or other state agency, shall

represent the interests of those entities. The attorneys do not represent the interest of any individual person.

There is no attorney-client relationship between legal counsel and either party. The Department shall provide services to both the custodial and non-custodial parents. Either party may retain representation by a private counsel.

Each party applying for services shall be given a notice regarding legal representation.

For those existing cases where a prior attorney-client relationship was established, appropriate notice as described above and a waiver regarding legal representation shall be mailed. No further services will be rendered until the waiver is returned. Legal counsel shall either withdraw as counsel, or, upon receipt of a signed waiver, continue to provide services only. However, in no event will legal representation continue.