

For Department of State use only.

Notice of Adoption

Temporary and Disability Assistance, Office of
(SUBMITTING AGENCY)

- This adoption will amend the NYCRR.
 This adoption will not amend the NYCRR.

NOTE: Typing and submission instructions are at the end of this form. Please be sure to COMPLETE ALL ITEMS. Incomplete forms will be cause for rejection of this notice. change in text

1. *Action taken:*

Amendment of § 347.19 of Title 18 NYCRR

- "X" box if the rule was originally proposed as a consensus rule making.

2. *Effective date of rule:*

- Date this notice is published in the *State Register*.
 This is a "rate making" as defined in SAPA §102(2)(a)(ii), and, is effective as follows:
 Date of filing.
 Other date (*specify*): _____
 Other date (*specify*): _____
 _____ days after filing.

3. *Statutory authority under which the rule was adopted:*

Social Services Law §§ 17(a)-(b) and (j), 20(3)(d), 34(3)(f), 111-a, and 111-v; 42 United States Code §§ 651-658, 660, 663-664, 666-667, 1302, 1396a(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396b(k); and 45 Code of Federal Regulations §§ 303.21, 303.69, 303.70, and 307.13

4. *Subject of the rule:*

Child Support

5. *Purpose of the rule:*

Please see addendum.

- C. A revised RIS is **not** attached because this rule is a "rate making" as defined in SAPA §102(2)(a)(ii).
 A revised RIS is **not** attached because this rule was proposed as a consensus rule as defined in SAPA

10. Revised Regulatory Flexibility Analysis (RFA) for small businesses and local governments

(SELECT AND COMPLETE ALL THAT APPLY; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

- A. The attached Revised RFA contains:
 The full text of the Revised RFA.
 A summary of the Revised RFA.
- B. A **statement is attached** explaining why a revised RFA is not required (check one box):
 Changes made to the last published rule do not necessitate revision to the previously published RFA.
 The changes will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments. The attached statement sets forth this agency's findings and the reason(s) upon which the findings were made, including what measures were used to determine those findings.
- C. A revised RFA is **not** attached because this rule is a "rate making" as defined in SAPA §102(2)(a)(ii).
 A revised RFA is **not** attached because this rule was proposed as a consensus rule as defined in SAPA §102(11).

11. Revised Rural Area Flexibility Analysis (RAFA)

(SELECT AND COMPLETE ALL THAT APPLY; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

- A. The attached Revised RAFA contains:
 The full text of the Revised RAFA.
 A summary of the Revised RAFA.
- B. A **statement is attached** explaining why a revised RAFA is not required (check one box):
 Changes made to the last published rule do not necessitate revision to the previously published RAFA.
 The changes will not impose any adverse impact or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. The attached statement sets forth this agency's findings and the reason(s) upon which the findings were made, including what measures were used to determine those findings.
- C. A revised RAFA is not attached because this rule is a "rate making" as defined in SAPA §102(2)(a)(ii).
 A revised RAFA is **not** attached because this rule was proposed as a consensus rule as defined in SAPA §102(11).

12. Revised Job Impact Statement (JIS)

(SELECT AND COMPLETE ALL THAT APPLY; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

- A. The attached Revised JIS contains:
 The full text of the Revised JIS.
 A summary of the Revised JIS.
- B. A **statement is attached** explaining why a revised JIS is not required (check one box):
 Changes made to the last published rule do not necessitate revision to the previously published JIS.
 The changes will not impose a substantial impact on jobs and employment opportunities. The attached statement sets forth this agency's findings that the rule will have a positive impact or no impact on jobs and employment opportunities; except when it is evident from the subject matter of the rule that it could only have a positive impact or no impact on jobs and employment opportunities, the statement shall include a summary of the information and methodology underlying that determination.
- C: A revised JIS is **not** attached because:
 This rule is a "rate making" as defined in SAPA §102(2)(a)(ii).
 This rule was proposed by the State Comptroller or Attorney General.

13. **Assessment of Public Comment** (includes legislative comments) (check applicable box):

- A. 45-day minimum comment period is complete (Full text was submitted with proposal or summary of text was submitted with the proposal and the full text was posted on a State web site or the rule is a consensus rule or a rule defined under SAPA §102[2][a][ii] [Rate Making])
- 60-day minimum comment period is complete (Summary of text was submitted with the proposal and the full text was not posted on a State web site or the rule is **not** a consensus rule or a rule defined under SAPA §102[2][a][ii] [Rate Making])
- B. (COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)
- Attached is an assessment of public comment.
No particular form is required, and it need **only** include comments not addressed in any previously published assessment for this rule. However, the assessment must be based on any written comments received by the agency or any comments presented at any public hearing held by the agency about this rule (include legislative comment). It must contain a summary and an analysis of the issues raised and significant alternatives suggested, a statement of the reason(s) why any significant alternatives were not incorporated, and a description of any changes made as a result of such comments.
- An assessment is not attached because no comments were received.
- An assessment is not required because this action is for a "rate making" as defined in SAPA §102(2) (a)(ii).

14. **Referenced material** (check one box):

- No information is being incorporated by reference in this rule.
- This rule contains referenced material in the following Parts, sections, subdivisions or paragraphs:

15. **Initial Review of Rule** (SAPA §207)

(SELECT AND COMPLETE ONE)

- A. As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2020, which is no later than the 3rd year after the year in which this rule is being adopted.
- B. As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year _____ which is the 4th or 5th year after the year in which this rule is being adopted. This review period, justification for proposing same, and invitation for public comment thereon, were contained in a RFA, RAFA or JIS:
- Attached is an assessment of public comment on the issue of the 4 or 5-year initial review period;
or
- An assessment of public comment on the 4 or 5-year initial review period is not attached because no comments were received on the issue.
- C. As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year _____ which is no later than the 5th year after the year in which this rule is being adopted.
- D. Not Applicable. This rule is a "rate making" or a "consensus rule," or the agency is not required to review existing rules.

AGENCY CERTIFICATION (To be completed by the person who PREPARED the notice)

I have reviewed this form and the information submitted with it. The information contained in this notice is correct to the best of my knowledge.

I have reviewed Article 2 of SAPA and Parts 260 through 263 of 19 NYCRR, and I hereby certify that this notice complies with all applicable provisions.

Name Joseph C. Mazza Signature /s/ Joseph Mazza

Address 40 North Pearl Street, 16C, Albany, New York 12243-0001

Telephone (518) 474-0574 E-mail Joseph.Mazza@OTDA.NY.GOV

Date 01/17/2017

Please read before submitting this notice:

1. Except for this form itself, all text must be typed in the prescribed format as described in the Department of State's *Register* procedures manual, *Rule Making in New York*.
2. Rule making notices with any necessary attachments should be e-filed via the Department of State website.

Proposed Regulatory Amendments to 18 NYCRR § 347.19

4. Purpose of the rule:

To help ensure the State's compliance with the federal rules for safeguarding confidential information, disclosing said information, where appropriate, to authorized persons and entities for authorized purposes, and reporting of delinquent child support payors to credit reporting agencies.

Summary of the Text

This is a general summary of the rule text to amend to 18 NYCRR § 347.19. The full rule text is posted at the following State website: <http://otda.ny.gov/legal/>.

The rule amends 18 NYCRR § 347.19 to conform with amendments to title IV-D of the federal Social Security Act and regulations promulgated by the federal Department of Health and Human Services. Section 347.19 is renamed as “Use and Disclosure of Confidential Information and Credit Reporting” to better reflect the new provisions.

Section 347.19 (a) clarifies what information is to be safeguarded and what uses are permitted for child support purposes. It details when disclosure of location information is not permitted due to the risk of family violence. It also addresses the limitations on disclosure to third parties, including other government agencies or programs. The revisions provide instructions on the manner in which to respond to court ordered disclosure and identify the penalties for unauthorized use or disclosure. The revisions authorize the Office of Temporary and Disability Assistance to promulgate standards and controls for safeguarding confidential information on State and local systems.

New York State maintains a State parent locator service in accordance with federal law. As required by recently adopted federal regulation, § 347.19 (b) establishes separate rules regarding the use and disclosure of information contained in the state parent locator service. The regulation identifies the persons authorized to receive the information, the authorized uses of information, and the types of information that may be disclosed.

Section 347.19 (c) amends the existing rules regarding reporting child support arrears to consumer reporting agencies. The amendments clarify the rules setting out the threshold requirements for reporting child support arrears and the process for challenging the support collection unit’s determination to make such a report.

Section 347.19 of Title 18 NYCRR is amended to read as follows:

§ 347.19 [Confidentiality of information] Use and Disclosure of Confidential Information and Credit Reporting.

Subdivision (a) of section 347.19 is repealed, and a new subdivision (a) is added to section 347.19 to read as follows:

(a) Use and Disclosure

- (1) The office of temporary and disability assistance (Office) and the child support enforcement unit (CSEU) shall maintain all information and data, including information and data in the state automated child support management system (automated system), in a confidential manner designed to protect the privacy rights of the parties and shall not use or disclose information or data except for the purpose of, and to the extent necessary to establish paternity, to establish, modify or enforce an order of support, or to administer the child support program, unless otherwise authorized by law.
 - (i) The information to be safeguarded includes all information or data obtained in connection with performance of child support functions, including records or information received in electronic form.
 - (ii) The requirements of this section apply to the Office and CSEU, any other state or local agency or official to whom the Office or CSEU delegates any of the functions of the child support program, and any official, person or entity performing child support functions pursuant to a cooperative agreement or purchase of services agreement.
- (2) Except as provided in subparagraphs (i) and (ii) of this paragraph, Office and CSEU employees may access, use or disclose information and data obtained in connection with the performance of functions under title IV-D of the federal Social Security Act to the extent necessary to perform their duties within the child support program. The Office or CSEU shall monitor use of and access to the automated system to prevent unauthorized use or access by its employees or contractors.
 - (i) Access to and use of any information from the Internal Revenue Service, including federal tax return information, is restricted as specified in the Internal Revenue Code.
 - (ii) (a) The CSEU shall prohibit disclosure of location information by entry of a family violence indicator, if requested by any

person, where that person provides reasonable evidence of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child, including but not limited to evidence that:

(1) The person resides or has resided in a domestic violence shelter or is receiving non-residential domestic violence services;

(2) A temporary or final protective order has been entered;

(3) The person is enrolled in an address confidentiality program;

(4) The person provides a domestic violence or child abuse incident report or police report which describes domestic violence or child abuse;

(5) A court has determined that contact with the other party creates a risk of physical or emotional harm to the person or child;

(6) A good cause exemption has been issued due to domestic violence; or

(7) A family violence option waiver is granted by the social services district.

(b) As used in this subparagraph, location information shall include residential address, employer name, employer address, county of residence or employment, or other information identifying an employer, educational institution, or residence of an individual.

(c) Upon request by any authorized person for location information from an account or case where a family violence indicator has been entered, the social services district shall advise that the location information cannot be provided absent a determination by a court of competent jurisdiction that disclosure to any other person of that information would not be harmful to a party, parent or child.

- (d) Notice of entry or deletion of a family violence indicator shall be transmitted to the Federal Case Registry within five (5) days of receipt of information which would cause entry or deletion of an indicator.
- (iii) All new employees of the Office or of the CSEU or social services district with access to child support information shall receive training in the permitted use, disclosure, and safeguarding of this information, as well as the penalties for its misuse. All employees of the Office or of the CSEU or social services district with access to child support information shall receive periodic training regarding these subjects.
- (3) The Office or CSEU may disclose the following information to individuals who are parties to a support order being collected or enforced by a CSEU except where disclosure is otherwise prohibited by law or pursuant to subparagraph (ii) of paragraph (2) of this subdivision:

 - (i) A party to the support order may obtain disclosure of any of his or her confidential information, information regarding case status and pending court appearances, and payment histories, except that information regarding an investigation of the parent or guardian for fraud or criminal prosecution shall not be disclosed;
 - (ii) A custodial parent or guardian may obtain information regarding current or pending support proceedings or processes and disclosure of information of the noncustodial parent, including location, employment, income, and assets, but only to the extent necessary to prepare for an administrative or court proceeding or for other child support purposes; or
 - (iii) A parent or guardian may grant written authorization to a third person, including an attorney, translator or legislator, to obtain disclosure of such information as he or she is entitled to obtain. The written authorization shall be valid for one year from the date signed or the date it is received by the CSEU, whichever is earlier, or until revoked by the parent or guardian in writing filed with the Office or CSEU.
- (4) Authorized Disclosures to Government Agencies or Programs.

 - (i) The Office or CSEU may, subject to such requirements as the Office may prescribe, disclose information to state agencies as necessary to carry out state agency functions under plans or programs under titles IV (including tribal programs under title IV),

XIX, or XXI of the federal Social Security Act, and the Supplemental Nutrition Assistance Program, including:

- (a) Any investigation, prosecution or criminal or civil proceeding conducted in connection with the administration of any such plan or program.
 - (b) Information on known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child under circumstances which indicate that the child's health or welfare is threatened may be provided to the Statewide Central Register of Child Abuse and Maltreatment or a social services official charged with protection of children or a law enforcement officer; provided, however, that information obtained from financial institution data matches, the National or State Directory of New Hires or Federal or State Case Registry may not be disclosed absent independent verification.
 - (c) The Office or CSEU shall require agencies authorized to receive information to enter into agreements setting out the frequency, scope, and manner of information exchanges, and the limitations on use and re-disclosure of child support information. Agreements shall require that information disclosed to the agency or public official shall not be re-disclosed unless authorized by law and shall only be used for the purpose for which it is provided.
- (ii) Notwithstanding anything in this section to the contrary, information obtained from the following sources may only be used for the purpose of, and to the extent necessary to, establish paternity, establish, modify or enforce an order of support or for the administration of the child support program:
- (a) Records or information of other state and local agencies which may not be re-disclosed pursuant to state or federal law;
 - (b) Business or financial records of corporations, companies or other entities;
 - (c) Records of financial institutions and utility or cable companies;

- (d) Use and disclosure of federal tax return information is restricted as specified in the Internal Revenue Code, and shall not be otherwise re-disclosed absent independent verification; and
- (e) Information obtained from financial institution data matches shall not be disclosed outside the administration of the child support program.
- (iii) Notwithstanding any other provision of this section, authorized disclosures under this paragraph shall be subject to the following limitations:

 - (a) Information in the automated system obtained from the national or state directory of new hires or federal or state case registry may be disclosed to agencies administering plans or programs under title IV-B and IV-E of the federal Social Security Act to locate parents or putative fathers for the purposes of establishing paternity or establishing parental rights with respect to a child.
 - (b) Information obtained from the national directory of new hires or federal or state case registry may be disclosed to agencies administering plans or programs under titles IV-A, IV-B, IV-D and IV-E of the federal Social Security Act for the purpose of assisting that program to carry out its responsibilities of administering title IV-A, IV-B, IV-D and IV-E programs.
 - (c) Information regarding the employee's name, Social Security number and address and the employer's name, address, and federal employer identification number obtained from the state directory of new hires may be disclosed to agencies administering plans or programs under title IV-A of the federal Social Security Act for the purpose of verifying income and eligibility.
 - (d) For purposes of this section, "independent verification" is the process of acquiring and confirming information through the use of a secondary source. The information from the secondary source, which verifies the original information, may only be released for purposes permitted by and to persons or entities authorized to receive the information under federal and state law and these regulations.

- (5) (i) If information is requested by court-issued subpoena, the Office or the CSEU shall oppose release of the information unless:
- (a) Disclosure is not prohibited by law;
 - (b) The party requesting the information is entitled to disclosure of the information requested without resort to legal process;
 - (c) The subpoena is accompanied by a written consent to release of the information by the person or persons whose information is the subject of the request; or
 - (d) Disclosure is required by other provisions of law.
- (ii) If disclosure is not authorized, the Office or CSEU shall move to quash the subpoena, or request that the child support agency in the state of the court issuing the subpoena take like steps to prevent the disclosure of the information. In instances where disclosure is prohibited due to the existence of a family violence indicator, the CSEU shall move that the court, pursuant to federal law, hold a hearing to determine if disclosure could result in harm to a family member or former family member, on notice to that individual. In such cases, the information will only be released to the court.
- (6) Any person who discloses or uses child support information in violation of law or regulation shall be subject to legal sanctions for such disclosure, including:
- (i) A civil action pursuant to section 111-v (3) of the social services law by any person who incurs damages due to the improper use or disclosure;
 - (ii) If willful, referral for criminal prosecution pursuant to section 111-v (4) of the social services law and/or for official misconduct pursuant to section 195.00 of the Penal Law. Improper disclosure of federal tax return information may be subject to additional federal criminal penalties; and
 - (iii) Administrative penalties, including dismissal from employment.
- (7) Security, confidentiality and compliance for information and data flowing through, accessed and/or utilized by non-state computerized systems.
- (i) Information integrity, security and compliance. The CSEU shall have safeguards, protocols and policies in place protecting the

integrity, accuracy, completeness of, access to, and use of information and data in any social services district computerized system, as well as meeting all compliance requirements. As used herein, computerized system means any system, network, hardware, software, program, or application which stores, produces, utilizes, manages, processes, accounts for, transmits, or monitors information or data used by the CSEU or any employee, agent, contractor or subcontractor in carrying out the CSEU's duties.

- (ii) All computerized systems shall meet the applicable security and compliance requirements of federal and state law, regulation, and policy, including but not limited to requirements for the security of federal tax return information. The Office shall establish security and compliance controls, standards, and policies as may be applicable to all computerized systems and the handling of data subject to the requirements in this subdivision and notify the CSEU by administrative directive.

- (iii) The Office and/or its agents will audit, review, assess and inspect the planning, design, development, installation, provisioning and deprovisioning of users, enhancement and operation of computerized systems and the policies and procedures involved in the handling of data subject to the requirements in this subdivision to determine the extent to which they meet the requirements of this section.

- (iv) The Office may require the CSEU to submit and implement a corrective action plan to correct any deficiencies.

Paragraphs (1), (2) and (3) of subdivision (b) of section 347.19 are repealed, and a new subdivision (b) is added to section 347.19 to read as follows:

(b) State Parent Locator Service.

(1) State parent locator service. The Office shall maintain a State parent locator service to submit requests to the Federal parent locator service and to provide location information to authorized persons for authorized purposes.

(i) For cases receiving child support services under title IV-D of the Social Security Act. The State parent locator service shall access the Federal parent locator service and other sources of information and records within the State or other States, if available, for locating custodial and noncustodial parents or children for the purpose of establishing paternity, for establishing, modifying or enforcing child support obligations, or for the administration of the child support program under title IV-D of the Social Security Act.

(ii) For other individuals and purposes authorized under title IV-D of the Social Security Act.

(a) The Office and CSEU shall access State parent locator service and release information from the Federal parent locator service only if disclosure is authorized under title IV-D of the Social Security Act.

(b) The Office and CSEU shall access State parent locator service and release information from other state sources of information and records only if disclosure is authorized under title IV-D of the Social Security Act, and not otherwise prohibited by State law or regulation. Information may only be released upon the request of authorized persons specified in paragraph (2) of this subdivision, for authorized purposes specified in paragraph (3) of this subdivision.

(c) The Office and CSEU shall not release information from the automated system, state or federal tax return information, or financial institution data match information, nor forward a request for such information to another State child support agency.

(d) The Office and CSEU need not make subsequent location attempts if locate efforts fail to find the individual sought.

- (e) The Office and CSEU shall only access the State parent locator service in conjunction with a request for information from the Federal parent locator service.
- (2) Authorized persons. The State parent locator service shall accept requests for locate information only from the following authorized persons/entities:
- (i) Any State or local agency or official providing child and spousal support services pursuant to the state plan under title IV-D of the Social Security Act;
- (ii) A court that has authority to issue an order or to serve as the initiating court in an action to seek an order against a noncustodial parent for the support and maintenance of a child, or any agent of such court;
- (iii) (a) The custodial parent, legal guardian, or the attorney of the child or caretaker relative having custody of a child who is not receiving assistance under title IV-A of the Social Security Act, but only if the individual:
- (1) Attests that the request is being made to obtain information on, or to facilitate the discovery of, the location of any individual for the purpose of establishing paternity, or establishing, modifying, or enforcing child support obligations;
- (2) Attests that any information obtained through the Federal or State parent locator service shall be used solely for these purposes and shall be otherwise treated as confidential;
- (3) For a child not receiving assistance under title IV-D of the Social Security Act, provides evidence that the requestor is the custodial parent, legal guardian, caretaker relative with custody, or attorney of the child; and
- (4) Pays the fee required for Federal parent locator service and an additional fee as set forth by the Office based on actual or standardized costs for each search of the State parent locator service.
- (b) Requests under this subparagraph shall be submitted on forms designated by the Office. Copies of the request,

attestation, and supporting evidence shall be retained for a period of three years.

- (iv) A court, authorized agent or attorney of a state which has an agreement in connection with parental kidnapping, child custody or visitation cases meeting the requirements of federal law. Requests from such courts, agents or attorneys shall be made solely in the manner proscribed by the Office; or
 - (v) A State agency that is administering a program operated under a State plan under titles IV-B or IV-E of the Social Security Act.
- (3) Authorized purposes for requests and scope of information provided. The State parent locator service shall obtain and disclose the information set out below, subject to the privacy safeguards required under title IV-D of the Social Security Act and the social services law, only for the following purposes:
- (i) To locate an individual with respect to a child in a support or paternity proceeding (whether receiving services pursuant to title IV-D of the federal Social Security Act or not) or a case under titles IV-B or IV-E of the Social Security Act. The State parent locator service shall locate individuals for the purpose of establishing parentage, or establishing, modifying, or enforcing child support obligations, for the administration of the child support program under title IV-D of the Social Security Act, or for determining who has or may have parental rights with respect to a child. For these purposes, only information available through the Federal or State parent locator services may be provided. This information is limited to Social Security number(s), most recent address, employer name and address, employer identification number, wages or other income from, and benefits of, employment, including rights to, or enrollment in, health care coverage, and asset and debt information.
 - (ii) To assist state or local agencies in carrying out their responsibilities under programs established pursuant to titles IV-D, IV-A, IV-B, and IV-E of the Social Security Act. In addition to the information that may be released pursuant to subparagraph (i) of this paragraph, State parent locator service information may be disclosed to agencies administering programs pursuant to titles IV-D, IV-A, IV-B, and IV-E of the Social Security Act for the purpose of assisting these agencies to carry out their responsibilities to administer such programs, including information to locate an individual who is a child or a relative of a child in a case under title IV-B or IV-E. For purposes of this section,

“relative” of a child is a person related to such child by blood, marriage or adoption. Information that may be disclosed about relatives of children involved in title IV–B and IV–E cases is limited to name, Social Security number(s), most recent address, employer name and address and employer identification number.

- (iii) To locate an individual sought for the unlawful taking or restraint of a child or for child custody or visitation purposes. The State parent locator service shall locate individuals for the purpose of enforcing state law with respect to the unlawful taking or restraint of a child or for making or, upon request by a court of competent jurisdiction, enforcing a child custody or visitation determination. This information is limited to the most recent address and place of employment of a parent or child.

Paragraph (4) of subdivision (b) of section 347.19 is relettered as the new subdivision (c) of section 347.19 and is amended to read as follows:

[(4)] (c) Credit Bureau Reporting

- (1) Information regarding the amount of support arrears/past[-] due support owed by the respondent must be reported to consumer reporting agencies [whenever the amount of past-due support exceeds \$1,000 or is at least two months delinquent, whichever occurs first,] and must indicate the name of any respondent who owes support arrears/past [-] due support and the amount of the delinquency. [However, such information cannot] Information shall not be made available to a consumer reporting agency that the [department] Office determines does not have sufficient capability to systematically and timely make accurate use of the information, [nor] or to an entity that has not furnished evidence satisfactory to the [department] Office that the entity is a consumer reporting agency. In determining whether a consumer reporting agency lacks sufficient capability to systematically and timely make accurate use of such information, the [department] Office may require such agency to demonstrate its ability to comply with the provisions of section 380-j of the General Business Law.

- (2) At least 10 days prior to reporting the information to a consumer reporting agency, the local department or appropriate [local] child support enforcement/support collection unit hereafter “SCU” must provide [a] notice to the respondent [who owes the support which must inform such person] stating that:
 - (i) [the child support enforcement collection unit] The SCU proposes to release the information to consumer reporting agencies;
 - (ii) Federal and State law permit such release;
 - (iii) [release] Release of the information can be prevented [by the respondent] by payment of the total amount of support arrears/past [-] due [child] support owed;
 - (iv) [if] If the support arrears/past[-]due support amount indicated in the notice is paid in part or in full after the release, the appropriate consumer reporting agencies will be so notified; and
 - (v) The procedures for contesting release of the information set out in paragraph (3) of this subdivision.

- [(v) if the] (3) If the respondent believes that there is a mistake of fact in the amount of the support arrears/past[-]due support [amount] indicated in the notice [is believed to be in error] or in the identity of the respondent or that the order of support does not exist or has been vacated, a review of the account can be requested and the SCU must complete such review as soon as practicable and notify the respondent of the results, in writing[;].
- [(vi) the SCU will not release the information to consumer reporting agencies until after the review of the account, if such review is requested, provided such release is still appropriate;]
- [(vii) in] (i) In order to obtain review of the account, the respondent must contact the SCU by using the [name and telephone number or] address provided in the notice and comply with any requests for information [;].
- [(viii) in connection with the review of the account, the respondent may be represented by an attorney or other person;]
- [(ix) prior] (ii) Prior to submitting any written documentation [or appearing at any conference scheduled] in connection with the review of the account, the respondent or his/her representative may obtain and review a copy of the SCU payment records relating to the [proposed release of information to consumer reporting agencies and obtain a copy of such SCU payment records;] account.
- (iii) The SCU may not release the information to consumer reporting agencies until after the review of the account, provided such release is still appropriate.
- [(x) in] (iv) In connection with the review of [an] the account, the respondent may be represented by an attorney or assisted by another person.
- (v) The respondent may submit written documentation in support of his/her claim, including a written explanation of why the proposed release of information to consumer reporting agencies should not occur.
- [(xi) the] (vi) The decision of the SCU will be based solely upon consideration of the court orders, SCU records [,] and any written documentation submitted by the respondent [and any written and oral evidence presented at any conference with the respondent that may be held] in connection with [a] the review of [any] the account.[; and]

- [(xii) if the respondent disagrees with the decision made by the SCU to release information to any consumer reporting agency, (s)he may seek judicial review of the determination to release information to the credit reporting agencies, pursuant to article 78 of the Civil Practice Law and Rules, within the time limits provided in law.]
- (vii) The SCU must complete such review as soon as practicable and notify the respondent of the results, in writing.

Former subdivision (c) and subdivisions (d), (e), (f) and (g) of section 347.19 are repealed.

Statement in Lieu of a Revised Regulatory Impact Statement

The Office of Temporary and Disability Assistance has determined that changes made to the last published rule do not necessitate revision to the previously published Regulatory Impact Statement. Non-substantive changes were made to the language in 18 NYCRR § 347.19 (a)(2)(ii)(*d*) and (c)(2)(iv).

Statement in Lieu of a Revised Regulatory Flexibility Analysis

The Office of Temporary and Disability Assistance has determined that changes made to the last published rule do not necessitate revision to the previously published Regulatory Flexibility Analysis. Non-substantive changes were made to the language in 18 NYCRR § 347.19 (a)(2)(ii)(d) and (c)(2)(iv).

Statement in Lieu of a Revised Rural Area Flexibility Analysis

The Office of Temporary and Disability Assistance has determined that changes made to the last published rule do not necessitate revision to the previously published Rural Area Flexibility Analysis. Non-substantive changes were made to the language in 18 NYCRR § 347.19 (a)(2)(ii)(d) and (c)(2)(iv).

Statement in Lieu of a Job Impact Statement

The Office of Temporary and Disability Assistance has determined that changes made to the last published rule do not necessitate revision to the previously published Statement in Lieu of a Job Impact Statement. Non-substantive changes were made to the language in 18 NYCRR § 347.19 (a)(2)(ii)(*d*) and (c)(2)(iv).

Assessment of Public Comments

The Office of Temporary and Disability Assistance (OTDA) received one comment, from a social services district, relative to the regulatory amendments. The comment has been reviewed and duly considered in this Assessment of Public Comments.

The comment asked whether the regulatory amendments would respect the needs of child welfare workers to check the parent locator to find fathers and obtain information for use in child welfare cases. OTDA maintains that the regulatory amendments do not change the existing federal law and regulations governing access to the Federal Parent Locator Service for authorized purposes under titles IV-B and IV-E of the Social Security Act. The regulatory amendments adopt identical rules for access to the State Parent Locator Service for authorized purposes under titles IV-B and IV-E of the Social Security Act. Adoption of the regulatory amendments will not change authority to request location information to find fathers and obtain information about the fathers for use in child welfare cases.



Office of Temporary and Disability Assistance

ANDREW M. CUOMO
Governor

SAMUEL D. ROBERTS
Commissioner

MICHAEL PERRIN
Executive Deputy Commissioner

CERTIFICATION

I hereby certify that the attached amendments to § 347.19 to Title 18 of the Official Compilation of Codes, Rules, and Regulations of the State of New York are duly adopted by me, Executive Deputy Commissioner Michael Perrin, acting pursuant to designation under Public Officers Law § 9, on this date pursuant to authority vested in the New York State Office of Temporary and Disability Assistance by Social Services Law §§ 17 (a)-(b) and (j), 20(3)(d), 34(3)(f), 111-a, and 111-v; 42 United States Code §§ 651-658, 660, 663-664, 666-667, 1302, 1396a(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396b(k); and 45 Code of Federal Regulations §§ 303.21, 303.69, 303.70, and 307.13. These amendments shall be effective upon publication of the Notice of Adoption in the New York State Register.

The Notice of Proposed Rule Making relative to the regulatory amendments was published in the New York State Register on September 14, 2016 under I.D. No. TDA-37-16-00001-P.

No other publication of prior notice was required by statute.

/s/ Michael Perrin

1/10/17

Michael Perrin
Executive Deputy Commissioner

Date